

Authority: Toronto and East York Community Council Item 24.7,
as adopted by City of Toronto Council on June 11, 12 and 13, 2013

CITY OF TORONTO

BY-LAW No. 1074-2013

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 87-107 Davisville Avenue and 108-128 Balliol Street and to repeal former City of Toronto By-law No. 22535.

Whereas Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, with respect to lands known municipally in the year 2013 as 87-107 Davisville Avenue and 108-128 Balliol Street; and

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

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

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, 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; and

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

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

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 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;

The Council of the City of Toronto enacts:

1. None of the provisions of Sections 4(2)(a), 4(4)(b), 4(12), 6(3) PART I (1), 6(3) PART II (2) to (5) and 6(3) PART III (1)(b) of Zoning By-law No. 438-86, of the former City of Toronto, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of 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", shall apply to prevent the erection or use of an *apartment building* on each of *Lot A* and *Lot B*, subject to the following:

- (a) the *lot* consists of those lands delineated by heavy lines as *Lot A* and *Lot B* on the Map 1 attached to and forming part of this By-law;
- (b) the total *residential gross floor area* erected or used on the *lot* shall not exceed the following:
 - (i) 11,500 square metres on *Lot A*; and
 - (ii) 21,400 square metres on *Lot B*;
- (c) the maximum number of *dwelling units* does not exceed the following:
 - (i) 180 *dwelling units* on *Lot A*; and
 - (ii) 342 *dwelling units* on *Lot B*;
- (d) no part of any building or structure on the *lot* erected or used above finished ground level is located other than wholly within the areas delineated by heavy lines shown on Maps 2a and 2b attached to and forming part of this By-law;
- (e) no part of any building or structure on the lot erected or used above finished ground level shall exceed the height limits shown in metres and specified by the numbers following the letter "H" in the areas delineated on Maps 2a and 2b attached to and forming part of this By-law;
- (f) nothing in Sections 1(d) and 1(e) above of this by-law shall prevent the following elements from projecting within the *lot* beyond the heavy lines and above height limits shown on Maps 2a and 2b:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend to a maximum of 1.0 metre beyond the heavy lines shown on Maps 2a and 2b;
 - (ii) balconies may extend a maximum of 2.0 metres beyond the heavy lines shown on Maps 2a and 2b as measured perpendicular to the exterior walls of the building;
- (g) the *height* of any building or structure, or portion thereof, including mechanical and elevator/stair overrun, shall not exceed those heights as indicated by the numbers following the symbol H on Maps 2a and 2b, with the exception of the following:
 - (i) the maximum *height* for parapets, terrace guards and dividers, planters, railings, decorative screens and window washing equipment shall be the sum of 1.5 metres and the applicable height limit shown on Maps 2a and 2b.

- (h) *parking spaces* shall be provided and maintained on *Lot A* and on *Lot B* in accordance with the following minimum requirements:
 - (i) 0.27 parking space(s) for each bachelor dwelling unit;
 - (ii) 0.44 parking space(s) for each 1 bedroom dwelling unit;
 - (iii) 0.60 parking space(s) for each 2 bedroom dwelling unit;
 - (iv) 1.0 parking space(s) for each 3 or more bedroom dwelling unit;
 - (v) 0.10 parking space(s) for each dwelling unit for visitors to the buildings;
 - (i) *residential amenity space* for the dwelling units shall be provided and maintained on the *lot(s)* in accordance with Section 4(12) of By-law No. 438-86 of the former City of Toronto, as amended, with the exception that:
 - (i) on *Lot A*, a minimum of 370 square metres of indoor *residential amenity space* shall be provided; and
 - (ii) on *Lot B*, a minimum of 668 square metres of indoor *residential amenity space* shall be provided;
 - (j) no outdoor *residential amenity space* shall be required on *Lot A* or *Lot B*; and
 - (k) *landscaped open space* shall be provided and maintained on the *lot(s)* as follows:
 - (i) on *Lot A*, a minimum of 760 square metres (34.4% of the *lot*); and
 - (ii) on *Lot B*, a minimum of 850 square metres (38.4% of the *lot*).
2. 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 *Lot A* and *Lot B* contemplated herein is permitted in return for the *owner's* election to provide, at the *owner's* expense, 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* that are in a form satisfactory to the City Solicitor and registered on title to *Lot A* and *Lot B*.
3. 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.
4. 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.
5. By-law No. 22535 of the former City of Toronto is repealed with respect to 87-107 Davisville Avenue and 108-128 Balliol Street.

