

**54-74 Berwick Avenue & 191-211 Duplex Avenue
Rezoning and Rental Demolition Application - Final
Report**

Date:	June 4, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 22 – St. Paul's
Reference Number:	08 152941 STE 22 OZ & 08 223951 STE 22 RH

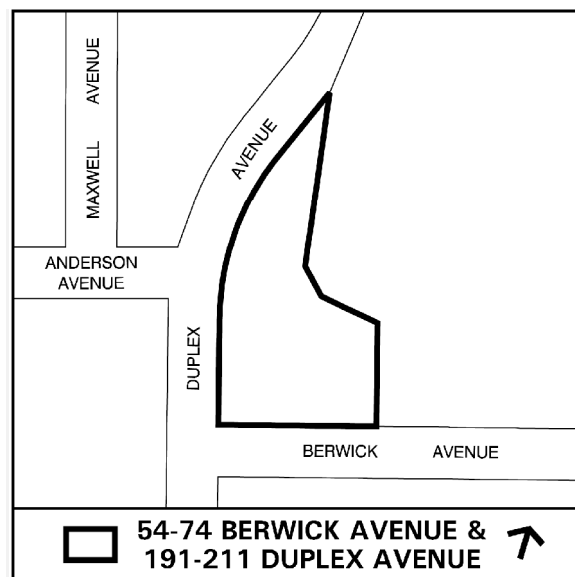
SUMMARY

This application was made on April 29, 2008 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This application proposes to amend the Zoning By-law for the lands at 54 – 74 Berwick Avenue and 191 – 211 Duplex Avenue to permit the demolition of 20 rental housing units and the construction of twenty townhouses fronting onto Duplex Avenue and two hundred and fifteen condominium and rental apartment units in a 17-storey building fronting on Berwick Avenue.

The City Planning Division is recommending approval of the proposed development based on its location and on its planned and design attributes which include:

- (a) the subject lands were part of the Yonge-Eglinton Centre Focussed Review study which included an extensive community consultation process that resulted in Council adopting new Official Plan policies



- (OPA 63), Design Guidelines and zoning provisions (236-2009) for the area bounded by Eglinton Avenue West, Yonge Street, Berwick Avenue and Duplex Avenue. The proposed development complies with the policies of OPA 63, the principles set out in the Design Guidelines and requires only minor amendments to By-law 236-2009;
- (b) the proposed 17-storey component of the development transitions down from the higher intensity uses of Yonge Street to the proposed townhouses on the site and to the existing low density residential beyond them to the west. The proposed development uses multiple building stepbacks in order to comply with a 45 degree angular plane as drawn from a point 10 feet above the Duplex Avenue property line;
 - (c) the fit of the built form and design of the proposed townhouses on Duplex Avenue with the existing neighbourhood to the west;
 - (d) the stepback or terraced design of the 17-storey building reduces the massing of the building along Berwick and allows for sky views and oblique views to the north from the existing houses on the south side of Berwick Avenue;
 - (e) the inclusion of grade-related units on Berwick Avenue integrate the proposed 17-storey building into the existing neighbourhood context on Berwick Avenue;
 - (f) the site is within a block of the intersection of Yonge Street and Eglinton Avenue. It has excellent existing and future transit connections to most points within the City and is within proximity to retail, service and entertainment facilities and places of employment;
 - (g) the location and screening of the loading bays, parking ramp and garbage storage area which are located internally to the development and accessed from a 2-way driveway leading from Berwick Avenue;
 - (h) the Section 37 benefits that would be available as a result of approval and construction of this development including; funding for the acquisition and development of a new park within the Yonge-Eglinton Centre Focussed Review area, the owner's agreement to convey the 2-way driveway to the City which will form part of an eventual new north-south public street that will open new land for redevelopment and ensure that the traffic associated with those redevelopments will have a minimal impact on the existing neighbourhood streets, and the owner's agreement to replace 12 of the existing rental units within the proposed 17-storey condominium and cash-in-lieu of replacement for the equivalent of an additional 4 units; and
 - (i) the dedication of land for parkland purposes under the Alternative Parkland Dedication By-law which will form a small green space on Duplex Avenue in the

short term and which will become a portion of the larger park which is to be constructed within the Yonge-Eglinton Focussed Review area.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 438-86 as amended by By-law 236-2009 for 54 – 74 Berwick Avenue and 191 – 211 Duplex Avenue, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 13 to this report dated May 24, 2010, from the Director Community Planning, Toronto and East York District.
2. City Council amend Zoning By-law 236-2009 by replacing Map 1 (Zoning Map) to remove the holding symbol (“H”) from Block C, being the lands municipally known as 54 – 74 Berwick Avenue and 191 – 211 Duplex Avenue.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
4. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 54 – 74 Berwick Avenue and 191 – 211 Duplex Avenue (subject of this report) to enter into an agreement under Section 37 of the Planning Act, to be registered on title, to the satisfaction of the City Solicitor, to secure the following:
 - a. a payment of \$100,000.00 prior to the introduction of the necessary Bills to City Council. Such payment will be directed to the Planning Act Reserve Fund to be budgeted for the purchase, design and construction of a new park on the lands south of the TTC bus barns at Yonge Street and Eglinton Avenue West;
 - b. the provision and maintenance on the site of not less than 12 new replacement rental dwelling units, comprising six (6) one-bedroom units and six (6) two-bedroom units, all of which shall have mid-range rents, in accordance with more detailed terms as set forth in the draft by-law attached as Attachment 13;
 - c. a cash payment to the City in the amount of \$440,000 in lieu of replacing four (4) residential rental units contained on the subject properties, prior to the issuance by the Chief Planner of preliminary approval of the application under Chapter 667. This payment is to be directed to the Capital Revolving Fund for Affordable Housing;

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

- d. incorporation in the construction of the building, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for the development's frontages along Duplex Avenue and Berwick Avenue;
- e. submission of a wind tunnel analysis to the satisfaction of the Chief Planner and Executive Director and the provision of any required mitigation measures contained therein to the satisfaction of the Chief Planner and Executive Director prior to the issuance of site plan approval;
- f. conveyance to the City, prior to registration of the condominium, at a nominal cost, a 6.0 metre wide strip of land to the full extent of the site abutting the east limit of the site. The lands to be conveyed must be free and clear of all encumbrances other than an easement for access purposes registered in favour of the owner which will expire at such time as the said lands have been laid out and dedicated for public highway purposes. Such easement shall not preclude the City from providing the owner with alternative access during the construction of the public road;
- g. a covenant by the owner that it will maintain the easement lands, accept liability for the easement lands and fully indemnify the City against all claims relating to the easement lands such that the City has no responsibility for the maintenance of and no liability in relation to the said lands until such time as a public road is opened at this location;
- h. pay all costs, before introducing the necessary Bills to City Council for enactment, associated with and/or provide adequate securities to cover the subject owner's share of the construction costs of the future road, including applicable engineering review and inspection fees;
- i. convey 290 square metres of land as noted on the accepted plans as parkland and submit the remaining parkland dedication requirement and stratified value adjustments in the form of a certified cheque prior to the issuance of the first above grade building permit;
- j. maintain the parkland, noted in 4.(i) above, to the satisfaction of the General Manager of Parks, Forestry and Recreation until such time as the larger park, that is planned within the Yonge-Eglinton Focussed Review area, of which these parkland dedication lands shall form a part, has been constructed;
- k. complete a Toronto Transit Commission ("TTC") Level 2 Technical Review of the proposed development, prior to starting any demolition or construction or the issuance of the first or any building permit, as applicable to the particular permit under application, and obtain the TTC's

written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC;

- l. insert warning clauses regarding TTC operations in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential or commercial unit, and/or block within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development, and that the TTC accepts no responsibility for such effects; and
 - m. prepare a Construction Management Plan and Neighbourhood Communication Strategy, prior to the issuance of the first building permit (including demolition and/or excavation permit), to the satisfaction of the Chief Planner and Executive Director of the City of Toronto Planning Division.
5. City Council require that before the issuance of any building permit, including foundation permit, the applicant shall enter into a Site Plan Agreement under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act.
6. City Council require the owner to, as part of site plan approval, provide and maintain an irrigation system including an automatic timer for the proposed trees within the public road allowance to the satisfaction of the General Manager of Parks, Forestry and Recreation.
7. City Council require that the owner provide any necessary improvements to the municipal infrastructure in connection with the site servicing review, if it is determined that upgrades are required to the infrastructure to support this development according to the site servicing review accepted by the Executive Director of Technical Services.
8. City Council require that before introducing the necessary Bills to City Council for enactment, the owner submit a site servicing review to the Executive Director of Technical Services for review and acceptance.
9. City Council approve the application to demolish the 20 existing residential houses, containing 22 residential units of which 20 are residential rental housing units located at 54-74 Berwick Avenue and 191-211 Duplex Avenue pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing:

- a. the owner shall provide and maintain twelve (12) residential rental units on the subject site for a period of at least 20 years, comprising six (6) one-bedroom units and six (6) two-bedroom units, all of which shall have mid-range rents; and
 - b. the owner of the property to make a cash payment to the City in the amount of \$440,000 in lieu of replacing four (4) residential rental units contained on the subject properties, prior to the issuance by the Chief Planner of preliminary approval of the application under Chapter 667. This payment is to be directed to the Capital Revolving Fund for Affordable Housing; and
 - c. the owner shall enter into and register one or more Section 111 Agreements to secure the conditions outlined in (a) above and as described in the draft Zoning By-law Amendment as any requirements may relate to rental replacement and protection (refer to Attachment 13: Draft Zoning By-law Amendment) to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
 - d. the owner shall enter into and register, a Section 118 Restriction under the Land Titles Act (to the satisfaction of the City Solicitor) agreeing not to transfer or charge those parts of the lands, comprising the 12 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning Division or his designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands to be released only upon the owner obtaining the necessary approvals including the zoning by-law amendment.
10. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue a preliminary approval to the application under Municipal Code Chapter 667 after the satisfaction of the conditions in Recommendation 9, and after the Zoning By-law amendments referred to in Recommendation 1 and 2 have come into full force and effect.
 11. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval in Recommendation 10.
 12. City Council authorize the Chief Building Official to issue a permit under Section 33 of the Planning Act no earlier than issuance of the first building permit for the foundation of the development, and after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval in Recommendation 10, which permit may be included in the demolition permit for Chapter 667 under 363-11.1E, of the Municipal Code, on condition that:

- a. the Owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced; and
 - b. should the Owner fail to complete the new building within the time specified in condition (a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000) for each dwelling unit for which a demolition permit is issued, and that each sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.
13. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 37 and Section 111 Agreements.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

With current and anticipated development pressures in the Yonge-Eglinton area, City Council directed planning staff to review the Yonge-Eglinton Secondary Plan, with a focus on the *Mixed Use Area 'A'* which corresponds to the Yonge-Eglinton Centre. The Focused Review study area gave particular attention to the lands bounded by Eglinton Avenue West on the north, Berwick Avenue on the south, Duplex Avenue on the west and Yonge Street on the east.

The Focussed Review was set up to establish design guidelines, redevelopment policies and zoning provisions to encourage and manage redevelopment in the Review area. A working group comprised of area residents, local business and municipal representatives was established to provide a local perspective to staff for the Review. The working group met with City staff and the ward councillors on several occasions to help develop the vision for future development and redevelopment in Yonge-Eglinton Centre. A number of well attended community consultation meetings were also held to inform the neighbourhood of the study's direction, the proposed conclusions and to solicit their comments.

