

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~  
Enacted by Council: ~, 20~

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. ~-20~**

**To amend Zoning By-law No. 438-86, as amended,  
With respect to the lands municipally known as,  
5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street and  
Lands on the east side of St. Luke Lane**

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with 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 hereof, the provisions of which shall be secured by an agreement or agreement's pursuant to Section 37(3) of the *Planning Act*.
2. 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 hereof, 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 requirements.
3. 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.
4. Except as otherwise provided herein, the provisions of *By-law No. 438-86*, as amended shall continue to apply to the *site*.
5. None of the provisions of Section 2(1) with respect to the definition of *grade*, and *storey* and Sections 4(2)(a), 4(5)(b) and (h), 4(8), 4(12), 4(13)(a) and (c), 8(3) Part I 1, 2 and 3(a), 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 8(3) Part XI 2(ii) and 12(2) 132 of *By-law No. 438-86* of the former City of Toronto, and none of the provisions of Section 1(1)-(18) and Section 2 of Zoning By-law 463-1998, shall apply to prevent the erection or use of a *mixed-use building* and *public park* within the *site*, which *mixed-use building* may

contain *dwelling units* and non-residential uses, and *accessory* uses thereto, provided that all of the provisions of this By-law are complied with:

- (a) the *lot* on which the uses are located shall comprise at least the *site* being *Area A*, *Area B*, *Area C* and *Area D* as shown on Map 1 attached to and forming part of this By-law, except that the area located below 1.5 metres below *grade* on *Area A* shall not be included in the *site*; and
  - (i) "*Area A*" shall only be used for a public park at grade to a depth of approximately 1.5 metres;
  - (ii) "*Area B*" shall only be used for public park at grade to a depth of approximately 1.5 metres and a below grade parking garage;
  - (ii) "*Area C*" shall only be used for the mixed use building;
  - (iv) "*Area D*" shall only be used for accessory uses to the mixed use building in *Area C* and parking and loading serving adjacent properties;
- (b) the *residential gross floor area* and *non-residential gross floor area* on the *site* shall not exceed 51,850 square metres;
- (c) the *residential gross floor area* shall not exceed 46,200 square metres;
- (d) the *non-residential gross floor area* shall not exceed 5,700 square metres;
- (e) the total number of *dwelling units* erected or used on the *site* shall not exceed 742;
- (f) the total number of *storeys* erected or used in the *mixed-use building* shall not exceed 60;
- (g) at least ten per cent (10%) of all total *dwelling units* erected or used on the *site* shall have two or more bedrooms and at least seven per cent (7%) of the units shall have at least three or more bedrooms with a minimum size of 80 square metres per three or more bedroom units in compliance with the provisions of the Ontario Building Code;
- (h) a minimum of 2 square metres of indoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *site* in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom;
- (i) a minimum amount of outdoor *residential amenity space* shall be provided and maintained on the *site* equal to the greater of 550 square metres or 0.74 square metres per *dwelling unit* in a location adjoining or directly accessible from a portion of the indoor *residential amenity space*;
- (j) no portion of the *mixed-use building* including the mechanical and roof top

elements shall have a *height* in metres greater than the *height* limits in respect of each *building* envelope area, specified by the numbers following the symbol H on Maps 2 and 3, except for;

- (i) canopies, awnings and building cornices;
  - (ii) window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, air intakes and vents, ventilating equipment, landscape and green roof elements, partitions dividing outdoor recreation areas, wind mitigation, chimney stack, exhaust flues, garbage chute overrun, and public art elements;
- (k) no part of any building or structure erected on the *site* shall be located above *grade* other than within a *building envelope*, except for:
- (i) canopies, awnings and building cornices;
  - (ii) window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, air intakes and vents, underground garage ramps, landscape and green roof elements, partitions dividing outdoor recreation area, trellises, wind mitigation and public art elements;
- (l) *parking spaces* shall be provided and maintained on the *site* in a *parking garage* accordance with the following minimum requirements:
- (i) at a minimum rate of
    - (a) *bachelor dwelling units* up to 45 square metres– a minimum of 0.3 *parking spaces* for each *bachelor dwelling unit*;
    - (b) *bachelor dwelling units* greater than 45 square metres– a minimum of 1 *parking spaces* for each *bachelor dwelling unit*;
    - (c) one-bedroom *dwelling units* – a minimum of 0.5 *parking spaces* for each one-bedroom *dwelling unit*;
    - (d) two-bedroom *dwelling units* – a minimum of 0.8 *parking spaces* for each two-bedroom *dwelling unit*;
    - (e) three and more bedroom *dwelling units* – a minimum of 1.0 *parking spaces* for each *dwelling unit* containing three or more bedrooms;

