

January 23, 2024

Our File No.: 232029

## **Via Email**

North York Community Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

### **Attention: Matthew Green, Administrator**

Dear Mr. Green:

### **Re: Item No. NY10.7 - 202 Sheppard Avenue West – Official Plan Amendment and Zoning By-law Amendment Application – Decision Report – Approval**

We are counsel to Nikali Holding Corp. in respect of the lands known municipally as 202 Sheppard Avenue West (the “**Site**”). We are writing on behalf of our client to request that Community Council recommend a modified version of the applications for the Site to City Council for approval. As outlined below, staff’s recommendations include a requirement for a rear angular plane – a tool for achieving built form transitions which City staff now recognizes as counterproductive to its housing and climate goals. The proposed modifications as reflected in the planning instruments attached to this letter would implement standing direction for staff to implement updated performance standards for mid-rise buildings to allow for additional housing, in a more environmentally sustainable manner, while providing an appropriate relationship to lands to the rear of the Site.

### **Background**

The Site, which is currently vacant, is located on the north side of Sheppard Avenue West, between Welbeck Road and Sentac Road. The Site is designated for intensification, as it is located within a *Mixed Use Area* and on a designated *Avenue*. It is also within the Sheppard Lansing Secondary Plan area.

In March of 2021, our client submitted revised materials regarding its official plan and zoning amendment applications initially submitted in March of 2018 to facilitate the development of the Site with a 6-storey mid-rise mixed-use building including office uses on the second floor and 17 residential units above (the “**Proposed Development**”). Our client and its consultants have been engaging productively with City staff since to refine the applications.

The Proposed Development is modest. The 6-storey proposal is substantially shorter than the width of the adjacent right-of-way on Sheppard Avenue West and complies with applicable policies with respect to building height. In short, the proposal is not pushing the envelope. Yet, as explained below, City staff are refusing to apply updated staff and Council direction with respect to rear transitions, resulting in a recommendation for approval that includes a terracing built form to comply with an outdated rear angular plane, contrary to the City's housing affordability and climate objectives.

### **Staff's Recommendations for the Applications Fail to Apply Staff and Council Direction in a Manner that Undermines the City's Housing and Climate Goals**

Since the filing of the applications, the City's direction for mid-rise buildings – and specifically rear transition to designated *Neighbourhoods* lands – has changed markedly. City staff and City Council have now formally recognized that rear angular planes, a tool historically applied to achieve transition to adjacent Neighbourhoods-designated lands, has negative consequences that run counter to the City's objectives regarding housing affordability and climate change, among other things. Specifically, through a series of staff reports and Council decisions between December 2022 and December 2023, staff and Council have provided the following direction:

- As part of the City's Housing Action Plan, in December 2022, Council directed the City Manager to review the City's urban design guidelines to ensure they align with the priority of optimizing the delivery of housing opportunities for a range of housing forms.
- In response to the direction above, City planning staff initiated a review of the Mid-Rise Building Performance Standards, focussing on the angular plane guidelines for rear transitions. As part of this review, staff have recognized in staff reports prepared in May and November of 2023 that:
  - The continuous floor-by-floor terracing that follows from the application of rear angular planes results in buildings that are more costly and difficult to construct, and produce more carbon emissions contrary to the City's objective to address the Council-declared climate emergency; and
  - Eliminating angular planes would allow for more regular floor plates, improve constructability and more housing, all with lower carbon emissions, thereby supporting the City's goal of accelerating the supply of housing in sustainable communities.
- Given the recognized problems with rear angular planes as applied to mid-rise buildings, in May of 2023, staff prepared updated performance standards for rear transitions (the "**Updated Performance Standards**") that eliminate the angular plane direction for buildings that are 6-storeys or less, like the Proposed Development, and more generally provide greater flexibility in relation to rear transitions.

