

Authority: Toronto and East York Community Council Item 10.6, as adopted by City of Toronto Council on October 24 and 25, 2011 and MM48.20, moved by Councillor McConnell, seconded by Councillor Wong-Tam, as adopted by City of Toronto Council on February 19 and 20, 2014

CITY OF TORONTO

BY-LAW No. 133-2014

To amend former City of Toronto By-law No. 438-86, as amended, with respect to the lands municipally known as 545, 555 and 565 Sherbourne Street, and to repeal By-law Nos. 258-71, 693-80 and 1994-0612 of the former City of Toronto, and to repeal By-law No. 1044-2006.

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

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

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

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

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

Whereas the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the "City"); and

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

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law including the provision by the *owner* the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.

2. Upon registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services or matters set out in Appendix 1 hereof, the *lot* is subject to the provision of this By-law, provided that in the event the said agreement(s) require the provision of a facility, service or matter or the payment of any monetary contribution as a precondition to the issuance of a building permit, the owner may not erect or use such building until the owner has satisfied the said requirements.
3. The *owner* of the *lot* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *lot* 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.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of Sections 2(1) with respect to the definition of, *landscaped open space*, 4(2)(a), 4(5), 4(8), 4(12), 4(13)(a) and (c), 4(16), 6(1)(f)(b), 6(2)(8), 6(3) PART I (1), 6(3) PART II (2) to (5), 6(3) PART III (1) and (2), 12(1)232, 12(2)132, and 12(2)260 of Zoning By-law No. 438-86, of the former City of Toronto, 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", as amended, shall apply to prevent the erection or use of an *apartment building* on the *lot*, subject to the following:
 - (a) the *lot* shall comprise the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) in addition to the uses permitted in Section 6(1)(f) of By-law No. 438-86, permitted uses shall also include one or more of the uses listed in Sections 8(1)(f)(b)(i), (ii), (iii), (iv), (v), (vi), (viii) and (ix) of By-law No. 438-86;
 - (c) a *commercial parking garage* shall be a permitted use, subject to Section 5(1)(iii) of this By-law;
 - (d) the total of the *residential gross floor area* and the *non-residential gross floor area* shall not exceed 114,950 square metres;
 - (e) the total *residential gross floor area* shall not exceed 109,720 square metres;
 - (f) the total *non-residential gross floor area* shall not exceed 5,250 square metres;
 - (g) no portion of the building or structure erected or used above grade shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
 - (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 metres beyond the heavy lines shown on Map 2;

- (ii) balconies may extend a maximum of 1.5 metres beyond the heavy lines shown on Map 2 as measured perpendicular to the exterior walls of the building;
- (h) 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 the attached Map 2, 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 1.0 metres and the applicable height limit shown on Map 2;
- (i) a minimum of 4,048 square metres of *landscaped open space* shall be provided on the *lot*;
- (j) indoor *residential amenity space* shall be provided on the *lot* as follows:
 - (i) Building A on the attached Map 2- a minimum of 200 square metres;
 - (ii) Building B on the attached Map 2 - a minimum of 250 square metres;
 - (iii) Building C on the attached Map 2 - a minimum of 223 square metres; and
 - (iv) Building D on the attached Map 2 - a minimum of 2 square metres per residential unit;
- (k) a minimum of 3,280 square metres of outdoor *residential amenity space* shall be provided on the *lot*;
- (l) a minimum of 924 *parking spaces* shall be provided below grade on the *lot*, subject to the following:
 - (i) a minimum of 440 *parking spaces* shall be provided on Levels P1, P2 and P3 for residents;
 - (ii) a minimum of 166 *parking spaces* shall be provided on Level P1 to serve residential visitors and the commercial uses on the *lot*;
 - (iii) a maximum of 318 *parking spaces* on Level P3 may be used as a *commercial parking garage*;

