

**399 Bathurst Street Zoning By-law Amendment
Application – Final Report**

Date:	May 25, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	08 219428 STE 20 OZ

SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This application proposes a nine-storey addition (60.9 metres to the top of the mechanical penthouse), “the Krembil Centre”, to the north-east corner of the existing hospital at 399 Bathurst Street. The addition will contain research and clinical floors as well as hospital care in the form of clinical treatment and rehabilitation facilities.

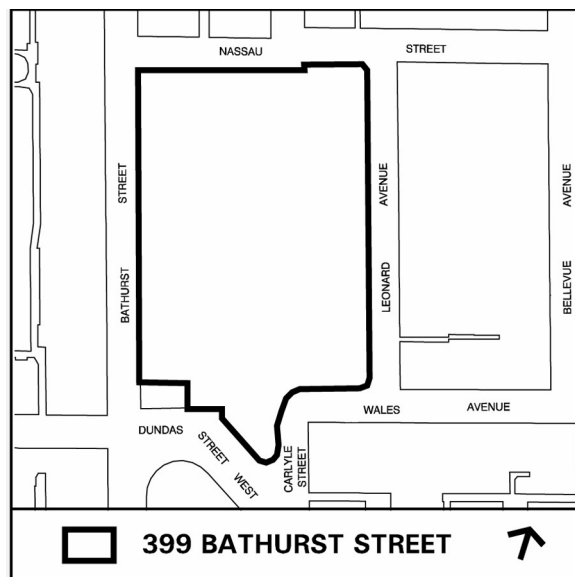
The original proposal has been significantly revised to address the immediate adjacency of the *Neighbourhood* to the north of the hospital site.

This report reviews and recommends approval of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 438-86, as amended, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No.8.



2. City Council authorize the City Solicitor, in consultation with the Chief Planner and Executive Director of City Planning, to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required to give effect to the intent of the recommendations contained in this report.
3. Before introducing the necessary Bills for enactment, City Council authorize the appropriate City officials and require the owner to execute one or more agreements pursuant to Section 37 of the Planning Act satisfactory to the Chief Planner and Executive Director of City Planning Division and the City Solicitor. The agreements are to be registered on title to the lands in a manner satisfactory to the City Solicitor and to secure the following matters from the owner at its expense:
 - (a) Provide and thereafter maintain public art having a minimum value of \$25,000 to be located on a publicly accessible portion of the lot to the satisfaction of the Chief Planner and Executive Director of City Planning;

Although the following matters are not considered to be Section 37 contributions or benefits, they will be secured in the Section 37 Agreement:

- (b) The owner shall incorporate in the construction of the building, and maintain exterior building and landscape materials satisfactory to the Chief Planner and Executive Director of City Planning;
- (c) The owner shall provide detailed 1:50 elevations of the building podium level to the satisfaction of the Chief Planner and Executive Director of City Planning;
- (d) The owner shall provide and maintain trees and a continuous soil trench within the Leonard Street road allowance to the satisfaction of the Director of Urban Forestry;
- (e) The owner shall provide and maintain an irrigation system for the proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer for all new trees in the public rights-of-way, satisfactory to the Executive Director, Technical Services and the General Manager, Parks, Forestry and Recreation;
- (f) The owner shall provide the City with documentation as to LEED certification of the development and the project documentation that will provide information on the LEED certification;
- (g) The owner shall be encouraged to build in conformity with the Green Development Standard Checklist received by the Chief Planner and Executive Director of City Planning Division on December 29, 2008;
- (h) Prior to final Site Plan Approval, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate; and
- (i) The owner shall pay for and construct any improvements to the existing watermain system should the results of a fire hydrant flow test conclude that it needs to be upgraded to provide the proposed development with adequate flow and pressure;

- (j) The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support this development; and
 - (k) the owner shall agree to include landscaping details for the area at the northeast intersection of Leonard Avenue and Nassau Street in the Site Plan Approval Application.
4. The owner shall comply with any other conditions set forth in any other agreement required to ensure the orderly development and phasing of the lands as required by the Chief Planner and Executive Director of City Planning, acting reasonably.
 5. City Council authorizes City officials to take all necessary steps, including the execution of agreements and documents, to give effect to the above-noted recommendations.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Site Specific Zoning By-law 831-80 permits a hospital and specifies, among other details, the maximum gross floor area permitted, the minimum required parking and bicycle parking spaces. Since the 1980 approval, the hospital has successfully applied to the Committee of Adjustment to permit several additions and changes to the hospital. The latest of these was in 2002 at which time the Committee of Adjustment approved a height variance to permit the construction of the East Wing on Leonard Street.

ISSUE BACKGROUND

Proposal

The proposal is to construct a new research and clinical development building on the northeast corner of the Toronto Western Hospital site abutting Leonard Avenue and Nassau Street.

The original design was for a nine-storey building with no setbacks or podium level, a colonnade on the Leonard Street side, and a four-storey portion on the western end of the site. Both the four-storey and nine-storey portions were located directly across from the residential neighbourhood to the north. Landscaping including tree planting was proposed under the proposed colonnade on the Leonard Street side of the proposal.

