

Alterations to a Designated Heritage Property - 19 Duncan Street

Date: June 21, 2017

To: Toronto Preservation Board

From: Chief Planner and Executive Director, City Planning Division

Wards: Ward 20

SUMMARY

This report recommends that City Council refuse the proposed alterations to the designated heritage property at 19 Duncan Street. The applicant proposes the construction of a new tower and podium atop, and alterations to, the heritage property that would not conserve the cultural heritage values, attributes and character of the property. City Council's consent is required for the alterations to the designated heritage property under Section 33 of the Ontario Heritage Act.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning Division recommends that:

1. City Council refuse the alterations to the designated heritage property at 19 Duncan Street, in accordance with Section 33 of the Ontario Heritage Act, for the construction of a new tower and podium and alterations to the building in accordance with the settlement offer from the Applicant comprised of the plans and drawings prepared by Hariri Pontarini Architects dated April 7, 2017 (Attachment No. 14) and as further revised in accordance with clauses A, B and C of Recommendation 3.a.2 of this report, and the Heritage Impact Assessment prepared by ERA Architects Inc. dated April 6, 2017, all on file with the Senior Manager, Heritage Preservation Services.
2. Should City Council refuse the alterations to the designated heritage property at 19 Duncan Street in accordance with Section 33 of the Ontario Heritage Act and such refusal be appealed and referred to the Conservation Review Board, City Council authorize the City Solicitor and appropriate staff to attend any hearing held by the Conservation Review Board in support of Council's decision.
3. Should City Council decide to approve the alterations to the designated heritage property at 19 Duncan Street, the Chief Planner and Executive Director, City Planning, recommends that:

a. Prior to issuance of an Ontario Municipal Board Order (Case No. PL160684) in connection with the Zoning By-law Amendment appeal for the property at 19 Duncan Street the owner shall:

1. Enter into a Heritage Easement Agreement with the City for the property at 19 Duncan Street substantially in accordance with plans and drawings prepared by Hariri Pontarini Architects dated April 7, 2017 as further revised substantially in accordance with the settlement offer letter dated May 16, 2017, and the Heritage Impact Assessment prepared by ERA Architects Inc. dated April 6, 2017, both on file with the Senior Manager, Heritage Preservation Services subject to and in accordance with the approved Conservation Plan required in Recommendation 3.a.2, all to the satisfaction of the Senior Manager, Heritage Preservation Services including registration of such agreement to the satisfaction of the City Solicitor;
2. Provide a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 19 Duncan Street prepared by ERA Architects Inc. dated April 6, 2017, with the exception that the Conservation Plan also include, all to the satisfaction of the Senior Manager, Heritage Preservation Services:
 - A. The conservation, on the Adelaide Street elevation, of eight basement windows and their openings in two sets, each set containing four windows within two contiguous bays; the two sets of basement windows separated from one another by the proposed central Adelaide Street West non-residential entrance;
 - B. The accurate reconstruction of the westernmost structural bay of the south wall with a vertical articulation detail to distinguish the reconstructed south wall from the new construction; and
 - C. The applicant will make efforts to reduce in the visual impact of the proposed mechanical louvres on the south elevation including, if possible, their relocation elsewhere.
3. Enter into and register on the property at 19 Duncan Street one or more agreements with the City pursuant to Section 37 of the Planning Act, all to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning Division, and the Senior Manager, Heritage Preservation Services with such facilities, services and matters to be set forth in the related site specific Zoning By-law Amendment giving rise to the proposed alterations, including amongst other matters, securing the preparation and thereafter the implementation of a Heritage Lighting Plan, a Signage Plan, an Interpretation Plan and requiring a letter of credit to secure all work included in the approved Conservation Plan and approved Interpretation Plan, including provision for upwards indexing, all to the satisfaction of the Senior Manager, Heritage Preservation Services.

b. Prior to Final Site Plan approval in connection with the Zoning By-law Amendment appeal for the property at 19 Duncan Street, the owner shall:

1. Provide final site plan drawings substantially in accordance with the approved Conservation Plan required in Recommendation 3.a.2, to the satisfaction of the Senior Manager, Heritage Preservation Services;
2. Have obtained final approval for the necessary Zoning By-law Amendment required for the subject property, such amendment to have been consented to by City Council as determined to the satisfaction of the Chief Planner, and to have been allowed by the Ontario Municipal Board, and to have come into full force and effect;
3. Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
4. Provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services;
5. Submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services.

c. Prior to the issuance of any permit for all or any part of the property at 19 Duncan Street, including a heritage permit or a building permit but excluding permits for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services, the owner shall:

1. Have obtained final approval for the necessary Zoning By-law Amendment required for the subject property, such amendment to have been consented to by City Council as determined to the satisfaction of the Chief Planner, and to have been allowed by the Ontario Municipal Board and to have come into full force and effect;
2. Provide building permit drawings for the specific phases of work for which the permit is being sought, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Recommendation 3.a.2, including a description of materials and finishes to be prepared by the project architect and qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services;
3. Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager,

Heritage Preservation Services to secure all work included in the approved Conservation Plan and the Interpretation Plan;

d. Prior to the release of the Letter of Credit required in Recommendation 3.c.3, the owner shall:

1. Have obtained final site plan approval for the subject properties, issued by the Chief Planner and Executive Director, City Planning Division;
2. Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work has been completed in accordance with the approved Conservation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
3. Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The property at 19 Duncan Street was included on the City's Heritage Register, adopted by City Council on June 16, 2005.

On July 12, 13, 14 and 15, 2016 City Council stated its intention to designate the property at 19 Duncan Street under Part IV of the Ontario Heritage Act.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.26>

The property was designated under Part IV of the Ontario Heritage Act by By-law No. 597-2017, enacted by City Council on May 26, 2017.

The subject property is located within the boundaries of the King-Spadina Heritage Conservation District (HCD) study area which is subject to By-law No. 1186-2016, enacted by City Council on December 15, 2016. The by-law is intended to protect the integrity of the area for a period of one year to prohibit the demolition or removal of any buildings or structures that have been identified as potentially contributing to the heritage character of the area while it is under study. The property at 19 Duncan Street has been identified in the HCD study as a contributing property.

<http://www.toronto.ca/legdocs/bylaws/2016/law1186.pdf>

An application to amend the Zoning By-law for 19 Duncan Street to permit a mixed-use building on the property was submitted to the City in 2015. HPS staff were involved, along with other City Planning staff, in discussions with the applicant as the property was listed on the City's Heritage Register. On July 12, 13, 14 and 15, 2016 City Council stated its intention to designate the property under Part IV of the Ontario Heritage Act. At the same time, the owner appealed the planning application to the Ontario Municipal Board due to Council's failure to make a decision within the timeline prescribed by the Planning Act.

At the May 24, 25 and 26, 2017 meeting, City Council also requested the Senior Manager, Heritage Preservation Services to report to the June 22, 2017 Toronto Preservation Board meeting on the proposed alterations to the designated heritage property at 19 Duncan Street pursuant to the Ontario Heritage Act and City Council directed that such report and the decision of the Toronto Preservation Board then proceed directly to the July 2017 City Council meeting.