- (m) no more than the following number of parking spaces as provided per Condition (l) of this by-law shall be obstructed on the side of a parking space with any part of a fixed object such as, but not limited to, a wall, column, bollard, fence or pipe:
 - (i) 62 on Levels P1 and P2 may be obstructed; and
 - (ii) 73 on Level P3 may be obstructed;
 - (n) a minimum of 440 *bicycle parking spaces* shall be provided on the *lot* as follows:
 - (i) Building A, B and C - a minimum of 194 *bicycle parking spaces*; and
 - (ii) Building D - a minimum of 246 *bicycle parking spaces*;
 - (o) a minimum of 102 visitor *bicycle parking spaces* shall be provided on the *lot* as follows:
 - (i) a minimum of 40 visitor *bicycle parking spaces* at *grade*; and
 - (ii) a minimum of 62 visitor *bicycle parking spaces* on Level P1;
 - (p) *loading spaces* shall be provided on the *lot* as follows:
 - (i) a minimum of one *loading space* - type "A";
 - (ii) a minimum of four *loading spaces* - type "B";
 - (iii) a minimum of two *loading spaces* - type "G".
6. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:
- (a) "*grade*" means 114.79 metres Canadian Geodetic Datum;
 - (b) "*height*" means the vertical distance between *grade* as defined in this By-law and the highest point of the roof except for those elements prescribed in this By-law;
 - (c) "*landscaped open space*" means open, unobstructed space, at grade, on a lot that is suitable for the growth and maintenance of grass, flowers, bushes and other landscaping which is a *public park*;
 - (d) "*lot*" means those lands outlined in Map 1 attached hereto.
7. Despite any existing or future consent, partition or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no consent, partition or division had occurred.

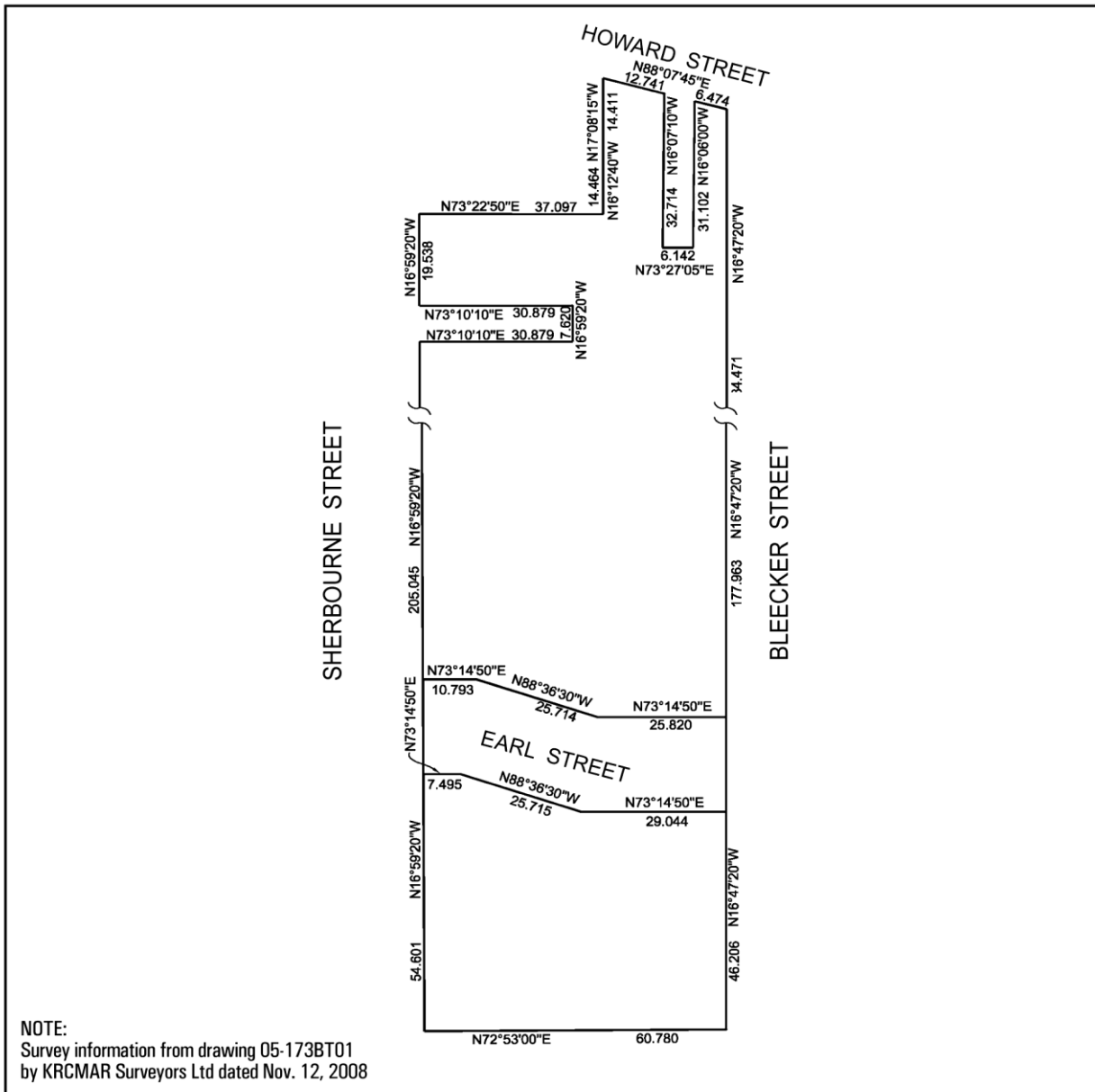
8. Section 15 of By-law No. 438-86 is amended with respect to the entry for 555 SHERBOURNE STREET by deleting the references to By-law Nos. 258-85 and 94-0727 of the former City of Toronto.
9. By-law Nos. 258-71, 693-80 and 1994-0612 of the former City of Toronto and By-law No. 1044-2006 are repealed.

