

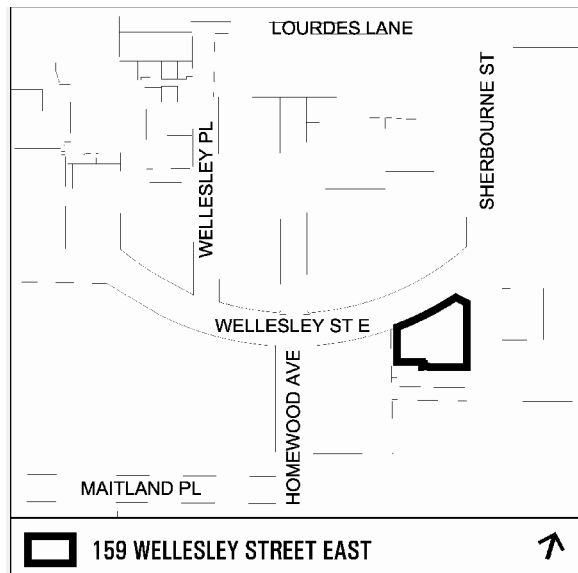
**159 Wellesley Street East Zoning Amendment
Application – Final Report**

Date:	February 6, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	11 184584 STE 27 OZ

SUMMARY

This application proposes to construct a 35-storey (108 metre) condominium tower inclusive of a 4 storey base building at the property known municipally as 159 Wellesley Street East. . The plan proposes to increase the height and density of a prominent corner lot; it replaces a contaminated brown-field property that has sat vacant for several years with one that increases the usability, efficiency and density of the land, while minimizing the impact on local residents.

City Planning Staff have reviewed the application against applicable policies and guidelines and believe that the application conforms to Official Plan Policies and meets the intent of most applicable urban design guidelines. The applicant has responded to the comments of City Staff and made a number of changes to the overall design that minimize the impact on the Wellesley-Magill Park, ensure an adequate supply of parking and improve the public realm. The applicant has also proposed to supply 8 units of low cost ownership housing stock in partnership with Habitat for Humanity.



This report reviews and recommends approval of the application to amend the Zoning By-law, subject to the conditions outlined below.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 438-86, as amended, for the lands at 159 Wellesley Street East substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 8 to the report (February 6, 2013) from the Director, Community Planning, Toronto and East York District.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into an Agreement pursuant to Section 37 of the Planning Act as follows:
 - a. The community benefits recommended to be secured in the Section 37 Agreement are as follows:
 - i. \$500,000 for the renovation of Casey house;
 - ii. \$100,000 for capital improvements to TCH properties located within Ward 27; and
 - iii. the provision and conveyance of approximately 8 residential condominium apartments at an average floor area of 950 square feet (88.26 m²) per unit, for an approximate total of 7,600 square feet (706 m²) to Habitat for Humanity or a similar non-profit provider ("the Provider") of below-market ownership housing on the following terms:
 - a) The apartments shall be provided to the standard agreed upon with Habitat for Humanity;
 - b) The conveyance shall be for \$250 per square foot (\$2,688.17/ m²) plus interim occupancy fees prior to condominium registration, with other customary adjustments for any costs associated with those units at the time of closing to be absorbed by the purchaser;
 - c) In the event that Habitat for Humanity is unable or unwilling to enter into the Agreements or accept the units, and the City enters into the Agreements, the City may assign the Agreements to an alternate non-profit housing provider. If the City does not enter into the Agreements then the Owner will be obligated to pay to the City funds in the amount of \$800,000.00 for the capital revolving fund, with the proceeds to be spent on affordable housing in

Ward 27, and the Owner will have no further obligations on this topic whatsoever.

- d) Habitat will enter into a Housing Contribution Agreement with the City through the Affordable Housing Office, to secure implementation and monitoring, ongoing affordability and the protection of the Section 37 public benefit.
 - iv. The owner shall enter into Agreements of Purchase and Sale with respect to all the below-market condominium units referenced in Recommendation 3.iii, with the Provider and/or the City prior to the issuance of the first above grade building permit for the development, and there shall be provisions allowing the Agreements of Purchase and Sale of all these units to be assignable;
 - v. A section 118 (Land Titles Act) restriction will be registered on title requiring consent by the City for any future charge or conveyance of these units
 - vi. Require that the cash amounts identified in Recommendations 3.i and 3.ii. above shall be indexed annually in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City.
4. City Council authorize the City to be a party to the Agreements of Purchase and Sale for the Provider's units as a contingent transferee, in order to ensure the benefit of the units to be conveyed is secured for the intended purpose as set out in the report from the Director, Community Planning, Toronto and East York District, entitled "159 Wellesley Street East Zoning Amendment Application - Final Report" dated February 6, 2013, in the event the Owner or the Provider is not able to complete the transactions, by either assigning its interest in the Agreements of Purchase and Sale or by selling the units in the open market at fair market value with the proceeds to go towards affordable housing in Ward 27.
 5. City Council authorize and direct the appropriate City Officials to take the necessary action to give effect to the foregoing, including the specific actions set out in "Council Authorities to Implement Matters Pursuant to the Section 37 Agreement" as Schedule 1 to the report from the Director, Community Planning, Toronto and East York District, entitled "159 Wellesley Street East Zoning Amendment Application - Final Report" dated February 6, 2013.

6. In connection with the future site plan application, City Council require that the owner convey to the City, prior to the issuance of a building permit, at nominal cost, a 0.85 m wide strip of land to the full extent of the site abutting the south limit of Wellesley Street East, to a minimum depth of 1.2 metres below grade, such lands to be free and clear of all encumbrances, save and except for utility poles, and subject to a right-of-way for access purposes in favour of the Grantor until such time as the said lands have been dedicated for public highway purposes.
7. Prior to the introduction of the Bills, City Council require that the applicant secures a tower separation agreement with the owners of the lands known municipally as 462 to 466 Sherbourne Street.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of June 22, 2011 Toronto and East York Community Council directed Planning Staff to schedule a community meeting for 159 Wellesley Street East.

ISSUE BACKGROUND

Proposal

The applicant is proposing a mixed use development with residential uses and retail at grade. The project has been revised to have a base element of 4 storeys with a proposed tower of 31 storeys (down from 34), the total proposed height would be 35 storeys (116 m, including mechanical) with 286 (down from 326) dwelling units. A total of 142 m² of non-residential GFA is proposed at grade. The total GFA proposed is 23,095 m² (down from 25,175 m²) which is a density of 19.27 (down from 21) times the lot area.

The form of the tower consists of a four storey (16 metre) base with the tower stepping back from the base building from 2.5 metres to 8 metres moving west to east along the Wellesley Street frontage, 3.0 metres along the Sherbourne Street frontage, 3.1 metres along the rear property line and 2.5 metres along the west property line, stepping back a further 3.0 metres at the 28th floor.

Table 1 – Summary of Revisions to the Application

Category	First Submission April 29, 2011	Second Submission March 30, 2012	Third Submission October 12, 2012
Site Area	1,198 m ²	1,198 m ²	1,198 m ²
Proposed Tower Setbacks			
Wellesley Street East	5.75 m average	5.75 m average	5.25 m average
Sherbourne Street	3.0 m	3.0 m	3.0 m
South Property Line	2.95 m	2.95 m	3.1 m
West Property Line	2.0 m	2.0 m (4.5 m at 28 th fl.)	2.5 m (5.5 at 28 th fl.)

Category	First Submission April 29, 2011	Second Submission March 30, 2012	Third Submission October 12, 2012
Proposed Base Setback at Grade			
Wellesley Street East	0 m	0 m	3 m average
Sherbourne Street	0 m	0 m	0 m
South Property Line	0.25 m	0.25 m	0.25 m
West Property Line	0 m	0 m	0 m
Tower Floorplate (approximate average)	680 m ²	677 m ²	677 m ²
Gross Floor Area (above grade)			
Total Residential	24,955 m ²	22,827 m ²	22,953 m ²
Non-Residential	220 m ²	183 m ²	142 m ²
Total	25,175 m ²	23,010 m ²	23,095 m ²
Floor Space Index	21.01	18.9	19.2
Number of Units			
One-Bedroom	216	238	196
Two-Bedroom	111	57	65
Three-Bedroom	0	21	25
Total	327	316	286
Ground Floor Height	4.5 m	4.5 m	4.5 m
Sidewalk width Wellesley Street East	5.75 m average	5.75 m average	7.25 m average
Sidewalk width Sherbourne Street	4.0 m	4.0 m	4.0 m
Proposed Vehicular Parking	130	130	189
Proposed Bicycle Parking	195	180	172
Loading Spaces			
Type G	1 type G	1 type G	1 type G
Amenity Space			
Interior Residential	992 m ²	992 m ²	923 m ²
Exterior Residential	481 m ²	481 m ²	481 m ²
Total Amenity Space Provided	1,473 m ²	1,473 m ²	1,404 m ²
Building Height (including mechanical penthouse and architectural elements)	123.64 m	114.79 m	114.79 m

Site and Surrounding Area

The site is irregular in shape with an area of 1,198 m². There is a frontage of 38.13 metres along Wellesley Street East, and 35.71 metres along Sherbourne Street. The site was formerly occupied by a gas station which has recently been demolished. Due to the nature of the previous use the site is highly contaminated and will have to be cleaned up prior to residential uses being constructed.

