

2143 and 2147 Lake Shore Boulevard West – Official Plan, Zoning By-law Amendment and Lifting of the ‘H’ Applications – Further Supplementary Report (EY39.21)

Date:	August 24, 2010
To:	City Council
From:	Chief Planner and Executive Director, City Planning
Wards:	Ward 6 – Etobicoke-Lakeshore
Reference Number:	09 115094 WET 06 OZ

SUMMARY

City Council is in receipt of a report dated July 28, 2010 (Item EY39.21 through Etobicoke York Community Council), which recommended that the Director of Community Planning, Etobicoke York District report directly to City Council regarding the final determination of Section 37, parkland dedication, and any minor adjustments made to the draft zoning by-law for 2143-2147 Lake Shore Boulevard West. These matters are addressed in this report along with an attachment of the revised draft site-specific zoning amendment.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council adopt the revised Section 37 provisions as set out in Attachment 2 to this report for the lands at 2143 and 2147 Lake Shore Boulevard West.
2. City Council adopt the revised Zoning By-law for 2143-2147 Lake Shore Boulevard West, attached as Attachment 1.



3. City Council authorize the City Solicitor to make such stylistic and technical changes to the revised Zoning By-law Amendment as may be necessary.
4. City Council direct the City Solicitor to bring forward for enactment the Bills with respect to the Official Plan Amendment and the revised Zoning By-law Amendment once the owner has entered into a Section 37 Agreement to secure the community benefits as outlined in this report.
5. City Council determine pursuant to Section 34(17) of the Planning Act that no further public notice of the proposed changes to the draft Zoning By-law Amendment is required.

Financial Impact

The recommendations in this report have no financial impact.

COMMENTS

At its meeting of November 30, December 1, 2, 4, and 7, 2009, City Council adopted the Final Report recommending approval for a residential/commercial development, and providing for a 5-storey commercial building fronting onto Lake Shore Boulevard West, with below-grade publicly accessible parking at 2143 & 2147 Lake Shore Boulevard West (EY 31.4). The report addressed the need to finalize the Section 37 contributions and cash-in-lieu payments as the parkland dedication appraisal had not been completed at the time of the report. The final report also noted that it had been agreed that a \$1,700,000 dollar cap be applied to the combined contribution. The combination of the Parkland payment and Section 37 contribution was based on an initial staff estimate of \$1,500,000 for the cash-in-lieu of parkland payment, and a Section 37 benefit of \$200,000, as well the provision of 60 public parking spaces.

Since the Final Report, an updated appraisal has been provided and the estimated Parkland cash-in-lieu payment is well in excess of the proposed \$1,700,000 proposed cap. As a result, no further monies are available for Section 37 based on the appraisal. However, the 60 underground publicly-accessible parking spaces will continue to be provided, as agreed upon.

The Final Report also recommended matters which were to be secured in the Section 37 agreement as a matter of legal convenience. However, since the adoption of the report, the matters relating to roads/infrastructure either have been satisfied or will be secured through a subsequent stage of the development process, such as in a site plan agreement or through the entering into of a Precinct Plan agreement. These processes will include the costing, implementation, timing and dedication of the proposed roads and access to the site. Therefore, the attached draft Zoning By-law reflects these changes as well as minor and stylistic revisions.

The Section 37 Agreement will maintain the general obligation on the owner to convey to the City public roads to the satisfaction of the Executive Director of Technical Services in consultation with the Chief Planner and the City Solicitor. However, as the detailed requirements with respect to the construction of the proposed public road system and related infrastructure will, as noted above, be addressed in the site plan approval process and/or in the Precinct Plan agreement, items 3, 4 and 5 in the Final Report related to those matters, will not be secured in the Section 37 Agreement. No Section 37 cash payment to the City for parkland improvements is now proposed and consequently the Section 37 Agreement will not include any provisions to secure such a payment.

