



STAFF REPORT ACTION REQUIRED

328-358 Dupont Street – Official Plan Amendment and Zoning Amendment Applications – Request for Direction Report

Date:	March 20, 2017
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	10 184959 STE 20 OZ; 15 110684 STE 20 OZ

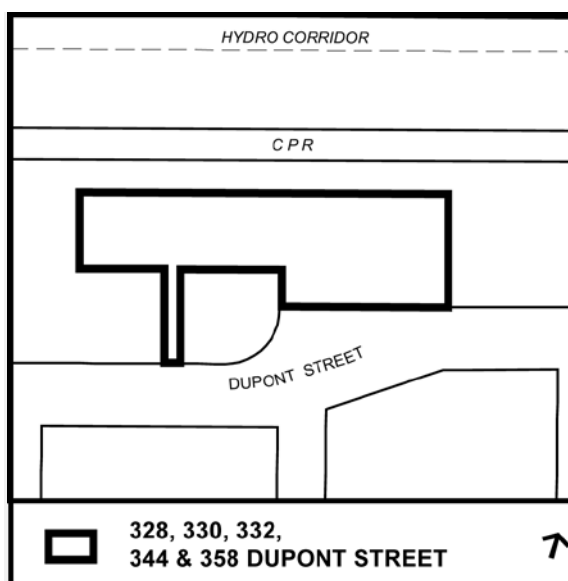
SUMMARY

The purpose of this report is to seek City Council's direction for the City Solicitor and appropriate City Staff to attend the Ontario Municipal Board (OMB) hearing to oppose the applicant's Official Plan and Zoning By-law Amendment appeals.

The applications for development on the site have a complex and lengthy history, and have evolved in terms of the proposed land use, built form and land area.

In 2010, an Official Plan Amendment application was submitted to re-designate 328, 330, 332, 344, 358 and 374 Dupont Street from *Employment Areas* to *Mixed Use Areas*. The application contemplated three mixed-use buildings of 29, 8 and 16-storeys.

The 2010 Official Plan Amendment application was refused by City Council on June 14, 2011 and appealed to the OMB (PL110543). City Council directed City staff to oppose the appeal at the OMB. The appeal was adjourned by the OMB on January 13, 2014, and is still active.



On January 30, 2015, a Zoning By-law Amendment application was submitted for a smaller site comprising 328, 330, 332, 344 and 358 Dupont Street only (now the "subject site"). The application excluded the west portion of the original development site located at 374 Dupont Street.

The 2015 Zoning By-law Amendment application proposed a 29 and 15-storey mixed-use office and residential building linked by a 4-storey base building. On July 10, 2015, the applicant appealed its Zoning By-law Amendment application to the OMB for council lack of decision within the timeframe prescribed in the Planning Act.

On July 29, 2014, the applicant filed an appeal of Official Plan Amendment 231 which deals with Employment policies of the Official Plan, with respect to the subject site (328-358 Dupont Street).

On September 17, 2014, the applicant filed an appeal of Official Plan Amendment 271 and related zoning with respect to the Dupont Regeneration Study (Area Specific Policy 212). The area of OPA 271 includes the western portion of the subject site (344-358 Dupont Street).

The site-specific appeals regarding the subject site (328-358 Dupont Street) of the 2010 Official Plan Amendment application, 2015 Zoning By-law Amendment application, Official Plan Amendment 231 and Official Plan Amendment 271 remain outstanding and have been consolidated at the OMB.

On December 8, 2016, the applicant submitted a further revised proposal for a 9-storey commercial office building and a 19-storey mixed-use commercial and residential building linked by a 5-storey glass atrium on the subject site. The floor plates of the 19-storey mixed-use building are split between commercial office and residential use, with the commercial office use located on the north portion of the site adjacent to the CP rail corridor.

A 7-day OMB hearing on the consolidated appeals is scheduled to commence on May 18, 2017.

The proposal is not supportable by Staff. It is not consistent with the Provincial Policy Statement and does not conform to the Official Plan particularly in regard to public health and safety due to the site's proximity to a rail corridor, as well as with respect to land use and built form.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning and any other appropriate staff to attend the Ontario Municipal Board hearing to oppose the appeals of the Official Plan and Zoning By-law Amendment applications for 328-358 Dupont Street.
2. In the event that the Ontario Municipal Board allows the appeals in whole or in part, City Council direct the City Solicitor to request that the Ontario Municipal Board withhold its Order(s) until such time as the Board has been advised by the City Solicitor that:

- a. the proposed Official Plan and Zoning By-law Amendments are in a form satisfactory to the Chief Planner and City Solicitor;
 - b. a Section 37 Agreement has been executed and registered to secure a Section 37 contribution and related matters satisfactory to the Chief Planner; and
 - c. all technical reports have been submitted and accepted by the relevant City divisions.
3. In the event that the Ontario Municipal Board approves the appeals in whole or in part, City Council authorize the Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor, to identify the services, facilities and matters pursuant to Section 37 of the Planning Act to be secured.
 4. City Council authorize the City Solicitor and any other City staff to take such actions as necessary to give effect to the recommendations of this report.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On June 14, 2011, City Council adopted the recommendations in a report from the Chief Planner to refuse the application for an Official Plan Amendment at 328, 330, 332, 344, 358 and 374 Dupont Street and to direct the City Solicitor to support Council's refusal at the OMB. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.PG5.1>

On December 16, 17 and 18, 2013, City Council considered a report from the Chief Planner and adopted OPA 231, which contemplates that a Site and Area Specific Plan will be enacted for the Dupont Study Area. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision approving most of OPA 231, which was appealed by several parties to the OMB and proceedings in that matter are underway. The Minister's decision can be accessed at this link:

<http://www1.toronto.ca/City%20Of%20Toronto/City%20Planning/SIPA/Files/pdf/O/ministers%20decision%20on%20opa%20231.pdf>

On August 25, 2014, City Council adopted the recommendations in the Dupont Study Regeneration Area Final Report and OPA 271 as well as Zoning By-law Amendment 1011-2014. That decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.6>

In a decision issued June 2, 2015, the OMB allowed a motion to consolidate the appeals of OPA 271, Zoning By-law 1011-2014 and OPA 231 with respect to the subject site into one proceeding.

On January 20, 2017, the OMB approved multiple settlements in relation to the appeals of OPA 271 and area specific Zoning By-law 1011-2014, bringing them into force for all of the lands fronting onto the north side of Dupont Street from Ossington to Kendal Avenue. The appeal only remains outstanding for the affected lands within the original 2010 OPA application (344-374 Dupont Street).

ISSUE BACKGROUND

2010 Proposal – Official Plan Amendment Application

On May 31, 2010, an Official Plan Amendment application was submitted by the owner requesting that the lands at 328, 330, 344, 358 and 374 Dupont Street be re-designated from *Employment Areas* to *Mixed Use Areas* to accommodate a primarily residential intensification.

The application included conceptual massing for three predominantly residential buildings of 29, 8 and 16-storeys that have office/retail/service uses on the lower 4 floors, to be located behind the 6 house form buildings fronting on Dupont Street. (Note: The owner does not own the house form buildings fronting onto Dupont Street and they were not included in this or subsequent application submissions.)

The proposed 29-storey building had 4 floors of commercial/retail space and 25 floors of residential units. The proposed 8-storey building was to contain live/work units. The proposed 16-storey building was to have 4 floors of office/commercial space and 12 floors of residential units. The combined density of the buildings was 6.69 times the area of the lot (4.6 residential; 2.08 non-residential).

Access to the site was from three existing curb cuts on the north side of Dupont Street that currently lead to surface parking lots, including an existing driveway located in the centre of the site between two of the six existing houses.

2015 Proposal – Zoning By-law Amendment Application

On January 30, 2015 a Zoning By-law Amendment application was submitted by ANX 1 LP for a smaller site at 328, 330, 332, 334 and 358 Dupont Street. The property at 374 Dupont Street was not included in the application.

The proposed development comprised two mixed-use buildings. The western building was 15-storeys (58 metres including mechanical penthouse) with retail at grade and a mix of office and residential units above. The eastern building was 29-storeys (100.5 metres including mechanical penthouse) with retail at grade and a mix of office and residential units above. The buildings were connected by a four-storey structure which included residential units. The proposal had a total of 560 residential units, 9,534 square metres of non-residential space and a proposed density was 10.55 times the area of the lot.

The proposal had 1,858 square metres of indoor amenity space on the second and third floors in east building, in the form of a fitness club. It also had 1,100 square metres of outdoor amenity space on the rooftop of the western building.

A total of 315 vehicular parking spaces were proposed in a 4-level underground parking garage shared between the buildings, and accessed from the east portion of the site. 190 vehicular residential spaces and the remaining 125 spaces were to be shared between the non-residential uses and visitors. A total of 620 bicycle parking spaces were proposed (562 spaces for residential; 58 spaces for non-residential). The proposal had one Type G, one Type B, and two Type C loading spaces, all accessed from the east portion of the site.