- In November of 2023, in a further staff report to Planning and Housing Committee on the Updated Performance Standards, staff advised that they intend to recommend updates to existing zoning by-laws and policies governing Avenues to implement the updated rear transition performance standards to ensure that the planning permissions facilitate development consistent with the Updated Performance Standards. Further, and critically, staff advised that in “the intervening months, City Planning Staff will continue to apply flexibility in the review of the rear transition for mid-rise buildings, and consider the alternative methods in the [Updated Performance Standards] in the review of rezoning applications.”

In light of the substantial shift in the City’s approach to rear transitions for mid-rise buildings, our client and its consultants have had discussions with City staff and the local Councillor regarding refinements to the Proposed Development to implement the Updated Performance Standards. This involves minor modifications to the plans and associated planning instruments, as shown in the enclosed materials. Consistent with the staff reports outlined above regarding the Updated Performance Standards, the modification would remove terracing on floors four through six, simplifying construction and substantially improving the environmental performance of the building, both during construction and once constructed. Importantly, the modifications will also allow for at least two units of additional housing.

**The Official Plan and Zoning Amendments Should be Modified to Accord with Staff and Council Direction regarding Rear Transitions**

Despite our client’s engagement, staff have proceeded to recommend approval of a built form that requires the now-outdated rear angular plane which staff have repeatedly acknowledged undermines the City’s housing and climate goals, disregarding the standing direction to apply flexibility in the review of rear transitions. While staff are applying this direction for flexibility and not requiring rear angular planes on countless other mid-rise applications, they are rigidly applying the angular plane requirement for the Proposed Development. Staff’s inconsistent approach is even more puzzling in light of their ongoing effort to update zoning along Avenues to reflect the Updated Performance Standards. Approving the Proposed Development without the rear angular plane would achieve that objective, saving the City from spending unnecessary resources to do so in the coming months.

In light of the above, we urge Community Council to recommend approval of the Proposed Development based on the draft official plan amendment and draft zoning by-law amendment attached to this letter. Doing so is consistent with the City’s updated approach to rear transitions for mid-rise buildings, and will support the housing and climate objectives that the Updated Performance Standards are intended to help achieve.

Yours truly,

**Goodmans LLP**

A handwritten signature in blue ink, appearing to read "Max Laskin".

