

51-61 Front Street East, 6-16 Church Street and 70 The Esplanade - OPA & Rezoning, Site Plan Application - Request for Direction Report

Date:	September 18, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	05 105693 STE 28 OZ

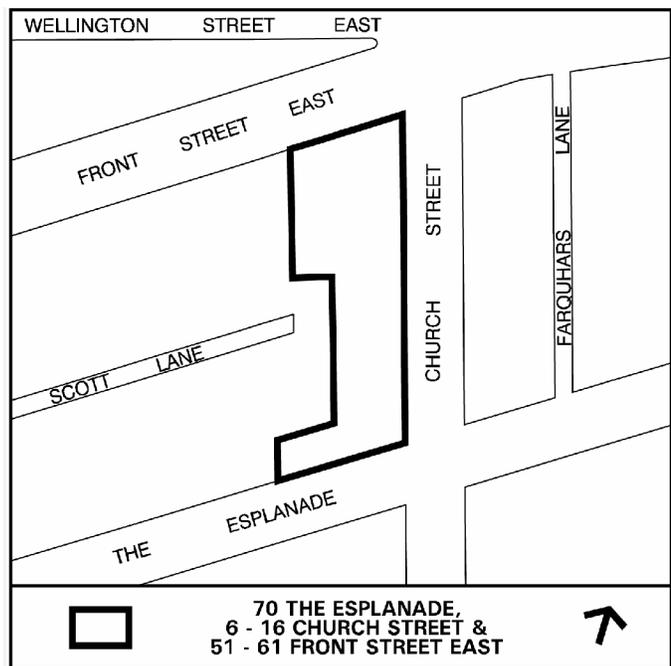
SUMMARY

This application originally proposed a two-phased mixed-use building ranging in height from 8 to 11 storeys at 51-61 Front Street East, 6-16 Church Street and 70 The Esplanade.

The purpose of this report is to seek a revised direction from City Council regarding Concert Properties Ltd.’s appeal to the Ontario Municipal Board respecting requests for Official Plan and Zoning By-law Amendments.

The details of the development application for Phase 1 have changed slightly through the site plan review process and since City Council approved a Settlement Report on June 27, 28 and 29, 2006.

This report deals with the request from the applicant, Concert Properties Ltd., to move forward with Phase 1, allowing for a



separation of the Phase 1 and Phase 2 heritage requirements and the Official Plan and Zoning By-law Amendments, should Phase 2 not move forward.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor together with appropriate staff to return to the Ontario Municipal Board with respect to this settlement;
2. City Council revise its previous direction issued on June 27, 28 and 29, 2006, so as to allow for Phase 1 to proceed subject to the following conditions being met:
 - (a) a Section 37 Agreement between the Owner and the City satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor has been executed and registered as a first charge against the lands to the satisfaction of the City Solicitor securing the matters set forth in this report and in the attached draft Zoning By-law Amendment;
 - (b) the Owner enters into a Heritage Easement Agreement (HEA) with the City, satisfactory to the City Solicitor and the Manager, Heritage Preservation Services, to provide for the permanent protection of the heritage building at 6 Church Street, and such agreement has been registered as a first charge against the lands to the satisfaction of the City Solicitor;
 - (c) the Owner has entered into a Site Plan Agreement with the City pursuant to Section 41 of the *Planning Act* for Phase 1 of the development satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement has been registered against the lands to the satisfaction of the City Solicitor;
 - (d) in lieu of the owner entering into a Heritage Easement Agreement with the City for 70 The Esplanade, the owner provide a payment of \$150,000 for heritage conservation initiatives within the St. Lawrence Neighbourhood, prior to the earlier of the date of the execution of the Section 37 Agreement or December 31 2009;
3. Council authorize the City Solicitor to make such technical and stylistic changes to the draft Official Plan Amendment and the draft Zoning By-law Amendment as may be required, and any other changes necessary to implement the intent of this report; and
4. City Council request that the Ontario Municipal Board withdraw its approval issued on February 22, 2007 with respect to Phase 2 lands (70 The Esplanade) should the owner of the Phase 2 lands not execute the HEA agreement for 70 The Esplanade, in

a form satisfactory to the City Solicitor and the Manager, Heritage Preservation Services prior to the date of the OMB hearing.

Financial Impact

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

DECISION HISTORY

In January 2004, Concert Properties submitted applications for Official Plan and Zoning By-law Amendments for redevelopment of the properties at 70 The Esplanade, 6-16 Church Street and 51-61 Front Street East. The original proposal submitted was for a 16-storey slab building with upper storeys set back from a five-storey podium. The proposal and subsequent revisions received a negative reaction in community consultation and raised a number of concerns with City Planning staff.

On November 4, 2005, Concert Properties appealed the applications to the Ontario Municipal Board (OMB) on the basis that the City had failed to make a decision on the application within the required time periods.

In early 2006, a working group was formed in hopes of resolving issues related to the redevelopment of the site. The group was comprised of the applicant, City Planning staff, neighbouring property owners, representatives of the St. Lawrence Neighbourhood Association, representatives the St. Lawrence Market Neighbourhood Business Improvement Association and other local residents and stakeholders.

In April 2006, Concert Properties Ltd., in response to the working group's discussion, submitted a proposal for a mid-rise building ranging in height from 8 to 11 storeys, with 192 residential units to be constructed in two phases. The first phase was to include approximately the northern two-thirds of the site. The second phase comprised the southern third of the site and contained the heritage buildings at 70 the Esplanade and 6 Church Street.

On June 27, 28 and 29, 2006, City Council approved the staff's recommendations for a request for directions as well as the heritage designation of 6 Church Street and 70 The Esplanade.