December 2016 Proposal – OMB Submission

The applicant further revised the proposal in December 2016 following its OMB appeal, to propose two buildings connected by a glass atrium. The two buildings (Building A and Building B) would contain a total of 130 residential units, 1,940.3 square metres of retail space and 25,149.6 square metres of office space. The density would be 8.97 times the lot area.

Building A would be a 9-storey commercial building, with retail on the ground floor, located on the western portion of the site (344-358 Dupont Street) directly north of the six existing house form buildings. The proposed overall height is 36 metres (41.5 metres including mechanical). A proposed entrance to the retail portion of the building accessed by an existing private driveway with an existing curb cut splits the six existing house form buildings fronting onto Dupont Street into two groups of three buildings. The entrance to the commercial uses is within the shared atrium that connects Buildings A and B.

Building B is a mixed-use building with 18 floors of residential and 16 floors of commercial uses above one-storey of retail uses at grade, and is located on the east portion (328-332 Dupont Street) of the site, fronting on Dupont Street. The residential and commercial uses are side by side, the residential facing the south and the commercial facing the north. The overall height is 64 metres (72 metres including mechanical). While the overall height remains the same for both the residential and commercial components, the number of residential floors to commercial floors differs due to floor-to-ceiling heights (generally 3.1 metres for the residential uses and 3.5 metres for the commercial uses). Entrances to the residential lobby and the retail uses are off Dupont Street, and the commercial entrance is located within the shared atrium. The 130 residential units proposed in Building B are located on floors 2 to 19.

Building A has no setback from the north property line at the south boundary of the CP rail corridor, nor from the west property line. Building A is setback 7.5 metres from the six existing house form buildings. Building B has no setback from the north property line, a 3.43 metre setback from the east property line, and a zero to 2.62 metre setback from the south (front) property line.

Buildings A and B are connected by a shared glass atrium of 11.03 metres in width, 20.78 metres in depth, and 23 metres in height. The atrium provides access to the commercial space above and further connects Buildings A and B through a series of bridges on floors 3, 4, and 5.

The breakdown of the proposed 130 residential units is as follows:

Unit Type	Number of Units	Percentage
1 Bedroom	102	78 %
2 Bedroom	13	10 %
3 Bedroom	15	12 %
Total	130	100 %

The proposal would provide 130 square metres of indoor amenity space (1 square metre per residential unit) whereas a total of 260 square metres would be required. The proposal would provide no common outdoor amenity space. Private amenity space is proposed in the form of balconies and terraces.

A total of 205 vehicular parking spaces would be provided in a 3-level underground parking garage shared between Buildings A and B, and is accessed from the east portion of the site. 76 parking spaces are for residential uses and the remainder 129 spaces are to be shared between non-residential uses and visitors. A total of 262 bicycle parking spaces are provided (253 spaces for residential use; 9 spaces for non-residential use). The proposal has the following loading spaces: one Type G; one Type B; and two Type C.

Site and Surrounding Area

The subject site is located on the north side of Dupont Street, two blocks west of Spadina Road, and is approximately 0.645 hectares (1.593 acres) in size. The site is irregularly shaped with two frontages on Dupont Street. There are six semi-detached house-form buildings containing 12 units that front on Dupont Street with the addresses 346-356 and 360-370 Dupont Street in front of the west portion of the site (358-344 Dupont Street).

The subject site contains three existing buildings including: a 4-storey commercial building at the eastern end of the site; a 5-storey commercial building also at the eastern end of the site; and a 1-storey building on the western end of the site. The buildings are setback from the Dupont Street frontage, with related surface parking lots located closer to the street. The 4 and 5-storey commercial buildings at 328-332 and 344 Dupont Street are collectively referred to as the "Annex Centre".

Surrounding land uses include:

South: south side of Dupont Street is the Annex residential neighbourhood and abutting the site, fronting on the north side of Dupont Street, are six pairs of semi-detached buildings, some with mixed uses.

East: employment areas, 316-320 Dupont Street, two and three-storey converted dwellings used for office/institutional use.

West: employment areas; including an auto repair shop and retail, service and office uses.

North: utility corridor (CP lands and train tracks); further north is Bridgman Avenue, abutting the Casa Loma Campus of George Brown College.

The Planning Act

The Planning Act's Section 2, which deals with Provincial Interests requires councils of municipalities to have regard to matters of provincial interest including:

- (h) the orderly development of safe and healthy communities;
- (o) the protection of health and safety; and
- (p) the appropriate location of growth and development.

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.

Section 4.7 of the PPS provides that the official plan is the most important vehicle for implementation of the PPS. In addition, the PPS requires that official plans shall also provide clear, reasonable and attainable policies to protect the provincial interest. Municipalities are required to keep their official plans up-to-date with the Provincial Policy Statement.

Policy 1.1.1 (c) of the PPS states that "healthy, liveable and safe communities are sustained by: avoiding development and land use patterns which may cause environmental or public health and safety concerns."

Section 1.1.3 of the PPS provides guidance on how development within a *Settlement Area* should occur including the following: "Appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety."

Policy 1.2.6.1 states that: "*Major Facilities* and *sensitive land uses* should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*."

The PPS defines *Major Facilities* to include *Rail Facilities* which are defined as, among other things, rail corridors. Section 1.6.9 states that: "Planning for land uses in the vicinity of *airports*, *rail facilities* and *marine facilities* shall be undertaken so that:

- a. Their long-term operation and economic role is protected; and

- b. *Airports, rail facilities and marine facilities and sensitive land uses* are appropriately designed, buffered and/or separated from each in accordance with policy 1.2.6" cited above.

Sensitive land uses are defined as "Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more *adverse effects* from contaminant discharges generated by a nearby *major facility*. *Sensitive land uses* may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and education and health facilities."

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.

Official Plan

The City's Official Plan contains a number of policies that apply to the proposed development.

Chapter 2 – Shaping the City

Section 2.1 Building a More Liveable Urban Region

The Official Plan states that Toronto cannot plan in isolation. The competitive position of Toronto as a business location reflects the diversity and strength of the broader regional economy. Policies in Section 2.1.1 state that: "Toronto will work with neighbouring municipalities, the Province of Ontario and Metrolinx to address mutual challenges and to develop a framework for dealing with growth across the GTA which:" among other things: "e) increases the efficiency and safety of the road and rail freight networks in the movement of goods and services."

Section 2.2.1 Downtown: The Heart of Toronto

The proposed development is located in the *Downtown* area as identified on Map 2, Urban Structure, of the Official Plan. More specifically, the site is located at the northwest edge of the Downtown, immediately south of its north boundary at the rail corridor, and near its west boundary at Bathurst Street.

Section 2.2.1 outlines the policies for development within the *Downtown*. The *Downtown* will continue to evolve as the premier employment area of the City of Toronto and provide a range of housing for those working in the area. The City will also explore opportunities to maintain and improve the public realm, promote an environment of creativity and innovation, support and enhance the specialty retail and entertainment districts, support business infrastructure and create business partnerships. Although much of the growth is expected to occur in the *Downtown*, not all of the *Downtown* is considered a growth area.

The City's Official Plan states that: "while we anticipate and want *Downtown* to accommodate growth, this growth will not be spread uniformly across the whole of *Downtown*."

Chapter 3 – Built Form

Section 3.1.2 Built Form

The Official Plan states that architects and developers have a civic responsibility to create buildings that not only meet the needs of their clients, tenants and customers, but also the needs of the people who live and work in the area who will encounter the building in their daily lives.

New development in Toronto will be located and organized to fit with its existing and/or planned context. It will do this by: generally locating buildings parallel to the street or along the edge of a park or open space, having a consistent front yard setback, acknowledging the prominence of corner sites, locating entrances so they are clearly visible and providing ground floor uses that have views into and access from streets. New development will also locate and organize vehicular parking and access to minimize their impacts on the public realm.

Furthermore, new development will create appropriate transitions in scale to neighbouring existing and/or planned buildings, limit shadowing on streets, properties and open spaces and minimize any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.

In addition, new development will be massed to define the edges of streets, parks and open spaces to ensure adequate access to sky view for the proposed and future uses. New development will also provide public amenity, enhance the public realm through streetscape improvements and ensure that significant new multi-unit residential development provides indoor and outdoor amenity space for residents of the new development.

Section 3.1.3 Built Form – Tall Buildings

The application proposes to construct tall buildings. Policy 3.1.3 states that tall buildings come with larger civic responsibilities than buildings of a smaller scale. In addition to specific built form characteristics, the policy states that proposals for tall buildings should clearly demonstrate how they relate to the existing and planned context, take into account their relationship with the topography and other tall buildings and how they meet the other objectives of the Official Plan.

Section 3.4 The Natural Environment

Policy 21 states that "Major facilities such as transportation/rail infrastructure, corridors and yards, industries and sensitive land uses such as residences and educational and health facilities will be appropriately designed, buffered and/or separated from each other to prevent adverse effects from noise, vibration, odour and contaminants, and to promote safety. To assist in identifying impacts and mitigative measures, the proponent may be required to prepare studies in accordance with guidelines established for this purpose. The proponents will be responsible for implementing any required mitigative measures."

