

**1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street –
Zoning Amendment Application - Final Report**

Date:	January 20, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	10 313261 STE 27 OZ

SUMMARY

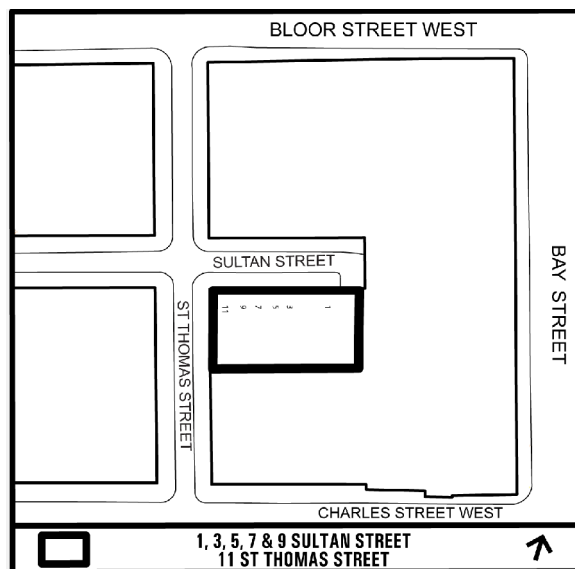
This application proposes to redevelop the site at 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street with a 9-storey office building with 69 parking spaces and three levels of underground parking. This application further proposes to integrate a portion of the existing four designated heritage buildings into the built form of the proposed office building.

This report reviews and recommends approval of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend the Zoning By-law, for the lands at 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 5 to the report dated January 20, 2012 from the Director, Community Planning, Toronto and East York District.
2. City Council authorize the City Solicitor in consultation with the Chief Planner and Executive Director of City



Planning to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required to give effect to the intent of the recommendations contained in this report.

3. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street to enter into a secured Agreement with the City to ensure the provision of all necessary improvements to the existing municipal infrastructure in connection with (a) the Functional Servicing Report, to the satisfaction of the Executive Director of Technical Services; and (b) the Transportation Study, to the satisfaction of the General Manager of Transportation Services, should it be determined that improvements to such infrastructure are required to support this development.
4. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street to enter into one or more agreements pursuant to Section 37 of the *Planning Act* satisfactory to the Chief Planner and Executive Director of City Planning and the City Solicitor. The agreements to be registered on title to the lands in a manner satisfactory to the City Solicitor and to secure the following matters from the owner at its expense:
 - a. The community benefits recommended to be secured in the Section 37 Agreement are as follows:
 - i. The *owner* shall;
 - a. design and construct streetscape improvements, at a minimum cost of \$500,000, to the north and south side of Sultan Street (offsite), portions of St. Thomas Street (offsite) and the local area to the satisfaction of the Executive Director, Technical Services; or
 - b. prior to the issuance of the first above grade building permit provide the City a payment of \$500,000 for the construction of streetscape improvements to the north and south side of Sultan Street, portions of St. Thomas Street and the local area.
 - ii. If the *owner* elects to construct the streetscape improvements above in i) a), prior to the issuance of the first above grade building permit the *owner* shall submit to the City a streetscape design acceptable to the Executive Director, Technical Services, and provide the City with a Letter of Credit to secure the approved design in a form and amount acceptable to the Executive Director, Technical Services.
 - iii. If the *owner* elects to construct the streetscape improvements the *owner* agrees to carry out such works at the same time and in co-ordination with the construction of the site.
 - iv. The minimum construction cost of \$500,000 above in i) a) and the payment of \$500,000 above in i) b) shall both be indexed upwardly in accordance with the

Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date the Section 37 Agreement to the date of payment.

- v. If the owner elects to provide the City with the \$500,000 payment above in i) b) and the streetscape improvements to the north and south side of Sultan Street, portions of St. Thomas Street and the local area cost less than \$500,000, or are no longer required by the City, the remainder of the \$500,000 payment shall be used for community benefits as determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.
5. Before introducing the necessary Bills to City Council for enactment, require the Owner to enter into one or more Heritage Easement Agreements for 1, 3, 5, 7, 9 Sultan Street and 11 St. Thomas Street to the satisfaction of the City Solicitor and the Chief Planner and Executive Director of City Planning and to register these agreements on title:
- i. City Council consent to the alteration of the six designated heritage properties located at 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street subject to the following conditions:
 - a. That the retained portions of the designated properties identified in the Heritage Impact Assessment prepared by E.R.A. Architects Inc., dated December 15, 2011 and architectural drawings submitted by Harari Pontarini Architects dated December 12, 2011 be braced, shored, stabilized and kept in situ during construction of this project barring the inability of the owner to secure necessary lane closures on Sultan Street.
 - b. If the owner is unable to secure approval for required lane closures on Sultan Street and are therefore unable to retain portions of the designated property at 1 Sultan Street in situ during construction, the retained portions of 1 Sultan shall be documented, removed, stored and reconstructed subject to site plan approval and to the satisfaction of the Manager, Heritage Preservation Services.
 - c. Prior to the introduction of the Bills to City Council for the zoning by-law amendment, the owner shall enter into an agreement with the City to amend the existing Heritage Easement Agreements for 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street, to the satisfaction of the Manager, Heritage Preservation Services and the City Solicitor, with the amended agreements to be registered on title to the lands in a manner satisfactory to the City Solicitor to reflect the changes as described in this report, including a Conservation Plan, in accordance with the Heritage Impact Assessment prepared by E.R.A. Architects Inc., dated December 15, 2011.
 - d. Prior to final Site Plan Approval, the owner shall:
 - i. provide site plan drawings to the satisfaction of the Manager, Heritage Preservation Services;
 - ii. provide a Conservation Plan for the heritage buildings

- iii. provide a Letter of Credit in a form and amount satisfactory to the Manager, Heritage Preservation Services, for all alteration and restoration work contained in the approved Conservation Plan;
 - iv. provide a detailed exterior lighting plan that will enhance the building's heritage character;
 - v. provide a detailed signage plan that allows for identification, but is in keeping with the heritage character of the building; and
- e. Prior to the issuance of any heritage permit pursuant to the Ontario Heritage Act, including a permit for alteration of any structure on the subject property, and including any permit for shoring or excavation on the subject property, or any portion of such property:
 - i. the related zoning by-law amendment shall be in full force and effect;
 - ii. the owner shall have obtained final site plan approval from the Chief Planner and Executive Director, City Planning; and
 - iii. the owner shall submit final plans and drawings to the satisfaction of the Manager, Heritage Preservation Services.
- f. Prior to the release of the Letter of Credit, the owner shall provide a Letter of Substantial completion for the restoration work, signed by the project architect and heritage consultant to the satisfaction of the Manager, Heritage Preservation Services.
- g. That raised entries for 3 and 9 Sultan Street, and 11 St. Thomas will be modified for accessibility only in the event that it is required for tenancies and will be subject to site plan approval. Should arrangement of tenancies and uses, such as a sole ground floor tenant, allow for barrier-free access from the street to be provided at other locations, the remaining entries for 3 and 9 Sultan Street, and 11 St. Thomas Street will instead be retained and restored to modest stoops with stairs subject to site plan approval and to the satisfaction of the manager, Heritage Preservation Services.
 - ii. City Council grant authority for the City Solicitor to amend the Heritage Easement Agreements under Section 37 of the Ontario Heritage Act with the owner of the properties.
 - iii. City Council authorize the City Solicitor to introduce any necessary Bills to City Council to amend the Heritage Easement Agreements.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

In 1997 the lands known as 5, 7 and 9 Sultan Street were the subject of an application to amend Zoning By-law 438-86 which resulted in a site specific by-law 1997-0501. The site specific by-law permitted the development of a mixed use building with a maximum of 3,301 sq.m. of residential gross floor area and 778 sq.m. of non-residential gross floor area. By-law 1997-0501 permitted a maximum height of 13.5 metres along the Sultan Street frontage stepping up to 30.6 metres at 8.1 metres back from the north property line, stepping back 3.07 metres to a maximum height of 35 metres along the southerly property boundary. The setbacks permitted by By-law 1997-0501 are 1.9 metres from both the east and west property boundary, and no setback along the southerly property boundary. Heritage Easement Agreements were registered on title for 5, 7 and 9 Sultan Street as part of this development application process with the intention that the heritage structures be incorporated into the new development.

In 2002, 1 and 3 Sultan Street, 11 St. Thomas Street and 76 to 98 Charles Street West to the east, west and south of the above noted site were amalgamated into one development. By-laws 1089-2002 and 1090-2002 were passed to adopt a site specific amendment to the Official Plan and a site specific zoning by-law respectively for the subject lands to permit an apartment building, four row houses and a semi-detached house on the site. The by-law recognized the existing buildings at 1 and 3 Sultan Street and 11 St. Thomas Street and permitted a maximum height of 14 metres on the lands east of 1 Sultan Street. The southerly part of the site included a residential tower with a stepped design to a maximum height of 106 metres and four townhouse units along Charles Street West with a maximum height of 14 metres. As part of this development Heritage Easement Agreements were registered on title for 1 and 3 Sultan Street and 11 St. Thomas Street. The southerly part of the site now contains the 28-storey 1 St. Thomas residential condominium building. With the registration of the draft plan of condominium numbers 1 and 3 Sultan Street and 11 St. Thomas Street became a separate parcel. The applicant combined 1 and 3 Sultan Street and 11 St. Thomas Street with 5, 7 and 9 Sultan Street to comprise the subject site.

ISSUE BACKGROUND

Original Proposal

The original proposal was submitted December 13, 2010. The original proposal has now been revised by the applicant in consultation with Planning staff and members of the public on its appropriate built form, loading, access and egress, traffic and impacts on the adjacent properties.