Staff will be reporting further to Council separately on this matter subsequent to consultation with Parks and Recreation and Legal in light of the Auditor General's recent report which addressed various parkland dedication issues. This report notes that Humber Bay is the only Secondary Plan in the City which does not have a cap on the alternative rate of parkland, and has often resulted in OMB appeals and negotiated settlements as the rate was not viewed as economically feasible. The report also noted that a corporate policy formally establishing parameters to assist staff when negotiating the alternative rate for this specific part of the City, would ensure consistent and transparent practices. Staff will review the appraisal for 2143-2147 Lake Shore Boulevard West in light of the auditors report, and consider options for implementing the recommendations including initiating a City Initiated Official Plan amendment which establishes an appropriate alternative parkland cap for Humber Bay.

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SIGNATURE

Gary Wright
Chief Planner and Executive Director
City Planning Division

Attachment 1: Zoning By-law Amendment
Attachment 2: Section 37 Benefit

Attachment 1: Zoning By-law Amendment

Authority: Etobicoke York Community Council Item ~ [or Report No. ~, Clause No. ~] as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend Zoning By-law No 1994-197, as amended, with respect to the lands municipally known as 2143 and 2147 Lake Shore Boulevard West

WHEREAS authority is given to Council by Section 34 and 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Section 5.1.1 of the City of Toronto Official Plan contains provisions relating to the authorization of increases in height and density of development; 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*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may, in a By-law passed under Section 34 of the *Planning Act*, authorize increases in the height and density of development otherwise permitted by the By-law that will be permitted in return for the provision of such facilities, services and matters as 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, the 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 owners of the lands referred to herein have elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increase in height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by the By-law, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are to be secured by one or more agreements between the owners of such lands and the City of Toronto;

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

1. Definitions

The provisions of Section 304-3 Definitions of the Zoning Code, as amended, shall apply unless inconsistent with the provisions of this By-law or otherwise expressly defined herein. For the purposes of this By-law the following definitions will apply:

“Building Envelope” - means the building area permitted within the setbacks established in this By-law.

“Grade” – as defined by By-law No. 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, Section 11(h), shall be the geodetic elevation of 84.75 metres above sea level at Lake Shore Boulevard West and 78.40 at Marine Parade Drive.

“Height” - means, with respect to a building erected on the Lands, the vertical distance between the “Grade” of the Lands as defined in this By-law and the highest point of the roof surface of the building, but excludes mechanical equipment, mechanical penthouses, elevator rooms, parapets, and architectural elements, which is permitted at a maximum height of 7 metres above the minimum permitted height.

"Residential Amenity Space" - means a common area or areas within the Lands which are provided for the exclusive use of residents of a building for recreational or social purposes.

“Lands” - shall mean the lands outlined by heavy lines on the attached Schedule ‘A-2’ attached hereto.

“Lot” – means the Lands.

“Minor Projections” – means the minor structure or building elements which may project from a structure or building or part thereof into required yards, including roof eaves, window sills, railings, cornices, guard rails, canopies, balconies, exterior stairs and covered ramps, parapets to a maximum projection of 2.5 metres.

2. That By-law No. 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, be further amended by substituting Schedule ‘C’ annexed hereto, in order to permit an increase in the number of residential units on Parcels 11 and 12.

3. That By-law No. 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, be further amended by substituting Schedule ‘D’ annexed hereto, in order to permit an increased maximum height on portions of Parcels 11 and 12 classified Mixed-Use (MU-H).

4. Height

Notwithstanding By-law No. 1994-197, Schedule 'D', as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996:

- (a) The Height of Building "A", adjacent to Marine Parade Drive, as measured from the established grade of Marine Parade Drive, shall not exceed the height of 58.5 metres shown on Schedule "D".
- (b) The Height of Building "B", located within the centre of the site, and as measured from the established grade of Lake Shore Boulevard West, shall not exceed the height of 154 metres as shown on Schedule "D".
- (c) The Height of Building "C", adjacent to Lake Shore Boulevard West, and as measured from the established grade of Lake Shore Boulevard West, shall not exceed the height of 23 metres as shown on Schedule "D".