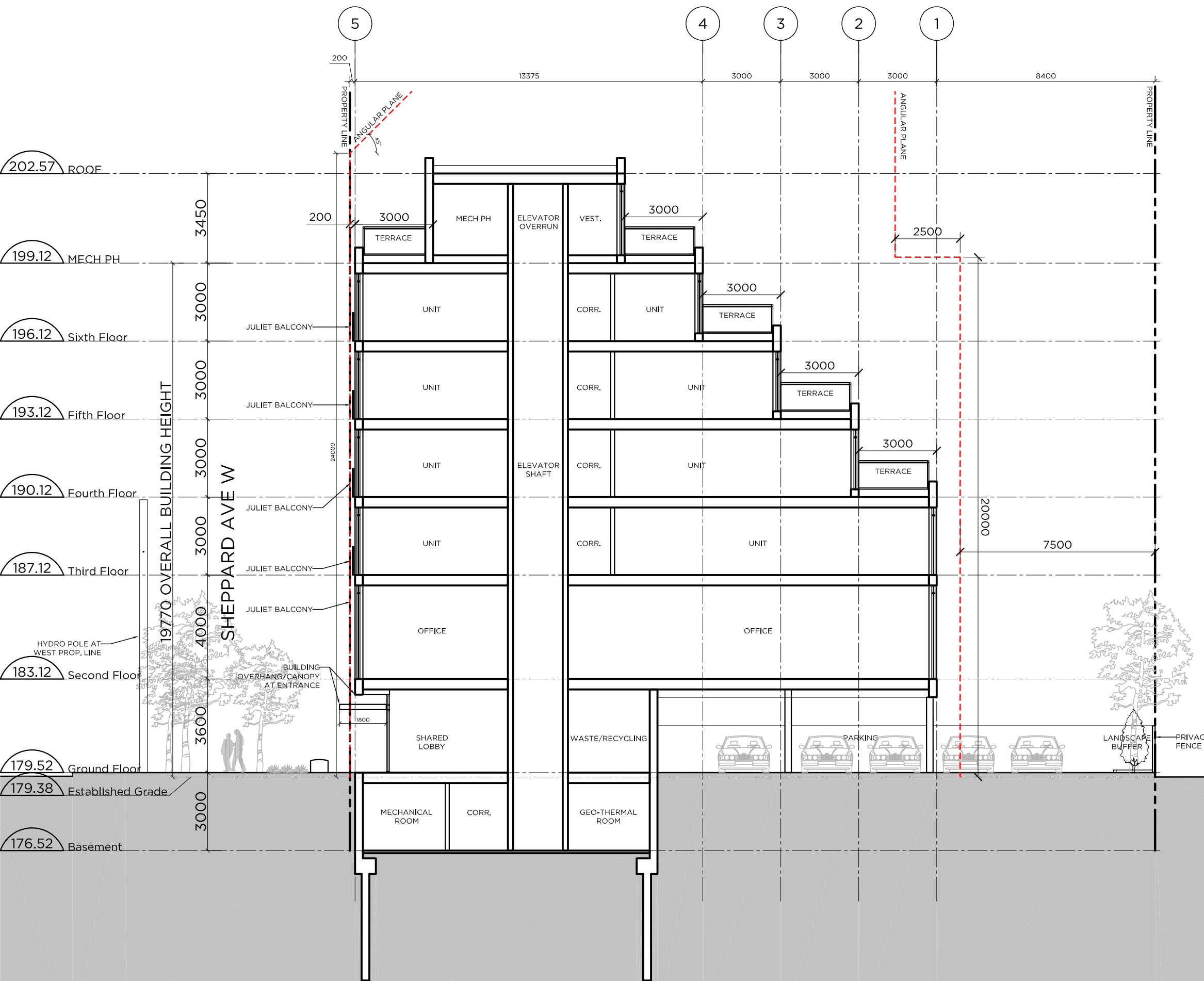
Max Laskin  
Partner  
ML  
1395-7834-2921

This drawing is the property of the Architect and may not be reproduced or used without the express consent of the Architect. The Contractor is responsible for checking and verifying all levels and dimensions and shall report all discrepancies to the Architect and obtain clarification prior to commencing work.

