

2400 Bathurst St - Official Plan and Zoning Amendment applications - Request for Direction Report

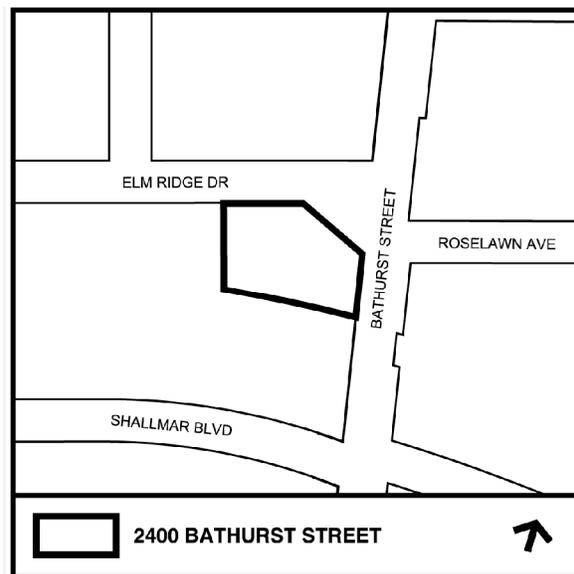
Date:	October 16, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	11 284939 STE 21 OZ & 11 326844 STE 21 OZ

SUMMARY

These applications propose to demolish an existing 5-storey rental building with 31 rental units, and construct a new 16-storey residential building with 165 units (28 rental and 137 condominium units), and 4 levels of below-grade parking with 202 parking spaces, at 2400 Bathurst Street. A Rental Housing Demolition and Conversion application, under Section 111 of the *City of Toronto Act*, was also submitted.

This proposal represents an overdevelopment of the site. The proposed building does not provide adequate transition to the low-rise neighbourhood to the west. The proposal's height significantly exceeds the zoning by-law permissions and its scale and massing are not compatible with and do not achieve an adequate transitional relationship with the surrounding built form context and creates shadow impact and overlook issues. The proposed height is also out of character with the existing context along Bathurst Street. Also, staff require that all existing 31 rental units are replaced within the proposal.

The approval of the proposed project would set a negative precedent for future development that undermines the policies of the Official Plan.



The Zoning and Official Plan Amendment applications were appealed to the Ontario Municipal Board on July 16, 2012. A pre-hearing date has been set for January 7, 2013.

The purpose of this report is to seek City Council's direction for the City Solicitor to oppose the proposal in its current form at the OMB and to advise the OMB of Council's position regarding the appropriate form of development on the site.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate staff to attend the Ontario Municipal Board (OMB) hearing to oppose the owner's Zoning and Official Plan amendment appeals.
2. City Council direct the City Solicitor to also advise the OMB that City Council's position is that any redevelopment of the site, if approved by the OMB, should secure services, facilities or matters pursuant to Section 37 of the Planning Act, including the replacement of rental units in accordance with the Official Plan, as may be required by the Chief Planner and Executive Director;
3. City Council authorize the City Solicitor and City staff to take any necessary steps to implement the foregoing.

Financial Impact

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

ISSUE BACKGROUND

Proposal

The revised proposal is to demolish the existing 5-storey rental apartment building containing 31 rental units, and construct a 16-storey (approximately 60 metres including mechanical penthouse) residential building with 165 residential units (28 rental and 137 condominium units), 10 of which are townhouses. The proposal includes replacement of 28 of the 31 rental units, and indicates a unit mix and unit sizes for these replacement units that vary from what currently exists. The proposal also includes the provision of tenant relocation assistance and the right for the existing tenants to return to rental units in the new development. The rental replacement units are proposed to be located on the first four floors. Rental tenants will access the building from Bathurst Street and condominium residents will access the building from a separate lobby on the Elm Ridge Drive frontage.

The revised proposed total unit breakdown is:

- 3 bachelor units - (3 rental units)
- 85 one-bedroom units – (includes 15 rental units)
- 24 two-bedroom units – (includes 10 rental units)
- 18 three-bedroom units

- 10 townhouses

A total of 667 square metres of amenity space for condominium units (332 sq m of which is indoors) is proposed. A total of 144 sq metres (66 sq m of which is indoors) is proposed for the exclusive use by rental tenants.

Also proposed are 4-levels of below grade parking consisting of 202 parking spaces and 148 bicycle parking spaces. Access to parking and loading facilities is proposed from the existing driveway location on Elm Ridge Drive.

The total gross floor area for the revised proposal is 16,766 square metres, which represents a density of 6.1 times the area of the lot.

For revised plans and a summary of the revised proposal application, please refer to the Attachments 1 - 6.

