

Authority: Ontario Municipal Board Decision/Order issued December 3, 2015 as amended June 14, 2016 in Board File PL141139

## CITY OF TORONTO

### BY-LAW 974-2017(OMB)

#### **To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2014 as 50 Wellesley Street East and 31 to 35 Dundonald Street.**

Whereas the Ontario Municipal Board pursuant to its Decision/Order issued December 3, 2015, as amended June 14, 2016, deems it advisable to amend By-law 438-86, as amended, for the former City of Toronto with respect to the Lands known municipally as 50 Wellesley Street East and 31 to 35 Dundonald Street; 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*, 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 matter 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 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto;

By-law 438-86, as amended, of the former City of Toronto is amended by the Ontario Municipal Board as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *lot* 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 of this By-law, 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 of this By-law, 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. None of the provisions of Sections 2(1) with respect to the definition of *bicycle parking space--occupant*, *bicycle parking space—visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, *residential amenity space*, Sections 4(2)(a), 4(5), 4(8), 4(11), 4(12), 4(13), 4(16), 4(17), 6(1), 6(3)PART I, 6(3)Part II, 6(3)Part III, 6(3)PART IV1.(e), 6(3)PART IV3., 6(3)PART IV4., 6(3)Part IX1.(b) and 12(2)132., of By-law 438-86, of the former City of Toronto, as amended being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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 or use of a *mixed-use building*, *row houses*, *semi-detached houses*, and a *commercial parking garage*, including uses *accessory* to the foregoing uses, on the *lot* provided that:
- (a) the *lot* consists of Parcel A and Parcel B as shown on the attached Map 1;
  - (b) the combined *residential gross floor area* and *non-residential gross floor area* on the *lot*, exclusive of those portions of the building used for the purposes of a *commercial parking garage*, shall not exceed 27,500 square metres, provided:
    - (i) The maximum *residential gross floor area* shall not exceed 27,250 square metres; and
    - (ii) A minimum of 250 square metres of *non-residential gross floor area* shall be provided on the *lot*;
  - (c) permitted uses on the *lot* shall be as follows:
    - (i) Residential uses as set out in Section 6(1)(a) of By-law 438-86, as amended, including *dwelling units* provided in the residential portion of a *mixed-use building*;
    - (ii) Non-residential uses shall only be permitted within the *mixed-use building* and such uses shall be limited to one or more of the following uses: automated bank machine, office, *personal grooming establishment*, *restaurant*, *retail store*, *take-out restaurant*, outdoor patios *accessory* to a permitted use; and
    - (iii) Notwithstanding subsection (ii) above, a *commercial parking garage* is a permitted use on the *lot*, provided it is located below finished ground level, with the exception of *accessory* uses such as elevators, lobbies, stairs, stair enclosures and enclosed garbage chutes;
  - (d) on Parcel B, *dwelling units* shall only be permitted within *row houses* and *semi-detached houses*;
  - (e) a maximum of ten (10) *dwelling units* are permitted on Parcel B;