**ISSUED RECORD**

2021.02.03	- REISSUED FOR SPA
2022.02.24	- REISSUED FOR SPA
2022.10.03	- REISSUED FOR SPA
2023.06.12	- REISSUED FOR SPA

**REVISION RECORD**



**RAW**  
 405-317 ADELAIDE ST. W.  
 TORONTO CANADA M5V 1P9  
 +1 416 599 9729  
 WWW.RAWDESIGN.CA

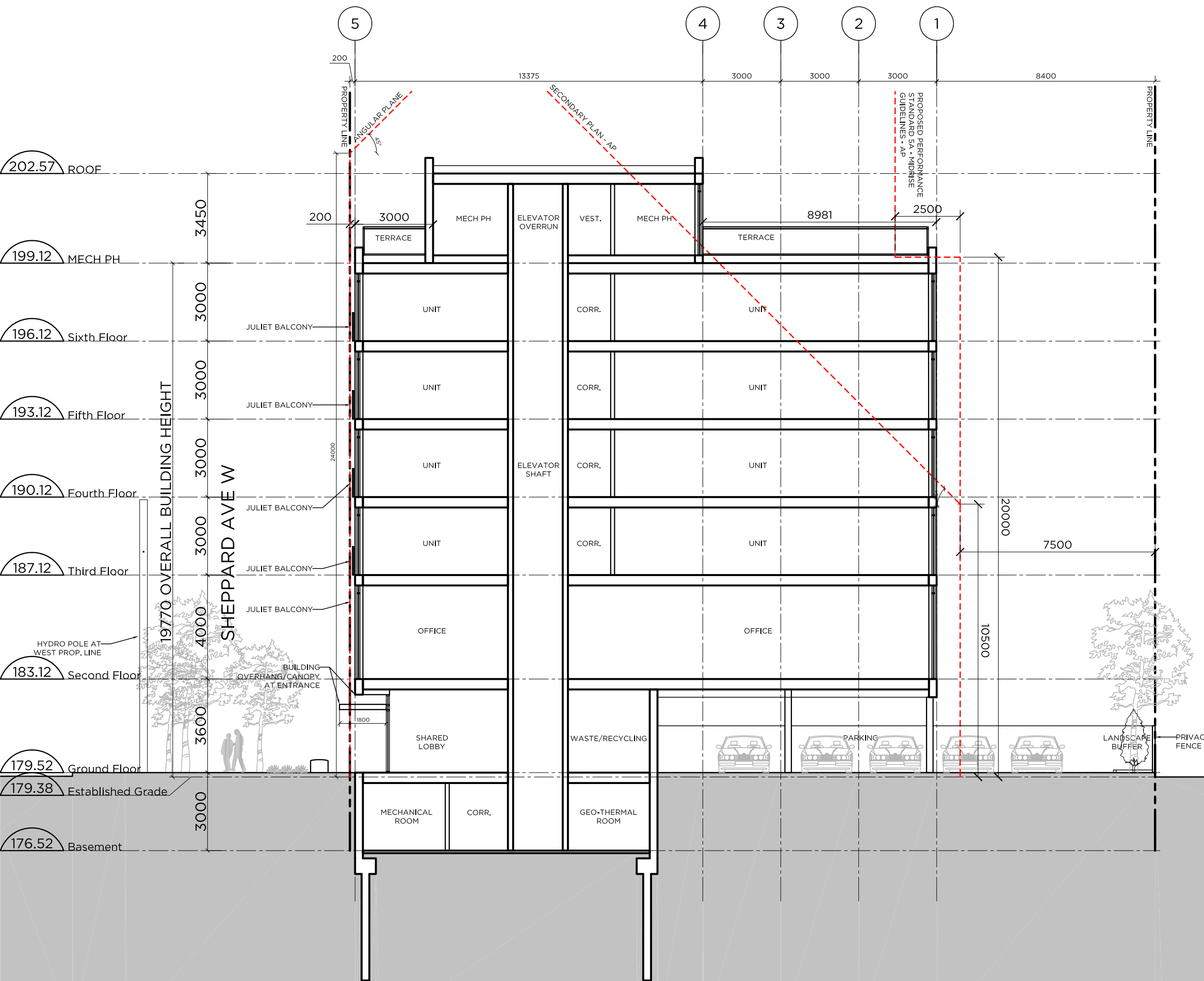
20040  
 202 SHEPPARD AVE W  
 TORONTO  
 NKALI HOLDINGS LTD.  
 BUILDING SECTION  
 N-S

1:150  
**A501**

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**ISSUED RECORD**  
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 2022.10.03 - REISSUED FOR SPA  
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20040  
 202 SHEPPARD AVE W  
 TORONTO

NKALI HOLDINGS LTD.

BUILDING SECTION  
 N-S

1:150

A501

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on ~, 2024

Enacted by Council: ~, 2024

**Bill No. ~**

**CITY OF TORONTO  
BY-LAW No. ~-2024**

**To adopt an amendment to the Official Plan for the City of Toronto, with respect to the lands municipally known as 202 Sheppard Avenue West**

WHEREAS Authority is given to Council under 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 a public meeting in accordance with the *Planning Act*;

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

1. The attached Amendment No. ~ to the Official Plan for the City of Toronto is hereby adopted pursuant to the *Planning Act*, as amended.

ENACTED AND PASSED this ~ day of ~, A.D. 2024.