On February 22, 2008 the OMB issued its decision and withheld its Order pending the fulfillment of the following items, per City Council's direction to staff:

- (a) a Section 37 Agreement between the Owner and the City satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor has been executed and registered as a first charge against the lands to the satisfaction of the City Solicitor securing the matters set forth in this report and in the attached draft Zoning By-law Amendment;

- (b) the Owner enter into Heritage Easement Agreements satisfactory to the City Solicitor and the Manager, Heritage Preservation Services or her designate under Section 37 of the Ontario Heritage Act with the City to provide for the permanent protection of each of the heritage buildings at 70 The Esplanade and 6 Church Street, and such agreements have been registered as a first charge against the lands to the satisfaction of the City Solicitor; and
- (c) the Owner has entered into a Site Plan Agreement with the City pursuant to Section 41 of the *Planning Act* for Phase 1 of the development satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement has been registered against the lands to the satisfaction of the City Solicitor.

In May 2007, an application was made to the Committee of Adjustment for consent to sever the site into two parcels in order to facilitate this development. The two parcels were created with Phase 1 comprising of 51-61 Front Street East and 6-16 Church Street (Parcel A) and Phase 2 including 66 & 70 The Esplanade and 4 Church Street (Parcel B).

With this severance ownership of the various parcels has changed, with the property line for Phase 1 moving south to now include the heritage building at 6 Church Street. (See Attachment 2) The second phase is comprised of only the 70 The Esplanade site, should it proceed.

ISSUE BACKGROUND AND CURRENT PROPOSAL

Concert Properties Ltd. is now the sole owner of 51-61 Front Street East and 6-16 Church Street, and has indicated that it wishes to proceed with the redevelopment of these properties as Phase 1. The current direction provided to staff limits the ability to move forward with Phase 1 until such time as Heritage Easement Agreements (HEA) have been signed for both 6 Church Street (Phase 1) as well as 70 The Esplanade (Phase 2). Concert Properties Ltd. does not own 70 The Esplanade and therefore cannot execute a HEA for that property. At the time of writing this report, the owner of 70 The Esplanade has not indicated an interest in moving forward with Phase 2 or signing a HEA for the site.

Staff would like to see Phase 1 move forward and have discussed some revisions to the built form in the event that Phase 2 is never realized. The original proposal was for a building ranging in height from 8 to 11 storeys, plus mechanical penthouse to be constructed in two phases. The proposal that has evolved through site plan review and in consultation with the Councillor's office and the St. Lawrence Neighbourhood Association. It is now 13-storeys, including the mechanical penthouse within the height limits approved by the OMB. The unit count has also been revised from 192 to 163 residential units and the draft Zoning By-law Amendment allows for a maximum of 180 units. Parking spaces have been revised in accordance to ratios previously approved by the OMB, as has the amenity space requirement. (See Attachment 1: Application Data

Sheet). The revised design also includes 5.5 metre setback on the south side of the proposed redevelopment to provide an appropriate transition from the heritage building of 70 The Esplanade should Phase 2 never move forward. (See Attachments 3 to 6 – Elevations) Staff is requesting Council’s direction to return to the OMB to request:

- OMB approve site-specific Official Plan and Zoning By-law Amendments for the first phase of the development; and
- Unless the owners of 70 The Esplanade express an interest in finalizing their approvals for Phase 2, including the execution of a HEA, that the OMB remove 70 The Esplanade from the site-specific zoning bylaw amendment. If the owners of 70 The Esplanade are interested in pursuing Phase 2 development in the future, they will need to come in with a site specific application and be willing to enter into a HEA for this property.

COMMENTS

Section 37

A package of community benefits that contributed to the planning merits of the proposal and implemented the Official Plan objectives related to well-managed and balanced growth were included in the original Request for Directions approved by City Council at its meeting of June 27, 28 and 29, 2006. The applicant agreed to provide the following benefits in exchange for increases in height and density pursuant to Section 37 of the Planning Act:

- (a) a minimum of ninety square metres of ground floor non-residential space under a lease term of at least 5 years at nominal cost for use as a seniors facility;
- (b) a shoreline commemoration feature in the public realm to the satisfaction of the Chief Planner, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team, at a minimum value of one percent of the gross construction costs of the project;
- (c) public access through the vehicular courtyard on the Phase 1 lands to protect for future public pedestrian access to Scott Lane from Church Street should the lane be extended to the property;
- (d) review and approval of architectural design and exterior materials of the proposed development, including review and approval of the exterior design and detailing of the Front Street facade of the proposed development.

The Section 37 Agreement will also secure other matters, including streetscaping on adjacent rights-of-way, an irrigation system for street trees in the public right-of-way, and reasonable commercial efforts to obtain LEED certification. The applicant, Concert Properties Ltd. has confirmed that it continues to agree to provide these Section 37

benefits as a condition of the approval of the Official Plan and Zoning By-law Amendments to permit the construction of Phase 1 of the proposed development.

The applicant has also agreed to a \$150,000 contribution to heritage conservation initiatives within the St. Lawrence Neighbourhood, prior to the execution of the Section 37 Agreement.

CONCLUSIONS

This application originally proposed a two-phased mixed-use building at 51-61 Front Street East, 6-16 Church Street and 70 The Esplanade. Concert Properties Ltd. wishes to move forward with Phase 1, requiring staff to seek a revised direction from Council to return to the OMB to request that the OMB approve site-specific Official Plan and Zoning By-law Amendments for the first phase of the development; and unless the owners of 70 The Esplanade express an interest in finalizing their approvals for Phase 2 that the OMB remove 70 The Esplanade from the site-specific zoning bylaw amendment, as attached in the draft site-specific Official Plan and Zoning By-law Amendments. (See Attachments 7 & 8)

CONTACT

Angela Stea, Planner
Tel. No. 416-392-7215
Fax No. 416-392-1330
E-mail: astea@toronto.ca

SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

(p:\2009\Cluster B\pin\Teycc22936447057) -tm

ATTACHMENTS

Attachment 1: Application Data Sheet
Attachment 2: OMB Approved Plan 1 (2007)
Attachments 3 – 6 : Building Elevations
Attachment 7: Draft Official Plan Amendment
Attachment 8: Draft Zoning Bylaw Amendment