- (f) no portion of a building erected on the *lot* may be located above finished ground level other than wholly within the *building envelope* areas delineated by heavy lines on the attached Map 2 with the exception of the following:
- (i) Lighting fixtures, cornices, sills, eaves, canopies, window washing equipment, parapets, railings, privacy screens, patios, decks, cabanas, swimming pool, swimming pool equipment enclosures, planters, balustrades, bollards, stairs, covered stairs or stair enclosures, elevator enclosures and elevator lobbies associated with an entrance or exit from an underground parking garage, awnings, fences and safety railings, trellises, underground garage ramps and associated structures, mechanical and architectural screens, guards, guardrails, chimneys, vents, stacks, retaining walls, wheel chair ramps, landscape features, and art installations may extend beyond the heavy lines shown on the attached Map 2;
  - (ii) Balconies and associated architectural structures may project to a maximum of 1.5 metres beyond the heavy lines shown on Map 2;
  - (iii) Ornamental or architectural features to a maximum horizontal projection of 3.0 metres beyond the heavy lines shown on Map 2; and
  - (iv) The erection and use of the structures, elements and enclosures permitted by Section 3(g) of this By-law;
- (g) the *height* of each portion of a building or structure erected above *grade* on the *lot*, in respect of each *building envelope* area, shall have a maximum *height* in metres as shown following the symbol H on Map 2 for the corresponding *building envelope* area, including mechanical and roof top elements, except for:
- (i) The erection or use of the structures, elements and enclosures permitted by Section 3(f) of this By-law; and
  - (ii) The erection or use of structures on any roof used for outside or open air recreation, maintenance, safety, wind protection or green roof purposes;
- (h) notwithstanding any provision of this By-law to the contrary, no portion of any building or structure above finished ground level shall be located within the hatched area shown on the attached Map 2 with the exception of the following:
- (i) Vents, grills, and manhole covers flush with finished ground level;
- (i) the number of *storeys* in the *mixed-use building* on the *lot* must not exceed the numbers shown following the symbol ST on Map 2 for the corresponding *building envelope* area, excluding mechanical and roof top elements;
- (j) *row houses* and *semi-detached houses* are limited to a maximum of three (3) *storeys*, excluding mechanical and roof top elements, stairs, stair enclosures and enclosed areas providing access to a roof top terrace;

- (k) *residential amenity space* for *dwelling units* within the *mixed-use building* shall be provided in accordance with the following:
- (i) A minimum of 2.0 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided in a multi-purpose room or rooms, at least one of which shall contain a kitchen and a washroom;
  - (ii) A minimum of 2.0 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided of which at least 40 square metres is to be provided in a location adjoining or directly accessible from indoor *residential amenity space*; and
  - (iii) Required indoor *residential amenity space* may include up to two (2) guest suites, containing either a kitchen or a bathroom, provided the combined *total floor area* of the suites does not exceed 65 square metres;
- (l) *bicycle parking spaces* shall be provided and maintained for the *mixed-use building* in accordance with the following requirements:
- (i) A minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit* shall be provided and maintained on the *lot*; and
  - (ii) A minimum of 0.1 *bicycle parking spaces – visitors per dwelling unit* shall be provided and maintained on the *lot*;
- (m) a minimum of 0.3 *parking spaces per dwelling unit* shall be provided and maintained on the *lot* for the exclusive use of residents;
- (n) no *parking spaces* shall be required for residential visitors and non-residential uses;
- (o) the requirements of Section 4(17) shall apply with the exception that a *parking space*, accessed by a one-way or two-way drive aisle having a minimum width of 7.0 metres or more, notwithstanding that such *parking spaces* may be obstructed on one or two sides in accordance with Section 4(17)(e) of By-law 438-86, as amended, shall have the following minimum dimensions:
- (i) Length – 5.2 metres;
  - (ii) Width – 2.6 metres; and
  - (iii) Vertical clearance – 2.0 metres;
- and up to ten (10) percent of the parking spaces provided on the *lot* for residents may be provided as *small car parking spaces*;
- (p) a minimum of three (3) *parking spaces* on the *lot* shall be provided as accessible *parking spaces*, and, notwithstanding that such accessible *parking spaces* maybe obstructed on one or two sides in accordance with Section 4(17)(e) of By-law 438-86, as amended, shall have the following minimum dimensions:

- (i) Length – 5.2 metres;
  - (ii) Width 3.9 metres; and
  - (iii) Vertical Clearance – 2.0 metres;
  - (q) a minimum of one *loading space – type 'G'* shall be provided and maintained on the *lot*; and
  - (r) vehicular access to the *lot* shall only be provided via Wellesley Street.
4. None of the provisions of this By-law or By-law 438-86, as amended, as of the date of the passing of this By-law, shall apply to prevent a *sales office* on Parcel A.