- (ii) at a maximum rate of
  - (a) *bachelor dwelling units* up to 45 square metres– a minimum of 0.4 *parking spaces* for each *bachelor dwelling unit*;
  - (b) *bachelor dwelling units* greater than 45 square metres– a minimum of 1.2 *parking spaces* for each *bachelor dwelling unit*;
  - (c) *one-bedroom dwelling units* – a minimum of 0.7 *parking spaces* for each *one-bedroom dwelling unit*;
  - (d) *two-bedroom dwelling units* – a minimum of 1.2 *parking spaces* for each *two-bedroom dwelling unit*;
  - (e) *three and more bedroom dwelling units* – a minimum of 1.5 *parking spaces* for each *dwelling unit* containing three or more bedrooms;
- (iii) a minimum of 10 *parking spaces* for visitors
- (iv) a minimum of 128 *parking spaces* shall be required for non-residential uses on the *site* which may be provided by a below grade *commercial parking garage*;
- (m) the *commercial parking garage* shall be located below *grade*;
- (n) notwithstanding Section 4(17)(a) and (e) of By-law 438-86, a *parking space* can have a minimum width of 5.2 metres if it is accessed directly from a drive aisle that has a minimum width of 7.0 metres;
- (o) notwithstanding the definitions of *non-residential gross floor area* and *residential gross floor area* in By-law No. 438-86, the floor area attributed to the *commercial parking garage* shall be excluded from the calculation;
- (p) at least one *Loading space-Type G*, one *Loading space – Type C* and one *Loading space-Type B* shall be provided and maintained on the *site*;
- (q) the minimum number of *bicycle parking spaces* to be provided on the *site* shall be as follows:
  - (i) for residential uses, a minimum of 1.0 *bicycle parking space* per *dwelling unit*, of which 0.9 *bicycle parking spaces* are long-term and 0.1 *bicycle parking spaces* are short term; and,
  - (ii) for uses listed in Section 8(1)(f)(b)(iv), (v) and (vi) of By-law No. 438-86, *bicycle parking spaces* shall be provided in accordance with Section 4(13) of By-law No. 438-86;

- (r) notwithstanding any other provisions, *Area D* may also be used for short term *bicycle parking spaces*; and
  - (s) none of the provisions of this By-law shall apply to prevent a *temporary sales office* on the *site*.
6. Within the *site*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
  - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
7. 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.
8. For the purposes of this By-law, the following words and expressions shall have the following meaning:
- (a) "*Area A*" means the lands shown as Area A on Map 1 and contains a public park at grade to a depth of approximately 1.5 metres;
  - (b) "*Area B*" means the lands shown as Area B on Map 1 and contains a public park at grade to a depth of approximately 1.5 metres and a below grade parking garage;
  - (c) "*Area C*" means the lands shown as Area C on Map 1 and contains a mixed use building;
  - (d) "*Area D*" means the lands shown as Area D on Map 1 and contains accessory uses to the mixed use building in Area C and parking and loading serving adjacent properties;
  - (e) "*building envelope*" means a building envelope as delineated by heavy lines on Maps 2 and 3 attached hereto;
  - (f) "*grade*" means the established grade of 107.25 metres Canadian Geodetic Datum shown on Map 2;
  - (g) "*site*" means those lands delineated collectively by heavy lines on Map 1, exclusive of those lands below *grade* on Area A as identified on Map 1.
  - (h) "*storeys*" shall be as defined by *By-law No. 438-86* except that it shall exclude a mezzanine and mechanical penthouse;