The Focussed Review which includes input from the working group and the broader community has resulted in the preparation of area-specific; Design Guidelines, Official Plan Amendment (OPA 63) and Zoning By-law Amendment (236-2009) for the Review area.

OPA 63 and ZBA 236- 2009 were adopted by City Council on February 25, 2009. The Official Plan and Zoning By-law amendments were appealed to the Ontario Municipal Board. The OMB has approved a settlement between the parties which includes certain clarifications and amendments to the site-specific documents.

This application is the lead-off redevelopment application within the Yonge-Eglinton Centre Focused Review area.

With the approval of OPA 63, this development (which would initially have required amendments to the Official Plan) complies with the Official Plan as amended.

ISSUE BACKGROUND

Proposal

This application is to amend the Zoning By-law and to remove the holding symbol (“H”) from the R2 zoning applicable to the properties at 54 – 74 Berwick Avenue and 191 – 211 Duplex Avenue. The removal of the “H” and the proposed zoning amendments are to allow the construction of 20 townhouse units and 215 apartment units of which 12 are to be replacement rental apartments. In addition, the owner is proposing to provide cash-in-lieu of replacing 4 rental units. The proposal contains 282 parking spaces for residents and their guests in a 3-level underground parking garage.

Site and Surrounding Area

The site is located at the northeast corner of Duplex and Berwick Avenues (refer to Attachment 8, Zoning Map). It is part of the larger block in the southwest quadrant of the Yonge-Eglinton Centre which is defined by Eglinton Avenue West to the north, Berwick Avenue to the south, Duplex Avenue to the west and Yonge Street to the east.

The site currently consists of 20 residential lots containing 2-storey, semi-detached and single-detached houses. Most of these houses were used as rental housing for a considerable period of time.

The following uses about the site:

- North - immediately north of the site, within the subject city block is the parking garage for the Canada Square development and the vacant TTC garage. North of the garage is the driveway entrance to the bus terminal for the Eglinton TTC subway station.

- East - the Canada Square development occupies the majority of the city block on Yonge Street (east of the site) between Eglinton Avenue and Berwick Avenue. It is a mixed use commercial complex that is made up of three interconnected office buildings (2200, 2190 and 2180 Yonge Street) which extend the length of Yonge Street within the block (of Yonge Street) to the east of the site. The complex consists of an 18-storey office building (2180 Yonge Street), a 6-storey office building (2190 Yonge Street) and a 17-storey office building (2200 Yonge Street). The complex also includes a small shopping concourse and the Canada Square movie theatres. The complex is located directly over the Yonge Street subway line and is directly linked to the Yonge-Eglinton subway station and bus terminal.

- South - immediately south of the site (on the south side of Berwick Avenue) are a number of 2-storey single detached and semi-detached homes.
- West - immediately to the west of the site on the west side of Duplex Avenue are 2-storey single detached homes. Lands to the west of that are entirely low density neighbourhoods.

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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

The Growth Plan directs a significant portion of future growth into a number of areas of intensification, including 'Urban Growth Centres'. Section 2.2.4 of the Growth Plan directs a significant share of population and employment growth to 'Urban Growth Centres'. However, the Yonge-Eglinton Urban Growth Centre, as identified by the Province in 2008 did not include the subject site. The Growth Plan requires all municipalities to delineate the boundaries of their respective 'Urban Growth Centres' in the municipal Official Plan, and allows municipalities to make 'minor necessary adjustments' to the size and location of 'Urban Growth Centres'.

At their meeting of May 11, 2010 Council adopted recommendations to amend the boundaries of the 'Urban Growth Centre' to be consistent with OPA 63 and include all of the lands designated as *Mixed Use Area 'A'* in the Yonge-Eglinton Urban Growth Centre. The portion of this development site designated as *Mixed Use Area* will therefore become part of the Yonge-Eglinton Urban Growth Centre once the bills are brought forward to Council, and they come into force and effect.

Both the existing and the proposed Yonge-Eglinton Urban Growth Centre already meet the minimum population and employment density required in the Growth Plan. However, should the subject site become part of the Yonge-Eglinton Urban Growth Centre, the proposed development would conform to the Growth Plan for the Greater Golden Horseshoe both with regard to: the intensification policies and to the physical transition policies of that Plan.

Official Plan

The amendments to Map 2 of the Official Plan adopted by Council on May 11, 12, 2010 would also add the portion of this site designated as *Mixed Use Area* to the Yonge-Eglinton Centre. The proposed development would implement the policies for Centres found in Section 2.2.2 insofar as it provides; transit-supportive growth, contributes to new park space, and incorporates an appropriate transition in scale to surrounding low-rise *Neighbourhoods*.

Prior to the approval of OPA 63, the site was shown entirely within the *Neighbourhoods* designation on Map 17 of the Official Plan and on Map 21-1 of the Yonge-Eglinton Secondary Plan. Official Plan Amendment 63, enacted by Council on February 25, 2009 and approved by the Ontario Municipal Board subject to settlement conditions on March 2, 2010, redesignates the portion of the site on which the 17-storey building is proposed to *Mixed Use Area* on both maps. The remainder of the site which would contain 20 townhouses remains under the *Neighbourhoods* designation.

i) Neighbourhoods – Section 4.1

OPA 63 does not set out any new policies to regulate the lands within *Neighbourhoods* designations. Official Plan Section 4.1, *Neighbourhoods*, still applies. Policies of that section permit the townhouse units that are proposed within the subject lands so designated on the east side of Duplex Avenue.

ii) Mixed Use Area Designation – Section 4.5

OPA 63 amends the *Mixed Use Areas* policies of the Official Plan by requiring that new development on lands within *Mixed Use Area A* “will be compatible with maintaining the stable character of surrounding *Neighbourhoods*.” The *Mixed Use Areas* designation of the Official Plan permits the apartment building form that is being proposed. All policies of Section 4.5 of the Official Plan still apply to the lands so designated under OPA 63. This application has been evaluated on the basis of compliance with the *Mixed Use Area* designation policies. The *Mixed Use Area* policies that are applicable to the proposed development include:

- create a balance of high quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community;
- locate and mass new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes;
- take advantage of nearby transit services;
- provide good site access and circulation and an adequate supply of parking for residents and visitors;
- locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and

- provide indoor and outdoor recreation space for building residents in every significant multi-unit residential development.

iii) Built Form – Section 4.5

The Official Plan also includes policies that are aimed at ensuring that the built form of new developments fits within the context of their surrounding area. Policies with which this development must comply are found in Sections 3.1.2.3 to 3.1.2.6.

Section 3.1.2.3 contains policies that require that new development will be massed to fit harmoniously into its existing and/or planned context and will limit its impacts on neighbouring streets, parks, open spaces and properties by:

- massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
- creating appropriate transitions in scale to neighbouring existing and or planned buildings for the purpose of achieving the objectives of the Plan;
- providing for adequate light and privacy; and
- 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.

iv) Housing – Section 3.2.1

The Official Plan provides for a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods. The City has well-established practices for the protection of rental housing in the case of redevelopment. Applicants proposing to demolish 6 or more residential rental units, except where all rents are above mid-range, are required to replace the rental units with the same number, size and type of rental housing units and maintain them with rents similar to the rents of existing units on the site. Specifically, Official Plan Policy 3.2.1.6 states:

“New development that would have the effect of removing all or a part of a private building or related group of buildings, and would result in the loss of six or more rental housing units will not be approved unless:

- a. all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- b. in cases where planning approvals other than site plan are sought, the following are secured:

- i) at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made;
 - ii) for a period of at least 10 years, rents for replacement units will be the rent at first occupancy increased annually by not more than the Provincial Rent Increase Guideline or a similar guideline as Council may approve from time to time; and
 - iii) an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship, or
- c. in Council’s opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents.”

The factors to be considered for a healthy rental market include whether there have been significant net gains in the supply of rental housing, if the overall rental apartment vacancy rate for the City has been at or above 3 percent for the preceding four consecutive years, and if the proposal may negatively affect the supply or availability of rental units, affordable units or units suitable for families, either in the City, or in a neighbourhood of the City.

v) Yonge-Eglinton Secondary Plan

The area of the site, proposed to contain the 17-storey condominium was also redesignated from *Neighbourhoods* on Map 21-1 of the Yonge-Eglinton Secondary Plan to *Mixed Use Areas* under OPA 63 (refer to Attachment 11: Yonge-Eglinton Secondary Plan as Amended by OPA 63). The proposed townhouses which would be located on Duplex Avenue remain designated *Neighbourhoods* under the Yonge-Eglinton Secondary Plan. There are no additional *Neighbourhoods* policies in the Secondary Plan. Therefore the *Neighbourhoods* policies of the Official Plan are applicable to the site.

Policies of the Secondary Plan which apply to the site and have been complied with are as follows:

- policy 2.2 requires that residential areas (which would include *Mixed Use Areas*) contain a full range of housing forms and tenure suitable for families and other households. A primary objective of the Secondary Plan is to maintain and encourage a full range of housing forms and tenures suitable for family and other households in a manner that is contextually appropriate and compatible with existing residential uses and residential built form;
- policy 2.4 states that it is a primary objective to maintain and reinforce the stability of *Neighbourhoods*, *Apartment Neighbourhoods* and *Parks and Open*

- Space Areas* in terms of land use, scale and vehicular movement. This means that whether the site is redesignated or not, the proposal must have regard for its impact on the surrounding low density neighbourhoods; and
- policy 2.7 requires that the form of proposed buildings is to be compatible with other existing development by such means as:
 - i) maintaining the existing scale of developments with stable *Neighbourhoods* and protecting such areas from overshadowing from buildings located in abutting *Mixed Use Areas*;
 - ii) securing a transition in height and scale from developments in *Mixed Use Areas* to *Neighbourhoods* and, in particular, to those sites which abut a *Neighbourhood*; and
 - iii) requiring that development on those portions of land which project into adjacent *Neighbourhoods* will be designed in a manner so as to be of a height and scale consistent with abutting residential uses.

vi) Yonge-Eglinton Centre Focussed Review – Design Guidelines and Official Plan Amendment No. 63 Policies

The policies of OPA 63 and the Urban Design Guidelines for the Focussed Review area, as established following an extensive public review process and as adopted by Council and approved by the Ontario Municipal Board, indicate that this site has the potential to be redeveloped with a variety of residential building types.

The guiding principle of the Design Guidelines with respect to this site is that, the tallest heights and highest densities are to be directed away from the existing *Neighbourhood* west of Duplex Avenue and should transition down from east to west.

OPA 63 adds a number of policies to the Yonge-Eglinton Secondary Plan including the following:

- pursue development opportunities arising from development applications to secure and develop new parkland and to improve existing parkland through the use of planning tools such as land dedications, cash-in-lieu and Section 37 of the Planning Act;
- develop attractive parks as focal points in the community which provide opportunities for public art, heritage interpretation and cultural expression;
- require new development to be compatible with maintaining the stable character of the surrounding *Neighbourhoods*;
- require new development within *Mixed Use Area ‘A’* (as is the 17-storey condominium on this site) to incorporate, in addition to the policies in the Official

- Plan, the Urban Design Guidelines for the area which promote compatible built form and exceptional urban design;
- strengthen the Community Focus of *Yonge-Eglinton Centre* by developing a public park and community facilities for the southwest quadrant of the Yonge-Eglinton intersection in a timely fashion;
 - require construction management plans for new developments to ensure minimal disruptions to the surrounding area as a result of construction activities; and
 - implement a new public road extending east and south from Duplex Avenue to Berwick Avenue through new development to facilitate comprehensive development and improved pedestrian and vehicular accessibility within the southwest quadrant of the Yonge-Eglinton intersection. New development will not preclude the implementation of a new public road and will provide land dedications where necessary to implement the public road.