Chapter 4 – Land Use Designations

Section 4.6 Employment Areas

The subject site is designated as *Employment Areas* on Map 18 of the City's Official Plan. *Employment Areas* are places of business and economic activity. Policy 4.6.1 provides for uses that support this function consisting of offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers. Policy 4.6.6 sets out Development Criteria for *Employment Areas*. The objective of these criteria is to ensure that development contributes to the creation of competitive, attractive and highly functional *Employment Areas* including the creation of comfortable streets and landscaped streetscapes to attract business.

Official Plan Amendment No. 231

Official Plan Amendment 231 addresses Economic Health policies and the policies, designations and mapping for *Employment Areas*. OPA 231 states that a Site and Area Specific Policy will guide the revitalization of Dupont Street between Ossington Avenue and Kendal Avenue. This resulted in a Site and Area Specific Policy (OPA 271), which is described below.

Official Plan Amendment No. 271- Area Specific Policy 212 (Dupont Street Regeneration Study)

On January 20, 2017, the OMB approved OPA 271 (Site and Area Specific Policy 212) with the exception of the lands that were included in the original 2010 OPA application.

OPA 271 applies to lands located on the north side of Dupont Street to the CP rail line, between Ossington Avenue and Kendal Avenue. The western half of the subject site is within OPA 271, which includes Building A, while the eastern half and Building B, is outside the policy area.

The Dupont Street Study, which led to Official Plan Amendment 271, which created Area Specific Policy 212 was focused on the north side of Dupont Street between Ossington Avenue and Kendal Avenue. This study area was chosen as the lots between these streets had enough depth (between 65 and 80 metres) to allow for some development along Dupont, while still providing the necessary setbacks from the railway corridor. Existing uses, to the east of Kendall Avenue, could continue but no new use permissions, increased density or higher occupancy uses were introduced.

OPA 271 re-designated a portion of the lands on the north side of Dupont Street from Ossington Avenue to Kendal Avenue located more than 20 metres south of the southerly property line of the CP North Toronto rail corridor from *Employment Areas* to *Mixed Use Areas*. The remaining lands, located in the 20 metres south of the railway remained *Employment Areas*.

The purpose of OPA 271 is to allow for new residential, retail, service, office and institutional uses on the north side of Dupont Street provided they are located and designed to mitigate impacts from, be compatible with, and allow for the safe operation and continuation of the rail corridor and existing employment uses within the Study Area. OPA 271 states that the area is not intended to experience significant increases in density.

New non-residential uses in the lands designated as *Employment Area* will be located and designed to mitigate impacts from and be compatible with the rail corridor and be compatible with new mixed use development in the adjacent *Mixed Use Area* to the south.

New development in the *Mixed Use Area* designation will be a maximum of 9-storeys in height, will be contained within a 45 degree angular plane along the street edge, and will be setback from the curb of the street by 4.8 metres, allowing for wider sidewalks.

Section 8 of OPA 271 includes several policies related to rail safety, noise, vibration and air quality.

All noise studies will specifically review the noise that will be reflected from the rail to the properties on the north side of the tracks as a result of the redevelopment of any new building on the south side of the tracks.

Any new development containing residential, institutional, recreational/entertainment, hotel or office or retail uses with a high number of employees and customers must be set back a minimum of 30 metres from the property line of the rail corridor. A 2.5 metre high earthen berm will be constructed immediately south of the rail corridor with a noise wall on top for rail safety and noise/vibration mitigation purposes when these uses are developed in the *Mixed Use Area* designation to the south.

Rail safety and vibration/noise mitigation structures and open space as well as auxiliary buildings and structures used for activities with low numbers of users such as parking, storage, warehousing and loading are permitted within the 30 metre setback adjacent to the rail corridor.

An applicant may propose, through a Zoning Amendment application, an alternative to the rail safety mitigation measures and permitted uses set out in OPA 271 subject, but not limited to, the following: the alternative will provide at least the same level of rail safety for nearby residents, workers, visitors and shoppers as the required 30 metre set back and berm; a development viability report bearing the stamp of a fully insured, qualified, professional structural engineer, in addition to the noise, air quality and vibration reports, is to be submitted to the City showing how at least the same level of rail safety is to be achieved; and, this report will be peer reviewed by a rail safety expert retained by and reporting to the City, at the expense of the applicant.

On January 20, 2017, the OMB approved multiple settlements in relation to the appeals of OPA 271. The settlements reached adhere to OPA 271 as described above with buildings at a maximum of 9-storeys in height and a 20-metre setback from the railway accompanied by supporting documentation.

OPA 271 is now in effect for all of the Dupont lands that it originally addressed, with the exception of the lands that formed part of the original 2010 site specific OPA application.

Zoning

Under the former City of Toronto Zoning By-law 438-86, the subject site is zoned IC D2 N2. The IC zoning classification permits a wide range of light industrial and commercial uses up to a

total density of 2 times the area of the lot. The maximum height is 14 metres. Residential uses are not permitted on the site.

Area Specific Zoning By-law 1011-2014

Area Specific Zoning By-law 1011-2014 applies to the lands located on the north side of Dupont Street between Ossington Avenue and Kendal Avenue and was approved by the OMB on January 20, 2017, but like OPA 271, does not apply to the lands subject to the original 2010 OPA application on account of its outstanding appeal.

By-law 1011-2014 rezones the northern portion of the lands (the portion abutting the rail corridor) from IC D2 N2 to IC D2, allowing an auxiliary building, a berm, storage warehouse, parking garage, loading spaces, open space, and any required rail safety, noise or vibration mitigation structures. The southern portion of the lands (the portion along the Dupont Street frontage) are rezoned from IC D2 N2 to MCR, which allows for a variety of residential and non-residential uses. In addition, By-law 1011-2014 includes provisions related to height, rail setbacks, building stepbacks, parking, maximum building width, amenity space and unit mix, all of which complement and are consistent with OPA 271.

As with OPA 271, the western half of the subject site including Building A is within the boundary to which By-law 1011-2014 would apply, but for the outstanding appeal.

Dupont Street Urban Design Guidelines

On August 25, 2014, City Council adopted the Urban Design Guidelines accompanying OPA 271 and Zoning By-law Amendment 1011-2014. The Dupont Street Urban Design Guidelines are intended to support vibrant, high quality, appropriately scaled, mixed-use and employment development in the Study Area.

OPA 271 states that the urban design guidelines will be used as a tool to evaluate proposed development in the area and ensure that such development is consistent with OPA 271.

Tall Building Design Guidelines

In May 2013, City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use them in the evaluation of all new and current tall building development applications. The Guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure they fit within their context and minimize their local impacts. The city-wide Guidelines are available at <http://www.toronto.ca/planning/tallbuildingdesign.htm>

TOcore: Planning Downtown

TOcore: Planning Downtown is a three-year, inter-divisional study, led by City Planning. Building on Downtown's existing planning framework, TOcore's purpose is to ensure growth positively contributes to Toronto's Downtown as a great place to live, work, learn, play and invest by determining: a) how future growth will be accommodated and shaped, and b) what physical and social infrastructure will be needed, where it will go and how it will be secured. The TOcore website is www.toronto.ca/tocore.

The new Secondary Plan will update the Downtown planning framework to shape future growth and link growth to the provision of needed infrastructure investments to achieve the city-building vision and policies of Toronto's Official Plan. A series of infrastructure strategies for office, transportation, parks and public realm, community services and facilities, and energy are in development as part of this review, along with a water infrastructure assessment.

City Council adopted the TOcore Proposals Report on December 15, 2016. The Proposals Report provides a vision for Downtown to 2041, five guiding principles and 128 policy directions that will inform the development of the Downtown Secondary Plan. The accompanying staff report also provides updates on the Phase 2 public consultations, population growth projections for Downtown and the status of infrastructure strategies underway that will support the implementation of the new Downtown Secondary Plan. A draft Secondary Plan will be presented to City Council in Q3 2017.

On October 5-7, 2016, City Council adopted Official Plan Amendment (OPA) 352 – Downtown Tall Building Setback Area (currently under appeal). The purpose of OPA 352 is to establish the policy context for tall building setbacks and separation distances between tower portions of tall buildings in Downtown. At the same meeting, City Council adopted area specific Zoning By-laws 1106-2016 and 1107-2016 (also under appeal) which provide the detailed performance standards for portions of buildings above 24 metre in height.

Site Plan Control

The subject site and development is subject to Site Plan Control. A Site Plan Control application has not been submitted.

Reasons for the Application

The application proposes two buildings with office and residential uses close to the rail corridor. The application does not adhere to the in effect Official Plan policies and Zoning By-law 438-86, as well as OPA 231(Employment) and the Dupont Street OPA 271 (Area Specific Policy 212) and Area Specific Zoning By-law 1011-2014. Amendments to the Official Plan and the Zoning By-laws are therefore required.