North: A 4-storey long-term care facility called the Re kai Centre and an 11-storey supportive housing building. Continuing north there are additional tall buildings that range in height from 34 to 39 storeys.

West: Immediately to the west of the site is a 3.08 m wide private laneway which leads to the rear of the properties fronting on Sherbourne Street; the subject site has

access rights over the laneway. Further to the west is a 17-storey rental apartment building.

South: Immediately to the south of the property are 3-storey buildings with retail uses at grade and apartments above. Further south is the recently reconstructed Our Lady of Lourdes Catholic Elementary School.

East: To the east of the property are three 6-storey apartment buildings fronting onto Wellesley Street East and a funeral home on Sherbourne Street. Further east are townhouses and a 12-storey condominium and continuing north and east is St. James Town, with buildings ranging from 14 to 32 storeys slab form towers.

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. 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; 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

The City of Toronto's Official Plan contains a number of policies that affect the proposed development.

Chapter 2 – Shaping the City

Section 2.2.1 Downtown: The Heart of Toronto

The proposed development is located in the *Downtown* area as defined by Map 2 of the City of Toronto Official Plan. Section 2.2.1 outlines the policies for development within the *Downtown*. The downtown is where most of the growth in the City of Toronto is expected to occur. The *Downtown* will continue to evolve as the premier employment area of the City of Toronto and provide a range of housing for those working in the area. The City will also explore opportunities to maintain and improve the public realm, promote an environment of creativity and innovation, support and enhance the specialty retail and entertainment districts, support business infrastructure and create business partnerships.

Although much of the growth is expected to occur in the *Downtown*, not all of the *Downtown* is considered a growth area. The City of Toronto Official Plan states that:

"while we anticipate and want *Downtown* to accommodate growth, this growth will not be spread uniformly across the whole of *Downtown*. In fact, there are many residential communities *Downtown* that will not experience much physical change at all, nor should they."

Transportation within the *Downtown* is expected to be accommodated by transit. Priority will be given to transit improvements in the *Downtown* and transit vehicles will be given priority on streets within the *Downtown* particularly those with streetcars. A program of improvements will be implemented to enhance the pedestrian environment and efforts made to improve the safety of walking and cycling *Downtown*.

Chapter 3 – Built Form

Section 3.1.3 Built Form – Tall Buildings

The applicant is proposing to construct a Tall Building. Policy 3.1.3 states that Tall Buildings come with larger civic responsibilities than buildings of a smaller scale. In addition to speaking about specific built form characteristics, the policy states that proposals for Tall Buildings clearly demonstrate how they relate to the existing and planned context, take into account their relationship with the topography and other tall buildings and how they meet the other objectives of the Official Plan.

Section 3.2.3 Parks and Open Spaces

The site of the proposed development is in close proximity to Wellesley-Magill Park. Policy 3.2.3 of the Official Plan speaks to maintaining and enhancing Toronto's system of parks and open spaces and states that the effects of development from adjacent properties (shadows, wind, etc.) will be minimized to preserve their utility. It outlines a parkland acquisition strategy, grants authority to levy a parkland dedication or alternative cash-in-lieu and calls for the expansion of the existing network of parks and open spaces.

Chapter 4 – Land Use Designations

Section 4.2 Apartment Neighbourhoods

The site of the proposed development is in an area designated *Apartment Neighbourhoods* in the Official Plan. *Apartment Neighbourhoods* are primarily made up of apartment buildings and parks, local institutions, cultural and recreational facilities and small-scale retail services and office uses that serve local residents. New development in *Apartment Neighbourhoods* will locate and mass new buildings to provide a transition between areas of different development intensity and scale. New development will also minimize shadow impacts and promote comfortable walking conditions in adjacent lower-scale *neighbourhoods* and parks. New development will also locate and screen service areas, ramps and garbage storage, provide indoor and outdoor amenity space and provide ground floor uses that enhance the safety, amenity and animation of adjacent streets and open spaces.

Zoning

The property is zoned R3 Z2.0 in By-law 438-86, as amended. The R3 designation permits residential and limited commercial uses to be combined on one property. A height limit of 12.0 m currently applies to the site, with a maximum residential density of 2 times coverage.

Downtown Tall Buildings Vision and Performance Standards Design Guidelines

On July 11 and 12, 2012 Toronto City Council adopted the Downtown Tall Buildings Vision and Performance Standards Design Guidelines and directed City Planning Staff to use these guidelines in the evaluation of all new and current tall building development proposals falling within the boundaries. The Guidelines replace the city-wide tall building guidelines which already applied in this evaluation and are largely consistent with the City-wide guidelines.

The Guidelines identify where tall buildings belong Downtown and establish a framework to regulate their height, form and relationship to their surroundings. They focus on enhancing the pedestrian environment; minimizing shadowing of sidewalks, parks and public squares; protecting landmark views and heritage resources and improving the quality of life (access to natural light, sky views and privacy) for people living and working Downtown. The Guidelines include a vision statement for downtown tall buildings; maps which identify "High Street" and "Secondary High Street" locations, recommended heights and building typologies for these streets; and twenty-three Performance Standards relating to the base conditions or tower portions of tall buildings or to their contextual fit within the Guideline area. Guideline details are available at <http://www.toronto.ca/planning/tallbuildingstudy.htm>.

The subject property is located on Wellesley Street East which is identified as a High Street on Map 1. The site also abuts Sherbourne Street which is not identified as a high street on Map 1 at this intersection. This portion of Wellesley Street East falls within the 20 (62 metres) to 35 (107 metres) storey height range on Map 2 and is identified as tower base typology on Map 3. The street is not identified as a Priority Retail Street on Map 4.

Site Plan Control

The application is subject to Site Plan Control. An application for Site Plan has not been submitted.

Community Consultation

A Community Consultation Meeting was held on October 17, 2011. At that meeting it was discovered that residents in the condominium buildings to the north of the subject property (500 Sherbourne Street and 120 Homewood Avenue) had not been given notice of the meeting. City Planning scheduled a second meeting for November 21, 2011 with notices sent to those residents who had been missed in the initial circulation.

At the first meeting, reaction to the original proposal was mixed. Although the majority of residents in attendance took issue with the height of the proposed development and potential traffic impacts arising from the development, several residents expressed support for the development and stated that a number of undesirable uses took place on the property. Concern was also expressed by some residents as to how the environmental remediation of the site would take place and what risks there would be for residents during this process.

As stated above, the second meeting was held for the residents at 500 Sherbourne Street and 120 Homewood Avenue. Residents at this meeting were opposed to the proposed development, citing the height, potential traffic conflicts and lack of conformity with the Downtown Tall Buildings Guidelines (which were not adopted by Council at the time).

A final community consultation was scheduled by the Ward Councillor on December 10, 2012 to present the revised drawings by the applicant. Reaction to the revised drawings was mixed with some in favour of the proposed development and others opposed. The principal issues remained height, traffic concerns and a general concern that the proposed building represented overdevelopment of the site.

Staff have received numerous email communications reiterating the main concerns of height, overdevelopment and traffic congestion raised by the community through the consultation process. Staff have also received a number of communications in support of the proposed development citing revitalization, community safety and the need for new affordable home ownership in the area.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

COMMENTS

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement promotes new development primarily through intensification and requires that new development create efficiencies in land use. The Provincial Policy Statement also states, in Section 4.5, that the Official Plan is the most important vehicle for implementing the Provincial Policy Statement. Section 1.1.3.3 of the Provincial Policy Statement also requires "planning authorities to identify and promote opportunities for intensification redevelopment" including brownfield sites. This application constitutes a significant redevelopment of an underutilized and contaminated brownfield property. It serves to revitalize a portion of the downtown that would benefit from reinvestment, represents an efficient use of land and conforms to the policies of the City of Toronto Official Plan. Therefore, the proposal is consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe designates Toronto as a growth area. The growth is primarily intended to occur through infill development, redevelopment of brownfield sites and intensification. While the applicant's proposal represents a significant intensification of property and a rehabilitation of a brownfield site; the proposed residential development is not necessary to meet the growth targets forecast by the Province of Ontario for the City of Toronto. The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

The proposed development is located in an *Apartment Neighbourhood* in the City of Toronto Official Plan. New development in *Apartment Neighbourhoods* shall consist primarily of apartment buildings and local service retail and commercial spaces. The proposed project is consistent with the land use permissions of *Apartment Neighbourhoods*.