Zoning

By-law 236-2009 is one of the end results of a staff review and community consultation process with respect to the future redevelopment potential of the TTC lands and other sites within the Yonge-Eglinton Centre Focussed Review lands. By-law 236-2009 amends By-law 438-86 and rezoned the subject lands from R2 Z0.6 to R2 Z4.0 (H) (refer to Attachment 9: Zoning – Yonge-Eglinton Centre By-law 236-2009) with a height of 56 metres. This zoning permits a range of residential uses including apartments.

By-law 236-2009 maintained the 45 degree angular plane from Duplex Avenue as was required in By-law 438-86 but eliminated the angular plane requirement from Berwick Avenue. Requiring both angular plane restrictions would not allow the site to redevelop to its potential as envisaged in the Focussed Review Design Guidelines.

The ‘Holding’ control (H) allows the City to ensure that a proposed redevelopment is complying with the intent of all regulatory controls prior to the owner applying for a building permit. The (H) will be removed if Council approves this rezoning application.

Section 6 of By-law 236-2009 contains a number of conditions that must be met prior to the removal of the holding (H) provision. Conditions include:

- the submission of a site plan application in accordance with the Yonge-Eglinton Secondary Plan policies and the Yonge-Eglinton Centre Urban Design Guidelines;
- Council is satisfied with the availability or provision of all transportation improvements, infrastructure and servicing, the provision of community facilities;
- all appropriate requirements or clearances for the proposed development pertaining to site environmental conditions; and

- the provision of appropriate public benefits secured in an executed and registered Section 37 Agreement.

All conditions have been or will be complied with prior to the enactment of the site-specific By-law.

Site Plan Control

The proposed development is subject to site plan control. An application has been submitted and this report recommends that the owner enter into a site plan agreement with the City prior to the issuance of any building permit, including foundation permit.

Reasons for Application

This development has been designed to fit within the policy context and requirements of the Official Plan and the Yonge-Eglinton Secondary Plan both as amended by OPA 63. No Official Plan amendments are necessary.

The development has generally been designed in conformity with the zoning provisions of By-law 438-86 as amended by By-law 236-2009 and the Design Guidelines for the Yonge-Eglinton Centre Focussed Review area. However, a number of minor zoning amendments are required and the holding (H) provision must be lifted to permit the construction of the proposed building.

Such amendments include zoning permission for: a maximum gross floor area of approximately 4.12 times the lot area which slightly exceeds the 4.0 times the lot area permitted by By-law 236-2009 and a maximum height of 58.5 metres rather than 56 metres. Other areas of minor non-compliance requiring amendments to permit the proposed development are identified in the draft Zoning By-law Amendment (refer to Attachment 13: Draft Zoning By-law Amendment).

Community Consultation

A community consultation meeting was held at the North Toronto Community Centre on November 20, 2008. The meeting was attended by approximately 60 persons. The proposed zoning amendment and rental demolition application were discussed at the meeting. Comments and issues raised by the residents in attendance at the meeting as well as comments received by planning staff subsequent to the meeting, have been discussed with the applicant and some revisions have been made as a consequence.

Concerns expressed by residents included:

- design – residents considered that a less modern design of the townhouse facades would be a better fit with the existing style of homes in Chaplin Estates:
- setback and fit of the 17-storey condominium on Berwick Avenue – residents were of the opinion that the condominium tower could transition better to the

- homes on the south side of Berwick Avenue through terracing to the south and providing houses with doors on the Berwick frontage;
- traffic – some residents were concerned that all traffic from the new development would be channelled onto Berwick Avenue;
 - displacement of families from affordable rental homes to be demolished on the site; and
 - community benefits that will be funded through the Section 37 contributions which will be dedicated by this application.

Agency Circulation

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

COMMENTS

Compliance with the Provincial Policy Statement and Provincial Plans

This application supports the 2005 Provincial Policy Statement (PPS) direction of intensification to achieve growth and urban vitality while making efficient use of existing infrastructure. This application also complies with the policies of the PPS that support intensification and require new development to be directed to appropriate locations for growth.

Policy 1.4.3 requires provision to be made for an appropriate range of housing types and densities to meet projected requirements of current and future residents by, among other means, facilitating all forms of residential intensification and redevelopment and promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities and support the use of public transit.

Policy 1.6.5.4 promotes a land use pattern, density and mix of uses that minimizes the length and number of vehicle trips and supports the development of viable choices and plans for public transit and other alternative transportation modes.

The proposed development complies with the above policies by; intensifying the residential use of the site, making efficient use of the existing infrastructure, providing a mix of townhouse and condominium units on the site and by being located within a short walk of the Yonge-Eglinton TTC station. The proposed development also meets the policies of the Provincial Growth Plan if, as intended by Council, a portion of the lands are included within the Yonge-Eglinton Urban Growth Centre (refer to discussion of 'Provincial Policy Statement and Provincial Plans' under the 'Issue Background' section on page 9 of this report).

Land Use

The site is located at the northeast corner of Duplex and Berwick Avenues (refer to Attachment 8, Zoning Map). It is currently occupied by 20 houses built originally as single-detached and semi-detached homes fronting on Duplex and Berwick Avenues. Two of the houses have been duplexed so that the total number of residential units is 22.

The houses were assembled by the Kolter Corporation between 1966 and 2003 and were rented to residential tenants as they were acquired. The lands were sold by the Kolter Corporation to Andrin Cherrytree Limited in May of 2006. At the time of purchase by Andrin Cherrytree, 10 of the 22 units were vacant.

Massing, Density, Height

This proposal is the first development application to be submitted under the recently approved policies and controls of OPA 63, By-law 236-2009 and the Urban Design Guidelines for the Yonge-Eglinton Centre Focused Review area. The massing model included in the Design Guidelines for this area contains massed buildings with heights and densities that peak at the intersection of Yonge Street and Eglinton Avenue and transition down to the adjacent, existing low-rise neighbourhoods to the west and south of the site.

The stepped design (fitting within the 45 degree angular plane as projected eastwards across the site from 10 metres above the property line at Duplex Avenue) allows for some sky views from existing homes and sidewalk on the south side of Berwick Avenue.

Planning staff and working group members, at the group meetings of the Yonge Eglinton Focused Review, discussed the redesignation of most of this site from *Neighbourhoods* to *Mixed Use Area*. Given that the 3-storey townhouse component along Duplex Avenue and as it extends eastwards along the first approximately 15 metres of Berwick Avenue, would fit within a 45 degree angular plane drawn from Duplex or from Berwick Avenues, planning staff and the working group members reached a consensus on the decision to eliminate the angular plane requirement as drawn from Berwick Avenue. The result is that all of the site which remains designated *Neighbourhoods* under OPA 63 will fit within a 45 degree angular plane.

The proposed 1.5 metre setback from the property line plus the additional 5.5 metres to the curb and the proposed grade-related units in the stepped condominium building along Berwick Avenue will transition the building from the existing lower density housing on the south side of Berwick Avenue to the higher density commercial starting to the east of the site on the north side of Berwick Avenue and on to Yonge Street.

Building Components

The built form of the proposed development can be evaluated on the basis of its four component parts. Components consist of: townhouses on Duplex Avenue, a 3-storey townhouse podium facing south on Berwick Avenue, a mid-rise apartment component and an apartment tower.

i) Townhouses

There are two townhouse components. A row of twenty, 3-storey, grade-related townhouse units with main entrances and landscaped front yards facing the street (Duplex Ave.) are proposed to stretch from the north end of the property (south of the proposed parkland dedication) southwards to the intersection of Berwick Avenue on the east side of Duplex Avenue. The proposed townhouses are within the built form context that has been set in the neighbourhood by the low density residential areas on the west side of Duplex and the south side of Berwick Avenues.

The second townhouse component is designed as the 3-storey podium of the apartment building on the Berwick Avenue frontage. The podium design incorporates architectural treatments to present the first 3 floors of the larger building, as viewed from the south, as townhouses. Treatments include the use of brick as the primary building material and vertical articulation of the built form plus a 1.5 metre setback of the mid-rise and tower components above the townhouse units at the fourth floor.(refer to Attachment 7: Detailed Elevation – Berwick Avenue).

By establishing a continuous row of low-rise townhouses along Duplex Avenue and by carrying that ‘townhouse’ design eastwards along Berwick Avenue within the apartment building podium, a transition to the existing low density neighbourhoods to the west and the south is achieved.

ii) Mid-Rise

Proceeding eastwards across the south end of the site (along Berwick Avenue), the mid-rise component of the apartment building begins above the 3rd floor ‘townhouse’ level and consists of floors 4 through 9 which, depending on the floor level, are stepped back from Duplex Avenue by 7.75 to 20.95 metres (refer to Attachment 5: South Elevation).

iii) Tower

The tower component begins east of that mid-rise section above the 9th floor (refer to Attachment 5: South Elevation). All residential floor areas including the townhouse, mid-rise and tower components is within the 45 degree angular plane as measured from 10 metres above the Duplex Avenue property line. Some balconies and the mechanical penthouse marginally project into the angular plane as is permitted by By-law 236-2009 as amended.

The result of the proposed design is that it allows a transition through a stepping down of height, density and massing as proceeding westwards across the site away from the taller buildings on Yonge Street and towards the low density neighbourhood on the west side of Duplex Avenue.

This design also benefits the existing houses on the south side of Berwick Avenue. The consolidating of heights and massing towards Yonge Street by terracing the proposed building back by 7.5 metres at the top of the 3rd floor and another 19.5 metres by the top of the 9th floor allows increased sky views from the homes on the south side of Berwick.

In addition to the height and massing of the project, the proposed street-related units facing the homes on the south side of Berwick Avenue tie the development to the low density context of that existing neighbourhood.

The townhouse, mid-rise and tower components of the proposal conform with the Urban Design Guidelines. The overall density of this development is 4.12 times the lot area and is within the intent of the 4.0 times coverage permitted by By-law 236-2009 as adopted by Council for the lands within the Yonge-Eglinton Focussed Review area.

Sun, Shadow, Wind

Massing studies were conducted as part of the background analysis for the Design Guidelines of the Yonge-Eglinton Focussed Review. Those studies were conducted to determine where higher buildings could best be positioned within angular planes so that they do not cast significant new shadows on existing homes particularly to the west of the site.

The proposed development closely adheres to those design principles. Its tower component is located on the most easterly portion of the site away from the lower-scale houses on Duplex Avenue and within the area identified in the Design Guidelines for a tower element.

As a result, the applicant's shadow study for the spring and fall equinoxes, as accepted by City Urban Design staff, confirms that the proposed development will have virtually no impact on the houses to the south (as would be expected) and casts a shadow that moves quickly across the houses on the west side of Duplex Avenue (between 10:18 and 12:18) during the spring and fall equinoxes.