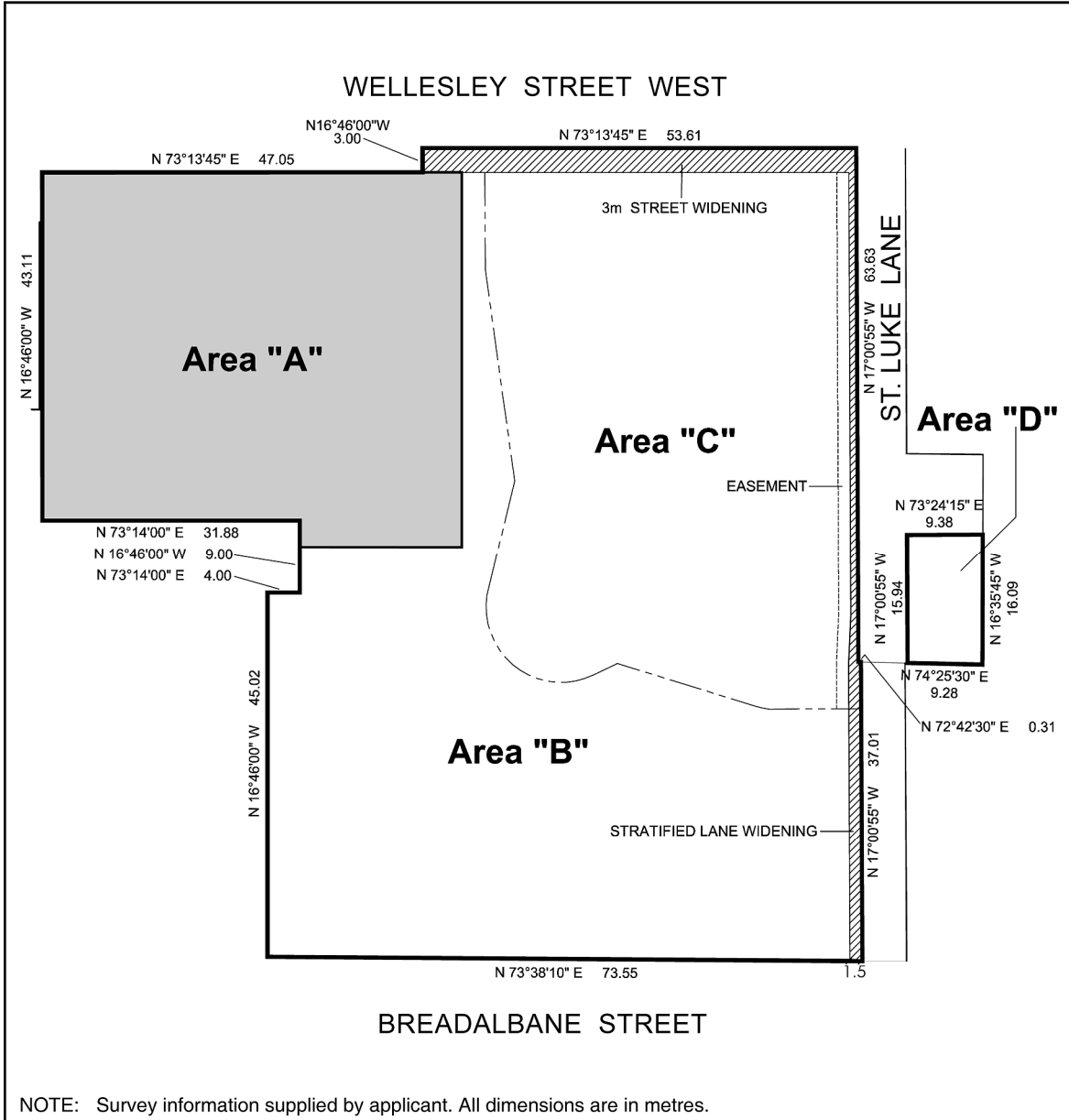
- (i) “*temporary sales office*” means a building or structure used for the purpose of the sale of *dwelling units*; and
- (j) each other word or expression which is italicized in this By-law shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.

