

Appendix "A" - Confidential and Without Prejudice Settlement Offer: Devine Park LLP
letter dated November 28 and 29, 2017

DEVINE PARK LLP
PLANNING AND DEVELOPMENT LAWYERS

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Matter No. D204-01

November 28, 2017

DELIVERED BY EMAIL

CONFIDENTIAL AND WITHOUT PREJUDICE

Legal Services
Planning and Administrative Tribunal Law
City of Toronto
26th Floor, Metro Hall
55 John Street
Toronto ON M5V 3C6

Attention: Ms. Sharon Haniford

Dear Ms. Haniford:

RE: 308 to 314 Jarvis Street & 225 Mutual Street
- Ontario Municipal Board Case File No.: PL150016
- Without Prejudice Settlement Offer

Further to the series of discussions that have taken place with respect to this matter and the lands municipally known in AD 2016 as 308-314 Jarvis Street and 225 Mutual Street (the "**Site**"), as a means of settling the appeal currently before the Ontario Municipal Board, on behalf of my client, Duration Investments Limited (the "**Owner**"), I offer the following Terms of Settlement:

1. The agreed upon built form shall be substantially in accordance with the architectural plans prepared by Quadrangle Architects and dated November 24, 2017, received by the City Planning Division November 24, 2017 attached hereto as Appendix 'C' and on file with the Chief Planner and with the Senior Manager- Heritage Preservation Services, and with the revised Heritage Impact Assessment, prepared by Philip Goldsmith Architect, dated November 24, 2017, date stamped received by the City Planning Division November 24, 2017, and on file with the Senior Manager, Heritage Preservation Services (the "**Heritage Impact Assessment**"), all subject to and in accordance with a Conservation Plan satisfactory to the Senior Manager, Heritage Preservation Services, and all to the satisfaction of the Chief Planner and the Senior Manager Heritage Preservation Services, and shall include the conservation in situ of the heritage building located at 314 Jarvis Street (the Charles Sheard House) and including amongst other matters, the following conditions:
 - (a) a maximum height not exceeding 34 storeys and not exceeding 103.5 metres excluding mechanical penthouse and all other projections such as parapets, vents, stacks, window washing equipment, elevator overruns and exit stairs, and 108.5 metres including mechanical penthouse and all other projections such as parapets, vents, stacks, window washing equipment, elevator overruns and exit stairs;

- (b) a maximum podium height fronting Jarvis Street not exceeding 10 storeys and not exceeding 31.5 metres, excluding all other projections such as parapets, vents, stacks, window washing equipment, elevator overruns and exit stairs, and a maximum podium height fronting Mutual Street not exceeding 3 storeys and not exceeding 10.5 metres excluding all other projections such as parapets, vents, stacks, window washing equipment, elevator overruns and exit stairs, with the Mutual Street frontage comprising 3 storey townhouse units fronting Mutual Street;
- (c) the tower shall be residential; there shall be a minimum commercial (non-residential) gross floor area erected on the ground floor of the podium of 240 square metres, including the retail garbage area and associated service space;
- (d) the maximum combined residential and non-residential gross floor area erected on the Site shall not exceed 33,676 square metres and the maximum total FSI erected on the Site shall not exceed 10.49 times the Site area;
- (e) the minimum tower setbacks to the lot line shall be: 1.6 metres (north), 24.2 metres (south), 23.2 metres (east) and 10.3 metres (south-west) and 10.6 metres (west);
- (f) the minimum east podium stepbacks shall be 14.25 metres at the 7th floor and 11.05 metres at the 10th floor;
- (g) the maximum tower floorplate, as defined by the City's Tall Building Guidelines, shall be approximately 771 square metres of gross building area and approximately 732 square metres of gross floor area;
- (h) the townhouses on Mutual Street shall each have a minimum setback of 3.5 to 3.7 metres to the Mutual Street lot line;
- (i) the podium on Jarvis Street shall have a minimum setback of 5.5 metres to the Jarvis Street lot line;
- (j) the residential amenity space on the Site shall comprise at least 737 square metres of indoor residential amenity space and at least 556 square metres of outdoor residential amenity space;
- (k) there shall be a minimum of at least 34 three bedroom dwelling units, including townhouse units which shall comprise not less than 9.1% of the total number of units erected and maintained on the Site;
- (l) there shall be a minimum of at least 20% of two bedroom dwelling units erected on the Site;
- (m) there shall be a minimum of at least 161 vehicular parking spaces on the Site, and such parking spaces shall be located below the finished ground level in an underground garage;
- (n) there shall be a minimum of at least 378 bicycle parking spaces on the Site;
- (o) all outstanding matters identified in the City's Development Engineering memo of June 3, 2013 are to be resolved to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services prior to the issuance of any Ontario Municipal Board Order approving the Zoning By-law Amendments (allowing the appeal in part);

- (p) A section 37 Planning Act payment to the City in the amount of \$2.4 Million Dollars prior to the issuance of the first above grade permit (building permit or heritage permit, but excluding a heritage restoration permit; and
 - (q) Notwithstanding the use of "substantially in accordance with" in Items 1 above and 5(g) below regarding the November 24, 2017 plans and drawings, there shall be no substantive changes to the maximum gross floor area, building height, tower floorplate size, setbacks or setbacks, and there shall be no changes to any items referred to in the settlement that will have the effect of increasing any incremental shadow impact on Allan Gardens resulting from the November 24, 2017 plans and drawings.
- 2. The in-force underlying zoning, including height maps, for Site pursuant to by-law 438-86 as amended shall be amended to reduce the underlying maximum height permission for the Site to 29.5 metres. Similarly, should By-law 569-2013 come into force on all or any part of the Site, the underlying maximum height permission in such by-law for all or any part of the Site shall not exceed 29.5 metres. The parties acknowledge and agree that the intent of so reducing the underlying height permission on the Site is to ensure that the pre-existing minor variance obtained for a portion of the Site pursuant to the OMB Decision dated September 2, 1994 File Nos. V 930406 and V 940174 shall no longer apply to any part of the Site, and the parties will co-operate to take any further steps required to ensure such variance is no longer an as of right underlying height for any part of the Site.
 - 3. The Section 37 Agreement for the Site shall include provisions wherein the Owner agrees: (A) not to make application for any building permit or other permit which relies upon or utilizes the variance permission obtained pursuant to the OMB Decision dated September 2, 1994 File Nos. V 930406 and V 940174; and (B) that the site plan approval for the previous 18 storey (maximum height of 49.85 metres) building for 308-312 Jarvis Street permitted pursuant to such variance permissions shall be deemed revoked by the City and shall no longer be applicable to any portion of the Site.
 - 4. The Section 37 Agreement and implementing Zoning By-laws shall include provisions securing items (A) and (B) in paragraph 3 above and shall include the following additional Section 37 requirements:
 - (a) prior to the issuance of the first above grade permit (building permit or heritage permit, but excluding a heritage restoration permit) for all or any part of the Site, the Owner shall pay to the City the sum of \$2,400,000.00, to be allocated at the discretion of the Chief Planner in consultation with the Ward Councillor, for purposes identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site, such amount to be increased by upwards indexing in accordance with the Non-Residential Building Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of the Section 37 Agreement to the date of such payment;
 - (b) at least the greater of 9.1 percent of the residential dwelling units within the development or 34 such units shall be three-bedroom dwelling units, or units having a greater number of bedrooms, and at least 20 percent of the residential dwelling units within the development shall be two-bedroom dwelling units;
 - (c) the Owner shall make satisfactory arrangements with the Chief Engineer and Executive Director, Engineering and Construction Services to be secured in the Section 37 Agreement, to design, financially secure, pay for, construct and make operational any upgrades and improvements to the municipal infrastructure, should it be determined that upgrades and/or improvements are required to the infrastructure to support this development, in accordance with the functional servicing and stormwater management report(s) and the hydrogeology assessment and the geotechnical report, all be submitted

