



Final Report: City-Initiated Priority Retail Streets Zoning By-law Amendments

Date: October 28, 2019

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: 10, 11 and 13

SUMMARY

This report recommends approval of City-initiated zoning by-law amendments for Priority Retail Streets for the area within the Downtown Plan boundaries shown on Attachment 3 to this report.

The Downtown Plan (Official Plan Amendment 406) contains policies for Priority Retail Streets which updates and expands the number and locations of Priority Retail Streets to include the areas targeted for growth within the Downtown. The intent is to ensure that the frontages and grade-related uses on these streets are active, contain non-residential gross floor area and animate the street frontage through high-quality design.

The recommended zoning amendments to both the former City of Toronto Zoning By-law 438-86 and City of Toronto Zoning By-law 569-2013 implement the Downtown Plan.

The recommended zoning by-law amendments to By-law 438-86 aligns the streets where the Priority Retail Street designation applies with the additions made in the Downtown Plan, updates the list of uses considered to be street-related, and adds a new design standard pertaining to glazing. The existing design standards in By-law 438-86 are maintained. The recommended zoning by-law amendments to By-law 569-2013 would integrate the Priority Retail Street requirements into the By-law by creating a Priority Retail Street Overlay in Chapter 600.

RECOMMENDATIONS

The Chief Planner and Executive Director recommends that:

1. City Council amend Zoning By-law 438-86 in accordance with the draft Zoning By-law Amendment attached as Attachment 1 to this report.

2. City Council amend City of Toronto Zoning By-law 569-2013 in accordance with the draft Zoning By-law Amendment attached as Attachment 2 to this report.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft zoning by-law amendments as may be required.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

At its May 2018 meeting, City Council adopted Official Plan Amendment (OPA 406) the Downtown Plan pursuant to Section 26 of the Planning Act. The Bill was enacted at the July 24-26, 2018 Council meeting. At the same meeting, City Council directed the Chief Planner and Executive Director, City Planning to prepare necessary amendments to Zoning By-law 569-2013 and former City of Toronto Zoning By-law 438-86 as it relates to Retail Priority Streets and undertake public consultation on the draft amendments. City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG29.4>

OPA 406 was submitted to the Ministry of Municipal Affairs and Housing on August 9, 2018, for Ministerial review and approval. The Ministry issued its Decision approving the OPA on June 5, 2019 and the decision is now in full force and effect. The Decision can be found here: <https://www.toronto.ca/legdocs/refdocs/11189.pdf>

At its July 2019 meeting City Council received City Planning's report providing a summary and analysis of the Minister of Municipal Affairs and Housing's modifications and approval of OPA 406 (Downtown). City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.8>

BACKGROUND

Downtown's network of commercial main streets is a defining feature of Toronto. The shops, services, restaurants, cafés and bars found on the main streets serve the needs of local residents and workers. These shopping streets contribute to the Downtown's vibrant and walkable neighbourhoods, provide employment opportunities, and play a key role in animating and activating streetscapes.

The Downtown Plan's Priority Retail Streets policy updated and expanded the number and locations of streets included as areas that are targeted for growth within Downtown. The policies require that the ground floor of developments contain quality space for retail and related animating non-residential uses; encourage specific design elements to

protect the prevailing character of the street; and require that larger format stores be located on the second or lower levels of the building, or be wrapped by smaller stores. The intent of the policy framework within the Downtown Plan is to ensure that the frontages and grade-related uses on Priority Retail Streets are active, contain non-residential gross floor area, and animate the street frontage through quality design. Both the former City of Toronto Zoning By-law 438-86 and City of Toronto Zoning By-law 569-2013 contain provisions related to street-related retail and services uses in the Downtown.

