213-223 St Clair Ave W - Official Plan and Zoning Amendment Applications - Request for Direction Report

Date: August 14, 2013
To: Toronto and East York Community Council
From: Director, Community Planning, Toronto and East York District
Wards: Ward 22 – St. Paul's
Reference Number: 12 135137 STE 22 OZ

SUMMARY

This application proposes to demolish the existing buildings at 213, 215/217, 219 and 223 St. Clair Avenue West and construct a 13-storey residential building (41 metres including wrapped mechanical) with 164 residential units, 170 vehicle parking spaces within 4 levels of underground parking and 8 at-grade visitor parking spaces.

The proposed building does not represent good planning, and if constructed as proposed would be an overdevelopment of the site. The development does not conform to the policies of the Official Plan concerning height, massing, setbacks, and transition. The approval of the proposed project would set a negative precedent for future development in the area that undermines the policies of the Official Plan.

The application was appealed to the Ontario Municipal Board (OMB) on June 14, 2013. The purpose of this report is to seek City Council’s direction for the City Solicitor to oppose the proposal in its current form at the OMB and to advise the OMB of Council’s position regarding the appropriate form of development on the site.
RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate staff to attend the Ontario Municipal Board (OMB) hearing to oppose the owner’s Zoning By-law and Official Plan appeals for the property at 213-223 St. Clair Avenue West.

2. City Council direct the City Solicitor to also advise the OMB that City Council’s position is that any redevelopment of the site, if approved by the OMB, should:
   a. secure services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner and Executive Director; and
   b. satisfy the Chief Planner and Executive Director with respect to site plan matters, including the approval of plans and drawings and site plan conditions.

3. City Council authorize the City Solicitor and City staff to take any necessary steps to implement the foregoing.

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

DECISION HISTORY
There are no previous decisions for this site which have relevance to the decision on this application.

ISSUE BACKGROUND

Proposal
The applicant proposes to demolish the existing house-form buildings at 213, 215/217, 219, and 223 St Clair Ave W and replace them with a new apartment building. The proposed building has a maximum height of 13-storeys (41 metres including wrapped mechanical penthouse).

The building provides stepbacks on the 8th, 10th and 11th floors on the St. Clair Ave frontage. At the rear of the building it transitions down to 4-storeys on the south side, while the portion adjacent to the 10-storey apartment building is 12-storeys in height. On the Poplar Plains frontage, the building has stepbacks at the 8th and 11th floors, and on the east side the building rises straight up 13-storeys (41 metres). The proposed 13th storey consists of indoor amenity space and the mechanical penthouse.

The building is setback 5.6 metres from rear lot line abutting the low-rise residential neighbourhood, and 5.97 metres from the rear lot line for the portion of the building facing the adjacent 10-storey apartment building. The separation distance from the apartment building is 11.8 metres, 10.3 metres to the balconies on the proposed building. The proposed Floor Space Index is 5.78.
The proposed development consists of 13,807 square metres of residential gross floor area, containing 164 residential units. There is a proposed unit mix of 69 two-bedroom units, and 91 one-bedroom units, and 4 townhouse units. Residential parking is proposed in a 4-level underground parking garage, comprised of 144 residential parking spaces and 26 visitor spaces. A Type G loading space has been provided. A total of 123 bicycle parking spaces will be provided, including 25 visitor spaces. The following table compares the original proposal with the current proposal.

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<thead>
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<tbody>
<tr>
<td>Height</td>
<td>14 m (plus mechanical penthouse)</td>
<td>39.5 m (to roof of wrapped mechanical penthouse)</td>
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<td>GFA</td>
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<td>Bicycle spaces</td>
<td>129 (103 residential and 26 visitor)</td>
<td>123 (98 residential and 25 visitor)</td>
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The residential entry will also be located on the St. Clair Avenue West frontage on the west side. It is proposed that the site will be accessed from a vehicular driveway on the St. Clair Avenue West frontage on the west side. Drop off and pick up, as well as garbage and loading facilities will be located on-site.