Site and Surrounding Area

The subject site is irregularly shaped and approximately 2,754 square metres (29,645 square feet) in size. The frontages on Bathurst Street and Elm Ridge Drive are approximately 30.5 metres and 74.4 metres respectively. There is currently a 5-storey apartment building on the site.

The following uses abut the property:

North: Directly north is a 10-storey apartment building. Further north are apartment buildings ranging from 4 to 10 storeys in height. A low-rise neighbourhood is northwest of the subject site.

South: Directly south is the Kay Gardner Beltline trail. Further south, are apartment buildings ranging from 4 to 11 storeys in height and low-rise residential buildings.

East: Apartment buildings ranging from 5 to 10 storeys in height.

West: Low-rise residential houses.

The site is not flat. It rises approximately 2.5 m from the south property line to the north property line and approximately 3.0 metres from the east property line to the west property line.

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 City of Toronto's Official Plan contains a number of policies that affect the proposed development. Pursuant to Section 24 of the Planning Act, no by-law shall be passed that does not conform with the Official Plan. Relevant Official Plan Policies include:

Section 2.3.1 Healthy Neighbourhoods

This section of the Official Plan contains policies that specifically address the relationship between *Neighbourhoods* and areas with other Official Plan designations in order to ensure development is sensitive to the physically stable areas within the *Neighbourhoods* designation.

Policy 2.3.1.2 states the following:

Developments in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* will:

- a) be compatible with those *Neighbourhoods*;
- b) provide a gradual transition of scale and density, as necessary to achieve the objectives of this Plan through the stepping down of buildings towards and setbacks from those *Neighbourhoods*;
- c) maintain adequate light and privacy for residents in those *Neighbourhoods*; and
- d) attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.

Policy 2.3.1.3 states the following:

Intensification of land adjacent to neighbourhoods will be carefully controlled so that neighbourhoods are protected from negative impact. Where significant intensification of land adjacent to a *Neighbourhood* or *Apartment Neighbourhood* is proposed, Council will determine, at the earliest point in the process, whether or not a Secondary Plan, area specific zoning by-law or area specific policy will be created in consultation with the local community following an *Avenue Study*, or area based study.

Chapter 3 – Built Form

Section 3.1.2 Built Form

The Official Plan recognizes that most of the City's future development will be infill and as such will need to fit in, respect and improve the character of the surrounding area. As

a result, the built form policies of Section 3.1.2.3 seek to ensure that new development is massed and designed to fit harmoniously into its existing and/or planned context and will limit its impacts on neighbouring streets, parks, open spaces and properties. Among other things, this harmony is achieved by: massing new buildings to frame adjacent streets in a way that respects the existing and/or planned street proportion; creating appropriate transitions in scale to neighbouring existing or planned buildings; providing for adequate light and privacy; and adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets and properties. Ensuring adequate access to sky view for the proposed and future use of adjacent streets is a requirement within Policy 3.1.2.4 for all new development. Policy 3.1.2.5 requires new development to provide amenity for adjacent streets to make these areas attractive, interesting, comfortable and functional for pedestrians by providing landscaped open space within development sites.

The applicants are proposing a tall building on their site. Due to the larger civic responsibility and obligations associated with tall buildings, the built form policies of Section 3.1.3 provide additional direction on how they fit into the existing and planned context and how they are designed. The Plan states that although tall buildings are desirable in the right places they don't belong everywhere and are only one form of intensification. It states that when tall buildings are poorly located and designed they can physically and visually overwhelm adjacent streets, parks and neighbourhoods. Negative impacts include blocking sunlight and views of the sky and creating uncomfortable wind conditions. The Official Plan states that most of the proposed intensification in the Plan is anticipated to be achieved with street oriented, grade related or mid-rise building types that define and support comfortable and vital streets, parks and open spaces. Tall buildings will only be permitted in other areas on the basis of appropriate planning justification consistent with the policies of the Plan.

Policy 3.1.3.1 indicates that where a tall building is appropriate; that it should have a base at an appropriate scale for the street that integrates with adjacent buildings, a middle with a floor plate size and shape having appropriate dimensions for the site in relationship to the base and adjacent buildings, and a top that contributes to the skyline character. Policy 3.1.3.2 requires new tall development to address key urban design considerations, including:

- meeting the built form principles of the Official Plan;
- demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
- demonstrating how the proposed building and site design relate to the existing and planned context;
- taking into account the relationship of the site to other tall buildings;
- providing high quality, comfortable and usable publicly accessible open spaces;
- and,
- meeting the other goals and objectives of the Official Plan.