By-law 438-86

Regulations for street-related retail and service uses in Section 12(2)259 of the former City of Toronto Zoning By-law 438-86:

- require a minimum of 60% of the lot frontage of development on designated streets to be dedicated to street-related retail and service uses,
- limit certain uses to a maximum 15 metres of frontage,
- include design standards for the location and elevation of the main pedestrian entrance which require that they be no higher than 0.2 metres from the ground, and be within 5.0 metres of the sidewalk, and
- identify a list of the uses that are considered to be street-related.

By-law 569-2013

City-wide Zoning By-law 569-2013 currently applies these regulations through site and area-specific exceptions, which refer back to By-law 438-86. They will be re-written into the language of By-law 569-2013 through this exercise.

Other Retail-Related Initiatives

In addition to the Priority Retail Streets By-law amendments, two other City-led retail related initiatives are currently underway which include:

- The Retail Design Manual, which is intended for architects, designers, Business Improvement Areas (BIAs) and the development community as aspirational retail best practices that can help ensure the development of resilient and adaptable retail spaces. The manual will apply city-wide, with a focus on retail uses and elements that interface with the public realm. The study is being led by City Planning. Information on the Retail Design Manual can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/retail-design/>
- The Retail Main Streets study, which intends to assess the current state and future of Toronto's main streets in an effort to ensure the sustainability of retail main streets and small, independent businesses. The findings and recommendations of this Study are intended to inform and guide City policies, programs and advocacy positions. This study is being led by Economic Development. More information on the Retail Main Streets study can be found at: <https://www.toronto.ca/community-people/get-involved/public-consultations/retail-main-streets-study/>

Both studies along with the recommended Priority Retail Streets zoning by-law amendments recognize the value of retail uses in the achievement of complete communities and are intended to support the resilience and animation of Toronto's retail main streets.

POLICY CONSIDERATIONS

Provincial Policy

The Provincial Policy Statement, 2014 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS directs that planning authorities must accommodate an appropriate range and mix of residential, employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs. Furthermore, the employment section of the PPS speaks to the need for planning authorities to provide for an appropriate mix and range of employment and institutional uses to meet long-term needs, including opportunities for a diversified economic base, and encouraging compact, mixed-use development that incorporate compatible employment uses to support liveable and resilient communities.

An important element of liveable and resilient communities are employment and commercial uses, which include retail, where appropriate. As contemplated by Policy 4.7 of the PPS, the City's Official Plan implements this direction in creating livable and resilient communities. The proposed zoning by-law amendments implement the Priority Retail Streets policy direction as approved in the Downtown Plan and continues to implement the PPS.

A Place to Grow: The Growth Plan for the Greater Golden Horseshoe, 2019 (the "Growth Plan (2019)") provides a framework for managing growth in the Greater Golden Horseshoe. Policy 2.2.1.4 speaks to applying the policies of the Plan to support the achievement of complete communities that feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities.

Policy 2.2.5.3 states that "Retail and office uses will be directed to locations that support active transportation and have existing or planned transit." Throughout the Downtown are a number of key transportation connections that provide local, city-wide, regional, provincial and international transit connections, via major subway, train, streetcar and bus stations and routes that exists on several streets which generally align with, or are adjacent to, the Priority Retail Streets identified in the Downtown Plan and in the recommended zoning by-law amendments.

Furthermore, Policy 2.2.5.15 states "the retail sector will be supported by promoting compact built form and intensification of retail and service uses and areas and encouraging the integration of those uses with other land uses to support the achievement of complete communities."

Under the Growth Plan, retail is considered an employment use, and one of the key components in creating a complete community.

Throughout the Downtown area, there are a significant number of cultural heritage resources. Both the PPS and Growth Plan also recognize the importance of conserving cultural heritage and built heritage resources under Policies 2.6.1, 2.6.3 and 4.2.7.1. As explained in this Report, an exemption was identified for heritage properties, specifically as it related to the minimum 60% glazing requirement. The proposed zoning by-law amendments include an exemption from the minimum 60% glazing requirement for heritage designated and listed properties in order to reflect their unique and historic physical context and therefore avoid any potential conflict or inconsistency with heritage conservation policies and the implementation of the recommended zoning by-law amendments.