Staff report for action – Request for Direction - 51-61 Front Street East, 6-16 Church Street and 70 The Esplanade

Attachment 1: Application Data Sheet

Application Type	Official Plan Amendment & Rezoning	Application Number:	05 105693 STE 28 OZ
Details	OPA & Rezoning, Standard	Application Date:	January 31, 2005
Municipal Address:	51-61 Front Street East and 6-16 Church Street		
Location Description:	PL 5A PT WATER LT31 **GRID S2812		
Project Description:	Propose 13-storey mixed-use condominium with a heritage component and non-residential (retail) at grade. Please note multiple addresses.		
Applicant:	Agent:	Architect:	Owner:
Concert Properties Ltd		Yonge + Wright/ IBI Group	Concert Properties Ltd

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR T4.0 C3.0 R4.0	Historical Status:	Y
Height Limit (m):	23	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	2778	Height:	Storeys:	13
Frontage (m):	38.3		Metres:	39.7
Depth (m):	91.9			
Total Ground Floor Area (sq. m):	796.65			Total
Total Residential GFA (sq. m):	17179.91		Parking Spaces:	163
Total Non-Residential GFA (sq. m):	1200.59		Loading Docks	3
Total GFA (sq. m):	18380.50			
Lot Coverage Ratio (%):	28.7			
Floor Space Index:	6.62			

DWELLING UNITS

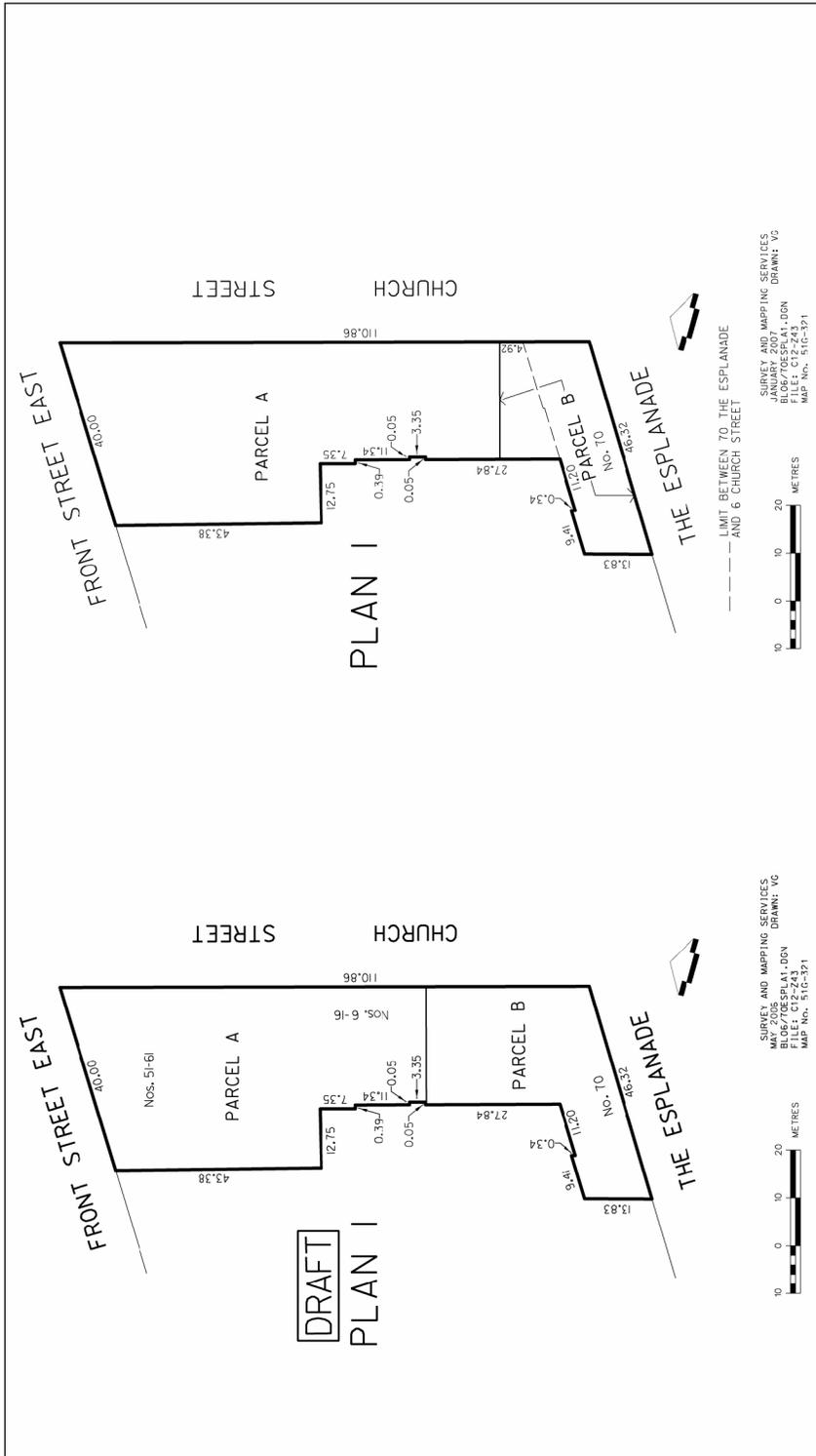
FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	16949.42	0
Bachelor:	2	Retail GFA (sq. m):	1200.59	0
1 Bedroom:	54	Office GFA (sq. m):	0	0
2 Bedroom:	107	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	163			

CONTACT: PLANNER NAME: Angela Stea, Planner
TELEPHONE: 416-392-7215 (astea@toronto.ca)

