

Authority: Ontario Municipal Board Decision issued June 19, 2014 and Order issued May 26, 2015 in Board File Nos. PL130547 and MM130048

## CITY OF TORONTO

### BY-LAW No. 1-2016(OMB)

#### **To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known as 95 and 99 Broadway Avenue and 197 Redpath Avenue.**

Whereas the Ontario Municipal Board, by its Decision issued on June 19, 2014 and Order issued May 26, 2015, in Board File Nos. PL130547 and MM130048 approved amendments to the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in the By-law which is secured by one or more agreements between the owner of the land and the City of Toronto; and

Pursuant to the Order of the Ontario Municipal Board, By-law No. 438-86, the Zoning By-law of the former City of Toronto, as amended, is further amended as follows:

1. None of the provisions of Sections 2 with respect to "*bicycle parking space*", "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*grade*", "*height*", "*lot*", "*parking space*" and Sections 4(2), 4(4), 4(12), 4(16), 4(17), 6(3) Part I 1, 6(3) Part II, and 6(3) Part III of By-law No. 438-86, being "A By-law To regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection and use of a *residential building* containing *dwelling units* on the *lot* provided that:
  - (a) the *lot* comprises the lands identified as "95 and 99 Broadway Avenue and 197 Redpath Avenue" on the attached Map 1;

- (b) the *residential gross floor area* of the *residential building* does not exceed 59,000 square metres;
- (c) a total of 32 *rental replacement dwelling units*, comprised of at least 7 bachelor, 9 one-bedroom, 8 two-bedroom and 8 three-bedroom units to be located contiguously within the residential building with a total *residential gross floor area* of not less than 2,164 square metres as required pursuant to Appendix 1, to satisfy the replacement of rental *dwelling units* existing on the lot at the time of the enactment of this By-law;
- (d) no portion of any *residential building* above *grade*, is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2;
- (e) the *height* of any *residential building* or structure, or portion thereof, does not exceed those *heights* in metres as shown on the attached Map 2;
- (f) notwithstanding sections 1.(c), 1.(d) of this By-law, the following building elements and structures are permitted to extend beyond the heavy lines and building envelopes, and above the heights specified on Map 2:

<b>Elements and Structures</b>	<b>Limitation</b>
Eaves, cornices, window sills, landscape features, wheel chair ramps, light fixtures, stairs and stair enclosures, balustrades, bollards, window washing equipment, underground garage ramps and their associated structures, public art features, transformer vaults, elevator overruns, generators, cooling towers, trellises, planters	No limitations provided the height of such Element or Structure is not greater than 2.0 metres above the height limits established in this By-law
Elements associated with a green roof	Permitted beyond the heavy lines on Map 2, subject to a maximum vertical projection of 0.5 metres above the height limits shown on Map 2
Railings	Permitted beyond the heavy lines on Map 2, subject to a maximum vertical projection of 1.2 metres above the height limits on Map 2
Fences, privacy screens	Permitted to extend above the heavy lines shown on Map 2, subject to a maximum vertical projection of 2.4 metres beyond the height limits shown on Map 2

Ornamental elements, architectural elements	Permitted to extend above the height limits shown on Map 2, subject to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 2
Vents, stacks and chimneys	Permitted to extend beyond the heavy lines on Map 2, subject to a maximum vertical projection of 3.2 metres above the height limits shown on Map 2
Parapets	Permitted to extend beyond the heavy lines on Map 2 subject to a maximum vertical projection of 0.9 metres above the height limits shown on Map 2
Structures used for outside or open air recreation, safety or wind protection purposes	Permitted to extend beyond the heavy lines on Map 2, provided that the maximum height of the top of the structure is no higher than the sum of 3.0 metres and the applicable height limits shown on Map 2 and the structures shall not enclose space so as to constitute a form of penthouse or other room or rooms
Awnings, canopies	Permitted to extend above the height limits shown on Map 2, subject to a maximum horizontal projection of 3.0 metres beyond the exterior wall to which such awnings and canopies are attached
Balconies	Permitted to extend above the height limits on Map 2, subject to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 2