COMMENTS

Policy Framework

Provincial Policy Statement and Planning Act

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 Planning Act and associated Provincial Policy Statement guide development in the Province and they include provincial interests regarding heritage resources as described in the Provincial Policy Statement issued under the authority of Section 3 of the Planning Act. The Planning Act requires that all decisions affecting land use planning matters including City Council's planning decisions, "shall be consistent with" the Provincial Policy Statement. The Provincial Policy Statement (PPS) provides direction on matters of provincial interest related to land use planning and development, and promotes the provincial policy-led planning system.

Provincial Policy Statement 2.6.1 reads "Significant built heritage resources and significant cultural heritage landscapes shall be conserved".

Official Plan

The heritage policies contained in Section 3.1.5 of the City of Toronto's Official Plan provide the policy framework for heritage conservation in the City. The following Official Plan policies apply to the proposed alterations:

3.1.5.4: "Properties on the Heritage Register will be conserved and maintained consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada, as revised from time to time and adopted by Council."

3.1.5.5: "Proposed alterations, development, and/or public works on or adjacent to, a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained, prior to work commencing on the property and to the satisfaction of the City."

3.1.5.6: "The adaptive re-use of properties on the Heritage Register is encouraged for new uses permitted in the applicable Official Plan land use designation, consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada."

3.1.5.26: "New construction on, or adjacent to, a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it."

3.1.5.27: "Where it is supported by the cultural heritage values and attributes of a property on the Heritage Register, the conservation of whole or substantial portions of buildings, structures and landscapes on those properties is desirable and encouraged. The retention of facades alone is discouraged."

King Spadina Secondary Plan

The King-Spadina Secondary Plan includes policies on heritage, urban structure and built form. The following heritage policies apply to the proposed alterations:

4.1: "Heritage buildings in the King-Spadina Area are essential elements of the physical character. In this regard, the City will seek the retention, conservation, rehabilitation, re-use and restoration of heritage buildings by means of one or more appropriate legal agreements."

4.2: "The height of buildings or structures on a lot containing one or more heritage buildings, may be increased above the height limit otherwise specified in the Zoning By-law if the historic conservation, restoration and maintenance of such heritage buildings are secured through a satisfactory agreement between the owner and the City pursuant to Section 37 of the Planning Act."

4.3: "New buildings should achieve a compatible relationship with heritage buildings in their context through consideration of such matters as, but not limited to, building height, massing, scale, setbacks, step backs, roof line and profile and architectural character and expression.

<https://www1.toronto.ca/planning/16-king-spadina.pdf>

Standards and Guidelines for the Conservation of Historic Places in Canada

The Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada (Standards and Guidelines) is the official document guiding planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto. The General Standards (1-9) and the Standards for Rehabilitation (10-12) apply to this project.

<http://www.historicplaces.ca/media/18072/81468-parks-s+g-eng-web2.pdf>

BACKGROUND

Development Proposal

The development site is located at the south-east corner of Duncan Street and Adelaide Street West and includes a five storey commercial heritage building, known as the Southam Press Building located at 19 Duncan Street. Also on the proposed development site is a parking lot situated at the easternmost end and a lane along the south portion.

The proposal involves the construction of a new four storey podium structure directly atop the five storey heritage building with a 58-storey tower situated on the eastern half of the building which would extend past the building's east elevation. The north (Adelaide) and west (Duncan) elevations would be retained in situ while the entire east and south walls would be removed. Two portions of the south wall are proposed to be reconstructed, one in its current location and one further south than is presently situated. A small return of the east wall is also proposed to be dismantled and reconstructed. All of the basement windows and their openings on the west and north elevations were proposed, in the attached drawings, to be enlarged.

The applicant has since agreed to conserve eight of the basement windows in two sets, each set containing four windows within two contiguous bays on the Adelaide Street elevation. The applicant has also agreed to reconstruct only the westernmost structural bay of the south elevation and provide an articulation detail to distinguish it from the new construction east of it. Further, the applicant has agreed to make efforts to reduce the visual impact of the proposed mechanical louvers on the south elevation including, if possible, the relocation of the louvers elsewhere.

Description of Heritage Property

The property at 19 Duncan Street was included on the City of Toronto Heritage Register, adopted by City Council on June 16, 2005 and subject to an Intention to Designate by City Council on July 12, 13, 14 and 15, 2016. The property was subsequently designated under Part IV of the Ontario Heritage Act by By-law No. 597-2017, enacted by City Council on May 26, 2017.

The property at 19 Duncan Street is designated under all three categories of cultural heritage value: design, associative and contextual.

Statement of Cultural Heritage Value

The property at 19 Duncan Street has design value as a fine example of an industrial building with features of Edwardian Classicism, the most popular style for all types of architecture in the early 20th century. The Southam Press Building is particularly distinguished by its scale and corner location with principal elevations on both Duncan and Adelaide Streets, the distinctive fenestration, and the special features that include the terra cotta finishes, the classically-detailed surround on the west entrance, and the segmental-arched pediment on the south elevation where painted signage reading "Southam Press" survives.

The property with the Southam Press Building is associated historically with the development and evolution of the King-Spadina neighbourhood where it is situated.

From its origins in the 19th century as an institutional and residential enclave, King-Spadina became Toronto's manufacturing centre after the Great Fire of 1904 when the area was filled with new factories and warehouses, including the Southam Press Building.

The Southam Press Building is valued historically for its associations with the company founded by William Southam in 1871 that became one of the largest publishing enterprises in Canada. In the late 19th century, Southam acquired the Mail Job Printing Company in Toronto as part of his business empire, and afterward appointed his son, Richard, to oversee the enterprise. This subsidiary was renamed Southam Press Limited in conjunction with the completion of the Southam Press Building at 19 Duncan Street, which was occupied by the company until the 1960s.

The associative value of the property at 19 Duncan Street is also through its connection to the notable Toronto architectural partnership of Sproatt and Rolph, which designed the printing factory. Identified as one of the most important architectural firms in Canada in the early 20th century, Sproatt and Rolph are associated with many landmark projects in Toronto, among them the firm's renowned Collegiate Gothic designs at the University of Toronto. Sproatt and Rolph's portfolio included the Southam Press Building and other commissions in the King-Spadina neighbourhood.

Contextually, the property at 19 Duncan Street is valued for supporting the character of the King-Spadina neighbourhood as it developed in the early 20th century when the area was transformed from a residential and institutional enclave to Toronto's manufacturing centre after the Great Fire of 1904. The industrial character of the neighbourhood is drawn from the large-scale factories and warehouses that line the streets, including those adjoining the King-Spadina cross-roads and along Adelaide Street West where the Southam Press Building is found.

The contextual value of the property at 19 Duncan Street is also demonstrated through its historical, visual and physical links to its setting in King-Spadina where it anchors the southeast corner of Duncan and Adelaide Streets. With the adjoining Canada Printing Ink Building at 15 Duncan Street and the White Swan Mills Building at 158 Pearl Street, the Southam Press Building is part of an enclave of industrial buildings at the east end of the King-Spadina district.