5. Permitted Uses

In addition to the provisions of Sections 5, 6, 7, 8, 9 of By-law No. 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, the following uses shall also be permitted:

- (a) On Lands designated Limited Commercial (CL-H):
 - (i) pedestrian walkways, fencing, underground parking garages, bicycle parking spaces at and below grade.
- (b) On Lands designated Mixed Use (MU-H):
 - (i) An Apartment Building, live-work units, recreational amenity areas, pedestrian walkways, fencing, underground parking garages, and bicycle parking spaces at and below grade.
- (c) Ventilation shafts are prohibited to be located within the public right-of-way and pedestrian walkway locations.

6. Gross Floor Area

Notwithstanding Subsections 3 and 11 of By-law 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, the following provisions shall more specifically apply to Parcels 11 and 12 as described in Schedules 'B' and 'C' attached hereto:

- (a) Commercial Development Site shall mean the area of a parcel of land designated as (CL-H) on Schedule 'A' attached hereto. For the purposes of density calculation, the Commercial Development Site shall be deemed to include the area shown on Schedule 'C' attached hereto.

- (b) Mixed Use Development Site shall mean the area of a parcel of land designated as (MU-H) on Schedule 'A' attached hereto. For the purposes of density calculation, the Mixed Use Development Site shall be deemed to include the area shown on Schedule 'C' attached hereto.
- (c) The Floor Space Index ('FSI') permitted shall be 3.12, and shall be calculated on the basis of the area of the Lands of 20,099 square metres which is the combined land areas of Parcel 11 and 12 as shown on Schedule "C" of By-law 1994-197, as amended.
- (d) For the purpose of calculating the gross floor area permitted on the Lands described in Schedule 'A-2', Residential Amenity Space shall be excluded from gross floor area.
- (e) For the purpose of calculating the gross floor area permitted on the Lands as outlined in Schedule "A-2", commercial floor space at grade on the MU-H portion of the Lands shall be excluded from gross floor area.
- (f) The residential gross floor area of the Building 'A' and Building 'B' building erected on the MU-H portion of the Lands shall not exceed 58,715 square metres.
- (g) The non-residential gross floor area of the building erected on the CL-H portion of the Lands shall not exceed 3935 square metres.
- (h) The combined residential and non-residential gross floor area of the building erected on the Lands shall not exceed 62,650 square metres.

7. Number of Units

The maximum number of dwelling units permitted on the Lands shall be 785.

8. Road Dedication

That By-law No. 1994-197, as amended be further amended by including Right-of-Way "A", an east-west road, located at the northern boundary of the site. Right-of-Way "A" will be 9.25 metres, on Schedule "D" as illustrated on the map attached hereto.

9. Parking and Loading Requirements

Notwithstanding By-law 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, as well as Sections 320-18, 320-19, and 320-23

of the Zoning Code, or any other provision of the Zoning Code relating to parking or loading which may be inconsistent with the following provisions, the following requirements shall apply to the Lands:

- (a) A minimum of 0.9 parking spaces per residential unit shall be provided.
- (b) A minimum of 0.085 spaces per unit residential unit shall be provided for the use of visitors.
- (c) 1 parking space per 48 square-meters of commercial space shall be provided.
- (d) One Type G loading space shall be provided.
- (e) Visitor residential parking and commercial office parking may be shared.

10. Setbacks/ Underground Garage

- (a) Notwithstanding the provisions of the Zoning Code, and Subsection 11 (k) of By-law 1994-197, as amended pursuant to an Ontario Municipal Board Order dated July 18, 1996, the setbacks for buildings shall be provided as follows:

Building “A” - Adjacent to Marine Parade Drive

- (i) 6 metres from Marine Parade Drive at the ground level.
- (ii) 4 metres from Marine Parade Drive for all floors above the ground floor level to a level of 17.5 metres above the grade of Marine Parade Drive.
- (iii) 9 metres from Marine Parade Drive for all floors above a level of 17.5 metres above the grade of Marine Parade Drive.
- (iv) 3 metres from the future road allowance of Street “A”.

