

Authority: Ontario Municipal Board Order/Decision issued on February 19, 2014 and November 28, 2014 in Board Case No. PL121139

CITY OF TORONTO

BY-LAW No. 107-2015(OMB)

To amend former City of Toronto Zoning By-law No. 438-86 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 November 28, 2014 in relation to Board Case No. PL121139, determined to amend Zoning By-law No. 438-86 of the former City of Toronto; 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;

By-law No. 438-86, 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* 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 1.57 metres 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:

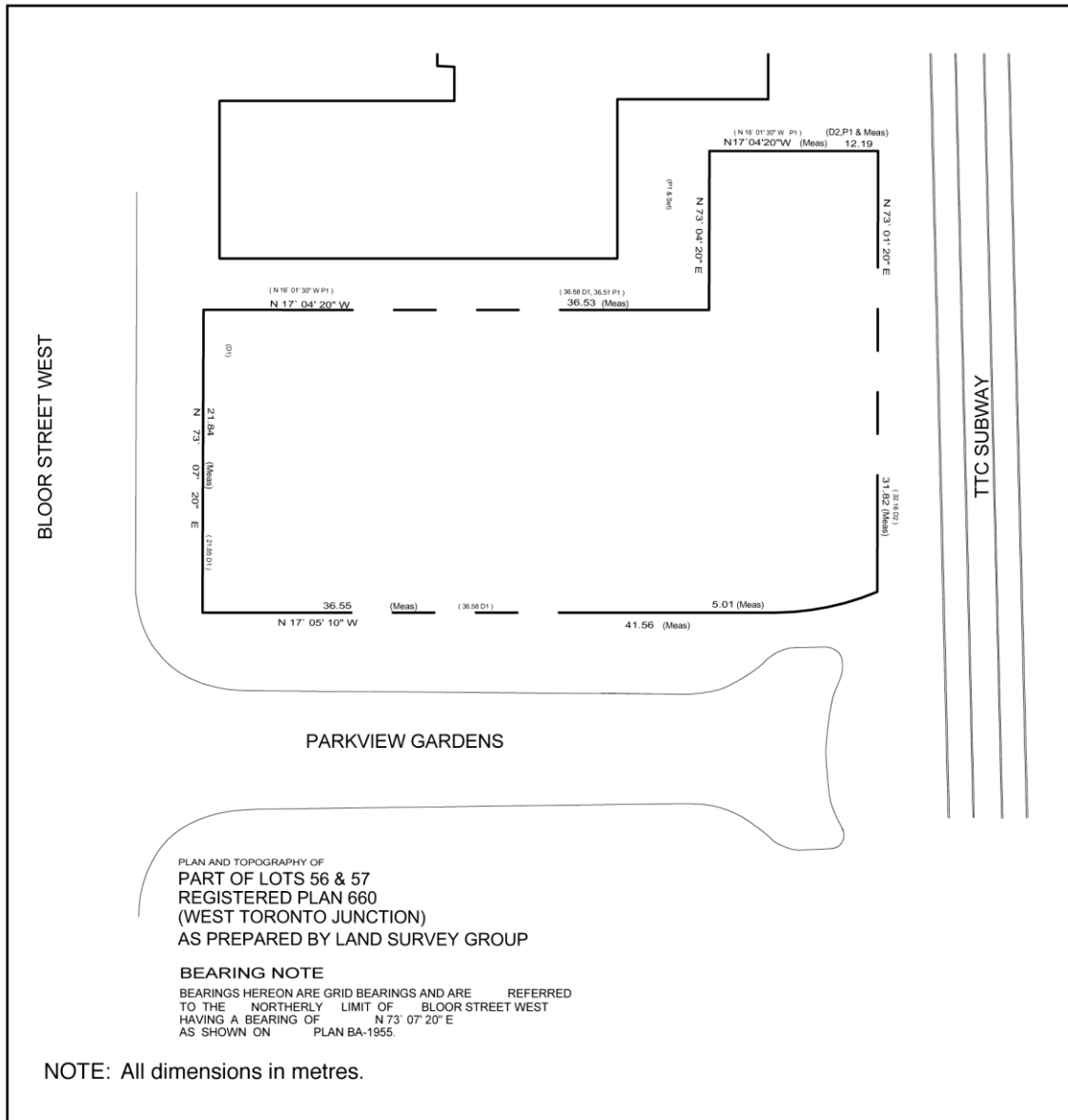
- (1) no part of such structures is higher than the sum of 3.0 metres and the *height* limits specified on Map 2; and
 - (2) the structures do not enclose space so as to constitute a form of penthouse.
- (ii) in no case shall any part of a building or structure erected or used on the *lot* exceed a height 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:
 - (i) be located only on the ground floor;
 - (ii) not exceed a total of 335 square metres; and
 - (iii) 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.