Community Consultation

A community consultation held on May 3, 2011 regarding the 2010 OPA application, the first submission of the proposal, was attended by approximately 100 members of the public. At that meeting, residents and business owners had questions regarding: maintaining rear vehicular access to the semi-detached houses in front of the project; providing sufficient parking on site; the height of the proposal; safety concerns for residential units abutting the rail corridor; the need for a vision type study for Dupont Street to look at appropriate uses; built form and streetscape improvements before this or other applications are approved; setting a precedent with this application; the loss of future manufacturing employment opportunities if residential uses are permitted; safety of vehicular access to Dupont Street from the site; increase in local vehicular traffic; the availability of municipal infrastructure for this scale of expansion; and, the need for more local parks and school space for residential intensification.

Several consultations were held as part of the Dupont Street Regeneration Study. The first consultation on February 10, 2014 was attended by 150 members of the public. Comments were received on four key themes: public realm, built form (which included land use), transportation and retail-employment. The second community consultation held on April 28, 2014 was attended by 140 members of the public. At this consultation, in addition to further conversations on the four key themes, consideration for community facilities and a request for a separate meeting on rail safety and mitigation were discussed. A third consultation was held on June 3, 2014 where the proposed amendments to the Official Plan and Zoning By-law were presented and comments were received. As requested by the community, a further meeting specifically on rail safety and mitigation was held on May 14, 2014 at which the rail consultant retained by the City made a presentation and answered questions on the details of its study and findings. Two working group meetings were also held on March 24, 2014 and April 22, 2014.

During the appeal and mediation process at the OMB for the Dupont Street Official Plan and Zoning By-law Amendments, Staff conducted further consultation with the members of the public in fall of 2016.

A formal community consultation meeting was not held by City Planning Staff for the 2015 Zoning by-law Amendment application nor the December 2016 revised proposal. The processing of all development applications within the Dupont Street Regeneration Study Area was deferred until a planning framework for the area was established.

Agency Circulation

The 2010 Official Plan Amendment and 2015 Zoning Amendment applications were circulated to appropriate agencies and City divisions. The applicant is bringing revised plans, reflected in this report, to the OMB hearing of May 18, 2017. Staff did not receive a formal resubmission of these plans nor the accompanying studies. Although Staff received digital submissions of the architectural drawings, no supporting documentation has been received as of the writing of this report. Comments from commenting divisions and agencies, other than City Planning including Urban Design staff, reflect the applicant's proposal from 2015.

COMMENTS

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 contains policies related to managing and directing development. It requires that sufficient land be made available for intensification and redevelopment, that planning authorities identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account, among other things, the existing building stock and areas, and that they establish and implement minimum targets for intensification and redevelopment within built up areas.

Part V of the PPS lays out the actual policy framework and is divided into six sections. Section 1 of the PPS is focused on Building Strong Healthy Communities. Policy 1.1.1 (c) of the PPS states that "healthy, liveable and safe communities are sustained by: avoiding development and land use patterns which may cause environmental or public health and safety concerns."

Section 1.1.3 Settlement Areas

The applicant is seeking to amend the Official Plan within a *Settlement Area*, as defined in the PPS, to change the land use designation from *Employment Area* to *Mixed Use Area*. The PPS provides guidance on how development within a *Settlement Area* should occur including the following: "Appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety."

Section 1.2.6 Land Use Compatibility

Policy 1.2.6.1 states that: "*Major Facilities* and *sensitive land uses* should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*."

The PPS defines *Major Facilities* to include *Rail Facilities* which are defined as, among other things, rail corridors.

Section 1.6.9 Airports, Rail and Marine Facilities

The PPS states that: "Planning for land uses in the vicinity of *airports, rail facilities* and *marine facilities* shall be undertaken so that:

- a. Their long-term operation and economic role is protected; and
- b. *Airports, rail facilities* and *marine facilities* and *sensitive land uses* are appropriately designed, buffered and/or separated from each in accordance with policy 1.2.6" cited above.

Sensitive land uses are defined as "Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more *adverse effects* from contaminant discharges generated by a nearby *major facility*. *Sensitive land uses* may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and education and health facilities."

It is the opinion of City Planning Staff that the proposed commercial office buildings are *Sensitive Land Uses* as defined by the PPS. The buildings abut a rail corridor which is a *rail facility* and therefore a *Major Facility* as defined by the PPS. The proposed development is required by the PPS to demonstrate how the development and the rail corridor is: "appropriately designed, buffered and/or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*". This has not been satisfactorily demonstrated.

The PPS states in Section 4.7 that the Official Plan is the most important vehicle for implementation of this Provincial Policy Statement. The study which led to the adoption of OPA 271 was undertaken in consultation with a professional engineering firm with expertise in railway safety. OPA 271 advanced clear development standards: "which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public

health and safety." The current proposal does not use those development standards and has not advanced an acceptable alternative. City Planning Staff conclude that the proposal is not appropriately designed and does not conform to the PPS. This analysis is further expanded upon below under the heading: "Proximity to the Rail Corridor and Sensitive Land Uses".

Growth Plan for the Greater Golden Horseshoe

The site is within an urban growth centre of the built-up area delineated in the Growth Plan for the Greater Golden Horseshoe (GPGGH), where a significant share of population and employment growth is anticipated. In conjunction with the direction for intensification within the urban growth area, Section 2.2.3.6 of the GPGGH directs the City's Official Plan, through specific policies, and supporting documents, such as Design Guidelines, to establish policies to identify appropriate scale of development. In this context, the Official Plan, the Dupont Street Area Specific Official Plan and Zoning By-law Amendments, the Dupont Street Design Guidelines, and the Zoning By-law provide direction on the appropriate height, scale, massing and separation distances.

This proposal has not addressed the policy direction of the Official Plan and its supporting documents and therefore challenges the Growth Plan for the Greater Golden Horseshoe in terms of appropriate building scale and adherence to policies related to public health and safety.

Proximity to the Rail Corridor and Sensitive Land Uses

The north side of Dupont Street, including the Dupont Street Regeneration Study Area, abuts the CP rail corridor, a major freight line through the City on which hazardous and dangerous goods are transported and that has a volume of up to 40-45 trains per day. Any redevelopment of the properties on Dupont Street that abuts the rail corridor must consider the serious concerns related to the risk to health and safety in the event of a rail accident, and potentially noise and vibration (although it may be possible that these could be mitigated).

During the Dupont Street Regeneration Study, the City retained the engineering firm of Hatch Matt Macdonald (HMM) to provide recommendations based on its expertise on appropriate separation distances from the rail corridor and mitigation measures (between the rail corridor and any new development) for the study area. HMM recommended that sensitive and high density land uses, including residential and office uses, be setback a minimum of 30 metres from the south boundary of the CP rail corridor.

HMM identified two types of buildings characterized by volume of occupancy- principal buildings and ancillary buildings. Principal buildings include any building where people live, work, shop, sleep, play or are gathered in high occupancies. Ancillary buildings, by contrast, are lower in occupancy and include parking structures, waste storage, or other storage facilities related to the principal use.

Within the Dupont Study area, it was recommended that "principal buildings" be located along the Dupont Street frontage, outside of the 30 metre setback to the rail corridor. Ancillary buildings could be located within the 30 metre setback zone, minus the space for an earth berm, provided they were engineered as separate structures.

The recommendations from HMM were carried forward into OPA 271 and Area Specific Zoning By-law 1011-2014. The OMB, during the appeal process for the area specific policies and performance standards, allowed for a minimum 20 metre setback as opposed to a 30 metre setback for the Study Area, which has been reviewed and accepted by HMM, but only provided alternative safety mitigation measures are proposed through a development viability report found acceptable to a City-appointed peer reviewer.

The alternative mitigation measures must provide the same level of rail safety as required through the setback and berm. The applicant has not submitted a mitigation alternative for the revised proposal. However, its original 2010 application proposed to supply a "reinforced concrete crash wall", the details of which including its structural design and presumably all other relevant engineering considerations, would be submitted with the site plan application. City of Toronto Planning Staff find this approach to be problematic for a number of reasons.

The building envelopes are proposed and fixed at the Zoning By-law Amendment stage of the planning approval process. The prudent approach is to have a proven engineering solution signed and stamped by a professional engineer, and peer reviewed, prior to approving building envelopes on a zoning schedule. In the event that alternative mitigation measures cannot be engineered to satisfy the proposed development; the relevant approval authority will have created zoning envelopes that cannot be used. In other words, it is premature to approve building envelopes in the proposed location in advance of being satisfied that there is an engineering solution that has been demonstrated to be as safe as the 30 metre buffer plus a berm. The settlement reached with all other appellants required that this engineering process be completed prior to the enactment of any zoning bylaw that would approve non-auxiliary uses within 30 metres of the rail corridor lot line.