Updated Sept 18, 2009

Attachment 2: Previously Approved Drafts of Plan 1



Toronto City Planning
 Previously Approved Drafts of Plan 1

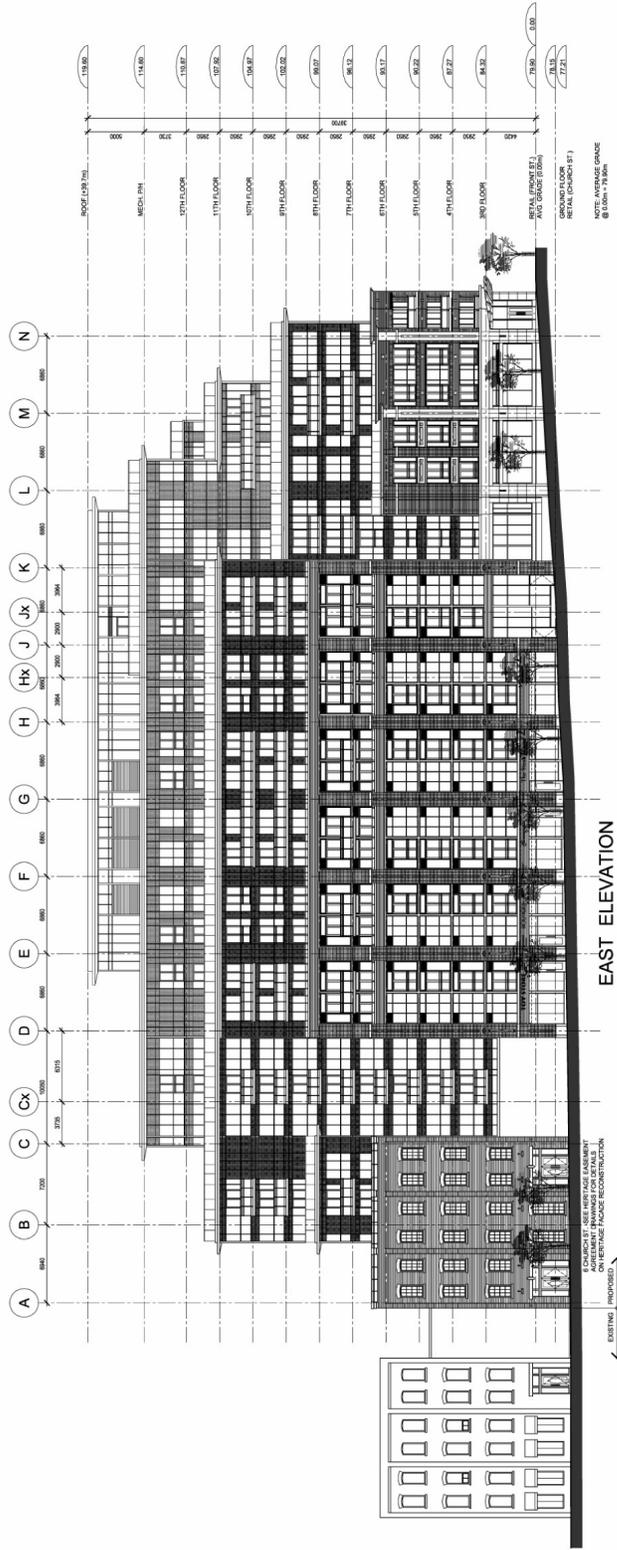
Toronto City Planning
 Previously Approved Drafts of Plan 1

