

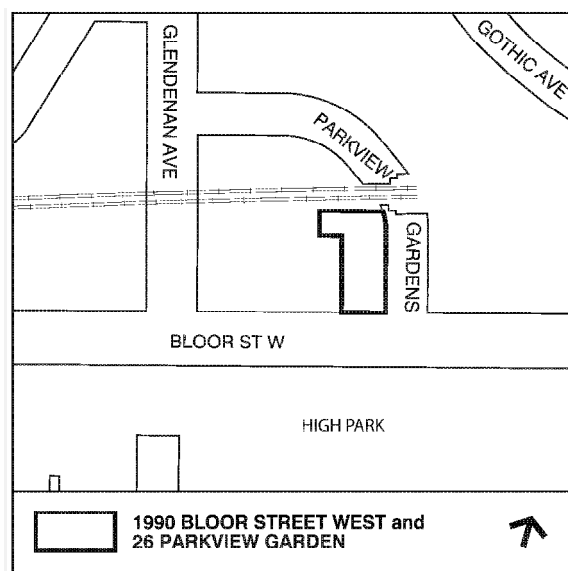
**1990 Bloor Street West and 26 Parkview Gardens –
Residential Rental Demolition Application Under
Municipal Code Chapter 667 – Final Report**

Date:	March 18, 2014
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 13 – Parkdale–High Park
Reference Number:	12 144974 WET 13 RH 12 144955 WET 13 OZ 12 144934 WET 13 SA

SUMMARY

An application has been made to demolish a three storey, 24 residential rental unit building, comprising six bachelor and 18 one bedroom units at 1990 Bloor Street West and a house-form commercial building. The demolition of the rental housing is prohibited without a Section 111 permit issued under the City of Toronto’s Rental Housing Demolition and Conversion By-law (Chapter 667 of the Municipal Code). The owner is proposing to replace the 24 residential rental units in a new condominium development. The replacement rental units are proposed to be on the second, third, fourth and fifth floors of the new building. The owner has obtained approval from the Ontario Municipal Board (OMB) to construct a new 11-storey condominium building with commercial units at grade and full replacement of the 24 existing rental units within the building.

The Zoning By-law Amendment application for the proposed redevelopment was appealed to the Ontario Municipal Board (OMB) on September 26, 2012. In December 2013, City Council directed staff to settle the appeals with the applicant. The rezoning to permit the proposed



redevelopment was approved in principle by the OMB on February 19, 2014, with the order withheld until certain conditions, including finalizing the form of the by-law and securing the replacement of rental housing in a Section 37 Agreement were met.

This report provides the results of the negotiations on the rental housing matters, an overview of the development approved by the OMB and recommends the approval of a Section 111 permit under Chapter 667 and Chapter 363 of the Municipal Code for the demolition of the 24 existing rental units, subject to conditions. The conditions include the full replacement of the 24 rental units and the provision of tenant relocation assistance for eligible tenants, including the right for all tenants to return to occupy a rental unit in the new building. This report recommends entering into an Agreement under Section 111 to secure these conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the 24 existing residential rental units located in the residential rental apartment building at 1990 Bloor Street West pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing as outlined in the report from the Director, Community Planning, Etobicoke York District, titled: " 1990 Bloor Street West and 26 Parkview Gardens - Residential Rental Demolition Application under Municipal Code Chapter 667 – Final Report ", dated March 17, 2014:
 - a. the owner shall provide and maintain twenty-four (24) residential rental units on the subject site as rental housing for a period of at least 20 years, comprising five bachelor and nineteen one-bedroom units, as shown on the plans submitted to the City Planning Division dated December 13, 2013 with any revisions to be to the satisfaction of the Chief Planner and Executive Director, City Planning, and of which at least two one-bedroom units shall have affordable rents and the remainder shall have rents no higher than mid-range rents;
 - b. the owner shall provide tenant relocation assistance to eligible tenants, including: an extended notice period; financial assistance beyond the minimums of the *Residential Tenancies Act*; and the right to return to a replacement rental unit for all of the tenants (the "Tenant Relocation and Assistance Plan"), and that the Tenant Relocation and Assistance Plan shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - c. the owner shall enter into and register on title one or more Section 111 Agreement(s) to secure the conditions outlined in (a) and (b) above and as described in the Draft Zoning By-law Amendment attached hereto

(Attachment 2) to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning; and

- d. the owner shall enter into and register on title, 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 24 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning or her designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.
2. City Council authorize the Chief Planner and Executive Director, City Planning to issue preliminary approval to the application under Municipal Code Chapter 667 after the latest of the following has occurred:
 - a. satisfaction or securing of the conditions in Recommendation 1;
 - b. after the Zoning By-law Amendment for the proposed development approved in principle by the Ontario Municipal Board on February 19, 2014 has come into full force and effect; and
 - c. the issuance of the Notice Of Approval Conditions for site plan approval by the Chief Planner and Executive Director, City Planning or her designate, pursuant to Section 114 of the *City of Toronto Act, 2006*.
 3. 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 has issued the preliminary approval referred to in Recommendation 2.
 4. 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 excavation and shoring of the development approved by the OMB on February 19, 2014, and as provided for in the Draft Zoning By-law Amendment as attached to this report, and after the Chief Planner and Executive Director, City Planning has issued the preliminary approval referred to in Recommendation 2, which permit may be included in the demolition permit for Chapter 667 under 363-11.1 of the Municipal Code, on condition that:
 - a. the owner erect a residential building on site no later than two (2) 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 4 (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 (\$20,000.00) 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.

5. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

A Preliminary Report outlining this application was presented to the Etobicoke York Community Council on June 13, 2012. The Preliminary Report can be viewed at the following link:

<http://www.toronto.ca/legdocs/mmis/2012/ey/bgrd/backgroundfile-47658.pdf>

On September 26, 2012, the solicitors representing the owner appealed the Zoning By-law Amendment application to the OMB, citing City Council's failure to make a decision within the time prescribed by the *Planning Act*.

On April 2, 2013, subsequent to a March 20, 2013 Request for Direction Report from the Director of Community Planning, Etobicoke York District, a revised proposal was submitted to amend the subject application. The applicant's solicitor submitted a letter dated April 8, 2013 to Etobicoke York Community Council presenting the revised proposal and requesting that Community Council defer consideration of the application until a report on the revised proposal was submitted to Community Council.

On April 9, 2013, Etobicoke York Community Council considered the March 20, 2013 Request for Direction Report. This report can be viewed at the following link:

<http://www.toronto.ca/legdocs/mmis/2013/ey/bgrd/backgroundfile-56943.pdf>

Community Council requested that the Director, Community Planning, Etobicoke York District, report directly to City Council on May 7, 2013, on the revised proposal.

On May 7, 2013, City Council considered a Supplemental Request for Direction Report dated April 29, 2013, and adopted the recommendation that staff appear at the OMB hearing to oppose the applicant's appeal. This report can be viewed at the following link:

<http://www.toronto.ca/legdocs/mmis/2013/cc/bgrd/backgroundfile-58192.pdf>

An OMB Pre-Hearing Conference was held on May 28, 2013. The applicant, City staff and Bloor West Village Ratepayers Association were identified as parties. Several meetings were held between the parties resulting in revisions to the proposed development that culminated in a settlement and a revised Zoning By-law Amendment acceptable to all parties.

On December 16, 2013, City Council considered a Supplemental Request for Direction Report dated October 31, 2013, and adopted the recommendations that staff not oppose the proposed revised Zoning By-law Amendment at the OMB. A copy of this report can be viewed at the following link:

<http://www.toronto.ca/legdocs/mmis/2013/ey/bgrd/backgroundfile-63250.pdf>

With respect to the rental housing demolition and replacement matters, City Council's recommendations for the settlement of the appeal, to satisfy the Official Plan policy on rental demolition included:

(Recommendation #2)

"Instruct the City Solicitor to advise the Ontario Municipal Board of City Council's position that the redevelopment of the lands must also include the full replacement of the 24 existing rental dwelling units and that a Tenant Relocation and Assistance Plan, including the right of tenants to return to the new rental units in accordance with the Official Plan, be provided to the satisfaction of the Chief Planner and Executive Director, City Planning. Further, that the City Solicitor request the Board to withhold any order approving a Zoning By-law Amendment for the subject lands until such time as the City and the owner have presented to the Board a draft by-law that provides for securing the rental housing matters and the owner has executed a Section 37 and/or Section 111 Agreement(s) to give effect thereto."

A settlement hearing was held on February 12, 2014, and the OMB provided an oral decision approving the Zoning By-law Amendment in principle. This was confirmed in a written decision issued on February 19, 2014. The final order is being withheld until certain pre-conditions are met, including: that the form of the Zoning By-law Amendment be finalized; that the owner enter into a Section 37 Agreement; that Notice of Approval Conditions for the site plan be issued; and that a favourable peer review of the Natural Heritage Study be completed.

The form of the Zoning By-law Amendment has since been finalized and is attached to this report as Attachment 2.

This property has not been the subject of a previous application for demolition or conversion of any rental units over the previous five year period.

ISSUE BACKGROUND

Proposal

This application for a Section 111 permit proposes to demolish a three storey rental apartment building with 24 residential rental units, and provide full replacement of the 24 residential rental units and tenant relocation assistance.

The owner has approval from the Ontario Municipal Board (OMB) to construct a new 11-storey residential building with 76 parking spaces, street-level commercial units and full replacement of the 24 existing rental units within the building.

Site and Surrounding Area

The lands consist of two properties. The property at 26 Parkview Gardens is occupied by a professional office use in a house-form building and 1990 Bloor Street West is occupied with a three-storey 24 unit rental apartment building, which is subject to Official Plan Policy 3.2.1.6 and Section 111 of the *City of Toronto Act, 2006*, related to rental housing demolition and replacement.

Provincial Policy Statement

Section 2 of the *Planning Act* sets out matters of provincial interest, which include the adequate provision of a full range of housing and the orderly development of safe and healthy communities.

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. The PPS provides a policy framework for the provision of a full range of housing to meet the needs of current and future residents, and for municipalities to establish housing strategies, including appropriate Official Plan policies, and affordable housing targets.

City Council's planning decisions are required to be consistent with the PPS.

Official Plan

Section 3.2.1 Housing Policy

This redevelopment proposal and demolition application is subject to the Official Plan's Housing policies, in particular Policy 3.2.1.6.

Proposals involving the demolition of 6 or more units of rental housing shall not be approved by Council unless all the rental housing units have rents that exceed mid-range rents at the time of application. Approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with no condominium registration, with rents similar to those in effect at the time the application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required for eligible tenants, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodations or assistance to tenants; and other assistance to lessen hardship such as moving allowances.