The Site Plan and Elevations are included in Attachments 1-4. Additional project information is included in Attachment 6 of this report (Application Data Sheet).

**Site and Surrounding Area**

The subject site is L-shaped and approximately 2,389.55 square metres (25,721 square feet) in size and consists of 4 lots (213, 215/217, 219, and 223 St. Clair Ave W). The frontages on St Clair Avenue W and Poplar Plains Road are approximately 76.6 metres and 22.8 metres respectively. The subject site is currently occupied by buildings of 2 to 2.5 storeys including two semi-detached residential houses and two converted houses occupied by office/commercial uses.

The following uses abut the property:

North: 2-3 storey house-form buildings with both residential and commercial uses; further west is Timothy Eaton Memorial Church which is a listed heritage building.

South: Immediately to the south of the eastern portion of the site is a 10-storey apartment building, with primary windows facing north. Further to the south there are 2.5-
storey houses along Poplar Plains Rd; a low-rise residential neighbourhood with 2.5-storey houses are south of the western portion of the site.

East: 5-storey apartment building directly across Poplar Plains; further east are 2.5-storey houses and the First Unitarian Church; one block east is a recently built 19-storey condominium.

West: 5-storey apartment buildings and 2.5-storey house-form buildings with residential and commercial uses.

**Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council’s planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council’s planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

**Official Plan**

The City's Official Plan designates the subject site *Apartment Neighbourhoods* on Map 17- Land Use Plan. *Apartment Neighbourhoods* are made up of apartment buildings and parks, local institutions, cultural and recreational facilities and small-scale retail, service and office uses that serve the needs of area residents.

The Official Plan distinguishes *Apartment Neighbourhoods* from low-rise *Neighbourhoods* because a greater scale of buildings is permitted and different scale-related criteria are needed to guide development. In addition, *Apartment Neighbourhoods* are stable areas of the City where significant growth is not anticipated. New development in *Apartment Neighbourhoods* is subject to criteria respecting: location; massing; transition to lower scale *Neighbourhoods* and areas of different development intensity; and minimizing shadow impacts, among others.

Map 3 in the Official Plan shows that the anticipated Right-of-Way width of St. Clair Avenue West is 30 metres. This segment of St. Clair Avenue West is also identified as a Transit Priority Segment on Map 5, Surface Transit Priority Network.

The development site is also subject to Site and Area Specific Official Plan Policy 221 (originally adopted by City Council in 2002) which covers the area on St. Clair Avenue.
West from Tweedsmuir Avenue to the west, to Forest Hill Road to the east. Policy 221 states that development in this Apartment Neighbourhoods will generally be in the range of 4 to 6 stories in height.

**Zoning**
The current zoning for the site in City of Toronto By-law 438-86 is R4 Z2.0. This is a residential zoning designation that allows a number of residential and non-residential uses, including an apartment building, having a gross floor area of up to 2.0 times the lot area. The maximum permitted height is 14.0 metres. The zoning map is included in Attachment 5.

**Site Plan Control**
The proposal is subject to Site Plan Control. The applicant has not yet submitted an application.

**Toronto Green Standard**
The Toronto Green Standard (TGS) is a tool to implement the broader environmental policies of the Official Plan. Several of the natural environment policies of the Official Plan encourage green development. These policies are geared to reduce the negative impacts of development on the natural environment through practices such as improved stormwater management, water and energy efficiency, and waste reduction and recycling. These policies also promote development that enhances the natural environment and support green industry.

The TGS Checklist was submitted by the applicant and reviewed by City staff for compliance with the Tier 1 performance measures.

**Reasons for Application**
The proposed development does not comply with certain standards contained in the Zoning By-law, including height and density. The proposed density of 5.78 times the lot area exceeds the maximum total density of 2.0 times permitted by the Zoning By-law. At 13-storeys and 41 metres in height, the proposal exceeds the maximum 14 metre height limit permitted by the Zoning By-law.