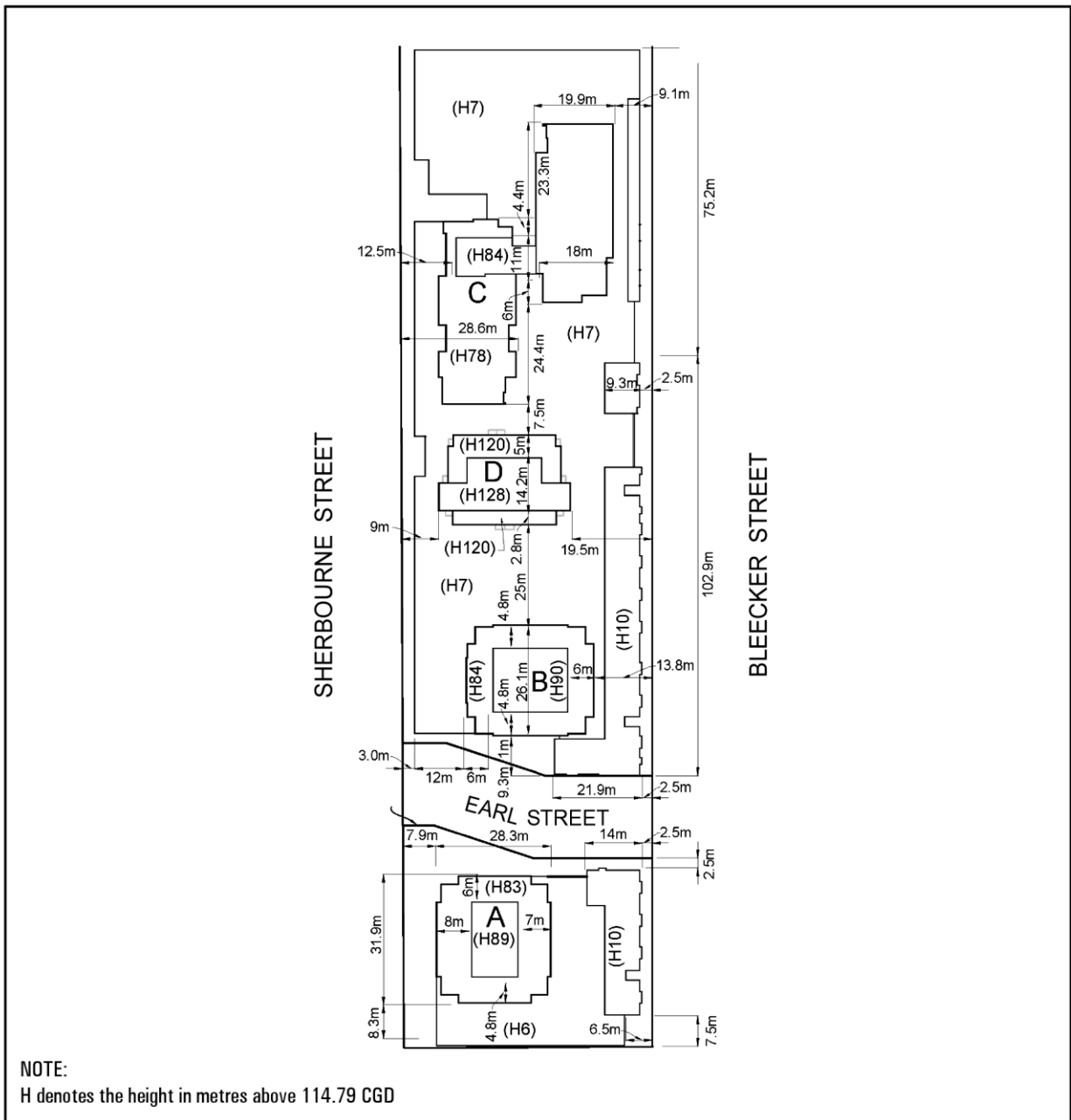
Enacted and passed on February 20, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