and as may be accepted by the Chief Engineer and Executive Director, Engineering and Construction Services;

- (d) Prior to Final Site Plan approval in connection with the Zoning By-law Amendment for the Site and prior to any permit issuing for all or any part of the Site, including a heritage permit or a building permit, but excluding a heritage restoration permit or permits for usual repairs and maintenance of the existing heritage building as are satisfactory to the Senior Manager Heritage Preservation Services:
- (i) the Owner shall provide final site plan drawings for the Site in accordance with an approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services and to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (ii) the Owner shall have obtained final approval for the necessary Zoning By-law Amendments, with such Amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council as determined to the satisfaction of the Chief Planner and Executive Director, City Planning and with such by-laws having come into full force and effect;
 - (iii) the Owner shall provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (iv) the Owner shall provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character as viewed from the public realm to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (v) the Owner shall submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (vi) the Owner shall provide a detailed Landscape Plan for the Site to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (vii) the Owner shall be financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of any above or below-grade public or private utility resulting from the development of this property; and
 - (viii) the Owner shall submit a Wind Study for the proposed development dealing with impacts on Site and on surrounding lands, including adjacent and nearby public lands, including without limiting the foregoing, impacts on and around Allan Gardens and thereafter shall implement the necessary mitigation measures, to all the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager Parks, Forestry and Recreation;
- (e) Prior to the issuance of any permit for all or any part of the Site including a heritage permit or a building permit but excluding a heritage restoration permit or permits for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services:

- (i) the Owner shall have obtained final approval for the necessary Zoning By-law Amendments required for the Site with such amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council and with such by-law amendments having come into effect in a form and with content acceptable to City Council as determined by the Chief Planner and Executive Director, City Planning in consultation with the Senior Manager, Heritage Preservation Services;
- (ii) the Owner shall provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
- (iii) the Owner shall provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan and the approved Lighting Plan and Interpretation Plan, and subsequently, prior to the release of the Letter of Credit to secure the Conservation work:
 - A. the Owner shall have obtained final site plan approval for the Site, issued by the Chief Planner and Executive Director, City Planning;
 - B. the Owner shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work has been completed in accordance with the approved Conservation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - C. the Owner shall provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services;
- (iv) the Owner shall provide full documentation of the existing heritage property at 314 Jarvis Street, including two (2) printed sets of archival quality 8" x 10" colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Preservation Service;
- (v) the Owner shall submit a Construction Management Plan for the Site, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary;
- (vi) the Owner shall provide any necessary modifications to the functional servicing and stormwater management report(s), to the satisfaction of the Executive Director, Engineering and Construction Services; and

- (vii) the Owner shall provide any necessary modifications to the hydrogeology assessment, geotechnical report and associated municipal servicing plans, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
5. Prior to the issuance of any Board Order approving the Zoning By-law Amendments (allowing the appeal in part) the Owner shall:
- (a) enter into an amending Heritage Easement Agreement with the City for the property at 314 Jarvis Street substantially in accordance with the settlement offer letter dated November 28, 2017, and as further detailed to the satisfaction of the Chief Planner and the Senior Manager, Heritage Preservation Services and in accordance with the Heritage Impact Assessment, and subject to and in accordance with an approved Conservation Plan required in Part 5(b) below, all to the satisfaction of the Senior Manager, Heritage Preservation Services, including registration of such agreement to the satisfaction of the City Solicitor;
 - (b) provide a detailed Conservation Plan prepared by a qualified heritage consultant that is consistent with the conservation strategy set out in the Heritage Impact Assessment, for the property located at 314 Jarvis Street, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (c) the final form of the zoning by-law amendments shall be satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning in consultation with the Senior Manager, Heritage Preservation Services;
 - (d) the Owner shall enter into and register on title to the Site, one or more agreements with the City pursuant to section 37 of the Planning Act to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning, and the Senior Manager, Heritage Preservation Services, securing the matters in Items 1, 3, and 4, above and Item 8 below, and with such facilities, services, and matters to be additionally set forth in the related Site specific Zoning By-law Amendments, such agreement(s) to secure at the Owner's expense and subject to requirements for insurance, indemnity, securing of letters of credit and upwards indexing;
 - (e) the Owner shall provide any necessary modifications to the functional servicing and stormwater management report(s), to the satisfaction of the Executive Director, Engineering and Construction Services;
 - (f) the Owner shall provide any necessary modifications to the hydrogeology assessment, geotechnical report and associated municipal servicing plans, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - (g) the Owner shall have obtained the City's approval of the alterations to the heritage property at 314 Jarvis Street, in accordance with Section 33 of the Ontario Heritage Act, to allow for the construction of a mixed use development on the lands known municipally as 308 to 314 Yonge Street and 225 Mutual Street, with such alterations substantially in accordance with plans and drawings dated November 24, 2017, as described above and on file with the Senior Manager, Heritage Preservation Services; all subject to and in accordance with a Conservation Plan satisfactory to the Senior Manager, Heritage Preservation Services and all subject to the above additional conditions as set out in Items 1 to 5(a) to (f) above and in Items 5(h) and 8 below; and
 - (h) the Owner shall enter into Minutes of Settlement with the City, with provisions to bind future owners, to secure the above Items 1 to 5(a) to (g) above and Items 8 to 10 below.