Revised Proposal

The applicant is proposing to develop a 9-storey (34 metre) office building over and to the rear of the four existing designated heritage buildings (1, 3, 5, 7, and 9 Sultan Street and 11 St. Thomas Street). The front portion (approximately 6.3 metres) of the existing heritage buildings are proposed to be integrated into the built form of the proposed office building up to and including the peak of the roof. The exterior walls of the existing heritage buildings are also to be replicated in the floor plan of the office building. Pedestrian access into the office building will be provided by the main lobby access at St. Thomas Street. The heritage buildings are proposed to be separate office units with direct pedestrian access on Sultan Street and an internal secondary access from the main lobby area. The tenure for the office building is to be condominium ownership.

The applicant proposes a total non-residential gross floor area of 8,903 square metres with 8,819 square metres of office space and 84 square metres of retail space. The retail space is proposed to be located in 11 St. Thomas Street which currently contains the Theatre Books store.

The proposal provides three levels of underground parking for total of 69 parking spaces including 3 barrier free spaces, one on each parking level and 19 visitor spaces. Access and egress to the parking garage is proposed to be located at the northeast corner of the site on Sultan Street. A one way access drive to the loading bays is proposed from St. Thomas Street in the location of the existing rear laneway on the site with egress onto Sultan Street. The applicant is proposing 1-Type B and 2-Type C loading spaces located within the building.

A total of 48 bicycle parking spaces are proposed for the site with 28 visitor bicycle parking spaces to be provided along Sultan Street on the subject site. A further 20 occupant bicycle parking spaces are proposed on the P1 level.

Overall, the proposal has a gross floor area of 8,903 square metres with a density of 5.27 times the area of the lot.

In summary the revised proposal has changed from the original submission by increasing the setbacks to the east and south, reducing the setback to the west, increasing the number of and internalizing the loading spaces, revising the access to the loading area, reducing the amount of gross floor area proposed, reducing the amount of proposed retail space, reducing the number of parking spaces, reducing the density proposed on the site. The Application Data Sheet in Attachment 4 provides additional information on the proposal.

Site and Surrounding Area

The site is located at the southeast corner of Sultan Street and St. Thomas Street. The site is rectangular in shape and is approximately 1,688 square metres in area. The site is located in the Bloor Yorkville BIA and is subject to the Bloor Yorkville Urban Design Guidelines.

The site contains the designated heritage buildings including 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street each with a heritage easement agreement registered on title. These buildings have been subject to many internal alterations to accommodate various uses over the years most recently for office space. The building at 11 St. Thomas is occupied by the retail store "Theatre Books". The surrounding area includes:

South: a 28-storey residential condominium (One St. Thomas).

West: a vacant parcel of land including a 4-storey rental housing building (23 Sultan Street). The entire parcel of land has approvals to permit combined 23-storey and 10-storey residential buildings and is currently being reviewed through the site plan control process (10 269773 STE 27 SA).

North: a 9-storey residential condominium (8 Sultan Street) and further east of this building is a 6-storey co-op housing building (2 Sultan Street). Further east is 77 Bloor Street West which is a 20-storey office building fronting onto Bloor Street West and having servicing and loading access on Sultan Street.

East: 1166 Bay Street, a 22-storey residential condominium with windows facing east and west.

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

This application has been reviewed against the policies in the Official Plan.

The Official Plan places the site within the Downtown and Central Waterfront urban structure area. The site is designated "Mixed Use Areas" on Map 18 – Land Use Plan in the Official Plan. This designation permits a range of residential, commercial and institutional uses. The Plan includes criteria that direct the form and quality of development in this land use designation. The criteria state that new buildings provide a transition between areas of different intensity and scale, including a stepping down of heights towards lower scale neighbourhood; shadow impacts be minimized and an attractive, safe and comfortable pedestrian environment be provided.

Compliance with other relevant policies of the new Official Plan including the environment and transportation was also assessed.

This application was reviewed against the policies in the Official Plan including those in Chapter two, "Downtown", "Public Realm", and "Built Form" sections of the Plan. Chapter Two of the Official Plan – Shaping the City identifies that the downtown area offers opportunities for substantial employment and residential growth, but that this growth is not anticipated to be uniform. Rather, it is expected that the physical setting of many areas will remain unchanged and that design guidelines specific to districts of historic or distinct character will be implemented to ensure new development fits into the context of existing built form, streets, setbacks and heights.

Chapter Three – Building a Successful City identifies that most of the City's future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Development will be located, organized and massed to fit harmoniously with its existing and/or planned context. Development will limit its impacts on neighbouring properties and the public realm by respecting street proportions, creating appropriate transitions in scale, providing for adequate light and privacy, and limiting shadow and wind impacts.

The proposal was reviewed against Official Plan Site and Area Specific Policy number 152. This policy seeks the retention of the heritage character of 1-9 Sultan Street and 11 St. Thomas Street.

The City's Official Plan can be found at: www.toronto.ca/planning/official_plan/introduction.htm.

The proposal was reviewed for conformity with the City's Design Criteria for Review of Tall Building Proposals which outlines built form principles that are applied to the location and design of such buildings. The criteria seek to reduce impacts on adjacent development and encourage excellence in design. This document can be found at: www.toronto.ca/planning/urbdesign/index.htm.

Zoning

The site is zoned CR T3.0 C2.0 R3.0 under Zoning By-law 438-86. This zoning designation permits a variety of mixed uses including office. The maximum permitted density is 3.0 times the lot area, with a maximum 2.0 times for commercial uses, and 3.0 times for residential uses. The maximum height permitted is 18 metres.

The site is also subject to site specific zoning provisions through By-laws 1997-0501 and 1090-2002. As previously discussed, By-law 1997-0501 pertains to 5, 7, and 9 Sultan Street and permits a mixed use building with a maximum gross floor area of 3,301 square metres of residential and 778 square metres of non-residential. The maximum height permitted is 13.5 metres along the Sultan Street frontage stepping up to 30.6 metres at 8.1 metres back from the property line stepping back 3.07 metres to a maximum height of 35 metres along the southerly property boundary with setbacks of 1.9 metres from both the east and west property boundary, and no setback along the southerly property boundary.

By-law 1090-2002 pertains to 1 and 3 Sultan Street, 11 St. Thomas Street and 76 to 98 Charles Streets to permit an apartment building, four row houses and a semi-detached house on the site. The bylaw recognized the existing buildings at 1 and 3 Sultan Street and 11 St. Thomas Street and permits a maximum height of 18 metres on the heritage buildings and 14 metres on the lands east of 1 Sultan Street.

Site Plan Control

The proposed development is subject to site plan control. An application for site plan control has not yet been submitted, but will be required.

Tree Preservation

There are a total of 5 trees on this site subject to the City's Public Street Tree By-law. These trees need to be protected during the development process. The applicant has submitted an arborist report and a tree preservation plan which has been reviewed by Urban Forestry staff.

Heritage

1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street contains four late 19th century house form buildings, all of which are designated under Part IV of the *Ontario Heritage Act*, and registered with two Heritage Easement Agreements with the City. The applicant intends to integrate the front 6.3 metres of 3, 5, 7 and 9 Sultan Street, the front 2.5 metres of 1 Sultan Street and the front 6.3 metres and side 4 metres of 11 St. Thomas Street into the proposed office building.

The applicant has submitted a Heritage Impact Statement, dated December 10, 2010, prepared by E.R.A. Architects Inc., which has been circulated to City staff for their review. The purpose of this Heritage Impact Statement (HIS) is to provide information on the heritage resources that may be affected by the proposed redevelopment of 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street. The HIS proposes an overall approach to the conservation of the cultural heritage value of the property and its heritage attributes.

Reasons for Application

A rezoning application is required to increase the permitted height to 33.79 metres (38.79 metres to the top of the mechanical penthouse) and to increase the permitted density from 2.0 times the area of the site to 5.27 times the site area. Other reasons include reducing the number and type of required loading spaces, and addressing the site specific provisions for permitted uses and setbacks.

Community Consultation

A community consultation meeting at St. Basil's Church was held on March 1, 2011. Approximately 66 residents were in attendance. At the meeting, the architect presented the project to the public. Nearby residents had questions regarding: proposed use; the building height; density issues; shadow impact; over look; impact on the abutting private terrace at 1166 Bay Street; impact of the proposed loading area on Sultan Street; and traffic on Sultan Street; traffic impacts to the general neighbourhood.

On June 21, 2011 the applicant submitted revised plans that responded to many of the concerns raised by the community. In summary the revisions included: reducing the retail space proposed; further articulating the building to open up the corners; increasing the setback on the east and south sides of the tower part of the building; deleting the balconies and terraces; changing the access to the site for loading purposes to a one way access entering off of St. Thomas Street on the south side of the building in the location of the existing private laneway and exiting onto Sultan Street; changing the location and configuration of the loading areas to be wholly within the building; moving the heritage building at 1 Sultan Street approximately 2 metres north and closer to 3 Sultan Street; deleting the canopy between 7 and 9 Sultan Street.

A second community consultation meeting was held on September 7, 2011 which was attended by approximately 72 residents. The architect presented the revised plans at this meeting. Many of the residents in attendance voiced concerns similar to those raised at the first community consultation meeting including: proposed office use; traffic impact on Sultan Street particularly if there are medical and/or dental offices; density of the site and how it relates to the 1 St. Thomas development; setbacks particularly to the south; shadow impact on the private terrace to the east at 1166 Bay Street and possible effect on the trees on the roof of the terrace; and massing and design of the tower.

On September 27, 2011 staff, a representative from the Councillor's office and the applicant attended a meeting with the 1 St. Thomas Condominium Board of Directors. At this meeting the details of the plan were reviewed by the architect and discussed.

In addition, throughout the process staff met with residents, Greater Yorkville Residents Association (GYRA), the Bay Cloverhill Community Association (BCCA) and the Bloor Yorkville BIA.

On December 16, 2011 the applicant submitted further revised plans in response to the concerns raised by the community and comments from staff.