During the course of discussions with the community and Planning staff, the design was amended to include the following changes:

- a stepback of 11.8 metres above the third storey to minimize the impact of the building on the residential neighbourhood to the north;
- the building was shifted west and south to permit increased setbacks from the property lines on Leonard Avenue and Nassau Street;

- additional landscaping is proposed on the Nassau Street and Leonard Avenue setbacks including street trees as a result of the increased building setback and the reduced overhang;
- with the third level stepback an opportunity for a roof top garden has been created;
- the driveways from Nassau Street servicing the loading facilities have been revised to establish the western-most driveway as the primary entrance;
- the western most driveway has been increased in width from 7.0m to 8.0m to accommodate a layby for the tank farm re-filling;
- the layby as revised will now permit the functions associated with the tank farm re-filling to be moved off the public right-of-way and onto hospital property; and
- additional landscaping is now possible in front of the architectural screen shielding the gas tanks that will improve views from the sidewalk and neighbourhood.

Site and Surrounding Area

The site of the proposed addition is currently occupied by the existing loading facilities, a gravelled open area, and a portion of the former East Wing building which is intended to be demolished as part of the proposal.

North: two-and three-storey detached and semi-detached houses;

South: the remainder of the hospital;

East: the hospital's Leonard Street parking garage, residential uses including a small apartment building, and two-and three-storey detached and semi-detached houses; and

West: the main entrance to the hospital, a hospital surface parking lot, and mixed low rise commercial/residential buildings fronting on the west side of Bathurst Street.

Provincial Policy Statement and Provincial Plans

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

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated 'Institutional' which permits a hospital. There is no applicable Secondary Plan.

The Toronto Official Plan is available on the City's website at:

www.toronto.ca/planning/official_plan/introduction.htm.

Zoning

The site is zoned R4 Z1.0 which permits residential uses up to one times the area of the lot to a maximum height of 10 metres. A hospital is a permitted use. Attachment 6 provides an excerpt of the Zoning By-law map for the site and the immediate area.

Site Plan Control

The proposed development is subject to Site Plan Approval. Application No. 08 231114 STE 20 SA was made on December 29, 2008 and the drawings are in circulation.

Reasons for Application

Under Minor Variance application A0363/02TEY, the Committee of Adjustment approved a maximum non-residential gross floor area (gfa) of 109,448 square metres, to permit construction of a nine-storey east wing addition. Under conditions of that approval, a maximum of 109,448 square metres is permitted for a period of eight years, which concludes on September 12, 2010. Consequently, a variance for the proposed non-residential gfa of the building that exceeds the maximum currently permitted is required (approximately 1442 square metres).

In addition, the permitted height limit of 10 metres is exceeded by 50.9 metres which includes an 18.3 metre mechanical penthouse and enclosure.

Community Consultation

A community consultation meeting was held on February 17, 2009 at Scadding Court Community Centre. Approximately 25 members of the public attended.

Issues raised include the following: (Response to the concern is in italics.)

- a) The corner of Leonard Avenue and Nassau Street is inadequately landscaped and maintained. *The hospital has agreed to landscape the area and include it in the Site Plan Approval Agreement.*
- b) Additional landscaping of the site itself was requested. *Given the movement of the building to the west and south additional landscaping is now possible on both the Leonard Avenue side and Nassau Street side.*
- c) The proposal should line up with the most recent building on Leonard Street. *That has been achieved with the movement of the building to the west.*
- d) Consistent noise and light issues currently emanate from the hospital. *The hospital agreed to work to reduce the noise and light emanating from the hospital.*
- e) Late night deliveries disturb residents' sleep. *The hospital agreed to stop vendor deliveries after 10 PM.*

- f) There is an on-going request for the removal of the smokestack. *The hospital is unable to commit to that given its necessity for the operations of the hospital.*
- g) Concern was raised about possible future construction projects. *The hospital indicated that there is a Master Vision 2028 with no additional construction proposed prior to that date.*
- h) The size of the project is too big for the site and should be spread over a larger part of the site to minimize the impact. *The proposed footprint and its accompanying floorplate is related to the requirements of these particular uses.*
- i) The Nassau and Bathurst Streets intersection is unsafe. *The Councillor indicated that a stop light has been approved for the intersection.*
- j) The community was pleased that the hospital agreed to hire locally wherever possible.
- k) Concern was raised about the potential for negative wind and ice conditions. *Please see Wind Conditions Section.*

In addition, a written comment was received requesting clarification on the proposal's impact on neighbourhood safety and quality of life, and the over-all well being of the Kensington Market. It is not expected that the development of this site will produce any negative impacts on these areas.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

A public hospital is a permitted use for the entire site. Further refinements to details of the proposal will be achieved through the Site Plan Approval process.

Density, Height, Massing

The original proposal consisted of a nine-storey and four-storey building facing two- to three-storey houses on Nassau Street, which is designated *Neighborhood* in the Official Plan. During the course of discussions with City staff and residents, it became clear, that while the four-storey portion was an appropriate scale, the nine-storey portion negatively impacted the two- to three-storey houses across the street. Consequently, the applicant revised the application to set the nine-storey portion back 11.8 metres above the third level to minimize the impact of the building on the residential neighbourhood to the north on Lippincott and Nassau Streets. This setback minimized the shadow impacts on these streets. An added benefit of this setback was the opportunity to create a roof top garden at the third level.

The building was also shifted south and west to permit increased setbacks from the property lines to Leonard Avenue and Nassau Street. This will allow additional landscaping to be located on the Nassau Street and Leonard Avenue setbacks including street trees as a result of the increased dimensions from the building re-location and the reduced overhang. The movement to the west has also allowed the building to more closely align with the existing building to the south.

Shadow Analysis

The revised massing has reduced shadow impacts on the *Neighbourhood*. In general, for March and September 21, there are no new shadows on the north neighbourhood backyards. One to four properties have additional front yards in shadow for one hour of the day and by 3:18 pm, there are no additional shadows on the north neighbourhoods. Increased shadows fall on the backyards of some properties on Bellevue Ave and then only on June 21 at 6:18 pm, and Mar/Sept 21 at 5:18 pm. These properties are east of the site and adjacent to the *Institutional* zoned existing parking structure.