6. That City Council authorize the entering into of an amending Heritage Easement Agreement under section 37 of the Ontario Heritage Act with the Owner of 308 to 314 Jarvis Street and 225 Mutual Street for the property at 314 Jarvis Street in a form and with content satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning, including amending the existing Heritage Easement Agreement to delete the previous permissions for alteration set out in such Agreement which amendment shall comprise a revocation of such previous approval for alteration by the City Council.
7. That City Council authorize the City Solicitor to introduce the necessary bill in Council authorizing the entering into of an Amending Heritage Easement Agreement for the property at 314 Jarvis Street in the event the City Solicitor determines such a by-law is necessary.
8. The Owner shall withdraw its appeals of Official Plan Amendment No. 82 and the Garden District Heritage Conservation District Plan upon the issuance of the Ontario Municipal Board Order allowing the appeal in part of the zoning by-law amendments, bringing such by-laws into force and if not an appellant but rather a party to any such appeals, the Owner will withdraw as a party and not seek any party or participant status on any such appeals.
9. The Owner acknowledges that two key reasons the City will agree to this proposed settlement are that the shadow impact from the proposed development as set forth in the Terms of Settlement represents an overall and meaningful improvement over the shadow impact on Allan Gardens from the as-of-right 18-storey building permissible on that portion of the Site comprising 308 – 312 Jarvis Street and 225 Mutual Street, and that it meets the intent of the City's Official Plan Amendment No. 82 (not currently in force) and represents a significant improvement on the shadow impact of Allan Gardens from the original application.
10. In furtherance of the acknowledgement set forth in Item 9 above, the Owner has agreed that: (A) the Owner's solicitors will make submissions to the Ontario Municipal Board confirming the foregoing, (B) the Owner's planning witness will testify before the Ontario Municipal Board confirming the foregoing and the related heritage aspects, and (C) the Owners and the City will jointly request that the Ontario Municipal Board recognize the foregoing in the Board Decision approving the settlement.

The City and the Owner would agree to support a settlement on the above basis at the Ontario Municipal Board. In further support of our without prejudice settlement offer, we would prepare Minutes of Settlement, which will incorporate the Terms of Settlement set out above.

Therefore, on the basis of this without prejudice settlement offer, kindly proceed to seek the instructions of Toronto City Council at its meeting to be held on December 5, 6 and 7, 2017. As you know, there is a contested hearing date set to commence on February 8, 2018, prior to which we would like to report to the Ontario Municipal Board on the status of this matter.

Should you require any further information, kindly contact me at your earliest convenience.

Yours very truly,

Devine Park LLP



Patrick J. Devine

PJD/MAC:mp

Cc: Duration Investments Limited

Appendix "A" - Confidential and Without Prejudice Settlement Offer: Devine Park LLP letter dated November 28 and 29, 2017

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Legal Services
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City of Toronto
26th Floor, Metro Hall
55 John Street
Toronto ON M5V 3C6

Attention: Ms. Sharon Haniford

Dear Ms. Haniford:

RE: 308 to 314 Jarvis Street & 225 Mutual Street
- Ontario Municipal Board Case File No.: PL150016
- Reference to November 24, 2017 Architectural Plans in Without Prejudice
Settlement Offer, dated November 28, 2017

On November 28, 2017, we delivered to your attention a Without Prejudice Settlement Offer, dated as of the date thereof, with respect to 308 to 314 Jarvis Street & 225 Mutual Street. The Without Prejudice Settlement Offer contained a reference to architectural plans prepared by Quadrangle Architects, dated November 24, 2017, and received by the City Planning Division on November 24, 2017 attached thereto as Appendix "C". However, those architectural plans were inadvertently not attached to the Without Prejudice Settlement Offer.

I am writing to you to confirm that the reference in the Without Prejudice Settlement Offer to the architectural plans attached as Appendix "C" is a reference to the confidential and without prejudice revised architectural plans previously provided by Dev Mehta, at Quadrangle Architects, by email to Derek Walther, at the City of Toronto Planning Division, on November 24, 2017.

For your convenience, the aforementioned architectural plans are attached hereto as Appendix "A".

.../2

www.devinepark.com

Should you require any further information, kindly contact me at your earliest convenience.

Yours very truly,

Devine Park LLP

A handwritten signature in blue ink that reads "Patrick J. Devine". The signature is written in a cursive, flowing style.