File # 05 105693



Not to Scale
 09/28/2009

Attachment 3: East Elevation



East Elevation

51-61 Front Street East and 6-16 Church Street

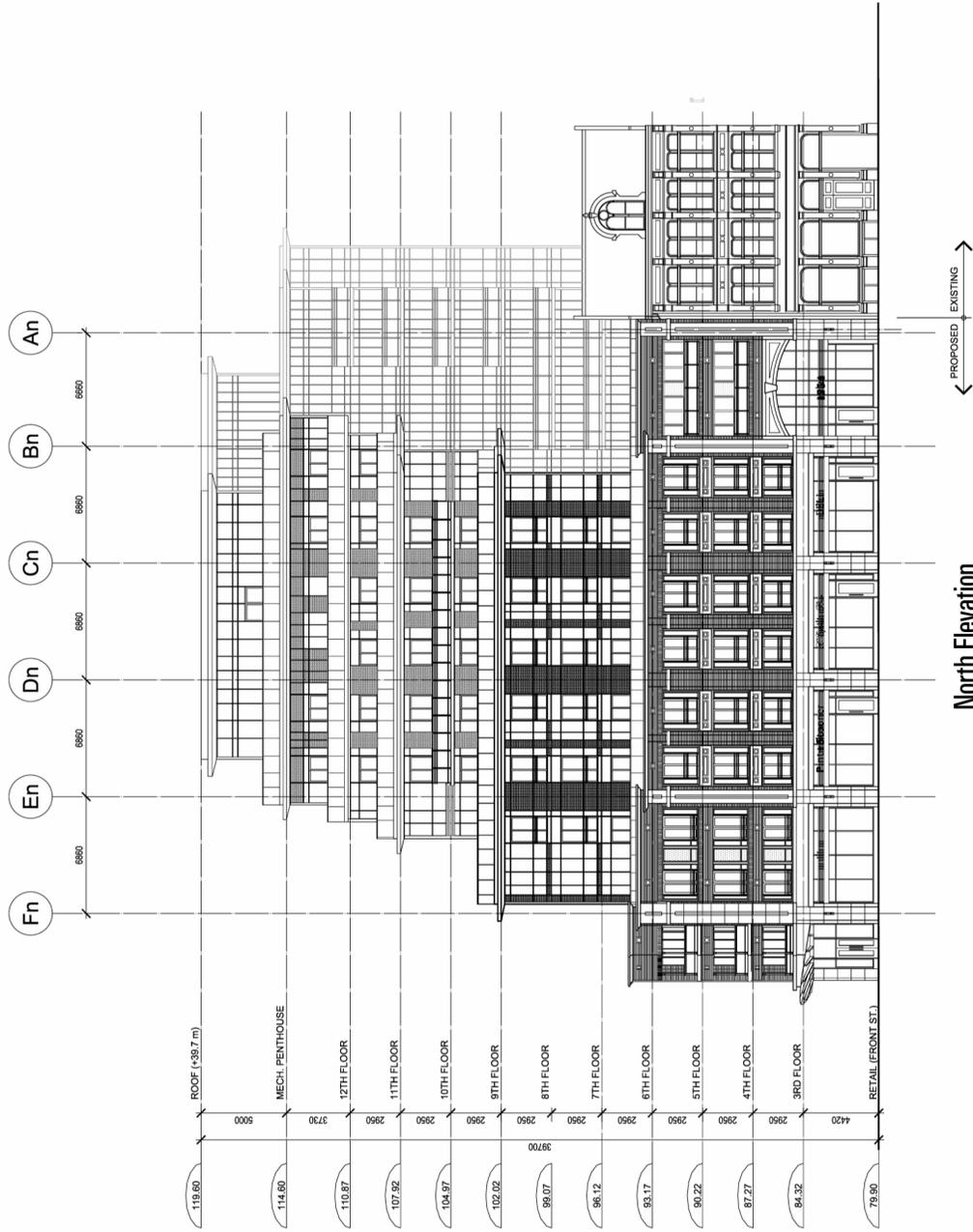
Elevations

Applicant's Submitted Drawing

Not to Scale
09/24/2009

File # 05_105693

Attachment 4: North Elevation

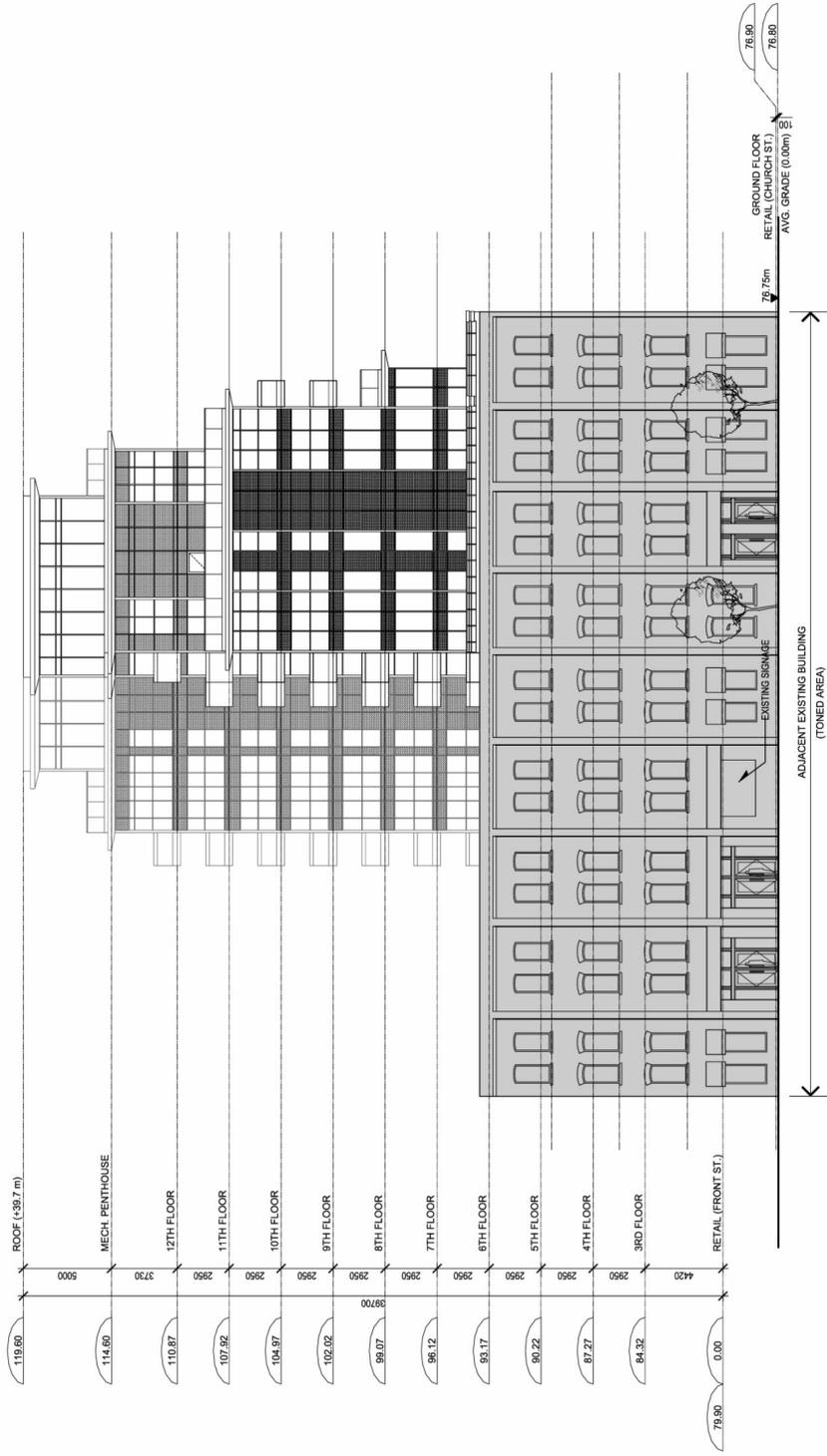


Elevations
 Applicant's Submitted Drawing
 Not to Scale
 09/24/2009

51-61 Front Street East and 6-16 Church Street

File # 05_105693

Attachment 5: South Elevation



South Elevation

51-61 Front Street East and 6-16 Church Street

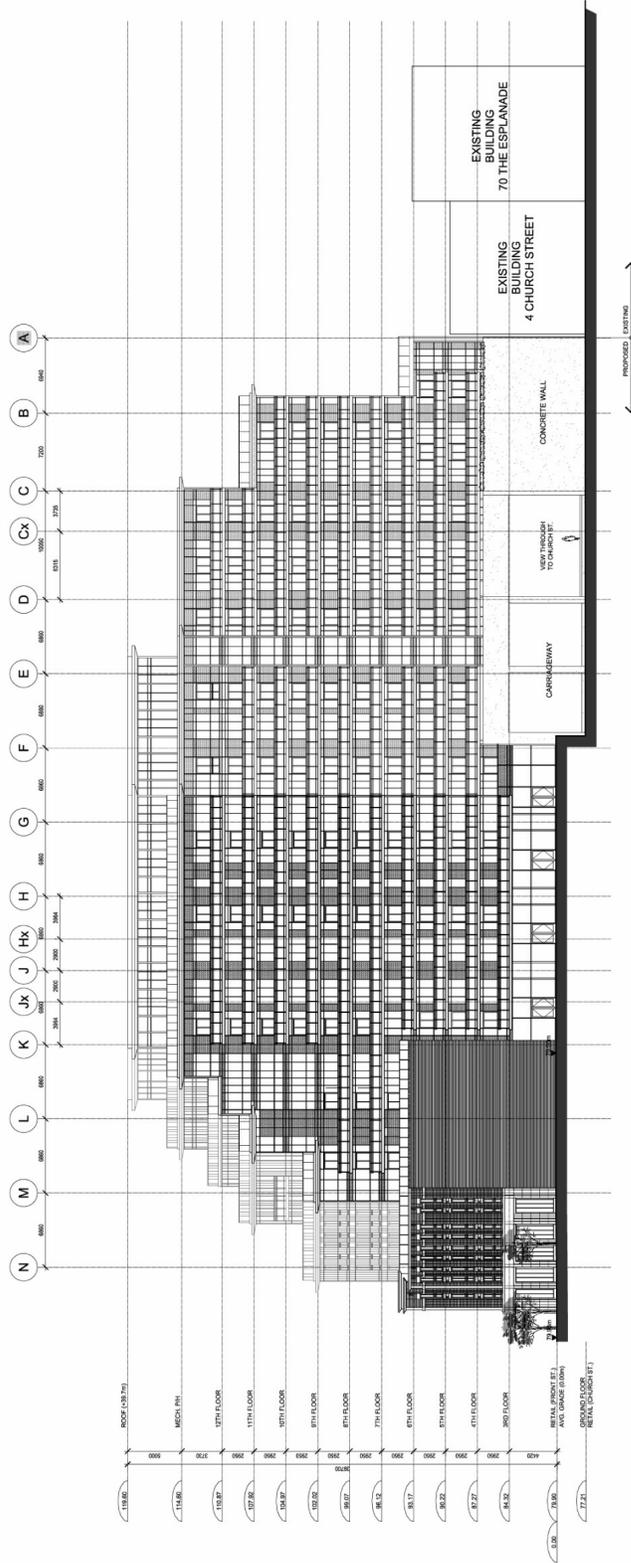
Elevations

Applicant's Submitted Drawing

Not to Scale
09/24/2009

File # 05_105693

Attachment 6: West Elevation



West Elevation

51-61 Front Street East and 6-16 Church Street

Elevations

Applicant's Submitted Drawing

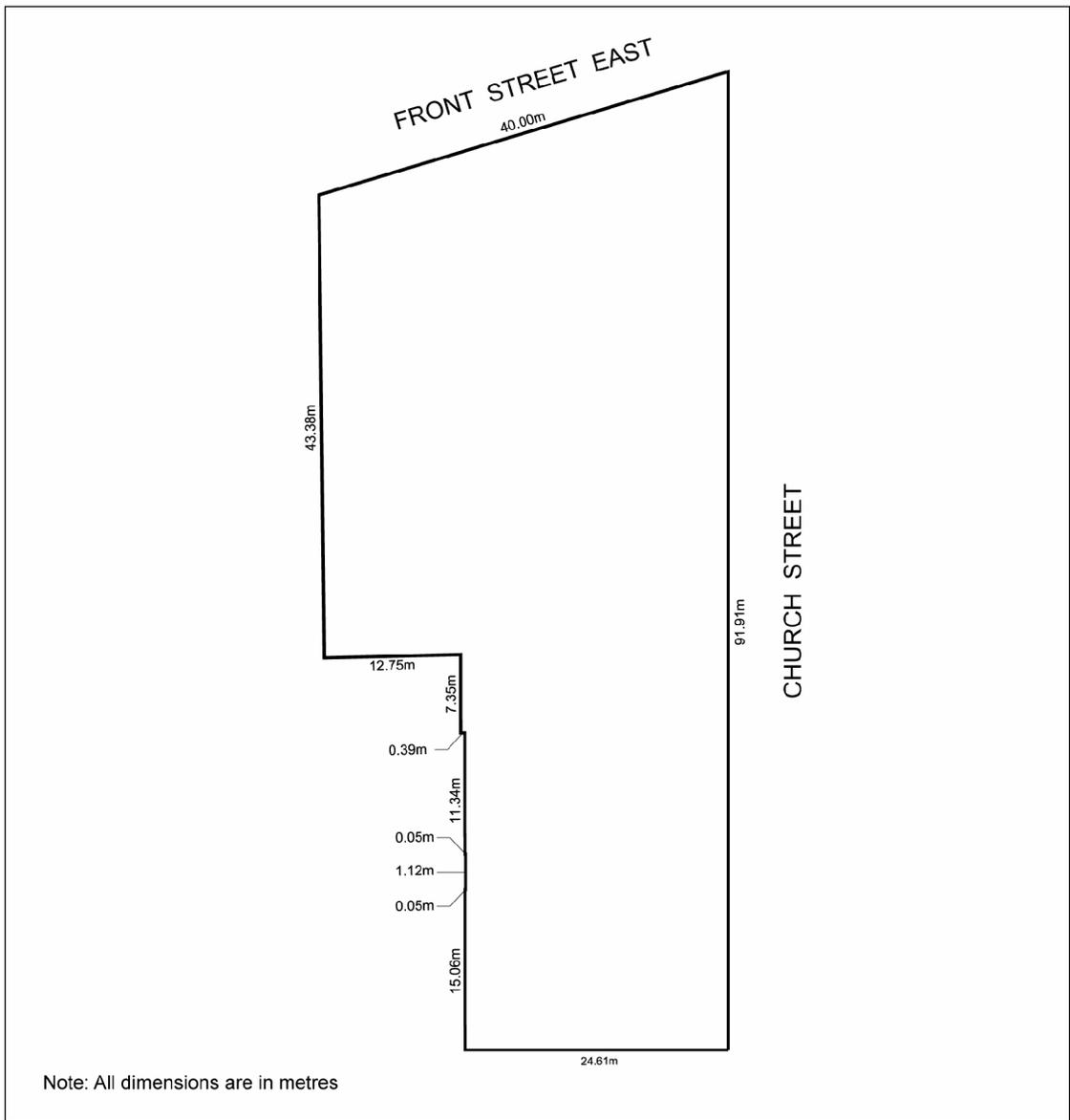
Not to Scale
09/24/2009

File # 05_105693

- (2) Council may not pass any by-law designating the lands for uses described in Section 1 hereof, unless in return for the residential densities and height permissions thereby granted, the owner of the lands is required by such by-law to have first entered into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended ("*Planning Act*"), to secure the facilities, services, and matters set out in Section 3 hereof, and to ensure that such agreement is in a form satisfactory to the City and is appropriately registered on title to the lands;
- (3) In return for the residential densities and height permissions granted by a by-law designating the lands for residential and other uses, including any by-law described in Section 1 hereof, the owner shall enter into an agreement with the City pursuant to Section 37 of the *Planning Act*, to secure the following facilities, services and matters:
 - (a) a lease for a minimum of 90 square metres of ground floor non-residential space on the lands for a term of 5 years commencing upon the first residential occupancy of the building on the lands, at a nominal cost to the City, to be used as a senior citizen's facility;
 - (b) a shoreline commemoration feature on the lands to the satisfaction of the Chief Planner, at a value of not less than one percent of the gross construction costs of the development, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team;
