

DECISION AND ORDER

Decision Issue Date Friday, May 27, 2022

PROCEEDING COMMENCED UNDER Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): SOHO GRAND CONDOMINIUMS INC.

Applicant(s): MARTIN CHENIER

Property Address/Description: 354 WELLINGTON STREET WEST

Committee of Adjustment File

Number(s): 20 186885 STE 10 MV (A0800/20TEY)

TLAB Case File Number(s): 21 215729 S45 10 TLAB

Hearing date: Monday, January 24, 2022

Deadline Date for Closing Submissions/Undertakings: June 4, 2022.

DECISION DELIVERED BY TLAB Panel Member A. Bassios

REGISTERED PARTIES AND PARTICIPANT

Appellant	Soho Grand Condominiums Inc.
Appellant's Legal Rep.	Matthew Helfand
Appellant's Legal Rep.	Jane Pepino
Applicant	Martin Chenier
Party	TSCC 1555
Party	TSCC 1628
Party's Legal Rep.	Joel Farber

Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 215729 S45 10 TLAB

Participant	Luciana Budur
Participant	Liviu Budur
Participant	Amrit Singh
Participant	Leanna Lui
Participant	Richard Roventa
Participant	Karen Burrows
Participant	Dan Ifrim
Participant	Hiu Ying Chan
Participant	Kevin Matte
Participant	Katya Filippetti
Participant	Corey Dales
Expert Witness	Martin Rendl
Expert Witness	David Ashbourne
Expert Witness	Steve Krossey

INTRODUCTION

This is an Appeal of the Toronto and East York panel of the City of Toronto (City) Committee of Adjustment's (COA) refusal of an application for variances for the property known as 354 Wellington St West (subject property). The purpose of the application is to alter the existing 7½-storey residential building by expanding the eighth storey and constructing a three-storey addition above.

On April 4, 2022, an interim Decision was issued allowing the appeal in part, subject to the following conditions:

1. Submission of a revised set of drawings that reflect the minimum separation distance as set in **Chapter 50.10.40.80.(2) By-law 569-2013** and **Section 7(3) Part II 8(i) By-law 438-86**.
2. The revised drawings are to reflect only changes necessary to effect the required separation distances referenced above. In all other respects, the exterior of proposal is to remain as justified in these proceedings.

3. Revised drawings are to be submitted to the TLAB within two months from the date of this Interim Decision.
4. A Final Order will be issued on receipt of a satisfactory set of drawings reflecting the above Interim decision, or upon advice from the Applicant that revised plans will not be submitted.
5. Failure to meet the conditions of this Interim Decision will result in a Final Order upholding the decision of the Committee of Adjustment dated September 1, 2021.

This final Decision will be issued on the basis of compliance with the conditions set out in the Interim Decision.

BACKGROUND

The Interim Decision allowed for the approval of the following variances subject to the conditions extracted above.

1. Chapter 200.5.10.1.(1) By-law 569-2013

The minimum required number of additional parking space(s) is 30 spaces (26 Residents spaces and 4 Visitors spaces).

In this case, zero additional parking spaces will be provided.

2. Chapter 200.15.10.(1)(A) By-law 569-2013

A minimum of one accessible parking space is required to be provided for the additional dwelling units.

In this case, zero additional accessible parking spaces will be provided.

3. Chapter 50.10.40.10.(1) By-law 569-2013

The maximum permitted height of a building or structure on a lot is the numerical value, in m, following the letters "HT" shown on the Height Overlay Map: In this case 12.0 m and 18.0 m.

In this case, the building addition height will be 42.0 m measured to the highest point.

4. Chapter 50.10.40.30.(1) By-law 569-2013

No portion of a building may be set back more than 50.0 m from a lot line that abuts a street.

In this case, the building addition will be set back 83.65 m from a lot line that abuts a street (Wellington Street West).