Building “B” - Point Tower

- (v) 2 metres from the future road allowance Street “C”.
- (vi) 0 metres from the future road allowance of Street “A”.

Building “C” - Commercial Building adjacent to Lake Shore Boulevard West

- (vii) 5 metres from the future road widening along Lake Shore Boulevard West at the ground floor level.
 - (viii) 3 metres from the future road widening along Lake Shore Boulevard West for all floors above the ground floor level.
 - (ix) 3 metres from the future road allowance of Street “A”.
- (b) Minor Projections shall be permitted.
 - (c) The underground garage is permitted to extend the full extent of Parcels 11 and 12 as identified on Schedule B, including below public and private right-of-ways.
11. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.
12. **Section 37**
- (a) The density and height of development permitted by this By-law is subject to the Owner of the Lands, at their expense, providing the following capital facilities, in accordance with and subject to the agreement referred to in Section 12 (c) hereof pursuant to Section 37 of the *Planning Act* in order to permit a residential development with a maximum Floor Space Index of 3.12; a maximum of 785 dwelling units. The contributions to be secured in the agreement pursuant to Section 37 of the *Planning Act* shall be as follows:
 - (i) A minimum of 60 of the parking spaces referred to in clause 9 (c) shall be publicly accessible parking spaces.
 - (b) Notwithstanding the date by which the Owner is required to satisfy any obligation under Section 12 of this By-law, nothing in this By-law shall prevent the Owner from obtaining a permit under the *Building Code Act* for demolition, shoring and excavation work only.
 - (c) Prior to the issuance of a building permit, other than shoring, excavation, demolition and hoarding permits, the owner of the Lands shall enter into and register on title to the Lands an agreement with the City pursuant to Section 37 of the *Planning Act*, as a charge to secure the facilities, services and matters set forth in Section 12 (a) herein, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor, prior to this By-law coming into full force and effect.

13. Chapter 324, Site Specifics, of the Zoning Code is hereby amended to include reference to this By-law by adding the following to Section 324.1, Table of Site Specific By-laws.

BY-LAW NUMBER AND ADOPTION DATE	DESCRIPTION OF PROPERTY	PURPOSE OF BY-LAW
_____ - 2010	Lands located on the east side of Lake Shore Boulevard West, just north of Park Lawn Road, municipally known as 2143 and 2147 Lake Shore Boulevard West in the year 2010.	To make modifications to increase the maximum gross floor area, number of units, building heights, and to reduce right-of-way widths to reflect the Humber Bay Shores Urban Design Guidelines.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

DAVID R. MILLER,
Mayor
(Corporate Seal)