5. Definitions:

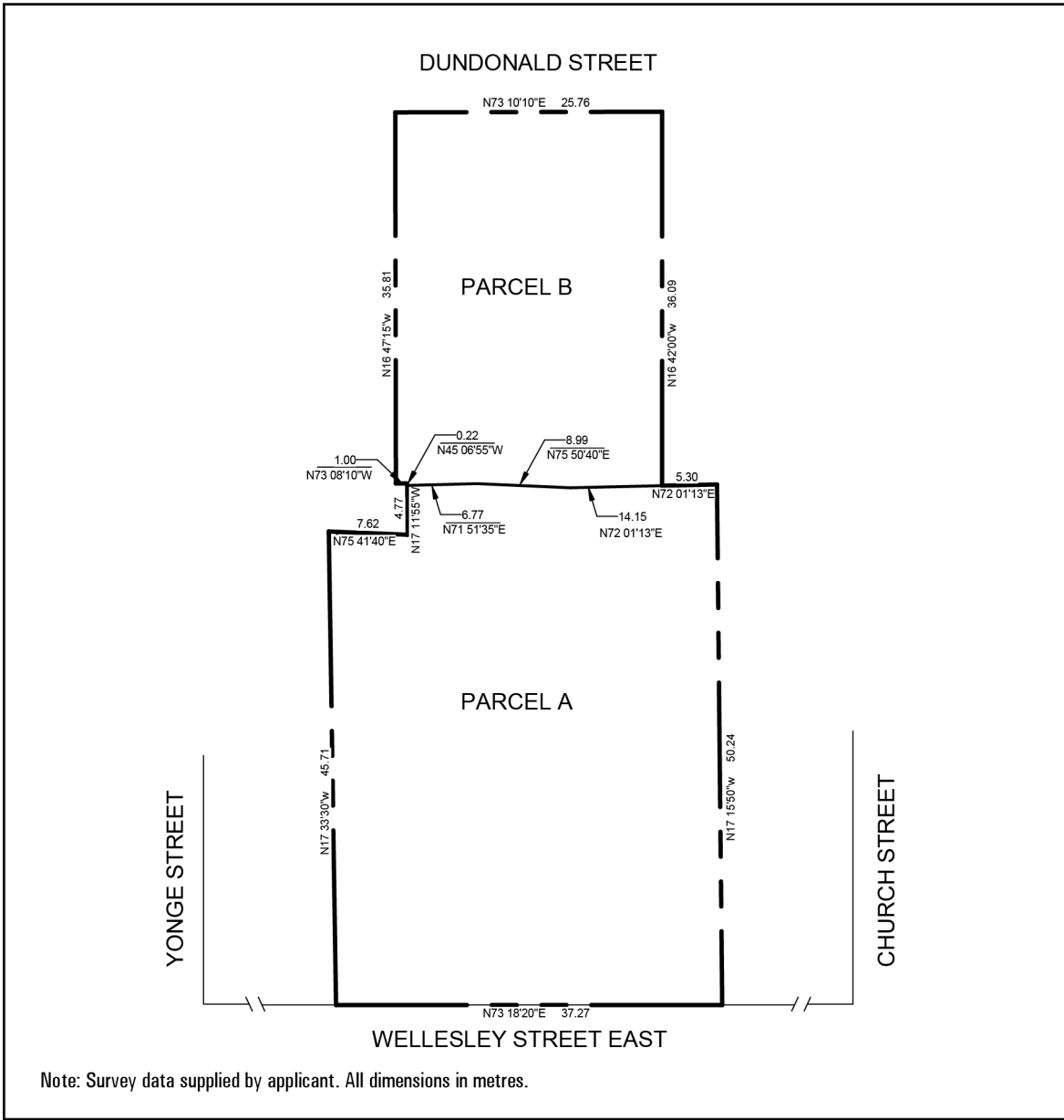
For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the **same** meaning as each such word or expression as defined in the said By-law 438-86, as amended, except for the following:

- (a) "*bicycle parking space - occupant*" means an area that is equipped with a bicycle rack, stacker 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 0.6 metres by 1.8 metres and 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 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
  - (iii) Notwithstanding (i) and (ii) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.4 metres by 0.4 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
- (b) "*bicycle parking space - visitor*" means an area that is equipped with a bicycle rack, stacker 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 0.6 metres by 1.8 metres and 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 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;