OLIVIA CHOW  
Mayor

JOHN ELVIDGE  
City Clerk

(Corporate Seal)

AMENDMENT NO. ~ TO THE OFFICIAL PLAN

**LANDS MUNICIPALLY KNOWN AS  
202 Sheppard Avenue West**

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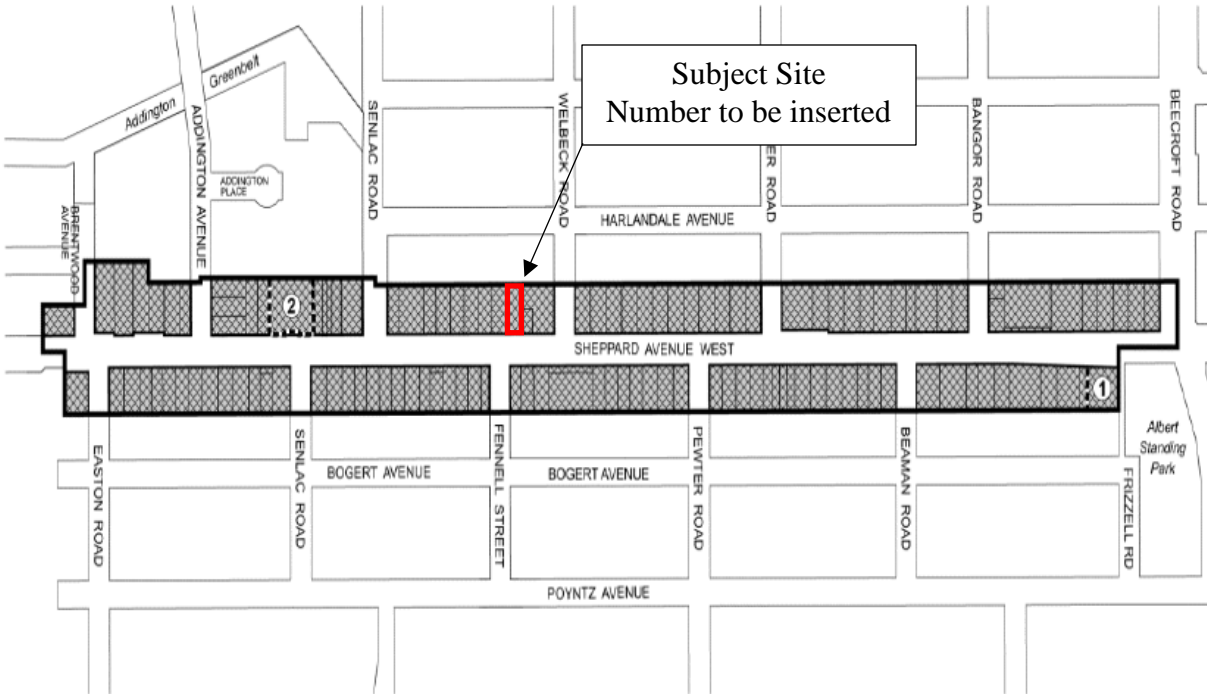
The Official Plan of the City of Toronto is amended as follows:

1. Map 37-5, Land Use Areas of the Sheppard Lansing Secondary Plan is amended as shown on Schedule 1, attached to and forming part of this Amendment No. ~.
2. Chapter 6, Section 37, Sheppard Lansing Secondary Plan, is amended by adding the following Site and Area Specific Policy to Section 8.0 of the Sheppard Lansing Secondary Plan:
  - \_\_\_ . Lands located on the north side of Sheppard Avenue West, known municipally a 202 Sheppard Avenue West.

The maximum Floor Space Index (FSI) will be 3.0 FSI where GFA and Lot Area are defined per the City of Toronto Comprehensive Zoning By-law 569-2013, as amended.

The provision set out in Section 3.6.3 requiring that no part of any building should project into a 45 degree angular plane measured from a height of 10.5 metres at the minimum required 7.5 metre rear yard setback, as illustrated in Figure 1, shall not apply.