Through the community consultation meetings and in subsequent phone calls, meetings and discussions with members of the public several concerns were voiced that are not typically addressed in detail as part of the zoning by-law amendment application review process but are more adequately and appropriately addressed through the site plan review process. Given that the site plan process is usually delegated to the Chief Planner, residents were concerned that these issues may be overlooked. A summary of the issues is provided to assist in the site plan review process so they can be used as a reference and guideline by both the applicant and staff. The issues identified by the residents would be in addition to any comments raised by staff through the site plan review process. A site plan application has not been submitted at time of writing this report but the applicant has informed staff that preparation is underway and an application is anticipated in the near future.

The site plan issues include:

- materiality of the building, in particular the type of glazing to be used on the tower and the east side of the podium to reduce glare during the day, provide privacy and reduce light pollution at night;
- type of vegetation proposed in the green roof, particularly on the east side of the building on the podium roof;
- location of venting for the parking garage; and
- landscape and streetscape proposed along Sultan Street and St. Thomas Street.

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 proposal supports the 2005 Provincial Policy Statement (PPS) direction of intensification to achieve growth and urban vitality, while making use of existing infrastructure. The application complies with the policies of the PPS that supports intensification and requires new development to be directed to appropriate locations for growth. The proposal also provides mitigative measures to conserve the heritage attributes of the property.

The project site is located within a built up area and at a subway station. The proposed mixed-use building is consistent with the policies of the Growth Plan which direct growth to areas where the capacity exists to best accommodate the expected population and employment growth, promote transit-supportive densities, and encourage a healthy mix of residential and employment land uses.

Land Use

The proposed development is located within the *Downtown and Central Waterfront* (Map 2: Urban Structure) and is designated *Mixed Use Areas* (Map 18: Land Use Plan). The site is also zoned for mixed use. The proposed office commercial development conforms to the land uses that are permitted

by the Official Plan and Zoning By-law. Both documents permit a broad range of retail, service, office-commercial and residential uses on this site. The Downtown is described as the most accessible business location in the Greater Toronto Area. This area of the city thrives on the mix of uses in the area providing the opportunity for residents to work in close proximity to where they live. The addition of office space creates employment opportunities for residents. The proposed development supports employment growth within the Downtown area.

Density, Height, Massing

This application was reviewed using the City's Design Criteria for Review of Tall Building Proposals. The right-of-way of Sultan and St. Thomas Streets are 20 metres. The proposed building is 34 metres in height and therefore is considered to be a tall building.

Density

The proposed density for the subject site is 5.27 times the area of the lot whereas the permitted density ranges from 2.0 to 7.5 times the area of the lot because of the two site specific zoning by-laws that apply to the lands.

The existing Zoning By-law 1997-0501 for 5, 7 and 9 Sultan Street permits a mixed use building to a maximum of 3,301 square metres of residential gross floor area and 778 square metres of non-residential gross floor area. The density permitted for 5, 7 and 9 Sultan Street is 7.5 times the area of the lot.

The remainder of the subject site including 1 and 3 Sultan Street and 11 St. Thomas Street was previously part of the 1 St. Thomas site immediately to the south. By-law 1090-2002 is the site specific by-law that deals with the 1 St. Thomas site and it provided a maximum gross floor area for all new development. The buildings at 1 and 3 Sultan Street and 11 St. Thomas Street were identified on Map 2A of By-law 1090-2002 as “existing building”. With the registration of the condominium the lands at 1 and 3 Sultan Street and 11 St. Thomas Street were severed from the 1 St. Thomas site. According to the zoning provisions of By-law 438-86 the density permitted for the CR T3.0 C2.0 R3.0 zone is 2.0 times the area of the lot for commercial use. Through the community consultation process concerns were raised that the density for the subject site was essentially previously committed to the development to the south at 1 St. Thomas Street through the application that culminated in By-law 1090-2002. In years past there have been examples in the City of Toronto where air rights have been sold to facilitate development. There is nothing registered on title to the lands that has any effect on density rights.

There are a range of densities in the area with generally higher densities along Bay Street transitioning to lower heights and densities moving west toward the University of Toronto lands. Some examples are as follows:

Property	Height	Density
77 Charles Street West	65.9 metres	6.6
1121 Bay Street (southeast corner of Charles Street West and Bay Street)	46 metres	11.86
1166 Bay Street (directly east of the subject site)	61 metres	8.41
18/22 St. Thomas Street (Windsor Arms Hotel/Condominium)	18 metres	7.89
23 St. Thomas Street (northeast corner of St. Thomas Street and Sultan Street)	18 metres	6.75

The proposed density is comparable to other sites in the immediate area and the site is located at the Bay Subway Station.

Height

The proposed height of the subject site is 9 storeys (34 metres). The existing by-law 1997-0501 for 5, 7 and 9 Sultan Street permits a maximum of 35 metres in height stepping up from Sultan Street. The current proposal is less than the permitted height of the existing by-law for 5-9 Sultan Street. The permitted height on the east side of the site is 14 metres stepping up to 18 metres at 3 Sultan Street. The applicant is proposing that the podium of the proposed development retain the maximum height of 14 metres to the same extent as currently permitted. The height over 1 and 3 Sultan Street is proposed to change from the currently permitted height of 18 metres to 34 metres. As shown previously existing development surrounding the site ranges between 18 metres and 65 metres in height. The proposed height for the subject site is appropriate in the context of the area.

Massing

The *Built Form* policies of the Official plan provide direction on the location and siting of new development. The location of new development should frame and support adjacent streets to improve pedestrian safety, interest and casual views as well as providing prominence to street corners. New development should be designed to fit harmoniously into its existing and/or planned context.

The retention of the heritage buildings on this site provides a frame for the street. The tower portion of the proposed building is sited over but behind the roof peak of the heritage buildings to give heritage the prominence on the street. The tower is articulated and steps back particularly along the north and south side for a narrower building at the west end of the site and wider at the east end of the site. The tower setbacks along the north side of the site range from 4.9 metres over the entrance to the below grade parking at the east end of the site to 10 metres over 9 Sultan Street. The setback of the tower on the west side is 6.2 metres.

The setback along the south side of the building ranges from 3.39 metres to 10.8 metres in the area where the current zoning provisions on the site provide zero setback to the southerly lot line. The

articulation of the building in this location opens the view corridor for the residents of 1 St. Thomas Street for the windows facing north. The windows facing north in this location of the 1 St. Thomas building include the dining room and/or secondary bedroom but do not include main living space or master bedroom. The unit design of 1 St. Thomas changes over the 10th floor with main living room windows facing north. The setback between the towers of 1 St. Thomas and the subject site ranges from 8.2 metres at the closest point for a short span of approximately 5.5 metres stepping out to 15.9 at the furthest point. Additional height over the 9-storeys would not be supported with such reduced setbacks because of the impact on the main living area of the residents to the south. Given the application is for 9 storeys the setbacks are supportable.

The setback of the tower to the easterly property boundary is 5.5 metres at the closest point. The setback between the tower of the subject site and the residential tower at 1166 Bay Street is 22.4 metres at the closet point. The easterly tower setback is supportable.

The podium is proposed with zero setback to the property line on the east side of the site to a height of 13.3 metres in keeping with the heights of the heritage buildings. The existing zoning permits a zero setback to a height of 14 metres. The setback on the east side of the site is acceptable.

Bloor Yorkville Urban Design Guidelines

The proposal was reviewed for conformity with the Bloor Yorkville Urban Design Guidelines particularly with respect to the massing of this proposed building, height, heritage and public realm. The subject site is located within the Sultan - St. Thomas Precinct which provides direction on the built form envisioned for the area. The proposed development has respectfully responded to the guidelines by proposing a podium/tower form of development that provides a stepback above the podium to avoid a canyon effect. The guidelines recognize that heritage buildings may be incorporated within new developments but the integrity of the original structure should be maintained and restored. The heritage buildings on the subject site have been respectfully integrated into the development with the new construction designed to enhance and promote the heritage elements. Heritage is further addressed later in this report.

St. Thomas Street is identified in the guidelines as a view corridor. The proposed development does not impede the view terminus from Bloor Street West south along St. Thomas Street to Charles Street West. The retention of the heritage buildings and the stepback from the heritage buildings to the tower will continue the existing aesthetic in terms of the view experienced from Bloor Street West.

Sultan Street and St. Thomas Street have been identified as Primary Pedestrian Streets in the guidelines. The direction for these types of streets is to provide comfort and visual interest for the pedestrian along with a vibrant street life. Visual interest has been provided by this development through the heritage buildings. The site plan approval process will deal further with the details to provide an upgraded streetscape and public realm in keeping with the guidelines.

The guidelines direct new development to provide a transition in height and massing that steps down to the prevailing low-rise character of the University of Toronto campus. The proposed development responds to this direction by proposing a maximum height of 9 storeys (34 metres). This provides a transition from the buildings to the east and south.

Site Specific Official Plan Policy 152 and Heritage Preservation

The proposal was reviewed against Official Plan Site and Area Specific Policy Number 152. This policy seeks the retention of the heritage character of 1-9 Sultan Street and 11 St. Thomas Street as follows:

“The retention of the historical buildings designated pursuant to the Ontario Heritage Act as having architectural or historic merit will be encouraged and new development will respect the scale.”

The application has undergone review by Heritage Preservation Services. A report was prepared dated December 22, 2011 for consideration at the Heritage Preservation Board at their meeting of January 16, 2012 that provides an overview of the history of the site from a heritage perspective and an analysis of the revisions to the existing Heritage Easement Agreements as proposed by the applicant. Heritage Preservation Services is satisfied that their concerns have been addressed with the revisions to the Heritage Easements Agreements.