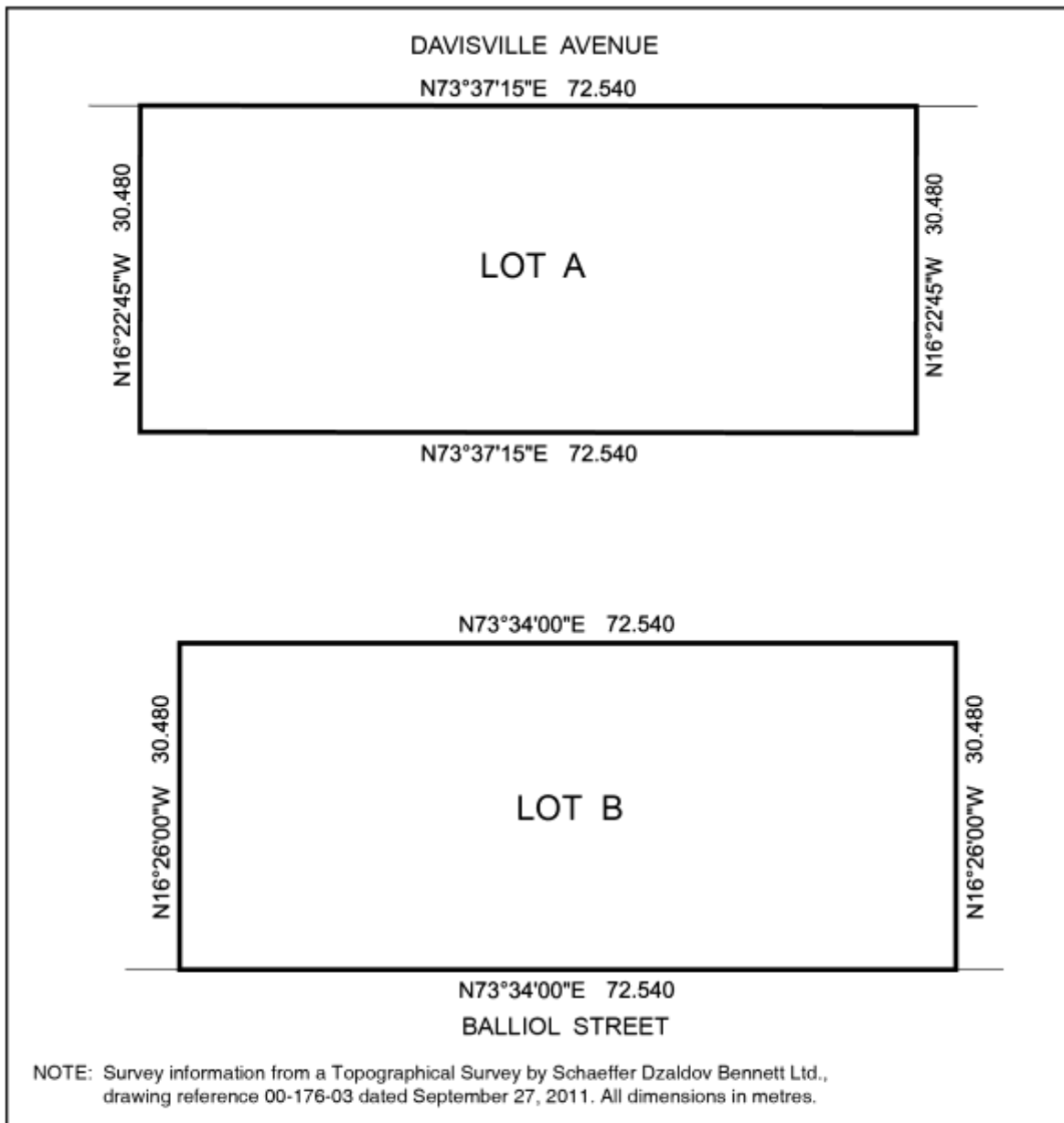
6. Section 13 of By-law No. 438-86 of the former City of Toronto is amended by deleting the entry for "By-law No. 22535" and replacing it with the following:
- "By-law No. 22535 respecting 31 to 41, 71 to 85, 109 to 125 and 157 to 231 Davisville Avenue and 52 to 106, 130 to 166 and 204 to 302 Balliol Street."
7. Except as otherwise provided herein, the provisions of By-law No. 438-86 of the former City of Toronto, as amended, shall continue to apply to *Lot A* and *Lot B* as shown on Map 1 attached to this By-law.
8. The *owner* of *Lot A* and *Lot B* shall ensure that all water mains, sanitary and storm sewer and appropriate appurtenances required for the development of *Lot A* and *Lot B* have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below grade building permit.
9. Despite any existing or future consent, partition or division of *Lot A* and/or *Lot B*, the provisions of this By-law shall apply to the whole of *Lot A* and/or *Lot B* as if no consent, partition or division had occurred.
10. Definitions
- For the purposes of this By-law, all italicized words and expressions shall have the same meaning as such terms have for the purposes of By-law No. 438-86 of the former City of Toronto, as amended, except for the following:
- (a) "*Lot A*" means the lands outlined with heavy lines and indicated as "*Lot A*" on Map 1;
 - (b) "*Lot B*" means the lands outlined with heavy lines and indicated as "*Lot B*" on Map 1;
 - (c) "*grade*" means 155.5 metres Canadian Geodetic Datum for *Lot A* and 155.1 metres Canadian Geodetic Datum for *Lot B*;
 - (d) "*height*" means the vertical distance between *grades* as defined in this By-law and the highest point of the roof except for those elements prescribed in this By-law.