The proposal also exceeds the maximum permitted range in height of generally 4 to 6-storeys for Apartment Neighbourhoods designated sites, as per Area Specific Official Plan Policy 221.

**Community Consultation**
A community meeting was held respecting this application on May 30, 2012. Approximately 40 members of the public attended, along with the area Councillor, representatives of the landowner and City staff. The following items were raised at the meeting:
Height
A number of residents raised concerns about the proposed height of the building. It was expressed that 4 to 6 storeys would be more appropriate and in keeping with Site and Area Specific Policy 221.

Privacy and Overlook
Concerns were raised with regard to the impact of the proposed development on the adjacent 10-storey apartment building to the south of the site. Residents stated that the proposed building would impact their privacy, and block their views and light. As well, residents were concerned with overlook from the proposed building into the low-rise neighbourhood to the south.

Pedestrian Realm
Questions were asked about the sidewalk width on St. Clair Avenue West and the impact of the development on the pedestrian realm.

Traffic and Parking
Residents questioned whether the proposed parking supply would be sufficient. In addition residents were concerned about the increase of traffic onto Poplar Plains Road.

Trees
Concerns were expressed that the proposed development would negatively impact trees on adjacent properties.

The above noted issues were also raised by residents who sent written comments to Planning staff.

Agency Circulation
The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Provincial Policy Statement and Provincial Plans
Staff have reviewed the proposal and determined that it is consistent with the Provincial Policy Statement (PPS), and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

The Provincial Policy Statement states, in Section 4.5, that the Official Plan is the most important vehicle for implementing the Provincial Policy Statement. Furthermore, Section 4.5 directs municipalities to provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

Site and Area Specific Policy 221
Staff reviewed the proposed height increase over the current limit set out in Site and Area Specific Policy 221 of the Official Plan. This policy states that "development in
Apartment Neighbourhoods will generally be in the range of 4 to 6 storeys in height." This is consistent with the Official Plan designation of the area as not being located in a growth area like an "Avenue". Staff determined that an increase in height over the current policy might be possible given the significant improvements made to the St. Clair Avenue West right-of-way, including the construction of the dedicated streetcar right-of-way, since the adoption of Site Specific Policy 221.

However, any increase in height over the current limit of 4 to 6 storeys needs to strongly adhere to the development criteria set out in the Official Plan for development in areas which are not designated for growth. The development criteria are clearly described in the Apartment Neighbourhood policies in section 4.2, the Built Form policies in Section 3.1.2, and the Healthy Neighbourhoods policies in Section 2.3.1.

The proposed 13-storey (41 metres including wrapped mechanical penthouse) building does not provide appropriate proportion between the building height and the 30 m wide St. Clair Avenue West right-of-way. The proposed 13-storey building does not conform to the development criteria policies of the Official Plan and as such Planning staff have concluded that the increase in height is not acceptable.

Midrise Guidelines

Toronto City Council, on July 8, 2010, adopted the recommendations contained in the staff report titled, Avenues and Mid-Rise Building Study and Action Plan, prepared by City Planning with modifications and directed staff to use the Performance Standards for Mid-Rise Buildings in reviewing proposals for a two year monitoring period.

The Midrise Guidelines set minimum standards for Avenues, which are identified as areas for growth in the Official Plan. The performance standards are guided by the objective to create healthy, liveable and vibrant main streets while protecting the stability and integrity of adjacent neighbourhoods. The Midrise Guidelines have also been applied to assist in evaluating mid-rise buildings more generally. The subject site is located on a section of St. Clair Avenue West which has not been identified as an Avenue in the Official Plan, or an area of growth.

The building as proposed does not meet the Guidelines in terms of height, angular planes, setbacks, and separation distances between buildings.

