

Authority: Local Planning Appeal Tribunal Decision issued on October 5, 2018 and Local Planning Appeal Tribunal Order issued on May 27, 2019 in File 170328

CITY OF TORONTO

BY-LAW 1621-2019(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally in 2019 as 89, 97 and 99 Church Street.

Whereas the Owner of the lands known municipally in the year 2019 as 89, 97 and 99 Church Street appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Local Planning Appeal Tribunal, by its Decision issued on October 5, 2018 and its Order issued on May 27, 2019, in File. PL170328 approved amendments to the City of Toronto Zoning By-law 438-86, as amended, with respect to the lands; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Section 37 of the Planning Act as a mechanism to secure capital facilities required to support 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 and 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 matters 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, the 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 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 lands and the City of Toronto;

By-law 438-86, of the former City of Toronto, as amended, is further amended by the Local Planning Appeal Tribunal Orders as follows:

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 and in return for the provision by the owner of the lot of the following facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act.

2. Upon execution and 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 and matters set out in Appendix 1 hereof, the lot is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter 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. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
4. None of the provisions of Section 2(1) *bicycle parking space – occupant, bicycle parking space – visitor, height, grade, lot, non-residential gross floor area, residential gross floor area*, 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 8(3) Part I 1, 2 and 3, 8(3) Part II, 8(3) Part III, 12(1)334, 12(1)335, 12(2)259, 12(2)260 and 12(2)380 of By-law 438-86 of the former City of Toronto, as amended, shall apply to prevent the erection or use of a *mixed-use building* which may contain *dwelling units* and non-residential uses, including uses *accessory* thereto, on the *lot* provided that:
 - (a) the *lot* comprises the lands delineated by dashed lines on Map 1 attached to and forming part of this By-law;
 - (b) the *height* of a building or structure on the *lot* is the distance between *grade* and the elevation of the highest point of the building or structure;
 - (c) the *height* of any building or structure or portion thereof, including a mechanical penthouse, must not exceed the height in metres specified by the numbers following HT as shown on Map 2 attached to and forming part of this By-law;
 - (d) notwithstanding 4(c) above:
 - (i) Lightning rods may project above the height limits shown as 149.5 metres on Map 2;
 - (ii) Elements of outdoor *residential amenity space*, landscape features, elements of a *green roof*, roofing materials including elements of exterior flooring and parapets may project above the height limits shown on Map 2 by no more than 2.0 metres;
 - (iii) Guardrails and safety railings may project above the height limits shown on Map 2 by no more than 2.1 metres;
 - (iv) Bollards, fences, mechanical screening, terrace lighting, privacy screens, acoustical screens and wind mitigation screens may project above the height limits shown on Map 2 by no more than 3.0 metres;
 - (v) Vents, stacks, mechanical elements, heating/cooling towers, stair enclosures, lighting fixtures, elevator overrun and window washing

equipment may project above the height limits shown on Map 2 by no more than 5.0 metres; and

- (vi) Notwithstanding 4(d)(ii), (iii), (iv) and (v) above, in the area with a height limit of 140.5 metres on Map 2, the only projections permitted within a distance of 12.5 metres from the east property line abutting 70 Lombard Street are:
 - A. guardrails or safety railings that are generally transparent or translucent, elements of a *green roof*, roofing materials including elements of exterior flooring, and parapets provided they project no more than 1.1 metres above the height limit of 140.5 metres on Map 2;
- (e) the required building setbacks must be provided as shown on Map 2 attached to and forming part of this By-law except that:
 - (i) On the south façade, balconies are permitted to project no more than 1.5 metres into the building setbacks, below a Canadian Geodetic Datum elevation of 167.9 metres;
 - (ii) On the east façade, balconies are not permitted to project into the building setbacks;
 - (iii) On the west façade, balconies are permitted to project no more than 1.5 metres into the building setbacks, above a Canadian Geodetic Datum elevation of 119.9 metres;
 - (iv) Notwithstanding 4(e)(i) and (ii), on the south and east facades, Juliette balconies may project no more than 0.3 metres into the required building setbacks;
 - (v) Architectural design features, cladding, wind mitigation features, canopies, awnings, building cornices, window washing equipment, , lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, railings, stairs, stair enclosures, air intakes and vents, ventilating equipment, landscape and *green roof* elements, partitions, dividers, outdoor recreation or amenity areas, privacy screens, acoustical walls, wind mitigation elements, chimney stack, exhaust flues, and projecting exterior walls that do not enclose spaces may project no more than 1.5 metres into the building setbacks; and
 - (vi) For clarity, no balconies are permitted to project into the required building setbacks on the north façade;
- (f) the *residential gross floor area* within the *mixed use building* shall not exceed 29,250 square metres;

