

DEVINE PARK LLP

PLANNING AND DEVELOPMENT LAWYERS

Jason Park
jason.park@devinepark.com
D 416.645.4572

Devine Park LLP
250 Yonge St., Suite 2302
P.O. Box. 65
Toronto ON M5B 2L7

T 416.645.4584
F 416.645.4569

Matter No. W964-02

October 14, 2022

VIA EMAIL Jessica.Braun@toronto.ca

Ms. Jessica Braun
City of Toronto Legal Services
Planning & Administrative Tribunal Law
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Ms. Braun

**RE: 4926 Bathurst Street, Toronto
Appeals to OLT for OPA, Rezoning and Site Plan Applications
OLT Case No. OLT-21-001815**

Confidential and Without Prejudice Settlement Offer

As you know, we are the solicitors for 4926 Bathurst Inc., the owner of lands known municipally as 4926 Bathurst Street in the City of Toronto and the appellant with respect to the above noted appeals.

As a follow up to the without prejudice settlement discussions between our client and City staff, we are pleased to provide the following settlement offer on a confidential and without prejudice basis in full settlement of these appeals:

- (1) Our client would agree to formally revise its development proposal from a 26 storey mixed use building (excluding MPH) to a 24 storey mixed use building (excluding MPH) as set out in the attached architectural plans prepared by IBI dated August 8, 2022 (the "Proposed Development"). The overall height has been reduced to 78.05 metres from the current 87.5 m height (including MPH) which is a reduction of 9.45 m or 31 ft (essentially more than a 3 storey reduction in metres). A further podium stepback of approximately 3 metres on the west and south facades has been introduced at the 6th and 7th levels in the Proposed Development;
- (2) The approved residential parking rate for the Proposed Development would be 0.50 parking spaces per unit (including both 0.1 visitor parking spaces and 0.4 resident

parking spaces). In support of the reduced parking rate, we provide the following comments:

- a. As per the letter report prepared by LEA Consulting Ltd. dated October 11, 2022 the existing pre-pandemic developments in comparable contexts illustrate a parking demand of no greater than 0.5 parking spaces per unit. However, parking demand has been consistently dropping through the years and with the changes in work style and workplace, it is expected that there will be further significant reductions in auto trips as some employees continue to work from home;
 - b. This site is well connected through bus transit to 2 subway lines only minutes away - the Yonge/Finch station (2 km) and the Keele/Finch station (4 km);
 - c. The City's Official Plan objective is clearly to reduce vehicle demand/auto ownership and to encourage use of mass transit and bicycles which is reflected by City Council's adoption of new parking standards in By-law 89-2022 which would permit zero residential parking and only require 15 visitor spots for the Proposed Development;
 - d. The parking proposal supported by LEA Consulting Ltd. would provide a total of 130 parking spots (0.5 ratio) comprising 104 residential parking spaces (0.4 ratio) plus 26 visitors parking spaces (0.1 ratio);
 - e. A below grade parking spot costs well in excess of \$100,000 to construct and reducing the number of below grade parking levels from 3 to 2 will make the project more environmentally sustainable and will contribute significantly to making the units in the Proposed Development more affordable;
 - f. Terry Wallace, a principal of LEA Consulting Ltd. is a highly respected transportation consultant and his conclusion is that this is an appropriate proposal and "will meet the City's overarching goals for planning and new development as demonstrated by the City's background study for Bylaw 88-2022 and through the City's Climate Action Strategy and Official Plan".
- (3) The Appellant is agreeable to providing a minimum of 10 percent 3 bedroom units for the Proposed Development;
- (4) In terms of Section 37 benefits, the Proposed Development would be subject to the City's recently adopted Community Benefits Charge By-law 1139-2022;
- (5) In terms of parkland, the Proposed Development would be subject to a cash-in-lieu payment pursuant to the City's parkland dedication by-law; and

(6) In terms of the site plan appeal, our client agrees to work with City staff to resolve the remaining site plan issues in order to finalize a NOAC following the approval by the OLT of the necessary OPA and zoning by-law amendment for the Proposed Development.