Section 3.2.1 Housing Policy

The Official Plan's Housing policies require a full range of housing (in terms of form, tenure and affordability, across the City and within neighbourhoods) to be provided and maintained to meet the current and future needs of residents. The existing stock of housing will be maintained and replenished. New housing supply will be encouraged through intensification and infill that is consistent with the Official Plan.

With respect to proposals involving the demolition of 6 or more units of rental housing, Section 3.2.1.6 requires that unless all of the rental housing units have rents that exceed mid-range rents at the time of application, approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with rents similar to those in effect at the time the redevelopment application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and other assistance to lessen hardship.

Chapter 4 – Land Use Designations

Section 4.2 Apartment Neighbourhoods

The City's Official Plan designates the subject site as an *Apartment Neighbourhood* on Map 17 – Land Use Plan. Apartment Neighbourhoods are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small-scale retail, service and office uses that serve the needs of area residents (Policy 4.2.1). The Official Plan indicates that residents in *Apartment Neighbourhoods* should have a high quality urban environment, safety, quality services and residential amenities.

The Official Plan also includes Development Criteria (Policy 4.2.2) to help guide new development in *Apartment Neighbourhoods*, including in particular:

- Locating and massing new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing setbacks from, and/or a stepping down of heights towards, lower-scale *Neighbourhoods*;
- Locating and massing new buildings so as to adequately limit shadow impacts on properties in adjacent lower-scale *Neighbourhoods*, particularly during the spring and fall equinoxes;
- Locating and massing new buildings to frame the edge of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces;
- Including sufficient off-street motor vehicle and bicycle parking for residents and visitors;

- Locating and screening service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences;
- Providing indoor and outdoor recreation space for building residents in every significant multi-unit residential development;
- Providing ground floor uses that enhance the safety, amenity and animation of adjacent streets and open spaces; and,
- Providing buildings that conform to the principles of universal design, and wherever possible contain units that are accessible or adaptable for persons with physical disabilities.

Policy 4.2.3 informs that significant growth is generally not intended within developed *Apartment Neighbourhoods*.

Zoning

The property is currently zoned in City of Toronto By-law 438-86 as a Residential District –R2 Z2.0– which permits a range of residential uses, including an apartment, up to a total density of 2.0 times the area of the lot. The height limit is 21.0 metres.

Site Plan Control

The proposed development is subject to site plan control. An application for site plan control has not yet been submitted, but will be required.

Tree Preservation

The applicant has submitted an arborist report. The report identified thirty-two trees surrounding the site that would be affected by this proposal.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City’s Municipal Code, implements the City’s Official Plan policies protecting rental housing. The City’s Official Plan protects groups of six or more rental units from demolition. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the City of Toronto Act. Proposals involving the loss of six or more residential units, wherein one or more of the units are rental; require the submission of a Section 111 application. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the Building Code Act.

A related application such as an Official Plan amendment or rezoning triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike Planning Act applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB.

A demolition and conversion application was submitted by the applicant subsequent to the Rezoning and Official Plan Amendment application.

Toronto Green Standard

The Toronto Green Standard (TGS) is a tool to implement the broader environmental policies of the Official Plan. Several of the natural environment policies of the Official Plan encourage green development. These policies are geared to reduce the negative impacts of development on the natural environment through practices such as improved stormwater management, water and energy efficiency, and waste reduction and recycling. These policies also promote development that enhances the natural environment and support green industry.

The TGS Checklist was submitted by the applicant and reviewed by City staff for compliance with the Tier 1 performance measures.

Reasons for the Applications

The proposed development requires an application to amend the former City of Toronto's Zoning By-law to permit the proposed 60 metres in height, 165 unit residential building and establish the appropriate development standards. Increases in height and density are among the more significant changes to the Zoning By-law being requested by the applicant. The applicant is proposing to replace only 28 of the 31 existing affordable rental units.

Community Consultation

A community consultation meeting was held on May 16, 2012. Approximately 56 members of the public that attended the meeting along with the Ward Councillor, City Planning staff and the applicant's development team. The 16-storey revised proposal was presented by the applicant. Issues raised at the meeting and submitted on the comments sheets distributed at the meeting include:

1. The proposed height is too high for this area at 16-storeys;
2. The proposed density and building mass is out of scale for the area and causes shadowing on houses on the north side of Elm Ridge Drive;
3. Concerns about privacy and overlook from the west facing balconies of the new development to backyards of houses to the west;
4. The increase in traffic on both Bathurst Street and Elm Ridge Drive as a result of this development;
5. Large number of one-bedrooms is not consistent with family-oriented area;
6. Impact to the Beltline in terms of:
 - Proximity of the proposal to Beltline;
 - Reduction of density of trees and canopy due to the proposed removal of Beltline trees;
 - Inappropriate access and views from the proposed townhouses along the Beltline;
 - Ability to see the proposed development from the Beltline Trail.