Rental Housing Demolition and Conversion By-law

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

A related application that would require the removal of rental units, such as a rezoning, triggers the requirement for an application under Chapter 667 for rental demolition, and typically City Council decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB and return to City Council for the approval of the conditions of the demolition. In this case, the Draft Zoning By-law Amendment which will secure rental housing replacement has been approved in principle by the Ontario Municipal Board.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, City Council has the authority to make decisions on demolition permits for residential buildings. The proposed demolition requires approval under both Chapter 363 pursuant to Section 33 of the *Planning Act*, and Chapter 667 pursuant to Section 111 of the *City of Toronto Act*. Chapter 667 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. The Chief Planner and Executive Director, City Planning in consultation with the Chief Building Official may report on the application for a City Council decision. Toronto Building staff were consulted in the preparation of this report.

Site Plan Control

The proposal is subject to Site Plan Control. The applicant has submitted a Site Plan Application (2012 144934 WET 13 SA) that is currently under review.

Reasons for Application

A Rental Housing Demolition and Conversion Application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) is required to permit the demolition of the existing residential rental building.

Community Consultation

Chapter 667 requires the City to hold a community consultation meeting to consider matters under the by-law and the impact on tenants prior to the submission of a report to Community Council. Invitations were extended to the affected tenants and other interested parties for a meeting which was held on June 21, 2012 to consider the rental

housing issues as well as the general development application. The applicant had held previous meetings with tenants and tenants expressed concern about the maintenance of the building during the period of this application review.

A subsequent meeting was held by the Ward Councillor with tenants on January 21, 2014. Many tenants were concerned that not all tenants will receive equal tenant assistance, depending on their eligibility category. The City and the owner had agreed that the owner would include a clause in leases after September 2012 that limited the eligibility for tenant relocation assistance for the new tenants as a measure to encourage the building's occupancy while the application was under review. Tenants who signed leases with this explanatory clause after September 2012 would only be eligible for the standard financial compensation under the *Rental Tenancies Act*, but would also receive the extended notice to vacate period, and the right to return to a new unit as provided for in the City's Tenant Relocation and Assistance Plan. Revised plans for the replacement rental housing that reflected the discussions between the applicant and staff, and as later described in this report, were presented to the remaining tenants. The tenants present were satisfied with the replacement unit layouts and sizes.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions.

COMMENTS

Provincial Policy Statement

The proposal is consistent with the PPS as it provides for the residential intensification of the site with new condominium units while still retaining the valuable housing tenure options represented by the 24 affordable and mid-range rental replacement units.

Rental Housing

The existing rental building is a three-storey walk up residential apartment building with affordable and mid-range rents and is adjacent to a house-form commercial building on Parkview Gardens. It contains 24 apartments with two affordable one-bedroom units, six mid-range bachelor units and 16 mid-range one-bedroom units. Currently there are two vacant units and 22 occupied units, of which 11 units are occupied by more recent tenants who are deemed to have limited eligibility under the proposed Tenant Relocation and Assistance Plan. The rental building is subject to the *Residential Tenancies Act*, which has notice and compensation provisions for all tenants requested to vacate for demolition.

Replacement Rental Housing

The owner has agreed to replace the 24 existing rental units with 24 new rental units with approximately the same sizes as the existing units. One bachelor unit is proposed to be replaced with a one-bedroom unit. The new rental units would be located within the new building in contiguous clusters of at least 6 units, on the second, third, fourth and fifth floors, with shared entry and amenity areas with the condominium units that comprise the balance of the building. The rental units will be secured as rental housing for at least

twenty years with no application for condominium registration, demolition or for conversion to any non-rental housing purposes during this period.

Staff are satisfied with the revised plans for the replacement units that show the replacement of the existing units at 115% of the total GFA. The size of a number of the apartments was increased and many unit layouts were improved. The Zoning By-law will secure the provision of the units and the Section 37 and Section 111 Agreements will require that the new units be at least 95% of the size of the existing units, to allow flexibility in the construction of the building.

The number of one bedroom units was increased from 18 to 19, through the replacement of one existing bachelor unit with a new one-bedroom unit. The proposed unit mix and rents are shown in Table 1.

Table 1: 1990 Bloor Street West – Proposed Unit Mix and Rents

Type	Unit #s	Affordable	Mid-range	High-end
Bachelor	5		5	
1 bedroom at bachelor rent	1		1	0
1 bedroom	18	2	16	
Totals	24	2	22	0

The Zoning By-law and/or Section 37 Agreement will specify the provision of units that meet the minimum requirements as follows:

- The nineteen (19) one bedroom units shall be not less than 43.5 m², of which at least 5 shall be at least 46.4 m², 10 shall be at least 50.9 m² and 2 shall be at least 55.1 m².
- The five (5) bachelor units shall be not less than 40 m².
- The combined floor area of the 24 rental replacement units will not be less than 1019.1 m².
- There shall be no interior bedrooms for any of the 19 one-bedroom units, with each of the bedrooms in these 19 units having an exterior, operable window.
- There will be at least 3 parking spaces with maximum rent provisions for the use of the rental tenants.
- All units shall have laundry facilities provided en-suite.
- All tenants will have access to the indoor and outdoor amenity spaces on the same basis as the condominium residents and there can be no extraordinary charges for that access.

All the facilities mentioned above, except parking, shall be provided to the tenants of the rental units at no additional cost.

