

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name

Address for Service

CITY OF TORONTO
Brian Haley, Interim City Solicitor
Legal Services
26th Floor, Metro Hall
Stn. 1260, 55 John Street
Toronto, ON M5V 3C6
Attn: Laura Spaner/Sophia Yeung

This document is not authorized under Power of Attorney by this party.
This document is being authorized by a municipal corporation Laura Spaner, Solicitor for the City of Toronto.

Party To(s)CapacityShare

Name

Address for Service

SHIPLAKE DUNFIELD LTD.
20 Eglinton Avenue West,
Suite 1700
Toronto, ON
M4R 1K8

I, Stephen Bloom, Exec V-P & Secretary, have the authority to bind the corporation
This document is not authorized under Power of Attorney by this party.

Name

Address for Service

SHIPLAKE PROPERTIES LTD.
20 Eglinton Avenue West,
Suite 1700
Toronto, ON
M4R 1K8

I, Stephen Bloom, Exec V-P & Secretary, have the authority to bind the corporation
This document is not authorized under Power of Attorney by this party.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.
This notice is for an indeterminate period
Schedule: See Schedules

Signed By

Sophia S.C. Yeung

55 John St., 26th Floor
Toronto
M5V 3C6

acting for
Applicant(s)

Signed

2017 02 10

Tel

416-392-8047

Fax

416-397-5624

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

CITY OF TORONTO

55 John St., 26th Floor
Toronto
M5V 3C6

2017 02 10

Tel

416-392-8047

Fax

416-397-5624

Fees/Taxes/Payment

Statutory Registration Fee

\$63.35

Total Paid

\$63.35

THIS AGREEMENT made as of this ~~28th~~^{6th} day of ~~January~~^{February}, 2017

BETWEEN:

SHIPLAKE DUNFIELD LTD.
(hereinafter called "77
Dunfield Owner")
and
**SHIPLAKE PROPERTIES
LTD.**

(hereinafter called "45
Dunfield Owner")

(hereinafter
collectively called the
"Owners")

OF THE FIRST PART

- and -

CITY OF TORONTO

(the "City")

OF THE SECOND PART

WHEREAS:

- (a) Shiplake Dunfield Ltd. (the "77 Dunfield Owner") being the registered owner of the portion of the lands legally described in Schedule "A(1)" hereto, municipally known in 2016 as 77 Dunfield Avenue ("77 Dunfield");
- (b) Shiplake Properties Ltd. (the "45 Dunfield Owner") being the registered owner of the lands municipally known in 2016 as 45 Dunfield Avenue, ("45 Dunfield") legally described in Schedule "A(2)" hereto which lands include Building A and Building B, as shown on the draft site plan attached as Schedule "F";
- (c) 77 Dunfield and 45 Dunfield are hereinafter collectively referred to as the "Site";
- (d) The Owners propose to amend the former City of Toronto Zoning By-law No. 438-86 and City of Toronto Zoning By-law No. 569-2013 (the "Zoning By-laws") to permit two new rental apartment buildings of 26 and 24 storeys on 45 Dunfield (the "Development");
- (e) The Owners have applied to amend the Zoning By-laws with respect to the Site, including permission to increase in the height and density beyond what is permitted by the Zoning By-laws;
- (f) As part of this application, the Owners have requested that the City consider the use of the City's powers under subsection 37(1) of the *Planning Act*, R.S.O. 1990, c. P.13, whereby City Council may, in a by-law passed under section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the zoning by-law, in return for the provision of such facilities, services and matters as the City may desire and specify in such by-law;
- (g) Subsection 37(2) of the *Planning Act* requires that a by-law under subsection 37(1) may not be passed unless the municipality has an official plan in effect that contains provisions relating to the authorization of increases in height and density of development;
- (h) The Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development;
- (i) 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 of density of a development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters;
- (j) City Council, at its meeting held on February 3 and 4, 2016 adopted Toronto and East York Community Council Item No. TE.13.5, which approved amendments to the Zoning By-laws permitting an increase in height and density on the Site, agreeing to use the City's powers under subsection 37(1) of the *Planning Act*;

- (k) The Owners have elected to provide the facilities, services and matters required by the City in return for certain authorized increases in height and density as set forth in the proposed Zoning By-law Amendments attached as Schedules "B" and "C" hereto; and,
- (l) This Agreement has been entered into by the Parties pursuant to subsection 37(3) of the *Planning Act*, subject to compliance with the provisions of subsection 37(2) of the *Planning Act*, in order to evidence, confirm and secure the Owners' obligations to provide those facilities, services and matters described.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada, now paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the Owners and the City agree to and with each other as follows:

1. SCHEDULES

1.1 The following schedules form part of this Agreement:

- a) Schedule "A" – Legal Description of the Site
- b) Schedule "B" – Amendment to the Zoning By-law No. 438-86
- c) Schedule "C" – Amendment to the Zoning By-law No. 569-2013
- d) Schedule "D" – Privately Owned Publicly Accessible Open Space Plan
- e) Schedule "E" – Rent Abatement Units and Amounts
- f) Schedule "F" – Site Plan

2. DEFINITIONS

2.1 For the purposes of this Agreement, the term:

- a) **"Above-Grade Building Permit"** means a permit issued by the City pursuant to the *Building Code Act*, to allow construction of any portion of the Development above grade, but does not include a permit issued for demolition, shoring and excavation and foundation;
- b) **"Above Guideline Rent Increase"** means the increase approved by the Landlord Tenant Board in or after April 2016 dealing with the 45 Dunfield Owner's retrofitting of heat and water systems at 45 Dunfield Avenue;
- c) **"Accessible Green Space"** means commonly accessible green space for Tenants;
- d) **"Affordable Rent"** means one (1) times CMHC Rent, inclusive of heat, power and water utilities, but excluding services that a tenant may turn down such as cable or parking facilities;
- e) **"Agreement"** means this agreement made pursuant to Section 37 of the *Planning Act*;
- f) **"Alternate Premises for the Child Care Facility"** has the meaning ascribed to it in Subsection 4.2.5 h) ii) of this Agreement;
- g) **"Amending By-laws"** means the site specific Zoning By-law Amendments substantially in the form attached as Schedules "B" and "C", subject to the terms of this Agreement;
- h) **"Applicable Laws for the Child Care Facility"** means all statutes, laws, rules, by-laws, regulations, ordinances, orders, guidelines, standards and requirements of governmental or other public authorities having jurisdiction, and all amendments thereto, at any time and from time to time in force, including, without limitation, all directives, requirements, regulations, ordinances, orders, standards and requirements of the Ministry of Children and Youth Services, the Ministry of Education and/or their respective successors responsible for child care and all requirements of the Ministry of Citizenship and Immigration and/or its respective successors responsible for accessibility, from time to time;
- i) **"Application to Court"** has the meaning ascribed to it in Subsection 8.2 c) of this Agreement;

- j) **"Building"** means a building or structure for which a Building Permit is required;
- k) **"Building A"** means the proposed building on 45 Dunfield fronting on Dunfield Avenue;
- l) **"Building B"** means the proposed building on 45 Dunfield fronting on Lillian Street;
- m) **"Building Addition – Rental"** means the residential rental units to be secured in Building A and Building B;
- n) **"Building at 45 Dunfield"** means the 28-storey building municipally known as 45 Dunfield Avenue, which is legally described in Schedule "A";
- o) **"Building at 77 Dunfield"** means the 17-storey building municipally known as 77 Dunfield Avenue, which is legally described in Schedule "A";
- p) **"Building Code Act"** means the *Building Code Act*, 1992, S.O. 1992, c. 23;
- q) **"Building Permit"** means a permit, issued by the City pursuant to Section 8 of the *Building Code Act* 1992, SO 1992, c 23, as amended or any successor legislation to construct the Development or a portion thereof, including any Foundation Permit, but it does not include any permit issued by the City pursuant to Section 8 of the *Building Code Act*, to construct a temporary sales office or a portion thereof on the Site or any permit for excavation or shoring on the site;
- r) **"Chief Building Official"** means the Chief Building Official for the City of Toronto appointed pursuant to Section 3 of the *Building Code Act*, and shall include his or her designates;
- s) **"Chief Financial Officer"** means the Deputy City Manager and Chief Financial Officer for the City of Toronto and shall include his or her designates;
- t) **"Chief Planner"** means the City of Toronto's Chief Planner and Executive Director, City Planning Division, and shall include his or her designates;
- u) **"Child Care and Early Years Act"** means the *Child Care and Early Years Act*, 2014, SO 2014, c 11, Sch 1;
- v) **"Child Care Facility"** means a non-profit licensed child care facility on the Site that accommodates at least 52 children aged 0 to 4 years and more specifically defined in Section 4.1.1. of this Agreement;
- w) **"Child Care Facility Lease Agreement"** has the meaning ascribed to it in Section 4.2.5 of this Agreement;
- x) **"Child Care Facility Operator"** has the meaning ascribed to it in Section 4.2.1 of this Agreement;
- y) **"City of Toronto Act, 2006"** means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A;
- z) **"City Solicitor"** means the City Solicitor for the City of Toronto and shall include his or her designates;
- aa) **"CMHC Rent"** means the average rent for private rental apartments by unit type for the City of Toronto as reported annually by Canada Mortgage and Housing Corporation in its Fall Update Rental Market Report;
- bb) **"Commencement Date"** means for each New Rental Unit the later of: (i) the date such unit is available for occupancy; and, (ii) the initial commencement date in a signed offer to lease in respect of such unit;
- cc) **"Concierge"** means the person who works at the front desks of each of the Existing Buildings;
- dd) **"Condominium"** means a building which is governed by the *Condominium Act* because of the registration of a declaration and description in accordance with the *Condominium Act*;
- ee) **"Condominium Act"** means the *Condominium Act*, 1998, S.O. 1998, c. 19 or any successor legislation;
- ff) **"Construction Mitigation Plan"** means a plan that includes provisions for special