5. Chapter 50.10.40.70.(1) By-law 569-2013

The minimum required building setback from a side lot line or rear lot line is 7.5 m.

In this case, the rear lot line setback will be 0.55 m.

6. Chapter 50.10.40.70.(3) By-law 569-2013

Where a lot abuts a lane, the minimum required building setback from a side lot line or rear lot line that abuts the lane is 7.5 m measured from the original centreline of the lane.

In this case, the building will be set back 2.9 m from the original centreline of the lane abutting the rear lot line.

7. Chapter 50.10.40.70.(5)(A) By-law 569-2013

The minimum required building setback from a lot line that abuts a street is 3.0 m for the portion of the building or structure which exceeds a height of 20.0 m.

In this case, the building will be setback 0.0 m from a lot line that abuts a street.

8. Chapter 50.10.40.80.(3) By-law 569-2013

In the CRE zone bounded by Queen Street West to the north, Simcoe Street to the east, Front Street West to the south, and Bathurst Street to the west, if a building has windows, the minimum required above ground distance between the windows and another main wall without windows or a lot line that does not abut a street or park is 7.5 m.

In this case, the distance between the rear main wall with windows and the rear lot line will be 0.55 m.

9. Section 12(2)246(C) By-law 438-86

The by-law requires a building to be located within 50 m of the street.

In this case, the building addition will be located 83.65 m from the Wellington Street West frontage.

10. Section 12(2)246(E) By-law 438-86

A minimum of 29 additional parking spaces are required to be provided for the additional 49 dwelling units (26 Residents spaces and 3 Visitors spaces).

In this case, zero additional parking spaces will be provided.

11. Section 7(3) Part II 1(II) By-law 438-86

Exterior walls that face each other shall be separated by a distance of at least 11 m.

In this case, the building addition will have exterior facing walls separated by a distance of 8.7 m at Levels 9, 10 and 11, to an existing portion of Phase 1.

12. Section 4(2)(A) By-law 438-86

The proposed building addition occurs within areas having height limits of 12.0 m and 18.0 m

In this case, the building addition height will be 42.0 m.

MATTERS IN ISSUE

The Interim Decision of April 4, 2022 provided analysis, findings and reasons for approval of the variances listed in the section above. Specifically, two variances relating to required minimum separation distances between buildings with windows facing each other were not supported.

Issuance of a final Decision on this matter has been withheld pending submission of a satisfactory set of drawings, revised from the submitted proposal only to reflect the minimum separation distances required by Chapter 50.10.40.80.(2) By-law 569-2013 and Section 7(3) Part II 8(i) By-law 438-86.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

Evidence, Analysis, Findings and Reasons in underpinning this the final Decision in this matter were outlined in the Interim Decision of April 4, 2022.

The Appellant has provided revised drawings within the stipulated deadline as required, together with an Affidavit from Martin Rendl, the Appellant's Expert Witness.

ANALYSIS, FINDINGS, REASONS

The revised drawings (revision dated May 9, 2022) show the elimination of all windows within 15m of the west wall of the existing Phase 1 building. I find that this amendment

to the proposal achieves the intent of the Official Plan and the Zoning By-laws in providing adequate privacy and access to light for adjacent buildings.

At the Hearing, evidence was provided by both Parties as to the general intent and purpose of the minimum separation distance policies and Zoning By-law provisions. The two main areas of concern in this regard were privacy and access to light.

By eliminating the previously proposed windows within the 15m minimum separation distance from the Phase 1 building, the revised proposal does not trigger the separation distance provisions for buildings with windows. The privacy concerns which were raised regarding visibility through windows to units in the existing building have been addressed within the parameters of the Zoning By-law and the Official Plan.

With respect to the policies of the Official Plan regarding access to natural light and sunlight, I accept the evidence of Mr. Rendl that the 8.7m separation distance proposed (at levels 9, 10 and 11) between the proposal and the existing Phase 1 building maintains adequate access to sunlight and natural light.

