

**1443-1451 Bathurst Street –Residential Rental
Demolition Application under Municipal Code Chapter
667 – Final Report**

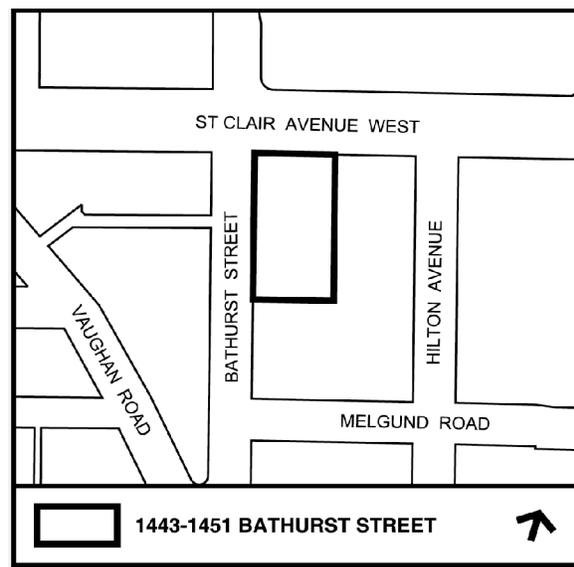
Date:	September 18, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	11-293020 STE 21 RH

SUMMARY

This application for a Section 111 permit, under the City of Toronto Act, proposes to demolish an existing 2-storey mixed use building with commercial space at grade and 7 residential rental apartments on the second floor at 1451 Bathurst Street. The applicant has approval from the Ontario Municipal Board (OMB) to construct a new 23-storey (including 2-storey wrapped mechanical penthouse) mixed use building. It includes a condominium and full replacement of the 7 existing rental units for a total of 284 residential units within the building.

This report's recommendations are in regard to the rental demolition application on the subject site under Municipal Code Chapter 667, pursuant to the City of Toronto Act.

The related Zoning Amendment application for the proposed redevelopment was appealed to the OMB and in November 2012, Council gave Staff direction to settle the appeals with the applicant. The Zoning By-law Amendment was approved by the OMB on April 18, 2013. The OMB has withheld the final order until the final draft of the proposed amendment to the By-law,



and the signed Section 37 agreement has been received by the OMB.

This report provides the results of the negotiations on the rental housing matters, an overview of the approved development, and makes recommendations to approve a Section 111 permit under Chapter 667 and Chapter 363 of the Municipal Code, for the demolition of the 7 existing rental units subject to conditions. The conditions include the full replacement of the 7 rental units and the provision of tenant relocation assistance, including the right for tenants to return to occupy a rental unit in the new building. This report recommends entering into an agreement under Section 111 to secure these conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the 7 existing residential rental units located at 1451 Bathurst Street pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing as outlined in this report:
 - a. the owner shall provide and maintain seven (7) residential rental units on the subject site as rental housing for a period of at least 20 years, comprising 5 one-bedroom units and 2 two-bedroom units, all of which shall have affordable rents;
 - b. the owner shall provide tenant relocation assistance including the right to return to a replacement rental unit for the eligible tenants to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - c. the owner shall construct the building substantially the same as proposed in the settlement agreed to with the City and as submitted to and approved by the Ontario Municipal Board on April 18, 2013, and shall construct the 7 replacement rental units as shown on the rental unit floor plans provided to the City on June 10, 2013, with any revisions to the rental unit floor plans to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - d. the owner shall enter into and register one or more Section 111 Agreement(s) to secure the conditions outlined in Recommendation 1.a. b., and c. above and as described in the draft zoning by-law amendment to be approved by the Ontario Municipal Board (Attachment 1 to the report [September 18, 2013] from the Director, Community Planning, Toronto and East York District) to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and