needs tenants, mitigation for tenants during construction periods, including compensation for the removal of facilities currently associated with the units, a respite room and other measures as may be deemed reasonable and appropriate to the satisfaction of the Chief Planner and Executive Director, City Planning Division, without cost-pass through to tenants;

- gg) **"Date of Final Approval of the Amending By-laws"** has the meaning ascribed to it in Subsection 8.2 b) of this Agreement;
- hh) **"Description"** means a description registered under the *Condominium Act*;
- ii) **"Development Charges"** means those charges under the City's Development Charges By-law, being By-law No. 275-2009;
- jj) **"Development Charges Act"** means the *Development Charges Act*, 1997, S.O. 1997, c. 27;
- kk) **"Eligible Tenant"** means the tenant households as of the date of entering into this Agreement who resided at 45 Dunfield in the Existing Units and received notice of the demolition application and "Eligible Tenant" means any one of them;
- ll) **"EOI process"** has the meaning ascribed to it in Section 4.2.1 of this Agreement;
- mm) **"Executive Director, Engineering and Construction Services"** means the Executive Director of Engineering and Construction Services for the City of Toronto, and shall include his or her designates;
- nn) **"Existing Apartment Buildings"** means the apartments municipally known as 45 Dunfield Avenue and 77 Dunfield Avenue, existing at the date of execution of this Agreement;
- oo) **"Existing Unit"** means one of the one hundred and seventy seven (177) residential rental units existing at 77 Dunfield Avenue or one of the five hundred seventy five (575) residential rental units existing at 45 Dunfield Avenue on the date of execution of this Agreement;
- pp) **"Existing Tenants"** means the existing tenants of the Existing Rental Units;
- qq) **"Final Building Permit"** means the issuance of the last Building Permit, which in conjunction with the previous Building Permits, permits the total construction of a Building;
- rr) **"Final Confirmation Date"** has the meaning ascribed to it in Section 8.2 a) of this Agreement;
- ss) **"Final Disposition"** has the meaning ascribed to it in Section 8.2 d) of this Agreement;
- tt) **"General Manager of Children's Services"** means the General Manager of Children's Services for the City of Toronto and shall include his or her designates;
- uu) **"Rent Increase Guideline"** means the provincial rent increase guideline as defined in Section 120 of the *Residential Tenancies Act* or its equivalent. In the event that no guideline is announced by the Province, the applicable percentage shall be the Consumer Price Index percentage for the City of Toronto as of the month prior to the date that the notice of rent increase is served;
- vv) **"Letter of Credit"** means an irrevocable standby letter of credit from a Canadian Chartered Bank in a form acceptable to the Chief Financial Officer;
- ww) **"Medical Officer of Health"** means the Medical Officer of Health for the City of Toronto and shall include his or her designates;
- xx) **"Mid-Range Rent"** means one and a half (1.5) times the CMHC Rent, inclusive of heat, power, and water utilities, but excluding services that a tenant may turn down such as cable or parking facilities;
- yy) **"New Buildings"** means any building developed or constructed on the Site after the date of execution of this Agreement;
- zz) **"New Dwelling Unit"** means any dwelling unit developed or constructed on the Site after the date of execution of this Agreement;
- aaa) **"New Rental Units"** means Rental Units situated within the Building Addition – Rental;

- bbb) **"Non-Residential Construction Price Index"** means the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor;
- ccc) **"Ontario Building Code"** means Ontario Regulation 332/12 made pursuant to the *Building Code Act*;
- ddd) **"OMB"** means the Ontario Municipal Board;
- eee) **"Parties"** means the Owners, including the 45 Dunfield Owner and the 77 Dunfield Owner, and the City and **"Party"** means either one of them;
- fff) **"Planning Act"** means the *Planning Act*, R.S.O. 1990, c. P.13;
- ggg) **"Privately Owned Publicly-Accessible Space Guidelines"** means the Draft Urban Guidelines for Privately Owned Publicly-Accessible Spaces (POPS) as adopted and endorsed by Toronto City Council at its meeting held on July 8, 2014 through the adoption of item PG34.14 of the Planning and Growth Management Committee;
- hhh) **"Regular User Tenants"** has the meaning set out in Section 4.7.1.(k);
- iii) **"Residential Rent"** means "rent" as defined in the *Residential Tenancies Act* and shall include charges for heat, water, and power charges, but not parking and cable services. If heat and/or water and/or power are not provided by the owner of **Building A** and **Building B**, then the Residential Rent will be adjusted downward using objective cost data, to the satisfaction of the Chief Planner in writing;
- jjj) **"Residential Rental Dwelling Unit"** means a dwelling unit which is rented or available for rent pursuant to the *Residential Tenancies Act*, but does not include a condominium registered unit or a life-lease or co-ownership unit as defined in Chapter 667 of the Toronto Municipal Code;
- kkk) **"Residential Tenancies Act"** means the *Residential Tenancies Act*, 2006 SO 2006 c 17, as amended or any successor legislation;
- III) **"Site Plan"** means the draft site plan attached hereto as Schedule "F" with 45 Dunfield outlined in heavy black line and 77 Dunfield outlined in hatch;
- (mmm) **"Site Plan Agreement"** means the agreement between the City and the Owners in accordance with Section 114 of the *City of Toronto Act, 2006* which provides amongst other things, for the approval of plans and drawings of the Development;
- nnn) **"Site Plan Approval"** means the approval of the site plan application in accordance with the provisions of the *City of Toronto Act, 2006* and the *Planning Act*, as applicable;
- ooo) **"Special Needs Tenant"** has the meaning ascribed to it in Section 4.7.1 (m) of this Agreement;
- ppp) **"Ten Year Period"** means the period(s) which is ten (10) years from the first Commencement Date.
- qqq) **"Tenant Communication Strategy"** means a plan satisfactory to the Chief Planner to keep tenants informed with respect to the Development during construction and it shall include those requirements set out in Section 4.8 of this Agreement.
- rrr) **"Toronto Green Standard"** means the performance standards adopted by City of Toronto Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee;
- sss) **"Ward Councillor"** means the councillor for Ward 22 in the City of Toronto;
- ttt) **"Zoning By-laws"** means former City of Toronto Zoning By-law No. 438-86 and City of Toronto Zoning By-law 569-2013; and

3. CONFIRMATION OF RECITALS

- 3.1 The Parties confirm and agree that the recitals are true, both in substance and in fact.