7. Maintaining large sized, affordable rental units and rents.

The majority of comments voiced at the meeting and received by Planning staff were in opposition to the proposed tall building.

A community consultation meeting for the remaining tenants of the existing rental building was held on January 24, 2012. Concerns included, among many matters discussed, the adequacy of the size and facilities of the replacement units compared to the current sizes and storage of the existing units, the existing state of repair of the apartment building, the timing of relocation, and details of tenant assistance package.

Agency Circulation

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

COMMENTS

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) promotes the appropriate intensification and efficient use of land, recognizing that land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns. Part V, Policy 1.0 Building Strong Communities provides that Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns.

The Provincial Policy Statement also states, in Section 4.5, that the Official Plan is the most important vehicle for implementing the Provincial Policy Statement. Furthermore, Section 4.5 directs municipalities to provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

The Growth Plan for the Greater Golden Horseshoe (the Growth Plan) strives, among other things, to direct growth to areas of urban intensification. It also requires municipalities to set clear targets for population and employment growth. The entire City of Toronto has been designated a growth area in the Growth Plan and has set population and employment growth targets as required by the Plan. The City has set a Growth Plan population target of 3.08 million by 2031. The development pipeline data indicates that the City's population has been growing an average of 27,500 people per year between 2006 and 2010. (See June 2011 'Profile Toronto' report at: http://www.toronto.ca/planning/pdf/grow_jun2011.pdf).

Based on these historical patterns, the City is well on its way to exceeding its population targets under current growth patterns. The applicant's claim, in the submitted Planning Rationale, that intensification of the site conforms to the growth plan, cannot be used as a

rationale to justify a development proposal that is well beyond the as-of-right permissions because of the reasons contained within this report.

Built Form

In reviewing this development proposal, staff evaluated whether there is an appropriate planning justification, consistent with the policies of the Official Plan, for a tall building to be developed on this site. As well, staff assessed whether the site, could accommodate the proposed tall building, and achieve the necessary tall building performance measures and development criteria in order to address key urban design considerations.

Toronto City Council approved the use of the document, “Design Criteria for Review of Tall Building Proposals” (Tall Building Guidelines) in June, 2006 and in April, 2010 extended authorization of its use. A tall building is generally defined as a building that is taller than the road right-of-way adjacent to the site. In this case, the right-of way width for Bathurst St is 27 metres and as such, the proposed building at approximately 60 metres in height is considered a tall building.

The Tall Buildings Design Criteria provide policy recommendations for tall buildings on issues of transition, building placement and orientation, entrances, massing of base buildings, tower floorplates, separation distances, pedestrian realm considerations and sustainable design. Tall Buildings Design Guidelines do not determine the appropriate location for towers.

Based on the analysis conducted as a part of the review of this application, staff have determined that the site is not appropriate for a tall building that is 16-storeys in height with a floor plate of approximately 920 sq m, and cannot accommodate the proposed tall building while remaining consistent with the policies of the Official Plan. In addition, when evaluated with Tall Buildings Guidelines, the proposed does not achieve those performance standards.

Height, Massing, and Transition

The original proposal was to demolish the existing 5-storey rental apartment building containing 31 rental units, and construct a new 20-storey (71.1 m including mechanical penthouse) residential building with 197 residential units (28 rental and 169 condominium units), 10 of which are townhouses. This proposal included replacement of 28 of the 31 rental units. The total gross floor area for the proposal was 17,704 square metres, which represents a density of 6.43 times the area of the lot. The tower floor plate was also approximately 750 square metres.

The proposal was revised to a 16-storey (57.1 metres including mechanical penthouse) residential building with 165 residential units (28 rental and 137 condominium units), 10 of which are townhouses. As per the zoning review, the total gross floor area for the proposal is now 16,382 square metres, which represents a density of approximately 6.0 times the area of the lot. The tower floor plate was increased to approximately 920 square metres.

The City's Official Plan designates the subject site as an *Apartment Neighbourhood* on Map 17 – Land Use Plan. While *Apartment Neighbourhoods* are distinguished from low-rise *Neighbourhoods* because a greater scale of buildings is permitted, the Official Plan clear states that "built up *Apartment Neighbourhoods* are stable areas of the City where significant growth is generally not anticipated, however, compatible infill development may be permitted on a site containing an existing apartment that has sufficient underutilized space to accommodate one or more new buildings while providing good quality of life for both new and existing residents". As per policy 4.2.2(a) of the Plan, new development in *Apartment Neighbourhoods* should provide a transition between areas of different development intensity and scale, through massing and transition, by providing setbacks from, and/or a stepping down of heights towards, lower-scale *Neighbourhoods*.