In support of this confidential and without prejudice settlement offer, please find attached the following:

- (1) Architectural Plans prepared by IBI dated August 8, 2022;
- (2) A Letter Report dated October 11, 2022 from LEA Consulting Ltd. entitled "Updated Vehicle Parking Assessment - Proposed Residential Development"; and
- (3) Wind Addendum Letter dated September 28, 2022 from Gradient Wind Engineering Inc. confirming for the northeast corner of the proposed building, the predicted future conditions at this location will be comfortable for standing during the summer, and for walking during the winter. As compared to the pre-existing conditions at this location, the seasonal comfort classifications will not change upon development of the proposed building.

We can confirm that if City Council accepts the above noted settlement terms, this offer will become with prejudice and this settlement offer can be released to the public. **Please be advised that this offer will expire the earlier of 10:00 pm on Friday, December 16, 2022 or revocation by our client.**

If you have any questions regarding the above, please do not hesitate to contact me at 416.645.4572 or via email at jason.park@devinepark.com.

Yours very truly,
Devine Park LLP



Jason Park
JJP/ss

cc: 4926 Bathurst Inc.
Peter Smith, Bousfields Inc.

GRADIENTWIND

ENGINEERS & SCIENTISTS

September 28, 2022

Stephen Gardiner
Senior Planner

Re: Addendum to Pedestrian Level Wind Study
4926 Bathurst Street, Toronto
GWE File No.: 20-192-WTPLW
Confidential & Without Prejudice

Dear Mr. Gardiner,

Gradient Wind Engineering Inc. previously completed a detailed pedestrian level wind study for a proposed mixed-use development located at 4926 Bathurst Street in Toronto. For a complete summary of the methodology and results of the original pedestrian wind study, please refer to GWE report #20-192-WTPLW, dated November 24, 2021.

Regarding the northeast corner of the proposed building (denoted by Sensor 45 in the aforementioned wind study), the predicted future conditions at this location will be comfortable for standing during the summer, and for walking during the winter. As compared to the pre-existing conditions at this location, the seasonal comfort classifications will not change upon development of the proposed building at 4926 Bathurst Street

Please advise the undersigned of any questions or concerns.

Sincerely,

Gradient Wind Engineering Inc.



Andrew Sliastas, M.A.Sc., P.Eng.,
Principal



October 11, 2022

Reference Number: 21119/200

Mr. Kevin Wassermuhl
4926 Bathurst Inc.
Phone: 647-988-3050
Fax: 647-436-6523
kwassermuhl@gmail.com

"CONFIDENTIAL"

"WITHOUT PREJUDICE"

Dear Mr. Wassermuhl:

RE: Updated Vehicle Parking Assessment - Proposed Residential Development
4926 Bathurst Street, City of Toronto

LEA Consulting Ltd. (LEA) was retained by 4926 Bathurst Inc. to provide transportation consulting services for the proposed residential development located at 4926 Bathurst Street (herein referred to as "subject site") in the City of Toronto. The subject site is situated on the southwest corner of Bathurst Street and Finch Avenue West. Figure 1 illustrates the subject site location.

Figure 1: Subject Site Location



The purpose of this letter is to review the parking analyses conducted to date, consider the City's OP objectives for reducing vehicle demand/auto ownership and re-assess the parking supply for the proposed development. This re-assessment is recommended due to the changes in travel behaviour brought on by the pandemic situation of the past two years, and how auto ownership rates and parking demand has been declining over the past decade, and are likely to continue to decrease.



PROPOSED DEVELOPMENT

Table 1 below summarizes the updated site statistics.