Parking, Traffic Impact, Access and Loading

Section 2.2 of the Official Plan, "Structuring Growth in the City: Integrating Land Use and Transportation", states that future growth within Toronto will be directed to areas (such as this) which are well served by transit, the existing road network and which have properties with redevelopment potential.

a) Parking

The City's Development Engineering Department, Transportation Services, has applied the Condominium Parking Standards to the proposed development. Minimum parking ratios that are to be applied to the proposal are as follows:

Bachelor	0.3 spaces per unit
1-bedroom	0.7 spaces per unit
2-bedroom	1.0 space per unit
3+bedroom	1.2 spaces per unit
Visitors	0.10 spaces per unit

These parking standards have been adopted into By-law 236-2009 (the Yonge-Eglinton Focused Review by-law).

The applicant is proposing a total of 282 parking spaces in a 3-level underground parking garage. Of those, 259 are intended for the use of the residents of the development and 23 are for their visitors. This exceeds the amount of parking required by the condominium parking standards which would be a total of 210 spaces, 187 for residents and 23 for visitors.

b) Bicycle Parking

The site is well-situated for bicycle use. It is located 5 blocks north of an access to the Kay Gardiner Belt Line Park which is an off-road cycle and pedestrian path. The Belt Line connects many of the Mid Town neighbourhoods with downtown-leading cycle routes.

The applicant is proposing a total of 200 bicycle parking spaces, 160 for the residents and 40 for visitors (169 spaces are required by By-law 438-86).

c) Traffic Impact

A Transportation Impact Study was provided by the applicant's transportation consultants. The study was reviewed and accepted by the City's Transportation Services Division.

Based on the following findings the study concludes that the site is well suited for the proposed residential intensification from an urban transportation perspective:

- the existing signalized intersections in the vicinity will have sufficient capacity to accommodate vehicular traffic generated by the proposed development. The addition of new traffic to and from this development will have a negligible overall impact of a 0 – 2% traffic increase at local signalized intersections;
- the existing unsignalized intersections have sufficient capacity to accommodate vehicular trips related to the proposed development. The addition of site traffic on local streets would not significantly increase any delays that are currently experienced;
- the proposed development will result in minimal impact on daily traffic volumes on local streets. The consultants forecast that the site will increase daily traffic by 1 – 2% or one additional car every 6 minutes during peak hours; and
- the eventual construction of the Eglinton Crosstown LRT line was not factored into the consultant's transportation impact study but it is assumed that when complete and operational, this line will further reduce the (minimal) traffic impact of the building on local streets.

d) Access and Loading

i) Private Driveway

The Built Form section of the Official Plan includes policies which are intended to regulate the design and functioning of the vehicular access to the site. Policies include a requirement for new development to locate and organize: vehicle parking, vehicular access, service areas and utilities to minimize their impact on the property and on surrounding properties and to improve the safety and attractiveness of adjacent streets, parks and open spaces.

Vehicular access to the site is proposed to be from Berwick Avenue via a two way private driveway. The driveway would lead to the parking garage entrance, the loading area and the pick-up and drop-off and delivery area, all of which would be located internally to the site and not visible to the local streets (refer to Attachment 1: Site Plan). This arrangement is sensitive to the planned and existing streetscape.

ii) Planned North-South Public Street

Eventually, with the redevelopment of the properties to the north and east of the site (within the Yonge-Eglinton Focused Review lands), access to this development will be from a new planned north-south public street.

The general route of the new street is schematically shown in the Yonge-Eglinton Focused Review Design Guidelines. Section 7(8) of the site specific zoning by-law (236-2009) for the Focus Review area indicates that the new street would have an 18-metre wide right-of-way. That right-of-way proceeds northwards from Berwick Avenue, turning west to connect with Duplex Avenue at a point which is approximately adjacent to Duplex Crescent.

The new street was originally contemplated to be further east of the subject lands. The Berwick Avenue end of it was entirely on the lands currently occupied by the building that contains a circular parking ramp to the east of the site. The submission of this lead-off development application in the Yonge-Eglinton Focused Review lands, offers an opportunity to initiate the conveyance of land for the future road. A conveyance from this applicant would require the road to be established to the west of the originally contemplated route.

This application is for the redevelopment of a corner property. With two street frontages, this site would not normally be dependant on the construction of the new road for its access. The subject lands represent less than 20% of the land area which would be opened up for redevelopment by the new road. However, the applicant has agreed to convey the proposed 6 metre-wide driveway to the City at such time as required to form part of the new road. The applicant's 6 metre conveyance is 33% of the width of the new roadway.

The portions of the proposed private driveway which are within the path of the planned public street would be conveyed to the City if this development is approved by Council.

The lands would be conveyed after the building is constructed, prior to registration of the condominium.

The applicant would retain an easement for access (after conveyance of these lands to the City) for itself and for future condominium owners or residents of the proposed development. The easement would terminate upon the opening of the public road. The terms of the easement will require that those benefiting from the easement for access purposes would be required to: maintain the driveway; accept the liability for the driveway lands; and fully indemnify the City against all claims related to these lands such that the City would have assume no liability for these lands until a public road is opened in this location.

The timing of the completion of the new street is dependant upon the time that would be necessary to acquire the lands for the right-of-way through the planning approvals process for the redevelopment of all properties that it would border. The new street would absorb traffic generated by the proposed development and all other developments which are expected to follow within the Yonge-Eglinton Focused Review area. The new street would provide traffic relief to the intersection of Duplex and Berwick Avenues.

Servicing

The applicant is required to submit a stormwater management report and site servicing plan, and a site grading and drainage plan in support of the proposed development to the Executive Director of Technical Services for review and acceptance prior to entering into a Site Plan Agreement with the City.

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 to 0.42 hectares of local parkland per 1000 people. The site is in the lowest quintile of the current provision of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposes 225 residential units on a total site area of 0.4749 hectares (4,749 m²). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would be 0.3133 hectares (3,133 m²). However, a cap of 10% applies. Hence the parkland dedication for the development would be 0.0475 hectares (475 m²).

The applicant proposes to convey a 0.029 hectare (290 m²) parcel of land at the north portion of the site as parkland. The proposed parkland conveyance would be partially encumbered with a below grade parking garage. The parkland dedication, as currently proposed (approximately 6.1% of the total land area), would not normally be acceptable as it is small and it would be encumbered below grade.

However, this proposed parkland dedication has been designed to be initially used as a passive landscaped open space. Later, with future land acquisitions, it will form the southern portion of a larger proposed park (2000 – 2500 square metres) which is identified in the Yonge-Eglinton Focused Review report. This larger park is proposed to be located along Duplex Avenue, north of the subject lands to the intersection of Duplex Crescent on the west and the proposed new road through the Focused Review area on the east with Duplex Avenue.

The larger park, of which this applicant's land dedication is to be a part, is designed and located to create a transition between the existing and planned neighbourhood and the larger existing and planned buildings on Eglinton Avenue and on Yonge Street. The larger park, when complete, will also provide a focal point for the integration of the new and existing residential communities.

Section 37 agreements resulting from recent development approvals in the Yonge-Eglinton area have begun to secure funds for the acquisition and the development of the larger park. Additional funds will be secured through Section 37 agreements resulting from future development approvals and parkland dedication payments which will be collected under the Alternative Parkland Dedication By-law.

Since the land dedication (6.1% of the site area) falls short of the minimum dedication required (10% of the site area) and since it is encumbered below grade, a cash-in-lieu payment will be made to account for the value lost due to stratified conveyance of land and the 3.9% shortfall in parkland dedication. The amount of the cash-in-lieu payment will be determined by the City's Real Estate Services Division at the time of issuance of the first above grade building permit.

Streetscape

Section 3.1.2.4 of the Official Plan requires that new development will enhance the streetscape through the massing of new development to define the edges of streets, parks and open spaces at good proportion. Taller buildings will be located to ensure adequate access to sky view for the proposed and future use of these streetscape areas. The Plan also requires that attention be given to the streetscape by ensuring that these areas are attractive, comfortable and functional for pedestrians through landscaping and setbacks that create attractive transitions from the public to private realms.

The applicant is proposing 3-storey townhouses along the east side of Duplex Avenue facing the existing single detached and semi-detached houses on the west side of the street. The townhouses are proposed to be set back 2.5 to 3.0 metres from the property line plus an additional 5.5 metre setback from the curb. This will allow for private front yards and will also protect a majority of the existing mature trees which are located in the public boulevard.

The proposed townhouses themselves are to be constructed of a combination of brick and stucco materials to blend with the character of existing homes on the west side of Duplex Avenue (refer to Attachment: 4 West Elevation). The relationship of the proposed

residential condominium to the existing streetscape(s) has been softened by stepping the building up from Duplex Avenue from 3-storey townhouses on Duplex to 7, 8, 9, 14, 15, 16 and finally 17-storeys at its highest point. The 17-storey portion of the building and, the building's height and density in general is pulled towards the existing off-site taller buildings which are located in the Yonge Street Mixed Commercial-Residential zone.

Toronto Green Development Standard

The City's Green Development Standard has 35 minimum requirements and 28 enhanced targets totalling 63 possible green development targets. The proposed development has been designed to achieve 27 minimum and 15 enhanced targets for a total of 42 out of 63 targets. Some of the targets that are proposed to be met include:

- the primary entrances of the proposed development are within close proximity to transit stops and a subway station;
- bicycle parking meets 0.75 spaces per dwelling unit;
- secure bicycle storage for long term parking;
- a combination of light coloured building materials and green roof installations for at least 50% of the roof and the rest of the roof is covered with light coloured roof materials; and
- 70% of the fixtures are Energy Star compliant

Tenure

Twelve of the units in the 17-storey building will be replacement rental dwelling units. The remainder including the townhouse units on Duplex Avenue are proposed to be part of a condominium corporation. A draft plan of condominium will need to be submitted for approval.

Rental Housing

i) Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007) implements the City's Official Plan policies protecting rental housing. The by-law established Chapter 667 of the Municipal Code and was approved by City Council on July 19, 2007.

The By-law prohibits demolition or conversion of rental housing units without a permit issued under Section 111 of the *City of Toronto Act*. Proposals involving six or more rental housing units or where there is a related application for a Zoning By-law or Official Plan amendment require a decision by City Council. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a permit is issued under the *Building Code Act*. City Council's decisions on the refusal or approval of a Section 111 permit are not subject to appeal to the Ontario Municipal Board.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, Council has the authority to approve or refuse a demolition permit, except in cases where a building permit has been issued to construct a new building. The proposed demolition requires approval under both Section 33 of the *Planning Act* and Section 111 of the *City of Toronto Act*. Section 363-11.1 of the Municipal Code provides for the co-ordination of these two processes. The Chief Building Official may issue one demolition permit for the purposes of Section 33 of the *Planning Act* and Chapter 667 of the Municipal Code, and the Chief Planner in consultation with the Chief Building Official may report on the application for a City Council Decision.

ii) Rental Housing – Replacement

Eighteen of the 20 houses involved in the application contain rental housing. Of these, two houses were likely built as purpose-built duplex rental houses with two units each, bringing the total number of rental units to 20. The individual houses were assembled for redevelopment over the past 40 years, with the majority acquired in the late 1960s and early 1970s. They were rented to a number of long-term tenants for much of that time. In particular, they provided needed family-sized rental housing in the area.