I note that the proposal constitutes a three storey addition to the existing structure, rising 13.2m above the existing elevator mechanical room (or 21.5m above the existing eighth floor). In this circumstance, I find that an 8.7m minimum separation distance to be sufficient and that adequate light is maintained.

CONCLUSION

The conditions outlined in the Interim Decision for the approval of the listed variances have been met.

I find that the listed variances meet the four statutory tests of s.45(1) of the *Planning Act*.

DECISION AND ORDER

The appeal is allowed in part. The variances listed in Appendix A are authorized, subject to the condition contained therein.

X 

A. Bassios
Panel Chair, Toronto Local Appeal Body

APPENDIX A

APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:

VARIANCES:

1. Chapter 200.5.10.1.(1) By-law 569-2013

The minimum required number of additional parking space(s) is 30 spaces (26 Residents spaces and 4 Visitors spaces).

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In this case, the building addition height will be 42.0 m.

CONDITION:

The proposed dwelling shall be constructed substantially in accordance with the following plans and drawings, including the materials noted, as prepared by IBI Group Architects (Canada) and attached hereto:

- Site Plan A-12, Revision dated May 9, 2022
- Ground Level Plan A-21, issue dated November 18, 2021
- 7th Floor Plan A-22, issue dated November 18, 2021
- 8th Floor Plan A-23, issue dated May 9, 2022
- 9th Floor Plan A-24, issue dated May 9, 2022
- Amenity, Mech, Roof Plan A-25, issue dated November 18, 2021
- North-South Section A-31, issue dated November 18, 2021
- West-East Section A-32, issue dated November 18, 2021