- e. the owner shall enter into and register, a Section 118 Restriction under the Land Titles Act (to the satisfaction of the City Solicitor) agreeing not to transfer or charge those parts of the lands, comprising the 7 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning Division or their designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.
2. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue preliminary approval for a Section 111 permit for the application under Municipal Code Chapter 667 after the latest of the following has occurred:
 - a. satisfaction of the conditions in Recommendation 1;
 - b. after the Zoning By-law amendment approved by the Ontario Municipal Board has come into full force and effect; and
 3. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2.
 4. City Council authorize the Chief Building Official to issue a permit under Section 33 of the Planning Act no earlier than the first building permit for excavation and shoring of the development has been applied for, and after the Chief Planner and Executive Director, City Planning Division has given the preliminary approval referred to in Recommendation 2, which permit may be included in the demolition permit for Chapter 667 under 363-11.1, of the Municipal Code, on condition that:
 - a. the owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced; and
 - b. should the owner fail to complete the new building within the time specified in condition 4.a., the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000.00) for each dwelling unit for which a demolition permit is issued, and that each sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.
 5. City Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreements.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The Zoning By-law application, as submitted on October 14, 2011, proposed to demolish several existing buildings from 1443-1451 Bathurst Street, including a 2-storey building at 1451 Bathurst Street with 7 residential rental units, and construct a new 25-storey mixed-use building with a 6-storey base, containing 324 dwelling units (including 7 rental replacement units), and 283 parking spaces in a below grade parking structure, 42 of which will be operated by the Toronto Parking Authority.

The application was appealed to the Ontario Municipal Board (OMB) on August 15, 2012. Council approved the basis for settlement of the OMB appeal in November 2012. The settlement, as presented to the OMB, proposed to construct a new 23-storey (including wrapped mechanical penthouse) mixed-use building with a 6-storey base, containing 284 dwelling units (including 7 rental replacement units), and 243 parking spaces in a below grade parking structure, 42 of which will be operated by the Toronto Parking Authority.

With respect to the rental demolition and replacement matters, Council's requirements for settlement of the appeal of the redevelopment, to satisfy the Official Plan policy on rental demolition included:

"The seven (7) existing rental apartment units on the Site will be replaced to the satisfaction of City Council in the Revised Development, in accordance with standard practice and policies, or in another manner acceptable to the City (such as an alternative location in the local community). The terms regarding replacement and the provision of tenant relocation assistance will be secured in the Section 111 permit/agreement, zoning by-law amendment and Section 37 agreement."

On April 18, 2013, the OMB gave an oral decision approving the Zoning By-law amendment application. The OMB has withheld its Order until it receives the final draft of the proposed amendment to the By-law, and is advised by the Parties that the Section 37 Agreement has been registered. The proposed Zoning By-law amendment is currently being finalized by City Legal and the applicant. The relevant Section 37 provisions related to Rental Replacement are included "Appendix 1" of the attached draft Zoning By-law (Attachment 1).

This property has not been the subject of a previous application for demolition or conversion of any rental units over the previous five-year period.

ISSUE BACKGROUND

Proposal

This application for a Section 111 permit proposes to demolish an existing 2-storey mixed use building with commercial at grade and 7 residential rental apartments on the second floor, and provide full replacement of the 7 rental units, as well as tenant relocation assistance for all affected tenants.

The Applicant has approval from the OMB to construct a new 23-storey mixed use building with full replacement of the 7 existing rental units within the building.

Site and Surrounding Area

The subject site is rectangular in shape and approximately 2,630 square metres (28,320 square feet) in size, with frontages on St. Clair Avenue West and Bathurst Street. The proposed development will be located on three lots.

The first lot contains an existing 2-storey mixed-use building on the corner of St. Clair Avenue West and Bathurst Street (1451 Bathurst Street) which includes various retail and commercial uses on the ground floor and seven (7) residential rental units on the second storey. The second lot is a surface parking lot owned by the City and operated by Toronto Parking Authority (1445-1449 Bathurst St.). The third lot contains a 3-storey building used as a place of worship (1443 Bathurst St.).

The following uses abut the property:

North: A gas station and carwash are located on the northeast corner of St. Clair Avenue West and Bathurst Street. A 7-storey mid-rise building on the northeast corner and two 25-storey towers above the subway entrance further east are permitted on these lands pursuant to a 1992 OMB approval, but have not been built. The lands further north are occupied by St. Michael's College School. The lands further east are occupied by a grocery store and the St. Clair Avenue West subway station entrance. On the northwest corner are two new condominium apartment buildings which are 23 storeys and 19 storeys in height, with commercial uses at grade.

South: A 3-storey apartment building is adjacent to the site. Further south is the Wychwood library, the Wells Hill Lawn Bowling Club and a low-rise residential neighbourhood. South of Melgrud Rd on Bathurst Street are a combination of low-rise mixed-use, residential, and commercial buildings 2-3 storeys in height.