Built Form

The proposed building is a 35 storey tower inclusive of a 4 storey base. The proposed development conforms to nearly all of the Downtown Tall Building Guidelines with the notable exception of minimum distances from the property line. Retail uses are proposed at grade that will help activate the frontage and animate the street in conformity with the built form policies in *Apartment Neighbourhoods*. The built form is evaluated in more detail below.

Massing

The proposed building is a base and point tower typology which is the recommended typology for Wellesley Street East. The base and point tower design minimizes impacts arising from shadows and micro-climatic concerns as well as minimizing the impact arising from the scale of the building at ground level in conformity with the applicable built form criteria in the Official Plan for *Apartment Neighbourhoods* and *Park and Other Open Spaces*. Furthermore, the proposed building is massed in such a way that it frames the streets in accordance with the same policies.

Height

The overall height of the project is proposed to be 107.5 (excluding mechanical) metres or 35 storeys. The proposed base is designed to a human scale and is lower than the maximum which would be allowed in the Downtown Tall Buildings Guidelines. At 4 storeys (14.95 metres), the base also transitions effectively to the lower scale built form to the south of the property.

The overall height of the project is 35 storeys. Across the street are two towers at 34 and 39 storeys with towers ranging from 14 to 32 storeys abundant in the area. There is a context for the proposed height. Furthermore, the proposed height is consistent with the Downtown Tall Buildings Guidelines recommended maximum height of 35 storeys (107 metres excluding mechanical) in the area.

Although it will be discussed below, the project has been revised to minimize shadow impacts on the Wellesley-Magill Park, has minimal micro-climatic impacts and does not significantly shadow nearby *Neighbourhood* designated areas.

Stepbacks and Separation Distances

The tower steps back from the base an average of 3 metres on all sides, which is the minimum recommended distance for setbacks in the Downtown Tall Buildings Guidelines. The proposed setbacks help mitigate wind conditions at ground level and help keep the human scale for pedestrians.

Currently the proposed tower at 159 Wellesley Street East is proposed to be setback 2.5 metres from the western property line. Although Downtown Tall Buildings Guidelines asks for a setback of 12.5 metres, the proposed tower is setback on average 22 metres from the already constructed apartment building to the west. Downtown Tall Buildings Guidelines calls for a setback of 25 metres or greater, however, the proposed tower at 159 Wellesley Street East is offset significantly from the residential apartments to the west which helps to mitigate the effects from the sub-standard separation distance.

The principal issue with the tower is that the base is built lot line to lot line (at the south and west boundaries), which means that the tower is only setback about 3 metres from the property line to the south which could potentially impact future development on the southern properties. These issues are explored in greater detail below.

Property Line Setbacks

The Downtown Tall Buildings Guidelines recommend a minimum site area and tower setback of 12.5 metres from the abutting side and rear property boundaries not abutting streets. The purpose of this setback is to protect the development rights of adjacent property owners and ensure that if an adjacent site redevelops, a tower, if appropriate for that site, could be constructed with a separation distance of 25 metres (12.5+12.5). The current development proposes a setback of only 3 metres from the southern property line. City Planning Staff have analyzed the development potential to the south and west.

The property to the west is currently occupied by a tall building with 114 rental units. Any new development on the site would have to replace all rental units on or off site in a manner acceptable to City Staff and Council. The property is not large enough to accommodate a second tower and still meet the separation distances to the existing tall building. As noted above, the existing tower is also offset from the proposed tower to the east.

Directly to the south of the proposed development are three 3-storey buildings with retail uses and narrow frontages that are not currently assembled, and a total width of 18 metres. The applicant has tried and has not been successful in acquiring those properties to add to the redevelopment. After careful analysis, City Staff have determined that even if these properties were to be assembled, there is limited room on the site to create a tower with a functional tall tower floor plate.

If a development were to proceed to the properties south of the 159 Wellesley Street East, the 25 metre separation distance sought would be greater than the width of the three properties. This would likely necessitate a consolidation with the Our Lady of Lourdes Catholic Elementary School property to be viable.

If a proposal to proceed with a tower with 3 meter step backs on all sides (approximately the same as 159 Wellesley Street East), a tower floor plate of 396 square metres (12 x 33) would result. This floor plate is far smaller than even the smallest tower floor plate built in the city (Crystal Blu, 418 square metres) and is not a practical floor plate for construction. Furthermore, one could not place a ramp for an underground garage and servicing would likely be challenging.

It is important to note that Staff would not support a building envelope of this nature on the properties to the south; this only serves to show that the properties are unlikely to develop as a tower proposal in a manner that would be supported by Staff. However, out of an abundance of caution, and acting in the public interest, City Planning Staff are recommending approval of the project subject to the applicant securing a tower separation agreement with the properties to the south.

Moving further south from the plaza there is Our Lady of Lourdes Elementary Catholic School which has recently been renovated and expanded. Currently there is no plan to declare this school surplus and sell the lands. However, should the Toronto Catholic School Board declare these lands surplus, there is abundant room on the site to accommodate a tower with the recommended 25 metre separation distance, especially if consolidated with the plaza properties. Should the properties to the south redevelop, an extension of a four storey base height would be appropriate and allow for a reasonable development on the intervening properties.

Sun, Shadow, Wind

Policies in the City of Toronto Official Plan require that new development in *Apartment Neighbourhoods* as well as adjacent to *Parks and Open Spaces* minimize their shadowing impacts and microclimatic effects.

Shadow Impacts on Wellesley-Magill Park

The proposed tower does generate a small shadow impact for the Wellesley-Magill Park. The tower, however, is very slender allowing for shadow to move swiftly across the park. Furthermore, the proposed tower has been shaped in such a way that there will be no shadow impact on the park between the hours of 12 p.m. and 2 p.m. during the spring and fall equinoxes as recommended in the Downtown Tall Buildings Guidelines. After 3 p.m. the park becomes shadowed by the adjacent buildings. City Planning Staff believe the shadow impacts generated by 159 Wellesley Street East to be minimal.

Pedestrian Amenity

A pedestrian level wind study has been submitted as part of the application for 159 Wellesley Street East. The engineer who has conducted the study has certified that there will be a negligible micro-climatic impact at ground level generated by this project.

The applicant is also proposing continuous pedestrian level weather protection along Wellesley Street East and along Sherbourne Street. The sidewalks along Wellesley Street East are being widened from 3.5 metres along Wellesley Street East to a non-uniform width of: 4.5 metres at the western extent of the property to as much as 10 metres at the eastern extent. This increases the sidewalk width by an average of 7.25 metres. The streetscape of Wellesley Street East will be improved significantly through a sidewalk widening and increased landscaping. The streetscape on Sherbourne Street will also be improved through increased landscaping. The proposed development conforms to the built form policies of the City of Toronto Official Plan and the performance standards in the Downtown Tall Buildings Guidelines.

Cycling Amenity

The construction of dedicated bicycle lanes on Sherbourne Street has recently been completed and cyclists living in the proposed development will have convenient access to Bloor Street and the core. The applicant is currently proposing 172 bicycle parking spaces. The Toronto Green Standard requires that bicycle parking be provided in a one to one ratio with the number of units which would require 286 bicycle parking spaces. Staff do not support the reduction in bicycle parking spaces and have adjusted the ratio in the by-law accordingly.

Traffic Impact, Access, Parking and Servicing

The site area for the proposed development is quite small and does not support sufficient parking for a project of its size. The applicant, therefore, has secured additional parking from the neighbouring apartment building which currently enjoys a surplus. Engineering and Construction Services Staff have received materials relating to the proposed off-site parking arrangement at 155 Wellesley Street East, comprised of:

- An email, dated September 28, 2012, from the property manager at 155 Wellesley Street East indicating that they do not foresee any issues with providing 50 parking spaces for residents of the subject property, based on the history of parking demand for the subject building;
- A standard "Commercial (non-resident) Parking Agreement which is typically used by the property manager, with a qualification (in the aforementioned email) that they are prepared to "modify, once we settle on terms;" and
- A letter, dated October 22, 2012, from the Property Manager for Premises No. 155 Wellesley Street East (Greenwin Inc). in which they agree to make available upon completion of construction of Premises No. 159 Wellesley Street East:
 - Up to 50 parking spaces in the underground garage for lease by residents of 159 Wellesley Street East for a period of five years;
 - Use of existing visitor parking lot; and
 - Two at-grade parking spaces for use by a *car-share* provider, at the sole discretion of the owner.