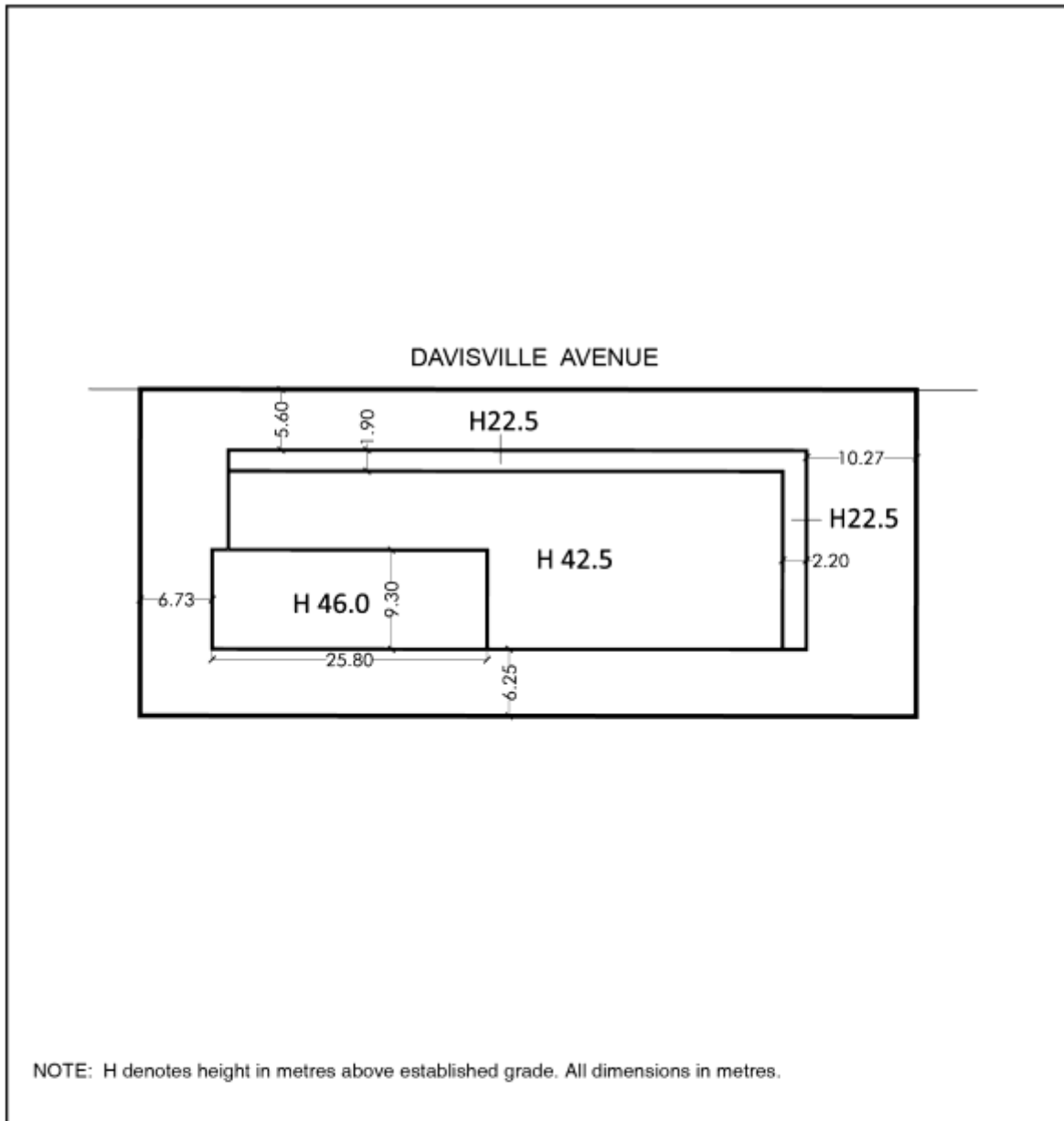
Enacted and passed on July 19, 2013.