The western portion of the proposal, Building A, is within the OPA 271 and Zoning By-law 1011-2014, while its eastern portion and Building B are outside the policy area. The study area for the Dupont Street Regeneration Study was chosen on the basis that the lots from Ossington Avenue to Kendal Avenue are deeper, allowing for development with high occupancy, such as residential or office, to be setback appropriately from the rail corridor to mitigate issues of noise, vibration, health and safety. The lots within the Study Area have an average lot depth of approximately 58 metres, whereas the lots outside of the Study Area to the west on the north side of Dupont Street have an average lot depth of 38 metres. The eastern portion of the subject site is only 38 metres deep.

Policies related to proximity to the rail corridor are included in the Official Plan. Section 3.4 – The Natural Environment states that major facilities like rail infrastructure, corridors and yards and sensitive land uses such as residences and education and health facilities will be appropriately designed, buffered and/or separated from each other to prevent adverse effects from noise, vibration, odour and other contaminants, and to promote safety (Policy 21). The policy further states that to assist in identifying impacts and mitigating measures, the proponent may be required to prepare studies in accordance with guidelines established for the policy's purpose. The proponent will be responsible for implementing the required mitigating measures. The rail corridor itself is designated in the Official Plan as *Utility Corridor*. Where appropriate, development or redevelopment on lands nearby or adjacent to *Utility Corridors* will screen and

secure the property edge through such measures as setbacks, fencing, site grading, berms, landscaping, building treatment and construction technique (Policy 5(b) Section 4.4).

Office workers spend the majority of their day at their place of employment. If a train were derailed, the consequences would be no different than for a resident in their unit. HMM has reviewed the applicant's revised proposal and is of the opinion that the proposed office use within the 20 metre setback of the rail corridor is unacceptable from a railway safety perspective.

Staff acknowledge that there are existing office buildings on Dupont Street which are not setback 20 metres from the rail corridor; however, this is not a condition which should be repeated, particularly in light of recent studies and analysis by rail safety consultants. These existing buildings on Dupont Street are legal non-conforming and, as with all legal non-conforming buildings and uses, it is expected that, over time, these buildings will be demolished and replaced with development that does conform to the policies and regulations in place and contemporary best practices. This is little different from structures within a river's floor plain. Existing structures are permitted to continue and can be replaced, but no new or expanded structures are permitted without sufficient mitigation to the satisfaction of the conservation authority. Should that mitigation prove to be impossible to achieve, then development cannot proceed.

Guidelines for New Development in Proximity to Railway Operations

In May 2013, the Federation of Canadian Municipalities in conjunction with the Railway Association of Canada released the Guidelines for New Development in Proximity to Railway Operations (the "FCM Guidelines").

The focus of the FCM Guidelines is with respect to residential development in proximity to rail corridors. These Guidelines focus on treatment of the sites in terms of providing for safety and noise and vibration mitigation. The FCM Guidelines state that the ideal safety approach is to provide a 30 metre setback between residential uses and a rail corridor lot line with an earthen berm to absorb the force of impact, or alternatively a lesser setback where the site is constrained and a crash wall can be employed in lieu of a berm.

The guidelines have not been adopted by the Province of Ontario or Toronto City Council and have no standing as either provincial or municipal policy. They do, however, provide guidance for planners and developers across Canadian jurisdictions when confronted with development in proximity to railway operations and have been referenced by the applicant in support of its proposal. The guidelines have also guided City Planning staff and HMM in developing OPA 271. The guidelines are currently being reviewed and updated by the Proximity Guidelines Committee, a multi-disciplinary panel of municipal politicians, planners and representatives of the railways.

The guidelines "strongly recommend that municipalities take a proactive approach to identifying and planning for potential conflicts between rail operations and new developments in proximity to railway corridors". The intent of the guidelines is to promote awareness around issues of compatibility, promote consistency in the application of relevant standards across the country, establish an effective approval process for new residential development and enhance the quality of living environments

In Chapter 3, the guidelines propose a set of principles for mitigation design. The guidelines state that the preferred option is for standard mitigation (30 metres and a berm). Should that not be possible, however, the guidelines recommend that the developer undertake development viability assessment to determine whether the project should proceed.

The guidelines recommend that municipalities establish minimum setbacks through a zoning by-law amendment, as was done in the case of the Dupont Study. The guidelines provide examples for how mitigation can be achieved on constrained sites. In figure 4 they show a residential tower protected by a crash wall with a low occupancy base building, in this case a parking structure. This is not to be construed as a catch all solution, but merely an illustrative example of what can be achieved, after undertaking a development viability assessment with a mitigation strategy signed off by an engineer.

In the case of the subject proposal, however, the applicant proposes a crash wall with a high occupancy use (commercial office) as the buffer. Even if one were to accept the guidelines as policy, the applicant's proposal would not be acceptable. In the applicant's planning and urban design rationale report, it points to examples where new development has been built with a crash wall and base building. In all of the examples, there are low-occupancy grade parking structures incorporated into the development, plus a crash wall. The subject proposal does not incorporate any low-occupancy element to its building, except for the access to the underground parking and loading spaces on the east end of the site. As well, given that the CP rail corridor is a major freight line on which hazardous and dangerous goods are transported, concerns with health and safety are a critical aspect of this application and cannot be ignored or taken lightly.

The actual policy recommendations in Chapter 3 are that municipalities create zoning standards, urban design guidelines and consider amendments to the official plan to provide a policy direction for mitigation. OPA 271 accomplishes this and it is the opinion of Staff that the approach the City has taken more closely follows the intent of the FMC guidelines than that taken by the applicant.

Land Use

The development parcel has a split land use designation in the Official Plan of *Regeneration Areas* and *Employment Lands*. For each *Regeneration Area* a framework for new development will be set out in a secondary plan. Staff undertook a study and determined appropriate built form standards which were adopted by Council and ultimately adopted in the majority by the Ontario Municipal Board. Due to the scale of the area in question Staff created an Area Specific policy rather than a secondary plan, however, the direction provided was fulsome and incorporated the relevant matters as outlined in the Official Plan. The remainder of the site is designated *Employment Lands* and an application was made to convert those lands to *Mixed use Areas* as part of the Municipal Comprehensive Review, but was rejected by Council and is not supported by Staff. The land uses proposed are not supported in the proposed Area Specific Policy for the western half of the property assembly, and the mixed use building is not supported on the eastern half.

Built Form

Height

The proposal has a height of 36 metres (9 storeys) for Building A and 64 metres (19 storeys for the residential component and 16 storeys for the commercial component) for Building B. Building A is within the boundaries of OPA 271 which permits a maximum height limit of 9 storeys. This maximum height allowance was based on the following considerations: overall depth of sites within the Study Area; distance to *Neighbourhoods* to the north; existing conditions north of Dupont Street such as the rail corridor; and the requirement for a 20 metre setback and berm from the rail corridor. Zoning By-law 1104-2014 permits a maximum height of 35 metres, whereas Building A is one metre above.

In principle, Building A's height is in keeping with the Zoning By-law and intent of OPA 271; however, the issue with Building A is not necessarily its height but its proximity to the rail corridor. Building A would be more suitable on the properties adjacent to the south where the existing house form buildings are located, with modifications to the massing and height to fit in within OPA 271 and the Zoning By-law 1104-2014.

Neither OPA 271 nor Zoning By-law 1104-2014 apply to Building B. The existing permissions under the Former City of Toronto Zoning By-law 438-86 permit a maximum height of 14 metres. The proposed building, including the mechanical penthouse, is at 72 metres. Not only does the proposed height exceed By-law 438-86 but is also more than triple the permitted height in Zoning By-law 1104-2014. Furthermore, the Official Plan requires that new buildings respond to their planned and built context, and transition down in height from properties designated *Neighbourhoods*. The nearest building of comparable height at 22-storeys is approximately 400 metres from the subject site located at Spadina Road and Bernard Avenue. It is an apartment building from the 1970s in a completely different context; otherwise there is no existing context for the proposed height within its proximity.

The proposed building is approximately 140 metres from the Dupont subway station, which is considered a major transit station area under the Growth Plan for the Greater Golden Horseshoe. The Growth Plan defines a major transit station area as being generally within an approximately 500 metre radius of a transit station, representing about a 10 minute walk. In this case, the walk would be approximately 2 minutes from the proposed building to the Dupont subway station. The applicant believes this condition is justification for increased heights and densities. While the proposal is close to a subway station, the height of Building B does not provide adequate transition from the surrounding low rise neighbourhoods and currently presents a rail safety concern. Lands to the west of the subject site, which are within OPA 271 and Zoning By-law 1104-2014, are also within a 10 minute walk of Dupont Subway Station, and are subject to a 9-storey height limit, respecting the low rise neighbourhood and local existing and planned built form context.

Massing

The south side of Dupont Street is characterized by low-rise residential use and is predominantly designated as *Neighbourhoods* in the Official Plan. The redevelopment opportunity along the south side of Dupont Street is limited and any redevelopment along the north side of the street should be respectful of the established and stable low-rise fabric on its south side. For this

reason, a mid-rise building with stepbacks that respects and reinforces the contextual character of the neighbourhood would be more appropriate as opposed to a tall or blocky building which will be imposing, out of character and an inappropriate fit.