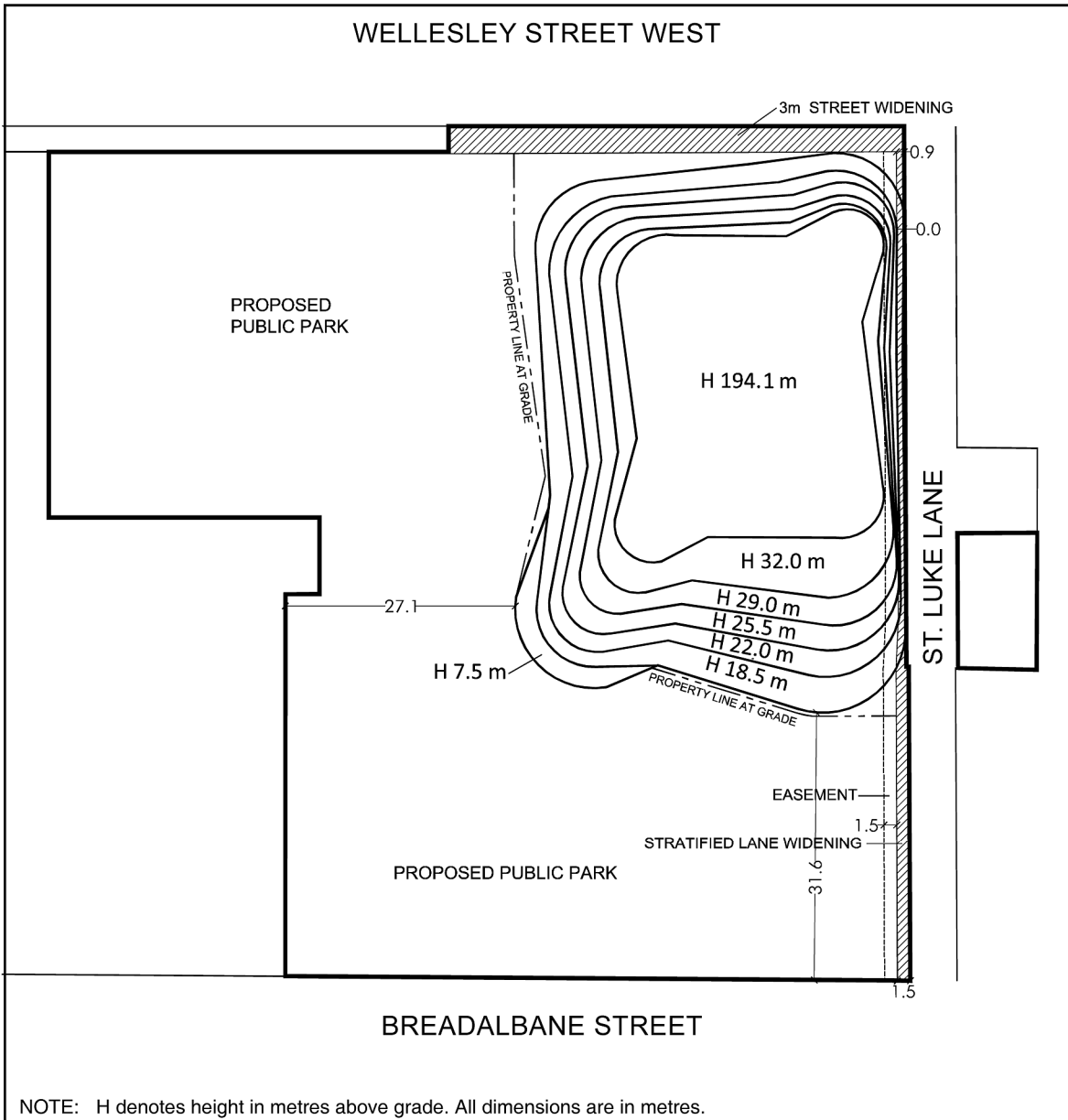
ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,  
Mayor