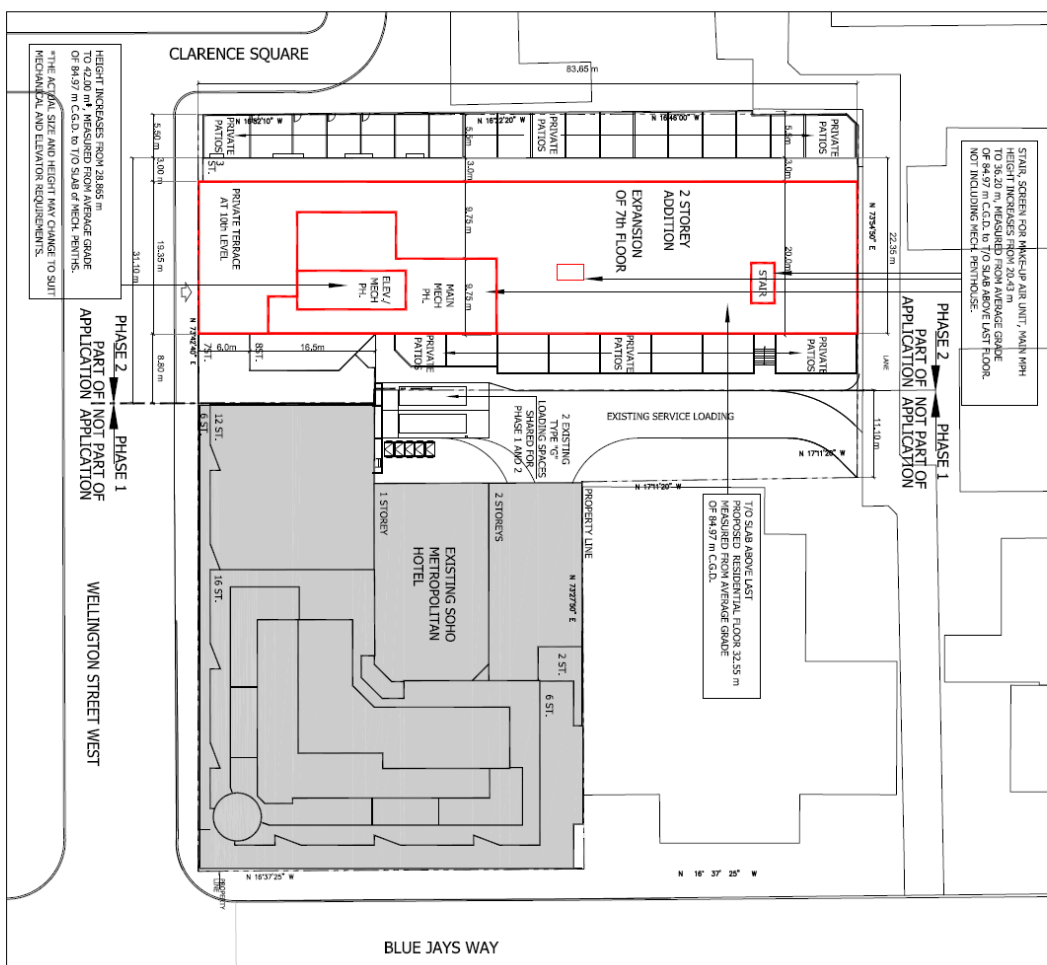
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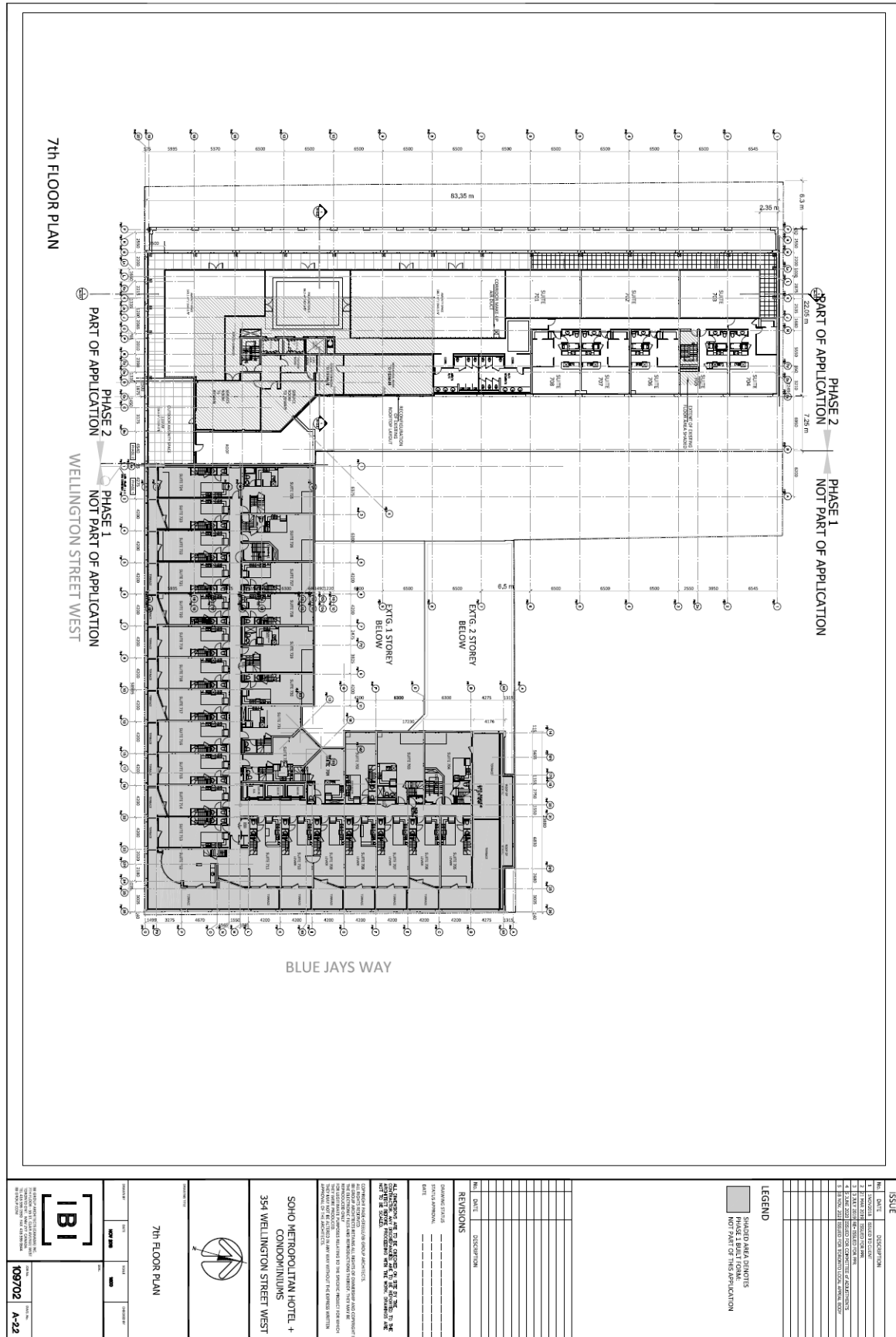
- West Elevation A-41, issue dated November 18, 2021
- East Elevation A-42, issue dated May 9, 2022
- South Elevation A-43, issue dated November 18, 2021
- North Elevation A-44, issue dated November 18, 2021