ULLI S. WATKISS,
City Clerk

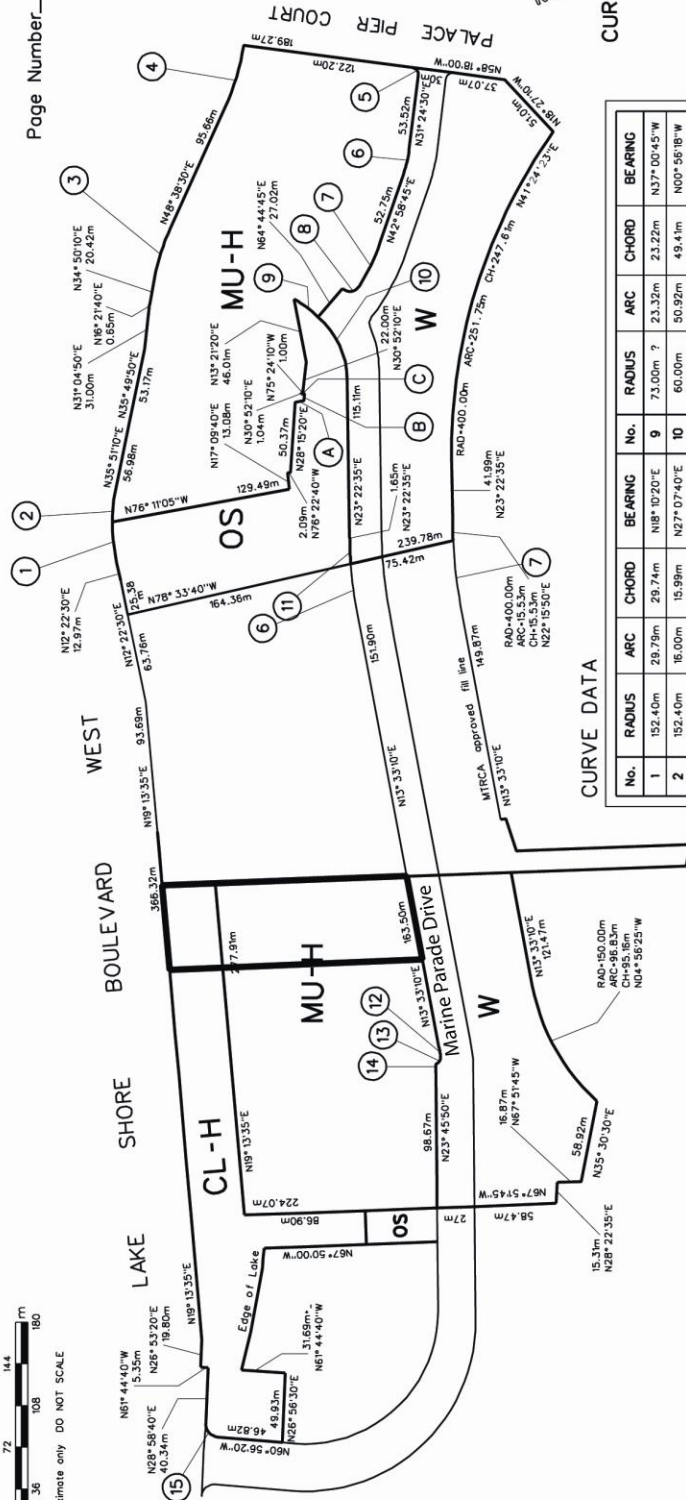
The Corporation of the City of Etobicoke Schedule 'A' BY-LAW Number 1994-197

PART OF LOTS 'D', 'E' AND 'F'

Mayor _____

Clerk _____

Page Number _____



CURVE DATA

No.	RADIUS	ARC	CHORD	BEARING	No.	RADIUS	ARC	CHORD	BEARING
1	152.40m	29.79m	29.74m	N18°10'20"E	9	73.00m	?	23.32m	N37°00'45"W
2	152.40m	16.00m	15.99m	N27°07'40"E	10	60.00m	50.92m	49.41m	N00°56'18"W
3	152.40m	37.39m	37.29m	N41°52'00"E	11	320.00m	17.90m	17.90m	N21°46'30"E
4	172.52m	46.37m	46.23m	N40°55'30"E	12	97.00m	7.26m	7.26m	N15°42'17"E
5	5.00m	7.82m	7.05m	N13°26'50"W	13	5.00m	6.98m	6.43m	N57°48'52"E
6	90.00m	18.16m	18.15m	N27°11'40"E	14	93.00m	4.68m	4.68m	N22°20'01"E
7	140.00m	34.34m	34.25m	N50°00'23"E	15	9.14m	14.07m	12.73m	N18°57'00"W
8	8.00m	13.86m	12.19m	N73°19'03"W					