Heritage Attributes:

- The setback, placement and orientation of the building on the southeast corner of Duncan and Adelaide Streets
- The scale, form and massing of the building, with the L-shaped plan that rises five stories above a raised base with window openings
- The materials, with the brick cladding, and the stone, brick, wood and terra cotta detailing
- The flat roof, which is marked by the cornice, the chimney on the south end and, at the west end of the south elevation, the semi-elliptical-shaped parapet (other parapets on the west and north elevations were removed, along with portions of the cornice)
- On the west elevation on Duncan Street, the organization of the wall into four bays by pilasters

- The flat-headed window openings on the west elevation, which are arranged in pairs and trios with continuous stone lintels and sills, with the brick mullions on the three-part openings and the stone mullions on the two-part openings
- The west entrance on Duncan Street, which is set in the classically-detailed surround with the semi-engaged columns, the entablature with the triglyphs, and the triangular pediment with the modillion blocks
- On the extended north elevation facing Adelaide Street West, the pilasters dividing the bays, the projecting corner bays with the round- and segmental-arched openings, the buttresses with the stone coping that separate the flat-headed window openings, and the entrance in the east bay
- The detailing on the north elevation where the openings in the fifth-floor of the east and west bays are set in corbelled brick reveals, and the entrance in the east bay has the separate transom and the classical embellishments
- The south elevation, with the symmetrically-arranged fenestration, the elevator shaft, and the remnants of the painted sign reading “Southam Press” at the west end beneath the parapet
- Viewed from Adelaide Street West, east elevation with the flat-headed window openings

Assessment of Heritage Impacts

In accordance with the heritage policies in the Official Plan (3.1.5.27), development on a heritage property must be designed to conserve that property's cultural heritage value, attributes and character and to mitigate any visual and physical impact on it. Further, it is desirable and encouraged that, where supported by the cultural heritage values and attributes of a property, whole buildings be conserved.

Removal of Character-Defining Attributes

The heritage attributes of the property at 19 Duncan Street include the scale, form and massing of the five storey building and its flat roof. As a four-sided detached building, all four elevations and the flat roof of the Southam Press Building are exposed and contribute to its three-dimensional exterior form. It is an intact and fully expressed detached commercial building which anchors the corner of Duncan and Adelaide Streets and contributes to an enclave of similar industrial buildings in this part of the King-Spadina neighbourhood. The conservation of whole buildings is encouraged in the Official Plan and, therefore, the proposal to remove two of the building's elevations, identified as character-defining attributes, is not considered an acceptable conservation strategy given that the building, as a whole, is in good condition and retains its original architectural and material integrity.

The south wall with fenestration and an elevator shaft, the east wall with windows, and the building's L-shaped plan are also identified as heritage attributes of the subject property at 19 Duncan Street.

The entire south elevation is proposed to be removed with the westernmost bay reconstructed in its original location and a portion of the south wall that is currently set back reconstructed in a new location further forward. The new development would continue from the reconstructed south wall portion, resulting in the loss of the majority of the south wall with its window openings and elevator shaft as well as the L-shaped plan of the building.

The greater part of the east wall with its window openings would also be removed except for a small brick return at the north end, resulting in its permanent loss.

Proposed Step Backs

A new four storey podium is proposed to be constructed atop the heritage building at a 5.0 metre step back from the Duncan Street elevation and a 2.075 metre step back from the Adelaide Street West elevation. The first storey of the new podium (sixth storey) would be stepped back by an additional metre on each of the Duncan and Adelaide Street elevations. The new podium would extend past the east wall of the heritage building, rising nine storeys and transitioning into the new tower component of the proposal without any additional stepping back along Adelaide Street West, one of the building's principal elevations. The tower, situated on the eastern half of the heritage building, would be stepped back 24.8 metres from the Duncan Street elevation.

The additional massing of a four storey podium and a 58-storey tower atop the heritage building with insufficient step backs along the two primary elevations would irrevocably alter its character-defining scale, form, massing and flat roof.

Ground Floor Level

All of the basement windows and their openings on the west and north elevations were proposed, in the attached drawings, to be enlarged, thereby altering the proportions of the windows at the ground floor level. Six lower level windows on the reconstructed bay of the south elevation were proposed to be enlarged to accommodate mechanical louvres with two lower level window openings filled in, negatively impacting the symmetrical arrangement of fenestration on this elevation.

Mitigation Measures

Should the proposed alterations be approved by City Council, the applicant has agreed to undertake the following additional mitigation measures:

1. The conservation, on the Adelaide Street West elevation, of eight basement windows and their openings in two sets, each set containing four windows within two contiguous bays; the two sets of basement windows separated from one another by the proposed central Adelaide Street West non-residential entrance;
2. The accurate reconstruction of the westernmost structural bay of the south wall with a vertical articulation detail to distinguish the reconstructed south wall from the new construction; and
3. Make efforts to reduce the visual impact of the proposed mechanical louvres on the south elevation including, if possible, the relocation of the louvres elsewhere.

CONCLUSION

The current proposal would greatly impact the heritage character of the property at 19 Duncan Street and result in the loss of a number of its identified attributes by creating additional massing above, to the south and east without sufficient transition, and by removing the south and east walls, greatly impacting the building's form and integrity as a whole building.

While the current proposal does not sufficiently address HPS staff's concerns relating to the conservation of the heritage property at 19 Duncan Street under the City's Official Plan heritage policies, Community Planning staff feel it does meet other important City building objectives and they are currently continuing discussions with the applicant and will be submitting a Request for Directions report directly to the July 4, 2017 meeting of City Council, as requested by City Council at its meeting of May 24, 25, 26, 2017 (MM29.37).

At the May 24, 25 and 26, 2017 meeting, City Council also requested the Senior Manager, Heritage Preservation Services to report to the June 22, 2017 Toronto Preservation Board meeting on the proposed alterations to the designated heritage property at 19 Duncan Street pursuant to the Ontario Heritage Act and City Council directed that such report and the decision of the Toronto Preservation Board then proceed directly to the July 2017 City Council meeting.

The proposed alterations represent a level of impact to the designated heritage property that would irreversibly affect the attributes and integrity of the cultural heritage resource and staff recommend the alterations be refused under Section 33 of the Ontario Heritage Act. Should City Council choose to approve the alterations proposed, staff recommend that any such approval be subject to the conditions set out in Recommendations 3.a. to d. inclusive, of this report..