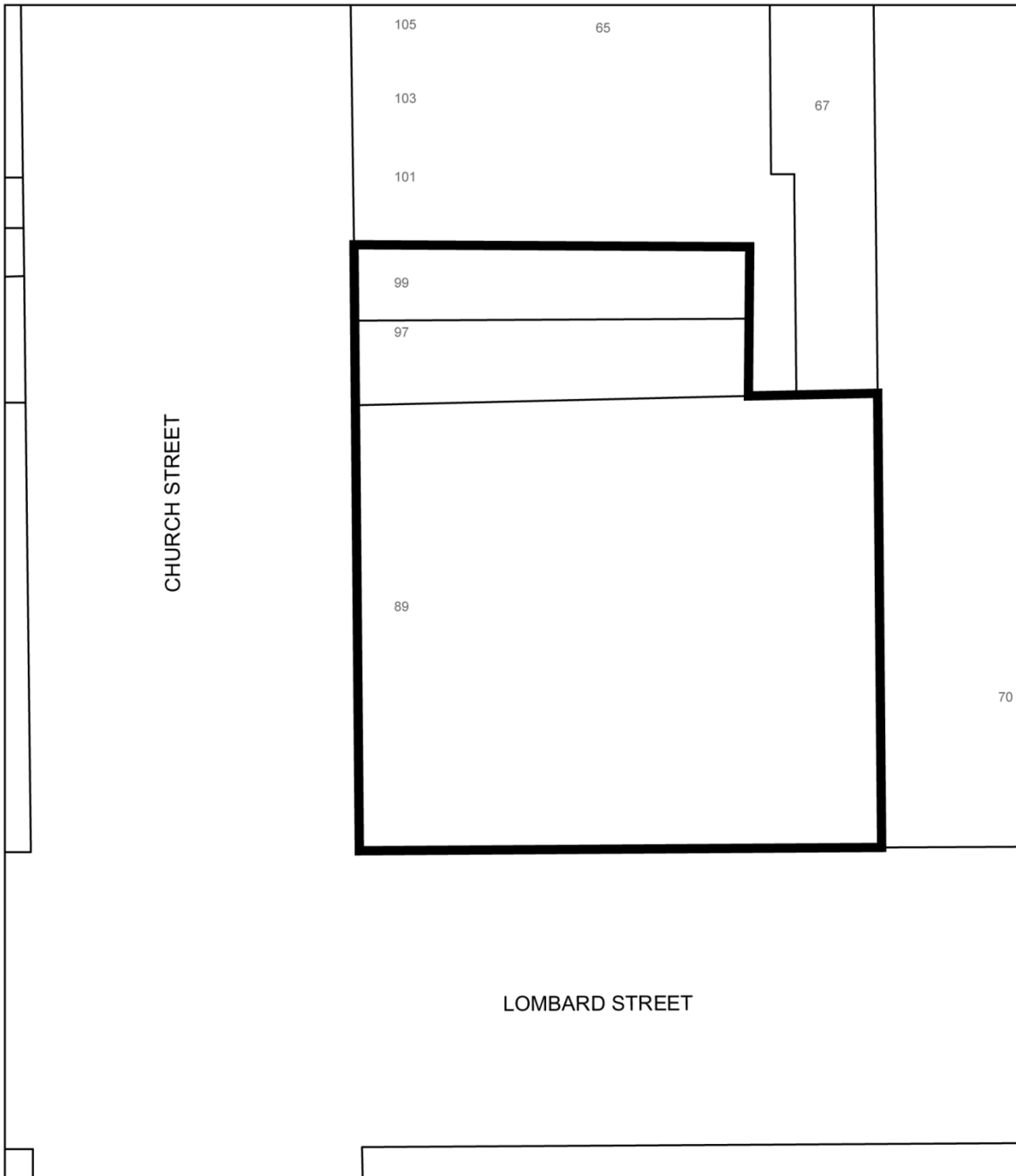
- (g) the *non-residential gross floor area* within the *mixed use building* shall not exceed 300 square metres;
- (h) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum amounts:
 - (i) A minimum of 0.19 *parking spaces* per *dwelling unit*;
 - (ii) 7 *parking spaces* for visitors of the *dwelling units*; and
 - (iii) No *parking spaces* are required for the non-residential uses on the *lot*;
- (i) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
 - (i) For residential uses, a minimum of 1.0 bicycle parking space per *dwelling unit*, in accordance with the following ratio: 0.90 *bicycle parking space - occupant* per *dwelling unit* and 0.10 *bicycle parking space - visitor* per *dwelling unit*;
 - (ii) No *bicycle parking spaces* are required for any non-residential use on the *lot*;
 - (iii) The number of required *bicycle parking spaces* must be rounded down when the calculation results in a fraction;
 - (iv) *Bicycle parking spaces* may be provided in horizontal positions, *stacked bicycle parking positions* or vertical positions, subject to the required dimensions below;
 - (v) Where *bicycle parking spaces* are provided in in *stacked bicycle parking positions*, and in groups of 8, each group must have a minimum length of 1.8 metres, a minimum width of 1.8 metres and a minimum vertical clearance of 2.5 metres;
 - (vi) *Bicycle parking spaces* provided in *stacked bicycle parking positions* and not in a group of 8 and *bicycle parking spaces* parked in a horizontal position shall have a minimum length of 1.8 metres, a minimum width of 0.45 metres and a minimum vertical clearance of 1.2 metres; and
 - (vii) *Bicycle parking spaces* parked in a vertical position must have a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.45 metres and a minimum horizontal clearance from the wall of 1.2 metres;
- (j) *residential amenity space* shall be provided at a minimum rate of 4.0 square metres per dwelling unit, of which:
 - (i) A minimum of 0.88 square metres per dwelling unit must be provided as outdoor *residential amenity space*;