4. COMMUNITY BENEFITS AND OTHER SECURED MATTERS

4.1 CHILD CARE FACILITY

- 4.1.1 Prior to the issuance of the first occupancy permit for either Building A or Building B for the Development, the 45 Dunfield Owner shall construct, complete, finish, furnish and fully equip the Child Care Facility on the Site, entirely at its sole cost, in accordance with the plans and specifications approved in writing by the Chief Planner in consultation with the General Manager of Children's Services, in compliance with the Applicable Laws for the Child Care Facility and the following criteria (the "Child Care Facility"):
- a) The Child Care Facility shall be sufficient to accommodate fifty-two (52) children 0 to 4 years in age, including ten (10) infants, ten (10) toddlers and thirty-two (32) preschoolers in two (2) groups of sixteen (16);
 - b) The Child Care Facility shall be on the ground floor of Building B in a location to be approved by the Chief Planner in consultation with the General Manager of Children's Services;
 - c) The Child Care Facility shall be comprised of a minimum of five hundred and thirty-one (531) square metres of interior space and a minimum two hundred and fifty-four (254) square metres of exterior space adjacent to the interior space;
 - d) For greater clarity, the 45 Dunfield Owner shall provide large and small appliances at entirely its sole cost as part of the construction of the Child Care Facility, and such large and small appliances will not be included in the inventory list referred to in Subsection 4.2.4 a);
 - e) The Child Care Facility must meet all criteria in:
 - (i) The Child Care and Early Years Act;
 - (ii) City of Toronto Child Care Technical Design guideline (R-2016)
 - (iii) The CAN/CSA-Z614-03 Children's Play Spaces and Equipment or equivalent;
 - (iv) The Toronto Child Care Design & Technical Guideline (2016);
 - (v) The Toronto Accessibility Guidelines;
 - (vi) The Toronto Green Development Standards – Tier 1;
 - (vii) All provincial codes and municipal planning, zoning and by-law criteria; and
 - (viii) If the Child Care Facility Operator will be servicing subsidized clients; the Learning and Care Assessment for Quality Improvement (AQI) must be followed.
- 4.2 The 45 Dunfield Owner shall complete the Child Care Facility and have it ready for occupancy and available to the Child Care Facility Operator, prior to the issuance of the first occupancy permit for either Building A or Building B for the Development.

Child Care Facility Operator

- 4.2.1 A non-profit child care facility operator will be chosen through an Expression of Interest process undertaken by the City of Toronto Children's Services Division (the "EOI Process"). The City and the 45 Dunfield Owner, if the 45 Dunfield Owner wishes to, will both participate in the EOI process. The child care facility operator must be finally approved by the General Manager of Children's Services and be child care operator that meets the City of Toronto not for profit status (the "Child Care Facility Operator").

Site Plan Approval

- 4.2.2 The 45 Dunfield Owner covenants and agrees that at the time of application for Site Plan Approval, the approved plans must show the following to the satisfaction of the Chief Planner and the General Manager of Children's Services:
- a) The Child Care Facility located at grade, with its own primary front entrance from the central drop of area located between Building A and Building B;
 - b) Exterior fenced playground spaces adjacent to the interior space, with suitable weather protection, equipped and landscaped to facilitate year-round use with a minimum of ten (10) square metres of vandal-proof storage adjacent to each playground space;
 - c) A minimum of three (3) parking spaces designated for Child Care Facility staff located adjacent to the Child Care Facility, unless stipulated by the governing zoning by-law;
 - d) A pedestrian child drop-off and pick-up location adjacent to the Child Care Facility;
 - e) A minimum of three (3) vehicular child drop-off and pick-up parking spaces located adjacent to the Child Care Facility;
 - f) Acceptable wind, sun/shade, noise, air quality and soil quality conditions;
 - g) Provision and space for the ability to recycle all food, diaper, fluorescent tubing etc., and to comply with the "City of Toronto's Requirement for Garbage, Recycling & Organics Collection Services for New Developments & Redevelopment";
 - h) Compliance with the Child Care and Early Years Act; City of Toronto Child Care Technical Design guideline (R-2016); CAN/CSA-Z614-03 Children's Play Spaces & Equipment; Toronto's Accessibility Guidelines; and
 - i) Compliance with all physical criteria necessary to obtain a license required to operate a licensed Child Care Facility.

First Above Grade Building Permit

- 4.2.3 Prior to issuance of the first Above Grade Building Permit for the Development, working drawings and specifications must be submitted to the Chief Planner, the General Manager of Children's Services, the Chief Medical Officer of Health and the Province's Ministry of Education's Early Learning Child Care Licensing System for their review and approval that shall include:
- a) A fully functioning kitchen; and
 - b) Security provisions that allow the Child Care Facility to operate autonomously within a multi-use Building.

Cash Contribution for Equipment and Start-Up Costs

- 4.2.4 Prior to the issuance of first Above Grade Building Permit for the Development, the 45 Dunfield Owner shall provide the following cash contributions:

- a) to the Child Care Facility Operator and/or the City:
 - (i) all cash contributions required to fully equip the Child Care Facility in accordance with provincial and municipal standards based on a mutually agreeable inventory list provided by the Child Care Facility Operator and/or the General Manager of Children's Services, which will be finalized and approved by the General Manager of Children's Services;
 - (ii) One hundred and fifty thousand dollars (\$150,000.00) in a one-time cash contribution to the Child Care Facility's start-up costs for the defrayment of operation deficits during the first year of operation; and
- b) To the City, one hundred and eighty thousand dollars (\$180,000.00) in a one-time cash contribution for a child care facility reserve fund to replace the Child Care Facility's appliances and large equipment due to wear and tear.

Child Care Facility Lease Agreement

- 4.2.5 Prior to the issuance of the first occupancy permit for either Building A or Building B for the Development, the 45 Dunfield Owner shall enter into a lease agreement for the Child Care Facility, in a form satisfactory to the City Solicitor, in compliance with the following stipulations (the "**Child Care Facility Lease Agreement**"):
- a) The Child Care Facility Lease Agreement shall be for a term of ninety-nine (99) years;
 - b) The tenant shall be the Child Care Facility Operator;
 - c) The City shall be a third party with rights to the Child Care Lease Agreement and in the event the Child Care Facility Operator is in default of the Child Care Lease Agreement, the City shall from time to time throughout the ninety-nine (99) year term, have the option to:
 - (i) Assign the lease to another non-profit child care operator;
 - (ii) Assume the lease and become the child care operator; or
 - (iii) Terminate the Child Care Lease Agreement.
 - d) Despite the ninety-nine (99) year term. The City has the right to terminate the lease by giving six (6) months prior written notice
 - e) The 45 Dunfield Owner covenants and agrees that the Child Care Facility constitutes a benefit under Section 37 of the *Planning Act* and that the Child Care Facility Lease Agreement shall be completely rent free with no cost to the Child Care Facility Operator as tenant or to the City as third party;
 - f) The 45 Dunfield Owner covenants and agrees that as landlord, it shall be responsible for any and all costs associated with the premises which constitute the Child Care Facility, including:
 - (i) The cost of utilities and municipal services, including water, gas and hydro, garbage and recycling collection, supplied to the Child Care Facility;
 - (ii) Repair, maintenance, alternations and replacement costs of the Child Care Facility and Building systems, including appropriately sized heating, air-conditioning, ventilation, plumbing systems, as required by Applicable Laws for the Child Care Facility, provided that the cost of any alterations and replacements requested or undertaken by the Child Care Operator to enhance, improve or reconfigure the Child Care Facility shall be paid by the Child Care Facility Operator;
 - (iii) Caretaking and janitorial costs;
 - (iv) Property damage;

- (v) Liability insurance;
- (vi) Realty taxes;
- (vii) Local improvement charges;
- (viii) Building Permit fees and Development Charges;
- (ix) Compliance with all Applicable Laws for the Child Care Facility as they relate to the physical building; and
- (x) Any damage to the Child Care Facility, howsoever caused.

For greater certainty, except for the 45 Dunfield Owner's responsibility to fully furnish and equip the Child Care Facility as set out in Section 4.1.1 and to provide the cash contributions set out in Section 4.2.4, the Owners shall not be responsible for any of the costs of operating the business to be conducted at the Child Care Facility or any costs that would be the responsibility of the Child Care Facility Operator, such as, but not limited to salaries, benefits, food, educational supplies and equipment, furniture and decorations, and/or child insurance.