 - (c) provision for the maintenance of reasonable public pedestrian access through the vehicular courtyard on the lands between 7 a.m. and 11 p.m. daily in the event that Scott Lane is extended to the lands;
 - (d) reasonable streetscape improvements, including tree installation on the public right-of-way adjacent to the lands;
 - (e) an irrigation system for all street trees in the public right-of-way adjacent to the lands, with automatic timers, such irrigation system to be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the City's General Manager of Parks, Forestry and Recreation prior to the first occupancy of the development, provides a Letter of Credit to secure such work to the City's satisfaction prior to the issuance of the first foundation building permit, and maintains the entire system in continuing good order and operation provided that the City provides all easements necessary for the construction, maintenance and

operation of such irrigation system in the public right-of-way at no cost;

- (f) exterior design and materials for the development, including final plans for the exterior design and detailing of the Front Street façade, to be secured in an agreement pursuant to Section 41 of the *Planning Act* having due regard to the context, including the heritage character of the neighbourhood;
- (g) reasonable commercial efforts to obtain LEED Certification of the building and the provision of documentation to the City respecting certification for the development and the marketing materials that will include information on LEED certification; and
- (h) the owner shall make a cash payment to the City on the amount of \$150,000 for heritage conservation initiatives within the St. Lawrence Neighbourhood, such payment to be made prior to execution of the section 37 agreement or December 31, 2009, whichever occurs first.



Attachment 8
Draft Zoning By-law Amendment

Authority: Ontario Municipal Board Decision/Order in Case No. PL051070, dated _____, 200__

CITY OF TORONTO

BY-LAW NO. XXX-200X

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally in the year 2008 as 6-18 Church Street, and 51-63 Front Street East

WHEREAS the Ontario Municipal Board, by way of an Order issued on the ____ day of _____, 200__, determined to amend the former City of Toronto Zoning By-law No. 438-86 with respect to lands known municipally in the year 2008 as 6-18 Church Street, and 51-63 Front Street East;