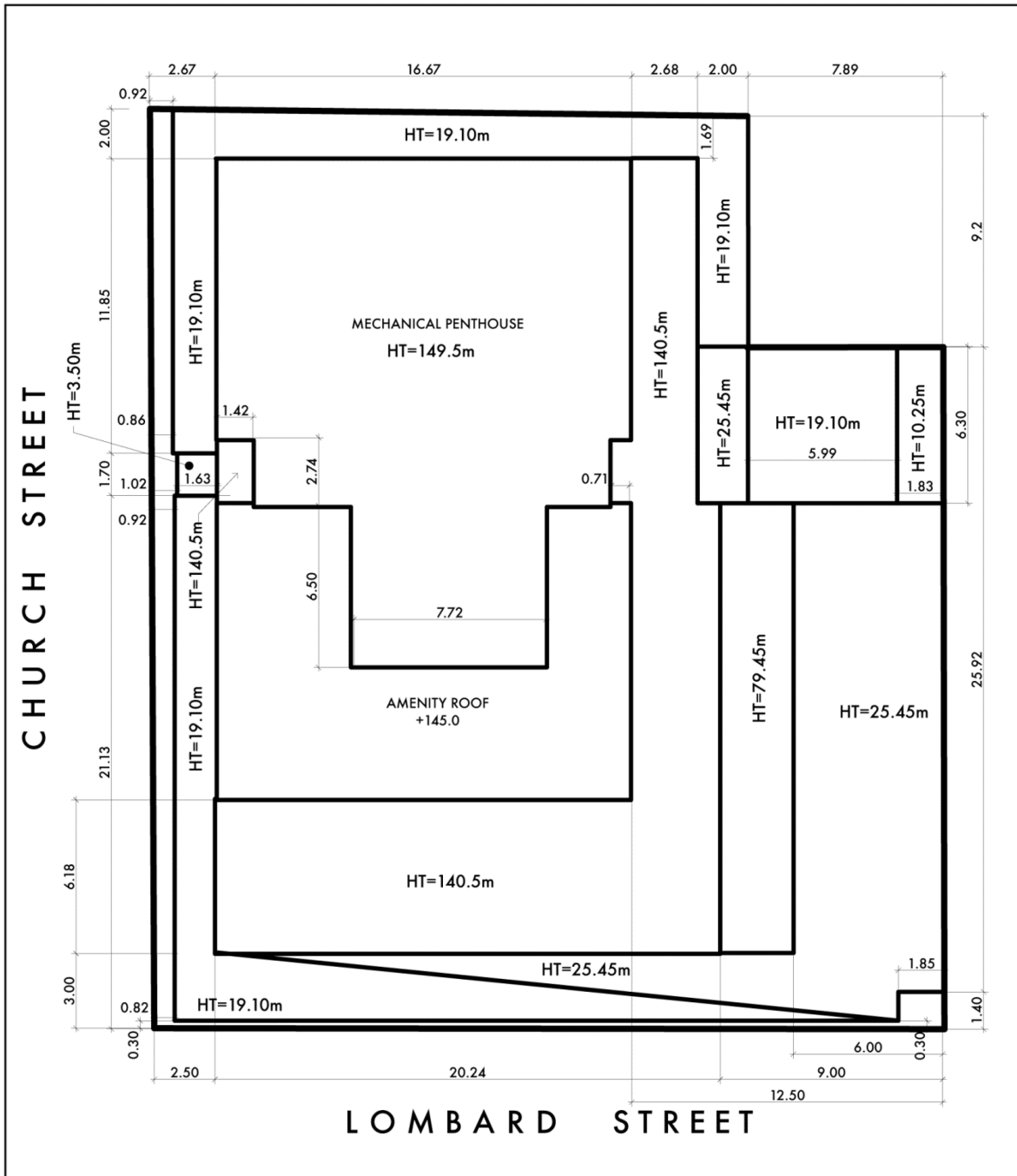
- (ii) A minimum of 3.11 square metres per dwelling unit must be provided as indoor *residential amenity space*, located in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom; and
 - (iii) No more than 25 percent of the outdoor *amenity space* may be a *green roof*; and
 - (k) a minimum of one *loading space - type G* shall be provided on the *lot*.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (a) "*grade*" means 85.45 metres Canadian Geodetic Datum;
 - (b) "*lot*" means those lands outlined on Map 1 attached hereto;
 - (c) "*height*" means the vertical distance between *grade* and the highest point of the building roof shown on Map 2;
 - (d) "*non-residential gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, of a *non-residential building* or the non-residential portion of a *mixed-use building*, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - (i) Below-ground hallways and elevator vestibules;
 - (ii) Mechanical rooms on any level of the building;
 - (iii) Parking, loading and bicycle parking below-ground;
 - (iv) Required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (v) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (vi) Required *shower - change facilities*;
 - (vii) Elevator shafts;
 - (viii) Garbage shafts;
 - (ix) Mechanical penthouse; and
 - (x) Exit stairwells in the building;