- g) Prior to the execution of the Child Care Lease Agreement, the 45 Dunfield Owner shall provide, at entirely its sole cost, a legal opinion in a form satisfactory to the City Solicitor, that the Child Care Facility Operator as tenant and the City as third party is leasing the Child Care Facility free of all rent, costs and liabilities listed in Subsection 4.2.5. f) of this Agreement;
- h) The Child Care Facility Lease Agreement shall have the following terms to secure the ninety-nine (99) year term in the event of damage and/or destruction:
 - (i) The 45 Dunfield Owner shall diligently repair any damage to the Child Care Facility to the satisfaction of the Child Care Facility Operator and the General Manager of Children's Services;
 - (ii) If the damage cannot be repaired with reasonable diligence within one hundred and eighty (180) days after such damage, the 45 Dunfield Owner shall provide at entirely its sole cost, an alternate location within the vicinity that satisfies the criteria in subsections 4.1.1 a) to f) (the "**Alternate Premises for the Child Care Facility**"), for the balance of the 99 year term or until the damage to the Child Care Facility is repaired to the satisfaction of the Child Care Facility Operator and the General Manager of Children's Services;
 - (iii) If the 45 Dunfield Owner is unable to provide the Alternate Premises for the Child Care Facility within nine (9) months of such damage, the 45 Dunfield Owner shall pay to the City a cash amount equal to the fair market value of providing Alternate Premises for the Child Care Facility for the years left in the ninety-nine (99) year term or until the damage to the Child Care Facility is repaired to the satisfaction of the Child Facility Care Operator and the General Manager of Children's Services;
- i) The 45 Dunfield Owner shall provide at least sixty (60) days prior written notice to the City and the Child Care Facility Operator, if the 45 Dunfield Owner intends to sell or transfer the Development. Provided that the Child Care Facility has been constructed and completed by the 45 Dunfield Owner in accordance with the requirements of this Agreement, and the purchaser or transferee agrees with the 45 Dunfield Owner to assume its obligations under the Child Care Facility Lease Agreement, the 45 Dunfield Owner will be relieved of future, but not past, obligations for the Child Care Facility Lease Agreement;
- j) The 45 Dunfield Owner at entirely its sole cost shall cause the Child Care Facility Lease Agreement to be registered on title and provide a title opinion from its solicitors, in form and content satisfactory to the City Solicitor, confirming that the registered Child Care Facility Lease Agreement has priority over all charges, encumbrances or liens, excluding municipal agreements and municipal easements; and
- k) The 45 Dunfield Owner shall pay all costs associated with the Child Care Facility Lease Agreement, including any documents registered on title relating to the Child Care Facility Lease Agreement.

Financial Security

- 4.2.6 Prior to the issuance of the first Above Grade Building Permit for the Development, the 45 Dunfield Owner shall provide financial security to the City in a form of a Letter of Credit, in an amount sufficient to guarantee 120% of the estimated cost of the design, construction and provision of the Child Care Facility, to the satisfaction of the General Manager of Children Services and the Chief Financial Officer.

Indexing

- 4.2.7 The cash amounts and financial security set out in Sections 4.2.4 and 4.2.6 of this Agreement shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for Toronto and calculated from the date of the registration of this Agreement to the date of submission of the funds or Letter of Credit by the 45 Dunfield Owner to the City.

4.3 PRIVATELY OWNED PUBLICLY-ACCESSIBLE SPACE

- 4.3.1 The 45 Dunfield Owner agrees, at its sole expense, to provide and maintain as a part of the Development, a minimum area of six thousand and sixty (6,060) square metres as Privately Owned Publicly-Accessible Space (the "POPS"), as shown on Schedule "D", as set out in Section 4.3 of this Agreement.

POPS Construction

- 4.3.2 The 45 Dunfield Owner agrees to construct and maintain the POPS with materials specified in accordance with landscape plans and drawings in accordance with the Privately Owned Publicly-Accessible Space Guidelines to the satisfaction of the Chief Planner, construction to be completed prior to six (6) months from the date of the Final Building Permit for the Development.

POPS Easement

- 4.3.3 Prior to six (6) months from the date of issuance of the Final Building Permit for the Development, the 45 Dunfield Owner shall convey one or more easements for the Privately Owned Publicly-Accessible Space (the "POPS Easement") to the City over the POPS, for nominal consideration, to the satisfaction of the City Solicitor.
- 4.3.4 The 45 Dunfield Owner shall maintain the POPS free and clear of encumbrances for pedestrian and vehicle use, in perpetuity, and shall pay all costs associated with the preparation and registration of all necessary documents and plans, to the satisfaction of the Executive Director, Engineering and Construction Services.
- 4.3.5 The 45 Dunfield Owner shall construct, repair and maintain the POPS Easement, including the clearing of snow and ice, at entirely its sole cost and expense and to the satisfaction of the Executive Director, Engineering and Construction Services.
- 4.3.6 Notwithstanding anything to the contrary which may be herein expressed, the 45 Dunfield Owner shall have the right at all reasonable times to enter upon the lands subject to the POPS Easement for the purpose of maintenance and repair of the POPS Easement or neighbouring lands and structures or appurtenances therein, provided the 45 Dunfield Owner in exercising such right of access, shall not unreasonably interfere with the POPS Easement as granted and shall exercise all reasonable care in conducting its operations and shall restore the lands subject to the POPS Easement to the same or an improved condition, as existed immediately prior to such entry.

Indemnity

- 4.3.7 The 45 Dunfield Owner shall, from time to time and all times hereafter fully indemnify and save harmless the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, from and against all actions, causes of action, suits, claims and other proceedings which may be brought against or made upon the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them, and from and against all loss, liability, judgment, costs, charges, demands, damages or

expenses which the City, its elected officials, officers, employees, agents, their successors and assigns, or any of them may sustain, suffer or be put to resulting from or arising out of:

- a) the failure of the 45 Dunfield Owner to maintain the POPS Easement in accordance with the terms of this Agreement;
- b) the failure of the 45 Dunfield Owner to design, construct or maintain lands and structures supporting the POPS Easement in accordance with the terms of this Agreement; and,
- c) any loss, damage or injury (including death resulting from injury) to any person or property, howsoever caused directly or indirectly, resulting from or sustained by reason of any act or omission of the 45 Dunfield Owner or any person for whom it is in law responsible in connection with any of the purposes set out in the POPS Easement or in this Agreement with respect to the POPS Easement.

Insurance Coverage

4.3.8 The 45 Dunfield Owner shall take out and maintain, at its expense, commercial general liability insurance with respect to the POPS Easement acceptable as to form, limits and conditions to the City for a limit of not less than FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence (such limit to be increased from time to time to reflect an amount which would be maintained by a prudent owner as determined by the City) covering possible, damages, losses, claims and expenses for or in connection with any personal injury, death or property damage that might be incurred on or about the lands subject to the POPS Easement and the insurance policy shall include the City and 77 Dunfield as additional insured. The insurance policy shall include the City as an additional insured and shall contain a cross-liability and severability of interest clause and include contractual liability coverage. The liability insurance policy shall provide that any breach of a condition of the policy by an insured shall not affect protection given by the policy to any other insured. The liability insurance policy shall contain a clause providing that the insurer will not cancel or refuse to renew the said insurance without first giving the City thirty (30) days prior written notice thereof. The 45 Dunfield Owner shall supply the City with satisfactory evidence of such insurance upon request by the City, and a certificate of insurance shall be remitted to the Chief Planner within thirty (30) days of issuance and evidence of continuance shall be remitted to the City at least thirty (30) days prior to the expiration of any insurance policy. The 45 Dunfield Owner shall provide to the City a copy of the insurance policy upon request.

4.4 EXISTING DWELLING UNITS

4.4.1 The 77 Dunfield Owner acknowledges and agrees that as of the date of execution of this Agreement there are one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield comprising a unit mix as set out in Table 1 below:

Table 1					
Unit Mix of Existing Rental Units					Total
Unit Type	Bachelor	1-bedroom	2-bedroom	3-bedroom	
Number of Units	31	108	38	0	177

4.4.2 The 45 Dunfield Owner acknowledges and agrees that as of the date of execution of this Agreement there are five hundred seventy five (575) Existing Units of which two (2) have Affordable Rents and five hundred and forty seven (547) have Mid-Range rents at the Building at 45 Dunfield comprising a unit mix as set out in Table 2 below:

Table 2					
Unit Mix of Existing Rental Units					Total
Unit Type	Bachelor	1-bedroom	2-bedroom	3-bedroom	
Number of Units	134	301	138	2	575

Rental Dwelling Units to be Maintained as Rental

- 4.4.3 The 77 Dunfield Owner covenants and agrees to provide and maintain the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield and the 45 Dunfield Owner covenants and agrees to provide five hundred seventy five (575) Existing Units at the Building at 45 Dunfield as Residential Rental Dwelling Units for a minimum period of twenty (20) years from the Date of Final Approval of the Amending By-laws. The 77 Dunfield Owner and 45 Dunfield Owner covenant and agree as follows:
- a) The 77 Dunfield Owner shall not apply to convert the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield for non-rental housing purposes, nor to demolish any of the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield without replacement as comparable rental units;
 - b) The 45 Dunfield Owner shall not apply to convert the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield for non-rental housing purposes, nor to demolish any of the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield without replacement as comparable rental units;
 - c) The 77 Dunfield Owner and 45 Dunfield Owner shall not apply for approval of a Description with respect to any of the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield or any of the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield respectively, nor to register any of the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield or any of the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield respectively under the *Condominium Act* or any other form of ownership tenure, such as life lease or co-ownership, that provides a right of exclusive possession of a unit.
- 4.4.4 The 77 Dunfield Owner and 45 Dunfield Owner covenant and agree that at such time as the twenty (20) year period has expired, the 77 Dunfield Owner and 45 Dunfield Owner shall continue to provide and maintain the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield and the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield respectively as Residential Rental Dwelling Units unless and until such time as the 77 Dunfield Owner and/or the 45 Dunfield Owner has applied for and obtained final approval of:
- a) A zoning by-law amendment to amend the Amending By-laws so as to delete the requirement that the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield and the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield be maintained as Residential Rental Dwelling Units;
 - b) An official plan amendment and zoning by-law amendment to amend any other applicable policies and provisions which are in force and effect at that time which might otherwise prevent the conversion or demolition of such Residential Rental Dwelling Units;
 - c) Permission under any other applicable by-law(s) and statute(s) which restrict or regulate the demolition or conversion of Residential Rental Dwelling Units; and,
 - d) A Description respecting the Existing Apartment Buildings on the Site.