After reviewing the proposed documentation Engineering and Construction Services Staff have determined that the proposed parking accommodations are acceptable.

The Official Plan also calls for road widening on Wellesley Street East. Typically this land is conveyed to the City of Toronto in whole, and free of encumbrances, at Site Plan Approval. In this case the applicant is proposing a strata conveyance that will allow the underground garage to be constructed while still protecting for the eventual widening of Wellesley Street East. Engineering and Construction Services staff have reviewed the proposed strata conveyance and support it.

Access for the site will be from the lane to the west of the development with an egress on Sherbourne Street. Servicing and parking are screened from view in conformity with the policies of the Official Plan. Engineering and Construction Services Staff have reviewed the site servicing and storm water management plans for the project and have determined that they are adequate to the needs of the project.

Amenity Space

The zoning by-law for the proposed development would require a total of 1,144 m² of amenity space. The applicant is proposing 1,404 m² of amenity space. Although deficient in outdoor amenity space (1.68 m²/unit instead of 2 m²/unit), the applicant is oversupplying indoor amenity space (3.2 m²/unit instead of 2 m²/unit). This is appropriate as the area is one of the densest in North America with well used community services. Prospective residents of the building will require an appropriate amount of amenity space to meet their recreational needs.

Provision of Three Bedroom Units

Twenty-five three-bedroom units are provided in the development. This comprises nine percent of the unit mix. It is intended that 8 of these units will be provided to Habitat for Humanity as outlined in the Section 37 Agreement. These units will be disposed of by Habitat for Humanity with the intention of being provided to lower income families.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The Lands which are the subject of this application are in an area with 0 to 0.43 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. The site is a parkland priority area, as per the City Wide Parkland Dedication By-law 1020-2010.

The application proposed 286 residential units and 142 m² of non-residential uses on a site with a net area of 1,198 m². At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.381 hectares or 318% of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 119 m².

The applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 119 m² would not be of a useable size and the site would be encumbered with below-grade parking. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

Environment

The proposed site at 159 Wellesley Street East was a former gas station and the land is highly contaminated. Prior to the issuance of a building permit and as part of the proposed development, the applicant is required to fully rehabilitate the site in accordance with Ministry of the Environment regulations. The proposed strata conveyance of lands to the City of Toronto will have to be fully rehabilitated before being accepted by the City of Toronto.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS.

The site specific zoning by-law will secure performance measures for the following Tier 1 development features: Automobile Infrastructure, Cycling Infrastructure, Storage and Collection of Recycling and Organic Waste.

Other applicable TGS performance measures will be secured through the Site Plan Approval process. For example: materiality of the building, soft landscaping, bird friendly features and energy efficiency.

Section 37

Provision of 8 housing units as a Section 37 contribution

The applicant has agreed to provide approximately 8 residential condominium apartments at an average floor area of 950 square feet (88.26 m²) per unit, for an approximate total of 7,600 square feet (706 m²) to Habitat for Humanity or a similar non-profit provider for below-market ownership housing. The exact unit mix is to be determined, but the target is to achieve three-bedroom apartments. The terms include providing the apartments to the standard level of finishes for comparable units in the building. The price will be set at \$250 per square foot (\$2,688.17/ m²) plus interim occupancy fees prior to condominium registration, with other customary adjustments for any costs associated with those units at the time of closing to be absorbed by the applicant.

Habitat for Humanity intends to offer these apartments to a qualifying low or moderate-income family at a very affordable price through an interest-free mortgage, securing the difference between this amount and fair market value in another payment-free mortgage that would come due upon resale. Habitat's model emphasizes the long-term occupancy of such units by their partner families.

The Section 37 Agreement will provide for the timing of the agreements of purchase and sale, the option for them to be assigned, and the City's role to secure this community benefit for the intended purpose if the agreements are not able to be completed. Other provisions will secure the key obligations of the housing provider for conveying below-market ownership units to qualifying households, and to use available methods to ensure the affordability of these units for as long as possible at 159 Wellesley Street East. Although these units are not being secured at the specific affordable ownership prices as defined by the Official Plan, the Habitat model is able to achieve very low prices for the qualifying families.

The provider will also enter into a contribution agreement with the City to the satisfaction of the Director, Affordable Housing Office to provide for the implementation and monitoring of providing these below-market ownership units. A section 118 (Land Titles Act) restriction will be registered on title requiring consent by the City for any future charge or conveyance of these units, as set out in item 6 of the appendix in the draft zoning by-law (Attachment 8).

Valuation of housing contributions secured through Section 37

In the last 2 years, there have been several residential development applications involving Section 37 contributions in the form of the conveyance of a number of condominium units to non-profit housing organizations. Another recent application secured the conveyance through a Section 45 Agreement that was connected with approvals of minor variances. Four, including this application, involve selling the individual apartments to qualifying households at below market prices. Two involve renting the apartments as affordable rental units.

Staff has identified the need to develop a consistent approach to establishing a dollar valuation for Section 37 purposes when these kinds of affordable or below-market housing units are being conveyed to third parties. The terms on which these conveyances from the owner to the housing provider have been accomplished over the last 2 years vary widely. They range from conveying the units to the housing provider at no cost (2 examples) to selling them at a discounted price based approximately on 50% of construction costs (1 example) or at approximately 100% of construction costs (2 examples), to selling them at a small discount (8%) to the retail market price for similar units being sold to members of the public (1 example).

It may be appropriate that individual applications have varying terms when owners provide such units, but for Section 37 purposes, it is helpful to place a valuation on these contributions. For example, if negotiating housing contributions for a targeted \$2 million

Section 37 contribution, one would expect to achieve more housing units if the provider is paying the owner a discounted price and fewer if the units are provided free.

Staff is recommending that the basis for calculating the Section 37 value should be set at approximate construction costs, assuming the housing units are conveyed at no cost to a non-profit provider. This is consistent with past and current City practices in comparable situations where the City approved Section 37 contribution is in the form of a development conveying a fully constructed day care centre in its building to a non-profit provider at no cost. In such cases, the value of the Section 37 is not based on foregone revenue if the owner had sold the commercial space at market prices rather than providing a day care at no cost to the provider.

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

1. \$500,000 for the renovation of Casey house;
2. \$100,000 for capital improvements to TCHC properties located within Ward 27; and
3. The provision and conveyance of approximately 8 residential condominium apartments at an average floor area of 950 square feet (88.26 m²) per unit, for an approximate total of 7,600 square feet (706 m²) to Habitat for Humanity or a similar non-profit provider ("the Provider") of below-market ownership housing on the following terms:
 - a. The apartments shall be provided to the level of finishes agreed with Habitat for Humanity; and
 - b. The conveyance shall be for \$250 per square foot (\$2,688.17/ m²) plus interim occupancy fees prior to condominium registration, with other customary adjustments for any costs associated with those units at the time of closing to be absorbed by the purchaser.
 - c. In the event that Habitat for Humanity is unable or unwilling to enter into the Agreements or accept the units, and the City enters into the Agreements the City may, with the prior approval of the Owner, assign the Agreements to an alternate non-profit housing provider. If the City does not enter into the Agreements then the Owner will be obligated to pay to the City funds in the amount of \$800,000.00 for the capital revolving fund with the proceeds to be spent on affordable housing in Ward 27, and the Owner will have no further obligations on this topic whatsoever.
 - d. Habitat will enter into a Housing Contribution Agreement with the City through the Affordable Housing Office, to secure implementation and monitoring, ongoing affordability and the protection of the Section 37 public benefit.

The following matters are also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

Tenure

The proposed tenure is condominium ownership with 8 units being sold to Habitat for Humanity, at cost.

Conclusion

City Planning Staff have reviewed the development proposal at 159 Wellesley Street East and find that despite the small size of the lot, the property is considered a suitable development site for a tall building. The applicant has revised their application to address most City Staff concerns including impacts on Wellesley-Magill Park and have acquired additional parking to satisfy site servicing issues. Furthermore, while the applicant is showing a deficiency in outdoor amenity space, the applicant is oversupplying indoor amenity space with the cumulative outcome being an oversupply of total amenity space that would normally be required by the zoning by-law.

Having resolved most of the development issues with the site, the applicant attempted to acquire the properties to the south to no avail and for this reason, the proposed development fails to conform to the minimum setback recommendations in the Tall Buildings Guidelines. City Planning Staff have examined the properties to the south and do not believe they could develop into a tower that would be supportable by staff. Therefore, City Planning Staff believe that it meets the general intent of and the majority of the performance standards for tall buildings. Staff believe the application to be good planning and in the public interest.