The Dupont Street Urban Design Guidelines, which apply to Building A and which provide further guidance on good urban design principles for the rest of Dupont Street, recommend a streetwall height of 10.5 metres (approximately three storeys) with a front stepback of 5 metres. The purpose of this performance standard is to maintain a pedestrian scale with the upper floors of a building stepping back to not overwhelm the public realm and to provide for sunlight. In addition, the guidelines recommend a side stepback of 5.5 metres on the 3rd and 6th storeys, particularly for buildings built to the side property line, such as the proposal. The intent of this performance standard is to allow for sky views and provides articulation in the form of windows.

Building A does not front on a street, although it has access from Dupont Street. Staff are concerned about creating a condition of a commercial office building with retail on the ground floor that does not have an active street presence, in keeping with the policies of the Official Plan.

Building B steps back from the front lot line by 1.5 metres at the 2nd floor and by 3 metres at the 9th floor. A 1.5 metre side stepback is provided for the residential component of Building B starting at the 2nd floor. It should be noted, however, that wrap-around balconies are proposed to project into the building stepbacks. Furthermore, Building B does not provide a 12.5 metre side yard setback from the east property line as recommended by the Tall Building Guidelines and has a floor plate size well above 750 square metres. Staff consider these substandard stepbacks for both Building A and B to be inappropriate built form for the context and character of the area. As well, the mass of the buildings does not provide adequate space for public realm improvements.

Amenity Space

The Official Plan requires that every significant multi-unit residential development provide indoor and outdoor amenity space for residents and that each resident will have access to outdoor amenity spaces such as balconies, terraces, courtyards, rooftop gardens and other types of outdoor spaces. The zoning by-law requires residential buildings to provide indoor and outdoor amenity in the amount of 2 square metres per unit, respectfully.

The applicant has proposed 130 residential units, therefore the required amenity should be 260 square metres of indoor amenity space and 260 square metres of outdoor amenity space. Currently, the proposal does not provide any outdoor amenity space, and only 130 square metres of interior amenity space. The proposed indoor amenity space, in addition to being deficient in size, consists of one meeting room located on the P3 level of the underground garage. Modern amenity spaces are rarely programmed below grade. For reasons both subjective (lack of natural light, inconvenient access, poor quality) and objective (unsafe), below grade amenity space is undesirable. The indoor amenity space should be increased in size and moved to an above grade floor where sight lines can be preserved and allow for some natural light. Although the units have access to some private outdoor amenity space, in the form of balconies and one terrace for the penthouse unit, the lack of a communal outdoor amenity area is not acceptable.

Traffic Impact, Access, Parking and Servicing

The comments from Engineering and Construction Services are for the 2015 plans submitted as part of the Zoning Amendment application and not for the December 2016 revised plans. On March 30, 2015, Engineering and Construction Services had the following concerns:

- landscaping work proposed in the public right-of-way required further clarification;
- the traffic impact study provided by the applicant's traffic engineer was unacceptable and required further details/information;
- the parking supply is insufficient;
- solid waste management is not properly addressed for both the residential and non-residential components;
- Fire Services required further revisions to the plans;
- The Functional Servicing and Stormwater Management Report required further revisions.

As stated earlier, the most recent revised plans and studies remain under review with Engineering and Construction.

Open Space/Parkland

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 Official Plan shows local parkland provisions across the City. The subject lands are in an area with 1.56 to 2.99 hectares of local parkland per 1,000 people, the second highest quintile of current provision of parkland. The site is in a parkland priority area, as per the City Wide Parkland Dedication By-law 1020-2010.

At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 7466.7 square metres or 176.23 % of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% of the development site is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 351.4 square metres.

The applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as there is inadequate road frontage for on-site parkland dedication.

Section 37

Section 37 of the *Planning Act* allows the City to require community benefits in situations where increased density and/or height are permitted. The community benefits must bear a reasonable planning relationship to the proposed development including, at a minimum, an appropriate geographic relationship and may relate to planning issues associated with the development (e.g. local shortage of parkland).

Official Plan Amendment 271 addresses Section 37 community benefits, prioritizing the following: streetscape and pedestrian realm improvements on both sides of Dupont Street where development would not otherwise generate improvements; new day care centres and daycare spaces; and improvements to library branches serving the area.

Following the submission of the development application, City staff determined it was not appropriate to discuss Section 37 benefits as the proposed development was not considered to be good planning. Should a redevelopment of some form be approved through an OMB Hearing, staff will be seeking a Section 37 contribution.

Conclusion

The proposal is not consistent with the Provincial Policy Statement and does not conform to the policies of the Official Plan. The proposal does not effectively respond to issues of rail safety, liveability, built form, or land use. The proposal in its current form has not been evaluated on an engineering and construction basis and would require further testing and analysis.

Planning Staff have considered the application within the context of the in force policy framework, including the Official Plan policies. In addition, the proposed OPA 231 and OPA 271 and ongoing TOcore review have been considered.

This proposal, as revised, is not supported by Planning Staff for the reasons outlined in this report. It does not represent good planning and is not in the public interest and for these reasons City Council should direct the City Solicitor and appropriate City staff to attend the Ontario Municipal Board in opposition to the proposal.

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SIGNATURE

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

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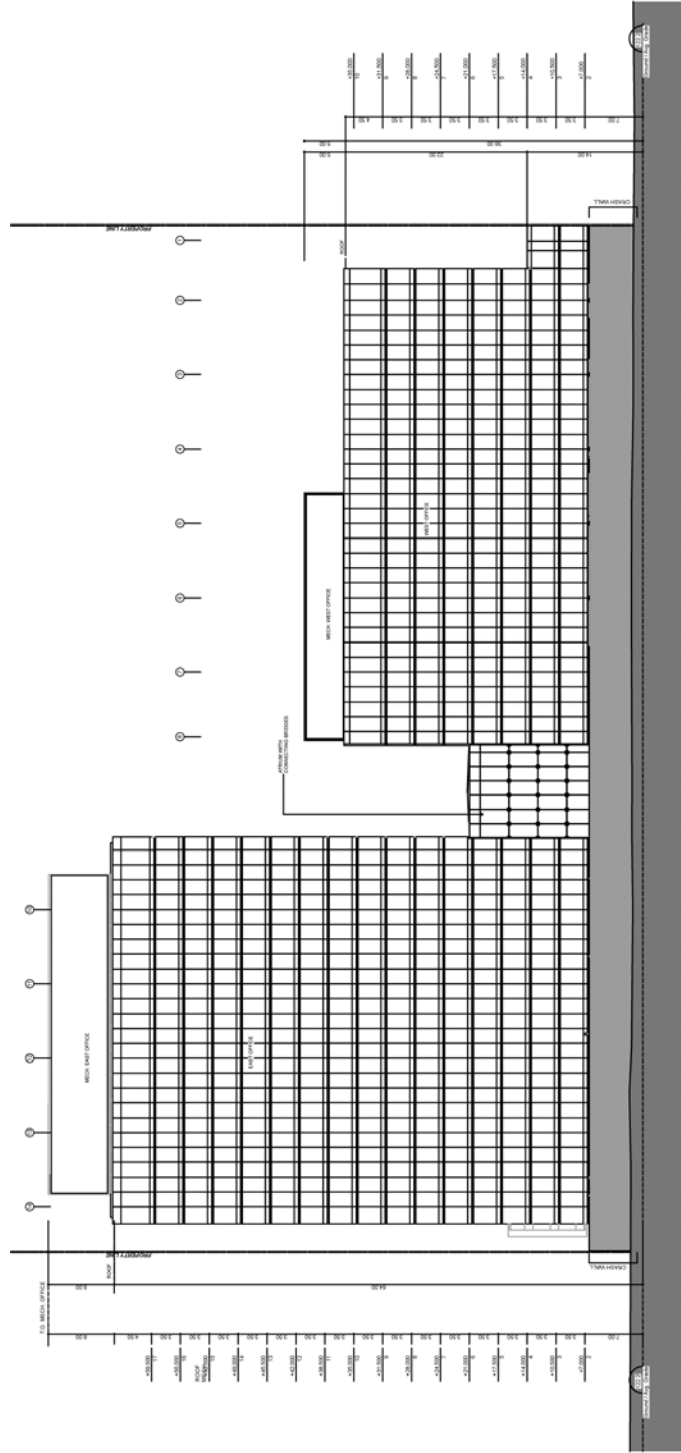
ATTACHMENTS

Attachment 1: Site Plan (December 2016)
Attachment 2: North Elevation
Attachment 3: South Elevation
Attachment 4: East and West Elevation
Attachment 5: Official Plan Designation
Attachment 6: Zoning By-law 1011-2014
Attachment 7: Application Data Sheet