East: A mix of low-rise residential buildings including both apartment and house form buildings abut the site. Further east is Wells Hill Park, and then the Nordheimer Ravine.

West: A 4-storey medical office building is located on the southwest corner of St. Clair Avenue West and Bathurst Street, west of which are 1-2 storey buildings. An

older 24-storey rental apartment building is located on a triangular lot between Bathurst Street and Vaughan Road.

The recently completed St. Clair Avenue dedicated TTC streetcar line has an eastbound transit stop, containing a transit shelter, in front of the site. There is another transit stop at Vaughan Road.

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. Key provisions include meeting projected housing needs of current and future residents, and establishing targets for the provision of housing affordable to low and moderate-income households. 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; achieving a range and mix of housing taking into account affordable housing needs; 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

Section 3.2.1 Housing Policy

This redevelopment proposal and demolition application was subject to the Official Plan's Housing policies, in particular 3.2.1.6.

Proposals involving the demolition of 6 or more units of rental housing shall not be approved by Council unless all of the rental housing units have rents that exceed mid-range rents at the time of application. Approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with no condominium registration, with rents similar to those in effect at the time the application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and, other assistance to lessen hardship.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City's Municipal Code, implements the City's Official Plan policies protecting rental housing. The City's Official Plan protects groups of six or more rental units from demolition. The By-law implements the City's policies protecting rental

housing, which include providing and maintaining a full range of housing, within neighbourhoods as well as across the City. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the City of Toronto Act. Proposals involving the loss of six or more residential units, wherein one or more of the units are rental; require the submission of a Section 111 application. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the Building Code Act.

A related application such as a Zoning By-law amendment triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike Planning Act applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB. In this case, the development has been approved by the OMB, with the final order being withheld until the Section 37 Agreement has been finalized by City staff and the appellant.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, Council has the authority to approve or refuse a demolition permit, except in cases where a building permit has been issued to construct a new building. The proposed demolition requires approval under both Section 33 of the *Planning Act* and Section 111 of the *City of Toronto Act*. Section 363-11.1 of the Municipal Code provides for the co-ordination of these two processes. The Chief Building Official may issue one demolition permit for the purposes of Section 33 of the Planning Act and Chapter 667 of the Municipal Code. The Chief Planner in consultation with the Chief Building Official may report on the application for a City Council Decision.

Toronto Buildings staff were consulted in the preparation of this report.

Site Plan Control

The proposal is subject to Site Plan Control. A Site Plan Control application has been submitted and is being reviewed by City Staff.

Reasons for Application

A Rental Housing Demolition and Conversion Application under Section 111 of the City of Toronto Act (Chapter 667 of the Municipal Code) is required to permit the demolition of the existing building which contains a total of 7 rental dwelling units at affordable and mid-range rents.

Community Consultation

Chapter 667 requires City Planning to hold a community consultation meeting to consider matters under the by-law and the impact on tenants prior to the submission of a report to Community Council.

A community consultation meeting for the tenants of the 7 affected rental units was held on June 13, 2012. Tenants from all of the occupied units attended. Concerns included,

the adequacy of the size and facilities of the replacement units compared to the current sizes and storage of the existing units, and the potential of having to temporarily relocate away from their community while the new development was under construction. The tenants expressed a strong attachment to the community, and the benefits of their current location with immediate access to the subway, surface transit, retail and other services and the amenities of the neighbourhood.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Rental Housing

The existing building is a 2-storey mixed use commercial plaza with a total of 7 residential rental units. It has a unit mix of 2 two-bedroom units and 5 one-bedroom units, all of which had affordable rents at the time of the application in 2011. Currently, there are 5 tenant households who are in various stages of moving out in preparation for demolition, with a deadline of October 31 that was determined in the notices to terminate tenancy issued by the owner.

The rental building is subject to the Residential Tenancies Act, which has provisions for tenants asked to vacate for demolition.

Replacement Rental Housing

The owner has agreed to replace the 7 rental units with similar rents, the same unit mix and units of a slightly smaller size. They will be located in the new commercial and residential building on the second floor. The rental apartments are grouped together on the second floor, which also contains condominium units, and are fully integrated with all the residential condominium units in the building, sharing all the facilities and amenities. The rental units will be secured as rental housing for at least twenty years with no application for condominium registration or any other non-rental housing use during this period.