The proposed 16-storey apartment building, with a density of 6.0 represents significant growth on the site. An analysis of apartment buildings fronting onto the west side of Bathurst Street from Old Forest Hill Rd to Viewmount Avenue indicates that the average height of these buildings is 7-storeys. Approximately 91% of these buildings have a height equal to or less than 10-storeys, and 60% of these buildings are 5-storeys or lower. These sites are on the west side of Bathurst Street, and front onto the street. They are designated *Apartment Neighbourhoods*, and directly abut low-scale *Neighbourhoods* consisting of mostly single family detached houses. The average density of these buildings is 2.22, with only one building having a density over 4.0.

An analysis of apartment buildings fronting onto the east side of Bathurst Street from Old Forest Hill Rd to Viewmount Avenue indicated that the average height of these buildings is also 7-storeys, with 100% of buildings having a height equal to or less than 10-storeys and approximately 90% with heights between 6 and 10-storeys. These sites on the east side of Bathurst Street, which front onto the street, are designated *Apartment Neighbourhoods*, however the *Apartment Neighbourhoods* designation continues further east. Therefore these sites directly abut other apartment buildings. The average density of these buildings is 3.2, with two buildings having a density over 4.0.

The analysis indicates that development along the west side of Bathurst Street consists of predominately mid-rise buildings, which has provided a transition between lower-scaled *Neighbourhoods* and *Apartment Neighbourhoods* along Bathurst Street and further east. Buildings fronting onto the east side of Bathurst Street have slightly higher heights and densities as they abut other apartment buildings, not low-rise single family houses.

The proposal is not compatible with and does not provide adequate transition from *Apartment Neighbourhood* to the lower scale *Neighbourhood* to the west due to its height and density. A height and density that is more in keeping with the character of existing apartment buildings on the west side of Bathurst Street would be more appropriate.

Sun/Shadow Study

The applicant submitted a revised sun/shadow study for the proposed development. A Sun/Shadow study is required in order to assess whether a proposed development will achieve the goals of Official Plan policy 3.1.2.3(e) and (f), which states that new development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by: adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and, minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.

The Official Plan also states that new development in Apartment Neighbourhoods must be located and massed so as to adequately limit shadow impacts on properties in adjacent lower-scale *Neighbourhoods*, particularly during the spring and fall equinoxes (policy 4.2.2(b)).

The revised sun/shadow study of the proposed 16-storey building indicates an improvement of shadow impact on Neighbourhoods compared to the initial 20-storey proposal. However, there is still a shadow impact on low-rise houses, specifically the private amenity spaces in the rear yards, on the north side of Elm Ridge Drive in the morning hours during both the fall and spring equinox. A further reduction of height and density would adequately limit the shadow impacts on these properties.

Wind Study

The Built Form Policies in Section 3.1.2 of the Official Plan, require new development to provide new high quality streetscapes which are comfortable for pedestrians and include trees, and weather protection.

The applicant submitted a preliminary opinion letter instead of a complete pedestrian level wind study for the initial 20-storey proposed development. An update was not provided for the revised 16-storey proposal.

The opinion letter indicated a number of unacceptable wind conditions such as:

- north and south facing balconies being exposed and vulnerable to strong east, west and northwest winds, especially upper levels; and
- unacceptable wind conditions for the 5th level terrace.

The opinion letter suggests mitigation measures to improve the wind conditions at the 5th level terrace, specifically transparent wind barriers approximately 1.5 metres above the walking surface. Planning staff also require mitigation measures for the unacceptable wind conditions for the north and south facing balconies.

Should the proposal, or a variation of it, be approved at the OMB, the applicant should be required to provide a detailed wind analysis indicating the mitigation measures taken, through redesign of the proposal, to achieve acceptable wind conditions on the entire site.

Traffic Impact, Access, Roadways, Parking and Solid Waste

A Transportation Impact Study for the initial 20-storey proposal was submitted and reviewed by Technical Services Division staff. An updated report was submitted to reflect the revised 16-storey proposal.

Traffic Impact & Access

Transportation staff reviewed the traffic impact assessment provided by the applicant and found the traffic impacts to be acceptable. The proposed development will be serviced by one access driveway off Elm Ridge Drive. This complies with the City's Access Management Guidelines and is acceptable.