At their meeting of January 16th, 2012 the Heritage Preservation Board approved the following recommendations:

1. City Council consent to the alteration of the six designated heritage properties located at 1,3,5, 7 and 9 Sultan Street and 11 St. Thomas Street subject to the following conditions:
 - a. That the retained portions of the designated properties identified in the Heritage Impact Assessment prepared by E.R.A. Architects Inc., dated December 15, 2011 and architectural drawings submitted by Harari Pontarini Architects dated December 12, 2011 be braced, shored, stabilized and kept in situ during construction of this project barring the inability of the owner to secure necessary lane closures on Sultan Street.
 - b. If the owner is unable to secure approval for required lane closures on Sultan Street and are therefore unable to retain portions of the designated property at 1 Sultan Street in situ during construction, the retained portions of 1 Sultan shall be documented, removed, stored and reconstructed subject to site plan approval and to the satisfaction of the Manager, Heritage Preservation Services.
 - c. Prior to the introduction of the Bill in Council for the zoning by-law amendment, the owner shall enter into an agreement with the City to amend the existing Heritage Easement Agreements for 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street, to the satisfaction of the Manager, Heritage Preservation Services and the City Solicitor, with the amended agreements to be registered on title to the lands in a manner satisfactory to the City Solicitor to reflect the changes as described in this report, including a Conservation Plan, in accordance with the Heritage Impact Assessment prepared by E.R.A. Architects Inc., dated December 15, 2011.
 - d. Prior to final Site Plan Approval, the owner shall:
 - i. provide site plan drawings to the satisfaction of the Manager, Heritage Preservation Services; and

- ii. provide a Letter of Credit in a form and amount satisfactory to the Manager, Heritage Preservation Services, for all alteration and restoration work contained in the approved Conservation Plan.
 - e. Prior to the issuance of any heritage permit pursuant to the Ontario Heritage Act, including a permit for alteration of any structure on the subject property, and including any permit for shoring or excavation on the subject property, or any portion of such property:
 - i. the related zoning by-law amendment shall be in full force and effect;
 - ii. the owner shall have obtained final site plan approval from the Chief Planner and Executive Director, City Planning; and
 - iii. the owner shall submit final plans and drawings to the satisfaction of the Manager, Heritage Preservation Services.
 - f. Prior to the release of the Letter of Credit, the owner shall provide a Letter of Substantial completion for the restoration work, signed by the project architect and heritage consultant to the satisfaction of the Manager, Heritage Preservation Services.
 - g. That raised entries for 3 and 9 Sultan Street, and 11 St. Thomas will be modified for accessibility only in the event that it is required for tenancies and will be subject to site plan approval. Should arrangement of tenancies and uses, such as a sole ground floor tenant, allow for barrier-free access from the street to be provided at other locations, the remaining entries for 3 and 9 Sultan Street, and 11 St. Thomas Street will instead be retained and restored to modest stoops with stairs subject to site plan approval and to the satisfaction of the manager, Heritage Preservation Services.
2. City Council grant authority for the City Solicitor to amend the Heritage Easement Agreements under Section 37 of the Ontario Heritage Act with the owner of the properties.
 3. City Council authorize the City Solicitor to introduce any necessary bill in Council to amend the Heritage Easement Agreements.

This conclusion was reached on the basis of a careful consideration of the condition of the buildings, the need to achieve satisfactory urban design conditions, and the provision of underground parking.

The Heritage Preservation Board minutes will be before City Council at their meeting of February 6, 2012.

Sun, Shadow, Wind

A shadow study was undertaken by the applicant and reviewed by staff. The *Mixed Use* policies of the Official Plan require new development to be located and massed to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinox. The policies also require that building are to frame the edges of streets and parks to maintain sunlight protection and comfortable wind

conditions for pedestrians. The subject site is surrounded by lands designated mixed use with institutional uses further to the west.

Concern was raised at the community consultation meeting that the shadows from the proposed development would have a negative impact on the private terrace area for the residential condominium to the east of the subject site (1166 Bay Street). Upon review it is noted that there is no additional shadow in the spring and fall equinox over what would be cast if a building was constructed in accordance with the as-of-right zoning that currently applies to the site.

A wind study was conducted by the applicant and reviewed by City staff. It was determined that no adverse conditions will result from this proposal.

Traffic Impact, Access, Parking

The *Mixed Use* policies of the Official Plan direct that new development is to have good site access and circulation and an adequate supply of parking for residents and visitors.

The applicant undertook a Transportation Impact and Parking study that has been reviewed by staff. The applicant is providing 63 total parking spaces in three levels of below grade parking. This satisfies the by-law requirement for parking for the project. The project also provides 48 bicycle parking spaces which exceeds the by-law requirement of 38 bicycle parking spaces. All bicycle parking is to be provided on site.

In response to concerns raised by the residents the applicant revised the access and configuration of the loading spaces for garbage pick-up and general loading requirements for the site to internalize the loading spaces and provide a one-way access entering from St. Thomas Street and exiting onto Sultan Street. The revised loading and parking has been reviewed by staff and found to be acceptable. There are some minor details that have been requested from the applicant that will be required prior to the proposed bills proceeding to Council for approval. This includes finalizing the configuration and the location of each of the loading spaces, confirming ramp slopes and clarifying some of the assumptions used in the analysis of parking needs in the consultant's report.

The Official Plan policies have been addressed through the provision of parking and revision to the plan to ensure that loading is provided wholly on-site.

Transportation Services staff have reviewed the Transportation Impact and Parking study submitted in support of the application and the subsequent updates and information provided by the applicant. Although the study has been found to be generally acceptable staff cannot sign off on the study in its current form. In order to ensure that all traffic issues resulting from the rezoning application for 1, 3, 5, 7, 9 Sultan Street and 11 St. Thomas Street are identified and resolved, staff have recommended that Council not enact the bills until all such issues are resolved and the owner has entered into a secured Agreement with the City to ensure the provision of all identified improvements to the infrastructure, all to the satisfaction of the General Manager of Transportation Services.

Servicing

Technical Services staff have reviewed the most recent version of the Functional Servicing Report (FSR) submitted in support of the application for 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street, but cannot sign off on the report in its current form. The additional information required includes a fire hydrant flow test to verify adequate water pressures and flows to service the development (testing

cannot be done until the spring) and clarification of run-off information to confirm the adequacy of the storm sewer system and to demonstrate that proposed drainage will not cause drainage problems to adjacent lands. In order to ensure that all site servicing issues resulting from the rezoning application are identified and resolved, staff have recommended that Council not enact the bills until all such issues are resolved and the owner has entered into a secured Agreement with the City to ensure the provision of all identified improvements to the infrastructure, all to the satisfaction of the Executive Director of Technical Services.

Economic Impact

The Official Plan policies for the *Downtown* and the *Mixed Use Areas* encourage high quality commercial development and the generation of economic opportunities in the City core. This development will provide an additional 8,819 square metres of office space to the commercial inventory. The range of uses permitted in the draft zoning by-law include: office, bake shop, caterer's shop, private art gallery, retail store, artist's or photographer's studio, software design and development establishment, clinic, premises of a charitable institution or non-profit institution, branch of a bank for financial institution, dry cleaner's distributing station, duplicating shop, personal grooming establishment, tailoring shop, data processing establishment and laboratory class A is permitted uses.

The addition of an office building into this area of the neighbourhood satisfies the intent and direction of the Official Plan policies for the *Downtown* and *Mixed Use Areas*.

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 non residential development would be subject to a 2% parkland dedication requirement under Chapter 165 of the former City of Toronto Municipal Code (which remains in full force and effect) to implement Section 42 of the Planning Act RSO 1990, c.P.13. The proposed development has a site area of 0.1688 ha (1,688 square metres) which would require a parkland dedication of 0.00337 ha (33.7 square metres). The applicant proposes to satisfy the parkland dedication requirement through a cash-in-lieu payment. This is appropriate as a parkland dedication of 0.0037 hectares (33.7 square metres) would not be of a useable size.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

Streetscape

All detailed St. Thomas Street and Sultan Street landscaping and streetscaping for this application will be dealt with through the Site Plan Approval process. As part of the Section 37 provisions the applicant has agreed to provide upgraded streetscape continuing from the subject site along the south side and the north side of Sultan Street as well as on St. Thomas Street. The details of this additional streetscaping will also be dealt with through the Site Plan Approval process.

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. The owner is committed to providing a green roof with this project.

Section 37

Section 37 of the Planning Act allows the City to grant increased density and/or height in exchange for community benefits. Community benefits can include (among other capital facilities): parkland, non-profit arts and cultural, community or child care facilities, streetscape improvements on the public boulevard not abutting the site; and other works detailed in policy 5.1.1.6 of the Official Plan.

The community benefits must bear a reasonable relationship to the proposed development, including at a minimum, an appropriate geographic relationship and the addressing of the planning issues associated with the development. (e.g., local shortage of parkland, provision of new parks facilities).

Section 5.1.1.4 of the Official Plan allows Section 37 of the Planning Act to be used for all developments with a gross floor area of more than 10,000 square metres and when the zoning by-law amendment increases the permitted gross floor area by at least 1,500 square metres and/or increases the height significantly or where the applicant agrees to provide such benefits.

In this case, there is an increase of the gross floor area and height permitted by the site specific by-laws pertaining to this site. Although Section 5.1.1.4 of the Official Plan would not apply to this application as proposed the applicant has agreed to provide improvements to the area through a Section 37 Agreement.

This applicant has agreed to secure in the Section 37 Agreement for streetscape improvements to the north and south side of Sultan Street east of St. Thomas Street (not abutting the subject site) and along St. Thomas Street (also not abutting the subject site) to a value of \$500,000. The applicant has agreed to do the streetscape work as part of the construction process for the property. In the event that the applicant elects not do the work the wording in the Section 37 Agreement will include a provision for securities to be obtained so that the work may be undertaken by the City. Detailed design work for the streetscape improvements will be undertaken as part of the site plan review process.