Patrick J. Devine

PJD/MAC:mp
Enclosure

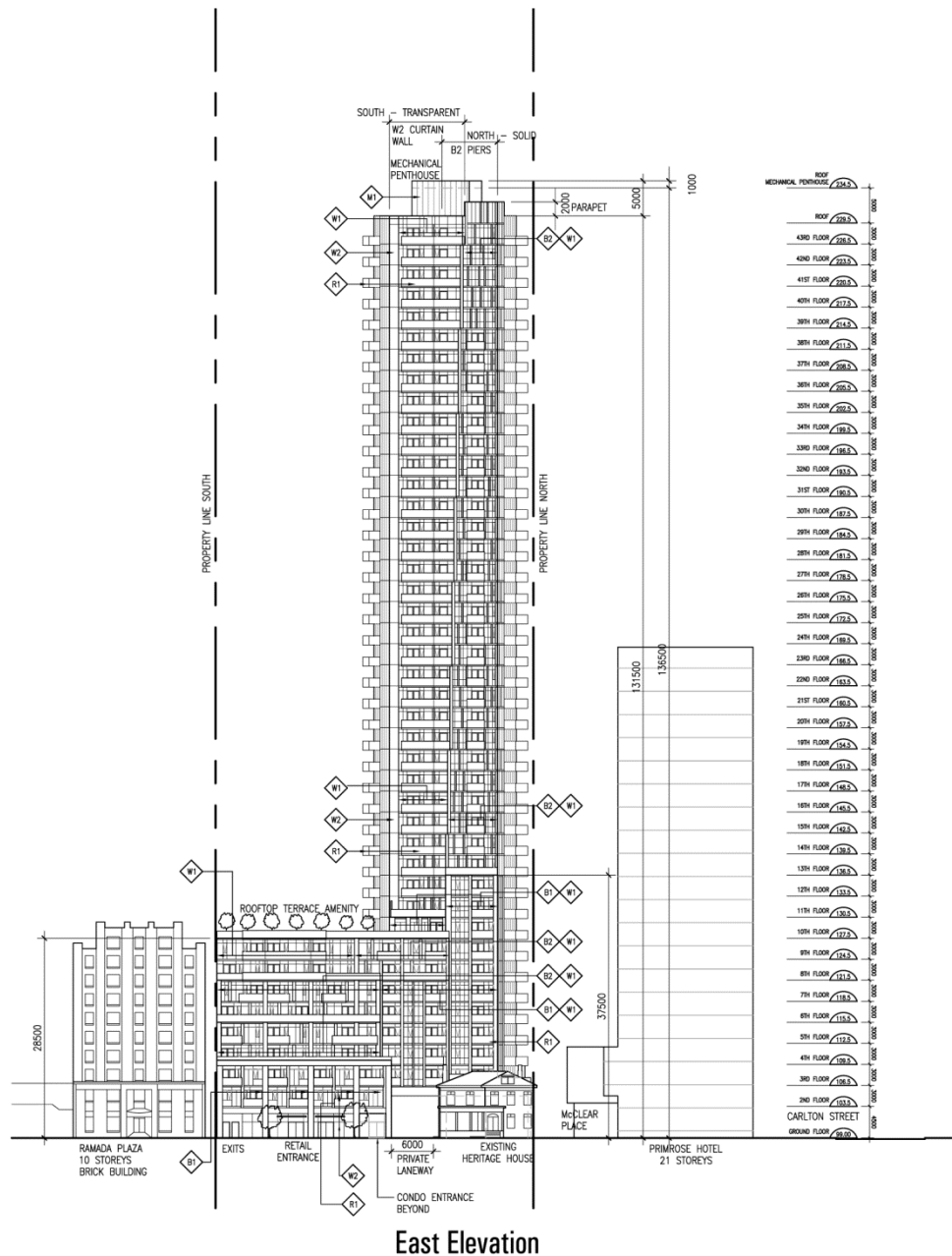
cc: Duration Investments Limited

APPENDIX "A"
November 24, 2017 Architectural Plans
(see attached)

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File # 12 110573 0Z

Appendix "B" - August 23, 2012 Submission – Elevations and Site Plan East Elevation



East Elevation

Elevations

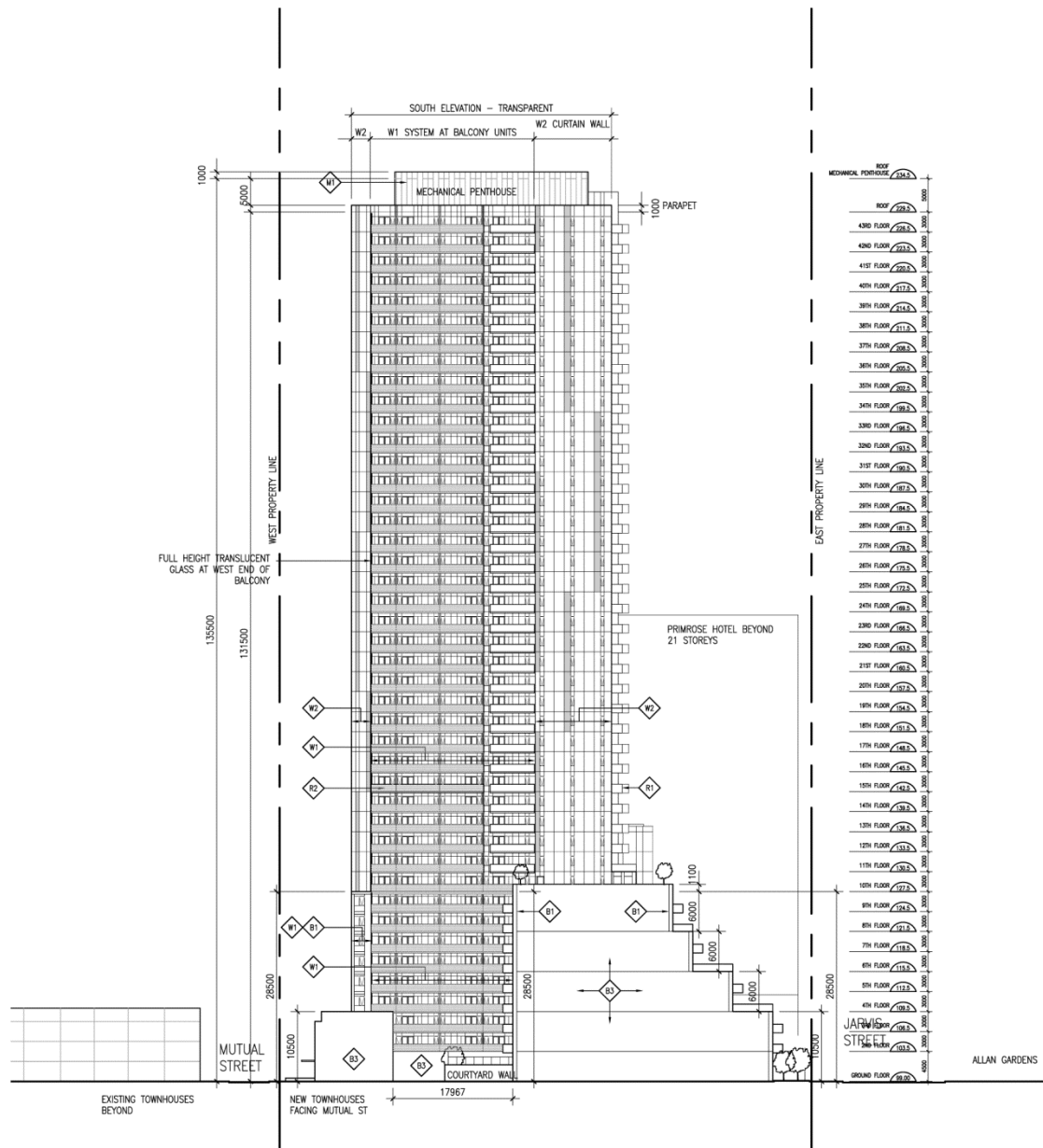
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
06/27/2013

File # 12 110573 OZ

Appendix "B" - August 23, 2012 Submission – Elevations and Site Plan South Elevation