- (e) "*residential gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, of a *residential building* or the residential portion of a *mixed-use building*, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
- (i) Below-ground hallways and elevator vestibules;
 - (ii) Mechanical rooms on any level of the building;
 - (iii) Parking, loading and bicycle parking below-ground;
 - (iv) Required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (v) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (vi) Required *shower - change facilities*;
 - (vii) Required *residential amenity space*;
 - (viii) Elevator shafts;
 - (ix) Garbage shafts;
 - (x) Mechanical penthouse; and
 - (xi) Exit stairwells in the building;
- (f) "*bicycle parking space - visitor*" means a bicycle parking space for visitors of the residential units;
- (g) "*bicycle parking space - occupant*" means a bicycle parking space for residents of the building;
- (h) "*stacked bicycle parking position*" means a horizontal *bicycle parking space* that is positioned above or below another horizontal *bicycle parking space*; and
- (i) "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in City of Toronto Municipal Code Chapter 492, Green Roofs.
6. Despite any existing or future severance, partition or division of the *lot*, the provisions of this by-law shall apply to the whole *lot* as if no severance, partition or division occurred.

7. Within the lands shown on Map 1 attached to and forming part of this By-law, no person shall use any land or erect or use any building or structure 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 of 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.
8. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.

Local Planning Appeal Tribunal Decision issued on October 5, 2018 and Local Planning Appeal Tribunal Order issued on May 27, 2019 in File 170328.





89 Church Street

File # 16 142844 STE 28 OZ

Appendix 1
Section 37

The facilities, services and matters set out below are required to be provided to the City by the owner of the lot at the owner's expense in accordance with this By-law and as further specified in one or more agreements pursuant to Section 37 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, development charges, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement, all to the satisfaction of the Chief Planner and Executive Director, City Planning:

1. Prior to the issuance of the first above *grade* building permit, the *owner* shall make an indexed cash contribution to the City in the amount of THREE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$3,800,000) payable by certified cheque to the City of Toronto and to be allocated toward capital improvements at the discretion of the Chief Planner and Executive Director, City Planning, as follows:
 - a. THREE MILLION AND FIFTY THOUSAND DOLLARS (\$3,050,000.00) shall be used for capital projects in the vicinity of the site in conformity with the City's Official Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - b. SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) shall be paid to the City's capital budget for Public Art program and is to be used in the vicinity of the site;
 - c. such amount above to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the execution of the Section 37 Agreement to the date the payment of the funds by the owner to the City; and
 - d. in the event the cash contribution(s) referred to in Section (1) 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 another purposes, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
2. Prior to the issuance of any *building permit*, the *owner* shall, at its sole expense pay for and construct any improvements to the municipal infrastructure in connection with the accepted Functional Servicing Report, to be submitted for review and acceptance by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements to such infrastructure are required to support this development.

3. In support of the development on the *lot*, the following matters are also recommended to be secured as a legal convenience to support the development:
 - a. the owner shall provide a pet station of a minimum size of 3.6 square metres;
 - b. the owner shall provide a minimum of 10 percent family sized units in the development, containing at least three bedrooms; and
 - c. matters related to the materiality and design of the building and amenity spaces will be secured in the Section 37 Agreement registered on title to the lands to ensure a compatible relationship of the development to the St. James Cathedral Clock tower and Spire.