Development Charges

It is estimated that the development charges for this project will be \$122,374.80. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

CONTACT

Sarah Henstock, Senior Planner
Tel. No. 416-392-7196
Fax No. 416-392-1330
E-mail: shensto@toronto.ca

SIGNATURE

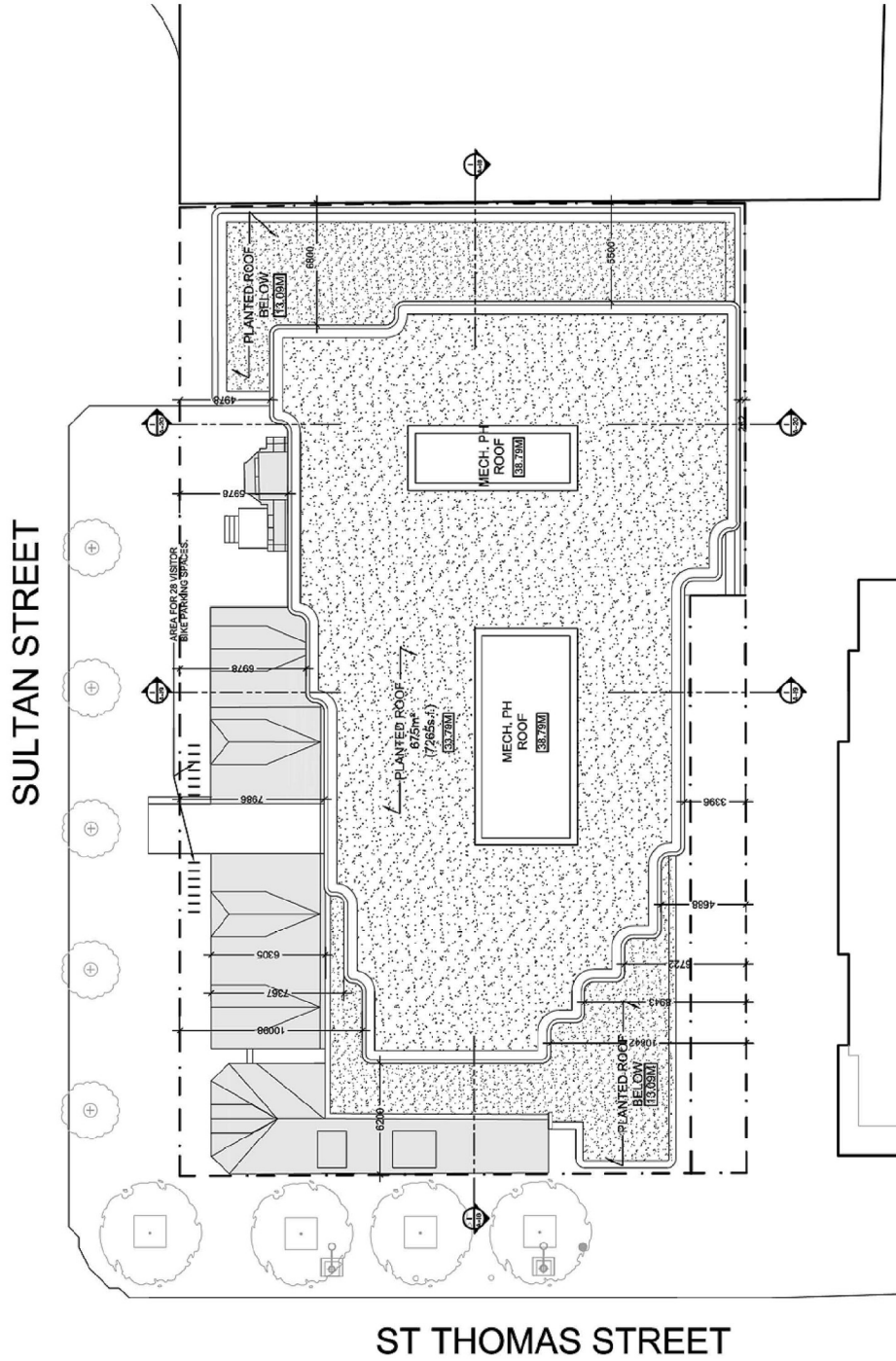
Gregg Lintern, Director, MCIP, RPP
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan
Attachment 2a: North Elevation
Attachment 2b: South Elevation
Attachment 2c: East Elevation
Attachment 2d: West Elevation
Attachment 3: Zoning
Attachment 4: Application Data Sheet
Attachment 5: Draft Zoning By-law Amendment