The recommended Priority Retail Streets zoning by-law amendments are consistent with the PPS (2014) and conform to the Growth Plan (2019).

Official Plan

The Official Plan recognizes that traditional shopping streets are more than a place for business. The Plan contains policies in Section 3.5.3, The Future of Retailing, describing traditional retail shopping streets as centres of community activity by encouraging quality development of a type, density and form that is compatible with the character of the area and with adjacent uses.

Policy 3.5.3.5 provides for limits on the size of ground floor stores on pedestrian shopping strips in order to provide local opportunities for small businesses, and maintain the safety, comfort and amenity of shopping areas.

Official Plan Amendment 231 (OPA 231) contains retail policies and non-policy text that are intended to replace Section 3.5.3 (The Future of Retailing) in the Official Plan. These Council-approved policies have been appealed to the LPAT and are not yet in force.

These policies provide guidance for pedestrian shopping areas and in particular, they:

- recognize the role of pedestrian shopping areas as centres of community activity;
- provide for limits on new retail development and store sizes in support of that role;
- recognize such limits may also function as 'triggers' for review of proposals; and
- identify matters to be addressed for applications for development that may exceed such limits.

In addition, a key element of the City's pedestrian shopping areas is their typical built form of small stores and a fine-grained rhythm of doorways and windows. This built form creates a safe, comfortable and interesting experience for shoppers and pedestrians. The Future of Retailing policies within OPA 231 recognize the importance of these design elements.

The Downtown Plan (OPA 406) identifies the number and locations of Priority Retail Streets to include the areas that are a focus for growth within Downtown. The policies require that the ground floor of developments contain quality space for retail and related animating non-residential uses; encourage specific design elements to protect the prevailing character of the street; and require that larger format stores be located on the second or lower levels of new development, or wrapped by smaller stores.

The intent of the policy framework within the Downtown Plan is to ensure that the frontages and grade-related uses on Priority Retail Streets are active, contain non-residential gross floor area, and animate the street frontage through high-quality design.

The Minister in approving OPA 406 modified the Plan to exclude the lands covered by the Central Waterfront Secondary Plan (CWSP), which is not subject to most of the policies of the Downtown Plan (roughly the area between Bathurst and the Don River, south of the Gardiner Expressway, plus the West Don Lands). The policies pertaining to the Priority Retail Streets policy framework were also modified to add "limited small scale offices" as a permitted use for development that fronts onto a Priority Retail Street. This modification aligns with the existing zoning by-law list of uses permitted as "street related retail and service uses".

Although the Priority Retail Street policy framework no longer applies to the streets within the CWSP, the existing policies for the CWSP include animation zones that require the areas abutting the public realm be prioritized for retail uses. This will help to ensure that development continues to support a vibrant retail environment along identified streets in the CSWP area.

Other Secondary Plans and Area-Specific Policies

Specific policy direction is found with respect to retail and service commercial development within the Downtown's various sub-areas, as established in Secondary Plans, Site- and Area-Specific Policies and Design Guidelines. This includes the King-Parliament, King-Spadina, Railway Lands East, Central and West, Regent Park, Queen-River and University of Toronto Secondary Plans. As part of the development of the Downtown Plan, the policy direction in the Plan was reviewed against these existing policy frameworks. The review focused on identifying conflicts, overlap or duplication of policies to ensure a cohesive vision, clear direction and policy alignment. The recommended zoning by-law amendments implement the policy direction for retail uses along main streets in these areas.

In the opinion of City Planning Staff, the recommended Priority Retail Streets zoning by-law amendments conforms to the City's Official Plan, including the relevant Secondary Plans and Site and Area Specific Policies.