Tenant Relocation and Assistance Plan

The proposed Tenant Relocation and Assistance Plan goes beyond the minimum requirements of the *Residential Tenancies Act* by increasing the 4 month notice period for tenants to vacate to 5 months, and by providing additional financial assistance beyond the *Residential Tenancies Act* required payment equal to 3 months rent for fully eligible tenants. This includes moving allowances, extra compensation on a sliding scale based on length of tenancy and special assistance for tenants deemed to have special needs. Eligible tenants will have the right to return to a similar rental unit in the new building, at rents similar to those paid in their existing apartment.

More recent tenants are considered to have limited eligibility. They are entitled to the 3 months compensation provided under the *Residential Tenancies Act*, but will also receive the same extended notice period of 5 months, as well as the right to return to the new building.

Rent Provisions

The two affordable rental units and 22 mid-range rental units will have rents secured according to the City's standard practices. Rents for tenants moving in during the first 10 years shall be no higher than the CMHC average market rent in the case of affordable rents, and no more than 1.5 times average market rent for the mid-range units. For returning tenants, the initial rents will not exceed the mid-range rent limits and will be based on their last rent paid with permitted annual rent guideline increases that would have otherwise occurred during the intervening period until the building is available for move-in, and a 4% increase representing a new building allowance.

Annual increases are limited to the provincial rent guideline increase, and above-guideline increases if applicable, during this first 10 year period. For any tenant who remains after the tenth year, these protections will continue until the earlier of when they move out or the 20th year of the new building's occupancy, followed by a 3 year phase in to unrestricted market rent.

Commencing in the 11th year, any new tenants may be charged unrestricted market rents.

Conclusion

The replacement proposal, including the proposed Tenant Relocation and Assistance Plan, meets the applicable Official Plan policies and is generally consistent with the City's standard practices for rental replacement. The Draft Zoning By-law Amendment provides for securing these matters in a Section 37 Agreement. The final order of the Ontario Municipal Board approving the proposed development has been withheld until such time as the form of the Zoning By-law Amendment has been finalized and a Section 37 Agreement with provision for the rental housing replacement has been entered into.

Staff are recommending that Council approve the demolition of 24 residential rental units conditional on the applicant providing the replacement rental housing and tenant relocation assistance as outlined in this report, and entering a into Section 111 Agreement to the satisfaction of the Chief Planner and Executive Director, City Planning to secure these conditions consistent with the provisions of the Draft Zoning By-law Amendment to be approved by the Ontario Municipal Board.

CONTACTS

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SIGNATURE

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District

ATTACHMENTS

Attachment 1: OMB Decision
Attachment 2: Draft Zoning By-law Amendment

Attachment 1: OMB Decision

PL121139

ISSUE DATE:

February 19, 2014



Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

NDI (1990 Bloor Street West) Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 438-86 of the City of Toronto to rezone lands respecting 1990 Bloor Street West and 26 Parkview Gardens to permit the redevelopment of a 12-storey mixed-use building, comprised of 131 residential dwelling units and at-grade commercial space

O.M.B. File No. PL121139

APPEARANCES:

Parties

Counsel

NDI (1990 Bloor Street West) Inc.

D. Bronskill

City of Toronto

S. O'Connor

Bloor West Village Residents'
Association Inc.

I. Flett

MEMORANDUM OF ORAL DECISION DELIVERED BY SYLVIA SUTHERLAND ON FEBRUARY 12, 2014 AND PARTIAL ORDER OF THE BOARD

[1] This was a settlement hearing in relation to an appeal by NDI (1990 Bloor Street West) Inc. ("NDI") pursuant to s. 34(11) of the *Planning Act* ("Act") of a non-decision by the City of Toronto ("City") of a private rezoning for a proposal to develop a 12-storey mixed use building at 1990 Bloor Street West and 26 Parkview Gardens ("subject site").

[2] The subject site comprises approximately 1,198 sq m of land at the northwest corner of Bloor Street West and Parkview Gardens opposite High Park. The Official Plan (“OP”) designates the subject site Apartment Neighbourhood and Zoning By-law 38-86 (“ZBL”) zones the subject site “R4 Z2.0 H23” and “R2n Z0.6 H 10.0”. The proposed development does not comply with the maximum height and density requirements, as well as other zoning performance standards

[3] The proposed 12-storey mixed use building consists of 131 residential dwelling units of which 24 units are proposed to be rental replacement units, as well as 359 sq m of commercial floor area at grade. It is adjacent to two TTC entrances.

[4] Following a May 28, 2013 Pre-Hearing Conference, several meetings among City Staff, NDI and the Bloor West Village Residents’ Association (“BWVRA”) resulted in NDI making changes to its proposal to address outstanding concerns of the City and the BWVRA, leading to this settlement hearing.

[5] Craig Hunter gave expert land use evidence and opinion at the hearing, while Lorraine Cramp appeared as a participant expressing her concern over the future integrity of High Park (Exhibit 15).

FINDINGS

[7] Mr. Hunter, in endorsing the settlement and supporting the granting of the appeal, carefully outlined for the Board amendments that have been made to the proposed development which addressed concerns regarding the building mass resulting in the overall height of the building being more consistent with the mass and height of the rear portion of the building at 20 Gothic Avenue, and also a minimization of the amount of shadow cast onto the Parkview Gardens Parkette (Exhibit 7).

[8] Adjustments have been made to both indoor and outdoor amenity space, and on-site parking has been increased from 67 spaces to 76 spaces. The proposal also contains 118 bicycle spaces.

[9] The proposed development is subject to Site Plan Control approval.