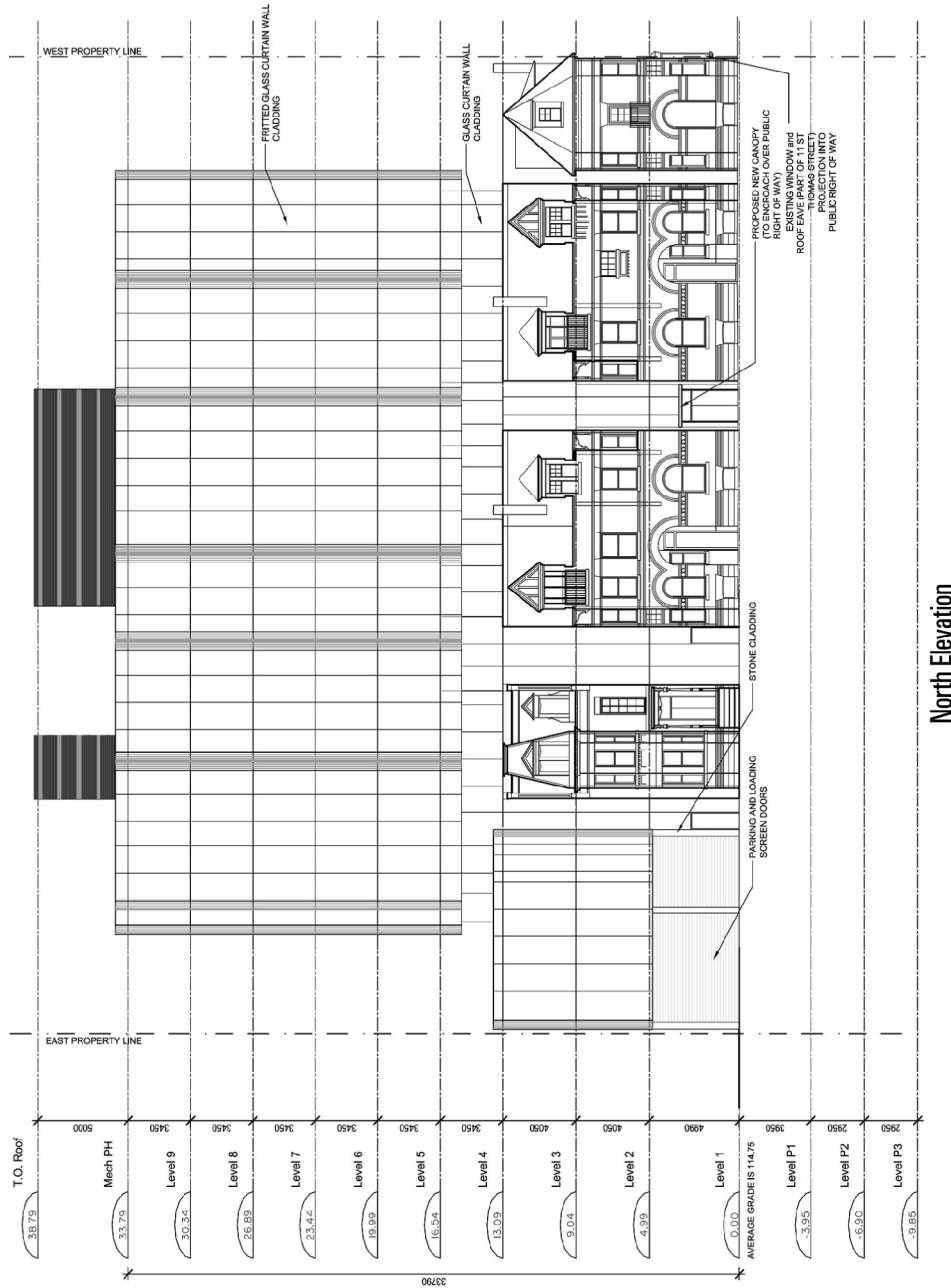
Attachment 1: Site Plan



1, 3, 5, 7 & 9 Sultan Street
 11 St Thomas Street
 File # 10 313261 0Z

Site Plan
 Applicant's Submitted Drawing
 Not to scale
 01/10/2012

Attachment 2a: North Elevation

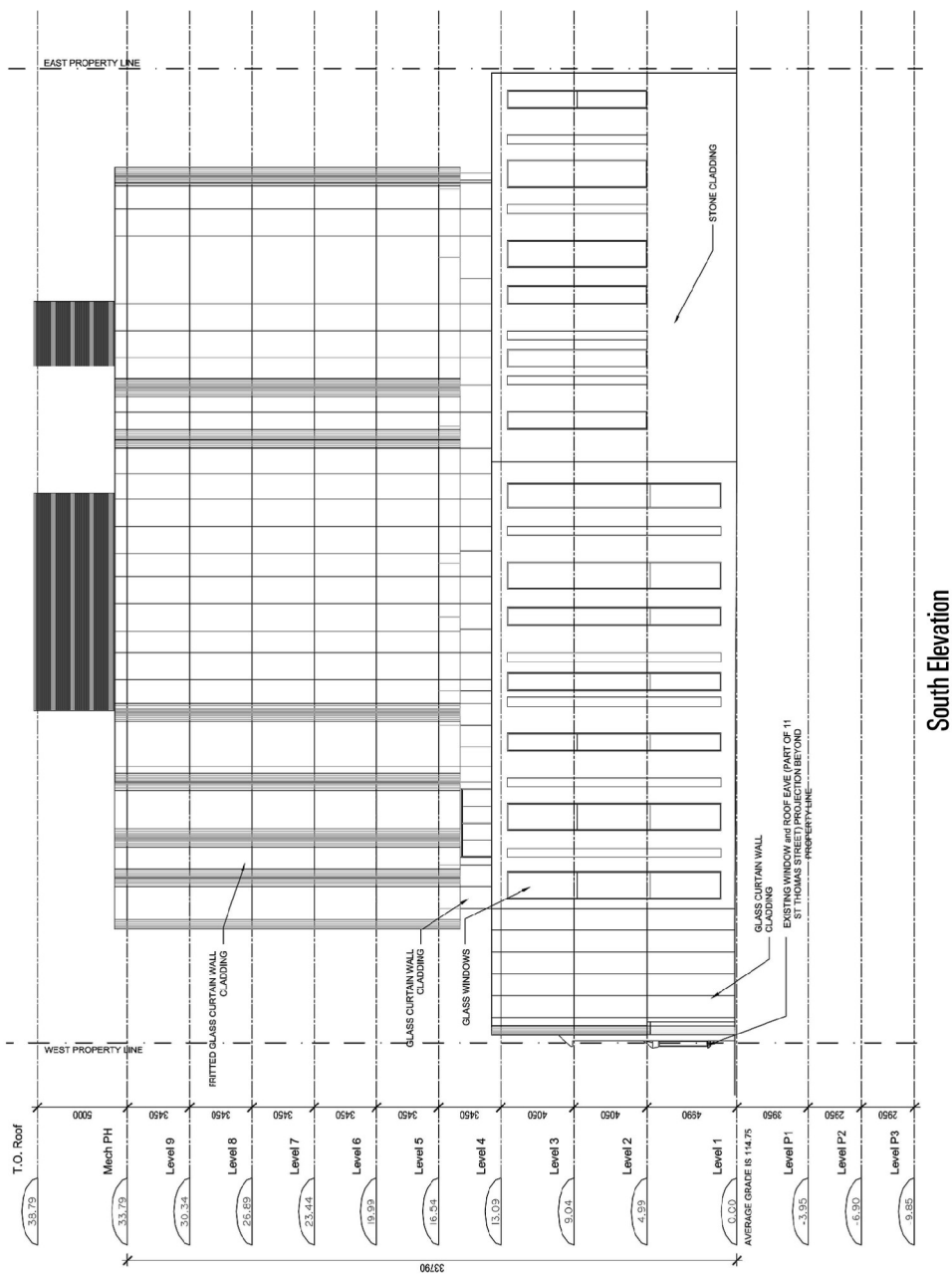


North Elevation

Elevations
 Applicant's Submitted Drawing
 Not to scale
 01/10/2012

1, 3, 5, 7 & 9 Sultan Street
11 St Thomas Street
 File # 10 313261 OZ

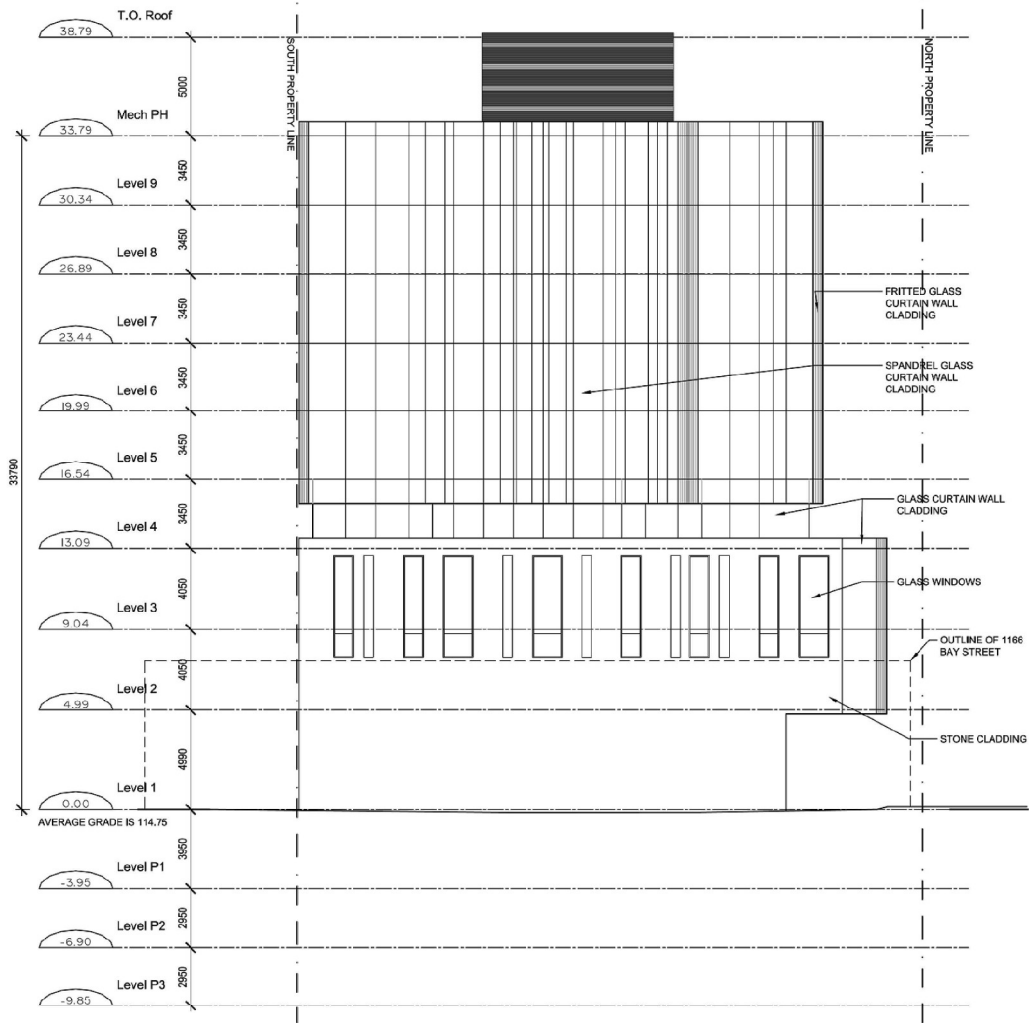
Attachment 2b: South Elevation



Elevations
 Applicant's Submitted Drawing
 Not to scale
 01/10/2012

**1, 3, 5, 7 & 9 Sultan Street
 11 St Thomas Street**
 File # 10 313261 OZ

Attachment 2c: East Elevation



East Elevation

Elevations

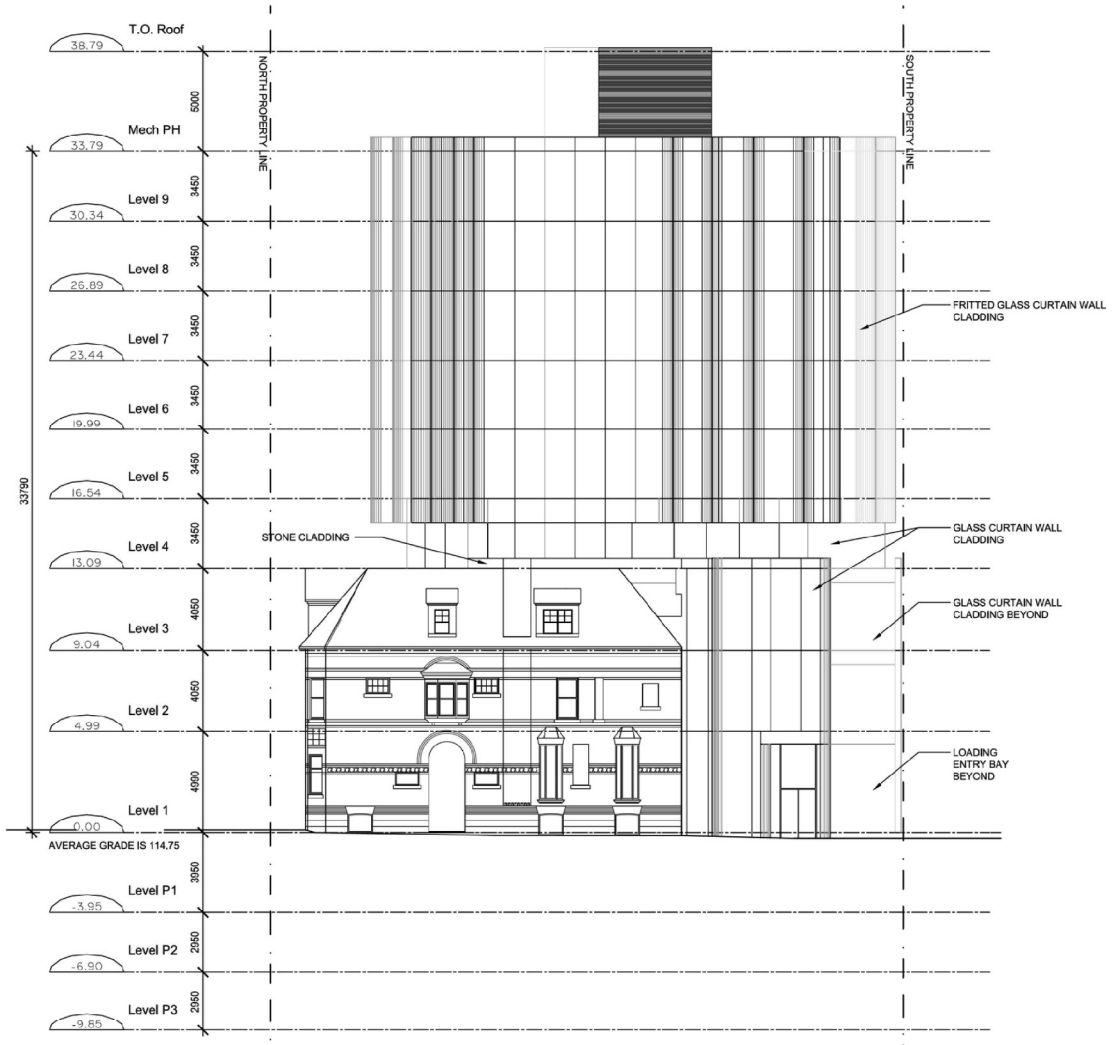
Applicant's Submitted Drawing

Not to scale
01/10/2012

1, 3, 5, 7, & 9 Sultan Street
11 St Thomas Street

File # 10 313261 OZ

Attachment 2d: West Elevation



West Elevation

Elevations

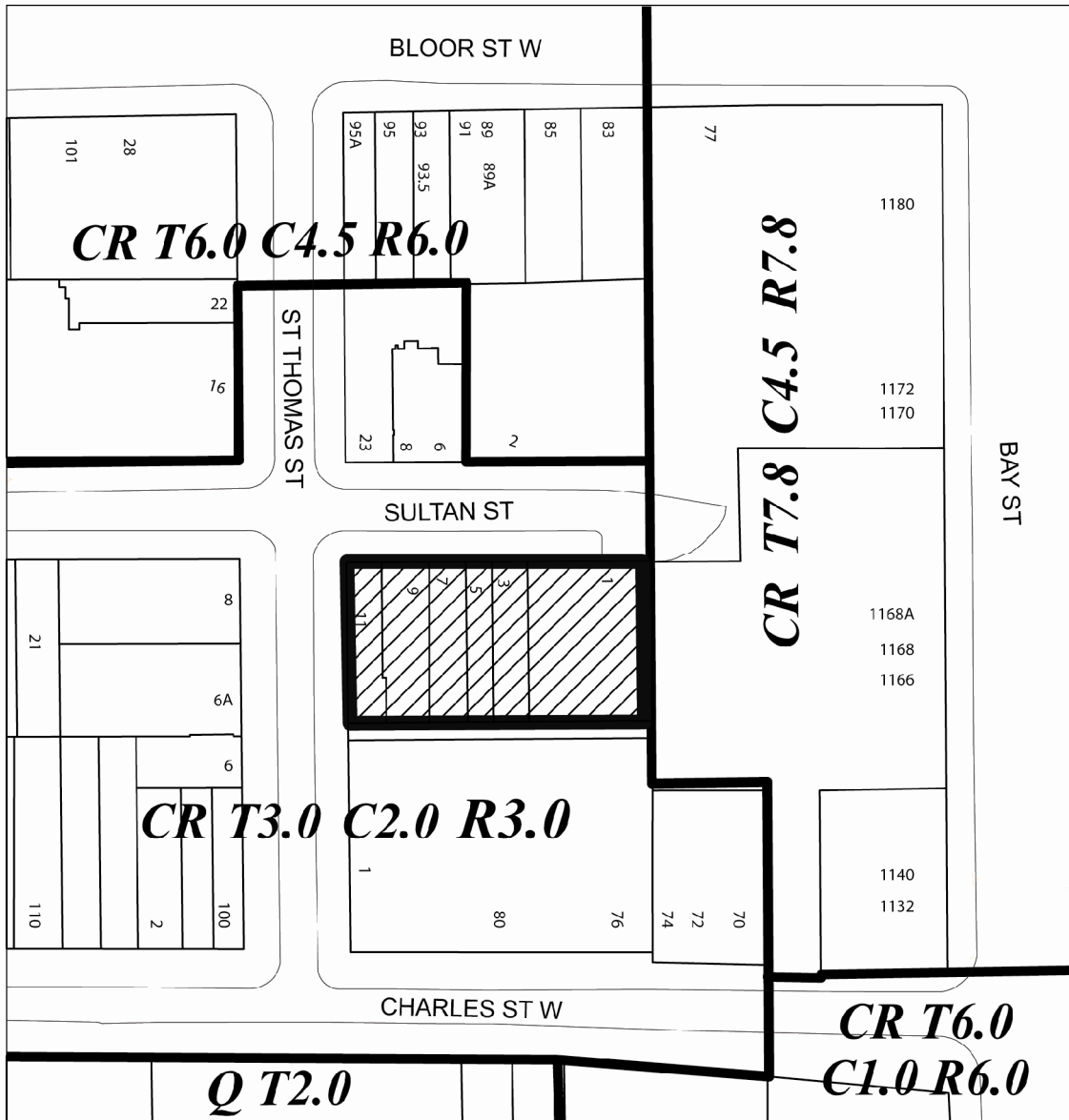
Applicant's Submitted Drawing

Not to scale
01/10/2012

1, 3, 5, 7, & 9 Sultan Street
11 St Thomas Street

File # 10 313261 0Z

Attachment 3: Zoning




TORONTO City Planning
Zoning

1, 3, 5, 7, & 9 Sultan Street
11 St Thomas Street

File # 10_313261

-  Site Location
- CR Mixed-Use District
- Q Mixed Use District


Not to Scale
Zoning By-law 438-86 as amended
1/10/11 - MH

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	10 313261 STE 27 OZ
Details	Rezoning, Standard	Application Date:	December 13, 2010
Municipal Address:	1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street		
Location Description:	PLAN 97 LOTS 26 & 27 **GRID S2707		
Project Description:	Rezoning application to construct new 9-storey office building with 3 levels below grade parking and 63 parking spaces. Please note application is for a non-residential 1,3,5,7,9 Sultan and 11 St Thomas St. Revised Submission June 21, 2011 and December 16, 2011- parking spaces reduced from 70 to 69 to 63 - Gross floor area reduced from 9,430 square metres to 8,942 square metres to 8,903 square metres with retail reduced from 1,104 square metres to 84 square metres.		

Applicant:
FRASER MILNER
CASGRAIN LLP
77 KING STREET WEST
SUITE 400
TORONTO, ON M5K 0A1

Agent:
HARIRI PONTARINI
602 KING STREET WEST
TORONTO, ON M5V 1M6

Owner:
ST THOMAS
COMMERCIAL
DEVELOPMENTS
INCORPORATED
3 SULTAN STREET
TORONTO, ON M5S 1L6

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	N
Zoning:	CR 3.0 C2.0 R3.0	Historical Status:	Y
Height Limit (m):	18	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1,688	Height:	Storeys:	9
Frontage (m):	31.38		Metres:	33.79
Depth (m):	47.45			
Total Ground Floor Area (sq. m):	972			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	63
Total Non-Residential GFA (sq. m):	8,903		Loading Docks	3
Total GFA (sq. m):	8,903			
Lot Coverage Ratio (%):	57.5			
Floor Space Index:	5.27			

DWELLING UNITS N/A

Tenure Type:	
Rooms:	0
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	0
Total Units:	0

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	0	0
Retail GFA (sq. m):	84	0
Office GFA (sq. m):	8,819	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT: PLANNER NAME: Sarah Henstock, Senior Planner
TELEPHONE: 416-392-7196 - e-mail: shensto@toronto.ca

Attachment 5: Draft Zoning By-law Amendment

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

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-2012

**To amend ~ Zoning By-law No.438-86, as amended,
With respect to the lands municipally known as,
1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street**

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

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

WHEREAS Council of the City of Toronto on September 22, 1997 adopted By-law No. 1997-0501 being a By-law “to amend the General Zoning By-law No. 438-86 with respect to lands known as 5, 7 and 9 Sultan Street”; and

WHEREAS Council of the City of Toronto on November 29, 2002 adopted By-law No. 1090-2002 being a By-law “to amend By-law 438-86 of the former City of Toronto, as amended, respecting lands known as Nos. 76 to 98 Charles Street West, No. 11 St. Thomas Street and Nos. 1 and 3 Sultan Street”; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set in the by-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that, where an owner of lands elects to provide facilities, services or matters in return for an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, as amended, are to be permitted in return for the provision of the facilities, services and matters set