COMMENTS

Recommended Priority Retail Streets Zoning By-Law

The recommended Priority Retail Streets Zoning By-laws propose to:

- maintain the regulation requiring a minimum of 60% of the lot frontage of development on designated streets to be dedicated to street-related retail and service uses;
- maintain certain uses to be limited to a maximum 15 metres of frontage;
- maintain the design standards for the location and elevation of the main pedestrian entrance;
- expand the streets to which the regulation applies, as shown on the maps in Attachments 1 and 2;
- reconcile the street-related retail and service uses between Zoning By-Law 438-86 and 569-2013, and add new uses to those that may be considered street-related for the purpose of applying the regulations; and
- add a requirement for a minimum 60% of the façade facing the Priority Retail Street to be made up of windows and doors.

Minimum 60% Lot Frontage Requirement for Street-Related Retail and Service Uses

Requiring a minimum of 60% of lot frontage of development on designated streets to be dedicated to street-related retail and service uses is important to ensuring Downtown main streets provide a contiguous frontage consisting predominately of uses that play a fundamental role in animating and activating streetscapes. A contiguous retail frontage with a fine-grained rhythm of doorways and windows, uninterrupted by blank walls, driveways and other gaps in the fabric is considered to be one of the most important elements of vibrant, successful and resilient main streets.

A review of frontages of buildings along existing designated Priority Retail Streets and prominent retail streets throughout the Downtown shows the percent of the lot frontage of development devoted to street retail and service uses often ranges between 50% and 100%.

This report recommends maintaining the requirement for a minimum 60% of lot frontage to be dedicated to street-related retail and service uses to ensure a predominant contiguous retail frontage that contributes to animating and activating the streetscape, while also accommodating non-retail entrances, and a buildings functional requirements such as residential or office lobbies, and servicing/loading entrances. How these other functions are accommodated while maximizing the frontage devoted to street-related retail and service uses is a key consideration during the City's development review process and is resolved in detail during site plan approval.

Street Related Retail and Service Uses

The list of uses considered to be street-related retail and service uses are found in both Attachment 1 and 2. The uses are typical of what is found on a retail main street throughout Downtown Toronto. For example, eating establishments, financial institutions, personal service shops, retail services, and retail stores, and uses complementary to retail and services such as community, social and institutional uses, and schools, museums and galleries are included. This combination of permitted uses is essential to ensuring a vibrant and animated retail main street that can serve people of all ages and abilities and allow for convenient access to most necessities for daily living.

Two new uses under street-related retail and services are proposed to be added as part of the recommended zoning by-law amendments – post-secondary schools and hospitals.

Some institutional uses are currently permitted as street-related retail and service uses. As part of the consultation process for the Downtown Plan, a number of universities, colleges and hospitals in the Downtown noted that post-secondary schools and hospitals have the ability to create spaces that can animate and activate streetscapes and complement retail main streets. The proposed addition of post-secondary schools and hospitals as a street-related retail and service use provides flexibility for universities, colleges and hospitals, and is not anticipated to affect the retail character and resilience of Priority Retail Streets as post-secondary schools and hospitals often provide active public uses on their ground floor, which can serve a complementary purpose to retail main streets and help animate and activate the streetscape.

Limit of 15 metre Frontage for Certain Uses

The limit of 15 metre frontage for certain uses is also proposed to be maintained as part of the recommended zoning by-law amendments. It should be noted that this regulation does not limit the overall frontage of these uses, but rather it limits the amount of frontage that can be counted towards meeting the 60% overall frontage requirement. The list of uses limited to a maximum of 15 metres of lot frontage are shown in Attachments 1 and 2. This regulation applies largely to non-retail or service-related uses such as police stations, ambulance depots, places of worship, schools, hospitals, etc.

Additionally, financial institutions, such as banks, and medical offices are limited to a frontage of 15 metres, as other retail and service uses such as restaurants and retail stores have the ability to comparatively animate and activate streetscapes more effectively. Although permitting a combination of uses on Priority Retail Streets is important in facilitating a vibrant environment and the development of complete communities, the designated streets are ultimately prioritized for animated retail and service uses, as that is their primary function and role.