Roadways

In accordance with the City's Official Plan, Bathurst Street should ultimately be widened to a minimum width of 27 metres. Staff noted that a 3.44 metres wide conveyance is required at the east limit the site to satisfy the Official Plan requirement. Revised plans indicate only a 3.0 metre wide conveyance proposed due to the fact that a portion of the existing underground garage would encroach into the expanded Bathurst Street right-of-way. Recognizing this issue, staff recommended that the conveyance be 3.0 metres from the north limit of the site up to the building face and after the building face, the conveyance should expand to the requisite width of 3.44 metres. This will result in the east limit of the underground garage encroaching into the public right-of-way. This encroachment is acceptable to staff, however, the applicant will be required to provide a strata conveyance to a minimum depth of 0.75 metres from the finished grade based on the road widening requirement.

Should the proposal, or a variation of it, be approved at the OMB, the applicant should be required to: show the subject conveyance on all final plans with notation indicating the subject conveyance as "lands to be conveyed to the City for a nominal sum"; enter into an agreement with the City which indemnified the City from and against various actions, as well as, address maintenance requirements for the structure encroaching into the public boulevard; and enter into an encroachment agreement with the City for the new man hole and transformer that will be encroaching into the right-of-way.

Parking

There are 202 parking spaces proposed (162 residential spaces, including 17 spaces for rental tenants, and 40 visitor spaces). The parking supply and layout are generally acceptable to staff. There is a slight discrepancy between the site statistics and the actual number of parking spaces on the plans. The plans indicate a total of 234 spaces (194 residential spaces and 40 visitor spaces). This discrepancy should be corrected and the site statistics should match the site plan drawings.

Solid Waste

Solid Waste staff have identified a number of required revisions in order for City of Toronto Solid waste collection to occur. Should the proposal, or a variation of it, be approved at the OMB, the applicant should be required to provide these revisions for review by staff.

Tree Removal/Preservation

The applicant has submitted an arborist report which has been reviewed by Urban Forestry staff. The report identified ten private trees surrounding the site that are proposed to be removed and meet the criteria for protection under the City's Private Tree By-law. The By-law requires thirty replacement trees to be planted. The applicant is required to submit a detailed landscape plan so that the General Manager may calculate any cash-in-lieu payment that may be required. A detailed landscape plan which indicates a tree planting detail over the underground structure is also required.

There are twenty-two city-owned trees situated within the Kay Gardner Beltline trail which are protected under the provisions of the City's Parks By-law. A landscape detail plan is required to indicate that the owner can replant the required trees within the Beltline Trail. A survey of all Beltline trees 6.0 metres from the southern property line is required.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.42 to 0.78 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland priority area, as per City Wide Parkland dedication By-law 1020-2010.

The application proposes 165 residential units on a site with a net area of 2,754 square metres. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.22 hectare. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use, while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 275 square metres.

The applicant proposes to satisfy this parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 275 square metres would not be of a useable size and the entire site is to be encumbered by an underground garage.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

Parks staff also had the following comments:

1. There should be no direct access from the Kay Gardiner Beltline Trail to the ground floor townhouse units. Any access should only be a limited, low key, secondary entrance;
2. The private walkway is to be located entirely on the development site with no encroachment onto City owned lands;
3. Provisions should be secured for a connection to the trail from the development as part of an enhanced rest node that might include amenities such as benches, lighting, bike lock area and paving;
4. Increased usage of the trail as a result of this development may require entrance and street crossing enhancements as well as trail surface upgrades;
5. The planning in the area where the development site and trail interface should "blend" using native species and be appropriately graded; and
6. No interruption in the use of the trail is to be permitted during construction activity and the trail is not to be used as a construction access or for staffing. The development site and trail area are to be separated by regulation hoarding during any construction activity on the development site.

Rental Housing

The revised proposal indicates the replacement of only 28 of the existing 31 rental units. Also proposed is a 30% reduction in the existing gfa of the rental units. Concerns include the number of replacement units proposed; the comparability of the proposed units to the existing rental units in terms of: floor area; storage; functionality of unit layout; and size of windows, among other matters. Planning staff also had significant concerns regarding the lack of interior or exterior connection or pathway from the driveway drop-off to the proposed rental units.

Recently, discussions have taken place with Planning staff regarding the replacement of all 31 affordable rental units. Revisions are being made by the owner to the floor plans for the rental units. There has been good progress made in attempting to meet the City's requirements, but there is not yet a final plan acceptable to staff, as revisions to the key terms and floor plans were still in progress subsequent to the filing of the appeal to the OMB.