- (g) a minimum of 1,854 square metres of *residential amenity space – indoor* shall be provided and maintained on the *lot*;
- (h) a minimum of 950 square metres of *residential amenity space – outdoor* shall be provided and maintained on the *lot*;
- (i) parking shall be provided based on the following:
  - (i) a minimum of 0.27 parking spaces per *dwelling unit* for residents;

- (ii) a minimum of 0.03 parking spaces per *dwelling unit* for visitors;
  - (j) of the total number of parking spaces, 9 spaces shall be provided for the residents of the *rental replacement dwelling units*;
- 2. None of the provisions of By-law No. 438-86 shall apply to prevent a "*sales office*" on the *lot* as of the date of the passing of this By-law.
- 3. For the purposes of this By-law, the following expressions shall have the following meaning:
  - (a) "*bicycle parking space – occupant*" means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
    - (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
    - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
    - (iii) in the case of a bicycle rack, is located in a secured room or area;
  - (b) "*bicycle parking space – visitor*" means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:
    - (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
    - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
    - (iii) may be located indoors or outdoors including within a secured room or enclosure;
  - (c) "*grade*" means 160.165 metres Canadian Geodetic Datum;
  - (d) "*height*" means the vertical distance between grade and the highest point of the building or structure;
  - (e) "*lot*" means those lands identified as "95 and 99 Broadway Avenue and 197 Redpath Avenue" on Map 1 attached;
  - (f) "*rental replacement dwelling unit*" means a *dwelling unit* which replaces one of the rental units existing on the *lot* at the time of enactment of this By-law, as

required pursuant to section 111 of the *City of Toronto Act*, 2006, S.O. 2006, c. 11 and Schedule 1;

- (g) *"sales office"* shall mean a building, structure, facility or trailer on the *lot* used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*; and
  - (h) every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.
4. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *lot* contemplated herein is permitted in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Appendix 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lot, to the satisfaction of the City Solicitor.
  5. Where Appendix 1 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on the satisfaction of the same.
  6. The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
  7. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

PURSUANT TO THE DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JUNE 19, 2014 AND ORDER ISSUED MAY 26, 2015 UNDER OMB FILE NOS. PL130547 AND MM130048.

## Appendix 1

### Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

1. Prior to the issuance of an above-grade building permit, the *owner* shall make an indexed payment of \$1,250,000.00 to the City. The funds are to be used for local improvements and beautification and street enhancement projects in consultation with the local councillor.
2. The Owner shall construct streetscape improvements to improve the public street frontages adjacent to the Site, in accordance with the approved landscape drawings to be secured in the Site Plan Agreement, equal to a value of \$250,000.00, to the satisfaction of the Chief Planner.
3. The amounts set out in Sections 1 and 2 shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.
4. In the event the cash contributions have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
5. The *owner* shall provide the following to support the development of the *lot*:

#### Rental Replacement

- (a) The *owner* shall provide and maintain not less than 32 *rental replacement dwelling units* on the *lot*, subject to the following:
  - i. The 32 *rental replacement dwelling units* shall be provided entirely on the *lot*;
  - ii. The 32 *rental replacement dwelling units* shall be provided with all related facilities and services, and generally be of a similar size and unit mix as the existing units on the site at the date of enactment of this By-law, with any modifications to the satisfaction of the Chief Planner, subject to the following:
    - (i) The *rental replacement dwelling units* shall comprise a unit mix of seven bachelor, nine one-bedroom units, eight two-bedroom units and eight three-bedroom units;