Design Standards

Design standards support many objectives: accessibility, they can increase the perception of safety by ensuring that streets are activated at all times during the day

and night and provide retailers with greater visibility from public spaces and the street. Locating the entrances of street-related retail and service units within 5.0 metres of a sidewalk is an important design consideration due to the need for clear sightlines and high levels of visibility to the units from public spaces. As well, ensuring entrances are not higher than 0.2 metres from the ground is another key consideration for the accessibility and visibility of retail units. The existing performance standards are proposed to be maintained as part of the recommended zoning by-law amendments.

Location of Designations

The streets subject to the recommended Priority Retail Streets zoning has been expanded based on additions in the Downtown Plan. The map of all proposed designated Priority Retail Streets can be found in Attachments 1 and 2. Attachment 3 differentiates between existing and new streets designated, with the dotted line representing streets with an existing/in effect Priority Retail Streets designation and the solid line representing streets with designations proposed to be added. New streets designated include parts of Dupont Street, Bathurst Street, Spadina Avenue, Augusta Avenue, John Street, Parliament Street, Sherbourne Street, King Street, Baldwin Street, Harbord Street, Kensington Avenue, and York Street.

Streets with existing designations proposed to be expanded include Yonge Street, Bay Street, Queen Street, Dundas Street, Front Street, Bloor Street, Avenue Road, College/Carleton Street, Church Street, Hazelton Lanes, and Wellington Street.

Application of Designations as it relates to Zones

The proposed changes apply to the following zones in By-law 569-2013:

- Commercial-Residential (CR)
- Commercial-Residential-Employment (CRE)
- Institutional (I)
- Institutional-Hospital(IH)

A review of Zoning By-Law 483-86 and Zoning By-law 569-2013 maps show that the recommended Priority Retail Streets designations intersect primarily with Commercial-Residential (CR) and Institutional (I) zones. There are a number of cases where the Priority Retail Street designations intersect with Residential (R) zones (for example, small sections of Dupont Street, Baldwin Street, Carlton Street, Dundas Street and Church Street). The designation is intended to only apply to the Residential (R) zones if a zoning change to CR, CRE, I or IH zones is proposed. Furthermore, most of the street-related retail and service uses are not permitted under the Residential (R) zone.

Minimum 60% Glazing Requirement

The recommended zoning amendment adds a new regulation pertaining to a requirement for a minimum of 60% of the surface area of the main wall facing the Priority Retail Street to comprise windows or doors. This is important as it is intended to limit blank street walls, allow for clear and unobstructed sightlines directly into a retail unit, and provide the opportunity for the tenant occupying the unit to visibly advertise their products or services.

Potential conflicts between the minimum 60% glazing requirement and heritage properties that front onto Priority Retail Streets have been identified. Most notably, concerns were raised that a minimum 60% requirement for windows and doors might conflict with the historic facades of heritage buildings. Historic masonry structures, with their “punched” windows, used less glass area per façade, as opposed to more modern structures in Toronto which contain generally more than 60% glass. As such, the recommended zoning by-law amendments include an exemption from the minimum

60% glazing requirement for heritage designated and listed properties to reflect their unique and historic physical context.

Similar concerns of conflicts between the minimum 60% glazing requirement were raised by BIA stakeholders, with respect to specialty retailers. Some specialty retailers may specify their own design standard over a façade that would result in the façade consisting of less than 60% windows and doors.

In addition, the bird deterrence requirements of the Toronto Green Standard (TGS) will have to be considered. Tier 1 of the TGS requires treatment of a minimum of 85% of all exterior glazing within the greater of the first 12 metres of height, or the height of the mature tree canopy. This can be achieved through the use of low reflective/ opaque materials, visual markers or other building designs to mute reflections on glass surfaces.