The details of the proposed elements of the Tenant Relocation and Assistance Plan are also under discussion, but generally the owner is agreeing to meet the City's standard practices, including the right of tenants to return at similar rents, and the provision of financial assistance with the extra costs associated with the temporary relocation.

If the outcome of the OMB appeal process results in an approved redevelopment involving the demolition of the 31 existing rental units, City staff will request that the OMB to include in any zoning by-law, the replacement of the rental units and tenant assistance. Nonetheless, it will still be necessary for the owner of the lands to obtain a s.111 permit for demolition under the City's by-law on Rental Housing Demolition and Conversion. City Council will have the final decision on the proposed demolition, and is able to impose conditions if approval is granted. At that time, the final details on the

replacement of the units, the rents to be charged and financial compensation for tenant relocation will be the subject of recommendations to City Council.

Toronto Green Standards

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. Outstanding issues identified by circulated divisions include: tree planting along street frontages, green roof details, and glass and other design features for migratory birds.

Should the application be approved at the OMB, the applicant will be required to submit a site plan that brings their proposal into compliance with these standards.

Section 37

Section 37 of the *Planning Act* allows the City to authorize increased density and/or height in return for the provision of services, facilities or matters. The Official Plan contains provisions authorizing these Section 37 matters, provided the density and/or height increase are consistent with the objectives of the Official Plan regarding building form and physical environment. Section 5.1.1.4 of the Plan allows Section 37 to be used for development with more than 10,000 square metres of gross floor area where the zoning by-law amendment increases the permitted density by at least 1,500 square metres and/or significantly increases the permitted height.

Given the increase in proposed height, the Official Plan would require the provision of Section 37 benefits. Discussions regarding Section 37 benefits between the applicant and the City did not occur as there was not an agreement on appropriate development for the site. However, as this matter has been appealed to the OMB, the City Solicitor would need to address Section 37 matters in the event the OMB approved development on this site. This report therefore recommends that the City Solicitor secure such services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner if a development is approved for the site.

Conclusion

The issues outlined in this report were unable to be resolved and the Zoning By-law and Official Plan Amendment applications were appealed to the Ontario Municipal Board by the applicant as the City did not make a decision within 120 days from the submission of an Application for a Zoning By-law Amendment and 180 days from the submission of an application for an Official Plan Amendment.

The applications fail to meet the policies in Official Plan including Section 2.3.1 – Healthy Neighbourhoods, Section 3.1.2 - Built Form, Section 3.2.1- Housing Policy and Section 4.2 - Apartment Neighbourhoods Development Criteria. In addition, the

application does not meet the Council endorsed Design Criteria for Review of Tall Building Proposals. Not replacing all 31 affordable rental units, as well as, the lack of compatibility and transition to *Neighbourhoods*, the inappropriateness of a tower on the proposed site, and the inappropriate height, all contribute to the proposal failing to meet these policies.

As such, Planning staff are recommending refusal of the Zoning Bylaw and Official Plan Amendment applications.