Individual houses in residential neighbourhoods may be converted from ownership to rental tenure and are sometimes converted back to single-occupancy ownership. However, once 6 units or more, that are or have been rental units, are assembled for redevelopment they become a ‘related group of rental buildings’ and a permanent fixture of the City’s affordable rental housing stock.

The houses are a mix of two, three and four-bedroom units, with half of the units made up of modest sized 2-bedroom bungalows. The applicant purchased the group of properties in 2006, at which time 12 units were occupied by tenants. The remaining tenants have since moved out of the houses and all of the units are now vacant.

Rent levels for four of the units are in the high-end range (more than one and a half times average market rent). Existing rent levels were based on information the applicant had for 12 of the rental units when they took over the group of the properties and subsequently extrapolated for the remaining units. Staff are not proposing that the City require the replacement of the high-end rental units as, in this instance, the houses essentially functioned as luxury rental accommodation and would not have been protected under the City’s policy framework.

Staff recommend approval of the development proposal and the application for a permit to demolish the rental units on the condition that the rental units are replaced. An acceptable rental replacement strategy has been put forward that would replace 12 of the 16 affordable and mid-range rental units and provide cash-in-lieu of replacing the remaining 4 rental units. Of the 12 rental replacement units, there will be 6 one-bedroom and 6 two-bedroom units.

The rental units will be secured and maintained as rental for a period of at least 20 years, during which time no application for the demolition without replacement or conversion to condominium or non-rental housing purposes shall be made. Additionally, maximum rents will be secured to not exceed mid-range rents, which are those between average market rent and one and a half times average market rent. These rents will be secured for a period of at least 10 years, subject only to annual increases not exceeding the provincial rent guideline and, if applicable, permitted above-guideline increases. Any tenants who remain after the 10 year period will continue to have their rents protected until they end their tenancy or the 20 year rental period expires, whichever occurs first.

The maximum rent shall include charges for heat, water, and hydro, but not parking or cable television. If heat and/or water and/or hydro are not provided by the Owner, then the rent will be adjusted downward using objective cost data for the City. Additionally, while parking is not included in the rent, a reasonable maximum charge for parking will be set in order to ensure the units are maintained as mid-range housing. Tenants of the rental replacement units will also have shared and equal access to: all indoor and outdoor amenity space, their proportionate share of automobile and bicycle parking, and any common areas.

Cash-in-lieu of replacing the remaining rental units will be provided in the amount of \$440,000 (or \$110,000 per unit). Cash-in-lieu of replacement is acceptable in these circumstances as it represents a small number of rental units that aren't able to be easily accommodated in the new building. The cash contribution will go towards the City's Capital Revolving Fund for Affordable Housing to be used for new affordable housing in the City.

Section 37

Section 37 of the Planning Act allows the City to grant increased density and/or height in exchange for community benefits. Community benefits are specific capital facilities (or cash contributions for specific cash contributions) and can include parkland and/or park improvements above and beyond the required parkland dedication, public art, streetscape improvements on the public boulevard not abutting the site and other works as detailed in Section 5.1.1.6 of the Official Plan. Section 37 may also be used as may otherwise be agreed upon subject to the policies contained in Chapter 5 of the Official Plan.

The community benefits must bear a reasonable planning relationship to the proposed development including at a minimum, an appropriate geographic relationship and addressing planning issues associated with the development (e.g., local shortage of parkland, replacement rental apartment units).

Section 5.1.1.4 of the Official Plan allows Section 37 of the Planning Act to be used for all developments (excepting non-profit developments) with a gfa of more than 10,000 square metres and when the proposed zoning by-law amendment increases; the permitted gfa by at least 1,500 square metres, and/or increases the height significantly. In this case the gfa of the proposed development is increased by less than 1,500 square metres (554 square metres) over the 18,996 square metres that is permitted on the site by By-law 236-2009. At 58.5 metres tall, the proposed height is not significantly above the 56 metres

permitted on the site. Section 5.1.1.4 of the Official Plan would not apply to this application as proposed.

However, Section 5.1.1.5(e) of the Plan allows Section 37 to be used irrespective of the size of the project or the increase in height and/or density if otherwise agreed upon. The applicant has agreed to a contribution of \$100,000.00 to be deposited to the Planning Act Reserve Fund and to be budgeted for the purchase, design and construction of a new park on the lands south of the TTC bus barns at Yonge Street and Eglinton Avenue West. This contribution is payable prior to the introduction of the necessary Bills to City Council.

Section 5.1.1.5(b) of the Official Plan authorizes Section 37 to be used (irrespective of the size of the project or the increase in height and/or density) to secure the replacement or cash-in-lieu of replacement of existing rental housing in accordance with the Housing Policies (Section 3.2.1) of the Plan.

This applicant is to provide 12 new replacement rental dwelling units comprised of 6 one-bedroom and 6 two-bedroom units. All 12 units are to have mid-range rents and will be subject to more detailed requirements as set out in Section 4 of the draft by-law (refer to Attachment 13: Draft Zoning By-law). The applicant will also make a cash payment to the City of \$440,000.00 in lieu of replacing four residential rental units.

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

1. the securing of architectural plans, elevations and landscape drawings and the submission of 1:50 scale elevation drawings for the podium and townhouses illustrating materials and finishes to the satisfaction of the Chief Planner and Executive Director, City of Toronto Planning Division;
2. submission of a wind tunnel analysis to the satisfaction of the Chief Planner and Executive Director and the provision of any required mitigation measures contained therein to the satisfaction of the Chief Planner and Executive Director prior to the issuance of site plan approval;
3. conveyance to the City, prior to registration of the condominium, at a nominal cost, a 6.0 metre wide strip of land to the full extent of the site abutting the east limit of the site. The subject lands to be conveyed must be free and clear of all encumbrances and subject to right-of-way for access purposes in favour of the Grantor until such time as the said lands have been laid out and dedicated for public highway purposes;
4. maintenance of the driveway and the acceptance of liability for the use of this right-of-way access so that the City has no responsibility for the maintenance and no liability for the use of this right-of-way access until such time as a public road is opened at this location;

5. payment of all costs, before introducing the necessary Bills to City Council, associated with and/or provide adequate securities to cover the subject owner's share of the construction costs of the future road, including applicable engineering review and inspection fees;
6. conveyance of 290 square metres of land as noted on the plans to the City as parkland and the submission of the remaining parkland dedication requirement and stratified value adjustments in the form of a certified cheque prior to the issuance of the first above grade building permit;
7. maintenance of the parkland, noted in 4.(i) above, to the satisfaction of the General Manager of Parks, Forestry and Recreation until such time as the larger park, that is planned within the Yonge-Eglinton Focussed Review area, of which these parkland dedication lands shall form a part, has been constructed; and
8. preparation of a Construction Management Plan and Neighbourhood Communication Strategy to the satisfaction of the Chief Planner and Executive Director of the City of Toronto Planning Division.

Construction Management Plan

In order to mitigate the construction impacts on the surrounding neighbourhood, a Section 37 Agreement can include a requirement that the owner draft and implement a Construction Management Plan and Resident Communication Strategy. A Construction Management Plan is required by OPA 63. The plan/strategy is best drafted prior to the issuance of the first permit (excavation) when the owner has finalized the construction phasing plan for the development and is aware of the timing and duration of the various construction processes that will be involved in this specific development.

The owner of this site will be required (through a condition of the Section 37 Agreement) to work with the City Planning Division, the Ward Councillor's office and the local residents to establish area-specific guidelines and restrictions for construction activity should the development be approved by City Council. The plan/strategy will identify many construction related issues that are regulated by other City-wide enforcement measures (i.e., noise by-law, dust control by-law).

A resident liaison committee may be established consisting of local residents, business people, the owners' construction manager and a representative of the Ward Councillor's office.

The mitigation plan and communication strategy will address matters that will include:

- the general construction processes, the construction stages and the appropriate duration of each stage;

- an approach to identifying and mitigating, if possible, potential negative impacts of construction activity such as construction noise, dust control, construction vehicle access and material deliveries, parking for construction trades, interruption of services (hydro, water, gas) for local residents;
- a tentative meeting schedule and strategy for dissemination of information through the resident liaison committee to the neighbourhood on construction phases providing advance notice where possible and including contact names and phone numbers for residents to call regarding noise and dust and other construction related questions or concerns (also, a number to call to report any 'emergency' or any urgent concerns during non-office hours will be posted);
- the provision of notice that identifies the start date for the commencement of each phase of the construction and the anticipated completion date and information regarding applicable regulating provisions that would apply; and
- any other matters that may be appropriate including but not limited to, the provision of reasonable notice respecting the anticipated interruption to services, where possible.

Development Charges

It is estimated that the development charges for this project will be \$1,326,737.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

CONTACTS

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: Ground Floor Plan

Attachment 3: East Elevation

Attachment 4: West Elevation

Attachment 5: South Elevation

Attachment 6: North Elevation

Attachment 7: Detailed Elevation – Berwick Avenue

Attachment 8: Zoning

Attachment 9: Zoning – Yonge Eglinton Centre – By-law 236-2009

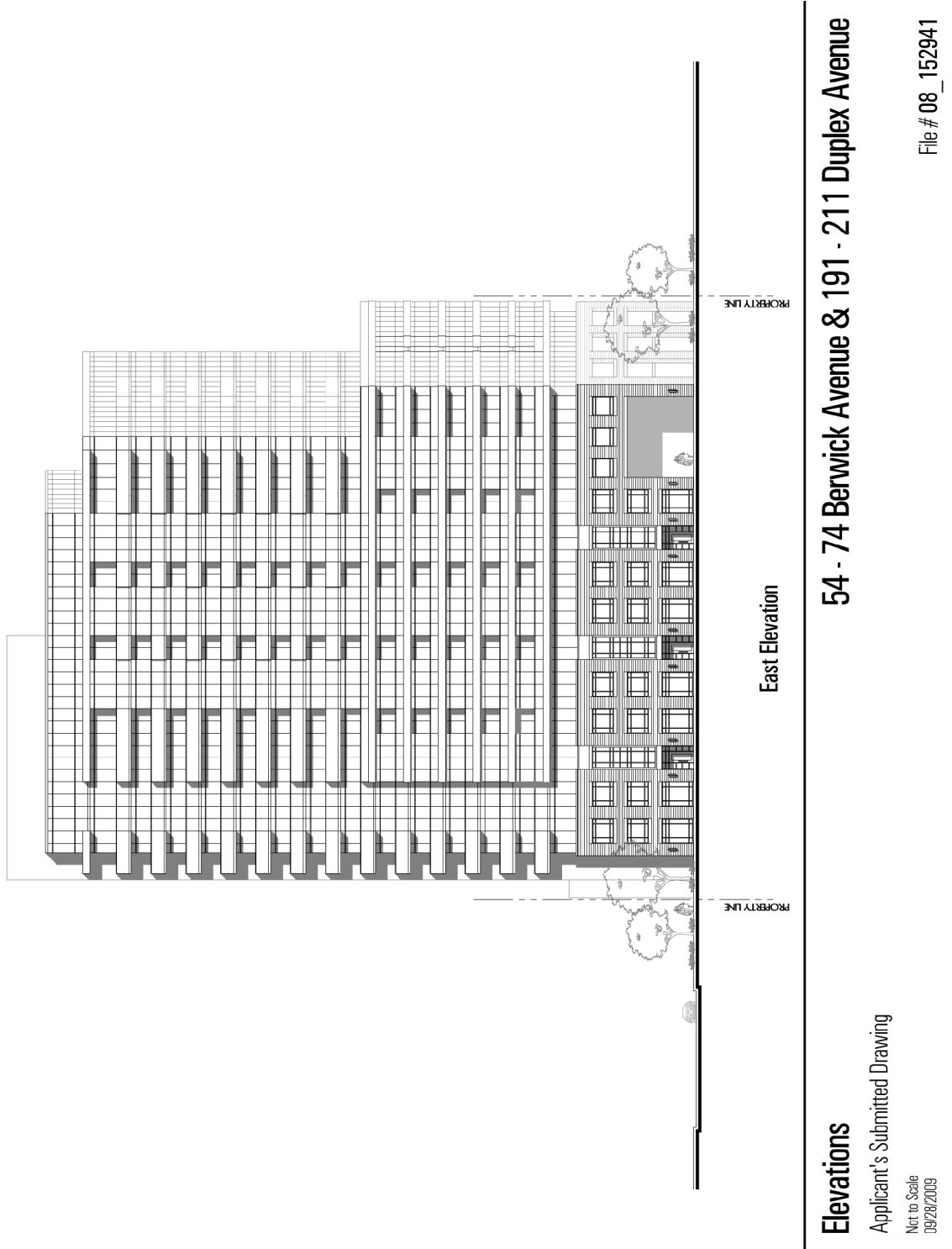
Attachment 10: Official Plan as Amended by OPA #63