South Elevation

Elevations

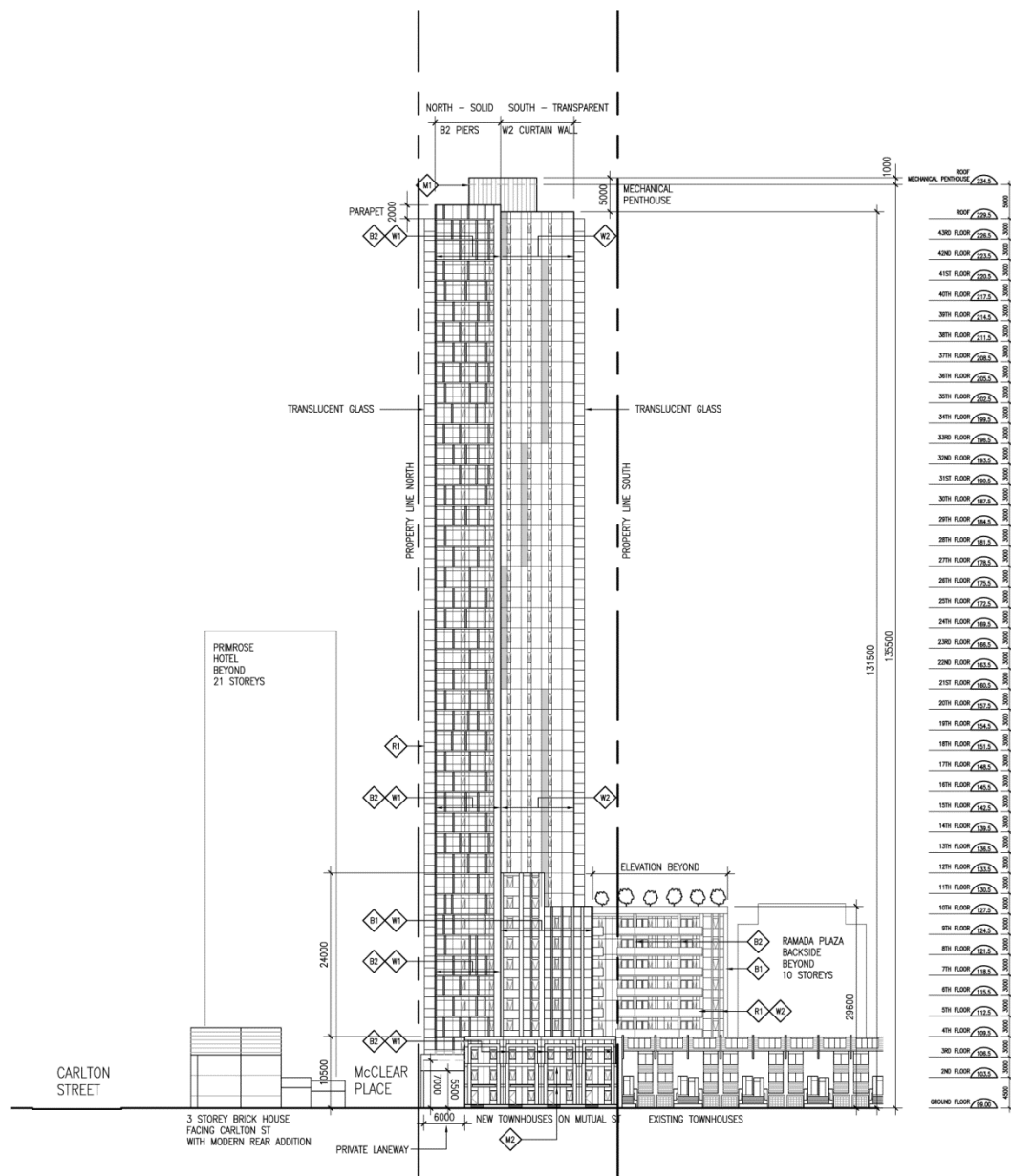
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
06/27/2013

File # 12 110573 0Z

Appendix "B" - August 23, 2012 Submission – Elevations and Site Plan West Elevation