WHEREAS authority is given to the Ontario Municipal Board under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law 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 or 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 lands known at the date of enactment of this By-law as 6-18 Church Street, and 51-63 Front Street East (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law;

AND WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto;

THEREFORE the Ontario Municipal Board orders as follows:

1. None of the provisions of Section 2 with respect to the definition of *grade* and *height*, Sections 4(2)(a), 8(3) Part I 1, 8(3) Part I 3(a), 8(3) Part II 1(a), 8(3) Part

III 1(a), 8(3) Part XI 2, 12(2) 259, and 12(2) 260 of Zoning By-law No. 438-86, 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 and use of one or more *mixed-use buildings* on the lands shown on Plan 1, attached to and forming part of this By-law, provided that:

- (1) the *lot* on which the proposed building(s) are to be located comprises not less than the lands outlined by heavy lines on Plan 1, attached to and forming part of this By-law;
- (2) no portion of any building or structure is located otherwise than wholly within the *lot* delineated by heavy lines as shown on Plan 2, attached to and forming part of this By-law;
- (3) Section 1(1) hereof does not apply to the type of structure listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
parapets and piers	maximum 1.0 metre projection, provided the height of such “STRUCTURE” is not greater than 1.0 metre above the height limits established in Section 1(4) of this By-law
eaves, cornices, ornamental or architectural elements, balustrades, mullions, window sills, bay windows	maximum 1.0 metre projection, provided the height of the “STRUCTURE” is no higher than that portion of the building to which it is attached
fences, safety railings, privacy screens, wind screens, handrails, and guardrails	no restriction on the extent of the projection provided the height of such “STRUCTURE” does not exceed 3.0 metres
canopies	maximum 3.0 metre projection, provided the height of the canopy is no higher than that portion of the building to which it is attached