Application for Approval of Condominium Description

- 4.4.5 Despite any application for or approval of a Description in accordance with Section 4.4.3 and 4.4.4 of this Agreement, the 77 Dunfield Owner and 45 Dunfield Owner covenant and agree that the one hundred seventy seven (177) Existing Units at the Building at 77 Dunfield and the five hundred seventy five (575) Existing Units at the Building at 45 Dunfield respectively shall remain Residential Rental Dwelling Units unless and until such time as the 77 Dunfield Owner and/or the 45 Dunfield Owner have applied for and obtained final approval of a zoning by-law amendment together with such other permission(s) as described in Section 4.4.3 and 4.4.4 of this Agreement.
- 4.4.6 None of the provisions of Sections 4.4.3 and 4.4.5, inclusive, of this Agreement shall be construed so as to imply that any approvals required therein are predetermined in any manner.

No Pass-through of Costs to Tenants

- 4.4.7 The 45 Dunfield Owner agrees that the costs of the improvements to the Existing Apartment Buildings and/or to the grounds of the Site required by Article 4 of this Agreement, and/or improvements to the New Buildings required by Article 4 of this

Agreement shall not be passed on to the tenants of the Existing Apartment Buildings in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in Residential Rent above the Rent Increase Guidelines.

4.4.8 The Parties acknowledge that the Above Guideline Rent Increase, as approved by the Landlord Tenant Board in or about April 2016 to cover the recent retrofitting of the Building at 45 Dunfield's heat and water systems, does not constitute a passing through of costs to Tenants and is permitted notwithstanding Section 4.4.7 of this Agreement

4.4.9 The 45 Dunfield Owner covenants and agrees that the approved Above Guideline Rent Increase will not be implemented for sixteen (16) months after the commencement of construction of either Building A or Building B and will not be applied retroactively, leading to a reduction in the total amount of Above Guideline Rent Increase being charged.

4.5 Residential Units to be Secured

4.5.1 The 45 Dunfield Owner covenants and agrees that Building A shall contain a minimum of two hundred sixty seven (267) New Rental Units and that Building B shall contain a minimum of two hundred fifty two (252) New Rental Units.

4.5.2 The 45 Dunfield Owner covenants and agrees that:

- a) For at least ten (10) years from the date of first occupancy, the 45 Dunfield Owner shall provide and maintain each new Rental Unit as a Rental Unit;
- b) No portion of the Building Addition – Rental shall be registered as units under the *Condominium Act* nor converted to any other form of ownership tenure, such as life lease or co-ownership that provides a right to exclusive possession of a unit, for a period of ten (10) years commencing on the first Commencement Date for the New Rental Units and ending on the tenth anniversary date of such Commencement Date;
- c) The 45 Dunfield Owner shall not make any application to convert any portion of the Building Addition – Rental to a non-rental housing purpose for a period of ten (10) years commencing on the first Commencement Date for the New Rental Units and ending on the tenth anniversary date of such Commencement Date; and,
- d) The 45 Dunfield Owner shall not make any application to demolish any portion of the Building Addition – Rental without replacement for a period of ten (10) years commencing on the first Commencement Date for the New Rental Units and ending on the tenth anniversary date of such Commencement Date.

4.5.3 The 45 Dunfield Owner covenants and agrees that subsequent to the expiry of the Ten Year Period the New Rental Units shall remain Rental Units unless and until such time as the 45 Dunfield Owner has applied for and obtained the necessary approvals (which may include an official plan amendment or zoning by-law amendment) to convert any of the New Rental Units to non-rental tenure and/or to demolish any of the New Rental Units with or without replacement.

4.5.4 Sections 4.5.2 and 4.5.3 of this Agreement shall not be construed so as to imply that any approval required therein are predetermined in any way.

4.6 Common Areas and Improvements to the Site

4.6.1 The 45 Dunfield Owner agrees to provide and maintain the following for the use and enjoyment of tenants of the Building at 45 Dunfield, Building A, and Building B. The configuration, design, furnishings, and final layout shall be determined to the satisfaction of the Chief Planner as part of Site Plan Approval:

- a) The Building at 45 Dunfield
 - (i) An indoor swimming pool and exercise facility of approximately one thousand ninety (1090) square metres that will replace the building's existing pool, sauna, and change rooms. The 45 Dunfield Owner covenants and agrees that the pool and exercise facility shall be ready and available for use no later than the date 85% of the New Rental Units in Building B are available for use and occupancy;
 - (ii) Prior to the issuance of the first Building Permit for the site, a programmed amenity space of two hundred fifty (250) square metres that will replace

the approximately two hundred fifteen (215) square metres storage room on the building's P1 level; and

- (iii) At least one hundred seventy five (175) square metres of existing indoor amenity space; and,
- (iv) Five hundred eighty four (584) bicycle parking spaces. The 45 Dunfield Owner covenants and agrees that bicycle parking spaces shall be ready and available for use no later than the date 85% of the New Rental Units in Building B are available for use and occupancy

b) Building A

- (i) An indoor amenity space of at least one thousand two hundred (1200) square metres, including the same swimming pool referred to in Subsection 4.6.1(a)(i) and new athletic facilities and the appropriate finishing and appurtenances for such facilities to the satisfaction of the Chief Planner. The amenity space can be distributed among the ground level, the second level, or the third level, to the satisfaction of the Chief Planner. The 45 Dunfield Owner covenants and agrees that this amenity space shall be ready and available for use no later than the date 85% of the New Rental Units in Building B are available for use and occupancy;
- (ii) An outdoor amenity space of at least ninety (90) square metres with furnishing and appropriate finishes to the satisfaction of the Chief Planner. The amenity space can be distributed among the ground, second, third, or roof level to the satisfaction of the Chief Planner; and

c) Building B

- (i) An indoor amenity space of four hundred eighty five (485) square metres with furnishing and appropriate finishes to the satisfaction of the Chief Planner to be distributed between the ground floor and P1 level to the satisfaction of the Chief Planner. The 45 Dunfield Owner covenants and agrees that this amenity space shall be ready and available for use no later than the date 85% of the New Rental Units in Building B are available for use and occupancy;
- (ii) An outdoor amenity space of one thousand one hundred and seventy (1170) square metres with furnishing and appropriate finishes to the satisfaction of the Chief Planner to be distributed on the ground level adjacent to the north end of Building B or the roof level, to the satisfaction of the Chief Planner; and
- (iii) A Green roof space of at least three hundred forty eight (348) square metres.

4.6.2 The 77 Dunfield Owner covenants and agrees that none of the costs associated with the improvements to the Building at 45 Dunfield and/or to the grounds of the Site required by Sections 4.1, 4.3, 4.4, 4.5, 4.6, and 5 of this Agreement, and/or to Building A or Building B, shall be passed on to the tenants of the Building at 77 Dunfield in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in Residential Rent above the Rent Increase Guidelines and the 45 Dunfield Owner covenants and agrees that none of the costs associated with the improvements to the Building at 45 Dunfield and/or to the grounds of the Site required by Sections 4.1, 4.3, 4.4, 4.5, 4.6, and 5 of this agreement, and/or to Building A or Building B, shall be passed on to the tenants of the Building at 45 Dunfield in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in Residential Rent above the Rent Increase Guidelines.

4.6.3 Any future land division, including but not limited to a consent, shall include any necessary easements for the tenants at 45 Dunfield, and 77 Dunfield, Building A and Building B, including but not limited to necessary easements to access the swimming pool referred to in Subsections 4.6.1(a)(1) and 4.6.1(b)(i).