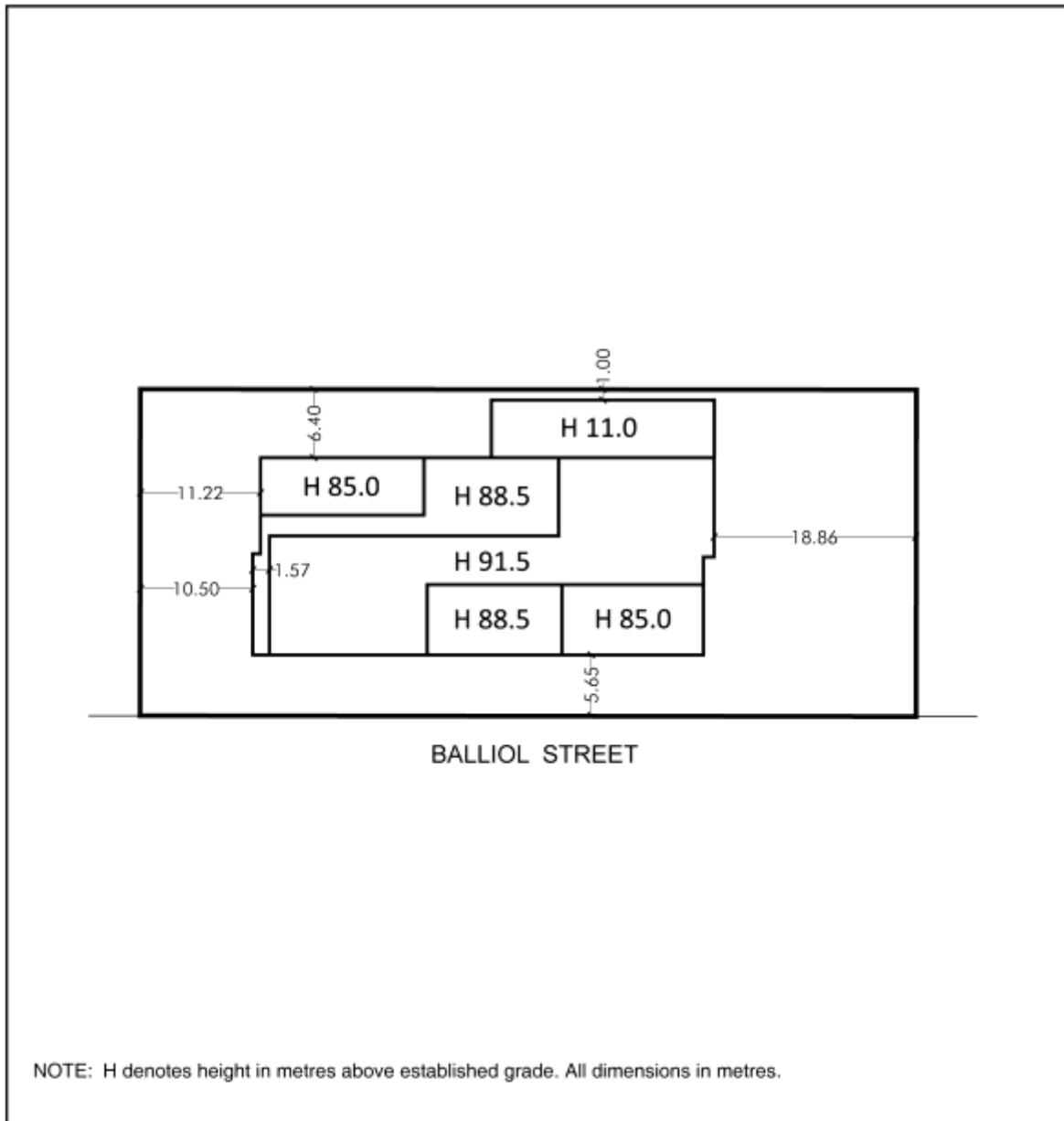
Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)