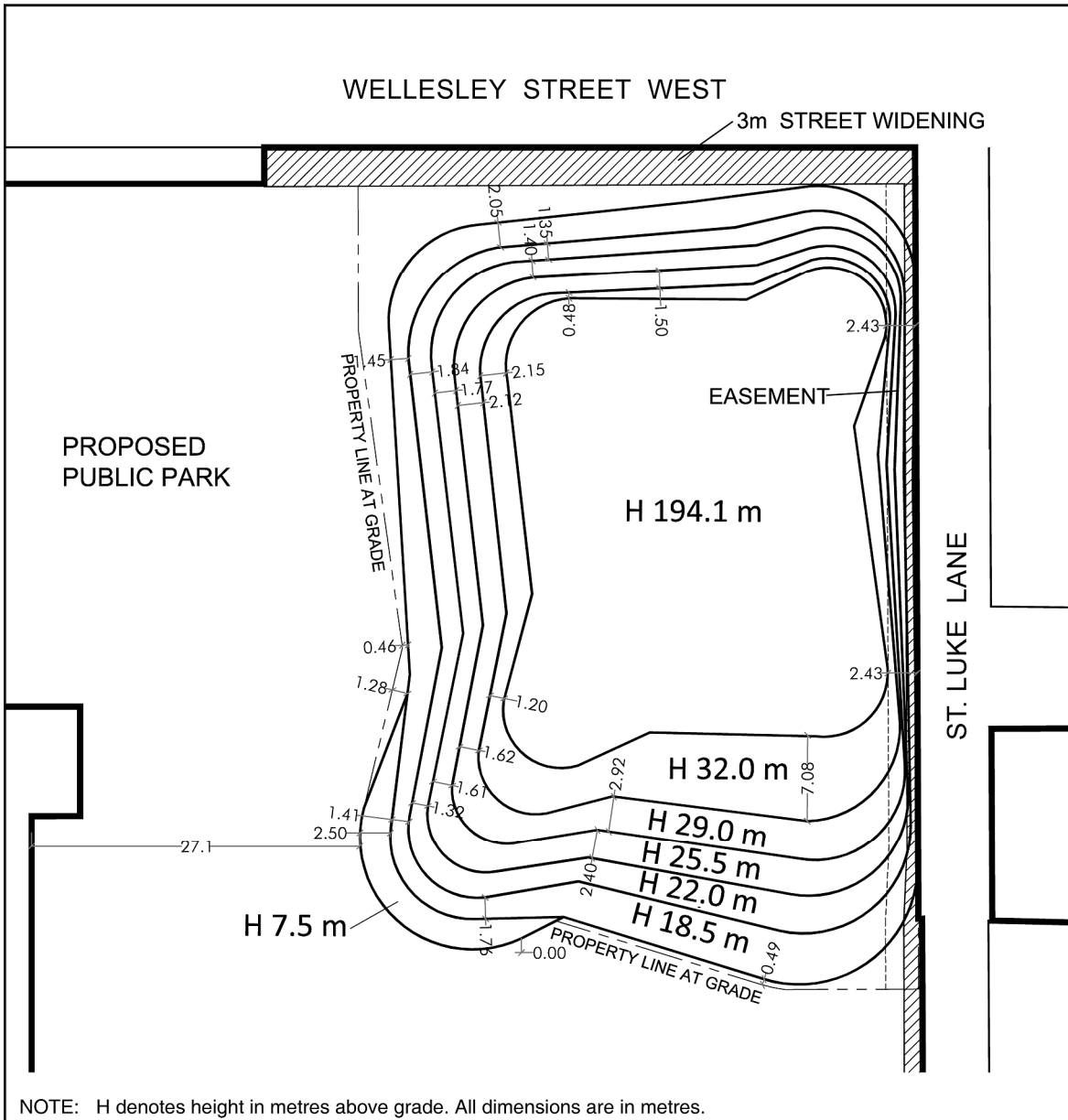
ULLI S. WATKISS,  
City Clerk

(Corporate Seal)









NOTE: H denotes height in metres above grade. All dimensions are in metres.

**APPENDIX 1**  
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *site* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* and the owner with conditions providing for indexing escalation of both the financial contributions, and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

The community benefits to be secured in the Section 37 agreement are as follows:

Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into one or more Agreement(s) pursuant to Section 37 of the Planning Act to secure the following at the owner's sole expense all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with appropriate civic officials and the Ward Councillor:

1. Enter into an agreement at the expense of the Owner to secure the following as Section 37 facilities, services and matters:
  - a. The provision of a \$1,000,000.00 contribution by the Owner at the time of first building permit, indexed, toward public art in accordance with the Public Art Program to be used on the site or in the adjacent parkland;
  - b. Prior to the earlier of: first occupancy permit; condominium registration; or a date to the satisfaction of the General Manager Parks, Forestry and Recreation, the Owner of the site at their cost, convey to the City to the satisfaction of the City Solicitor a stratified parcel for park purposes consisting of: lands of approximately 2,040 sq.m. to be purchased by the City; lands of approximately 4,074 sq.m. to be conveyed at no cost (which include lands currently held in escrow from the 1999 Section 37 Agreement for the block; lands the City is receiving in exchange for lands the City is giving up to facilitate the new driveway configuration; the present Section 37 contribution for 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street lands; and the lands to be dedicated for parkland purposes from 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street, 501-521 Yonge Street and 957-971 Bay Street, and the lands which also allow the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000.00 towards parkland acquisition and /or park improvements in the area) all to be subject to the following:
    - i. prior to the earlier of first occupancy permit, condominium registration or a date to the satisfaction of the General Manager Parks, Forestry and Recreation, the owners are to design and construct the park improvements at its expense in accordance with the approved plans and