West Elevation

Elevations

308-314 Jarvis Street and 225 Mutual Street

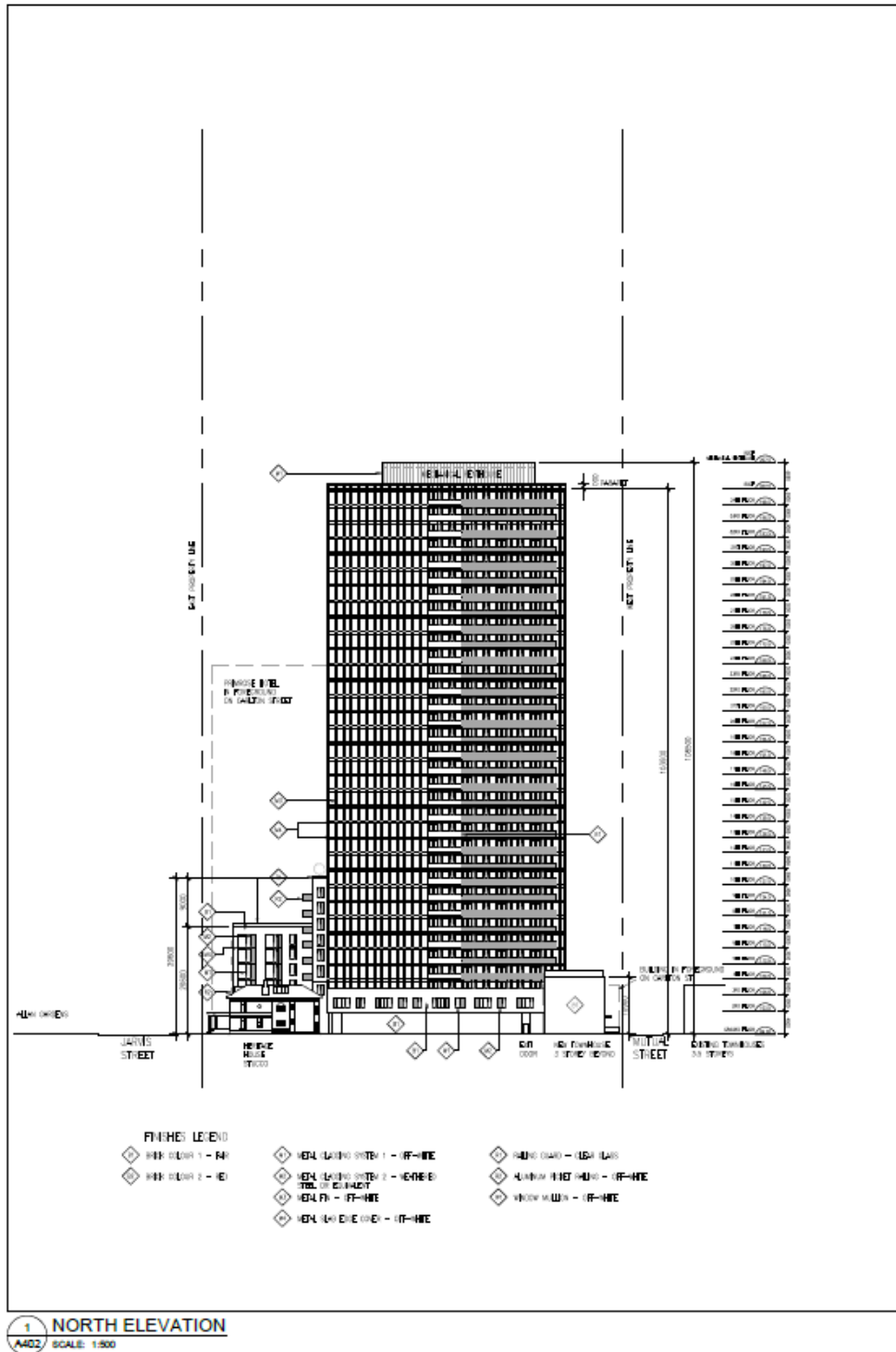
Applicant's Submitted Drawing

Not to Scale
06/27/2013

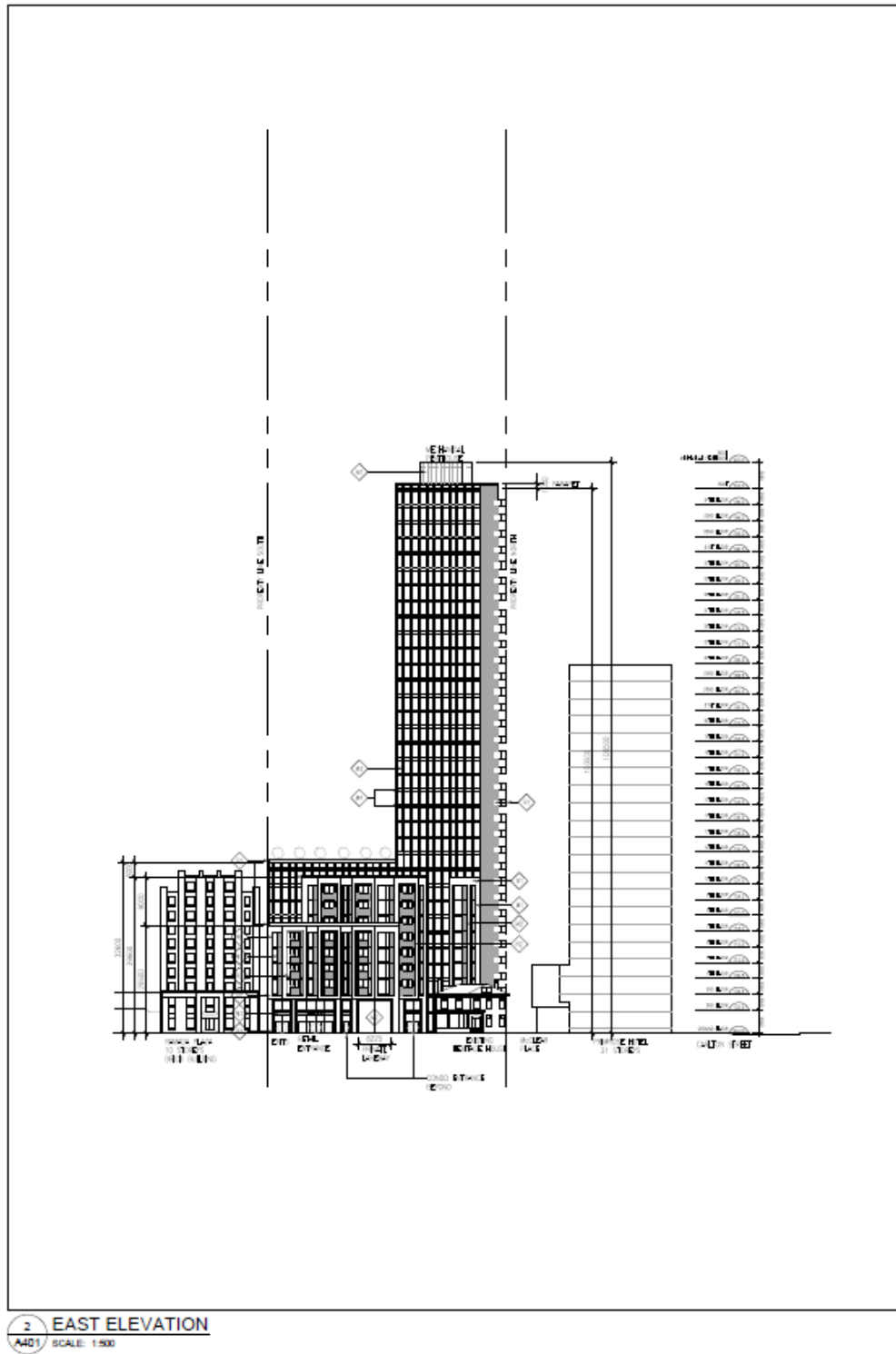
File # 12 110573 0Z

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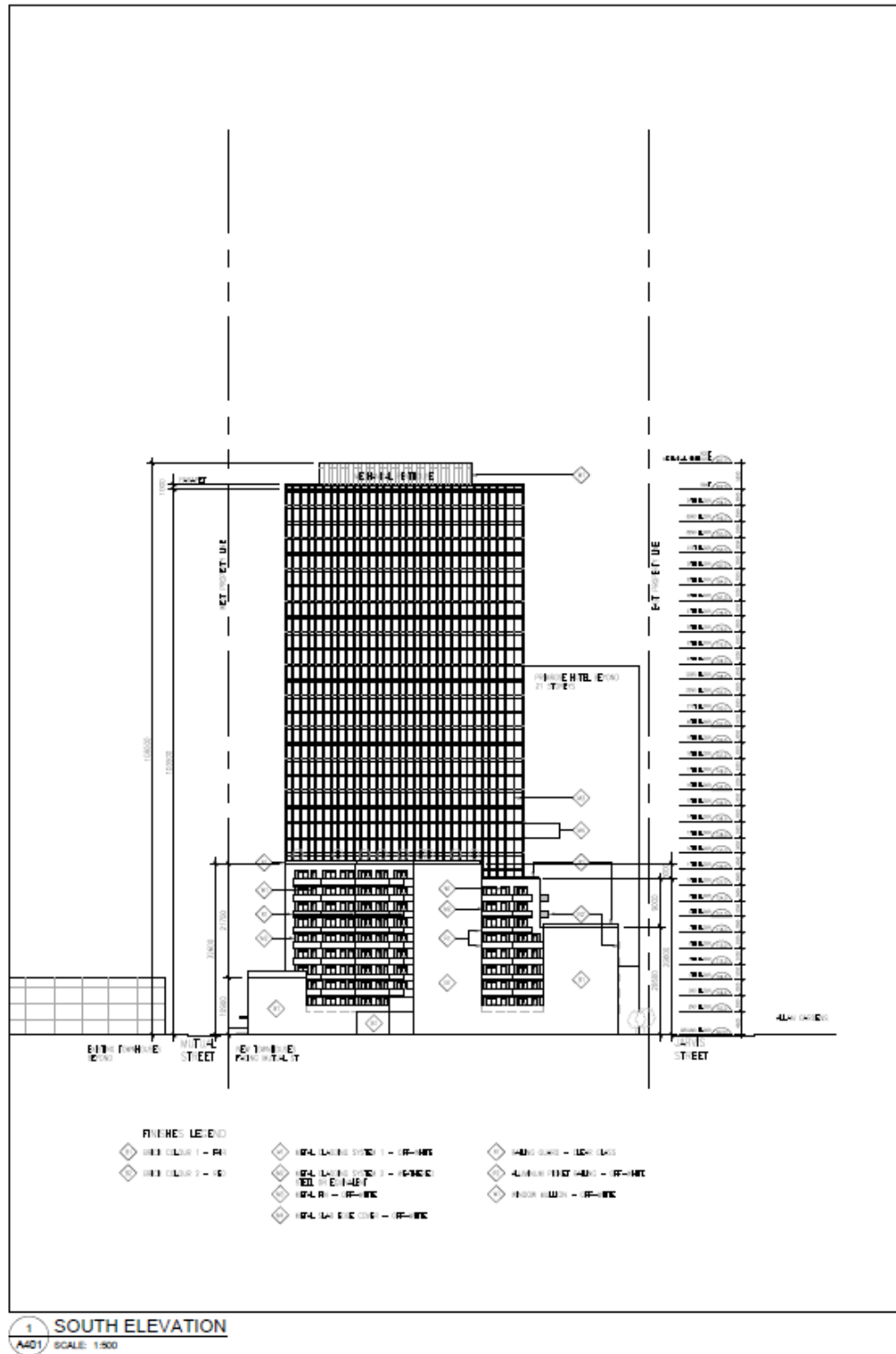