out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the “City”); and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law;

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

1. Zoning By-law No. 1997-0501 being a By-law “to amend the General Zoning By-law No. 438-86 with respect to lands known as 5, 7 and 9 Sultan Street” is hereby repealed.
2. Zoning By-law No. 1090-2002 being a By-law “to amend By-law 438-86 of the former City of Toronto, as amended, respecting lands known as Nos. 76 to 98 Charles Street West, No. 11 St. Thomas Street and Nos. 1 and 3 Sultan Street” shall no longer prevail as it relates to those lands outlined by heavy lines on Map 1, attached and forming part of this By-law and the definition of “lot” in Zoning By-law 1090-2002 is amended to exclude those lands.
3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Sections 2(1), 4(2)(a), 4(8), 8(1)(a), 8(3) Part I (1), 8(3) Part I (2), 8(3) Part II, and 8(3) Part III of Zoning By-law No. 438-86, 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* provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) only an office, *bake shop, caterer's shop, private art gallery, retail store, artist's or photographer's studio, software design and development establishment, clinic, premises of a charitable institution or non-profit institution, branch of a bank for financial institution, dry cleaner's distributing station, duplicating shop, personal grooming establishment, tailoring shop, data processing establishment and laboratory class A* is permitted uses;
 - (c) the aggregate of the *non-residential gross floor area* does not exceed 8,910 square metres;

- (d) no portion of any building or structure erected and used above *grade* except for the existing heritage structural elements is located otherwise than wholly within the lot and wholly within the areas delineated by heavy line on Map 2 attached hereto subject to the following which may extend beyond the areas delineated by such heavy lines: cornices, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, planters, balustrades, guard rails, stairs, wheelchair ramps, landscape and site servicing features, public art features, railings, ramp to underground garage, which may extend beyond the areas delineated by such heavy lines;
 - (e) the *height* of any building to be erected shall not exceed those heights, in metres, following the symbol “H”, shown on Map 2 attached hereto exclusive of rooftop facilities elements and structures otherwise permitted in Section 4(2)(a)(i) of By-law No. 438-86, as amended;
 - (f) a minimum of one *loading space - Type B* and two *loading spaces – Type C* shall be provided and maintained on the *lot*;
 - (g) for the purposes of this By-law *common outdoor space* shall mean those areas of the *lot* located between the building footprint and property line as shaded on Map 2 attached hereto; and
 - (h) in addition to the permitted uses identified in Section 4, a temporary sales presentation centre shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.
5. 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:
- “*grade*” means 114.575 metres Canadian Geodetic Datum;
- “*lot*” means at least the lands delineated by heavy lines shown on Map 1;
- “restaurant”* means a portion of the building to a maximum of 84 square metres used for the preparation and cooking of meals and baked goods and the sale of food and beverages to the public while they are seated. The use may include an incidental take-out service and provision of incidental retail sales but does not include provision of mechanical or electronic game machines to be used for the purposes of gambling.
6. Pursuant to Section 37(1) of the *Planning Act* the *heights* and *density* of the development permitted in the By-law are permitted subject to compliance with all the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities,

services and matters set out in Appendix 1 hereof, to the City at the *owner's* expense and in accordance with and subject to the agreement referred to in Section 7 of this by-law.