4.7 **Construction Mitigation Strategy**

4.7.1 Prior to the issuance of any Building Permit for Buildings, for and subject to the Development Review Process, the 45 Dunfield Owner shall prepare, entirely at its sole cost, a Construction Mitigation Strategy to the satisfaction of the Chief Planner, and the Strategy shall include at the least the following:

- a) An agreement that the construction shall be done in one phase over a period of approximately 30 months, and that construction will occur between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, with possible exceptions in exigent circumstances on Saturdays, such as continuous concrete pours;
- b) The provision of at least one respite room, one of which shall be located in the north end of the Building at 45 Dunfield which Existing Tenants will have access to, at no cost, during the construction of the Development. The respite room shall have access to sunlight and wireless internet;
- c) The provision of two hundred dollars (\$200.00) to every residential unit in the Building at 45 Dunfield for the purchase of an in-window air conditioner that will mitigate dust and construction noise;
- d) The creation of a contingency plan for Existing Tenants of the Building at 45 Dunfield with current outdoor parking passes. The plan will include the provision of passes to the unleased parking in the remaining onsite garage or the provision of a monthly parking pass in other appropriate facilities within close proximity of the Site, if tenant parking cannot be accommodated in the remaining onsite garage for the duration of the disruption to that service;

Rent Abatement

- e) The 45 Dunfield Owner will provide two hundred thousand dollars (\$200, 000) in abatement of the Residential Rent to be paid, or as Residential Rent forgiven as per that tenant's choice in relation to those Existing Rental Units as described in this Agreement and as shown in Schedule "E" on the basis that such abatement shall commence upon the excavation for the construction of the Development, or the exterior construction that starts between May and October, whichever is first, and shall continue without interruption until the 45 Dunfield Owner has spent a total of two hundred thousand dollars (\$200, 000) at which point such abatements shall end and the affected tenants shall resume paying their previous rent;
- f) One month prior to the expected start of the rent abatement, the 45 Dunfield Owner shall mail each Existing Tenant a letter that is to the satisfaction of the Chief Planner and that includes the two hundred dollar (\$200.00) cheque to each tenants at the Building at 45 Dunfield in accordance with section 4.7.1 (c) and that indicates the location of the respite room, the rules and hours of access to that room, the expected hours of construction, the process by which one becomes an eligible Special Needs Tenant, the Existing Tenant's category of rent abatement, and the option of receiving the further rent abatement either as Residential Rent forgiveness or as a monthly stipend, and the expected length of that abatement period;
- g) The Residential Rent for each of the Existing Rental Units within the Building at 45 Dunfield identified in Schedule "E" to this Agreement, shall abate by fifty dollars (\$50.00) per month;
- h) The Residential Rent for each of the Existing Rental Units within the Building at 45 Dunfield identified in Schedule "E" to this Agreement, shall abate by seventy five dollars (\$75.00) per month;
- i) The Residential Rent for each of the Existing Rental Units within the Building at 45 Dunfield identified in Schedule "E" to this Agreement, shall abate by one hundred dollars (\$100.00) per month;
- j) After the 45 Dunfield Owner has provided two hundred thousand dollars (\$200, 000) in rent abatement, the Residential Rent for each of the existing rental units identified on Schedule "E" to this Agreement shall return to its previous residential rental rate as if such abatement had not occurred and the reinstatement of the previous residential rental rate shall not be construed to be a rent increase.

Loss of Pool Strategy

- k) The 45 Dunfield Owner shall inform Regular User Tenants one month prior to the closure of the indoor swimming pool of the expected closure and duration and to provide the following options to those regular users of the pool to the Chief Planner's satisfaction:

- (i) A monthly pass to a City of Toronto Community Facility for each month that the indoor swimming pool is not available; or,
 - (ii) The equivalent of the cash value of such a pass to be paid to the Regular User Tenant or as an additional abatement of Residential Rent in the same amount for each month that the indoor swimming pool is not available.
- l) For the purpose of this section, Regular User Tenant means a tenant who has used the pool more than once a month for the three months previous to the closure of the pool.

Construction Mitigation Strategy for Tenants with Special Needs

- l) A Construction Mitigation Strategy for Special Needs Tenants will be created on a case-by-case basis. At a minimum, it will require the 45 Dunfield Owner, based on unit availability, to offer to Eligible Tenants, who will accept at their own discretion, alternate rental accommodation in accordance with the *Residential Tenancies Act*, to the satisfaction of the Chief Planner, with no pass through of costs to the Eligible Tenants and/or Existing Tenants, and subject to the following:
- (i) The 45 Dunfield Owner agrees to use reasonable commercial efforts to make available to Special Needs Tenants Existing Units that are vacant in the Building at 45 Dunfield, subject to the following criteria:
 - i. All Special Needs Tenants will be offered the opportunity to indicate a preference to be relocated within the Building at 45 Dunfield;
 - ii. The 45 Dunfield Owner shall offer such available rental units to such Eligible Tenants, in order of seniority by length of tenure at the Building at 45 Dunfield, and to facilitate this order of priority, the 45 Dunfield Owner shall draw up a list of Eligible Tenants in order of seniority, having given each Eligible Tenant the opportunity to confirm the month and year of his or her initial occupancy in the Building at 45 Dunfield;
 - iii. The 45 Dunfield Owner may vary the order of priority set out in Subsection of this Agreement to provide priority for any tenants identified as Special Needs Tenants pursuant to Subsection 4.7.1(m), if their preferences might otherwise not be able to be accommodated by virtue of their position on the order of priority based on seniority;
 - iv. The 45 Dunfield Owner shall use reasonable commercial efforts to make available to Special Needs Tenants units that are the same unit type the Special Needs Tenants currently occupy by bedroom;
 - v. The 45 Dunfield Owner agrees that a Special Needs Tenant is free to accept or reject an offered rental unit and proposed rent, and that if acceptable to the Special Needs Tenant, the provisions of Subsection 4.7.1 (l) of this Agreement shall apply;
 - vi. If the Special Needs Tenant accepts an offered rental unit, she or he shall sign and assume a new month to month lease as though the lease from the previous unit was uninterrupted;
 - vii. Where the 45 Dunfield Owner offers and the Special Needs Tenant accepts such alternate rental accommodation in accordance with Subsection 4.7.1 (l) of this Agreement, the Special Needs Tenant shall be entitled to the 45 Dunfield Owner's maintenance team conducting the physical move into the new unit, at no cost to the Special Needs Tenant.
- m) For the purposes of this Agreement, Special Needs Tenants are Tenants who meet one or more of the following criteria which shall be supported by reasonable documentary evidence supporting the tenant's eligibility provided by the tenant:
- (i) Have resided in the Building at 45 Dunfield for a minimum of 15 years at the time a building permit is issued;

- (ii) Are at least sixty-five (65) years of age; or,
- (iii) By reason of a physical, family, or mental health condition, have special needs for additional relocation assistance.

4.7.2 In the event of a dispute between the 45 Dunfield Owner and an Eligible Tenant regarding whether or not the Eligible Tenant qualifies as a Special Needs Tenant, the final determination shall be made by the Chief Planner.

4.7.3 The 45 Dunfield Owner agrees that the Construction Mitigation Strategy may be amended from time to time at the request of the 45 Dunfield Owner, but only with the written consent of the Chief Planner.

4.8 Tenant Communication Strategy

4.8.1 Prior to the issuance of any Building Permit for the Development, in and subject to the Development Review Process, the 45 Dunfield Owner shall prepare, at its sole expense, a Tenant Communication Strategy to the satisfaction of the Chief Planner, and the Strategy shall include at least the following:

- a) A requirement to give at least one week's notice to affected tenants when access to parking or sidewalks will be temporarily interrupted, affected or eliminated, and except in the case of an emergency to give at least forty eight (48) hours notice to affected tenants when water or electricity will be temporarily interrupted, affected, or eliminated;
- b) An approach to identifying and mitigating, if possible, potential negative impacts of demolition and construction activity;
- c) Provisions for supplying tenants with emergency contact numbers, in particular during nights and weekends, for noise and other construction-related complaints; and,
- d) A strategy for ongoing communication with all tenants on-site during periods of demolition or construction activity, in order to provide updates and advance notice, where possible, of construction-related issues. This strategy shall include at a minimum:
 - (i) the 45 Dunfield Owner preparing a monthly newsletter, regularly updating its blog, and posting service interruption notices in the lobbies of the Building at 45 Dunfield and the Building at 77 Dunfield;
 - (ii) The Concierges of the Building at 45 Dunfield and of the Building at 77 Dunfield having available, during regular hours, the full construction strategy and the current plans for construction stages; and
 - (iii) The 45 Dunfield Owner holding quarterly meetings with the tenants of the Building at 77 Dunfield and the Building at 45 Dunfield, for the purposes of summarizing the construction to date, providing updates on upcoming construction plans, and answering Existing Tenants' questions.