[10] The existing rental housing will be replaced by rental units incorporated into the residential component of the proposal.

[11] It was Mr. Hunter's expert opinion that the settlement proposal represents high quality architectural design, is consistent with the Provincial Policy Statement, compatible with the Growth Plan and the Official Plan and advances matters under the Act. He recommended approval of the application.

[12] In the Minutes of Settlement between the BWVRA and NDI (Exhibit 1, Tab 15), there is the request that the following item related to site plan consultation be included in the Board's decision:

The parties agree The Bloor West Village Residents' Association Inc. ("BWVRA") must be meaningfully consulted during the preparation of any site plan approval on the proposed site.

This condition shall include sufficient and ongoing notice of the progress and content of the proposed terms of the site plan, opportunities to present opinions and concerns about the proposed terms of site plan control and reasonable accommodation of concerns appropriately addressed by site plan control.

This condition does not confer on BWVRA a right to appeal or to appear as a party at an appeal of the site plan agreement pursuant to section 41(12) of the *Planning Act*.

ORDER

[13] The Board orders that the appeal is allowed and the municipality is directed to amend By-law 38-86 in accordance with the Board's decision.

[14] The final order of the Board is withheld until the conditions set out in Attachment 1 to this order have been met.

[15] The Board may be spoken to if any difficulties arise in the fulfilment of these pre-conditions.

"Sylvia Sutherland"

SYLVIA SUTHERLAND
MEMBER

Attachment 2: Draft Zoning By-law Amendment

Authority: Ontario Municipal Board Order/Decision issued on February 19, 2014 and Order/Decision issued on ● in Board Case No. PL121139

CITY OF TORONTO

Bill No.

BY-LAW No. -2014 (OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 1990 Bloor Street West and 26 Parkview Gardens.

Whereas the Ontario Municipal Board pursuant to its Orders issued on February 19, 2014 and ● in relation to Board Case No. PL121139, determined to amend Zoning By-law 438-86 of the former City of Toronto;

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

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

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

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

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

By-law 438-83, the General Zoning By-law of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board:

1. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *lot* contemplated herein is permitted in return for the provision by the *owner*, at the *owner's* expense, of the facilities, services and matters set out in Schedule 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act*

Act in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.

2. Where Schedule 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
3. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule 1 are satisfied.
4. None of the provisions of Section 2 with respect to the definitions of *grade*, *height*, *lot*, and *parking stacker* and Sections 4(2); 4(4)(b); 4(4)(c)(ii); 4(4)(i); 4(6)(b); 4(12); 4(16); Sections 6(1)(a), 6(1)(b); 6(3) PART I 1; 6(3) PART II 2, 3, 4 and 5; 6(3) PART III 1(a); 6(3) PART III 1(b); 6(3) PART IV 2; of *By-law No. 438-86* shall apply to prevent the erection or use of a *mixed use building*, on the *lot*, provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;
 - (b) despite any existing or future consent, partition or division of the *lot*, the provisions of this By-law shall apply to the *lot* as if no consent, partition or division occurred;
 - (c) a front yard setback of 1.57m shall be provided to the ground floor, to a minimum height of 3.9 metres;
 - (d) no above *grade* portion of a building or structure erected or used on the *lot* shall be located other than wholly within the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, except for the following:
 - (i) cornices, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, wheel chair ramps, stairs, stair enclosures, vents, underground garage ramps and their associated structures, fences, safety railings, screens, landscape features;
 - (ii) balconies, which may extend to a maximum horizontal projection from an exterior building wall of 1.8 metres beyond the heavy lines shown on Map 2, but not beyond the setbacks to the ground floor, subject to the following: on the west elevation, balconies will only be permitted on the 7th floor or above; on the north elevation, balconies will only be permitted on floors 9 and 10; on the east elevation, balconies will only be permitted on floors 8, 9, and 11;

and, on the south elevation, balconies will only be permitted on floors 8 and 9 and shall not extend beyond the abutting building wall on the same floor and elevation;

- (e) no part of any building or structure erected or used on the *lot*, shall exceed the *heights* in metres specified by the numbers following the symbol "H" on the attached Map 2, including any mechanical space and elevator/stair overrun, with the exception of the following:
 - (i) structures on any roof used for outside or open air recreation, maintenance, safety, or wind protection purposes, including landscape garden amenities, green roofs, parapets, terrace guards, screens, and window washing equipment, provided:
 - (1) no part of such structures is higher than the sum of 3.0 metres and the *height* limits specified on Map 2; and
 - (2) the structures do not enclose space so as to constitute a form of penthouse.
 - (ii) in no case shall any part of a building or structure erected or used on the *lot* exceed a height of 11 storeys above the finished level of the ground, excluding any mechanical space or elevator overrun;
- (f) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 8,450 square metres;
- (g) the *residential gross floor area* erected or used on the *lot* shall not exceed a total of 8,115 square metres and the total number of *dwelling units* shall not exceed 104 on the *lot*;
- (h) the *non-residential gross floor area* erected or used on the *lot* shall:
 - (1) be located only on the ground floor,
 - (2) not exceed a total of 335 square metres, and
 - (3) only be used for one or more of the uses listed in the chart set forth in Section 8(1)(f)(b)(iv) "Retail and Service Shops" of *By-law No. 438-86*, as amended and subject to the qualifications listed in such chart as are applicable in a CR district for such use;
- (i) a total of 24 *rental replacement dwelling units*, comprised of 19 one bedroom units and 5 bachelor units shall be provided in contiguous clusters of 6 or more as required pursuant to Schedule 1, to satisfy the

replacement of rental *dwelling units* existing on the *lot* at the time of enactment of this by-law;