CONTACT

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E-mail: gcescat@toronto.ca

SIGNATURE

Gregg Lintern, Director, MCIP, RPP
Community Planning, Toronto and East York District

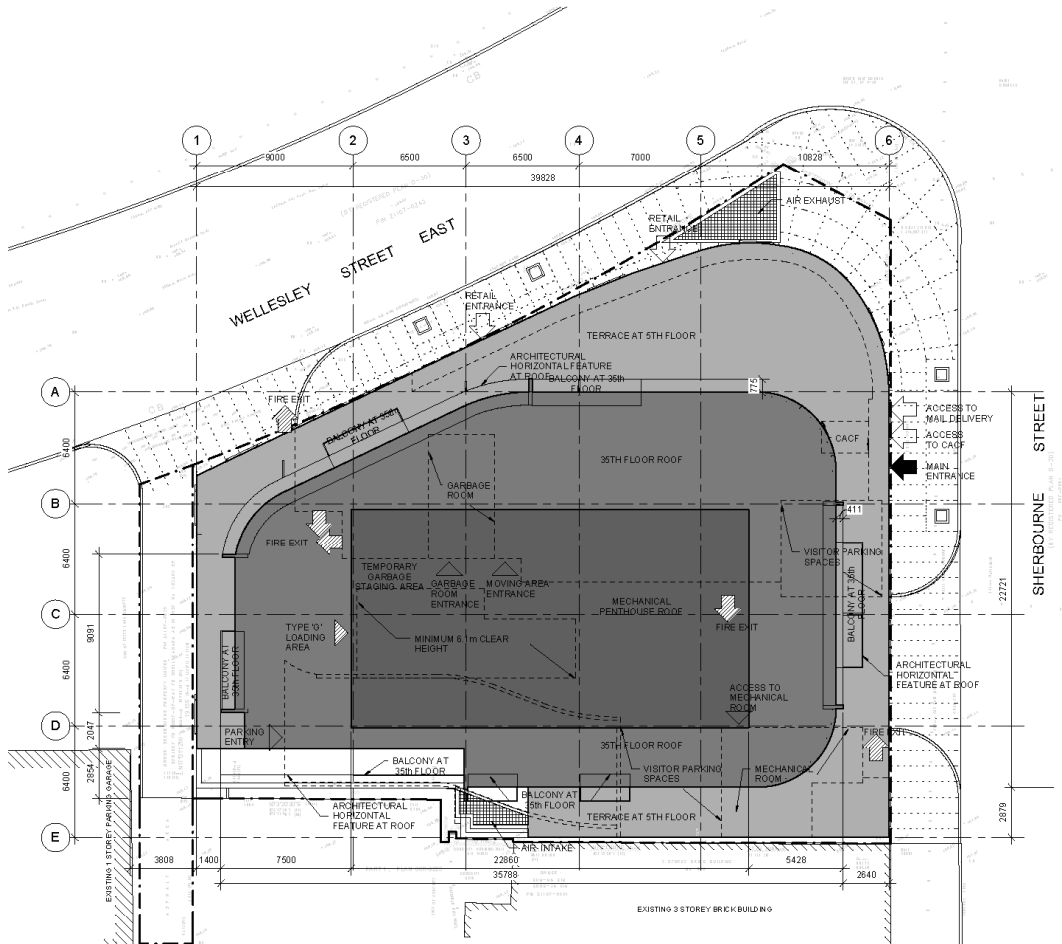
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ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: North Elevation
Attachment 3: East Elevation

Attachment 4: South Elevation
Attachment 5: West Elevation
Attachment 6: Zoning
Attachment 7: Application Data Sheet
Attachment 8: Draft Zoning By-law Amendment