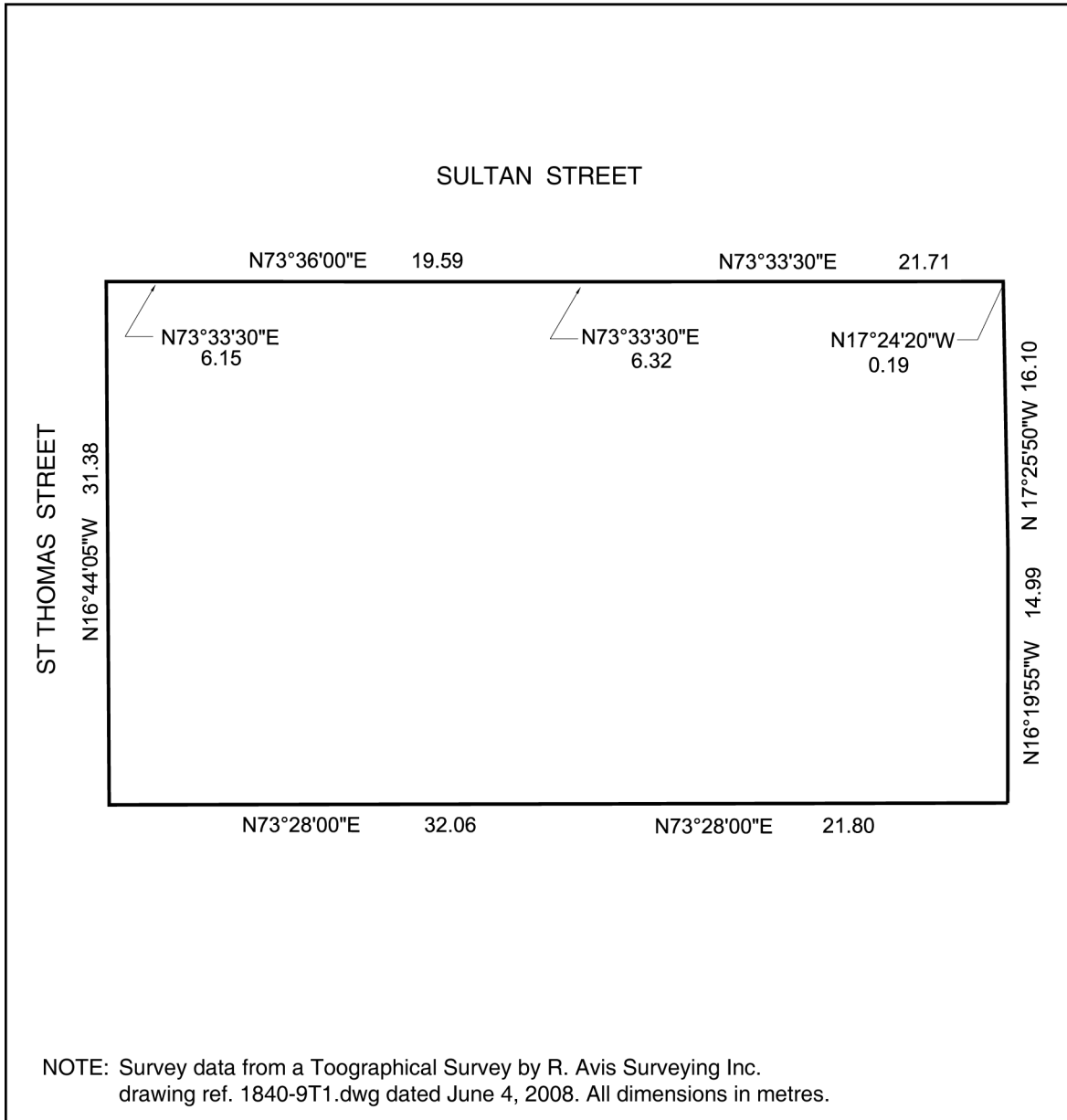
7. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provisions of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter of payment of any monetary contribution 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.
8. 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.

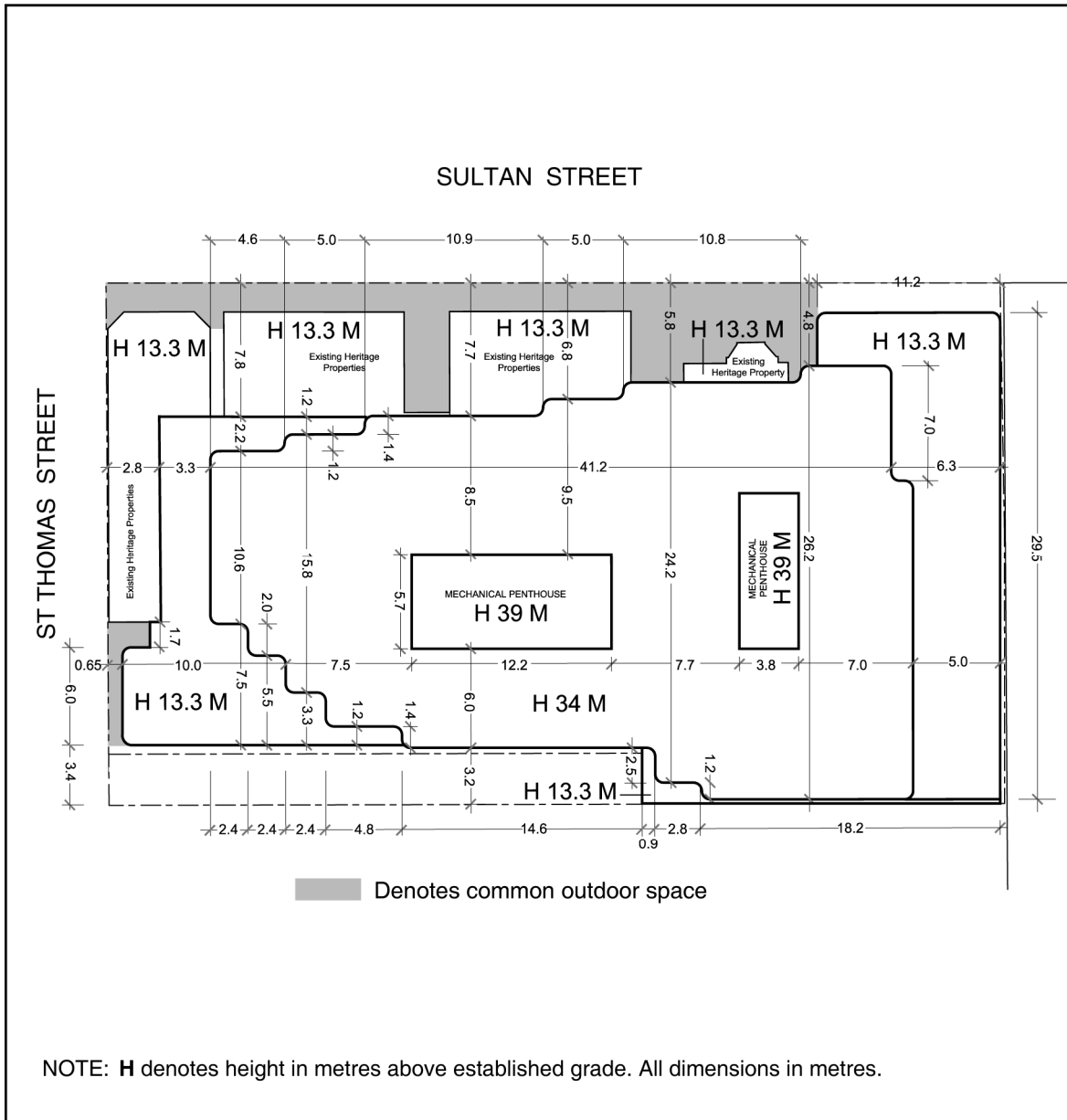
ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)





Appendix "1"

Section 37 Provisions

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

1. The community benefits are as follows:

- i) The *owner* shall;
 - a) design and construct streetscape improvements, at a minimum cost of \$500,000, to the north and south side of Sultan Street, portions of St. Thomas Street and the local area to the satisfaction of the Executive Director, Technical Services; or
 - b) prior to the issuance of the first above grade building permit provide the City a payment of \$500,000 for the construction of streetscape improvements to the north and south side of Sultan Street, portions of St. Thomas Street and the local area.
- ii) If the *owner* elects to construct the streetscape improvements above in i) a), prior to the issuance of the first above grade building permit the *owner* shall submit to the City a streetscape design acceptable to the Executive Director, Technical Services, and provide the City with a Letter of Credit to secure the approved design in a form and amount acceptable to the Executive Director, Technical Services.
- iii) If the *owner* elects to construct the streetscape improvements the *owner* agrees to carry out such works at the same time and in co-ordination with the construction of the site.
- iv) The minimum construction cost of \$500,000 above in i) a) and the payment of \$500,000 above in i) b) shall both be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date the Section 37 Agreement to the date of payment.
- v) If the owner elects to provide the City with the \$500,000 payment above in i) b) and the streetscape improvements to the north and south side of Sultan Street, portions of St. Thomas Street and the local area cost less than

\$500,000, or are no longer required by the City, the remainder of the \$500,000 payment shall be used for community benefits as determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.

2. The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2012 as 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street, one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.