CONTACT

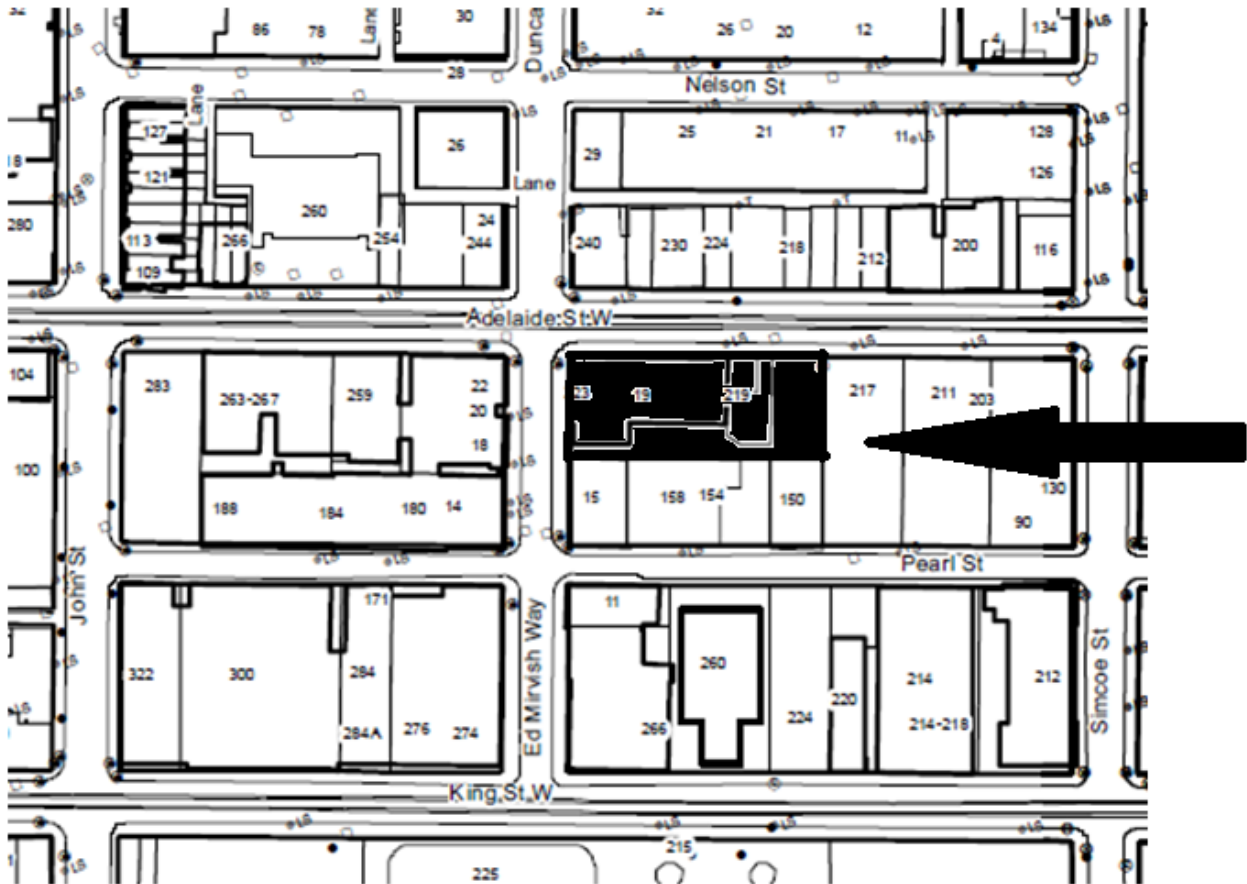
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SIGNATURE

Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

- Attachment 1 - Location Map
- Attachment 2 - Photographs: west and north elevations
- Attachment 3 - Photograph: south elevation
- Attachment 4 - Photograph: east elevation
- Attachment 5 - Rendering 1
- Attachment 6 - Rendering 2
- Attachment 7 - Site Plan
- Attachment 8 - West elevation
- Attachment 9 - North elevation
- Attachment 10 - South elevation
- Attachment 11 - East elevation
- Attachment 12 - Level 6 plan
- Attachment 13 - Roof plan
- Attachment 14 - Settlement Letter May 16, 2017