Appendix 1

The facilities, services and matters set out herein are the matters required to be provided by the owner of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City, with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- (1) the owner shall pay to the City a financial contribution of \$1,000,000 of which \$100,000 will be payable prior to the introduction of the Bills in City Council, and the remaining \$900,000 will be payable prior to the issuance of the first above-grade building permit for the development. Such payment shall be indexed to the non-residential Construction Price Index for Toronto for the period from the date of Council enactment of this by-law and the date of payment, and is to be paid as follows:
 - i. \$900,000 for the construction of a community pool at the Wellesley Community Centre and;
 - ii. \$100,000 for streetscape improvements on Bleecker Street or other public realm improvements as part of the future Community Improvement Plan for the St. James Town neighbourhood.
- (2) In lieu of a 1% Public Art contribution, provide an extension of the current lease with Art City in St. James Town, or other appropriate on-site space that is affordable, at a below-market rent rate of \$1,000.00 per month plus applicable HST, for a period of 20 years effective March 1, 2012 and with the ability to expand the premises in order to accommodate the increasing enrolment of children and youth in the future at a comparable below-market rental rate. If Art City and the Owner are unable to come to an agreement, the Owner agrees that it will make a contribution equal to one percent (1%) of the Gross Construction Costs of the Development to the City in accordance with the Public Art program to the satisfaction of the Chief Planner.
- (3) the owner shall maintain the 1,107 existing rental *dwelling units* in 545, 555 and 565 Sherbourne Street following the proposed demolition as rental housing for a minimum period of twenty (20) years commencing from the date of enactment of this by-law, and that no application will be made for a demolition permit or for purposes of condominium registration pursuant to the Condominium Act for these units during the 20 year period.
- (4) the owner shall provide and maintain not less than 11 new replacement rental *dwelling units* in the new residential tower *on the lot*, all of which are affordable rental *dwelling units* with rents no higher than the affordable rents, which units shall generally be of the same type and size as in the units proposed to be demolished and existing on the *lot* at the date of enactment of this by-law, to the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, subject to the following:

- (a) the 11 replacement rental dwelling, subject to modifications satisfactory to the Chief Planner, units shall comprise;
- 7 one-bedroom units (consisting of 44.59 square metres);
 - 3 two-bedroom units (consisting of a 65.31 square metres unit and 2 units at 56.30 square metres unit); and
 - 1 three-bedroom unit (of 83.24 square metres);
- and such units will continue to be provided access to the existing locker space allocated to the units to be demolished.
- (b) the 11 replacement rental *dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that each unit is occupied and until the owner obtains approval for a zoning by-law amendment removing the requirement for the replacement rental units to be maintained as rental units.
- (5) the *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the 11 designated affordable replacement rental *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, upon turn-over, the rent charged to any new tenant shall not exceed the greater of the most recently charged rent or the most recent Fall Update 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.
- (6) rents charged to tenants occupying a replacement rental *dwelling unit* at the end of the 10-year period set forth in (5) shall be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their *dwelling unit* or until the expiry of the rental tenure period set forth in (4(b)) with a phase-in period of a least three years for rent increases.
- (7) rents charged to tenants newly occupying a replacement rental dwelling unit after the completion of the 10-year period set forth in (4) will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.
- (8) the owner shall provide and implement the Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division, that requires the owner to provide for each tenant in the 10 units to be demolished consistent with City terms and practices which include extended notice to vacate for demolition, a moving allowance and alternative accommodation in the existing building, in addition to additional compensation for eligible tenants including the right to return to the same type and size of units at similar rents in the new residential tower with a return moving allowance.
- (9) prior to first occupancy of any *dwelling unit* in the new residential tower, the owner shall, at its sole expense and without pass through costs in rents to tenants in the existing

buildings, complete the following improvements to the buildings at 545, 555 and 565 Sherbourne Street to the satisfaction of the Chief Planner:

- a) improved security for all existing buildings including access entry system throughout the complex for tenants and additional security cameras including underground garage and low pedestrian traffic areas;
 - b) better access to podium landscaped space for tenants only; existing podium to be modernized and benefit from secured access, additional landscaping, seating and barbeque area for residents;
 - c) amenity rooms on P1 level of 545 and 555 Sherbourne to be programmed for residential usage with fitness room and multi-purpose room (kitchenettes to be provided). Approximately 200 square metres in each;
 - d) amenity rooms on P1 level of 565 Sherbourne Street to be programmed for residential usage with fitness room and multi-purpose room (kitchenettes to be provided). Approximately 140 square metres;
 - e) new amenity space in 555 Sherbourne of approximately 50 square metres to be programmed as a resident lounge and have direct access to the podium level for the exclusive use of tenants; and
 - f) secured podium access to podium landscaped space from south entrance on 545 Sherbourne Street.
- (10) the incorporation of no less than seventy-three (73) three-*bedroom* units in Building D on the attached Map 2 and townhouse units on the *lot*.
- (11) that no above grade building permit for Building D on attached Map 2 will be issued prior to the demolition of the podium over Earl Street.
- (12) the *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in 2011 as 545, 555 and 565 Sherbourne Street one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix.
- (13) maintains all the existing registered agreement on title to the lot with the City, pursuant to Section 37 of the *Planning Act*, which secured the following facilities, services and matters:
- (a) an art mural on the north façade of the ground floor retail building or provide and maintain exterior design, materials, and landscaping for the north façade and the roof of the portion of the building known municipally, in the year 2011 as 565 Sherbourne Street; and

- (b) construct improvements to St. James Town West Park to the satisfaction of the General Manager of Parks, Forestry and Recreation; and
- (c) provide a lease, which expires February 29, 2012 for Art City in St. James Town, or other non-profit arts organization, for 120 square metres of at-grade space within the property municipally known as 545 Sherbourne Street, at a monthly rate of \$1000 plus applicable Goods and Services Tax, to the satisfaction of the General Manager of Economic Development, Culture and Tourism, upon expiration, to be replace with requirements of Condition (2) in Appendix 1.