The replacement proposal, including tenant assistance provisions, meets the City's Official Plan policy and generally is consistent with the City's standard practices. The Zoning By-law Amendment will provide for securing these matters in a Section 37 Agreement. The Council- approved terms of settlement of the appeal by the owner to the OMB required that the owner replace the 7 rental units, and provide tenant relocation

assistance based on the City's standard practices, to the satisfaction of City Council. This report's recommendations if adopted by City Council will represent the acceptance by the City of the replacement rental housing proposal for the purposes of the settlement of the OMB appeal as well as approval of the Section 111 permit for demolition of the rental housing.

Staff worked with the applicant to revise the rental unit layouts and improve the unit features and access to building amenities, and is satisfied with the revised plans for the replacement units. Although the size of each apartment is less than the existing units, all of the unit sizes are reasonable and several are generous. A number of units had their size increased from previous plans and layouts were improved. All 7 apartments will have a storage locker, and extra-large storage lockers on the same floor were secured for some of the rental units with decreased floor areas. Six of the 7 apartments will have a balcony, in contrast to the existing rental building which had none. The owner has agreed to provide full access to the tenants at no cost to all of the extensive indoor and outdoor amenity spaces, well beyond the minimum requirements for amenity space for the rental component of the building. Taken together, staff is satisfied that with all these provisions, some of the drawbacks of smaller replacement units will be compensated for and the rental housing represents a good replacement proposal.

All 7 apartments will have affordable rents. There will be 2 two-bedroom units and 5 one-bedroom units.

Further details of the replacement rental housing

The Section 37 and Section 111 Agreements will specify minimum unit sizes, which will range from 51 to 70 square metres (550 to 750 square feet) for the one-bedroom apartments, and 73 to 88 square metres (785 to 950 square feet) for the two-bedroom units. Two parking spaces shall be made available to the rental tenants. Bicycle parking spaces shall be provided for the tenants of the rental units on the same basis as residents of the condominium.

At least 7 lockers shall be provided of which at least 3 of the lockers shall be provided on the same floor as the rental units. All rental units shall have laundry provided en-suite, and kitchens will have a stove, fridge, dishwasher and microwave. Central air conditioning shall be provided for the rental housing component. All balconies will have the necessary infrastructure to support a barbeque.

The recommendations of this report authorize the Chief Planner under Chapter 667 to issue the necessary documents to the owner and the Chief Building Official that are required before the S.111 permit for demolition of 14512 Bathurst can be issued. Prior to doing so, the Chief Planner will ensure that the zoning by-law is in force and effect, and that the recommendations securing the conditions of the S.111 permit have been satisfied or secured. Typically, the issuance of Notice of Approval Conditions (NOAC) for Site Plan Approval is also required before the S.111 documents are released. In this case, staff are not recommending NOAC as a condition of demolition permit issuance. This

site is similar to other applications where early demolition and excavation is required to deal with specific site conditions or other external pressures. There is a need to first deal with soil remediation that arises from the migration of contaminants from a nearby site.

Tenant Relocation and Assistance Plan

The proposal for City approval meets the City's standard practices, and goes beyond the minimum requirements of the Residential Tenancies Act by increasing the 4 month notice period for tenants to vacate to 5 months, and by providing additional financial assistance beyond the required payment equal to 3 months rent. This includes a moving allowance, as well as a move-back allowance for those returning to the new building, extra compensation on a sliding scale based on length of tenancy, and special assistance for tenants deemed to have special needs. All 5 of the tenant households have been occupants for more than 10 years, 3 of whom have lived in the building for more than 20 years.

All tenants will have the right to return to a similar rental unit in the new building, at similar rents.

Rent Provisions

All 7 rental units will have affordable rents, on the City's standard terms. Rents for tenants moving in during the first 10 years shall be no higher than the CMHC average market rent. For returning tenants, the initial rents shall be based on their last rent paid with permitted annual rent guideline increases that would have otherwise occurred during the intervening period between vacating the existing building until the new building is available for move-in, and a 4% increase representing a new building allowance.

Annual increases are limited to the provincial rent guideline increase, and above-guideline increases if applicable, during this first 10 year affordability period. For any tenant who remains after the tenth year, these protections will continue until the earlier of when they move out of their apartment or the 20th year of the new building's occupancy, followed by a 3 year phase in to unrestricted market rent.