- (iii) Notwithstanding (i) and (ii) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.4 metres by 0.4 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
- (c) "*building envelope*" means a building envelope for each height area as shown by an H, and as delineated by the heavy lines on Map 2 attached hereto;
- (d) "*grade*" for the purpose of a *mixed-use building* on the *lot* means 107.87 metres Canadian Geodetic Datum and for the purposes of *row houses* and *semi-detached houses* on the *lot* means 110.32 Canadian Geodetic Datum;
- (e) "*height*" means the vertical distance between *grade* and the highest point of the building or structure, except for those elements otherwise expressly permitted by this By-law;
- (f) "*owner*" means the registered owner of the *lot*;
- (g) "*Parcel A*" means the parcel of land identified as Parcel A on Map 1 attached hereto;
- (h) "*Parcel B*" means the parcel of land identified as Parcel B on Map 1 attached hereto;
- (i) "*row house*" means one of a series of more than two attached buildings:
  - (i) Each building comprising one *dwelling unit*; and
  - (ii) Each building is divided vertically from another by a party wall;
- (j) "*semi-detached house*" means one of a pair of attached buildings:
  - (i) Each building comprising one *dwelling unit*; and
  - (ii) Each building divided vertically from the other by a party wall;
- (k) "*small car parking space*" means a clear area that has minimum dimensions of 5.0 metres in length, 2.4 metres in width and a vertical height of 1.84 metres;
- (l) "*storey*" means a level of a building, located between any floor and the floor, ceiling or roof immediately above it, with the first *storey* being that *storey* with a floor closest in elevation to *grade*; and
- (m) "*sales office*" means an office within a building, structure, facility or trailer used for the purpose of the initial rental, sale or marketing of *dwelling units* to be erected on the *lot* and/or the administration and management of construction activity related to construction on the *lot*.

6. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
7. By-law 675-2005 is repealed.

Ontario Municipal Board Decision/Order issued December 3, 2015 as amended June 14, 2016 in Board File PL141139