Attachment 11: Yonge-Eglinton Secondary Plan as Amended by OPA #63

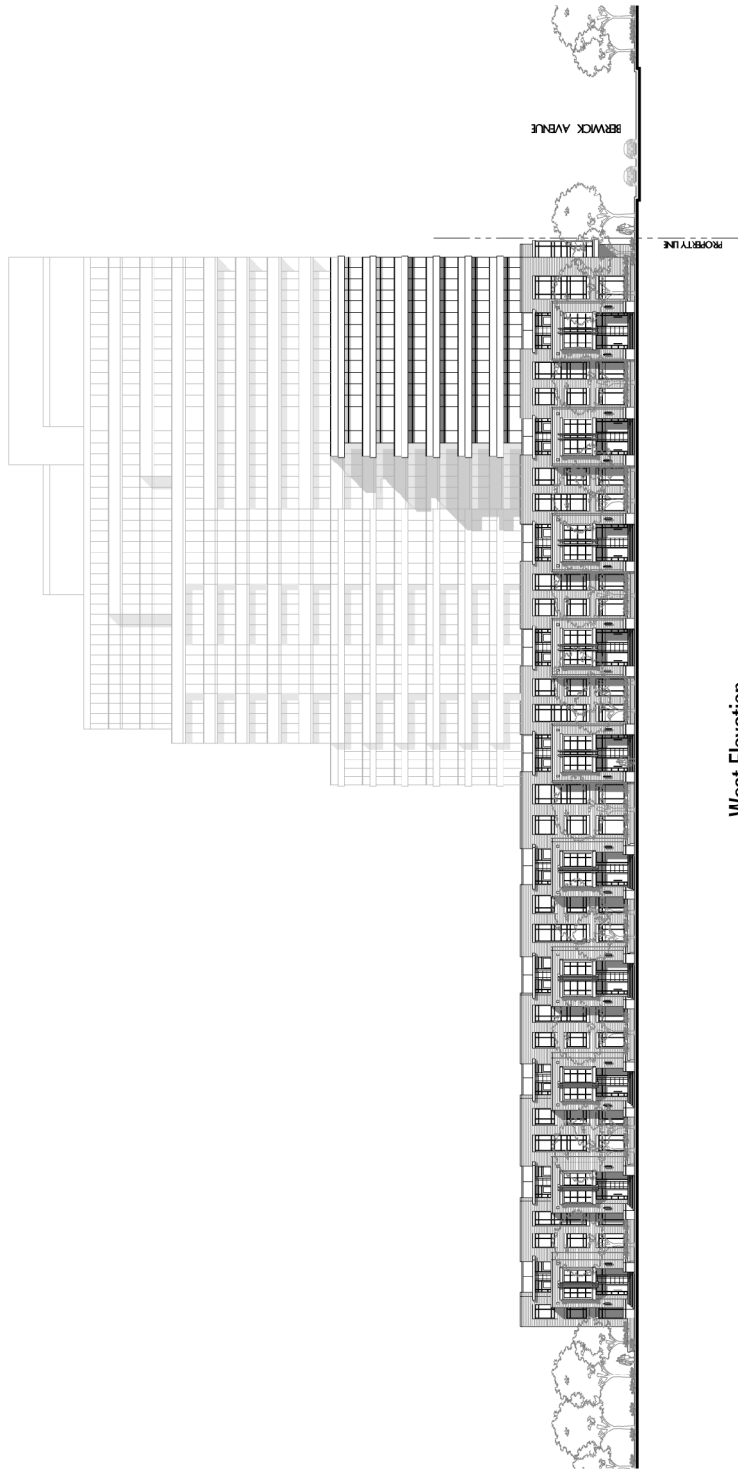
Attachment 12: Application Data Sheet

Attachment 13: Draft Zoning By-law Amendment

Attachment 3: East Elevation



Attachment 4: West Elevation



West Elevation

Elevations
Applicant's Submitted Drawing
Not to Scale
09/28/2009

54 - 74 Berwick Avenue & 191 - 211 Duplex Avenue

File # 08_152941

Attachment 5: South Elevation



South Elevation

Elevations
Applicant's Submitted Drawing
Not to Scale
09/28/2009

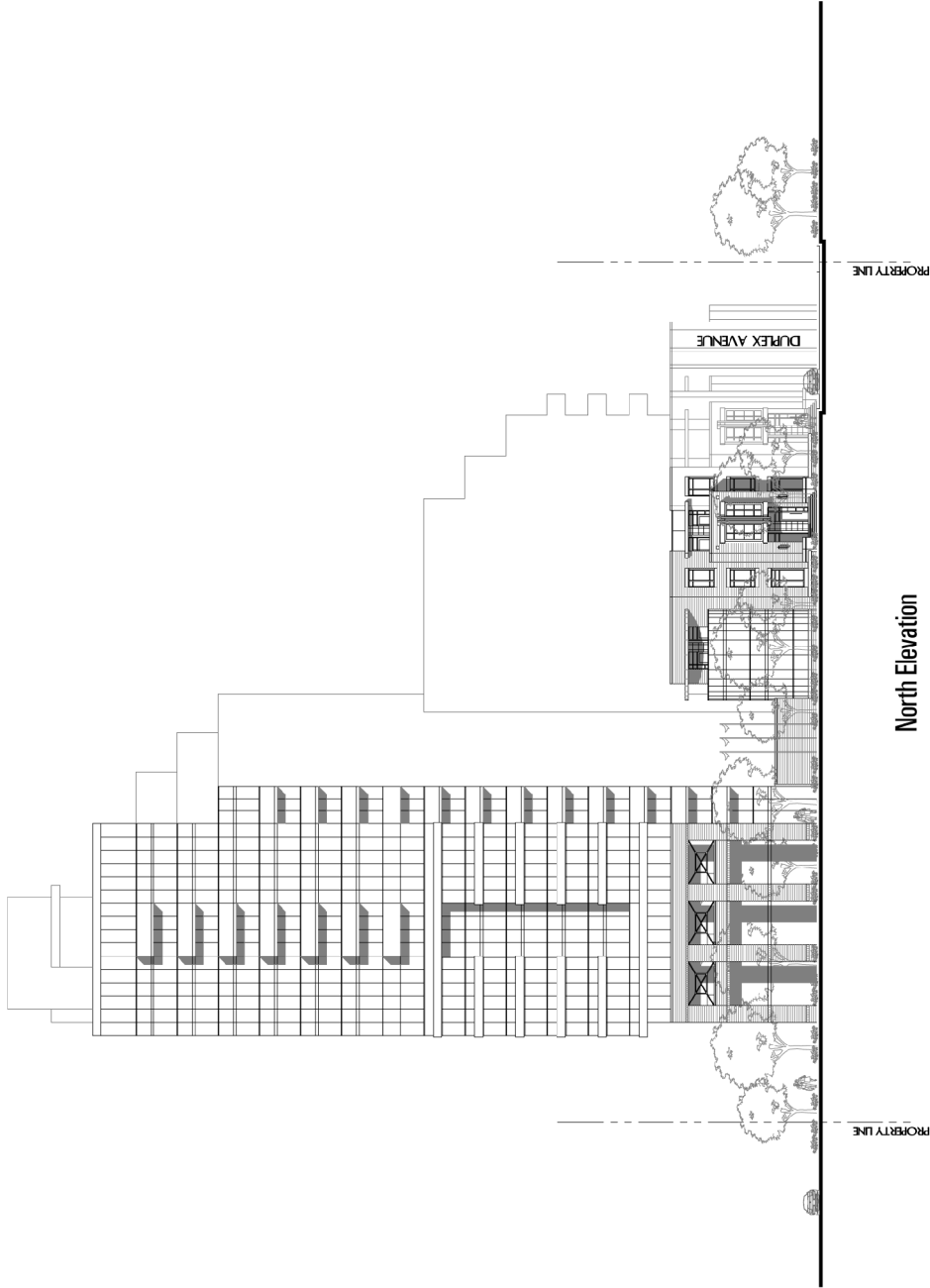
54 - 74 Berwick Avenue & 191 - 211 Duplex Avenue