Not to Scale
3/10/2017

File # 15_110684 STE 20 0Z

Attachment 2: North Elevation



North Elevation

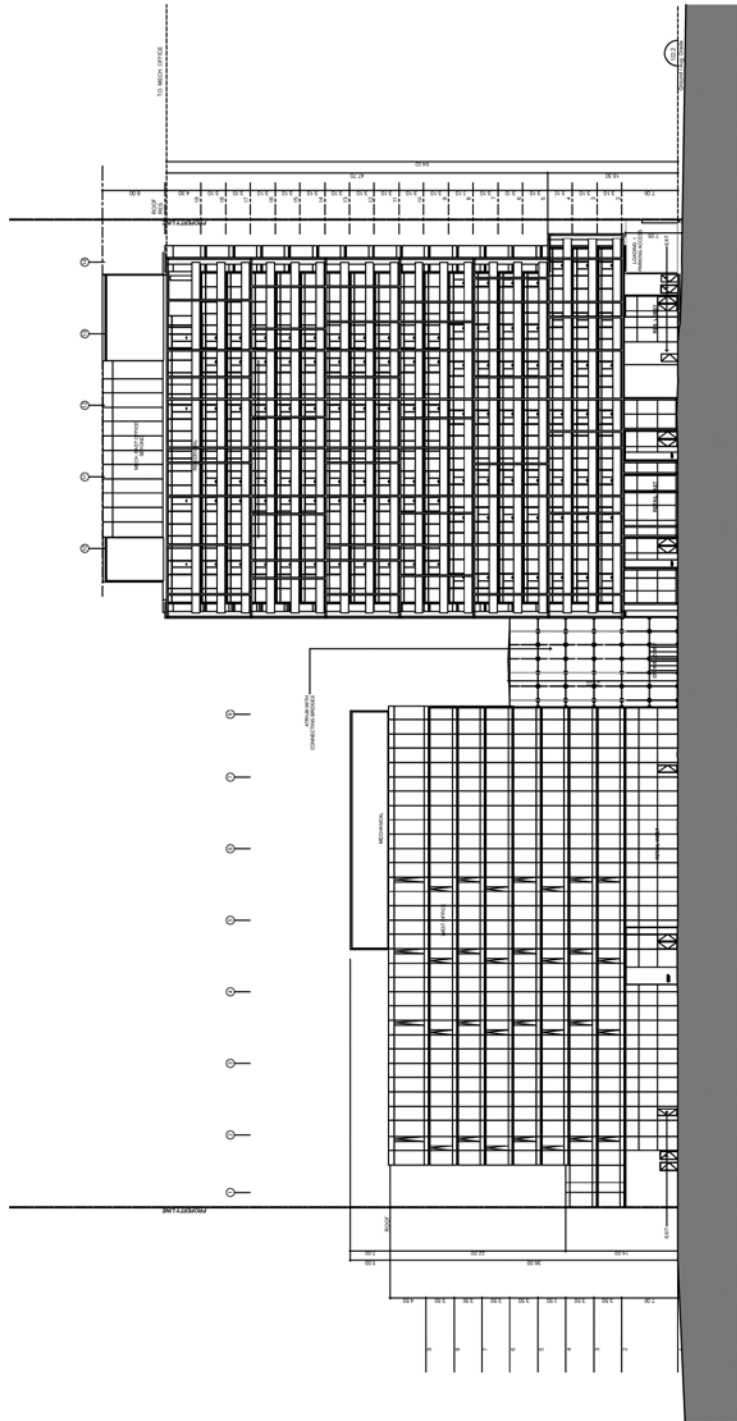
Applicant's Submitted Drawing

Not to Scale
3/10/2017

328, 330, 332, 344 and 358 Dupont Street

File # 15_110684 STE 20 0Z

Attachment 3: South Elevation



South Elevation

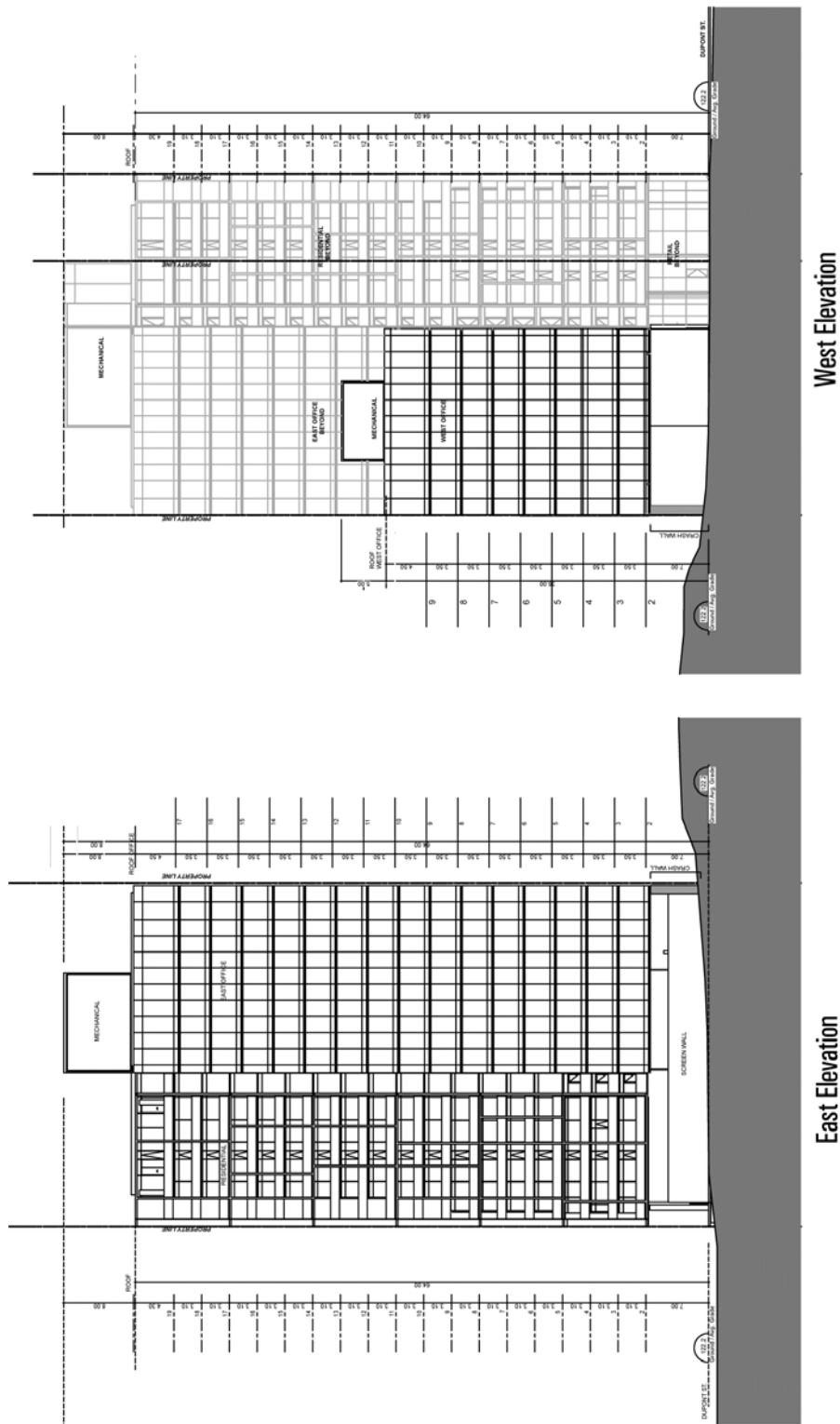
Applicant's Submitted Drawing

Not to Scale
3/10/2017

328, 330, 332, 344 and 358 Dupont Street

File # 15_110684 STE 20 02

Attachment 4: East and West Elevation



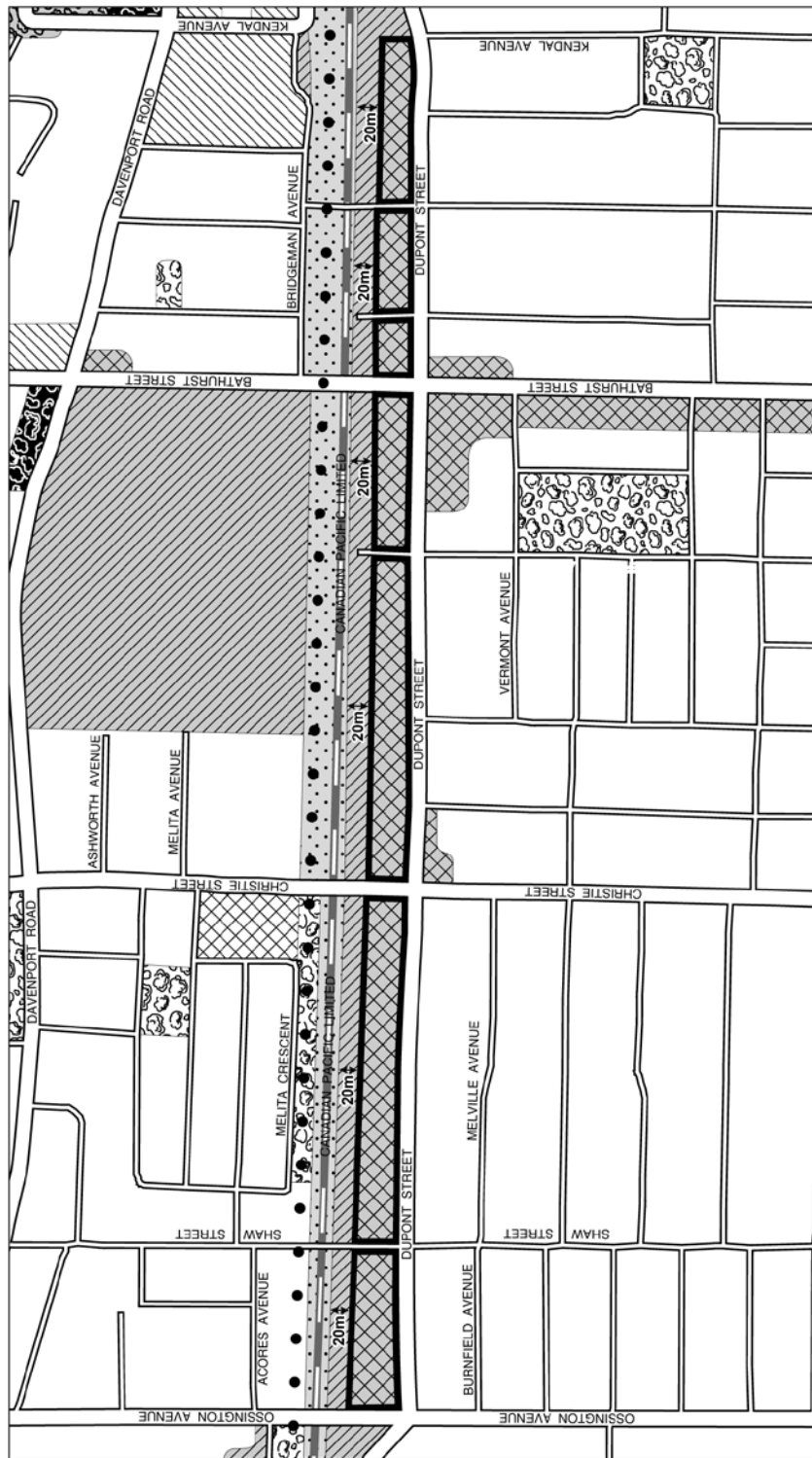
East and West Elevations
328, 330, 332, 344 and 358 Dupont Street

Applicant's Submitted Drawing

Not to Scale
3/10/2017

File # 15_110684 STE 20 0Z

Attachment 5: Official Plan Designation

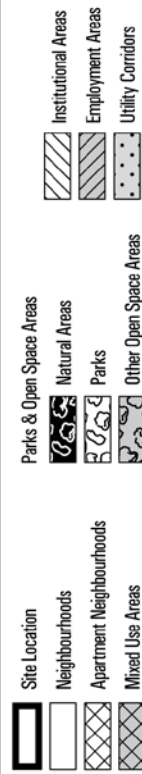


Dupont Street Regeneration Area Study

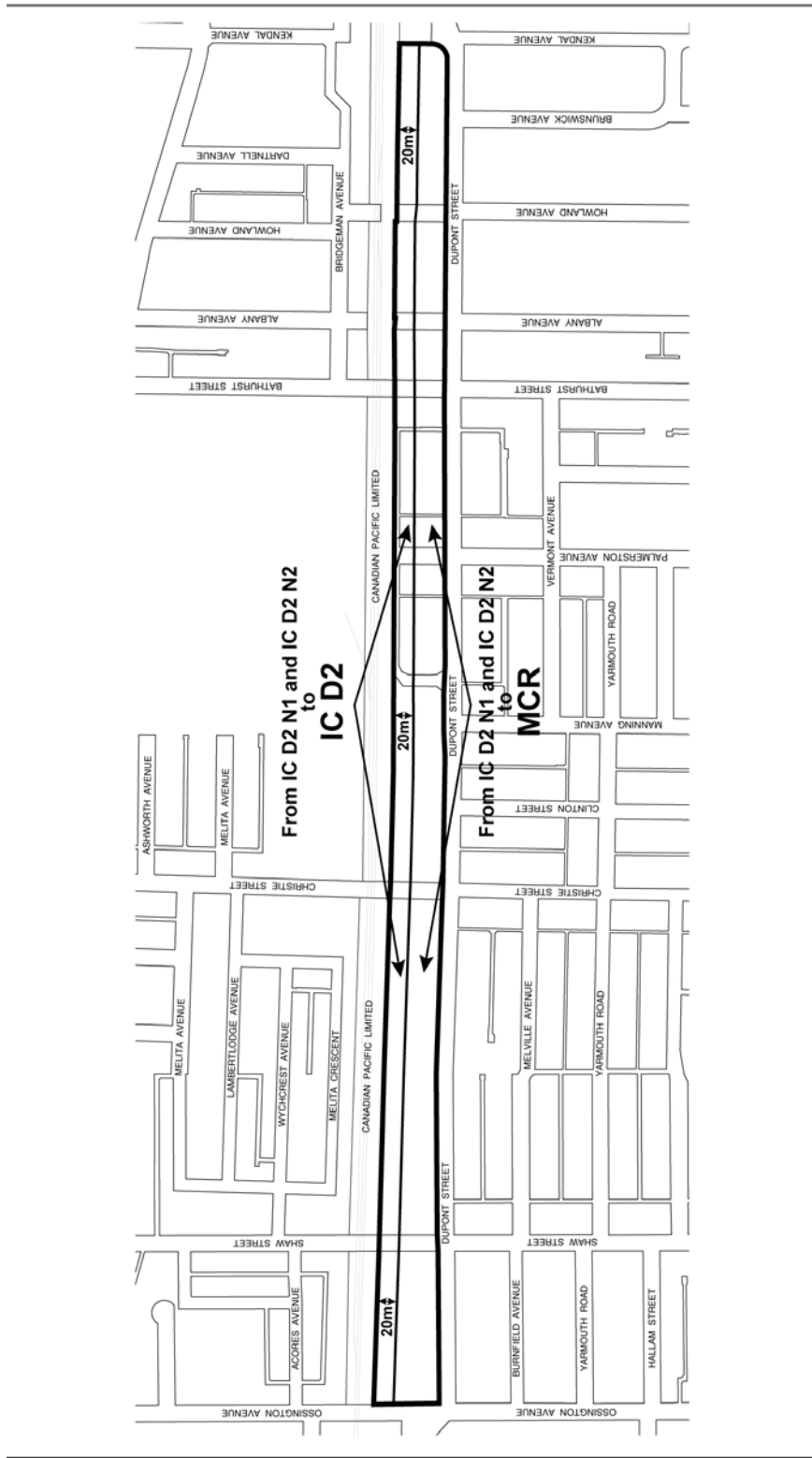


Official Plan Amendment #271

Revisions to Land Use Map 17 and Land Use Map 18 to Redesignate lands from Employment Areas to Mixed Use Areas File # 14 108871 STE 20 OZ and File # 15 110684 STE 20 OZ



Attachment 6: Zoning By-law 1011-2014



Dupont Street Regeneration Area Study

Area Specific Zoning By-law 1011-2014

File # 14 108871 STE 20 OZ and File # 15 110684 STE 20 OZ



Study Area Boundary



Not to Scale
02/23/2017

Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	15 110684 STE 20 OZ