In the previous scheme for March/Sept 21, 4 to 10 properties were shadowed by the proposal for an hour longer.

Traffic Impact, Access, Parking, Loading

A Traffic Impact Study prepared by Read, Voorhees and Associates was submitted, revised and reviewed by Technical Services Division staff. The applicant is proposing 556 parking spaces which is acceptable.

The driveways from Nassau Street servicing the loading facilities have been revised to establish the western-most driveway as the primary entrance. The western-most driveway has been increased in width from 7.0m to 8.0m to accommodate a layby for the tank farm re-filling. The layby as revised will now permit the functions associated with the tank farm re-filling to be moved off the public right-of-way and onto hospital property which has restored the integrity of the public sidewalk.

The proposed loading space supply is acceptable to the Technical Services Division.

Certain issues with respect to the Nassau Street driveway access and the pinch point on the sidewalk will be addressed in the Site Plan Approval Agreement.

Solid Waste Management

The City of Toronto does not provide collection services for institutional/research facilities. Accordingly, the owner is required to retain the services of a private waste management collection services firm.

Servicing

The applicant has submitted a report concerning site servicing to the Executive Director of Technical Services for review. It has been accepted in principle subject to the owner conducting a second fire hydrant flow test to confirm that the existing watermain system is adequate to provide the development with adequate flow and pressure for domestic and fire protection uses.

In the event that the results of the second hydrant flow test indicate that the existing watermain system is not adequate to support the additional proposed development, the owner will need to enter into satisfactory arrangement with the City to have the existing system upgraded.

Open Space/Parkland

The alternate park levy does not apply to *Institutional* uses.

Streetscape

The applicant has now provided street trees on all street frontages with a reduced overhang of the building over the trees on Leonard Avenue. Additional landscaping has also been provided as well as an architectural screen for the gas tanks which will minimize its visual impact on the street.

Urban Forestry has advised that no permit to remove/injure trees is required. Prior to Site Plan Approval, Urban Forestry has requested that the applicant revise the landscaping plan to include the planting of large growing shade tree species on the City road allowances and on private property.

One of the concerns raised by several members of the community was the lack of landscaping on the Nassau Street frontage on the east side of Leonard Street. Landscaping for this area will be secured in the Site Plan Agreement.

Wind Conditions

Based on the wind study and a follow-up letter prepared by RWDI, the wind conditions on Nassau Street during the summer and winter will be comfortable for sitting and standing. In terms of wind safety criterion, the northwest corner of the existing McLaughlin building currently experiences severe wind conditions. In order to improve this area, the applicant has incorporated a two metre wide planter which wraps around the northwest corner of the existing building, causing pedestrian traffic to travel farther away from the building façade where wind conditions are more suitable. Dense coniferous trees may be incorporated into the design of the planter as well to reduce the wind speeds at the corner.

For the summer and winter, the wind conditions on the Leonard Avenue sidewalk will be comfortable for sitting and standing with no failures of wind safety. It appears that the new entrance will be better protected from the strong westerly prevailing winds in the area which will provide a calmer wind environment in the vicinity of the doors.

For the summer and winter, the wind conditions on Bathurst and Lippincott Streets will be comfortable for walking or better with no failures of wind safety.

Toronto Green Standard and LEED Certification

The Toronto Green Standard contains performance targets and guidelines that relate to the site and building design to promote better environmental sustainability of development in Toronto. The Standard has 63 possible green development targets. Based on the applicant's submission of the Toronto Green Standard checklist, the proposed development is intended to achieve 32 targets. Some of the targets proposed include:

- 20% of the materials (based on value) harvested, manufactured and supplied within 800 km of the project;
- there is a major entrance located within 200 metres of a public transit stop;
- methods identified for minimizing emissions of Volatile Organic Compounds during construction and demolition;
- zero use of CFC-based refrigerants and Halons in fire suppression;
- combination of shading and light coloured materials for at least 50% of all hardscape, including surface parking, walkways and others; and
- arrangements made to ensure the building's energy related systems are installed, calibrated and perform according to the owner's project requirements, based on design and construction documents.

The applicant also intends to pursue LEED (Leadership in Energy and Environmental Design) certification for the development.

Section 37

The Official Plan contains policies pertaining to the provision of community benefits for increases in height and/or density pursuant to Section 37 of the Planning Act. The community benefits recommended to be secured in the Section 37 Agreement are as follows:

- (a) The owner shall provide and thereafter maintain public art having a minimum value of \$25,000 to be located on a publicly accessible portion of the lot to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

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

- (b) The owner shall incorporate in the construction of the building, and maintain exterior building and landscape materials satisfactory to the Chief Planner and Executive Director of City Planning;
- (c) The owner shall provide detailed 1:50 elevations of the building podium level to the satisfaction of the Chief Planner and Executive Director of City Planning;
- (d) The owner shall provide and maintain trees and a continuous soil trench within the Leonard Street road allowance to the satisfaction of the Director of Urban Forestry.
- (e) The owner shall provide and maintain an irrigation system for the proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer for all new trees in the public rights-of-way, satisfactory to the Executive Director, Technical Services and the General Manager, Parks, Forestry and Recreation;
- (f) The owner shall provide the City with documentation as to LEED certification of the development and the project documentation that will provide information on the LEED certification;
- (g) The owner shall be encouraged to build in conformity with the Green Development Standard Checklist received by the Chief Planner and Executive Director of City Planning Division on December 29, 2008;

- (h) Prior to final Site Plan Approval, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;
- (i) The owner shall pay for and construct any improvements to the existing watermain system should the results of a fire hydrant flow test conclude that it needs to be upgraded to provide the proposed development with adequate flow and pressure;
- (j) The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support this development; and
- (k) The owner shall agree to include landscaping details for the area at the northeast intersection of Leonard Avenue and Nassau Street in the Site Plan Approval Application.