- (j) *residential amenity space* shall be provided as follows:
- (i) a minimum of 177 square metres of indoor *residential amenity space* for use by residents of the *mixed-use building* shall be provided in a multi-purpose room or rooms (whether or not such rooms are contiguous), within the building erected on the *lot*, at least one of which contains both a kitchen and a washroom; and
 - (ii) a minimum of 137 square metres of outdoor *residential amenity space* shall be provided on the *lot* for use by residents, accessible to, and adjoining a multi-purpose room having at least 30 square metres of indoor residential amenity area.
- (k) the minimum number of *parking spaces* shall be:
- Residential Dwelling Unit Parking
0.6 *parking space* for each *bachelor dwelling unit*;
0.7 *parking space* for each *one-bedroom dwelling unit*;
0.9 *parking space* for each *two bedroom dwelling unit*;
1.0 *parking space* for each *three or more bedroom dwelling unit*;
- Rental Replacement Dwelling Unit Parking*
0.4 *parking space* for each *rental replacement bachelor dwelling unit*;
0.5 *parking space* for each *rental replacement one-bedroom dwelling unit*;
0.7 *parking space* for each *rental replacement two-bedroom dwelling unit*;
0.8 *parking space* for each *rental replacement three or more-bedroom dwelling unit*;
- Visitor Parking:
0.1 *parking space* for each *dwelling unit*.
- (l) *parking spaces* may be provided in the form of *parking stackers*, to a maximum of 5 *parking spaces*;
 - (m) a maximum of two *car share* spaces may be provided, where parking may be reduced based on the equivalent of four standard *parking spaces* for each dedicated *car share* parking space;
 - (n) if the calculation of the number of required *parking spaces* results in a number containing a fraction, the number must be rounded down to the nearest whole number, but in no case may it be less than one *parking space*;

- (o) the parking facilities required for residential visitors and all driveways or passageways providing ingress thereto shall be shared by the parking facilities and driveways required for residential occupants;
- (p) a minimum of one *loading space-type G* shall be provided for both residential and non-residential uses;
- (q) a minimum of 83 *bicycle parking spaces- occupant* and a minimum of 21 *bicycle parking spaces - visitors* shall be provided and maintained on the *lot*. A minimum of 14 *bicycle parking spaces-occupant* will be made available to the occupants of the *rental replacement dwelling units*.

5. For the purposes of this By-law the following definitions shall apply:

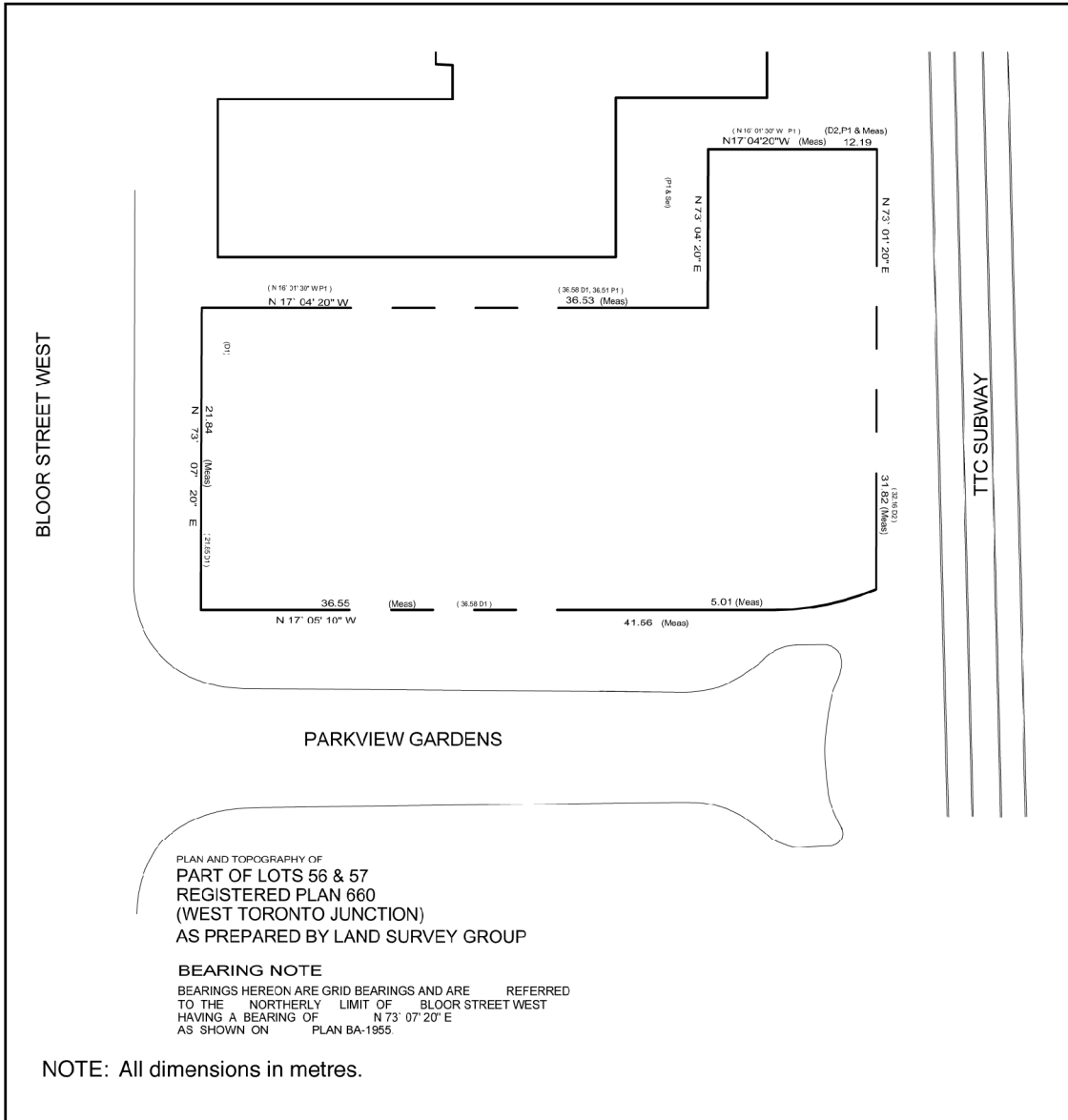
- (i) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto being, "A By-law to regulate the use of land and the erection, use, bulk, height, spacing and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto";
- (ii) "*car-share*" means the practice where a number of people share the use of one or more vehicles, such *car-share* motor vehicles to be made available for short term rental, including hourly rental. *Car-share* organizations may require that the *car-share* motor vehicles be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (ii) "*car-share parking space*" means a *parking space* owned by a recognized profit or non-profit car-sharing operator and exclusively reserved and signed for a car used only for *car-share* purposes for the use of the occupants of the building on the *lot* and secured in an agreement provided to and in a form acceptable to the City Solicitor. *Car-share parking spaces* shall not be considered to meet the parking requirements for *rental replacement dwelling units*;
- (iii) "*grade*" means an elevation of 102.5 metres Canadian Geodetic Datum;
- (iv) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;