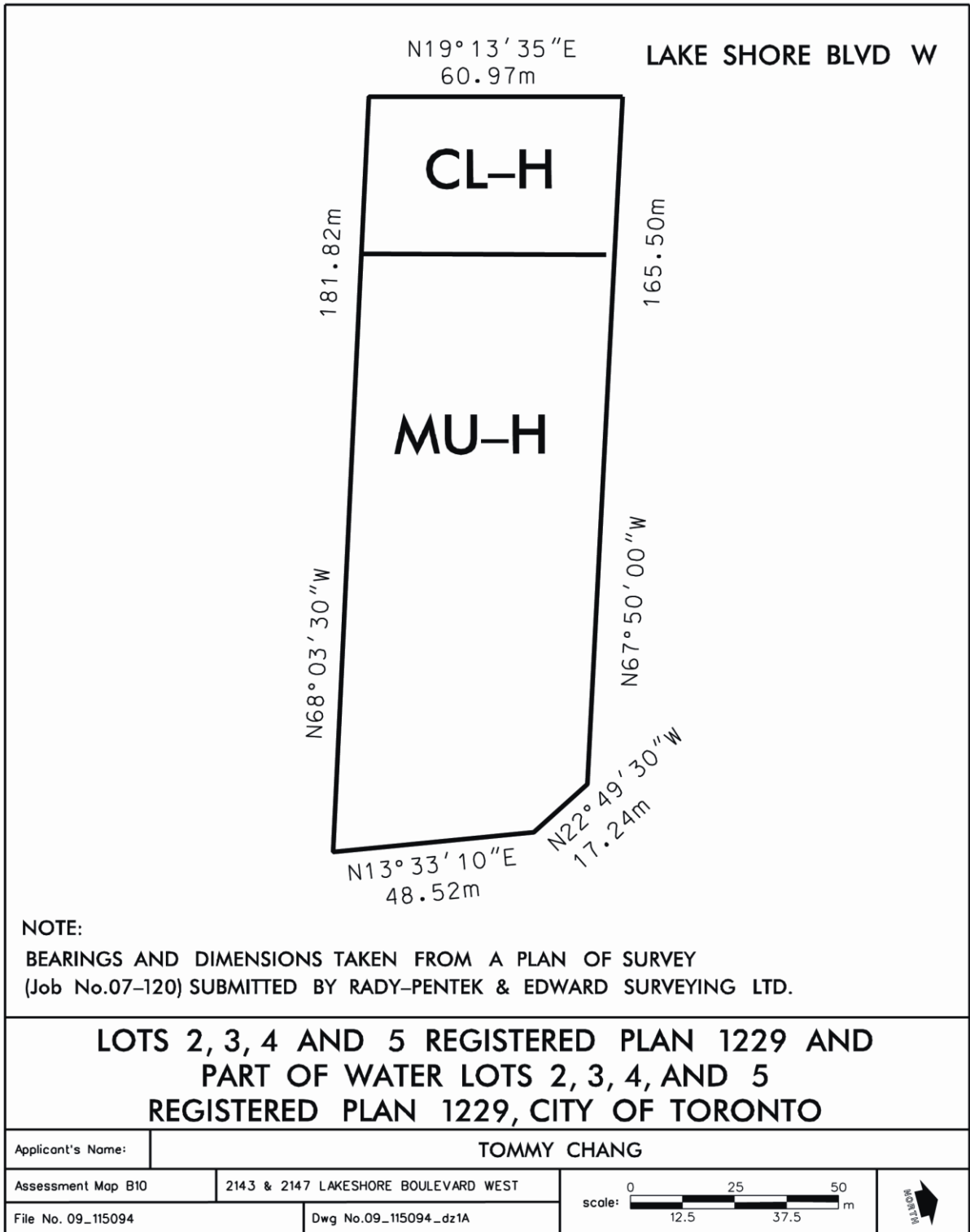
LINE DETAIL

No.	DISTANCE	BEARING
A	6.52m	N75°26'30"W
B	5.12m	N27°25'00"E
C	2.68m	N75°24'10"W

NOTE:
BEARINGS AND DIMENSIONS HAVE BEEN COMPILED FROM
DRAFT SURVEY PLANS (9331 - 9356) SUBMITTED BY
WILDMAN STEWART YOUNG LIMITED, O.L.S.
CAD DRAWING BY LAWS-55-09-115094A.DOK NOV. 2009