- specifications to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- ii. prior to issuance of any building permit issued for the Site under the Ontario Building Code Act, including permits for shoring and excavation, the Owner shall submit a design and cost estimate for the Above-Base Park Improvements for the Site to be approved by the General Manager, Parks, Forestry and Recreation;
  - iii. prior to issuance of the first above-grade building permit, the Owner shall post an irrevocable Letter of Credit in the amount of 100% of the value of the approved estimate to the satisfaction of the General Manager, Parks, Forestry and Recreation, with the understanding that the cost of the above-base park improvements shall not exceed the Parks and Recreation component of Development Charges payable for the site at 5-25 Wellesley Street West and 14-26 Breadalbane Street, the site at 951-971 Bay Street and 36 Wellesley Street West, and the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street;
  - iv. the Owner shall, if requested by the City Solicitor, secure the conveyance of all park lands by the delivery of deeds in escrow and agree to the registration of a Section 118 Restriction on title to the parkland conveyance;
  - v. All conveyances to the City, including easements, (except for the lands to be purchased) shall be for nominal consideration, at the owner's expense and at no cost to the City on terms and conditions as set out in the Section 37 Agreement, including provision for: deposit of reference plans; environmental obligations including peer review; as well as insurance and indemnification, with such conveyances to be free and clear of encumbrances (with support easement for any component above the underground parking garage) to the satisfaction of the General Manager, Parks Forestry and Recreation; and
  - vi. The owner shall agree to such land exchange as is required by the Chief Planner with the abutting condominiums to the west of the site to permit the revised driveway and loading lane to service those abutting sites."
2. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience prior to the issuance of site plan approval to support development all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with the appropriate civic officials and the Ward Councillor:
- a. The wind mitigation measures listed in the submitted Wind Study shall be implemented to ensure that the wind effects are acceptable;

- b. At least ten per cent (10%) of all total *dwelling units* erected or used on the *site* shall have two or more bedrooms and at least seven per cent (7%) of the units shall have at least three or more bedrooms with a minimum size of 86 sq.m. per unit in compliance with the provisions of the Ontario Building Code;
- c. Require the Owner to address the comments from Engineering and Construction in their memo dated June 3, 2014 to the satisfaction of the Executive Director, Engineering and Construction Services in consultation with appropriate civic officials;
- d. Require the Owner to pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director, Engineering and Construction Services, should it be determined that improvements to infrastructure are required to support the development;
- e. Require the Owner to design and construct upgraded streetscape for Wellesley Street West along the frontage of the site, including the residential and park portion of the site, to include, upgraded pavement treatment and landscaping to be secured through the site plan process;
- f. Require the Owner to design and construct an upgraded streetscape for St. Luke Lane from Wellesley Street West to Breadalbane Street including along the frontage of the site providing a pedestrian walkway, upgraded pavement treatment and landscaping to be secured through the site plan process;
- g. Require the Owner to provide all ramp slopes in accordance with By-law 438-86 and provide the transition areas at the top and bottom of the ramps leading to the individual parking levels with maximum slope of 7.5 percent over a minimum distance of 3 metres and where a ramp begins at or near a property line, it must have a maximum slope of 5 percent over a minimum distance of 6 metres;
- h. Require the Owner to convey to the City, at nominal cost, a 3 metre wide strip along Wellesley Street West and 1.5 metre wide strip along the public lane abutting the site (St. Luke Lane) such lands to be free and clear of all physical and title encumbrances, and subject to a right-of-way for access in favour of the Owner until such time as said lands have been laid out and dedicated for public highway purposes, all to the satisfaction to the Executive Director, Engineering and Construction Services in consultation with the City Solicitor;
- i. Prior to the occupancy of the building, the Owner shall convey to the City an easement(s) for 24-hour public access to the pedestrian area over the setback area along the St. Luke Lane frontage, (the “City Easements”), for nominal consideration and to the satisfaction of the City Solicitor, and shall maintain this area free and clear of encumbrances for pedestrian use, in perpetuity, and shall pay all costs associated with the preparation and registration of all

necessary documents and plans, to the satisfaction of the Chief Planner and Executive Director Planning; and

- j. As a condition of site plan approval and prior to the issuance of any permits require a detailed construction management plan for the site.