- (ii) The combined floor areas of the 32 *rental replacement dwelling units* will not be less than 2,164 metres squared, subject to the following:
  - a. The seven (7) bachelor units shall be not less than 37.4 metres squared, with five (5) being not less than 39.5 metres squared;
  - b. The nine (9) one-bedroom units shall be not less than 54 metres squared, with eight (8) being over 57 metres squared, and five (5) being not less than 62 metres squared;
  - c. The eight (8) two-bedroom units shall be not less than 75 metres squared, with three (3) not less than 79 metres squared, and one (1) shall be over 85 metres squared;
  - d. The eight (8) three-bedroom apartments shall be not less than 92 metres squared, with seven (7) over 100 metres squared, and three (3) over 105 metres squared;
  - e. There shall be no interior bedrooms for any units, with each of the bedrooms in these 32 units having an exterior, openable window; and
  - f. The minimum unit sizes listed above and to be specified in the Section 37 agreement may vary by a maximum of 3 percent but only as a result of reasonable adjustments that may need to be made for the purposes of accommodating required final structural or mechanical design. Any such change to the minimum unit sizes will be to the satisfaction of the Chief Planner;
- iii. The 32 *rental replacement dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that each unit is occupied and until the *owner* obtains approval for a zoning by-law amendment removing the requirement for the replacement rental units to be maintained as rental units. No application may be submitted for condominium or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period;
- iv. All of the *rental replacement dwelling units* shall be ready and available for occupancy no later than the date by which 80 percent of the other *dwelling units* erected on the *lot* pursuant to this By-law amendment are available and ready for occupancy;
- v. A minimum of 14 one-bedroom *rental replacement dwelling units* shall be provided as affordable *rental replacement dwelling units* and a minimum

of 18 *rental replacement dwelling units* shall be provided as mid-range *rental replacement dwelling units*, subject to the following:

- a. The *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the 4 bachelor, 3 one-bedroom, 3 two-bedroom and 4 three-bedroom affordable *rental replacement dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial Rent Guideline, and any above-Guideline increase, if applicable;
- b. The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the 18 mid-range *rental replacement dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent times 1.5 for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial Rent Guideline, and any above-Guideline increase, if applicable;
- c. Rents charged to tenants occupying an affordable *rental replacement dwelling unit* or a mid-range *rental replacement dwelling unit* at the end of the 10 year period set forth in subsections a. and b. above shall be subject only to annual increases which do not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases, so long as they continue to occupy their unit or until the expiry of the rental tenure period set forth in subsection iii. above with a subsequent phase-in period of at least three years for rent increases; and
- d. Rents charged to tenants newly occupying a *rental replacement dwelling unit* after the completion of the 10 year period set forth in subsections a. and b. will not be subject to restrictions by the City of Toronto under the terms of subsections a. and b.