### 50 Wellesley Street East and 31-35 Dundonald Street

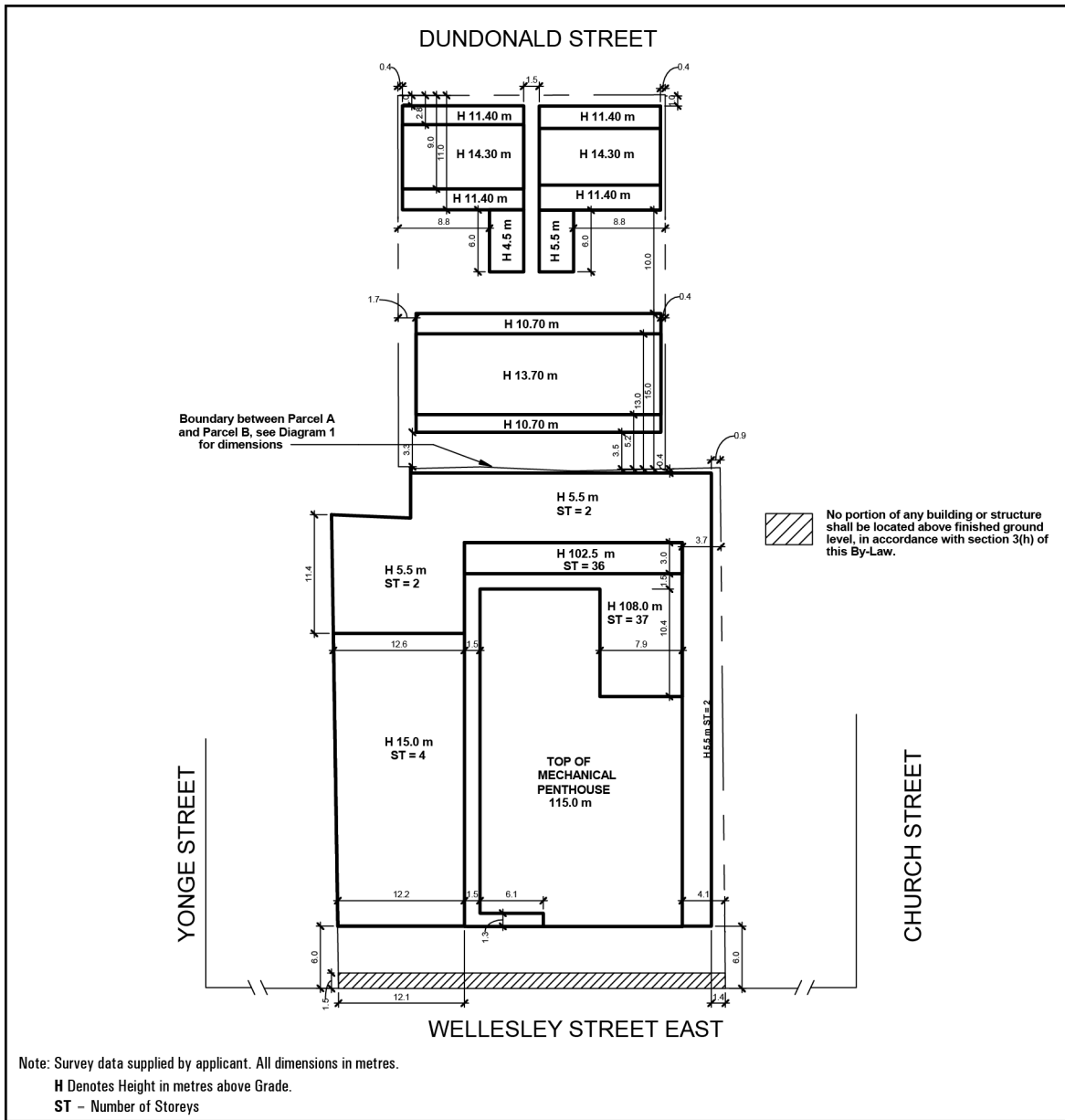
Map 1

File # 14 159828 STE 27 OZ



Not to Scale  
04/10/2017





Note: Survey data supplied by applicant. All dimensions in metres.

H Denotes Height in metres above Grade.

ST - Number of Storeys



### 50 Wellesley Street East and 31-35 Dundonald Street

Map 2

File # 14 159828 STE 27 0Z



Not to Scale  
04/10/2017

**APPENDIX 1**  
**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit, other than for a temporary sales office, the *owner* shall make a cash contribution to the City in the amount of \$1 million dollars, which will be used by the City for the following:
  - (a) \$200,000 for one or more of the more of the following in Ward 27:
    - (i) New community and/or cultural space;
    - (ii) Capital improvements for Toronto Community Housing; and
    - (iii) The City's Capital Revolving Fund for Affordable Housing for the purpose of maintaining and constructing affordable rental housing units in Ward 27;
  - (b) \$800,000 for local parks and streetscape improvements for lands located in Ward 27;

with such cash amounts to be applied as determined by the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor.
2. The cash amounts identified in Sections 1(a) and (b) above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement by both parties to the date of submission of the funds by the *owner* to the City.
3. A minimum of fifteen 15 *dwelling units* located within the building on the *lot* shall be three (3) *bedroom dwelling units* or greater, having a minimum size of 83.6 square metres, of which ten (10) may be grade-related units.
4. The construction of a public pedestrian walkway and a conveyance of a public access easement to the City along the entire Wellesley Street frontage, having a minimum depth of 1.5 metres, and over the walkway to be located on the east side of the site to provide access to the commercial parking garage entrance, the location and details to be secured in the context of site plan approval for the development.
5. The provision of a short term parking space on the ground floor for deliveries.

6. The Owner shall pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support this development, to the satisfaction of the Executive Director, Engineering and Construction, which the details of such if required to be secured in a Site Plan Agreement with the City.
7. The Owner shall provide a tree replanting guarantee deposit payment or letter of credit associated with the white oak tree identified as tree No. 6 in the Owner's application to injure and destroy trees, as established through the Private Tree By-law permit process.