Height and Massing

The Built Form and Apartment Neighbourhood policies of the Official Plan require that new development provide appropriate proportion between the building and the right-of-way. Built Form policy 4, of Section 3.1.2, requires that development be massed to define the street edge at good proportion. Apartment Neighbourhoods policy 2(C) reinforces the requirement that new buildings be massed to frame the edge of streets with good proportion.

The height of the proposed building at 41 m (including wrapped mechanical penthouse; 36 metres not including the 13th storey and mechanical penthouse) is significantly higher
than the 30 metre width of the St. Clair Avenue West right-of-way. This exceeds the 1 to 1 ratio between the right-of-way and the building height, which on Avenues is considered to be good proportion. As the subject site is not located in an area designated for growth (such as an Avenue), there is less of a basis to consider a building considerably taller than the right-of-way width which is 30 metres along St. Clair Avenue West at this location.

Policy 3 in section 3.1.2 of the Official Plan requires that "new development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context". The area context does not support an increase in height beyond 30 metres. The context of the surrounding neighbourhood along St. Clair Avenue West is a mix of buildings ranging from 2-storey detached homes to 5-storey apartment buildings, with a few 7 and 8-storey apartment buildings. The tallest building in the immediate context is the 10-storey apartment building to the south of the site, which is approximately 29 metres in height.

The Midrise Guidelines require that an angular plane, taken from a height equivalent to 80% of the right-of-way, be applied to the front façade of the building. The proposed building does not meet this requirement with significant penetrations at the 11th, 12th, and 13th floors. The proposed 13th storey, consisting of the mechanical penthouse and indoor amenity area, increases the height of the building to 41 metres for approximately 40% of the St Clair Avenue West frontage. This creates a very imposing street wall given the immediate context.

At the Community Meeting on May 30, 2012, residents raised concerns about the height and massing of the proposed building. The proposal at that time was for a 12-storey building (39.5 metres to roof of wrapped mechanical penthouse). The building as currently proposed is 13-storeys (41 metres to roof of wrapped mechanical penthouse).

Planning staff are of the opinion that the proposed building does not conform to the height and massing policies of the Official Plan.

**Transition**

As part of the Healthy Neighbourhoods policies, in Section 2.3.1 of the Official Plan, development in *Apartment Neighbourhoods* will provide a transition of scale and density through setbacks from adjacent *Neighbourhoods*. The Built Form policies under Section 3.1.2 of the Official Plan require that new development create appropriate transitions in scale to neighbouring existing and planned buildings. In addition, the *Apartment Neighbourhood* policy 2(A) states that new development is to locate and mass new buildings to provide transition between areas of different development intensity and scale, through means such as setbacks, and stepping down of heights towards lower-scale neighbourhoods.

In this area a well designed building should meet a 45 degree angular plane from the adjacent low-rise neighbourhood, measured from a point setback 7.5 metres from the rear property line and 10.5 metres above grade. The portion of the building adjacent to the low-rise neighbourhood to the south generally meets the rear angular plan for the first 10
storeys; however there are significant penetrations on the 12th and 13th storeys. As well, large terraces on the third storey project into the angular plan and are only 5.6 metres from the rear lot line and the adjacent low-rise neighbourhood, resulting in an undesirable overlook and privacy intrusion. Angular planes are widely used and recognized as an appropriate form of transition, particularly when combined with an adequate setback from the property line.

The west façade of the proposed building will be 13-storey (41 metres) in height and setback 1.9 metres from the west property line. The adjacent 5-storey building to the west is setback 8.1 metres to their property line. The proposed building does not appropriately transition down in height to the adjacent apartment building. On the east façade the building is 12-storeys (36 metres) in height with stepbacks at the 8th and 11th floors.

The proposed building does not meet the Apartment Neighbourhood, Healthy Neighbourhoods, or Built Form transition policies of the Official Plan. The proposed building does not meet the performance standards set out in the Midrise Guidelines.