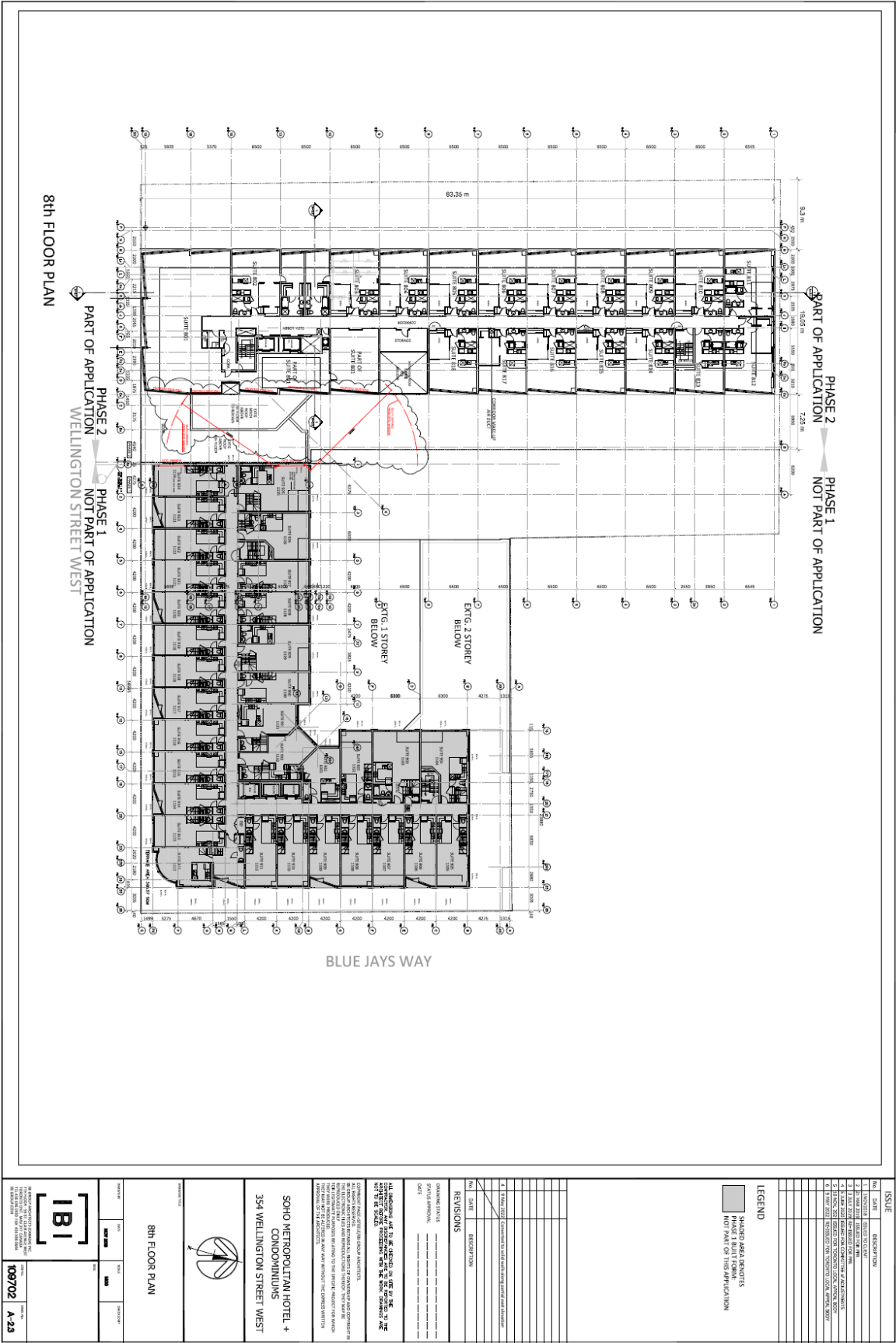
Any other variances that may appear on these plans that are not listed in this decision are NOT authorized