4.8.2 The 45 Dunfield Owner shall comply with all municipal noise by-laws with respect to the operation of any equipment or in connection with any construction on the site.

4.8.3 The parties agree that the Tenant Communication Strategy may be amended from time to time at the request of the Owners, but only with the written consent of the Chief Planner.

4.9 Miscellaneous Matters

4.9.1 Six (6) months prior to the issuance of the Final Building Permits for the New Buildings, the tenants of the Building at 45 Dunfield will be informed electronically and by letter of the upcoming completion and will be given the opportunity to review the floorplans for units and the opportunity to sign a lease in the New Buildings up to three (3) months prior to expected occupancy. All pertinent regulations under the *Residential Tenancies Act* will apply to those leases.

5. GREEN STANDARD

5.1 The 45 Dunfield Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard.

6. DEVELOPMENT CHARGES, PARK LEVY AND CONTRIBUTIONS

- 6.1 The City and the 45 Dunfield Owner acknowledge and agree that, the facilities, services and matters to be provided to the City pursuant to this Agreement do not:

The remainder of this page is intentionally left blank.

- a) constitute Development Charges nor do they qualify for a development charge credit under the Development Charges By-law No. 275-2009 or any successor by-law, or
- b) constitute a parks levy payment pursuant to Section 42 of the *Planning Act*.

6.2 The 45 Dunfield Owner acknowledges and agrees that any payments or contributions made to the City pursuant to this Agreement are separate and distinct from any other payment the 45 Dunfield Owner may be liable for pursuant to the *Planning Act* or other applicable legislation, including but not limited to the aforesaid Development Charges or park levy payments pursuant to Section 42 of the *Planning Act* and *Development Charges Act*. The 45 Dunfield Owner further acknowledges that the 45 Dunfield Owner may be required to make such other payments or pay such other charges as may be applicable in addition to the contributions made pursuant to this Agreement.

7. LEGAL AUTHORITY

- 7.1 The City represents and the Owners acknowledge that the City has the legal authority to adopt and pass the Zoning By-law Amendments substantially in the form attached as Schedule "B", and to enter into this Agreement with the Owners.
- 7.2 The Owners on behalf of themselves and their successors and assigns, acknowledge and agree that they shall be stopped from contesting, before any Court of competent jurisdiction, the power or authority of the City to adopt or enact the Zoning By-law Amendments and to enter into this Agreement.

8. COMPLETION AND UNWINDING

8.1 Subject to Section 8.4 of this Agreement, this Agreement shall be effective, enure to the benefit of and be binding upon the Parties hereto, and their respective heirs, executors, administrators, successors and assigns on and after the date of execution of this Agreement. On the Final Confirmation Date, the City and/or the Owners shall give notice in writing to the other Party that the Final Confirmation Date has occurred, and upon either Party hereto giving such notice, Section 8.4 of this Agreement shall have no further effect. In the event no such notice is given within thirty (30) days after the Final Confirmation Date, Section 8.4 shall have no further effect.

8.2 For the purposes of this Agreement, the terms:

- a) the "**Final Confirmation Date**" shall mean the second (2nd) business day, other than a Saturday, following the later of:
 - i) the Date of Final Approval of the Amending By-law, and
 - ii) such other date as may be agreed to by the Parties hereto, provided that the occurrence of the Final Confirmation Date in accordance with the foregoing shall be expressly conditional upon such Amending By-law being approved, in force, and/or in effect in accordance with this Section on the Final Confirmation Date;
- b) the "**Date of Final Approval of the Amending By-laws**" means the first day upon which all of the provisions of the Amending By-laws have actually come into force and effect, with all applicable appeal or rehearing periods having lapsed with no appeals nor rehearing requests to the OMB, and/or Applications to Court having been launched with respect thereto or with any such appeals or rehearing requests to the OMB and/or Applications to Court having been finally determined in favour of the Amending By-law, so that a Building Permit(s) would be issued by the Chief Building Official for the City, permitting the construction contemplated by the Amending By-law to the heights and densities as permitted thereunder, upon the Owners obtaining all requisite approvals, submitting the appropriate applications for a Building Permit(s), and paying the requisite application fees;
- c) "**Application to Court**" means an application for leave to appeal, an appeal, an application for judicial review, an application to quash pursuant to the *City of*

Toronto Act, 2006, and includes an appeal(s) from a Decision or Order in respect of any of these which are made to a Court; and

- d) **"Final Disposition"** means any of the following events:
- i) the issuance of an Order of the OMB finally disposing of the Amending By-law, which rejects the Amending By-law or certain parts thereof, or results in certain amendments to the Amending By-law;
 - ii) the issuance of an Order of the OMB which follows a rehearing by the OMB finally disposing of the Amending By-law, which rejects the Amending By-law or certain parts thereof, or results in certain amendments to the Amending By-law;
 - iii) the issuance of an Order of the Court which finally disposes of an Application to Court and rejects the Amending By-law or certain parts thereof, or results in certain amendments to the Amending By-law.

Unwinding of this Agreement

- 8.3 The date of unwinding of this Agreement, should such occur ("**Unwinding Date**"), shall be the earlier to occur of:
- a) the date of Final Disposition of the Amending By-law if the Final Disposition rejects the Amending By-law; and
 - b) the date of expiry of the sixty (60) day period specified in a written notice of termination, which is given pursuant to Sections 8.4, 8.5, and 8.6 of this Agreement ("**Notice of Termination**").
- 8.4 At any time within thirty (30) days from the date of the occurrence of a Final Disposition of the Amending By-law (which results in the Amending By-law coming into force or effect with modification(s) or amendment(s) thereto), then sixty (60) days written Notice of Termination may be given by either the City or the Owners to the other. Unless the City and the Owners otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendment(s) shall be deemed to be "**Permitted Amendments**" for the purposes of this Agreement.
- 8.5 If, as a result of being required to do so by the Final Disposition of the Amending By-law, Council passes, or adopts a modification(s) or amendment(s) to the Amending By-law which is not one of the Permitted Amendments pursuant to Section 8.4 of this Agreement then, at any time within thirty (30) days from the date of the giving of notice of the passing or adoption of such amendment(s) or modification(s) by the City to the Owners, sixty (60) days written Notice of Termination may be given by either the City or the Owners to the other. After passing or adopting one of the aforesaid amendment(s) or modification(s), the City shall forthwith give notice thereof to the Owners. Unless the City and the Owners otherwise agree, the Unwinding Date shall occur on the expiry of the sixty (60) day period specified in such Notice of Termination. If a Notice of Termination is not given in accordance with this Section, the modification(s) or amendment(s) shall be deemed to be one of the Permitted Amendments for the purposes of this Agreement.
- 8.6 If the Final Confirmation Date has not occurred on or before December 31, 2017 then written Notice of Termination may be given by either the City or the Owners to the other. Unless on or prior to the expiry of sixty (60) days after the date on which such Notice of Termination was given to such other Party, either the Date of Final Approval of the Amending By-law occurs, or the City and the Owners hereto otherwise agree, the Unwinding Date shall occur on the expiry of such sixty (60) day period.
- 8.7 On or after the occurrence of the Unwinding Date, the Owners, at the Owners' expense, may expunge registration of this Agreement by appropriate means according to the requirements of the registry system pertaining to the affected property and the City shall co-operate with all requests of the Owners, acting reasonably, in such respect, including the execution of releases and quit claims in suitable form for registration.
- 8.8 Without fettering City Council in any way in the exercise of its discretionary powers, on or after the occurrence of the Unwinding Date, Council may repeal or amend the Amending By-law with the object of restoring the provisions of the Zoning By-laws

applicable to the Site to the state they were in on the day immediately prior to the date of the passing of the Amending By-law. With respect to any repealing or Amending By-law(s) passed pursuant to this Section either on or after the occurrence of the Unwinding Date, the Owners covenant and agree that they will not object to the passing, approval, or coming into force and effect of such rescinding By-law(s).

- 8.9 On the occurrence of the Unwinding Date, the Chief Financial Officer and Treasurer of the City shall return any cash or letters of credit deposited by the 45 Dunfield Owner pursuant to this Agreement.