STRUCTURE	MAXIMUM PERMITTED PROJECTION
ramps, wheelchair ramps, and/or stairs (and associated structures) servicing an underground <i>parking garage</i>	no restriction, provided the height of such “STRUCTURE” does not exceed 2.0 metres above finished ground level
balconies	maximum 2.0 metre projection, provided the balcony is no higher than that portion of the building to which it is attached
structural columns and support beams	no restriction, provided the height of such “STRUCTURE” does not exceed 8.5 metres above finished ground level
stairs, stair enclosures, landings, and associated railings	no restriction, provided the height of such “STRUCTURE” does not exceed 3.0 metres
public art features, light standards, and landscape features	no restriction on extent of projection or height of “STRUCTURE”
existing walls and their supporting structures located along the <i>lot</i> line adjacent to the abutting properties	no restriction on extent of projection or height of “STRUCTURE”
uncovered patios and outdoor amenity areas	no restriction, provided the height of such “STRUCTURE” does not exceed 1.0 metre above <i>grade</i>

- (4) the *height* of any building or structure, or portion thereof, including those elements referred to in Section 4(2)(a)(i) and (ii) of Zoning By-law No. 438-86, as amended, does not exceed the *height* in metres specified by the numbers following the symbol H on Plan 2, attached to and forming part of this By-law, except for the following:
- (a) the structural projections identified in Section 1(2), including structural projections permitted outside the heavy lines on the attached Plan 2, subject to the limitations contained therein; and
 - (b) unenclosed heating, cooling, ventilating, or window washing equipment, provided the maximum vertical dimension of any such elements shall not exceed the sum of 2.0 metres and the applicable maximum *height* in metres as specified on the attached Plan 2;

- (5) notwithstanding Section 1(4),
 - (a) the *height* of those portions of the building or buildings identified as Area A on Plan 2 shall not exceed the *height* of such portions of the existing building as they existed on the *lot* in the year 2008, including parapets, but not including chimneys and guardrails which are permitted to exceed such *height* by an additional 1.0 metre;
 - (b) the *height* in *storeys* of the building shall not exceed thirteen *storeys*, but mezzanines containing only mechanical equipment shall not be counted in the number of *storeys*.
- (6) the combined *residential gross floor area* and *non-residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 18,900 square metres, provided.
- (7) not less than 1,000 square metres of *non-residential gross floor area* shall be provided and maintained on the *lot*.
- (8) the maximum aggregate number of *dwelling units* erected and maintained on the *lot* shall not exceed 180 *dwelling units*.
- (9) *residential amenity space* shall be provided pursuant to Section 4(12) of Zoning By-law No. 438-86, as amended, except that indoor *residential amenity space* may be provided in a multi-purpose room or rooms, whether or not such rooms are contiguous.
- (10) *parking spaces* shall be provided and maintained in accordance with the minimum requirements pursuant to Sections 4(5) of By-law No. 438-86, as amended, and subject to the maximums set out in Section 1(10) of this By-law.
- (11) the maximum number of *parking spaces* provided and maintained shall not exceed the aggregate of the following:
 - (a) for residents and visitors:
 - (i) 0.30 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) 0.70 *parking spaces* for each one *bedroom dwelling unit*;
 - (iii) *parking spaces* for each two *bedroom dwelling unit*;
 - (iv) 1.20 *parking spaces* for each three or more *bedroom dwelling unit*; and

- (v) 0.06 *parking spaces* for each *dwelling unit* for visitors.
- (b) for non-residential uses:
 - (i) the maximums set out in Schedule 1 to Section 4(5) of By-law No. 438-86, as amended, for any non-residential uses permitted on the *lot*;
- (12) *bicycle parking spaces – occupant* shall not be combined with storage lockers for residential units.
- (13) **INTENTIONALLY DELETED.**
- (14) in exchange for the increase in density provided herein, the owner of lands shall enter into an agreement pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to be registered on title to the lands, to secure facilities, services and matters, on the terms set out therein as follows:
 - (a) a lease for a minimum of 90 square metres of ground floor non-residential space on the *lot* for a term of 5 years commencing upon the first residential occupancy of the building on the *lot*, at a nominal cost to the City, to be used as a senior citizen’s facility;
 - (b) a shoreline commemoration feature on the *lot* to the satisfaction of the Chief Planner, at a value of not less than one percent of the gross construction costs of the development, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team;
 - (c) provision for the maintenance of reasonable public pedestrian access through the vehicular courtyard on the *lot* between 7 a.m. and 11 p.m. daily in the event that Scott Lane is extended to the *lot*;
 - (d) reasonable streetscape improvements, including tree installation on the public right-of-way adjacent to the *lot*;
 - (e) an irrigation system for all street trees in the public right-of-way adjacent to the *lot*, with automatic timers, such irrigation system to be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the City’s General Manager of Parks, Forestry and Recreation prior to the first occupancy of the development, provides a Letter of Credit to secure such work to the City’s satisfaction prior to the issuance of the first *foundation*

building permit, and maintains the entire system in continuing good order and operation provided that the City provides all easements necessary for the construction, maintenance and operation of such irrigation system in the public right-of-way at no cost;

- (f) exterior design and materials for the development, including final plans for the exterior design and detailing of the Front Street façade, to be secured in an agreement pursuant to Section 41 of the *Planning Act* having due regard to the context, including the heritage character of the neighbourhood;
 - (g) reasonable commercial efforts to obtain LEED Certification of the building and the provision of documentation to the City respecting certification for the development and the marketing materials that will include information on LEED certification; and
 - (h) the owner shall make a cash payment to the City on the amount of \$150,000 for heritage conservation initiatives within the St. Lawrence Neighbourhood, such payment to be made prior to execution of the section 37 agreement or December 31, 2009, whichever occurs first.
- (15) the provisions of this By-law shall continue to apply to the *lot* notwithstanding its division into one or more parcels.

2. For the purposes of this By-law:

- (1) “*foundation building permit*” means a building permit that permits the erection of any below ground concrete structure;
- (2) “*grade*” means 79.90 metres Canadian Geodetic Datum;
- (3) “*height*” means the vertical distance between *grade* and the highest point of a roof or structure;
- (4) each word or expression that is italicized in the By-law herein shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, unless otherwise defined herein.