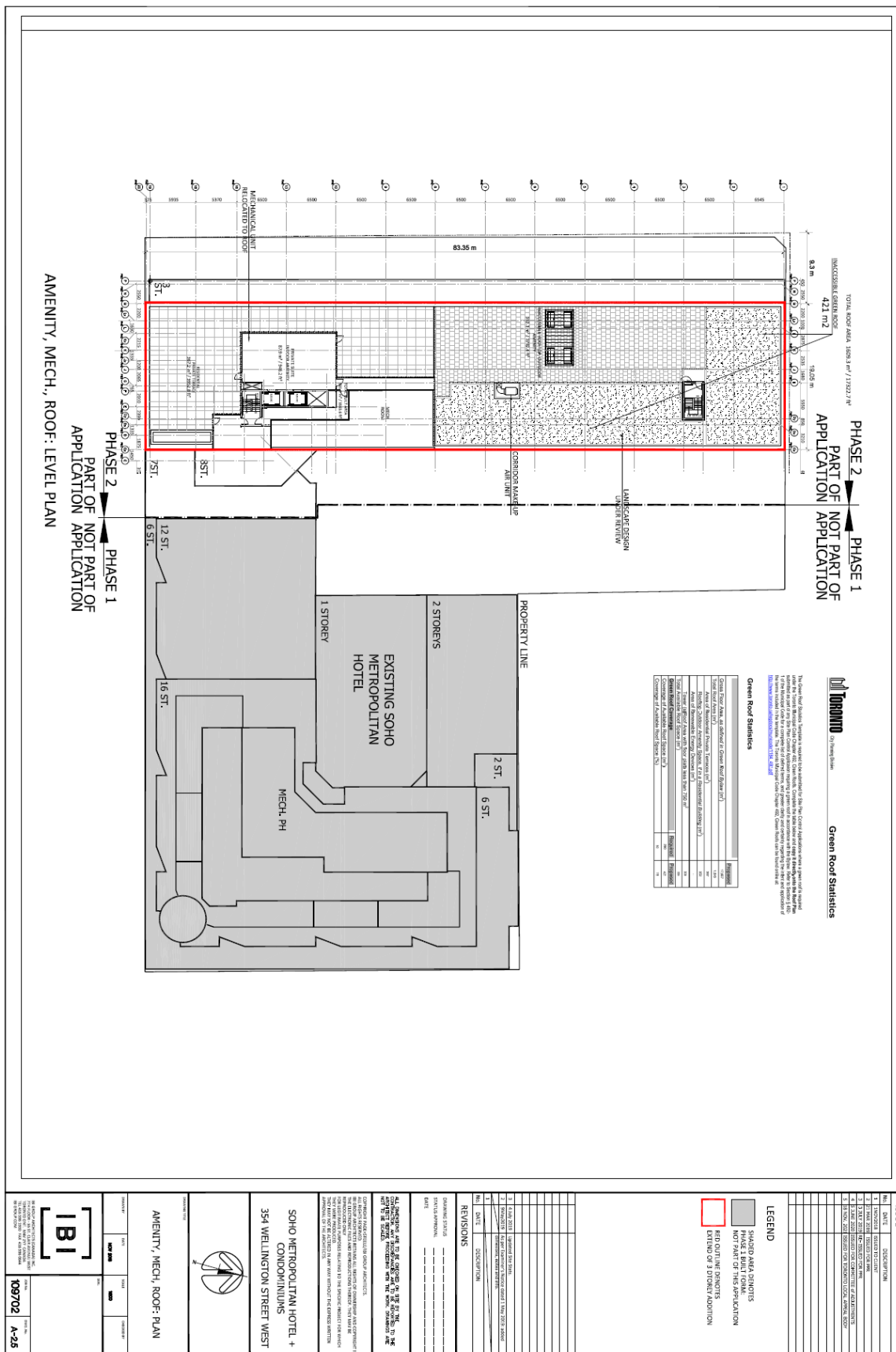
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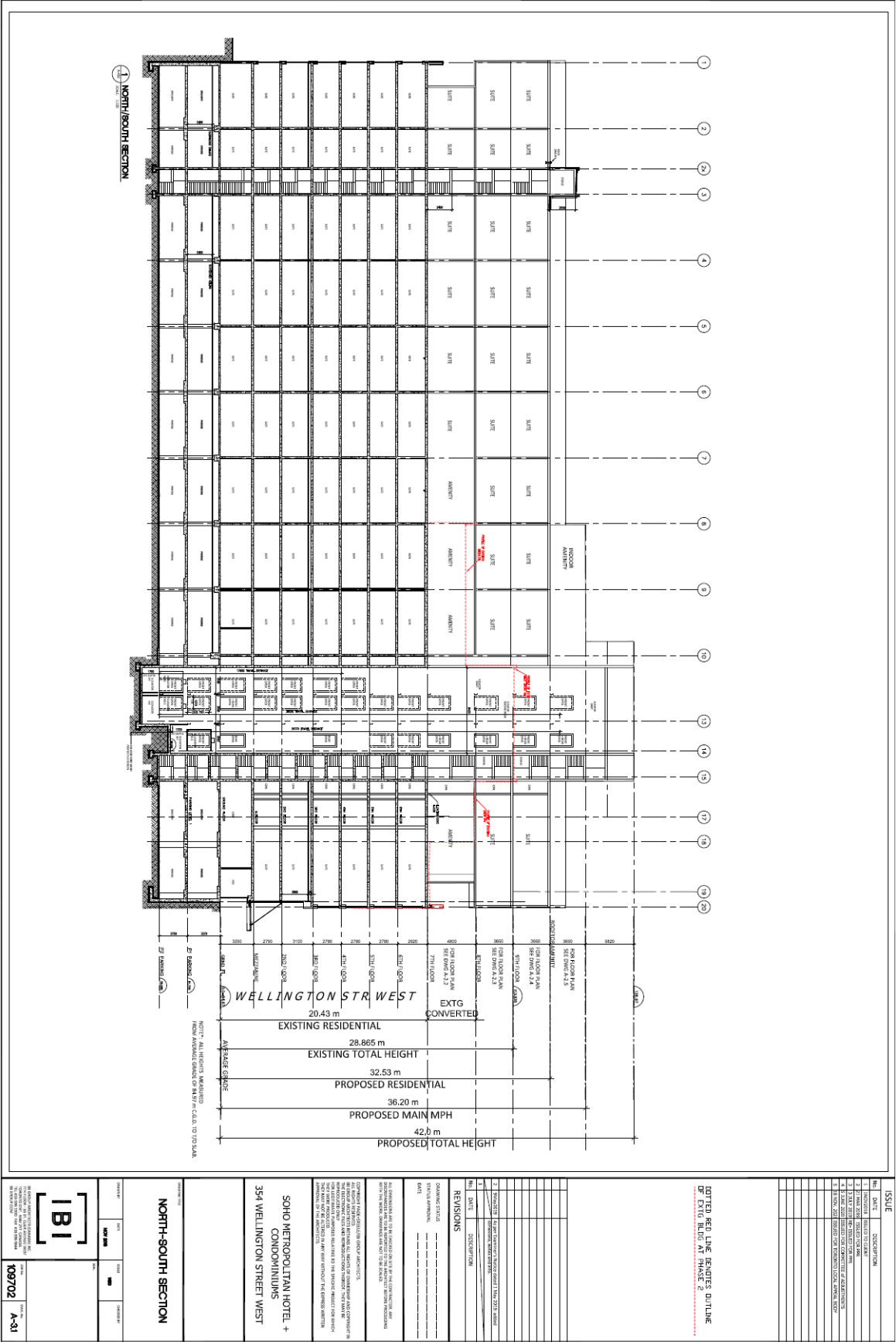
- LIST OF DRAWINGS:
- | | |
|---------|--------------------------------|
| A-00 | COVER PAGE |
| A-1-1 | SITE PLAN |
| A-2-1 | GROUND FLOOR PLAN |
| A-2-1a | P2 PARKING PLAN |
| A-2-1b | P1 PARKING PLAN |
| A-2-1.2 | 2ND FLOOR PLAN |
| A-2-2 | 7th FLOOR PLAN |
| A-2-3 | 8th FLOOR PLAN |
| A-2-4 | 9th FLOOR PLAN |
| A-2-5 | ANTENNY, MECH, ROOF FLOOR PLAN |
| A-3-1 | NORTH-SOUTH SECTION |
| A-3-2 | WEST-EAST SECTION |
| A-4-1 | WEST ELEVATION |
| A-4-2 | EAST ELEVATION |
| A-4-3 | SOUTH ELEVATION |
| A-4-4 | NORTH ELEVATION |