Development Charges

Development charges are not applied to public institutional uses.

Conclusion

The Toronto Western Hospital has applied for construction of a research and clinical development building on the northeastern portion of the hospital site. Significant revisions to the original proposal, including those that reduce its impact on the neighbourhood to the north, have met many of the concerns of the community and staff. Consequently, Planning staff recommend approval of this proposal.

CONTACT

Helen Coombs, Senior Planner
Tel. No. (416) 392-7613
Fax No. (416) 392-1330
E-mail: hcoombs@toronto.ca

SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

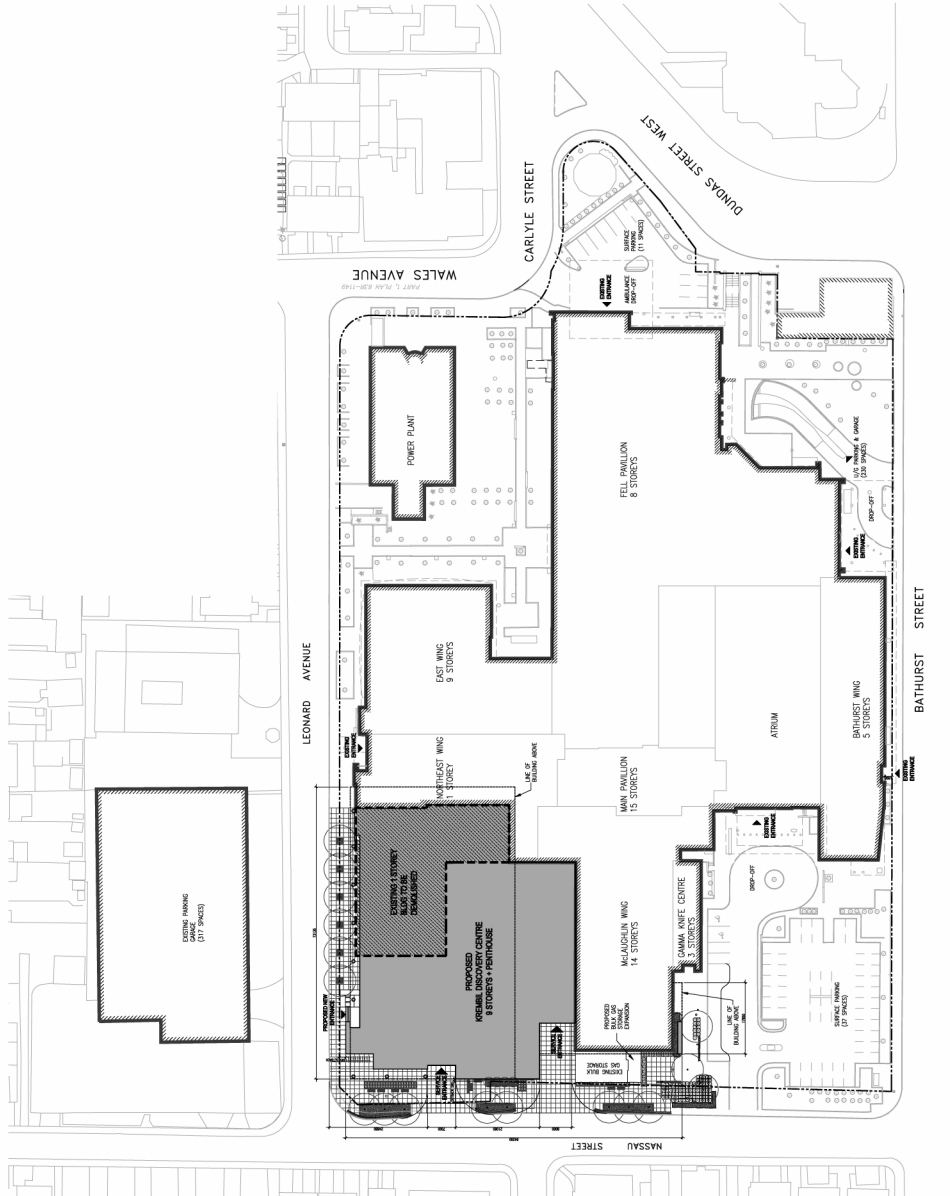
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ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: East Elevation
Attachment 3: North Elevation
Attachment 4: Section

Attachment 5: Section
Attachment 6: Zoning (Map)
Attachment 7: Application Data Sheet
Attachment 8: Draft Zoning By-law Amendment