Commencing in the 11th year, any new tenants may be charged market rents, unrestricted by the owner's agreement with the City.

Conclusion

Staff is recommending that Council approve the demolition of the 7 residential rental units at 1451 Bathurst Street conditional on the applicant providing the replacement rental housing and tenant assistance as outlined in this report, and entering a Section 111 agreement to the satisfaction of the Chief Planner to secure these conditions. These provisions are consistent with the OMB's decision and Council's Terms of Settlement, and will be reflected in the rental housing provisions of the Zoning By-law to be recommended to the OMB, and with the Section 37 Agreement to be entered into.

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SIGNATURE

Gregg Lintern, MCIP, RPP
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ATTACHMENTS

Attachment 1: Draft Zoning By-law

Attachment 1: Zoning By-law Amendment

ZONING BY-LAW AMENDMENT TO BY-LAW NO. 438-86

Draft By-law

Authority: Ontario Municipal Board Decision issued on April 18, 2013, and Order issued _____, 2013, in Board File No. PL120931

CITY OF TORONTO

BY-LAW No. ____ – 2013 (OMB)

To amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 1443, 1445 & 1451 Bathurst Street, and 501 St. Clair Avenue West.

WHEREAS the *owner* of the lands known municipally in the year 2012 as 1443, 1445 and 1451 Bathurst Street and 501 St. Clair Avenue West appealed a proposed zoning by-law amendment to the Ontario Municipal Board; and

WHEREAS the Ontario Municipal Board, by its Decision issued on April 18, 2013 and Order issued _____, 2013 in Board File No. PL120931, approved amendments to the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to those lands;

NOW THEREFORE pursuant to the Order of the Ontario Municipal Board, By-law No. 438-86 of the former City of Toronto is amended as follows:

Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *site* of the facilities, services and matters set out in Appendix 1 of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.

1. Upon execution and registration of an agreement or agreements with the *owner* of the site, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 of this By-law, the *site* 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 requirement.
2. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

3. Except as otherwise provided herein, the provisions of *By-law No. 438-86* shall continue to apply to the *site*.
4. None of the provisions of Section 4(2)(a), (4(3)(a), 4(4)(b) and (d), 4(6)(b), 8(3)Part I (1), 8(3) Part II (1)(b)(ii), 8(3)Part II(4)(a) and (c), and 12(2)(222) shall apply to prevent the erection and use of a *mixed-use building* with an underground *parking garage*, which may contain *public parking spaces* and *car-share parking spaces*, on the *site*, provided that:
 - (a) the *lot* on which the building is located comprises at least the *site*;
 - (b) The total *residential gross floor area* and *non-residential gross floor area* on the *site* shall not exceed 21,500 square metres, of which:
 - i. the total *residential gross floor area* shall not exceed 20,550 square metres; and
 - ii. the total *non-residential gross floor area* shall not exceed 950 square metres;
 - (c) the total number of *dwelling units* shall not exceed 284, of which; at least ten percent (10%) of the total number of *dwelling units* shall have two bedrooms, two bedrooms plus den or three bedrooms;
 - (d) the *height* of each portion of a building or structure erected above *grade* within the *site*, in respect of each *building envelope* area, has a maximum *height* in metres as shown following the symbol “H” on Map 2 for the corresponding *building envelope* area, including mechanical and rooftop elements, and
 - i. within the *building envelope* area showing a maximum *height* of 23.1 metres on Map 2, the maximum number of storeys shall be 6;
 - ii. within the *building envelope* area showing a maximum *height* of 69.5 metres on Map 2, the maximum number of storeys shall be 21; and
 - iii. within the *building envelope* area showing maximum *heights* of 72.5- and 75.5 metres on Map 2, the maximum number of storeys shall be 21, but this shall not preclude a mechanical penthouse and an adjacent set of *dwelling units* within the 75.5m. *height* area or 72.5m. *height* area.,
 - (e) The preceding subsection (d) shall not apply to:
 - i. window washing equipment, lighting fixtures, ornamental elements, partitions dividing outdoor recreation areas and trellises, lightning rods, exhaust flues, cooling equipment, planters, pavers, stairs, stair enclosures,