APPENDIX "C" - Confidential and Without Prejudice Settlement Offer, Plans dated 2017-11-24 - North Elevation



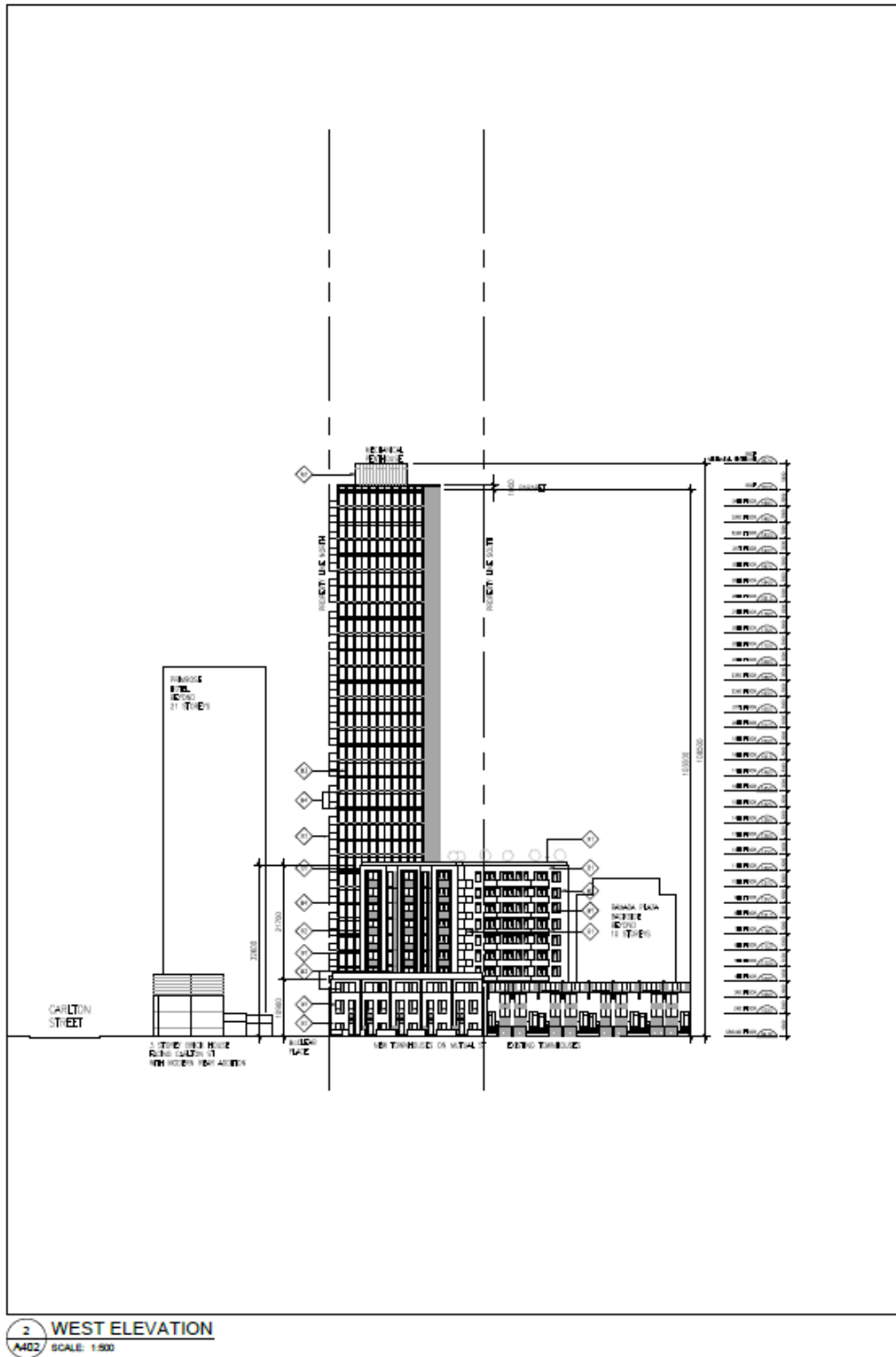
APPENDIX "C" - Confidential and Without Prejudice Settlement Offer, Plans dated 2017-11-24 - East Elevation