File # 08_152941

Staff report for action – Final Report – 54 Berwick Ave

35

Attachment 6: North Elevation



North Elevation

Elevations
Applicant's Submitted Drawing
Not to Scale
09/28/2009

54 - 74 Berwick Avenue & 191 - 211 Duplex Avenue

File # 08_152941

36

Attachment 7: Detail Elevation – Berwick Avenue



Detail Elevation along Berwick Avenue

54 - 74 Berwick Avenue & 191 - 211 Duplex Avenue

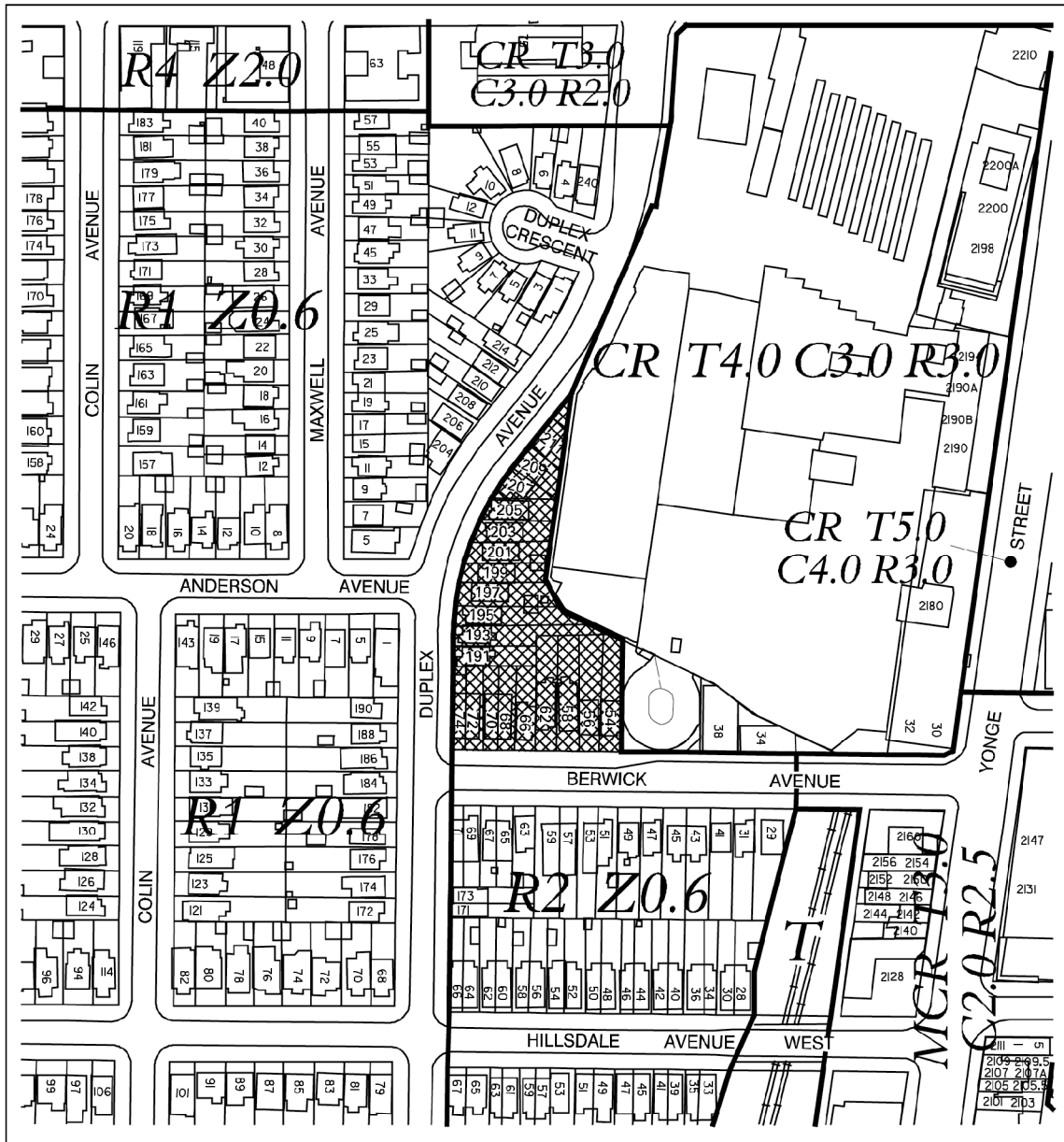
Elevations

Applicant's Submitted Drawing

Not to Scale
09/28/2009

File # 08_152941

Attachment 8: Zoning



54 - 74 Berwick Avenue & 191 - 211 Duplex Avenue

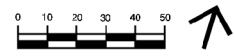
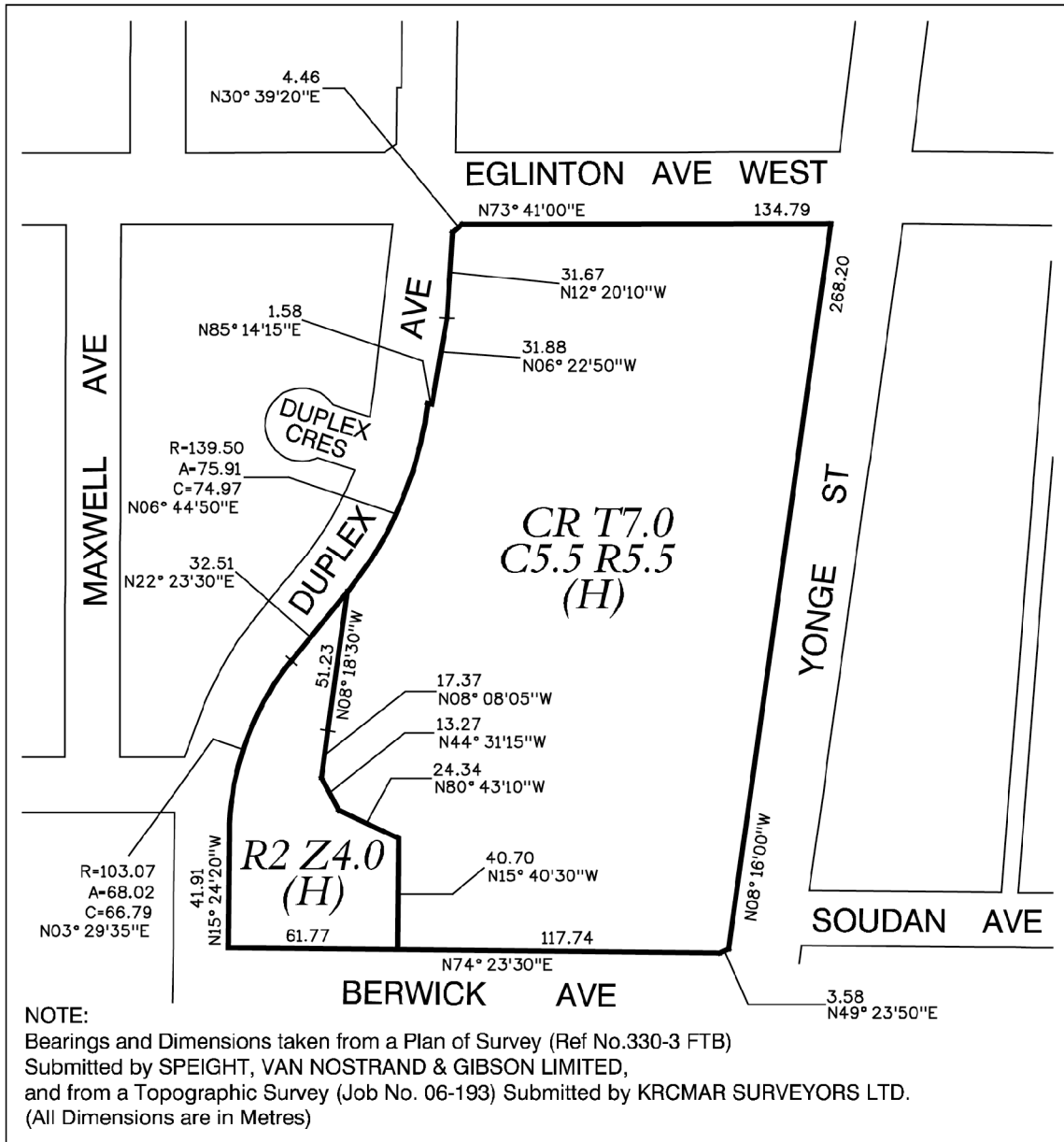
File # 08_152941

- R1 Residential District
- R2 Residential District
- R4 Residential District
- CR Mixed-Use District
- MCR Mixed-Use District
- T Industrial District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 08/25/08 - TA

Attachment 9: Zoning - Yonge-Eglinton Centre – By-law 236-2009



Attachment 10: Official Plan as Amended by OPA 63

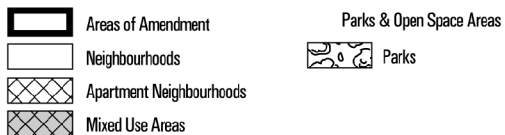


Part of Yonge - Eglinton Centre

Official Plan Amendment #63

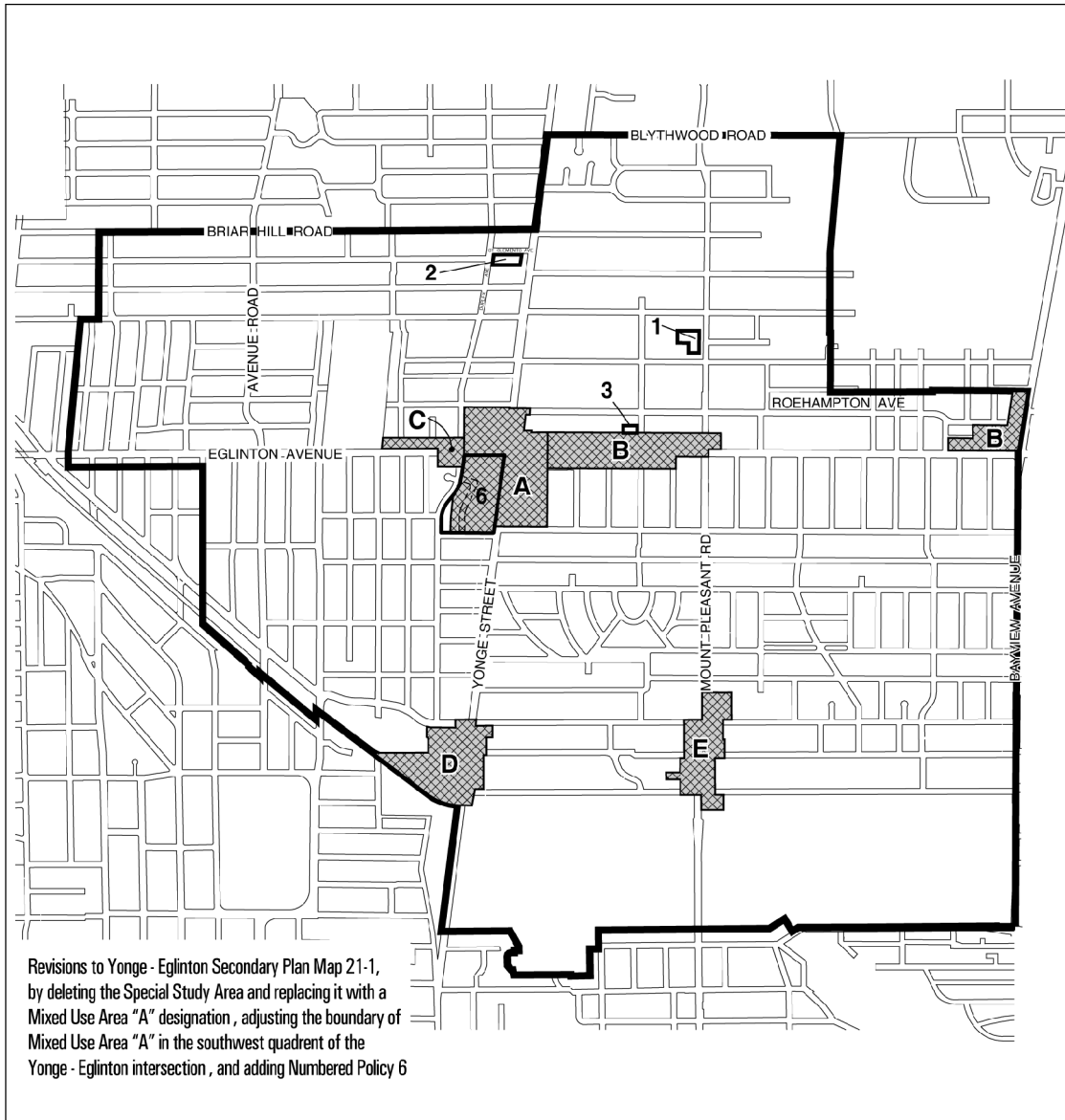
Revisions to Land Use Plan, Map 17 to Redesignate lands from Neighbourhoods to Mixed Use Areas and to remove Special Study Area