Attachment 1: Site Plan



399 Bathurst Street

Site Plan

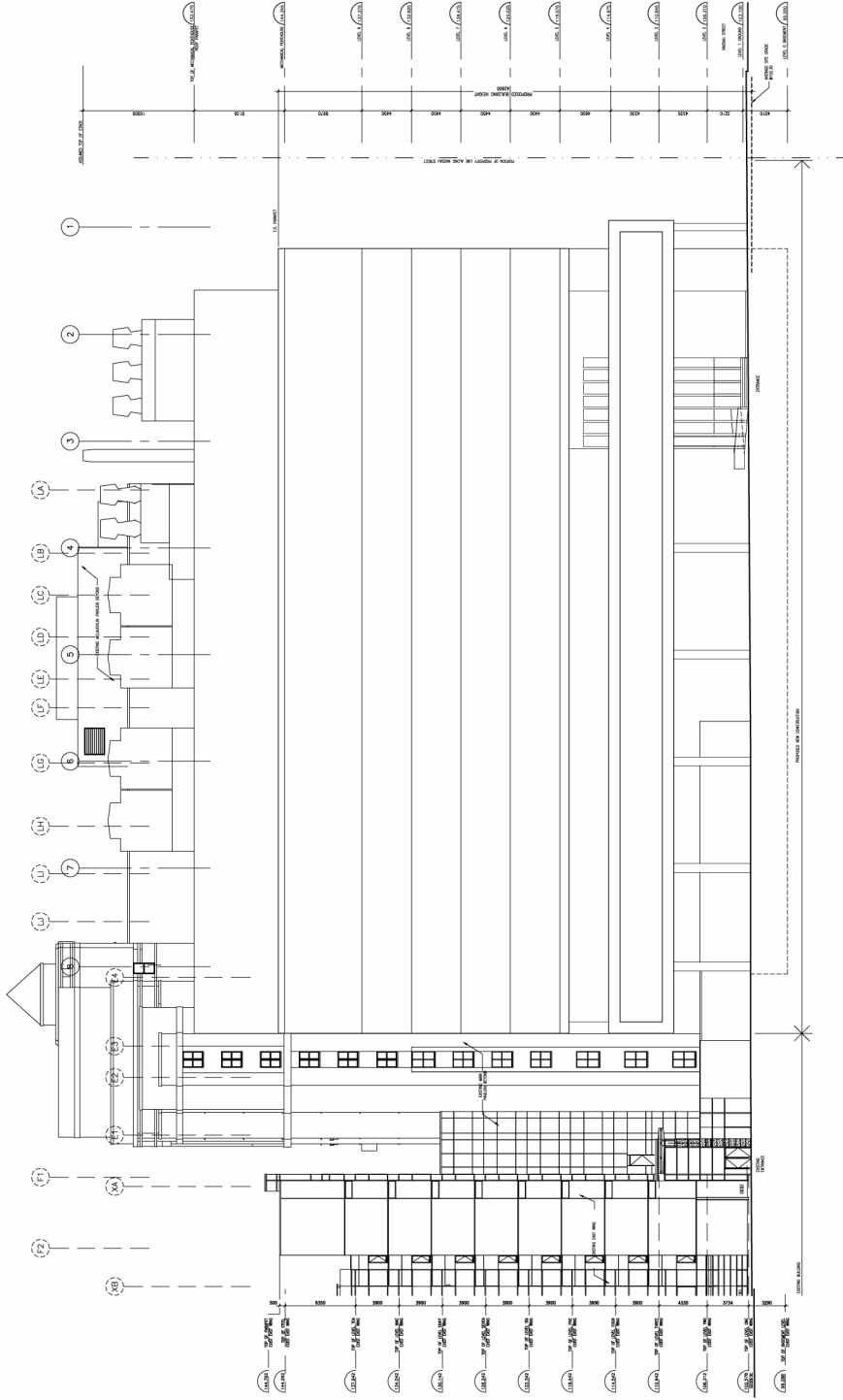
Applicant's Submitted Drawing

Not to Scale
05/08/09



File # 08_219428

Attachment 2: East Elevation



East Building Elevation

399 Bathurst Street

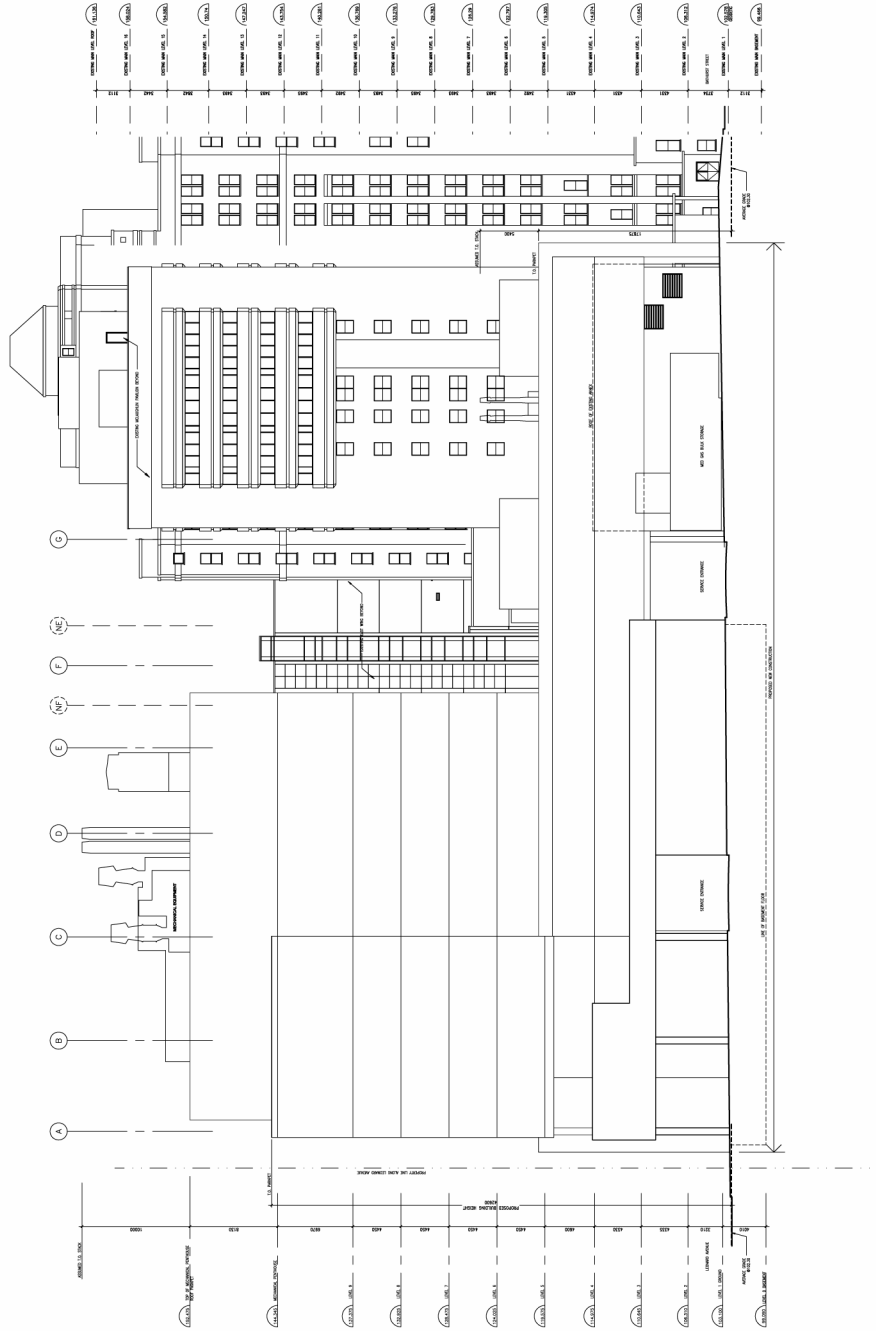
Elevations

Applicant's Submitted Drawing

Not to Scale
05/08/09

File # 08_219428

Attachment 3: North Elevation



North Building Elevation

399 Bathurst Street

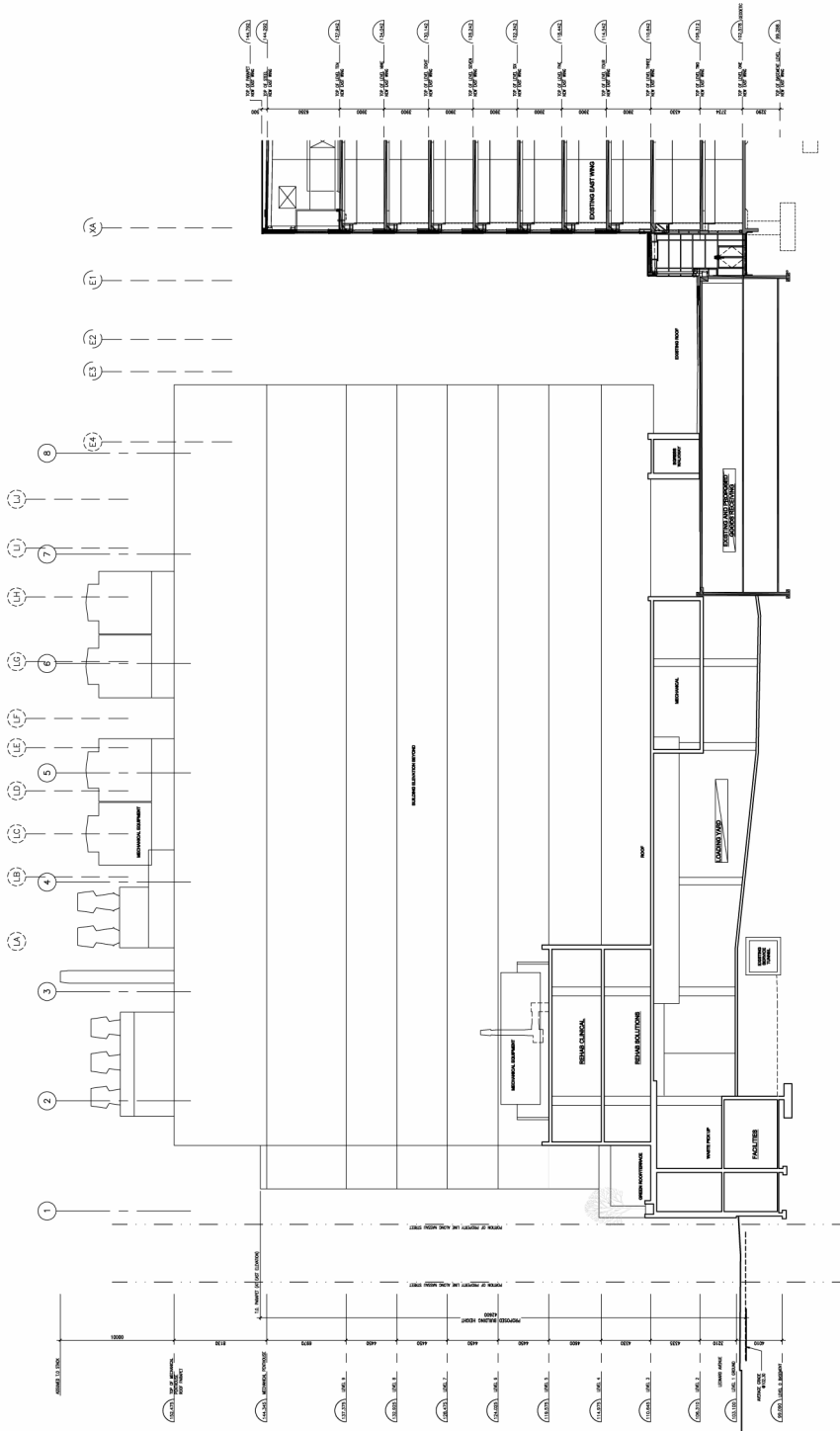
Elevations

Applicant's Submitted Drawing