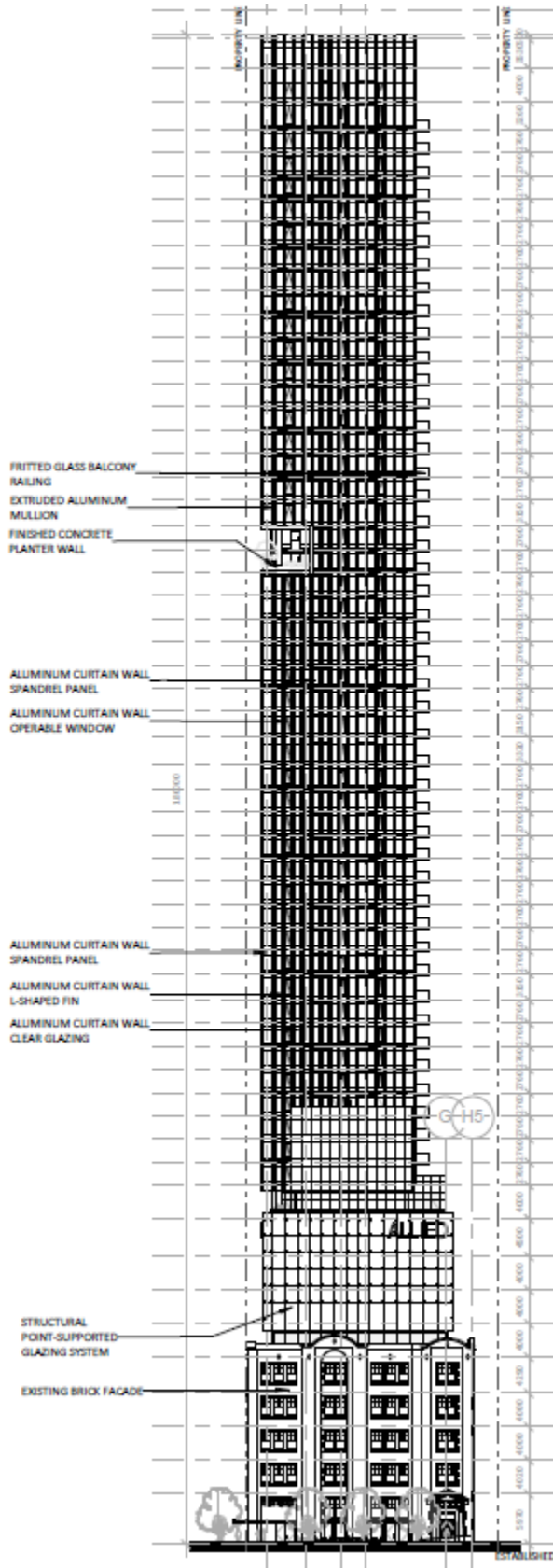






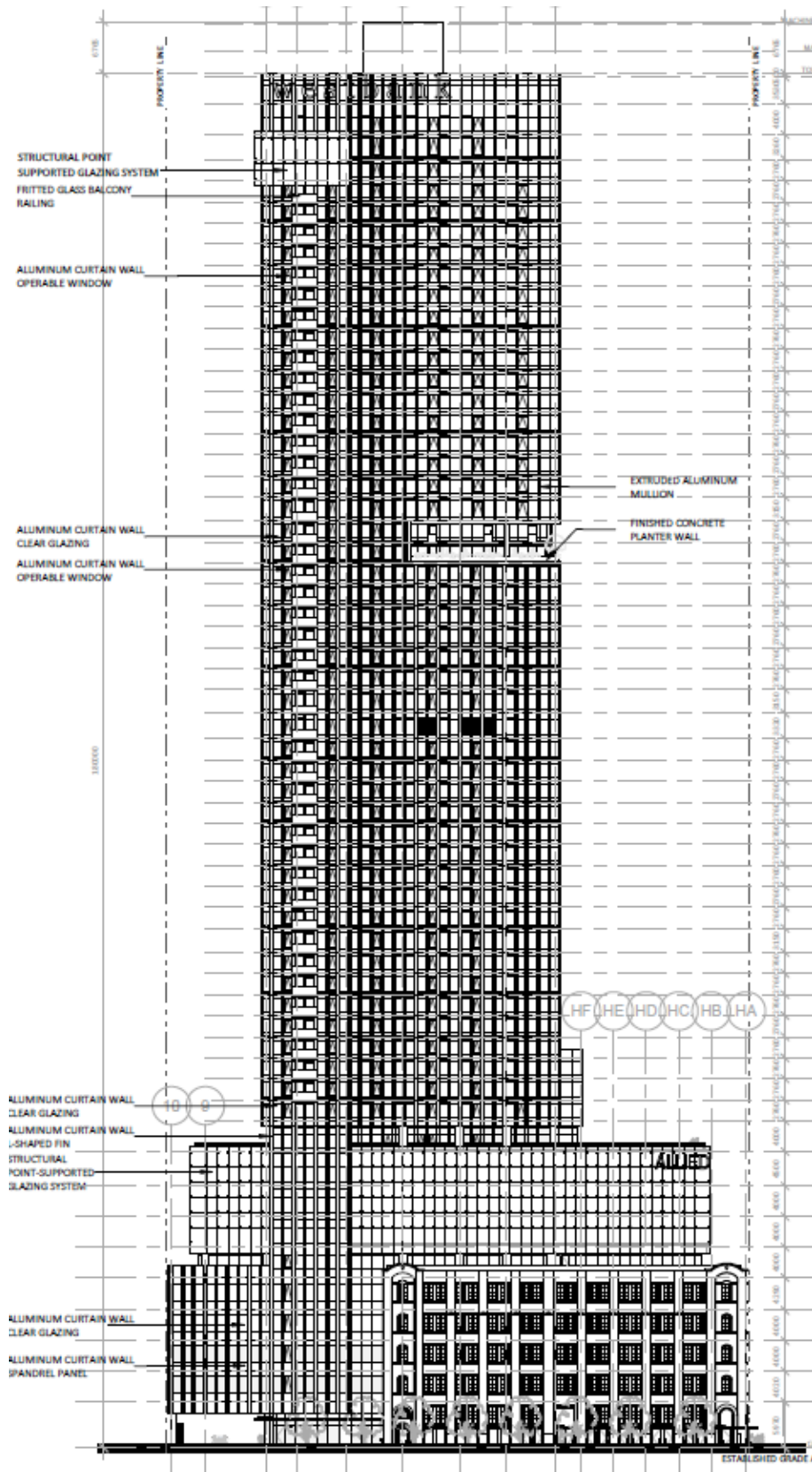
WEST (DUNCAN ST) ELEVATION
19 DUNCAN STREET