- and wheelchair ramps, extending to a maximum vertical projection of 2 metres;
- ii. railings, cornices, parapet walls, elements of a green roof, extending to a maximum vertical projection of 1.2 metres above the *height* limits shown on Map 2; and
 - iii. landscaping, public art features, and an outdoor pool for residence recreation;
 - iv. provided that paragraphs i, ii, and iii shall not apply to permit anything above a *height* of 75.5 metres,
- (f) no part of any building or structure erected within the *site* shall be located above *grade* other than within a *building envelope*, with the exception of the following:
- i. window washing equipment, lighting fixtures, ornamental elements, partitions dividing outdoor recreation areas and trellises, lightning rods, exhaust flues, cooling equipment, planters, pavers, stairs, wheelchair ramps, railings, cornices, elements of a green roof, window sills, balustrades, awnings and canopies, all of which may extend beyond the *building envelope* to a maximum of 2m;
 - ii. balconies which may project beyond the *building envelope* to a maximum of 1.8 metres; and
 - iii. landscaping, public art features and an outdoor pool for residence recreation;
- (g) Notwithstanding Section 4(4) of *By-law No. 438-86*, parking shall be provided and maintained within an underground *parking garage* on the *site* and in accordance with the following minimum ratios:
- i. Bachelor Units – 0.6 spaces per unit
 - ii. 1-Bedroom Units – 0.7 spaces per unit
 - iii. 2-Bedroom Units or greater – 0.9 spaces per unit
 - iv. parking for non residential uses and residential visitor parking shall be satisfied by the provision of at least 42 *public parking spaces*;
- (h) Notwithstanding Section 4(4) of *By-law No. 438-86*, the total number of *parking spaces* required to satisfy parking requirements for residents, may be reduced, up to a maximum of 12 *parking spaces*, by 4 *parking spaces* for each *car-share parking space* provided and maintained in an underground *parking garage* within the *site*;

- (i) A minimum of 42 *public parking spaces* shall be provided and maintained within an underground *parking garage*;
 - (j) Despite Section 4(17) of *By-law No. 438-86*, the *public parking spaces* to be provided and maintained within the underground *parking garage* shall have a minimum length of 5.2 metres, provided they are accessed by a drive- aisle 7 metres in width.
 - (k) One *Type G loading space* shall be provided and maintained within the *mixed-use building on site*.
5. The *owner* of the *lot* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this lot have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below *grade* building permit, which for clarity shall not include any permit for demolition, excavation or shoring.
 6. For clarity, all Appendices and Maps attached to this By-law are incorporated into this By-law and are deemed to be part of this By-law.
 7. A temporary *sales office* shall be permitted on the *site*.
 8. Despite any existing or future severance, partition, or division of the *site*, the provisions of this By-law shall apply to the whole of the *site* as if no severance, partition or division occurred.
 9. For the purpose of this By-law, the following expressions shall have the following meaning:
 - (a) “*building envelope*” means a building envelope for each *height* area within the *site* as shown by an “H” and as delineated by the lines on Map 2 and Map 2A attached hereto;
 - (b) “*By-law 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 ”;
 - (c) “*car-share parking space*” means a *parking space* used exclusively for the parking of a *car-share motor vehicle*;
 - (d) “*car-share motor vehicle*” means a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected on the *site*;
 - (e) “*City*” means the City of Toronto;

- (f) “*height*” means the vertical distance between *grade* and the highest point of the building or structure and for clarity shall exclude any permitted projections from the sides of *building envelopes*, and shall include the highest point of any mechanical penthouse and, elevator overrun;
- (g) “*grade*” means 157.1 metres above Canadian Geodetic Datum;
- (h) “*site*” means those lands outlined by heavy lines on Map 1 attached hereto;
- (i) “*owner*” means the registered owner of the *site* or any part thereof;
- (j) “*sales office*” means an office located on the *lot* in a temporary building, structure, facility or trailer satisfactory to the City’s Chief Planner used exclusively for the sale of *dwelling units* and the sale or leasing non-residential floor space within the *mixed use building* to be erected on the *lot*;
- (k) “*public parking space*” means a *parking space* used for and operated by the Toronto Parking Authority of the *City*;
- (l) 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 438-86*.