Not to Scale
05/08/09

File # 08_219428

Attachment 5: Section



Section 2 Through Loading Area Looking East

Elevations

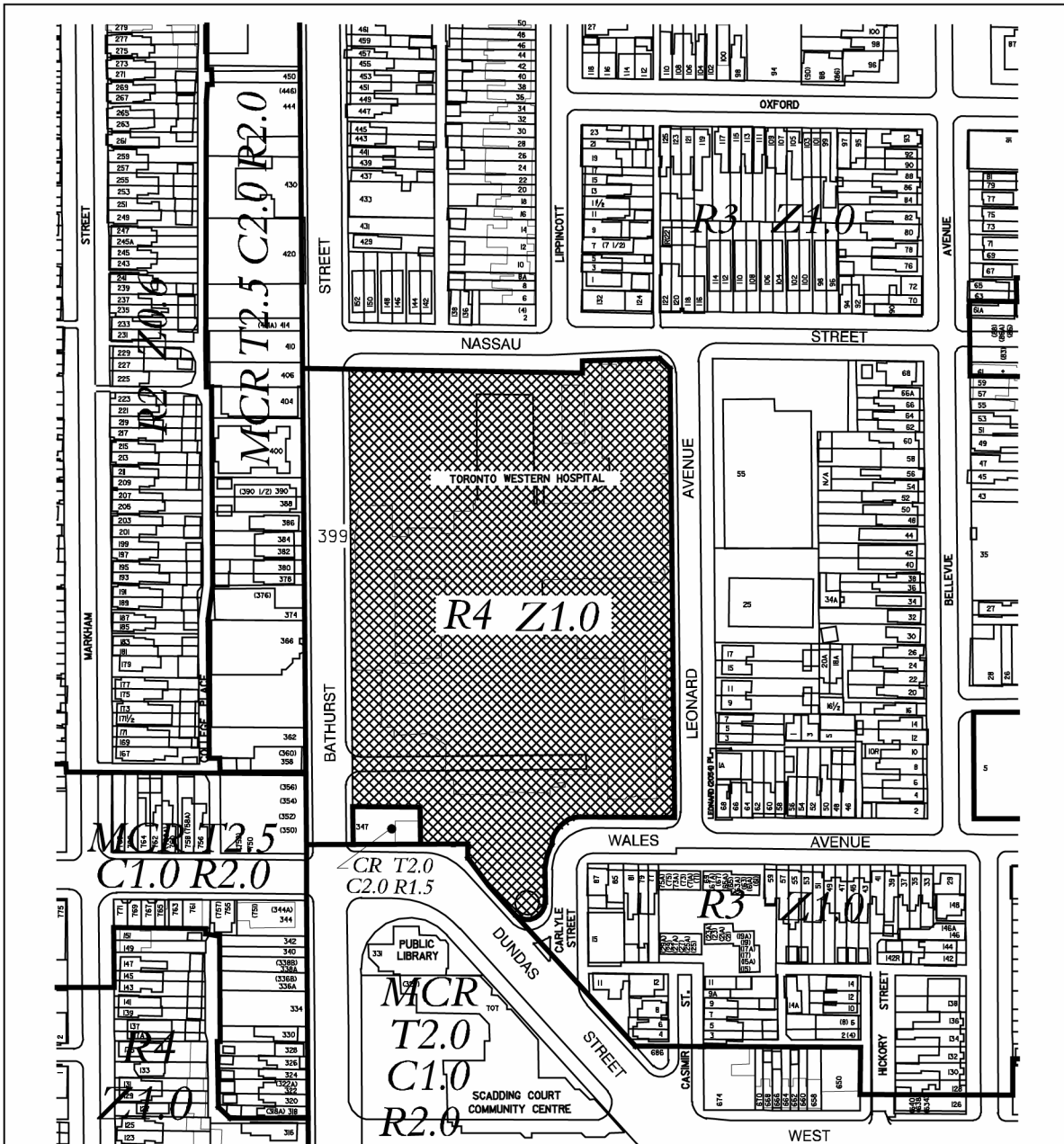
Applicant's Submitted Drawing

Not to Scale
05/08/09

399 Bathurst Street

File # 08_219428

Attachment 6: Zoning



TORONTO City Planning
Zoning

399 Bathurst Street

File # 08_219428

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



Not to Scale
Zoning By-law 438-86 as amended
Extracted 12/01/08 - MH

Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	08 219428 STE 20 OZ
Details	Rezoning, Standard	Application Date:	November 5, 2008

Municipal Address: 399 BATHURST ST

Location Description: PL 1070 LT1 TO 23 PL 1134 LT A PL 121 LT1 TO 8 PL D1482 PT LT3 PL 312 PT LT22
**GRID S2008

Project Description: Rezoning application to erect new "Krembil Discovery Centre" research and clinical development building on University Health Network Property -North and East of Dundas and Bathurst

Applicant:	Agent:	Architect:	Owner:
GOODMANS LLP CATHY BIESMA			TORONTO WESTERN HOSPITAL