CONTACT

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Revised Site Plan

Attachment 2: Revised East and North Elevations

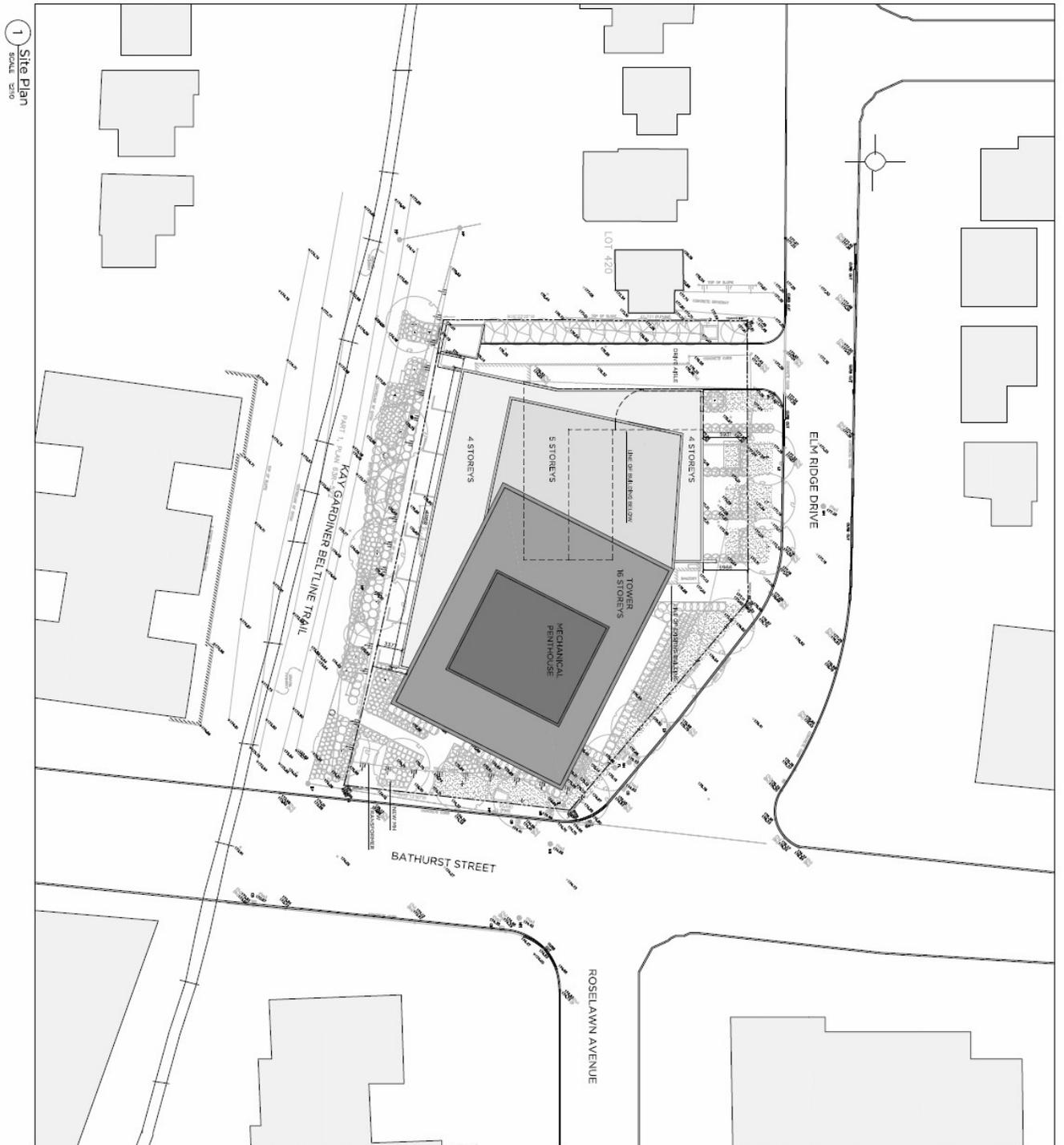
Attachment 3: Revised West and South Elevations

Attachment 4: Revised East-West Building Section

Attachment 5: Zoning

Attachment 6: Revised Application Data Sheet

Attachment 1: Revised Site Plan



Attachment 5: Zoning



TORONTO City Planning
Zoning

2400 Bathurst Street

File # 11 284939 0Z

- R1 Residential District
- R2 Residential District
- G Parks District

↑
Not to Scale
Zoning By-law 438-86 (as amended)
Extracted 11/01/2011

Attachment 6: Revised Application Data Sheet – as March 2012

Application Type	Rezoning	Application Number:	11 284939 STE 21 OZ
Details	Rezoning, Standard	Application Date:	September 30, 2011
Municipal Address:	2400 BATHURST ST		
Location Description:	PLAN 1769 LOTS 422 TO 425 PT LOTS 421 426 TO 428 **GRID S2101		
Project Description:	Rezoning application to demolish existing 5 storey rental building with 30 rental units and construct new 16 storey residential building with 165 units. 28 rental and 137 condo units - 4 levels below grade parking - 202 parking spaces - 148 bicycle parking spaces, 12 surface.		

Applicant:	Agent:	Architect:	Owner:
WALKER NOTT DRAGICEVIC ASSOCIATES LTD			UPPER FOREST HILL SUITES II LTD

PLANNING CONTROLS

Official Plan Designation:	Apartment Neighbourhood	Site Specific Provision:
Zoning:	R2 Z2.0	Historical Status:
Height Limit (m):	21	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	2754	Height:	Storeys:	16
Frontage (m):	30.5		Metres:	60
Depth (m):	63.8			
Total Ground Floor Area (sq. m):	1347			Total
Total Residential GFA (sq. m):	16766		Parking Spaces:	202
Total Non-Residential GFA (sq. m):	0		Loading Docks	1
Total GFA (sq. m):	16766			
Lot Coverage Ratio (%):	49			
Floor Space Index:	6.1			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Rental, Condo		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	16766	0
Bachelor:	3	Retail GFA (sq. m):	0	0
1 Bedroom:	100	Office GFA (sq. m):	0	0
2 Bedroom:	34	Industrial GFA (sq. m):	0	0
3 + Bedroom:	28	Institutional/Other GFA (sq. m):	0	0
Total Units:	165			

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