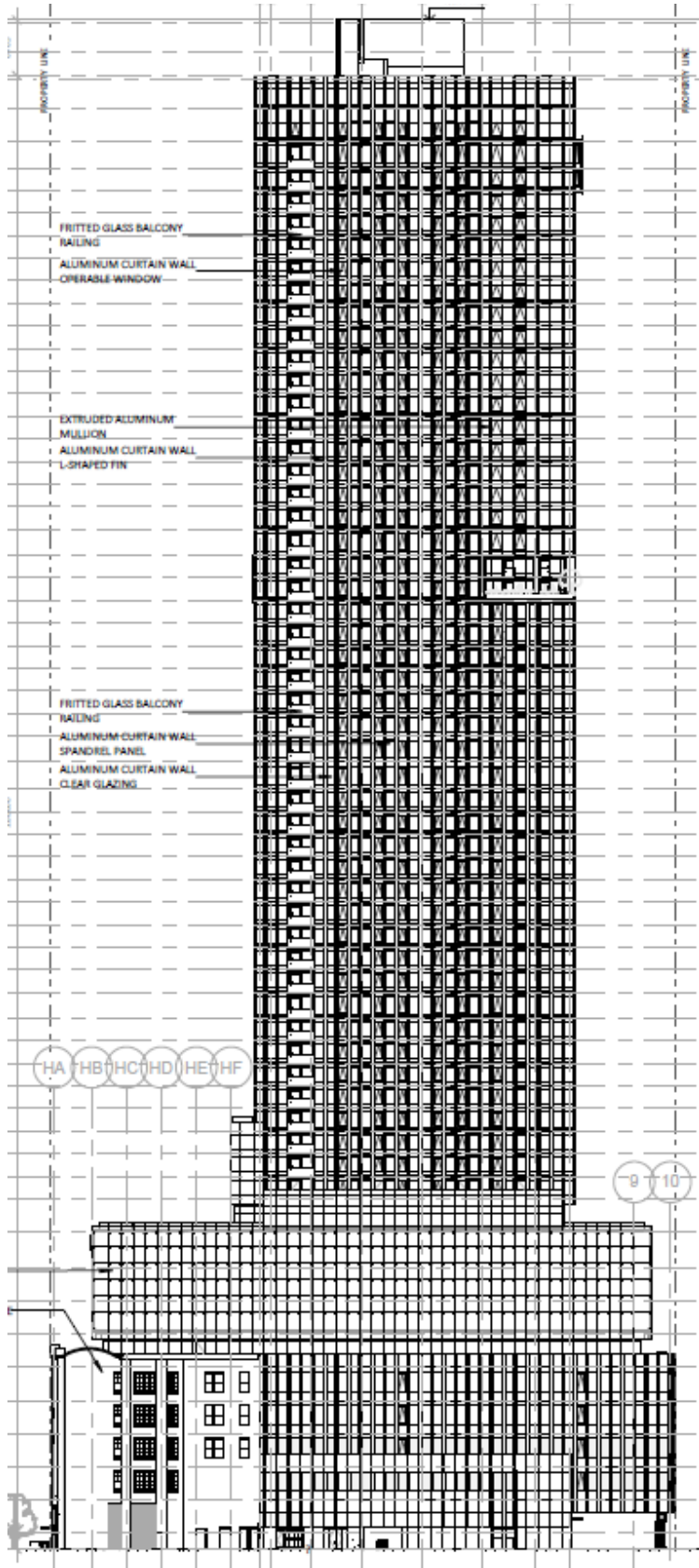
ATTACHMENT 8

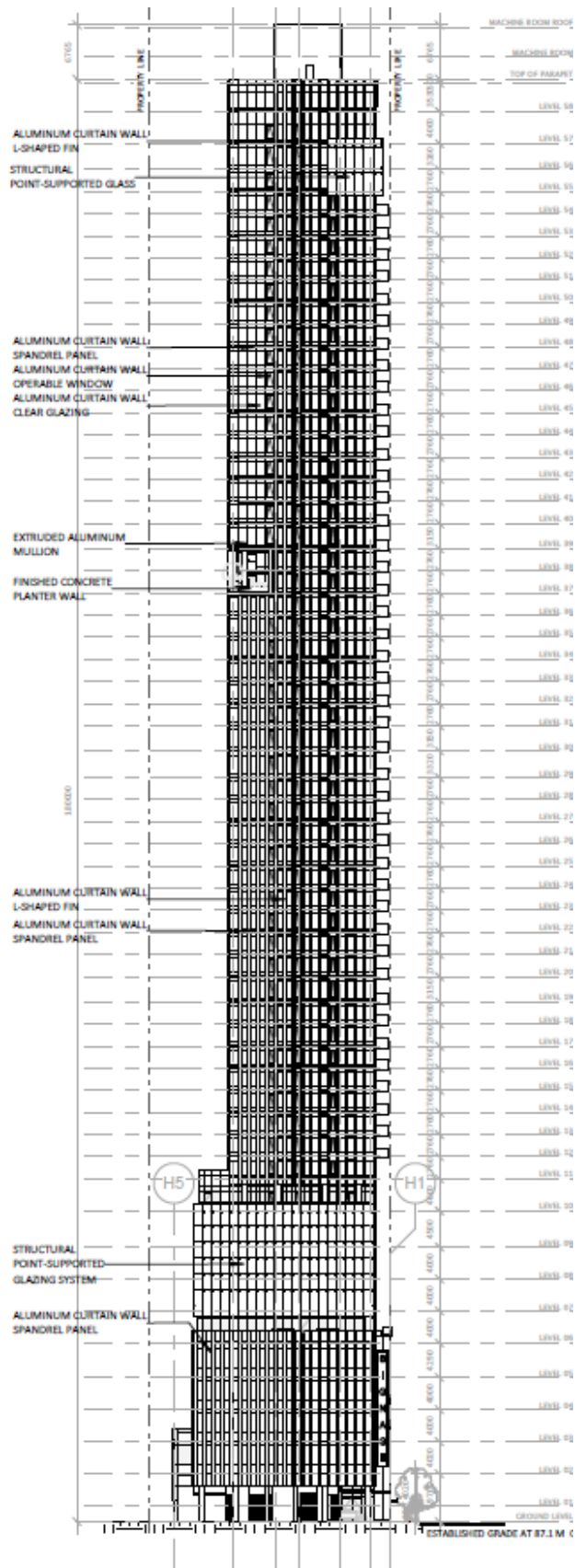


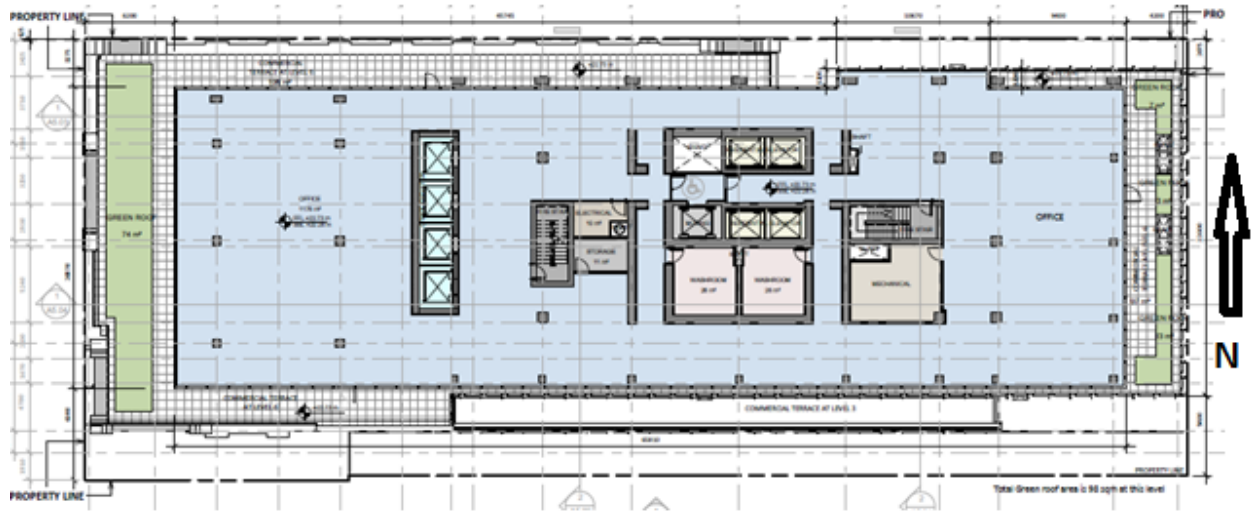
NORTH (ADELAIDE ST) ELEVATION
19 DUNCAN STREET

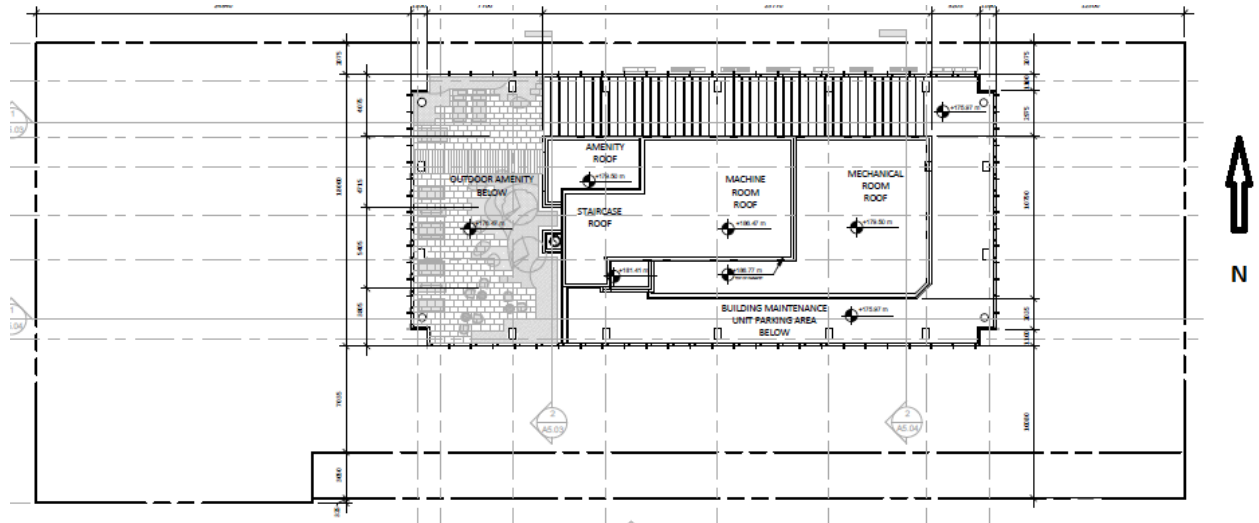
ATTACHMENT 9













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May 16, 2017

Confidential and Without Prejudice

City of Toronto
 Legal Department, Real Estate Division Metro Hall
 26th Floor, Stn. 1260
 55 John Street
 Toronto ON M5V 3C6

Attention: Sharon Haniford

Dear Sirs/Mesdames:

**Re: Settlement Offer
 19 Duncan Street and 219-223 Adelaide Street West**

We are the solicitors acting on behalf of 19 Duncan Property Inc. ("Westbank/Allied"). On behalf of Westbank/Allied, we are writing to propose the settlement of the above-captioned appeal on the basis that:

1. Westbank/Allied and the City of Toronto will jointly request that the Ontario Municipal Board (the "Board") approve zoning by-law amendments (i.e. in respect of each of By-laws 438-86, as amended, and 569-2013, as amended) for the lands comprising 19 Duncan Street and 219-223 Adelaide Street West (the "Lands") which would permit the construction and use of a 58-storey mixed-use building, subject to:
 - (a) a maximum height of 179.5 metres including mechanical penthouse but excluding the two elevator overruns and associated emergency exiting stairs, and the other usual permitted projections, (the "Usual Projections") such as parapets, vents, stacks, window washing equipment. The height of the residential elevator overrun, amenity elevator overrun and associated emergency exiting stairs will be limited to a projection of up to 7 metres with a maximum footprint of 123 square metres and will be centrally located on the roof, with the location to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division. No projections are permitted above the 179.5 metre height limit, other than the elevator overrun and associated emergency exiting stairs and the Usual Projections, which projections are to be to the satisfaction of the Chief Planner and Executive Direction, City Planning Division; and
 - (b) a total combined residential and non-residential gross floor area of 45,000 square meters, of which a minimum of 14,750 square metres must be non-residential

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gross floor area including a minimum of 12,500 square metres which must be used for an office uses,

and which is substantially in accordance with the plans (referred to herein), dated April 7, 2017, prepared by Hariri Pontarini Architects (the "Plans"), subject to the following revisions:

- (i) With respect to the heritage building at 19 Duncan Street, to limit the enlargement of the existing basement level window openings such that on the Adelaide Street West elevation eight (8) such windows and their openings in two (2) sets, each set containing four (4) windows within two (2) contiguous bays, with the two (2) sets of windows separated from one another by the proposed central Adelaide Street West non-residential entrance, shall not be enlarged and shall be conserved in accordance with a Conservation Plan satisfactory to the Senior Manager, Heritage Preservation Services,
- (ii) Subject to an option in the Zoning By-law to permit up to 40 hotel suites commencing at or above the 11th storey, and with associated "check-in" space located elsewhere within the building as proposed and all to be satisfactory to the Chief Planner and Executive Director, City Planning Division. Any gross floor area used for hotel suites and associated hotel uses would result in an equal reduction in the permitted residential gross floor area contemplated in the April 7, 2017 plans prepared by Hariri Pontarini Architects and would be in addition to the minimum 14,750 square metres of gross floor area for non-residential uses (for clarity, any hotel related gross floor area would not count towards the minimum required 14,750 square metres of non-residential gross floor area),
- (iii) Subject to a revision to the plans to increase the setback on the 10th storey to a minimum of 10 metres from the south property line for all portions of the 10th storey, and
- (iv) Subject to the proposed quantity of vehicular parking spaces being divided at a ratio of residential vehicular parking spaces, visitor parking spaces and non-residential vehicular parking spaces that is satisfactory to the Executive Director, Engineering and Construction Services, in consultation with the Chief Planner and Executive Director, City Planning Division,

and all further subject to the requirements in clauses a, b, c, d, e and f of paragraph 3 below and all at the owner's expense and subject to requirements for insurance, indemnity, securing of letters of credit and upwards indexing.

2. The alternations to the heritage property at 19 Duncan Street are, subject to the requirements and revisions in paragraph 1 above respecting the basement level window openings, substantially in accordance with the Plans and the Heritage Impact Assessment prepared by ERA Architects Inc. dated April 6, 2017 (the "Revised HIA") and subject to and in accordance with a Conservation Plan

satisfactory to the Senior Manager, Heritage Preservation Services (the "Approved Conservation Plan") and all subject to the requirements in clauses a, b, c, d, e and f of paragraph 3 below and all at the owner's expense and subject to requirements for insurance, indemnity, securing of letters of credit and upwards indexing.

3. That prior to the issuance of any Board Order approving the Zoning By-law Amendments:
 - (a) The owner shall enter into a Heritage Easement Agreement with the City for the Lands, in accordance with the Plans, the Revised HIA (including the requirements and revisions in paragraph 1 above respecting the basement level window openings) and the Approved Conservation Plan, all to the satisfaction of the Senior Manager, Heritage Preservation Services, and shall register such agreement to the satisfaction of the City Solicitor;
 - (b) The owner shall provide a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the Revised HIA (including the requirements and revisions in paragraph 1 above respecting the basement level window openings), all to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (c) The final form of the zoning by-law amendments shall be satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor;
 - (d) The owner shall enter into and register on the Lands, one or more agreements with the City pursuant to Section 37 of the Planning Act to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning Division, and the Senior Manager, Heritage Preservation Services with such facilities, services and matters to be additionally set forth in the related site specific Zoning By-law Amendments, such agreement(s) to secure at the owner's expense and subject to requirements for insurance, indemnity, securing of letters of credit and upwards indexing, the following:
 - (i) the payment of a cash contribution to the City in the amount of \$2,750,000 at the time of the issuance of the first above-grade building permit that permits the erection of proposed above-grade density, including conditional permits, however, for clarity, does not include shoring, excavation or foundation permits, or any permits for repairs, maintenance and the usual and minor works to the existing building, as well as alterations to the existing building to permit the shoring, excavation and foundation work, acceptable to the Senior Manager of Heritage Preservation Services, to be allocated as follows:
 - A. \$330,000 for capital improvements to existing rental housing units provided by Toronto Community Housing Corporation in Ward 20;
 - B. \$330,000 for the provision of new affordable rental housing units as part of the Alexandra Park Revitalization in Ward 20, to be directed to the Capital Revolving Fund for Affordable Housing; and

- C. \$2,090,000 for community services and facilities comprising capital expenditures in the King-Spadina Area, at the discretion of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor;

In the event the cash contribution(s) has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for other purposes, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official plan and will benefit the community in the vicinity of the lands;

- (ii) the provision and maintenance of public art to be located on portion(s) of the Lands that are visible from publicly accessible areas, having a minimum value of \$550,000 or such greater amount as Westbank/Allied may in its discretion determine and all in accordance with the Percent for Public Art Guidelines, for the approval of City Council and subject to upwards indexing;
- (iii) in the event the Chief Planner and Executive Director, City Planning Division, in her sole discretion, determines in writing to require same, the construction, provision and maintenance on the Lands of a publicly accessible pedestrian walkway together with conveyance by the owner, to the City of an easement for use of such walkway by the general public, together with rights of support should the City Solicitor require same, and such easement to be free and clear of encumbrances except for easements for the properties at 150-158 Pearl Street and 15 Duncan Street, to be generally located along the southern boundary of the Lands, with an approximate size of 239 square metres, as determined in the Site Plan Approval process, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the City Solicitor, with the conveyance of such easement and the construction of such walkway to be completed no later than prior to the earlier of any residential use of the Lands and in any event prior to any condominium registration of all or any part of the Lands. The timing of the completion of the construction of the walkway can be extended by up to an additional 6 months at the sole discretion of the Chief Planner and Executive Director, City Planning Division in writing;
- (iv) the provision of a minimum of 10% of the residential dwelling units within the development to be three-bedroom dwelling units and a minimum of 20% of the residential dwelling units within the development to be two-bedroom dwelling units;