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) prior to issuance of a foundation permit the *owner* shall:
 - (a) provide the City with a cash payment by way of certified cheque payable to the Treasurer, City of Toronto, in the amount of \$150,000.00 to be applied towards the "Dirt to Turf Fund" to upgrade the playing field at Maurice Cody Public School, such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of enactment of this By-law to the date of payment;
- (2) prior to issuance of an above grade building permit for the proposed developments on either *Lot A* or *Lot B*, other than a building permit for a temporary sales office/pavilion, the *owner* shall:
 - (a) provide the City with a cash payment by way of certified cheque payable to the Treasurer, City of Toronto, in the amount of \$250,000.00 to be applied to local area park or streetscape projects or other community benefits within the local community, such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of enactment of this By-law to the date of payment;
 - (b) provide the City with an irrevocable Letter of Credit in the amount of \$100,000.00 for sidewalk widening design and construction within the public right-of-way on the south side of Davisville Avenue in front of the properties municipally known as 77 and 111 Davisville Avenue;
 - (c) provide the City with an irrevocable Letter of Credit in the amount of \$250,000.00 for the design and construction of a landscaped and lit walkway connection between Davisville Avenue and Balliol Street;
 - (d) shall enter into an agreement with the City and any other land owner or lessee of adjacent lands containing portions of the walkway wherein the owner and adjacent interests shall grant to the City an easement, licence or right to use (as applicable) the portions of the walkway connection outlined in Section (2)(c) above that are owned or leased by them for a period of not less than 19 years for nominal consideration, to the satisfaction of the City Solicitor;
- (3) the *owner* shall provide and maintain the following:
 - (a) a sidewalk widening with design and construction to be done by the *owner* within the public right-of-way on the south side of Davisville Avenue in front of the