- (v) "*lot*" means the lands outlined by heavy lines on Map 1 attached to this By-law;
 - (vi) "*parking stacker*" shall have the same meaning as defined in *By-law No. 438-86*, except that *parking spaces* within the *parking stacker* can be positioned beside and above each other and will have a minimum length of 5.6 m, and a minimum width of 2.5 metres. *Parking spaces* within the *parking stacker* are not required to comply with the dimensions as set forth in the *parking space* definition in *By-law 438-86*. *Parking spaces* provided within the *parking stacker* shall not be considered to meet the parking requirements for *rental replacement residential dwelling units*;
 - (vii) "*rental replacement dwelling unit*" means a *dwelling unit* which replaces one of the rental units existing on the *lot* at the time of enactment of this by-law, as required pursuant to section 111 of the *City of Toronto Act, 2006, S.O. 2006, c. 11 and Schedule 1*;
 - (viii) each other word or expression, which is italicized in this By-law shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.
6. No person shall use any land or erect or use any building or structure on the *lot* unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
7. Except as otherwise provided herein, the provisions of *By-law 438-86*, as amended, shall continue to apply to the *lot*.

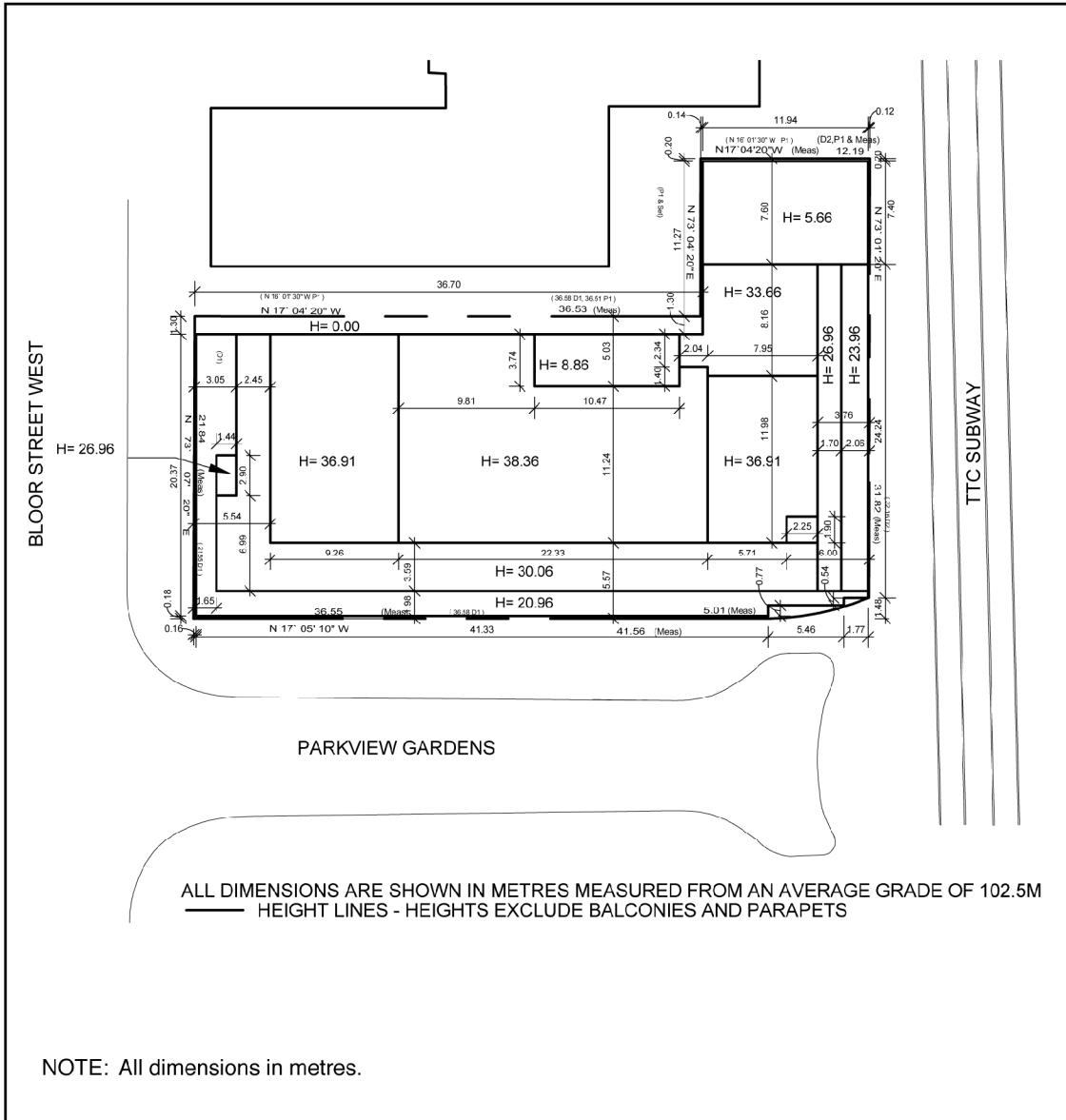
PURSUANT TO THE ONTARIO MUNICIPAL BOARD ORDER/DECISIONS
ISSUED ON FEBRUARY 19, 2014 AND ● IN BOARD FILE NO PL121139.