Table 1: Site Statistics

Proposed Use	Number of Units / GFA
Residential Bachelor	3
Residential 1-Bedroom	104
Residential 2-Bedroom	127
Residential 3-Bedroom	25
Total Residential Units	259
Retail	900 m ² GFA

BY-LAW REQUIREMENTS

Minimum parking requirements for the subject site are governed by the City of Toronto By-law 569-2013, as shown below.

Table 2: Minimum Parking Requirements

Proposed Use	Number of Units	Minimum Requirements	
		Ratio	# of Spaces
Residential Bachelor	3	0.7 per unit	2
Residential 1-Bedroom	104	0.8 per unit	83
Residential 2-Bedroom	127	0.9 per unit	114
Residential 3-Bedroom	25	1.1 per unit	27
Visitor	259	0.15 per unit	38
Retail	900 m ²	1 per 100 m ² of GFA	9
Total			273

PROPOSED PARKING

The City of Toronto recently adopted By-Law 89-2022 which eliminated parking minimums for many uses, including residential and retail. Table 3 provides the By-Law 89-2022 parking requirements for the subject development.



Table 3: Parking Requirements Based on By-Law 89-2022

Proposed Use	Number of Units/GFA	Minimum Requirements		Maximum Requirements	
		Ratio	# of Spaces	Ratio	# of Spaces
Residential Bachelor	3	-	0	0.7 per unit	2
Residential 1-Bedroom	104	-	0	0.8 per unit	83
Residential 2-Bedroom	127	-	0	0.9 per unit	114
Residential 3-Bedroom	25	-	0	1.1 per unit	27
Visitor	259	2 spaces + 0.05 spaces/unit	15	[5 spaces + 0.1 space/unit x (259 units - 5)]	30
Retail	900 m ²	-	0	4 spaces/100 m ² GFA	36
Total			15		292

Based on By-Law 89-2022 the parking supply for the proposed development may vary between a minimum of 15 spaces and maximum of 292 spaces. However, we understand that by-law 89-2022 is under appeal and is not in effect at this time.

We do understand that By-Law 89-2022 was established to help meet the transportation objectives of the City's Official Plan, such as reducing automobile ownership and usage to encourage active modes of transportation, transit, bicycle and alternative modes, thereby improving air quality. Reduced parking also acts as a deterrent to car ownership and supports the Official Plan vision. Market conditions for residential will also influence a residential parking supply between the minimum and maximum rates.

Pandemic conditions and the recent acceptance of working-from-home for office, tech and other employees has, and will continue to, have a dramatic effect on automobile ownership and commuting. With offices currently at approximately 30 percent occupancy rates and no indication that it will increase any time soon, the need for an automobile by residents living in urban centres such as Toronto will naturally continue to decline.

Pre-pandemic, LEA reviewed many proxy sites to estimate parking demands. Through 2016 to 2019 the following sites were surveyed, which have similar travel characteristics to 4926 Bathurst Street:

Table 4: Proxy Site Survey Results

Location	Units	Survey Dates	Peak Demand	Observed Parking Demand	Transit Score	Walk Score
4190 Bathurst St	80	Sept 19-21, 2017	44	0.55	63	67
6040 Bathurst St & 5 Fisherville Rd	393	May 2016	217	0.55	64	73
3888 Bathurst St	149	Oct 13-14, 2017	79	0.53	64	75
222 Finch Avenue West	24	June 14-16, 2016	13	0.54	76	68
570 Birchmount Road	107	Nov 1-2 2019	62	0.58	83	46
156 Kingston Road	64	Jan 20-21 2017	17	0.27	82	83
Average				0.50	72	69



As shown, these surveys demonstrated an average parking demand of 0.50 spaces/unit for residents. These surveys are 3 to 6 years old and although they could be updated, the pandemic situation has not stabilized and survey results may not be reflective of “normalized” conditions. However, given the age of the surveys which produced parking demands of 0.50 spaces/unit 3 to 6 years ago, and with auto ownership and parking demands continuing to decline in the future as people commute less and adopt more sustainable modes of travel, a more appropriate ratio would be 0.4 spaces/unit for residents. A ratio of 0.1 space/unit for residential visitors is proposed.