# SCHEDULE 1



Not to Scale 



Sheppard Lansing  
MAP 37-5 Site & Area Specific Policies

-  Secondary Plan Boundary
-  Mixed Use Areas
-  Site and Area Specific Policy Areas

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on ~, 2024

Enacted by Council: ~, 2024

**Bill No. ~**

**CITY OF TORONTO  
BY-LAW No. ~-2024**

**To amend the former City of North York Zoning By-law No. 7625, as amended,  
with respect to the lands municipally known as 202 Sheppard Avenue West**

WHEREAS Authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass Zoning By-laws; 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. Sections 2 and 3 of City of North York By-law Number 31167, being a by-law to amend By-law 7625, as amended, to exempt 202 Sheppard Avenue West from certain provisions thereof, are hereby repealed.
2. Schedules “B” and “C” of By-law No. 7625 of the former City of North York are amended in accordance with Schedule 1 attached to this By-law.
3. Section 64.23 of By-law No. 7625 of the former City of North York is amended by adding the following Section:

“64.23 (x) C1 (x)

Schedule “C1 (x)” is added as attached to this By-law;

**Definitions**

a) For the purpose of this exception the following definitions will apply:

- (i) “Established Grade” shall be considered to be the geodetic elevation of 179.38 metres.

- (ii) "Gross Floor Area" shall mean the total area of all of the floors in the building above or below grade measured from the outside of the exterior wall but excluding the area used for:
  - (a) parking, loading and bicycle parking below-ground;
  - (b) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
  - (c) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
  - (d) shower and change facilities required by this By-law for required bicycle parking spaces;
  - (e) amenity space required by this By-law;
  - (f) elevator shafts;
  - (g) garbage shafts;
  - (h) mechanical penthouse; and
  - (i) exit stairwells in the building.
  
- (iii) "Height" shall mean the vertical distance between the established grade and the highest point of the roof. The following equipment and structures on the roof of a building may exceed the permitted maximum height for that building by 5.0 metres: equipment used for the functional operation of the building, such as electrical, utility, mechanical and ventilation equipment; structures or parts of the building that are used for the functional operation of the building, such as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, vents, and water supply facilities; and structures that enclose, screen or cover the equipment and structures on the roof.
  
- (iv) "Storey" shall be as defined in By-law No. 7625 except that it shall not include the mechanical penthouse level of a building, or the elevator overrun.

### **Gross Floor Area**

- b) Notwithstanding Section 22.10, the maximum permitted total Gross Floor Area shall be 1,680 square metres.

### **Permitted Use**

- c) Notwithstanding Section 23.1, an apartment house dwelling is a permitted use.

### **Lot Coverage**

- d) The lot coverage provisions in Section 23.2.1 shall not apply.

## **Setbacks**

- e) Notwithstanding Sections 23.2.2 and 23.2.2.1, required setbacks above grade shall be:
  - i. The minimum front yard setback shall be 0.20 metres;
  - ii. The minimum westerly side yard setback shall be 0 metres;
  - iii. The minimum easterly side yard setback shall be 0 metres;
  - iv. The minimum rear yard setback shall be 8.4 metres;

## **Lot Area Requirements for Dwellings in Commercial Buildings**

- f) The lot area requirements for dwellings in a commercial building in Section 23.2.4.1 shall not apply.

## **Floor Area of Dwelling Units**

- g) The minimum floor area of a dwelling unit in a commercial building in Section 23.2.4.2 shall not apply.

## **Height**

- h) Notwithstanding Section 23.4.3, the maximum permitted **height** shall be 20.0 metres and the maximum permitted number of storeys in six (6).

## **Parking Requirements**

- i) Notwithstanding Section 6A, the minimum number of parking spaces shall be seven (7) space, in accordance with the following requirements:

Non-residential Parking	5 parking spaces
Residential Visitor Parking	2 parking spaces

## **Loading Requirements**

- j) Notwithstanding Section 6A(16)(a), no loading spaces are required.

## **Land Division**

- k) Notwithstanding any existing or future consent, severance, partition or division of the lot, the provisions of this By-law shall apply to the lands as identified on Schedule 1 as if not consent, severance, partition or division occurred

## **Other Provisions of the By-law**

- l) Except as amended in this By-law, all other provisions of By-law No. 7625 shall apply to the lands.

ENACTED AND PASSED this ~ day of ~, A.D. 2024.

OLIVIA CHOW  
Mayor

(Corporate Seal)

JOHN ELVIDGE  
City Clerk