File # 04_142837



Not to Scale
11/21/08

Attachment 11: Yonge-Eglinton Secondary Plan as Amended by OPA 63



Official Plan Amendment # 63

Yonge - Eglinton Centre

File # 04_142873

 Secondary Plan Boundary

 Mixed Use Areas

 Site and Area Specific Policies


Not to Scale
12/16/08

Attachment 12: Application Data Sheet

Application Type	Rezoning	Application Number:	08 152941 STE 22 OZ
Details	Rezoning, Standard	Application Date:	April 29, 2008
Municipal Address:	54 BERWICK AVE		
Location Description:	PL 491E PT LT12 **GRID S2203		
Project Description:	20 3-storey townhouses onto Duplex Ave., and 215 condominium apartment units in a 17-storey building that fronts onto Berwick Ave. ZBL AMENDMENT		

Applicant:	Agent:	Architect:	Owner:
ANDRIN CHERRYTREE LIMITED		PAGE & STEELE	ANDRIN CHERRYTREE LIMITED

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods / Mixed Use Areas	Site Specific Provision:	236-2009
Zoning:	R2 Z4.0	Historical Status:	
Height Limit (m):	56	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	4749	Height:	Storeys:	17	
Frontage (m):	61.771		Metres:	58.5	
Depth (m):	0				
Total Ground Floor Area (sq. m):	1860				Total
Total Residential GFA (sq. m):	19550		Parking Spaces:	282	
Total Non-Residential GFA (sq. m):	0		Loading Docks	1	
Total GFA (sq. m):	19550				
Lot Coverage Ratio (%):	39.2				
Floor Space Index:	4.12				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

	Condo & Rental		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	19550	0
Bachelor:	8	Retail GFA (sq. m):	0	0
1 Bedroom:	126	Office GFA (sq. m):	0	0
2 Bedroom:	71	Industrial GFA (sq. m):	0	0
3 + Bedroom:	20	Institutional/Other GFA (sq. m):	0	0
Total Units:	225			

CONTACT:	PLANNER NAME:	Tim Burkholder, Sr. Planner
	TELEPHONE:	(416) 392-0412

13: Draft Zoning By-law

City of Toronto By-law No. xxx-2010

Authority: Toronto and East York Community Council Item •• as adopted by City of Toronto Council on _____, 2010

Enacted by Council: _____, 2010

CITY OF TORONTO BY-LAW No. xxx-2008

To amend the General Zoning By-law No. 438-86, as amended, for the former City of Toronto, and By-law No. 236-2009 with respect with lands known as 54-74 Berwick Avenue and 191-211 Duplex Avenue

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

WHEREAS authority is given to Council by Section 36 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, for use of a holding symbol (“H”) in conjunction with any use designation, to specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the zoning by-law; and

WHEREAS there are official plan policies in effect addressing the use of the lands, noted above, under the holding symbol; and

WHEREAS it is appropriate that the “H” holding symbol be removed in relation to the subject lands; 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 under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provisions of such facilities, services or matters as are set 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 or matters in return for an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

WHEREAS the owner of the lands has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 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 and are to be secured by one or more agreements between the owner of such lands and the City of Toronto; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law;

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

1. Section 1.(2) of By-law No. 236-2009 is deleted in its entirety and replaced with the following:

“redesignating to ‘R2 Z4.0’ the lands identified as ‘R2 Z4.0(H)’ and as outlined by heavy lines on Map 1 attached to and forming part of this By-law”;

2. By-law No. 236-2009, is amended as follows:

- (1) The introductory paragraph of Section 2 of By-law No. 236-2009 is deleted in its entirety and replaced with the following:

“None of the provisions of Section 2(1) with respect to the definition of the words *grade* and *height* and none of the provisions of Section 4(2), 4(4)(b), 4(11), 4(16), 8(3), 12(2) 118, and 12(2) 119 of By-law No. 438-86, as amended, shall apply to prevent the uses or the erection or use of any buildings or structures for any purpose permitted in Section 8(1) of By-law No. 438-86, as amended, on *Blocks A and B*, shown on Map 3 attached hereto, and neither shall any of the provisions of 6(3) Part I 1, 6(3) Part II 2, 3, 4, 5 and 6 of By-law 438-86 as amended, apply to prevent the uses or the erection or use of any buildings or structures for any purpose permitted in Section 6(1) of By-law 438-86 as amended, on *Block C*, shown on Map 3 attached hereto, provided that:”

- (2) Section 2(4) of By-law No. 236-2009 is deleted in its entirety and replaced with the following:

“The total *residential gross floor area* on *Block C* shall not exceed 19,550 square metres.”

- (3) Section 2(6) of By-law No. 236-2009 is amended by adding the following subsections:

- (v) for buildings on *Block C*, entry features, underground garage ramps and associated structures, parapets, safety or wind protection, in addition to the elements outlined in (i);
 - (vi) notwithstanding (ii), for buildings on *Block C*, balconies and balcony piers to a maximum horizontal projection of not more than 2.5 metres;
- (4) Section 2(7) of By-law No. 236-2009 shall continue to apply to Blocks A and B only and the following shall apply to Block C:

“no part of any building or structure to erected on the *lands* shall exceed the height limits in metres specified by the numbers following the symbol “H” as shown on Map 2, except for the following elements of the building on *Block C*:

- (i) the mechanical penthouse of the building;
 - (ii) parapets extending to a maximum vertical projection of 1.1 metres above the height limits shown on Map 2;
 - (iii) window washing equipment, aircraft warning lights, chimneys, heating/cooling/ventilation stacks and equipment, stair enclosures and fences;”
- (5) Section 7(4)(iii) of By-law No. 236-2009 is deleted in its entirety and replaced with the following:

“*Block C* – 155.5 metres Canadian Geodetic Datum.”

1. None of the provisions of By-law No. 438-86, as amended, with respect to the definition of *lot* and Section 4(12) 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 land and the erection and use of certain buildings and structures in various areas of the City of Toronto”, shall apply to prevent the erection and use of an *apartment building* with underground parking on the *lot* delineated by heavy lines on the attached Map 1, provided that:

- (i) the *lot* upon which the proposed building and structure is erected or used is delineated by heavy lines on Map 1 attached to and forming part of this By-law;

- (ii) no portion of the building or structures above *grade* are located otherwise than wholly within the area delineated by heavy lines on the attached Map 2;
 - (iii) indoor *residential amenity space* will not be provided in contiguous rooms;
 - (iv) outdoor *residential amenity space* will not be provided in a location adjoining or directly accessible from the indoor *residential amenity space*; and
 - (v) the maximum number of *dwelling units* on the *lot* shall be 225 units.
2. Pursuant to Section 37 of the *Planning Act*, the height and density of development permitted on the land by this By-law, are permitted in return for the provision by the *owner* of the following facilities, services and matters to the City at the *owner's* sole expense:

Agreement

- (i) the *owner* enters into one or more agreements with the City pursuant to Section 37 of the *Planning Act* which shall be registered on title to the land by the City to secure the facilities, services and matters required to be provided by this Section of the by-law and consents to the registration of such agreement or agreements against title to the *land*;

Cash Contribution

- (ii) a payment of \$100,000.00 for deposit prior to the introduction of the necessary Bills to City Council for enactment and indexed to the non-residential Construction Price Index for Toronto for the period from the date of Council approval of the development and the date of payment. Such payment will be directed to the parkland acquisition and development fund that will be established to purchase, design and construct a new park on the lands south of the TTC bus barns at Yonge Street and Eglinton Avenue West;

Rental Housing Replacement

- (iii) the owner shall provide and maintain on the site not less than 12 new replacement rental dwelling units, comprising six (6) one-bedroom units and six (6) two-bedroom units all of which shall have mid-range rents, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, subject to the following:

- (a) the 12 replacement rental *dwelling units* shall be provided entirely on the *lot*;
- (b) the replacement rental *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. If the tax rate were to increase such that the owner is paying more tax than they would if the rental replacement units were registered as a condominium, the owner will have the right to apply for a zoning by-law amendment removing the requirement for the designated rental units to be maintained as rental units prior to the expiry of this 20-year period provided the 12 designated replacement rental *dwelling units* remain as rental *dwelling units* until the owner obtains approval for a zoning by-law amendment removing the requirement that the owner provide and maintain the designated *dwelling units* as rental *dwelling units*;
- (c) the 12 replacement rental *dwelling units* shall be ready and available for occupancy no later than the date by which not more than 60% of the other *dwelling units* erected on the *lot* are available and ready for occupancy;
- (d) the owner shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the 12 replacement rental *dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount that is 1.5 times average rent for the City of Toronto by unit type as based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report and, upon turn-over, the rent charged to any new tenant shall not exceed the greater of the most recently charged rent or 1.5 times the most recently reported 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 increases;
- (e) rents charged to tenants occupying a replacement rental *dwelling unit* at the end of the 10-year period set forth in (d) 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 *dwelling unit* or until the expiry of the rental tenure period set forth in (b) with a phase-in period of a least three years for rent increases;

- (f) rents charged to tenants newly occupying a replacement rental dwelling unit after the completion of the 10-year period set forth in (e) will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement that is required in (d);
- (iv.) the owner of the property to make a cash payment to the City in the amount of \$440,000 in lieu of replacing four (4) residential rental units contained on the subject properties, prior to the issuance by the Chief Planner of preliminary approval of the application under Chapter 667. This payment is to be directed to the Capital Revolving Fund for Affordable Housing.

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

Other Matters to be Secured

- (v) the owner shall incorporate in the construction of the building, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for the development's frontages along Duplex Avenue and Berwick Avenue;
- (vi) the owner shall submit a wind tunnel analysis to the satisfaction of the Chief Planner and Executive Director and the provision of any required mitigation measures contained therein to the satisfaction of the Chief Planner and Executive Director prior to the issuance of site plan approval;
- (vii) prior to registration of the condominium, the owner shall convey to the City, at a nominal cost, a 6.0 metre wide strip of land to the full extent of the site abutting the east limit of the site. The subject lands to be conveyed must be free and clear of all encumbrances subject to an easement for access purposes in favour of the *owner* until such time as the said lands have been laid out and dedicated for public highway purposes and any other such encumbrances as the City Solicitor may permit;
- (viii) the owner shall maintain the easement lands, insure said lands, accept liability, and fully indemnify the city against all claims in respect of the easement lands such that the City will have no responsibility for the maintenance and no liability for the easement lands, until such time as a public road is opened at this location;

- (ix) pay all costs, before introducing the necessary Bills to City Council for enactment, associated with and/or provide adequate securities to cover the subject owner's share of the construction costs of the future road, including applicable engineering review and inspection fees;
- (x) convey 290 square metres of land as noted on the plans to the City as parkland and submit the remaining parkland dedication requirement and stratified value adjustments in the form of a certified cheque prior to the issuance of the first above grade building permit;
- (xi) complete a Toronto Transit Commission ("TTC") Level 2 Technical Review of the proposed development, prior to starting any demolition or construction or the issuance of the first or any building permit, as applicable to the particular permit under application, and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC;
- (xii) insert warning clauses regarding TTC operations in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential or commercial unit, and/or block within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development, and that the TTC accepts no responsibility for such effects; and
- (xiii) prepare a Construction Management Plan and Neighbourhood Communication Strategy, prior to the issuance of the first building permit (including demolition and/or excavation permit), to the satisfaction of the Chief Planner and Executive Director of the City of Toronto Planning Division.

3. For the purposes of this by-law:

Each word or expression which is italicized in this By-law, shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended, unless otherwise defined in this By-law.

ENACTED AND PASSED this _____ day of _____, A.D. 2010.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)