Schedule 'A-2' BY-LAW



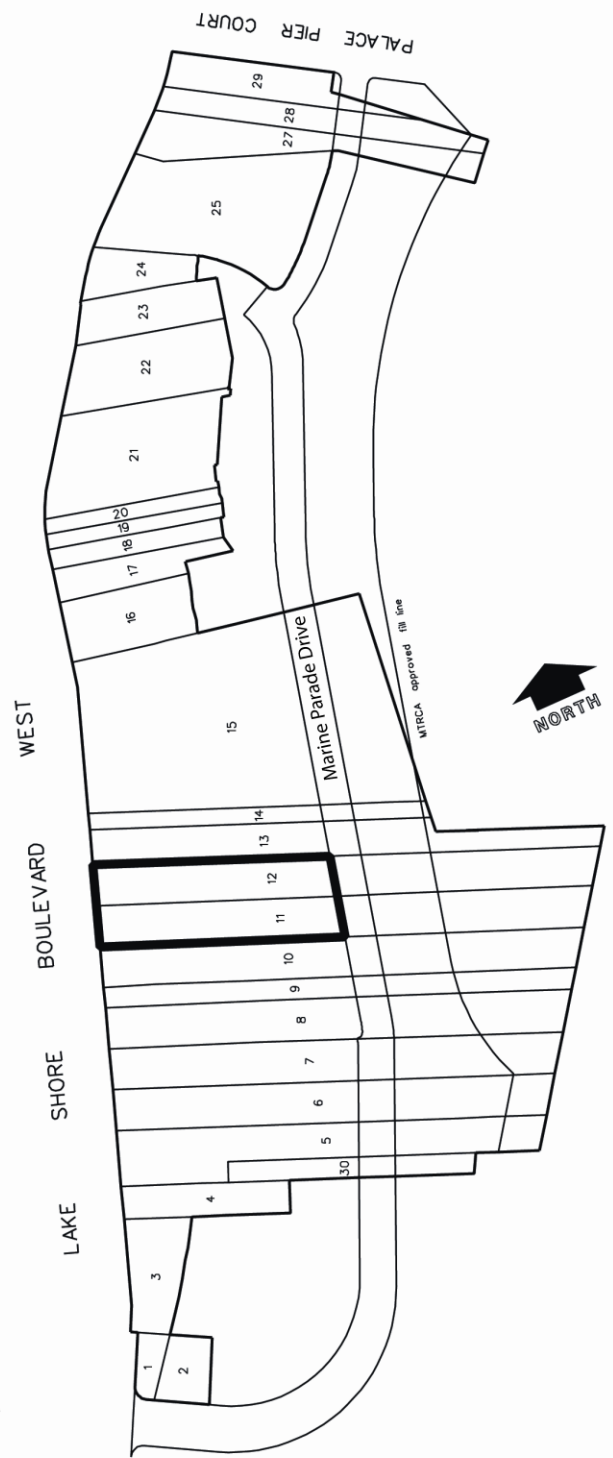
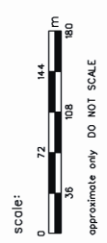
The Corporation of the City of Etobicoke
 Schedule 'B' BY-LAW Number 1994-197

PART OF LOTS 'D', 'E' AND 'F'

_____ Mayor

_____ Clerk

Page Number _____



ByLaws/2009/09_115094dz2

SCHEDULE 'C'

PARCEL	COMMERCIAL DEVELOPMENT SITE (m ²)	MIXED-USE DEVELOPMENT SITE (m ²)	NUMBER OF UNITS
1	1200	N/A	N/A
2	1600	N/A	N/A
3	5513	N/A	N/A
4	930	3,357	289
5	1575	7,171	118
6	1158	7,781	127
7	1154	8,338	139
8	1158	8,732	408
9	578	4,392	71
10	1157	8,472	140
11,12	2316	17,783	785
13	984	6,411	107
14	475	2,675	43
18	N/A	1,931	31
20	N/A	1,529	25
21	N/A	11,260	186
22, 23	N/A	9,930	162
24	N/A	2,369	40
25	N/A	11,790	262 (incl. 105 Seniors' Dwelling Units)
27	N/A	5,552	92
28	N/A	4,328	72
29	N/A	3,669	61
30	N/A	2,500	41
TOTAL UNITS			3,159