Details	Rezoning, Standard	Application Date:	January 30, 2015
Municipal Address:	328-358 DUPONT STREET		
Location Description:	55 PLAN 1152 PT BLK B PLAN 698 LOTS 52-54 PT LOT **GRID S2002		
Project Description:	Two mixed-use buildings of 15- and 29-storeys connected by a 4-storey component. The proposal has 560 dwelling units and 9,534 square metres of commercial space. The proposed density is 10.55 times the lot area.		

Applicant:	Agent:	Architect:	Owner:
ANX 1 LP		architectsAlliance	The Wynne Family Trust

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:	OPA 231, OPA 271
Zoning:	IC D2 N2	Historical Status:	N
Height Limit (m):	14	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	4,237	Height:	Storeys:	9 and 19
Frontage (m):	124.3		Metres:	41.5 and 72 (incl. mech.)
Depth (m):	38.24			
Total Ground Floor Area (sq. m):	2,477.67			Total
Total Residential GFA (sq. m):	10,905.42		Parking Spaces:	205
Total Non-Residential GFA (sq. m):	27,089.85		Loading Docks	4
Total GFA (sq. m):	37,995.28			
Lot Coverage Ratio (%):	49			
Floor Space Index:	10.55			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	10,905.42	0
Bachelor:	0	Retail GFA (sq. m):	1,940.29	0
1 Bedroom:	102	Office GFA (sq. m):	25,149.56	0
2 Bedroom:	13	Industrial GFA (sq. m):	0	0
3 + Bedroom:	15	Institutional/Other GFA (sq. m):	0	0
Total Units:	130			

CONTACT:	PLANNER NAME:	Giulio Cescato, Manager
	CONTACT:	416-392-0459 giulio.cescato.@toronto.ca