- (v) The owner shall make satisfactory arrangements with the Executive Director, Engineering and Construction Services to design, financially secure, pay for, construct and make operational any upgrades and improvements to the municipal infrastructure, should it be determined that upgrades and/or improvements are required to the infrastructure to support this development, in accordance with the functional servicing and stormwater management report(s) and the hydrogeology assessment and the geotechnical report, all as accepted by the Executive Director, Engineering and Construction Services;
- (vi) That prior to Final Site Plan approval in connection with the Zoning By-law Amendment for the property at 19 Duncan Street and 219-223 Adelaide Street West:
 - A. The owner shall provide final site plan drawings substantially in accordance with the approved Conservation Plan, to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - B. The owner shall have obtained final approval for the necessary Zoning By-law Amendments, with such Amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council as determined to the satisfaction of the Chief Planner and Executive Director, City Planning and with such by-laws having come into full force and effect;
 - C. The owner shall provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - D. The owner shall provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character as viewed from the public realm to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - E. The owner shall submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - F. The owner shall be financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of

- any above or below-grade public or private utility resulting from the development of this property;
- G. The owner shall submit a Wind Study for the proposed development and thereafter shall implement the necessary mitigation measures, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (vii) That prior to the issuance of any permit for all or any part of the property at 19 Duncan Street including a heritage permit or a building permit but excluding permits for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services:
- A. The owner shall have obtained final approval for the necessary Zoning By-law Amendments required for the subject properties, with such Amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council as determined to the satisfaction of the Chief Planner and Executive Director, City Planning and with such by-laws having come into full force and effect;
- B. The owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary.
- C. The owner shall provide building permit drawings for the specific phase of work for which the permit is being sought, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
- D. The owner shall provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan and the Interpretation Plan, and subsequently, prior to the release of the Letter of Credit to secure the Conservation work,

- a) The owner shall have obtained final site plan approval for the subject property, issued by the Chief Planner and Executive Director, City Planning Division;
 - b) The owner shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work has been completed in accordance with the approved Conservation Plan, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - c) The owner shall provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (e) The Owner shall provide any necessary modifications to the functional servicing and stormwater management report(s), to the satisfaction of the Executive Director, Engineering and Construction Services.
- (f) The Owner shall provide any necessary modifications to the hydrogeology assessment, geotechnical report and associated municipal servicing plans, to the satisfaction of the Executive Director, Engineering and Construction Services.
4. City Staff report to the May 18, 2017 Toronto Preservation Board meeting (the "Heritage Report") with recommendations regarding, among other things, the proposed alterations (the "Alterations") under the *Ontario Heritage Act* as described in the Revised HIA, subject to the requirements and revisions in paragraph 1 above respecting the basement level window openings, and further recommend that the Toronto Preservation Board report directly to City Council for its consideration and action in respect of the recommendations contained in such Heritage Report at the City Council meeting scheduled to commence on May 24, 2017.
5. City Council approve the proposed Alterations as described in the Revised HIA, subject to the requirements and revisions in paragraph 1 above respecting the basement level window openings, at its meeting scheduled to commence on May 24, 2017, subject to conditions related to implementation which, among other things:
- (a) permit Westbank/Allied to proceed with the Alterations based on the submission of Site Plan drawings, satisfactory to the Senior Manager, Heritage Preservation Services, rather than requiring NOAC, or final site plan approval; and
 - (b) permit the submission of building permit drawings for the subject phase of work, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, to be prepared by the project architect and a qualified heritage consultant, to the satisfaction of the Senior Manager, Heritage Preservation Services, rather than full building permit drawings.

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This proposed settlement is conditional on City Council accepting the proposal at its meeting scheduled to commence on May 24, 2017, including the conditional approval of the proposed alterations under the *Ontario Heritage Act* referred to in Item No. 3 above and as further detailed above and in Appendix "A" hereto.

In support of the settlement, enclosed are the following materials:

1. Ten (10) sets of the following architectural drawings prepared by Hariri Pontarini Architects and dated April 7, 2017:
 - (a) Drawing No. A0.00 – Cover Sheet;
 - (b) Drawing No. A1.01 – Project Statistics;
 - (c) Drawing No. A1.02 – Context Plan + Toronto Green Standards;
 - (d) Drawing No. A1.03 – Site Plan;
 - (e) Drawing No. A1.05 – Survey Drawing;
 - (f) Drawing Nos. A2.02–A2.05 - Underground Parking Levels P1 to P4;
 - (g) Drawing No. A2.06 – Underground Health Club;
 - (h) Drawing No. A3.01 – Ground Floor Plan;
 - (i) Drawing Nos. A3.02 - A3.14 - Level 2 – Level 14; [Note: drawing for Level 10 needs to be revised as described herein, to the satisfaction of the Chief Planner]
 - (j) Drawing No. A3.15 – Typical Residential - Levels 15 to 28 & 30 to 36;
 - (k) Drawing No. A3.29 – Level 29;
 - (l) Drawing No. A3.37 – Typical Residential - Levels 37 & 38;
 - (m) Drawing No. A3.39 – Typical Residential - Levels 39 to 41;
 - (n) Drawing No. A3.42 – Typical Residential - Levels 42 to 54;
 - (o) Drawing No. A3.55 – Level 55;
 - (p) Drawing No. A3.56 – Level 56;
 - (q) Drawing No. A3.57 – Level 57;
 - (r) Drawing No. A3.58 – Outdoor Amenity;
 - (s) Drawing No. A3.59 – Roof Plan; [Note: drawing needs to be amended based on elevator overruns and emergency stair projection as described herein to the satisfaction of the Chief Planner]

- (t) Drawing No. A5.01 – North & West Elevations; [Note: drawing re Level 10 needs to be revised as described herein to the satisfaction of the Chief Planner]
 - (u) Drawing No. A5.02 – South & East Elevations;
 - (v) Drawing No. A5.03 – Section 1 & 2; and
 - (w) Drawing No. A5.04 – Section 3 & 4;
2. Ten (10) sets of the following heritage architectural drawings prepared by ERA Architects Inc. and dated April 7, 2017; [Note: these and any other drawings dealing with the heritage basement window issue need to be revised as described herein to the satisfaction of the Senior Manager, HPS]
- (a) North Elevation Heritage Façade – Northeast Residential Entrance;
 - (b) North Elevation Heritage Façade;
 - (c) West Elevation Heritage Façade;
 - (d) West Elevation Heritage Façade – Northwest Podium;
 - (e) South Elevation Heritage Façade;
 - (f) South Elevation Heritage Façade – Southwest Podium;
 - (g) East Elevation Heritage Façade – Residential Entrance; and
 - (h) East Enlarged Elevation – Heritage Brick Return;
3. Five (5) sets of the Shadow Impact Analysis package, prepared by Hariri Pontarini Architects and dated April 5, 2017;
4. Three (3) sets of the Heritage Impact Assessment prepared by ERA Architects Inc. and dated April 6, 2017; [Note: to be revised as described herein to the satisfaction of the Senior Manager, Heritage Preservation Services]; and
5. Three (3) sets of the Conservation Plan prepared by ERA Architects Inc. and dated April 7, 2017.

Should you require further information please do not hesitate to contact the undersigned.

Yours truly,

McCarthy Tétrault LLP



Cynthia A. MacDougall

CAM

cc: Ms. Lynda Macdonald, Manager, West Section, Community Planning, Toronto & East York District
Mr. Anthony DeCarli, Westbank Projects Corp.

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