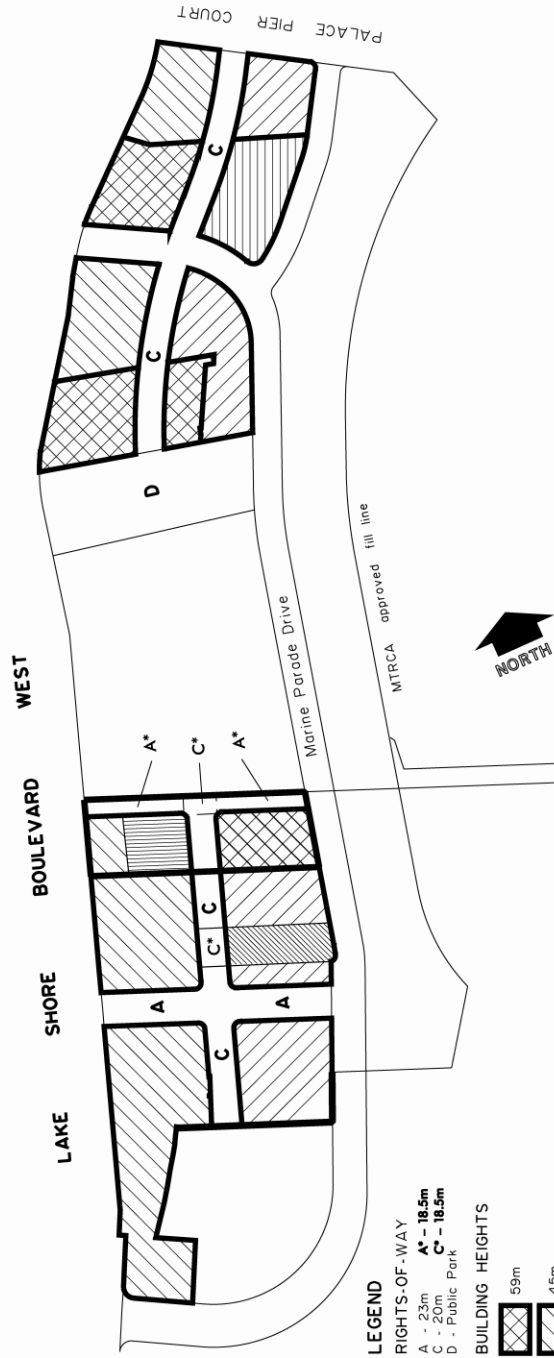
The Corporation of the City of Etobicoke
 Schedule 'D' BY-LAW Number 1994-197

Mayor _____

Clerk _____

PART OF LOTS 'D', 'E' AND 'F'

Page Number _____



* Note: Future Road Alignment and Width of Street C to be determined

CAD DRAWING BYLAWS/2009/09_15094_014.DGN - Aug. 2010

N.B. ALL PUBLIC RIGHTS-OF-WAY ARE SCHEMATIC ONLY

Attachment 2: Section 37 Benefit

The community benefits recommended to be secured in the Section 37 Agreement are as follows:

1. A minimum of 60 of the parking spaces shall be made publicly accessible.

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

1. Prior to the issuance of any Site Plan Approval pursuant to Section 114 of the City of Toronto Act, 2006, for any portion of the Lands, require the securing of building materials for the proposed building, to the satisfaction of the Chief Planner and Executive Director, City Planning.
2. Prior to final Site Plan approval of the Development pursuant to Section 114 of the City of Toronto Act, the Owner agrees to submit to the satisfaction of the Director, Community Planning, Etobicoke York District, an addendum to the Microclimate Analysis as it relates to the shadow and wind impacts of the Development.