properties municipally known as 77 and 111 Davisville Avenue. If this project is not built, all of the \$100,000.00 secured in Section (2)(b) above shall be contributed to the funds outlined in Section (2)(a) above. If this project is constructed for less than \$100,000.00, the remainder shall be contributed to the funds outlined in Section (2)(a) above;

- (b) a landscaped and lit walkway connection with design and construction to be done by the *owner* between Davisville Avenue and Balliol Street. If this project is not built, all of the \$250,000.00 shall be contributed to the funds outlined in Section (2)(a) above. If this project is constructed for less than \$250,000.00, the remainder shall be contributed to the funds outlined in Section (2)(a) above;
- (c) all of the *dwelling units* in the building to be constructed on *Lot A* including all associated common areas shall be secured as rental housing, of which at least 50% plus 1 of the rental dwelling units shall be provided as mid-range rental dwelling units, subject to the following:
 - (i) the new rental dwelling units and all associated common areas shall be maintained as rental housing for at least 20 years, beginning with the date that the units are available for occupancy;
 - (ii) no portion of the building shall be registered as condominium or any other form of ownership such as life lease or co-ownerships which provide a right to exclusive possession of a unit, and no application for conversion for non-rental housing purposes, or application to demolish any portion of the building without replacement, can be made for at least 20 years from the date the units are first occupied;
 - (iii) the owner shall provide and maintain mid-range rents charged to the tenants who rent the mid-range rental units during the first five years of occupancy, such that the initial rent for such units shall not exceed an amount equal to 1.5 times the average rent by unit type for the City of Toronto as reported by the most recent Canada Mortgage and Housing Corporation annual Rental Market Report;
 - (iv) the unit mix for the mid-range rental units shall include at least 5 two-bedroom units and at least 80 units shall be one-bedroom or bachelors, provided that no more than 6 bachelor units shall be included;
 - (v) increases in the initial rents charged to tenants occupying any of the mid-range rental units after the first year of occupancy shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, and upon turnover, rents charged to new tenants of such units during the first five years of occupancy shall not exceed the greater of the most recently charged rent or an amount not exceeding 1.5 times the average market rent by unit type as reported by the most recent Canada Mortgage and Housing Corporation annual Rental Market Report;

- (vi) rents charged to tenants occupying any of the mid-range rental units at the end of the first five years of occupancy 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 rental dwelling unit, until the tenth anniversary of their tenancy at which time there shall be a phase-in-period of at least 3 years for rent increases to unrestricted market rent;
 - (vii) rents charged to tenants newly occupying one of the mid-range rental units after the first five years of such unit's occupancy will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement; and
 - (viii) the owner shall provide relocation assistance for the tenants of the 21 rental townhouses to be demolished, to include at least an extended notice period, assistance with locating alternative accommodation and additional financial assistance beyond provincial legislative requirements as required under the Tenant Relocation and Assistance Plan, to the satisfaction of the Chief Planner and Executive Director of the City Planning Division.
- (4) the *owner* shall provide the following to support the development of *Lot A* and *Lot B*:
- (a) construction and payment for any improvements to the municipal infrastructure, as applicable, in connection with the Functional Servicing Report submitted for the proposed development and as accepted by the Director of Technical Services should it be determined that improvements to such infrastructure is required; and
 - (b) draft and implement a Construction Mitigation Plan and Resident Communication Strategy prior to the issuance of the first permit (demolition and excavation), to the satisfaction of the Chief Planner and Executive Director of the City Planning Division.