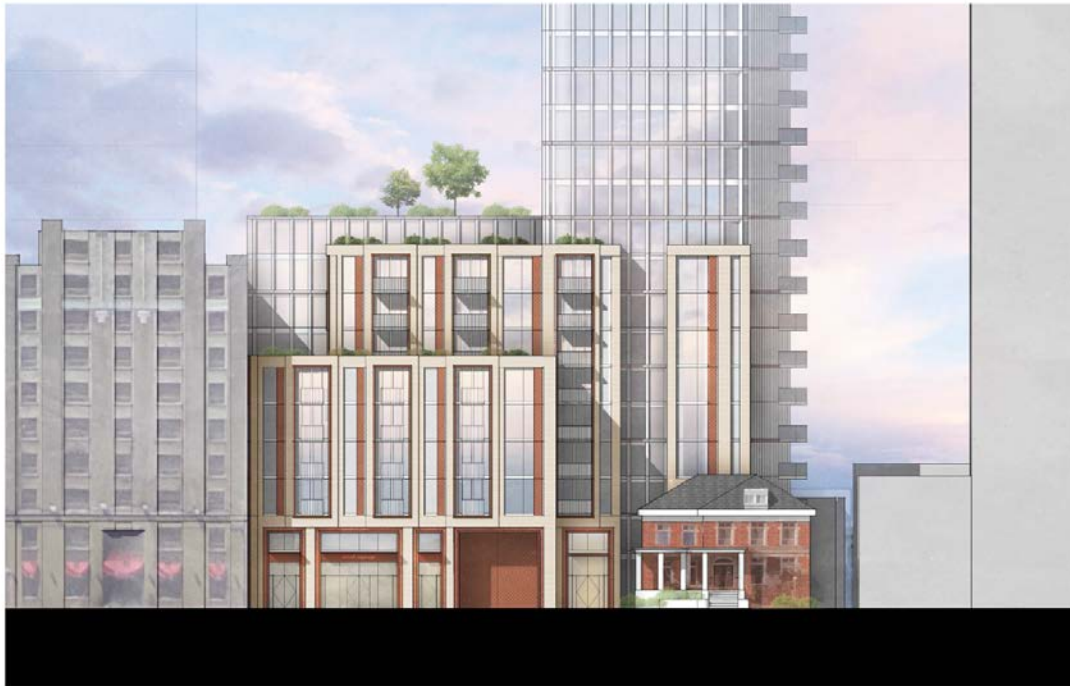
APPENDIX "C" - Confidential and Without Prejudice Settlement Offer, Plans dated 2017-11-24 - South Elevation



APPENDIX "C" - Confidential and Without Prejudice Settlement Offer, Plans dated 2017-11-24 - West Elevation



APPENDIX "C" - Confidential and Without Prejudice Settlement Offer, Plans dated 2017-11-24 - East Elevation



Quadrangle

310-314 Jarvis St & 225 Mutual St

Project No. 11019
20 November 2017

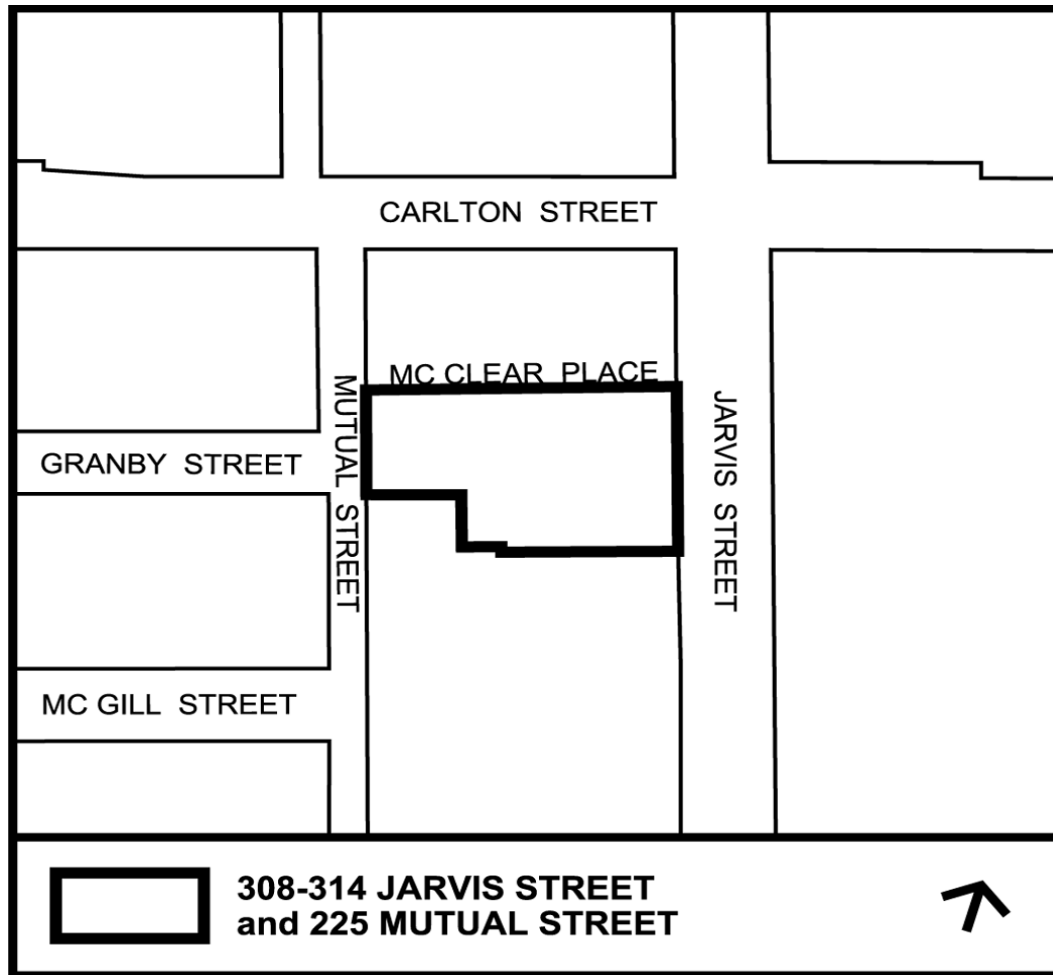
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East Elevation - Concept Design - Buff Brick

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APPENDIX "D" - Location Map and Photos

314 JARVIS STREET



Appendix "D" Photos 1:

314 JARVIS STREET

View looking west – main elevation



View of northeast corner



Appendix "D" Photos 2:

314 JARVIS STREET (POST FIRE)



View looking west - main elevation



View looking north - south elevation