These concerns can be addressed through the development review process and Committee of Adjustment where necessary, where City staff and the applicant will have the opportunity to assess the glazing requirement in the context of the existing structure, location and type of retail uses proposed.

Other Exemptions

In addition to heritage properties, the recommended zoning by-law amendments provide an exemption for lawfully existing buildings. However, any future changes in use or additions and extensions on the first floor would have to comply with the new requirements. There is also an exemption for buildings that were originally constructed as residential buildings such as detached houses and townhouses. Given the relatively small-scale nature of these buildings, applying the new regulations would be very onerous.

Replicability of the Designation

The Priority Retail Streets regulations are being added to By-law 569-2013 as a Chapter 600 Overlay which could then be expanded to other areas of the City in the future where a Priority Retail Street designation may be deemed appropriate.

Consultation

Four community consultation sessions were held during 2019 consisting of three open houses hosted at public libraries in the Downtown during August, as well as a public

consultation/open house held at Metro Hall in early September. Notice of the consultation sessions was sent to interested parties, including BILD, external agencies, City staff, Councillors, and ratepayers (in total 537 people were notified) and an e-newsletter sent to over 900 subscribers involved in the TOcore consultations. Notice of the consultations was also advertised through City Planning's various social media platforms, as well as newspapers.

Participants at the consultation sessions were mostly associated with a community organization such as a Business Improvement Area or a residents' association. Participants were generally supportive of the Priority Streets Retail initiative and noted that the rationale for the additions and changes to the existing zoning by-law permissions were supportable. There was support for maintaining the 60% frontage requirement, 15 metre limit for certain uses, and the design standards for the location of the public entrance.

Participants were also supportive of the list of street-related retail and service uses permitted on designated Priority Retail Streets, acknowledged the new permission for post-secondary schools, acknowledged the rationale for the provision for other non-retail or service uses that act as complementary uses to the retail main street, and have the ability to animate and activate streetscapes.

Although participants were supportive of the minimum 60% glazing requirement for facades, one stakeholder noted that the requirement may impact the ability for certain specialty retailers to occupy retail spaces designed to suit their preferences and purposes – stakeholders identified the former Tiffany's space at 85 Bloor Street West as a notable example.

City Planning staff provided presentations and received feedback via, phone and e-mail during the consultation period. These comments reiterated those heard at the public consultation sessions.

In addition to community engagement, various City divisions participated and reviewed the recommended zoning by-law amendments, including Legal Services, Toronto Building, Economic Development and Culture, including the BIA office, and Municipal Licensing and Standards.

Conclusion

The in-force Downtown Plan contains policies for Priority Retail Streets which updates and expands the number and locations of Priority Retail Streets to include the areas targeted for growth within the Downtown. The intent is to ensure that the frontages and grade-related uses on these streets are active, contain non-residential gross floor area, and animate the street frontage through high-quality design.

As directed by City Council, City Planning has prepared amendments to By-law 438-86 and By-law 569-2013 that aligns the streets where the Priority Retail Street designation applies with the additions made in the Downtown Plan; updates the list of uses

considered to be street-related, and adds a new design standard pertaining to glazing. The current design standards in By-law 438-86 are maintained.

The recommended zoning by-law amendments are consistent with the direction for retail uses under the existing policy framework established by the Provincial Policy Statement (2014), conforms and does not conflict with the Growth Plan (2019), and conforms to the City's Official Plan, including relevant Secondary Plan, Site- and Area-Specific Policies and Design Guidelines.

As well, the recommended zoning by-law amendments received support from stakeholders and members of the public that participated during the consultation sessions and provided their comments.

It is recommended that City Council adopt the recommendations and approve the zoning by-law amendments substantially in accordance with the attachments to this Report.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment 569-2013
Attachment 2: Draft Zoning By-law Amendment 438-86
Attachment 3: Downtown Plan Priority Retail Streets