**Separation Distance**

The separation distance between the proposed building and the adjacent existing apartment building will be approximately 11.8 metres. The existing building has primary windows facing north, while the proposed building will have primary windows facing south.

The Built Form policies of the Official Plan require that new development create appropriate transitions to neighbouring buildings and provide adequate privacy. The Midrise Guidelines state that a minimum separation distance of 20 metres should be provided between an existing apartment building in an Apartment Neighbourhood and development on an Avenue. In these particular circumstances including the existing reduced side yard setback of the adjacent 10-storey apartment building, and the unusual configuration of the subject site, Planning staff have been willing to consider a reduction in the recommended separation distance in the guidelines.

**Amenity Space**

Zoning By-law 438-86 requires 2 square meters of indoor amenity space for each unit and 2 square metres of outdoor amenity space for each unit. The applicant has proposed a total of 164 residential units. This results in a requirement of 328 square metres of indoor amenity space and 328 square metres of outdoor amenity space. The applicant is proposing 386 square metres of indoor amenity space and 465 square metres of outdoor amenity space. The proposed development meets the By-law requirements.

**Traffic Impact/Loading**

The proposed Type G loading space will be located at the rear of the building adjacent to the existing 10-storey apartment building. The loading space is located outside and not within the massing of the building. This does not meet Apartment Neighbourhood policy 2(e) which requires that service areas be located and screened to minimize the impact on
adjacent residences. Built Form policy 2 in Section 3.1.2 of the Official Plan also requires service areas to be integrated within the building to limit the impact on surrounding properties.

**Shadow**

A shadow study was submitted by the applicant as part of the original application submission. The Midrise Guidelines require that a minimum of 5 hours of sunlight is maintained on the sidewalks from March 21 - September 21. Planning staff were not satisfied that the original proposal met this performance standard for the sidewalk on the north side of St. Clair Avenue West. The applicant has not submitted a revised shadow study confirming that 5-hours of sunlight are achieved on the sidewalk, based on the current proposal.

**Wind**

The applicant submitted a Wind Assessment as part of the original application submission. The Wind Assessment concluded that the proposed outdoor amenity space on top of the building will require further wind mitigation. The assessment recommends 2.5 metre tall wind screens which are 70% solid in addition to rooftop planters. The proposed windscreens are not shown on the applicant's plans. The proposed wind screens would further increase the perceived height and massing of the building.

**Servicing**

A Functional Servicing report and Stormwater Management report were submitted by the applicant in support of the proposed development. The reports were reviewed by Engineering and Construction staff and found to be acceptable.

**Open Space/Parkland**

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.78 to 1.55 hectares of local parkland per 1,000 people.

The site is in the middle quintile of current provision of parkland. The site is subject to the requirements of City Wide Parkland Dedication By-law 1020-2010 but is not subject to the alternate rate for parkland provision.

The applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

**Tree Protection**

Urban Forestry staff reviewed the Arborist Report and plans submitted by the applicant as part of the original application. The Arborist Report identified eight trees situated on private property adjacent to the subject site which are to be protected. Urban Forestry staff raised concerns that five of the existing trees, located on the adjacent property to the
west, may be negatively impacted by the development. Urban Forestry staff requested that the applicants consulting arborist provide written comments detailing the potential impact on those trees. The requested information has not been submitted to date.

At the Community Meeting residents raised concerns regarding the impact that the proposed development would have on trees located on adjacent properties.

**Toronto Green Standard**

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce greenhouse gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. Outstanding issues identified by circulated divisions include: tree planting along street frontages, green roof details, and glass and other design features for migratory birds.

Should the application be approved at the OMB, the applicant should be required to submit a site plan that brings their proposal into compliance with these standards.