ENACTED AND PASSED this ___ day of _____, 20___.

Draft Map 1



Draft Map 2



SCHEDULE 1

Section 37 Provisions

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

1. the *owner* shall provide the following to support the development of the *lot*:

Rental Replacement

- (a) The *owner* shall provide and maintain not less than 24 *rental replacement dwelling units* on the *lot*, subject to the following:

- i. The 24 *rental replacement dwelling units* shall be provided entirely on the *lot*;

- ii. The 24 *rental replacement dwelling units* shall be provided with all related facilities and services, and generally be of a similar size and unit mix as the existing units on the site at the date of enactment of this By-Law, with any modifications to the satisfaction of the Chief Planner, subject to the following:

- (i) The *rental replacement dwelling units* shall comprise a unit mix of at least five bachelor and nineteen one-bedroom units;

- (ii) The combined floor areas of the 24 *rental replacement dwelling units* will not be less than 1019.1 m², subject to the following:

- a. The nineteen (19) one bedroom units shall be not less than 43.5 m², of which at least 5 shall be at least 46.4 m²; 10 shall be at least 50.9 m²; and 2 shall be at least 55.1 m². Each of the bedrooms in these 19 units shall have an exterior, openable window;

- b. the five (5) bachelor units shall be not less than 40 m²;

- iii. The 24 *rental replacement dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that each unit is occupied and until the *owner* obtains approval for a zoning by-law amendment removing the requirement for the replacement rental units to be maintained as rental units. No application may be submitted for condominium or for any other

conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period;

- iv. All of the *rental replacement dwelling units* shall be ready and available for occupancy no later than the date by which 80% of the other *dwelling units* erected on the *lot* pursuant to this By-law amendment are available and ready for occupancy;
- v. A minimum of 2 one-bedroom *rental replacement dwelling units* shall be provided as affordable *rental replacement dwelling units* and a minimum of 22 *rental replacement dwelling units* shall be provided as mid-range *rental replacement dwelling units*, subject to the following:
 - a. The *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the 2 one-bedroom affordable *rental replacement dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial Rent Guideline, and any above-Guideline increase, if applicable;
 - b. The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the 22 mid-range *rental replacement dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent times 1.5 for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial

Rent Guideline, and any above-Guideline increase, if applicable;

- c. Rents charged to tenants occupying an affordable *rental replacement dwelling unit* or a mid-range *rental replacement dwelling unit* at the end of the 10 year period set forth in subsections a. and b. above shall be subject only to annual increases which do not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases, so long as they continue to occupy their unit or until the expiry of the rental tenure period set forth in subsection iii. above with a subsequent phase-in period of at least three years for rent increases; and
- d. Rents charged to tenants newly occupying a *rental replacement dwelling unit* after the completion of the 10 year period set forth in subsections a. and b. will not be subject to restrictions by the City of Toronto under the terms of subsections a. and b.

Tenant Relocation Assistance

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

Other Matters to Support the Development of the Lot

- (c) The *owner* shall incorporate in the construction of the building, and thereafter maintain, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for all the development's elevations.
- (d) Prior to the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* the *owner* of the *lot* shall provide a Construction

Management Plan at its expense to the satisfaction of the Director, Development Engineering, and thereafter the owner shall implement such plan.

- (e) The *owner* shall satisfy the requirements of the Toronto Catholic District school Board and the Toronto District School Board regarding warning clauses and signage.
- (f) The *owner* shall undertake a technical review of the proposed development and satisfy the requirements of the Toronto Transit Commission (“TTC”), and provide any necessary warning clauses in future agreements of purchase and sale related to the TTC operations.
- (g) The *owner* shall enter into a Limiting Distance Agreement with the owner of the lands that abut the *lot* to the north.
- (h) The *owner* shall meet or exceed Tier 1 of the Toronto Green Standard.