Table 5: Proposed Parking Supply

Proposed Use	Number of Units/GFA	Parking Supply	
		Ratio	# of Spaces
Residential Bachelor	3	0.4/unit	1
Residential 1-Bedroom	104	0.4/unit	42
Residential 2-Bedroom	127	0.4/unit	51
Residential 3-Bedroom	25	0.4/unit	10
Visitor	259	0.1/unit	26
Retail	900 m ²	-	
Total			130

The Residential visitor rate of 0.1 spaces/unit is the By-Law 569-2013 minimum requirement for residential use in Policy Area 4, which happens to be adjacent to the proposed development and on the east side of Bathurst Street along Finch Avenue East. The subject site, being on the west side of Bathurst Street, would have the same travel characteristics as properties on the east side of Bathurst Street. Therefore, this rate is appropriate.

The minimum by-law requirement for retail uses under By-Law 569-2013 is 1.0 space/unit. This would result in 9 parking spaces required for retail. Given the small requirement for the small amount of retail, it is recommended that the retail parking be shared with the residential visitor parking, as the peak demands for each use occur at separate times. Peak parking demands for residential visitors occur in late evenings after 9:00 p.m., whereas peak parking demands for retail uses occur during typical business hours. Shared-parking of complementary uses reduces the footprint of unnecessary infrastructure for a building and thereby reduces construction costs and improves affordability. Shared parking supplies for mixed-uses such as residential visitors and retail are commonly considered and approved by the City of Toronto.

The proposed parking supply therefore seeks to provide a balance between the By-law 569-2013 rates and the recent By-law 89-2022 direction. The proposed parking supply meets the Policy Area 4 by-law requirements for visitor parking and will provide retail parking in line with By-law 569-2013 rates (when shared with residential visitor parking) to ensure non-residents can be accommodated on-site without having to utilize adjacent streets. For residents, the proposed parking supply has been determined in order to maximize the site towards active uses and will encourage residents to use transit and alternative travel modes to the single-occupant vehicle, in line with the City’s and Province’s planning goals. Subway stations are located east and west of the site. The Finch Subway Station on Line 1 Yonge-University-Spadina is about 2 km east along Finch Avenue West at Yonge Street, while the Finch West Subway Station is about 4 km west at Keele Street and the Sheppard West Subway Station is also about 4 km west and south, at Sheppard Avenue West and Allen Road. Bus service along Finch Avenue West and Bathurst Street is part of the 10-Minute Network, service that operates with headways of 10 minutes or better at all times of the day, connecting to the subway stations.



The proposed parking supply will also be supported by bicycle parking and TDM measures, as further discussed below.

This residential parking supply is therefore considered to be appropriate based on the planning and transportation context of the subject site and will meet the City's overarching goals for planning and new development as demonstrated by the background study for By-law 89-2022 and through the City's Climate Action Strategy and Official Plan. Toronto City Council approved By-Law 89-2022, based on supporting studies by City Staff, and therefore City Council and Staff must have been confident that parking minimums were no longer necessary and that the "market" would be a larger factor in determining parking supply. This project does not seek "zero" parking for residents, but instead proposes a balanced parking supply somewhere between the old By-Law 569-2013 requirements and updated By-Law 89-2022 requirements.

The Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) outlines the Ontario government's policies on land use planning and provides direction in ensuring the development of healthy and sustainable communities with a thriving economy. Under Section 3 of the Planning Act, all decisions affecting land use planning matters "shall be consistent with" the PPS. One of the key matters pertaining to PPS policies includes the promotion of transportation decisions that increase active transportation and transit usage. As stated under Section 1.8.1 b. of the PPS, planning authorities shall support land use and development patterns which: "promote the use of active transportation and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas;"

Through proposing reduced parking spaces for residents and visitors, the proposed development is in support of the changing paradigm which shifts away from the provision of excess parking. The subject site is located in an area well-served by the existing transit network which can easily connect users to Finch Subway Station on Line 1 Yonge-University. The neighbourhood also offers many daily amenities within a ten-minute walking distance. Therefore, this decision to provide less parking spaces aids in promoting mobility options that are not automobile dependent, such as active transportation and transit.

The Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan for the Greater Golden Horseshoe provides a framework for municipalities to better manage growth in the region that supports a high quality of life, environmental protection, as well as economic prosperity. The support of municipalities in land use choices are vital to achieving the long-term framework outlined by the Growth Plan. Some of the key issues listed in the Growth Plan includes:

- Encourage sustainable development in transit-accessible areas
- Build complete communities that better connects transit with where residents live, work, and play
- Minimize the negative impacts of climate change

By decreasing the number of parking spaces available for purchase/rental, the proposed development supports the increasing trend of reduction in car ownership. With less value being placed in car ownership, millennials are looking to live in areas that are close to their places of work, or within walkable distance of transit stations for smooth work commutes. These ideals are also shared with the elderly population, as



their mobility becomes more limited with age, walkable communities allow this group to live comfortable for the long-term as well. By planning for land uses that leverages the surrounding robust transit network, the proposed development discourages sprawl, and limits the need for traveling long distances for daily needs. This change would also lower the negative environmental impact caused by car usage. The proposed parking for this development aligns with the transportation related issues outlined in the Growth Plan.

City of Toronto Official Plan

The City's Official Plan sets out a framework for how the municipality will grow. The City of Toronto Official Plan envisions a safe and attractive city that ensures a good quality of life, while also placing importance in maintaining a healthy natural environment. Sustainable development in the future would include neighbourhoods that total to complete communities, and walkable streets with transit as an attractive choice of travel.

Under Section 2.1, Policy 1 d), the Official Plan states to reduce auto-dependency and improve air quality. Furthermore, Section 2.2 states the importance of the City's transportation network in supporting Toronto's growth over the next 30 years. This section highlights the connection between transportation and land use planning in increasing accessibility in the City, as accessibility is achieved by both mobility and proximity. Therefore, the Official Plan supports ideas which combine the two elements to maximize accessibility for its residents.

These elements of complete communities, reducing auto-dependency, preserving the environment, and increasing accessibility are supported by the proposed development with reduced parking. Reduced parking acts as a deterrent to car ownership, and allows more land to be developed for amenities to meet the daily needs of residents. The convenient and well serviced location of this development allows for the reduction in parking availability, and supports the Official Plan vision.

TransformTO – Toronto's Climate Action Strategy

TransformTO is a 2015 City of Toronto, community-wide initiative aimed at achieving a low-carbon future. TransformTO guides the City's emission reduction strategy for moving Toronto towards the trajectory needed to achieve their 2050 goal of becoming net zero by 2050 or sooner. Their set of long-term, low-carbon goals and strategies recognizes that transportation and land use planning play critical roles in effectively reducing greenhouse gas pollution. The City of Toronto has adopted their long-term greenhouse gas reduction targets which are as follows:

- 30% reduction against 1990 levels by 2020;
- 65% reduction against 1990 levels by 2030; and
- Net zero by 2050, or sooner.

From a transportation perspective, TransformTO has identified two main goals to guide Toronto's low-carbon pathway:

- 100% of transportation options – including public transit and personal vehicles to use low or zero-carbon energy sources,



- Active transportation to account for 75% of trips under 5 km city-wide by 2050

Active transportation is a critical component of achieving the necessary modal shift from auto-dependency to more sustainable modes of travel. The proposed reduced parking supply is supportive of the key strategies in achieving the 2050 low-carbon target and will assist the City’s goal of active transportation accounting for 75% of trips under 5km city-wide by 2050. The subject site is ideally located to assist in achieving the objects of TransformTO. The subject site’s neighbourhood provides for a mix of uses which support transit usage and active transportation.