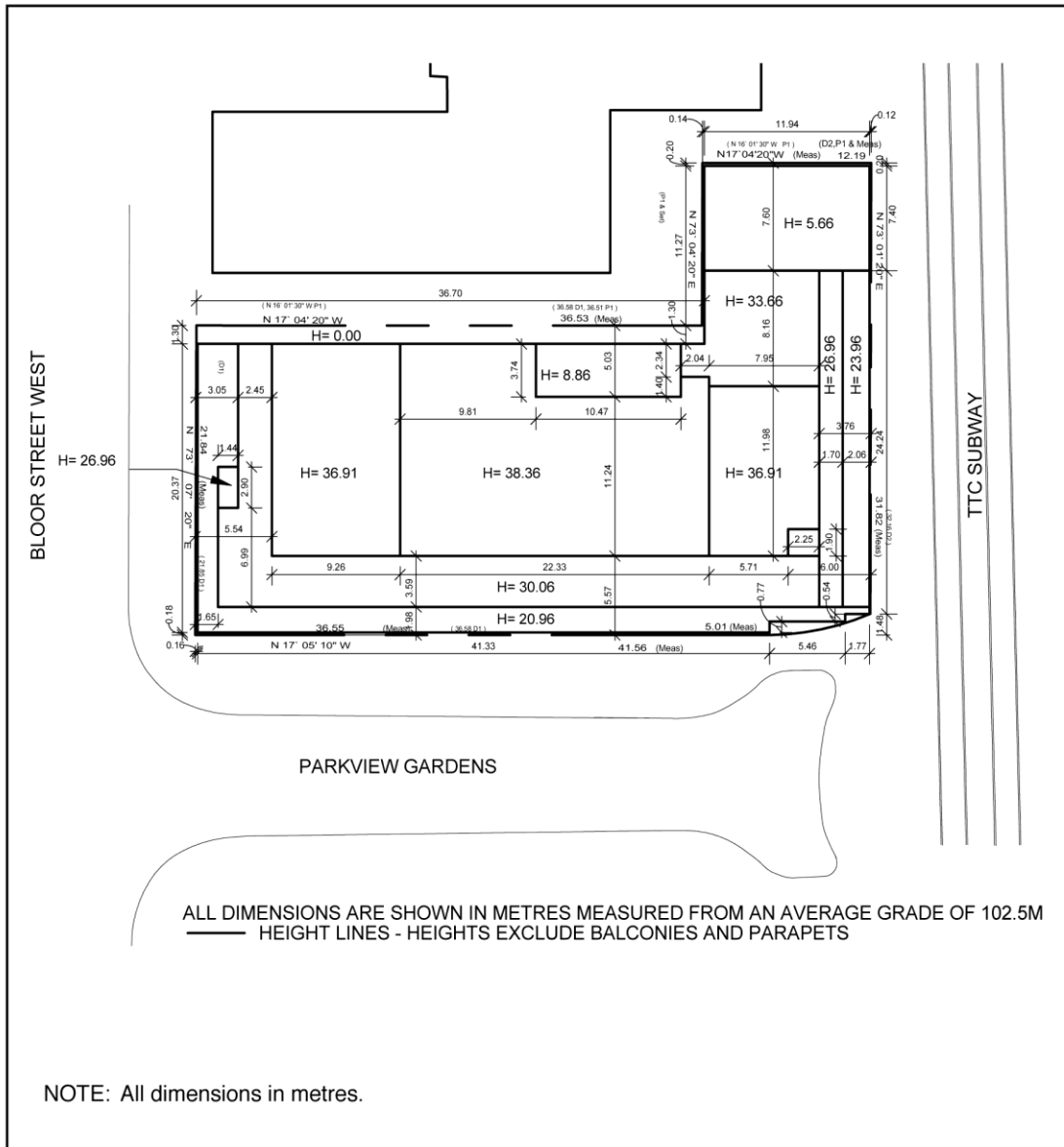
- (k) the minimum number of *parking spaces* shall be:
- Residential Dwelling Unit Parking
 0.6 *parking space* for each *bachelor dwelling unit*;
 0.7 *parking space* for each *one-bedroom dwelling unit*;
 0.9 *parking space* for each *two bedroom dwelling unit*;
 1.0 *parking space* for each *three 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:
- (a) "*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";

- (b) "*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;
 - (c) "*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;
 - (d) "*grade*" means an elevation of 102.5 metres Canadian Geodetic Datum;
 - (e) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
 - (f) "*lot*" means the lands outlined by heavy lines on Map 1 attached to this By-law;
 - (g) "*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 metres, 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 No. 438-86*;
 - (h) "*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;
 - (i) 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 No. 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 NOVEMBER 28, 2014 IN BOARD FILE NO. PL121139.





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 square metres, subject to the following:
 - a. The nineteen (19) one bedroom units shall be not less than 43.5 square metres, of which at least 5 shall be at least 46.4 square metres; 10 shall be at least 50.9 square metres; and 2 shall be at least 55.1 square metres. 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 square metres;
 - iii. The 24 *rental replacement dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that 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:
 - (i) 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;
 - (ii) 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;
 - (iii) 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

(iv) Rents charged to tenants newly occupying a *rental replacement dwelling unit* after the completion of the 10 year period set forth in subsections (i) and (ii) will not be subject to restrictions by the City of Toronto under the terms of subsections (i) and (ii).

vi. A minimum of 3 *parking spaces* shall be made available for the use of the *rental replacement dwelling units*, and shall not be in the form of *car share parking spaces* or *parking stackers*

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 meet or exceed Tier 1 of the Toronto Green Standard.