[illegible]









42.0 m
PROPOSED TOTAL HEIGHT

36.20 m
PROPOSED MAIN MPH

32.53 m
PROPOSED RESIDENTIAL

28.865 m
EXISTING TOTAL HEIGHT

20.43 m
EXISTING RESIDENTIAL

CLARENCE SQUARE

MEZZANINE
2ND FLOOR
3RD FLOOR
4TH FLOOR
5TH FLOOR
6TH FLOOR
7TH FLOOR
8TH FLOOR
9TH FLOOR
ROOFTOP AMENITY

FOR FLOOR PLAN SEE DWG A-2.5
FOR FLOOR PLAN SEE DWG A-2.4
FOR FLOOR PLAN SEE DWG A-2.3

EXTG CONVERTED

NOTE: ALL HEIGHTS MEASURED FROM AVERAGE GRADE OF 94.57 m CGD TO 7/0 S.A.B.

3 WEST/EAST SECTION
SCALE: 1/8" = 1'-0"

PHASE 2
PART OF APPLICATION

PHASE 1
NOT PART OF APPLICATION

LEGEND

SHADED AREA HEIGHTS
NOT PART OF THIS APPLICATION

UNTERRED LINE HEIGHTS OUTLINE
NOT PART OF THIS APPLICATION

DATE: 10/9/2022
DRAWN BY: [IBI]
CHECKED BY: [IBI]
APPROVED BY: [IBI]

10/9/2022 A-32