APPENDIX 1

SECTION 37 PROVISIONS

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* to the *City* in accordance with an agreement or agreements pursuant to Section 37(1) of the *Planning Act*:

1. The *owner* shall pay the sum of One-Million Five Hundred Thousand Dollars (\$1,500,000.00) to the *City* (together with any increases to reflect increases in the Construction Price Statistics between the date of this Agreement and the delivery of such payment), prior to the issuance of the first above *grade* building permit, for capital improvements to the Wychwood Public Library and/or local parkland improvements or public art locally in Ward 21 as directed by the City's Chief Planner in consultation with the Ward Councillor;
2. The *owner* shall provide additional public access at *grade* on the *site* between the property line and *building envelope* on the ground floor as shown on Map 2A for the purpose of achieving increased pedestrian circulation space and which will be secured in an associated surface easement to the *City* at or before the time of condominium registration;
3. The *owner* shall provide and maintain on the lot not less than seven (7) new replacement rental *dwelling units*, comprising five (5) one-bedroom *dwelling units* and two (2) two-bedroom *dwelling units*, all of which shall be provided as affordable rental units, on the *lot* to the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, subject to the following:
 - (a) the 7 replacement rental *dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that each unit is occupied and until the *owner* obtains approval for a zoning by-law amendment removing the requirement for the replacement rental units to be maintained as rental units.; No application may be submitted for condominium approval or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period.
 - (b) the replacement rental *dwelling units* shall be ready and available for occupancy no later than the date by which not more than 90% of the other *dwelling units* erected on the lot are available and ready for occupancy;
 - (c) the replacement rental *dwelling units* shall be of the same unit type as the rental *dwelling units* existing on the *lot* at the date of enactment of this by-law, subject to the following:
 - i. the five (5) one-bedroom *dwelling units* shall be at least 51 m² in size, of which two (2) *dwelling units* shall be at least 63 m² in size,

- and another two (2) *dwelling units* shall be at least 67 m² in size; and
- ii. one (1) of the two-bedroom *dwelling units* shall be at least 72 m² in size, and the other two-bedroom *dwelling unit* shall be at least 87 m² in size; and
 - iii. the combined floor area of the 7 rental units shall not be less than 474 m²; and
 - iv. no more than 2 one-bedroom *dwelling units* may contain a single interior bedroom; and
 - v. tenants of the replacement rental *dwelling units* shall have full access to all of the building facilities and amenities that are to be provided to the residents of the non-rental *dwelling units*.
- (d) the *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the replacement rental *dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the *City* 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.
- (e) rents charged to tenants occupying an affordable replacement rental *dwelling unit* at the end of the 10 year period set forth in (d) shall be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their *dwelling unit* or until the *expiry* of the rental tenure period set forth in (a) with a subsequent phase-in period of at least three years for rent increases;
- (f) rents charged to tenants newly occupying a replacement rental *dwelling unit* after the completion of the 10 year period set forth in (d) will not be subject to restrictions by the *City* under the terms of the Section 37 Agreement that *is required* by this by-law;
4. The seven (7) replacement rental *dwelling units* may also be provided in an alternative location in Ward 21, subject to generally the same terms and conditions for their replacement on the existing *lot* required in subsection (3), *all to the satisfaction* of the *City's* Chief Planner and Executive Director, City Planning Division provided that the Chief Planner has approved the detailed plans

and terms at the alternative location prior to the date that the first above-grade building permit is issued for any building on the *lot*. .

5. The *owner* shall provide tenant relocation assistance to the tenants of the existing units affected by the demolition, to the satisfaction of the Chief Planner. The assistance shall include at least: an extended notice period before having to vacate for demolition, financial assistance with relocation beyond the amounts required by provincial legislation, and the right to return to a rental replacement unit
6. The *owner* shall post a 24-hour monitored construction hotline number on the hoarding board at the *site*, which must be prominently placed and legible from 20 metres and on all elevations from the construction site.
7. The *owner* shall provide and install public art, including mural artwork, onto every elevation of the hoarding board with adequate spotlighting for nighttime illumination, at their sole cost, to the satisfaction of the Ward Councillor.
8. The *owner* shall enter into an agreement with the *City* pursuant to Section 37 of the *Planning Act*, to secure the provision of said facilities, services and matters as set forth in this Appendix 1, in a form satisfactory to the *City's* Solicitor, with conditions providing for indexed escalation of financial contributions, no credit for development charges, indemnity, termination and unwinding, and registration and priority of the agreement.