PLANNING CONTROLS

Official Plan Designation:	Institutional	Site Specific Provision:	831-80
Zoning:	R4 Z1.0	Historical Status:	
Height Limit (m):	10	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	28141	Height:	Storeys:	9
Frontage (m):	188.5		Metres:	50.1
Depth (m):	134			
Total Ground Floor Area (sq. m):	17350			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	604
Total Non-Residential GFA (sq. m):	110890		Loading Docks	13
Total GFA (sq. m):	110890			
Lot Coverage Ratio (%):	61			
Floor Space Index:	3.94			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:			
Rooms:	0	Residential GFA (sq. m):	0
Bachelor:	0	Retail GFA (sq. m):	0
1 Bedroom:	0	Office GFA (sq. m):	0
2 Bedroom:	0	Industrial GFA (sq. m):	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	24735
Total Units:	0		0

CONTACT: **PLANNER NAME:** **Helen Coombs, Senior Planner**
TELEPHONE: **(416) 392-7613**

Attachment 8: Draft Zoning By-law

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on July~, 2009

Enacted by Council: July ~, 2009

Bill No. ~

CITY OF TORONTO BY-LAW No. ~ -2009

To amend Zoning By-law 831-80 and Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands known municipally as 399 Bathurst Street.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of By-law 831-80 and By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. By-law No. 831-80 being a by-law to amend By-law No. 20623 respecting the lands occupied by Toronto Western Hospital, is hereby amended to read as follows:
 - (1) Section 2(2) be amended to read: the total non-residential gross floor area of all buildings and additions to existing buildings does not exceed 110,890 square metres.
 - (2) Section 2(3) be amended to read: motor vehicle parking facilities are provided and maintained to at least the extent of 556 parking spaces, a minimum of 200 such spaces being provided on the lot and the remainder of such spaces being provided within 300 metres of the lot.
5. None of the provisions of Section 2 with respect to the definition of *grade*, Sections 4(2)(a), 6(3) Part I 1, of By-law No. 438-86, as amended, being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing or and other matters relating to buildings and structures and to

prohibit certain uses of land and the erection and use of certain buildings and structures in various areas of the City of Toronto”, shall apply to prevent the erection and use of a building or buildings pursuant to By-law 831-80, provided:

- (1) the total *non-residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 110,890 square metres;
 - (2) no person shall erect or use a building or structure on Parcel A as shown on Map 1 attached, having a greater *height* in metres than those *heights* shown on Map 2 hereof, exclusive of mechanical equipment, rooftop structures and equipment permitted by Sections 5(3) and 5(4) of this By-law;
 - (3) mechanical equipment, stair towers, elevator shafts, communication equipment, generators or other power, heating, cooling, or ventilating equipment or window washing equipment on the roof of any building or fences, walls or structures enclosing such elements, are permitted provided the maximum *height* of the top of such elements or enclosures is no higher than the sum of 18.3 metres and the *height* on Map 2;
 - (4) roof-top chimney stacks, vents and air intakes are permitted and are excluded for the purposes of determining maximum *height*; and
 - (5) the *height* of all buildings and structures located on Parcel A that are existing at the date of enactment of this By-law shall continue to be permitted following the date of enactment of this By-law, notwithstanding the provisions of Sections 5(2) and 5(3) above.
6. For the purposes of this By-law:
- (a) “*grade*” for the purposes of determining *height* pursuant to Sections 5(2) and (3) of this By-law means 102.3 metres Canadian Geodetic Datum;
 - (b) “*height*” shall mean the vertical distance between *grade* and the highest point of the building or structure on the *lot*;
 - (c) each word or expression that is italicized in this By-law shall have the same meaning as such word or expression as defined in By-law No. 438-86, as amended, unless otherwise defined in Section 3 of By-law No. 831-80 or as otherwise defined herein.
7. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall continue to apply to the whole of the *lot* as if no severance, partition, or division occurred.
8. Building permit issuance with respect to the lands to which this By-law applies shall be dependant upon satisfaction of the provisions of this By-law and the Section 37 Agreement referred to in Section 1.

ENACTED AND PASSED this day of , 2009.

SANDRA BUSSIN
Speaker

ULLI WATKISS
City Clerk

(Corporate Seal)

Appendix “1”

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalating of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- (a) Provide and thereafter maintain public art having a minimum value of \$25,000 to be located on a publicly accessible portion of the lot to the satisfaction of the Chief Planner and Executive Director of City Planning;
- (b) Incorporate in the construction of the building, and maintain exterior building and landscape materials satisfactory to the Chief Planner and Executive Director of City Planning;
- (c) Provide detailed 1:50 elevations of the building podium level to the satisfaction of the Chief Planner and Executive Director of City Planning;
- (d) Provide and maintain trees and a continuous soil trench within the Leonard Street road allowance to the satisfaction of the Director of Urban Forestry;
- (e) Provide and maintain an irrigation system for the proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer for all new trees in the public rights-of-way, satisfactory to the Executive Director, Technical Services and the General Manager, Parks, Forestry and Recreation;
- (f) Provide the City with documentation as to LEED certification of the development and the project documentation materials that will provide information on the LEED certification;
- (g) Build in conformity with the Green Development Standard Checklist received by the Chief Planner and Executive Director of City Planning Division on December 29, 2008;
- (h) Prior to final Site Plan Approval, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;
- (i) The owner shall pay for and construct any improvements to the existing watermain system should the results of a fire hydrant flow test conclude that it needs to be upgraded to provide the proposed development with adequate flow and pressure;

- (j) The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support this development; and
- (k) The owner shall agree to include landscaping details for the area at the northeast intersection of Leonard Avenue and Nassau Street in the Site Plan Approval Application.