Transportation Demand Management (TDM)

Transportation Demand Management (TDM) is a set of strategies that strive towards a more efficient transportation network by influencing travel behaviour and patterns. Efficient implementation of TDM strategies reduces vehicle usage and encourage people to engage in more sustainable modes of travel. In addition to the active transportation and transit networks, other TDM measures have been proposed to support alternative modes of travel, including “unbundled” parking; car-sharing programs; reducing walking distance to amenities (incl. by providing ground floor retail); providing short and long term bicycle parking and a repair facility; providing transit passes and TDM information packages to residents.

Other Locations/Precedents

34 Southport in the South Kingsway area of Toronto recently received approval at Committee of Adjustment for a parking reduction to 0.5 spaces/unit for residents and 0.1 spaces/unit for residential visitors. Consideration for the Committee of Adjustment’s approval was in part from a Parking Report prepared by LEA Consulting Ltd. (LEA) and a related staff report from the City of Toronto’s Manager, Development Planning and Review (Area 2), dated June 13, 2022, which agreed with the proposed parking reduction, referencing the justification found in the parking report by LEA. Of relevance, the LEA report for 34 Southport relied on the same table of “proxy sites” as for 4926 Bathurst Street, as found in Table 4 above, page 3 and reproduced below:

Location	Units	Survey Dates	Peak Demand	Observed Parking Demand	Transit Score	Walk Score
4190 Bathurst St	80	Sept 19-21, 2017	44	0.55	63	67
6040 Bathurst St & 5 Fisherville Rd	393	May 2016	217	0.55	64	73
3888 Bathurst St	149	Oct 13-14, 2017	79	0.53	64	75
222 Finch Avenue West	24	June 14-16, 2016	13	0.54	76	68
570 Birchmount Road	107	Nov 1-2 2019	62	0.58	83	46
156 Kingston Road	64	Jan 20-21 2017	17	0.27	82	83
		Average		0.50	72	69

If the table above is applicable to 34 Southport then it is applicable to 4926 Bathurst as both sites have nearly identical travel modal splits, as shown in Table 6 below:



Table 6: Travel Modal Splits

Mode	% Modal Split (inbound-outbound)*	
	34 Southport Area	4926 Bathurst Area
Auto Driver	45%	44% - 50%
Transit	32% - 38%	31% - 36%
Other (walk, cycle, auto passenger)	17% - 23%	19% - 20%

*Sourced from TIS's for 34 Southport and 4926 Bathurst

As Transportation Services recommended the parking reduction for 34 Southport based on LEA's Parking Report and data from the 6 proxy sites from the table on the preceding page, then Transportation Services should also consider the same data for 4926 Bathurst Street. To date, Transportation Services have been critical of the data being applied for 4926 Bathurst Street, describing it as "out of date" and needing to be updated.

CONCLUSIONS

The proposed parking supply provides a balance between the excessive By-law 569-2013 rates and the more recent direction applied to create By-law 89-2022.

The proposed parking supply meets the Policy Area 4 by-law requirements for visitor parking and will provide retail parking in line with By-law 569-2013 rates (shared with residential visitors) to ensure non-residents can be accommodated on-site without having to utilize adjacent streets.

For residents, the proposed parking supply has been determined in order to maximize the site towards active uses and will encourage residents to use transit and alternative travel modes to the single-occupant vehicle, in line with the City's and Province's planning goals. The proposed parking supply will be supported by bicycle parking and TDM measures.

This residential parking supply is therefore considered to be appropriate based on the planning and transportation context of the subject site and will meet the City's overarching goals for planning and new development as demonstrated by the City's background study for By-law 89-2022 and through the City's Climate Action Strategy and Official Plan.

. Yours truly,

LEA CONSULTING LTD.

Terry G. Wallace, P.Eng.
Project Manager