**Section 37**

Section 37 of the Planning Act allows the City to authorize increased density and/or height in return for the provision of services, facilities or matters. The Official Plan contains provisions authorizing these Section 37 matters, provided the density and/or height increase are consistent with the objectives of the Official Plan regarding building form and physical environment. Section 5.1.1.4 of the Plan allows Section 37 to be used for development with more than 10,000 square metres of gross floor area where the zoning by-law amendment increases the permitted density by at least 1,500 square metres and/or significantly increases the permitted height.

Given the increase in proposed increase in density of 9028 square metres, for the current proposal, the Official Plan would require the provision of Section 37 benefits. Discussions regarding Section 37 benefits between the applicant and the City were not advanced as there was not a resolution on appropriate development for the site.

In the event that this application is brought before the Ontario Municipal Board (OMB) and the OMB grants additional density and/or height beyond that which is permitted in Zoning By-law 438-86, the City will request that the OMB withhold their final order until the City has an agreement with the applicant to secure the appropriate community benefits. Such benefits could include contributions (as deemed appropriate by City Council) for:

- Improvements to local area parks; and
- Streetscape improvements to local area streets.
Conclusion
City Planning Staff have reviewed the development proposal at 213-223 St. Clair Avenue West and find that the revised proposal does not represent suitable development for the subject site.

The proposed 13-storey (41 metres including wrapped mechanical penthouse) is not consistent with the development criteria set out in the Official Plan.

The revised proposal does not address City Staff concerns regarding reductions in height and massing, adherence to angular planes, and the mitigation of impacts on adjacent properties and St. Clair Avenue West. As such, Planning staff recommends refusal of the proposed Official Plan and Zoning By-law Amendment.

CONTACT
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Fax No. 416-392-1330
E-mail: ddriedg@toronto.ca

SIGNATURE

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Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS
Attachment 1: Site Plan
Attachment 2: North Elevation
Attachment 3: South Elevation
Attachment 4: East & West Elevations
Attachment 5: Zoning
Attachment 6: Application Data Sheet
Attachment 1: Site Plan
Attachment 2: North Elevation
Attachment 3: South Elevation
Attachment 4: East & West Elevation
Attachment 5: Zoning

213-221 St. Clair Avenue West

File # 12 135137 OZ

Not to Scale
Zoning By-law 438-86 (as amended)
Extracted 04/02/2012

R1 Residential District
R4 Residential District
G Parks District
Attachment 6: Application Data Sheet

Application Type: Rezoning
Details: Rezoning, Standard
Application Number: 12 135137 STE 22 OZ
Application Date: March 12, 2012

Municipal Address: 215 ST CLAIR AVE W
Location Description: PLAN 810 PT LOTS 10 AND 11 **GRID S2210
Project Description: Rezoning application to construct - 13 storey residential building with 164 residential units - 170 parking spaces - 4 levels below grade parking. Application is for 213 215 217 219 and 221 St Clair.

Applicant: 213 221 ST CLAIR HOLDINGS LTD
Agent: MADISON GROUP
Architect: MADISON GROUP
Owner: 213 221 ST CLAIR HOLDINGS LTD

PLANNING CONTROLS
Official Plan Designation: Apartment Neighbourhood
Site Specific Provision: Max. height: 4-6 storeys (OP policy 221)
Zoning: R4 Z2.0
Height Limit (m): 14 m

PROJECT INFORMATION
Site Area (sq. m): 2389.55
Frontage (m): 76.6
Depth (m): 45.8
Total Ground Floor Area (sq. m): 632.35
Total Residential GFA (sq. m): 13,807.3
Total Non-Residential GFA (sq. m): 0
Total GFA (sq. m): 13,807.3
Lot Coverage Ratio (%): 5.78
Floor Space Index: 5.78
Total Storeys: 13
Metres: 41 (including wrapped mechanical penthouse)

Total Parking Spaces: 170
Total Loading Docks: 1

FLOOR AREA BREAKDOWN (upon project completion)

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CONTACT:
PLANNER NAME: David Driedger, Planner
TELEPHONE: 416-392-7613