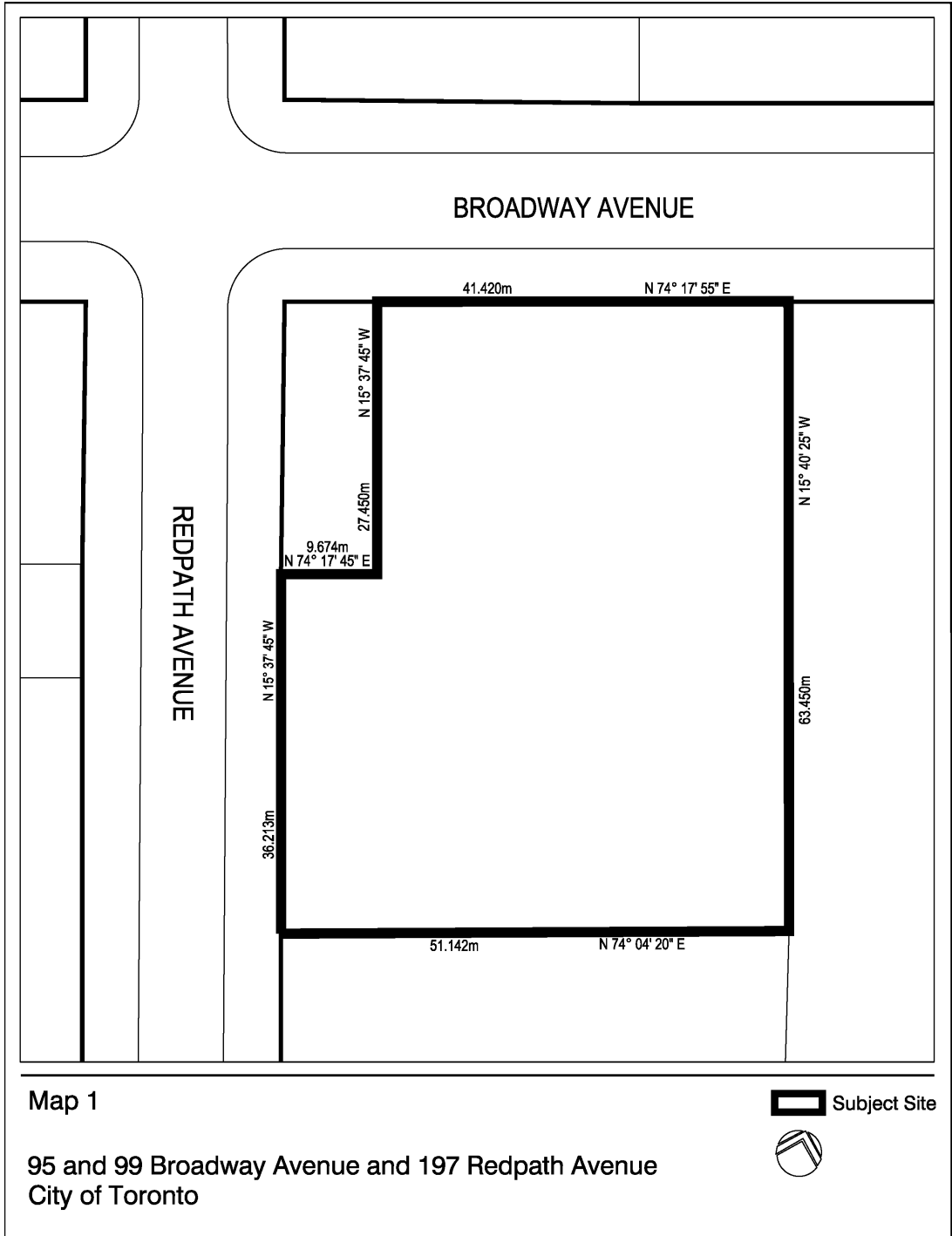


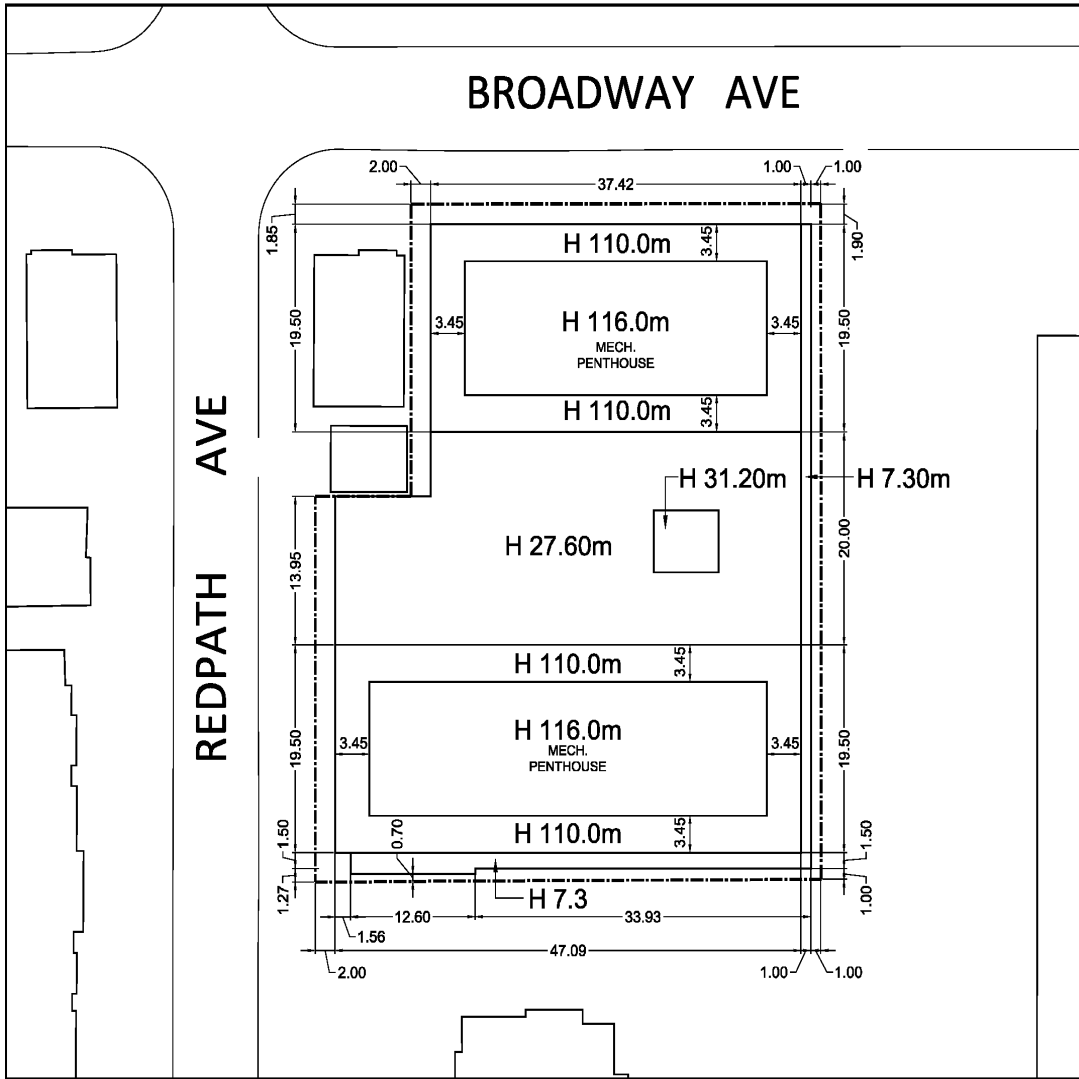
**Tenant Relocation Assistance**

- (b) The owner shall provide tenant relocation assistance to the tenants of the existing units affected by the demolition, in accordance with the more detailed Tenant Relocation and Assistance Plan to be included in the agreement or agreements, to the satisfaction of the Chief Planner. The assistance shall include at least:
- i. an extended notice period before having to vacate for demolition;
  - ii. the right to return to a rental replacement unit;
  - iii. returning tenants will choose their rental replacement units by seniority, with provisions for special needs tenants, if required; and
  - iv. all tenants shall receive financial assistance to assist with relocation beyond the amounts required by provincial legislation, with extra provisions for tenants with special needs.

**Other Matters to Support the Development of the Lot**

- (c) The *owner* shall incorporate in the construction of the building, and thereafter maintain, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for all the development's elevations;
- (d) Prior to the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* the *owner* of the *lot* shall provide a Construction Management Plan at its expense to the satisfaction of the Director, Development Engineering, and thereafter the owner shall implement such plan;
- (e) The *owner* shall satisfy the requirements of the Toronto Catholic District school Board and the Toronto District School Board regarding warning clauses and signage; and
- (f) The *owner* shall meet or exceed Tier 1 of the Toronto Green Standard.





99 BROADWAY AVENUE

Map 2

File #- \_\_\_\_\_



Not to Scale  
02/19/2014