Attachment 1: Site Plan



Site Plan

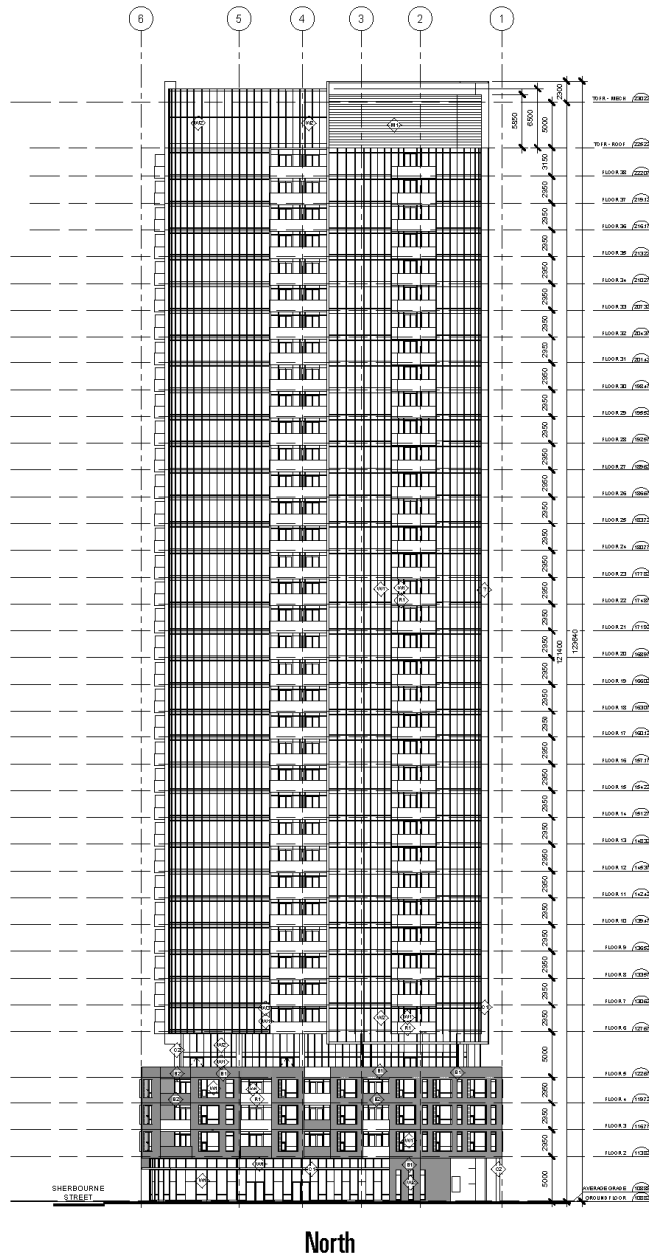
159 Wellesley Street East

Applicant's Submitted Drawing

Not to Scale 

File # 11_184584

Attachment 2: North Elevation



Elevation

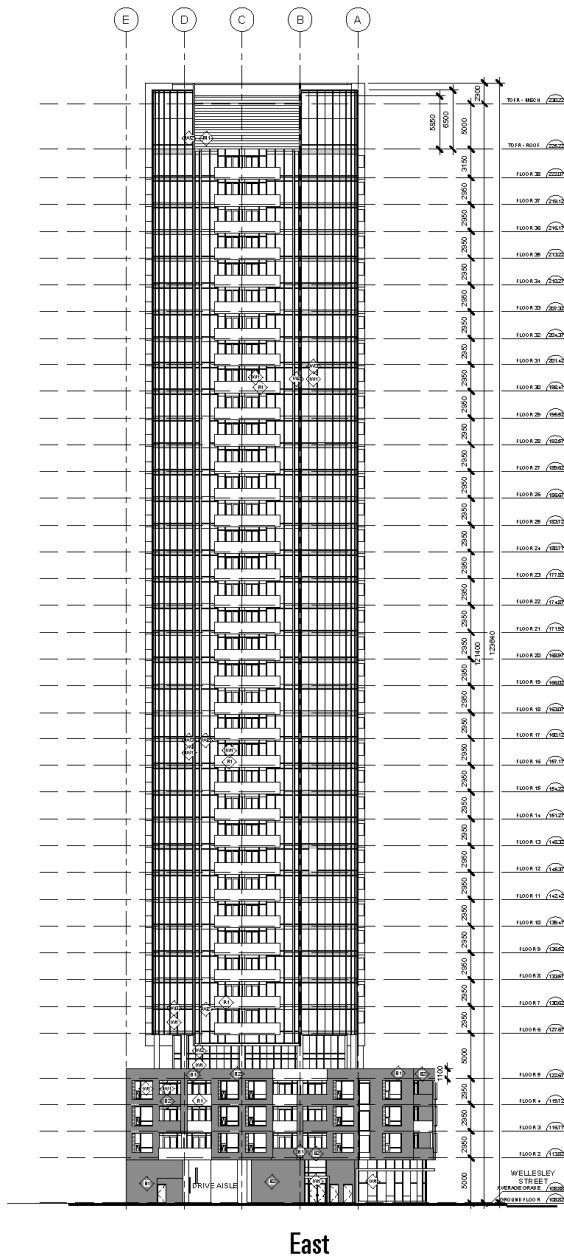
159 Wellesley Street East

Applicant's Submitted Drawing

Not to Scale
05/10/2011

File # 11_184584

Attachment 3: East Elevation



Elevation

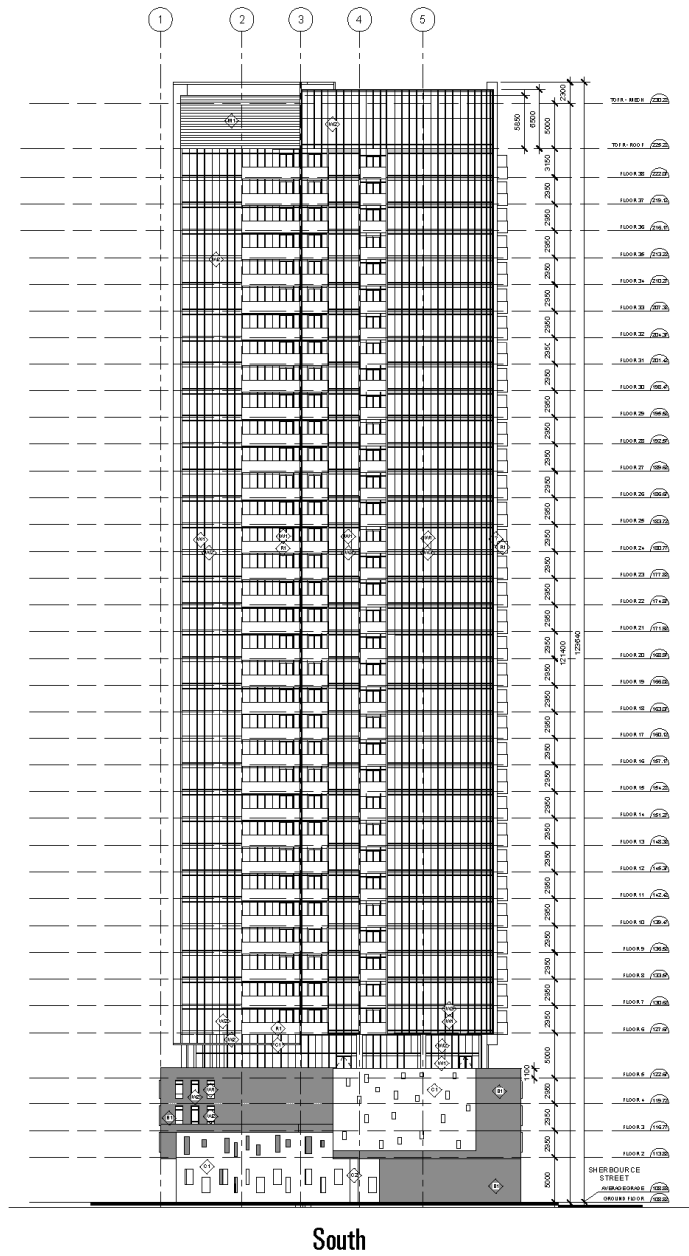
Applicant's Submitted Drawing

Not to Scale
05/10/2011

159 Wellesley Street East

File # 11_184584

Attachment 4: South Elevation



Elevation

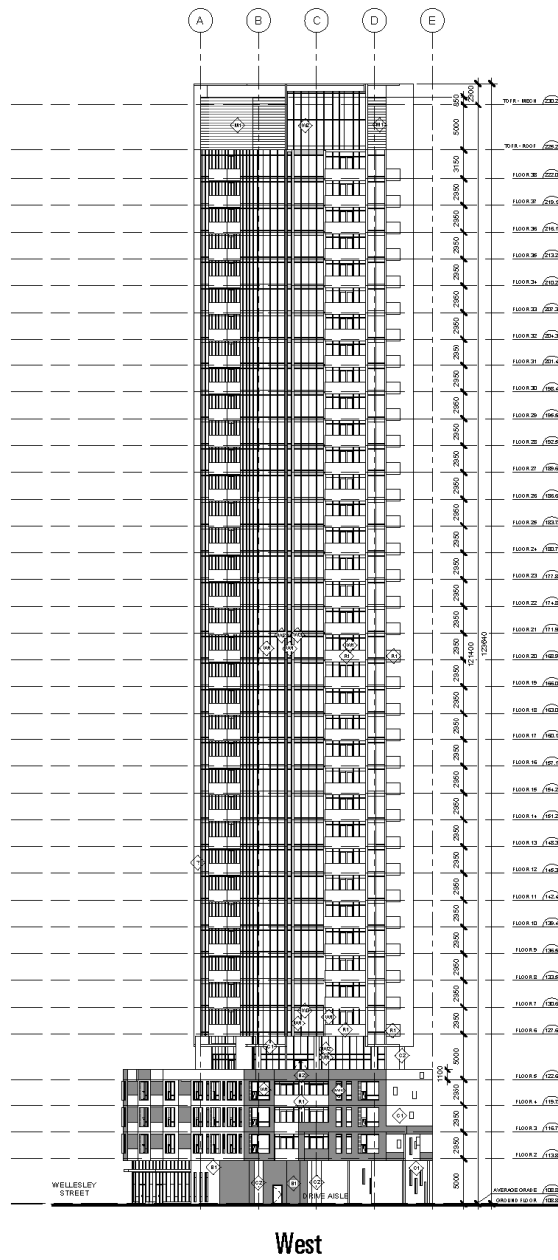
Applicant's Submitted Drawing

Not to Scale
05/10/2011

159 Wellesley Street East

File # 11_184584

Attachment 5: West Elevation



Elevation

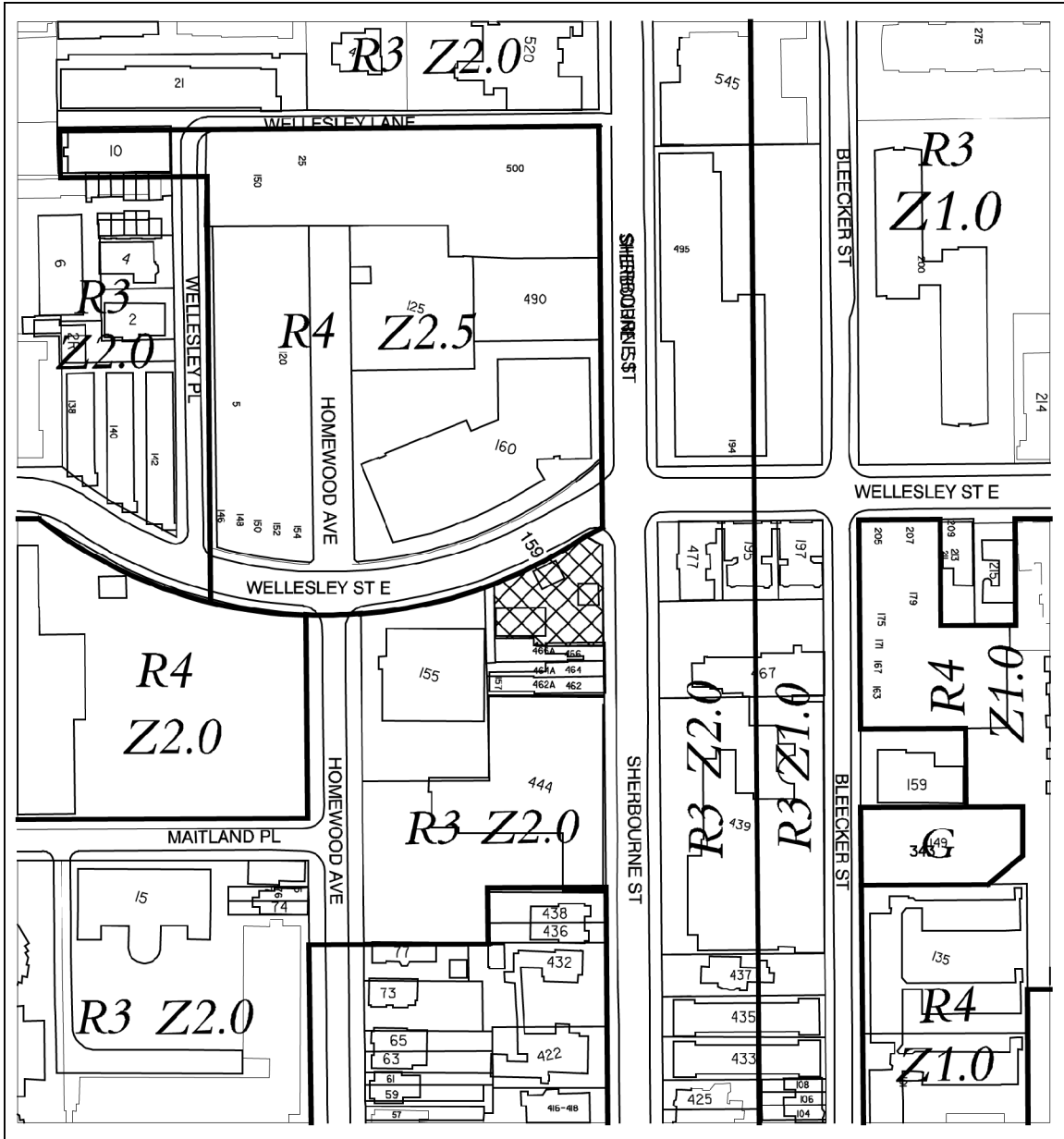
Applicant's Submitted Drawing

Not to Scale
05/10/2011

159 Wellesley Street East

File # 11_184584

Attachment 6: Zoning



159 Wellesley Street East

File # 11_184584_02

- G Parks District
- R2 Residential District
- R3 Residential District
- R4 Residential District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 18/05/11

Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	11 184584 STE 27 OZ
Details	Rezoning, Standard	Application Date:	April 29, 2011

Municipal Address: 159 WELLESLEY ST E
 Location Description: PLAN D30 LOT 59 14.625X94.0 80 FT 6IN ON L 70.000X113.00 **GRID S2710
 Project Description: Rezoning application to permit the re-development of the lands for the purposes of a new 35 storey mixed use building complete with retail at grade and 286 residential units above.

Applicant:	Agent:	Architect:	Owner:
DIAMONDCORP 22 St. Clair Ave E, Suite 1010 Toronto, ON M4T 2S3	DIAMONDCORP 22 St. Clair Ave E, Suite 1010 Toronto, ON M4T 2S3	Quadrangle Architects Ltd. 380 Wellington St. W. Toronto, ON M5V 1E3	2267410 ONTARIO INC 40 King St W, Suite 2700 Toronto, ON M5H 3Y2

PLANNING CONTROLS

Official Plan Designation:	Apartment Neighbourhoods	Site Specific Provision:	N/A
Zoning:	R3 Z2.0	Historical Status:	N
Height Limit (m):	12	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1198	Height:	Storeys:	35
Frontage (m):	35.71		Metres:	116 (including mech)
Depth (m):	39.4			
Total Ground Floor Area (sq. m):	493			Total
Total Residential GFA (sq. m):	22953		Parking Spaces:	189
Total Non-Residential GFA (sq. m):	142		Loading Docks	1
Total GFA (sq. m):	23095			
Lot Coverage Ratio (%):	41			
Floor Space Index:	19.2			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	196 (69%)
2 Bedroom:	65 (22%)
3 + Bedroom:	25 (9 %)
Total Units:	286

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	22953	0
Retail GFA (sq. m):	142	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT:	PLANNER NAME:	Giulio Cescato, Planner
	TELEPHONE:	(416) 392-0459
	EMAIL:	gcescat@toronto.ca

**Attachment 8: Draft Zoning By-law Amendment
CITY OF TORONTO
BY-LAW No. ____ - 2012**

**To amend Zoning By-law No. 438-86 of the former City of Toronto
with respect to lands municipally known as 159 Wellesley Street East**

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

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:

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 all of the conditions set out in this By-law including the provision by the owner of the site of the facilities, services and matters set out in Appendix 1 hereof, to the City at the owner's sole expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.

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 or 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.

None of the provisions of Section 2 with respect to the definition of the terms *lot*, *grade*, *height*, and Sections 4(2)(a), 4(5), 4(8), 4(12), 4(13), 4(16) 4(17), 6(1), 6(3) Part I 1, 6(3) Part II and 6(3) Part III 1 of Zoning By-law No. 438-86, of the former City of Toronto, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of 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" shall apply to prevent the erection or use of any buildings or structures on the *lot* containing residential and non-residential uses, including uses *accessory* thereto, provided that:

Section 1 – Built form

1. The aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures on the *lot* shall not exceed 23,095 square metres, subject to the following:

- a) The *residential gross floor area* of buildings and structures shall not exceed 22,959 square metres;
 - b) The *non-residential gross floor area* of buildings and structures shall not exceed 142 square metres; and
2. A minimum ground floor height of 5 metres shall be provided.
3. Residential *dwelling units* shall be provided as follows:
 - 69% *one-bedroom units*
 - 22% *two-bedroom units*
 - 9% *three-bedroom units*
4. *Residential amenity space* shall be provided on the *lot* as follows:
 - A minimum of 3.2 square metres per *dwelling unit* of indoor *residential amenity space*
 - A minimum of 1.68 square metres per *dwelling unit* of outdoor *residential amenity space*
5. No portion of a building or structure erected on the *lot* shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol H on the attached Map 2;
6. No portion of a building or structure erected or used above finished ground level on the *lot* is located otherwise than within the areas delineated by heavy lines on the attached Map 2;
7. Nothing in Sections 3(c) and 3(d) of this By-law shall prevent the following structures and elements from projecting beyond the heavy lines and above the *height* limits shown on the attached Map 2:
 - bollards, eaves, cornices, lighting fixtures, awnings, canopies, balconies, fences and safety railings, architectural features, parapets, trellises, balustrades, window sills, window washing equipment, privacy screens, mechanical and architectural screens, guardrails, chimneys, vents, stacks, terraces, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, underground garage ramps and their associated structures, stair landings, planters and elements or structures on the roof of the building used for outside or open air recreation, green roof, safety or wind protection purposes;

Section 2 – Parking and Loading

1. Provide a minimum number of resident parking spaces on the site to serve this development in accordance with the following minimum ratios:
 - Bachelor Units 0.30 spaces per unit
 - 1-bedroom Units 0.50 spaces per unit
 - 2-bedroom Units 0.75 space per unit
 - 3+ bedroom Units 1.20 spaces per unit;
2. Provided further that:
 - a) Up to 52 of the resident parking spaces may be provided off-site by means of a lease arrangement at Premises No. 155 Wellesley Street East, such parking spaces to be surplus to the requirements of the Zoning By-law, as may be varied by the Committee of Adjustment; and
 - b) A reduction of four resident parking spaces will be permitted for each car-share parking space provided on the lot or at Premises No. 155 Wellesley Street East, and that the maximum reduction permitted by this means be capped by the application of the following formula:

$$4 \times (\text{Total No. of Units} \div 60), \text{ rounded down to the nearest whole number.}$$
 - c) A minimum of seven parking spaces be provided and maintained on the site for residential visitors to the project.
3. Comply with the parking space dimensional requirements of the Zoning By-law, except that up to seven parking spaces may have a length of no less than 5.0 metres.
4. A minimum of 286 *bicycle parking spaces – occupant* shall be provided and maintained on the *lot* for the use of residents of the *lot*;
5. One *loading space – type “G”* shall be provided and maintained on the *lot*.

Section 3 – Provision of a temporary Sales Pavilion

1. A temporary *sales presentation centre* shall be permitted on the *lot*, and none of the provisions of this By-law or By-law 438-86, as amended, shall apply to such use.

Section 4 - Definitions

1. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:

“*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 the building erected on the lot”;

“*car-share parking space*” means a *parking space* used exclusively for the parking of a car-share motor vehicle;

“*grade*” means 108.88 metres Canadian Geodetic Datum;

“*height*” means the vertical distance between grade and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;

“*lot*” means at least the lands delineated by heavy lines shown on Map 1;

“*sales presentation centre*” shall mean an office provided for the marketing or selling of *dwelling units* located or to be located on the lot;

2. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

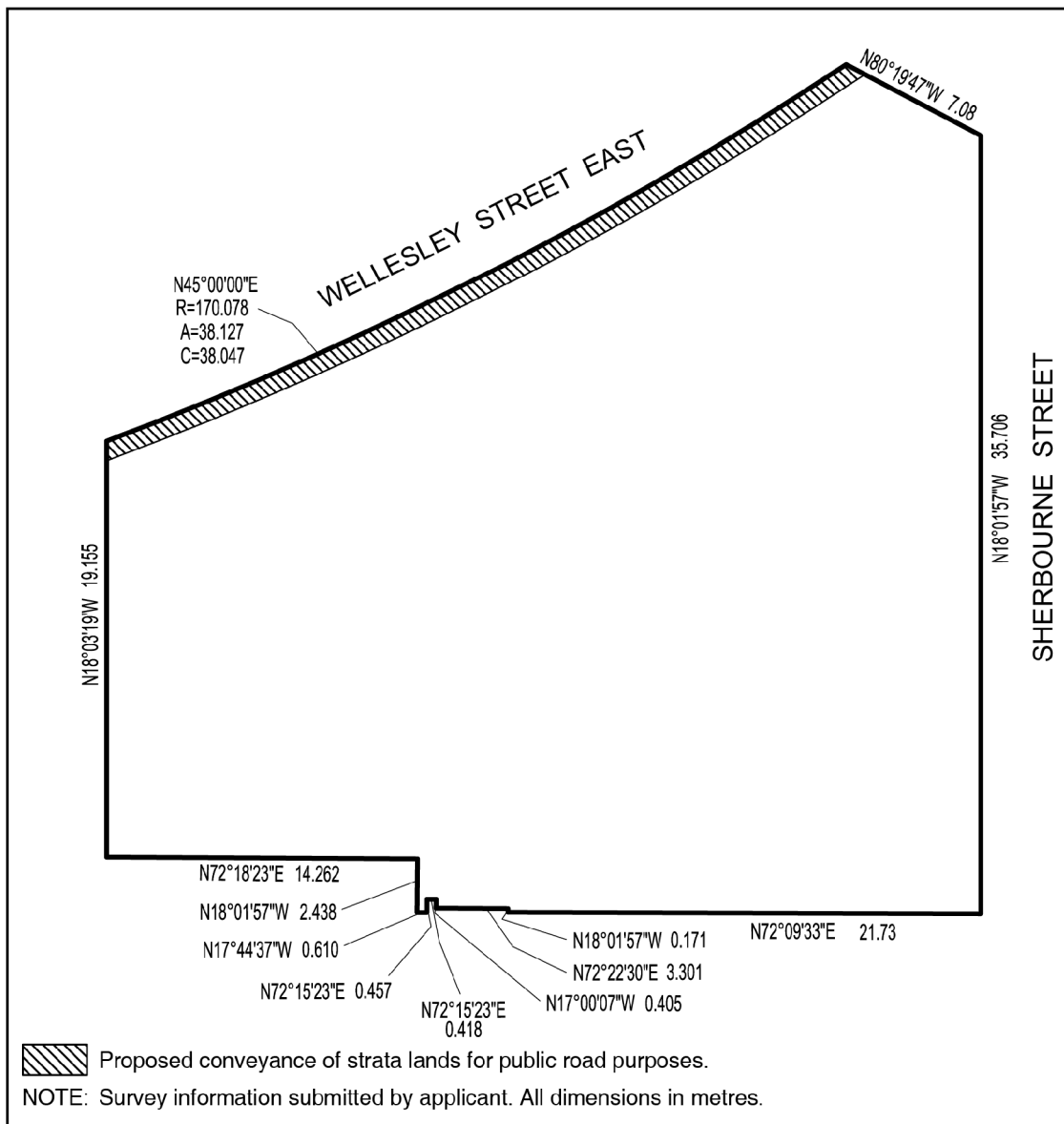
ENACTED AND PASSED this X day of X, A.D. 2013.

ROB FORD,
Mayor

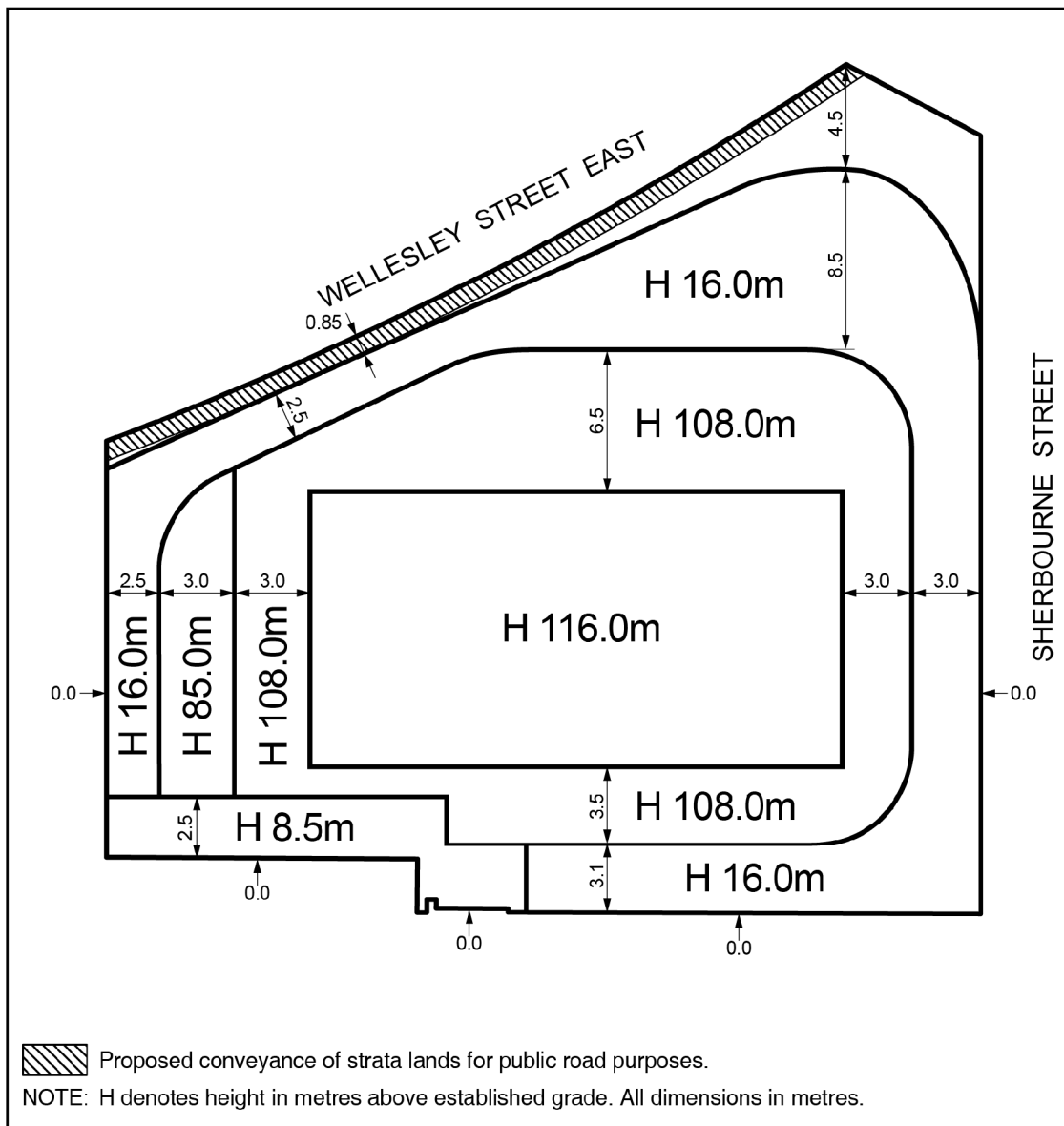
ULLI S. WATKISS,
City Clerk

(Corporate Seal)

Map 1



Map 2



Appendix 1

The facilities, services and matters set out herein are the matters required to be provided by the owner of the lot as 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:

1. Prior to the issuance of an above grade building permit the owner shall provide to the City a \$500,000.00 cash payment for Casey House;
2. Prior to the issuance of an above grade building permit the owner shall provide to the City a \$100,000.00 cash payment to be used for capital improvements to Toronto Community Housing Corporation properties;
3. The owner shall, subject to such terms and conditions related thereto as set out in the Section 37 Agreement, enter into satisfactory Agreements of Purchase and Sale with Habitat for Humanity and/or the City for the conveyance of 8 *dwelling units* on the *lot* prior to the issuance of the first above grade building permit for the *lot*;
4. In the event that Habitat for Humanity is unable or unwilling to enter into the Agreements or accept the units, and the City enters into the Agreements the City may, with the prior approval of the Owner, assign the Agreements to an alternate non-profit housing provider. If the City does not enter into the Agreements then the Owner will be obligated to pay to the City funds in the amount of \$800,000.00 for the capital revolving fund with the proceeds to be spent on affordable housing in Ward 27, and the Owner will have no further obligations on this topic whatsoever.
5. Habitat will enter into a Housing Contribution Agreement with the City through the Affordable Housing Office, to secure implementation and monitoring, ongoing affordability and the protection of the Section 37 public benefit.
6. A section 118 (Land Titles Act) restriction will be registered on title requiring consent by the City for any future charge or conveyance of these units;
7. The cash amounts identified in items 1. and 2. above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
8. As a legal convenience to support the development, prior to the registration of all or a portion of a condominium on the *lot*, the owner shall convey to the City an approximately 0.85 metre wide strip of land along the south side of Wellesley Street East for the full extent of the *lot*, to a depth of approximately 1.2 metres

below finished ground level for public road purposes. The said lands shall be subject to a right-of-way for access purposes in favour of the owner until such time as the lands are dedicated for public highway purposes; and