9. ENUREMENT

- 9.1 This Agreement shall enure to the benefit of, and be correspondingly binding upon, the Parties and their respective successors and assigns with respect to all or any portion of the Site.

- 9.2 Notwithstanding anything in this Agreement to the contrary, in the event the City acquires any part of the Site for any municipal purpose, including road widening, the City shall not be bound by this Agreement as an owner.

10. REGISTRATION OF AGREEMENT

- 10.1 The Owners hereby consent, at their sole expense, to the registration of this Agreement against the title to the lands comprising the Site; provided, however, that in the event that this Agreement is terminated pursuant to the provisions of Section 8 of this Agreement, then the City shall forthwith execute all requisite documents or assurances in order to discharge and delete the registration of this Agreement from the title to the lands comprising the Site.

11. TITLE/POSTPONEMENTS

- 11.1 The Owners hereby agree to procure and provide to the City any postponement agreements which the City Solicitor considers necessary to ensure that this Agreement shall have priority over any other interest, other than the fee simple interest and the permitted encumbrances, in the Site.
- 11.2 The Owners shall, at their sole expense, provide to the City prior to registration of this Agreement against the title to the Site hereof, a title opinion for the Agreement from the Owners' solicitors, addressed to the City, in a form satisfactory to the City Solicitor.

12. FURTHER ASSURANCES

- 12.1 The Parties covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts so as to effectively implement and carry out the true intent and meaning of this Agreement.

13. NOTICES

- 13.1 Any notices required or desired to be given to any of the Parties in connection with this Agreement, or arising therefrom, shall be in writing and shall be personally delivered or sent by facsimile transmission or other means of instantaneous transmission in regular commercial usage at such time, verified by a transmission report as follows:

- a) To the Owners at:

Shiplake Dunfield Ltd. and
Shiplake Properties Ltd.
20 Eglinton Avenue West, Suite 1700
Toronto, ON M4R 1K8

- b) To the City at:

City Solicitor
55 John Street
26th Floor, Metro Hall
Toronto ON M5V 3C6

Fax: 416-397-4420

- 13.2 Any notice shall be deemed to have been given and received on the date that same is given and received, or if not a business date, on the next business day.
- 13.3 Any Party may, from time to time, by written notice sent to the other Parties, in accordance with the foregoing provisions, change the address or facsimile number to which its notices are to be delivered or transmitted (as the case may be).

14. INDEMNITY

- 14.1 The 45 Dunfield Owner, with respect to its obligations under this Agreement, and the 77 Dunfield Owner, with respect to its obligations under this Agreement, will well and truly save, defend and keep harmless and fully indemnify the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which may be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the City, its elected officials, officers, employees and agents, or any of them, by reason of, or on account of, or in consequence of the fulfillment by the 45 Dunfield Owner or the 77 Dunfield Owner, as the case may be, of its obligations under this Agreement including the default or breach by the Owners of its obligations under this Agreement or by reason of any negligence or willful default of the Owners, its officers, employees, agents or persons acting under its direction in connection with the Owners' obligations hereunder. The 45 Dunfield Owner or the 77 Dunfield Owner, as the case may be, will pay to the City and to each such elected official, officer, employee or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the City or by any of its elected officials, officers, employees and agents in consequence of any such action, suit, claim, lien, execution or demand and any monies paid or payable by the City or any of its elected officials, officers, employees or agents in settlement of or in discharge or on account thereof. The 45 Dunfield Owner and the 77 Dunfield Owner release the City and each of its elected officials, officers, employees and agents of, from and against all manner of actions, suits, claims, executions and demands which could be brought against or made upon the City, its elected officials, officers, employees and agents or any of them and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the 45 Dunfield Owner or the 77 Dunfield Owner by reason of, or on account of, or in consequence of the fulfillment of their respective obligations or exercise of their respective powers under this Agreement, provided, however, that such release shall not apply to any loss, costs, charges, damages, liens and expenses incurred by the 45 Dunfield Owner or the 77 Dunfield Owner arising from the gross negligence and/or willful misconduct of the City, its officers, employees, agents or persons for whom it is responsible in law. Any amounts owing to the City pursuant to the obligation of the Owner to indemnify the City pursuant to the terms of this Agreement may be collected by the City, in addition to any other remedies it may have, as taxes with all such amounts to be payable as directed by City Council pursuant to Section 264 of the *City of Toronto Act*, 2006.
- 14.2 The obligations of the 45 Dunfield Owner and the 77 Dunfield Owner to indemnify and release the City under the provisions of this Agreement shall survive any termination or release in whole or in part of this Agreement, anything in this Agreement to the contrary notwithstanding.

15. SEVERABILITY

- 15.1 If any covenant or provision, except for Section 8 of this Agreement, including all or any part of this clause, is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and all other provisions hereof shall continue in full force and effect.
- 15.2 Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable in order to effectively implement and carry out the true intent and meaning of this Agreement.

16. JURISDICTION TO ENTER INTO AGREEMENT

- 16.1 This Agreement is entered into pursuant to Subsection 37(3) of the *Planning Act*. If this Agreement is determined by a Court of competent jurisdiction to be illegal or beyond the

power and jurisdiction of the City, and appeals from such decision have been exhausted, the Owners and the City agree that the Amending By-law may be repealed by the City, and the Owners covenant and agree not to oppose or question or cause to be opposed or questioned, the repeal thereof.

- 16.2 Notwithstanding Section 16.1 of this Agreement, if any individual provision(s) of this Agreement is or are determined by a Court of competent jurisdiction to be illegal or beyond the power, jurisdiction, or capacity of any Party bound hereby, such provision(s) shall be severed from this Agreement if both the Owners and the City agree, and the remainder of the Agreement shall continue in full force and effect, *mutatis mutandis*; and in such case, the Owners and the City agree to negotiate in good faith to amend this Agreement in order to implement the intentions as set out herein. If the Owners and the City cannot agree that such provision or provisions shall be severed, the City may repeal the Amending By-law and the provisions of Section 19.1 of this Agreement shall apply to such repeal.
- 16.3 It is agreed and acknowledged by the Parties hereto that each is satisfied as to the jurisdiction of the City to pass the Amending By-law and each Party hereto is satisfied as to the jurisdiction of the other to enter into this Agreement. The Owners therefore covenant and agree that they shall not question the jurisdiction of the City to enter into this Agreement, nor question the legality of any portion thereof, and likewise the City agrees it shall not question the jurisdiction of the Owners to enter into this Agreement nor question the legality of any portion hereof. The Parties hereto, their successors, assigns, lessees and sub-lessees are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction.

17. INTERPRETATION

- 17.1 The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.
- 17.2 Reference to an official of the City in this Agreement is deemed to include a reference to the official of the City who performs the duties of the referenced official from time to time.
- 17.3 Whenever the provisions of this Agreement require an approval or consent of any official of the City, the approval or consent may alternatively be given by City Council or such other official as City Council may direct or is otherwise empowered to act.
- 17.4 This Agreement shall be construed with all changes in number and gender as may be required by the context.

18. FORCE MAJEURE

- 18.1 Notwithstanding anything in this Agreement to the contrary, if the Owners or the City are *bona fide* delayed in or prevented from performing any obligation arising under this Agreement by reason of strikes or other labour disturbances, civil disturbance, material shortage, restrictive government laws, regulations or directives, acts of public enemy, war, riots, sabotage, crime, lightning, earthquake, fire, hurricane, tornado, flood, explosion or other act of God, then the performance of such obligation is excused for so long as such cause exists, and the party so delayed shall be and is entitled, without being in breach of this Agreement, to carry out such obligations within the appropriate time period after the cessation of such cause.
- 18.2 Nothing in Section 18.1 shall operate to excuse the 45 Dunfield Owner from the prompt payment of cash to the City in accordance with the terms of this Agreement.

19. GOVERNING LAW

- 19.1 This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and of Canada applicable thereto, and the Parties submit to the jurisdiction of the courts of the Province of Ontario.

- 19.2 Any reference in this Agreement to any law, statute, regulation, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time, or as a reference to any successor thereto.

20. CHIEF BUILDING OFFICIAL

- 20.1 The Parties agree that wherever the provisions of this Agreement permit the City to refuse to process a Building Permit such provisions shall apply equally to the City's Chief Building Official.

21. SPECIFIC PERFORMANCE

- 21.1 The Owners acknowledges that any breach of this Agreement by the Owners would not be adequately compensated by payment of damages and, accordingly, the Owners admit that specific performance is an appropriate form or remedy in the event of default by the Owners.

22. TAXES

- 22.1 The 45 Dunfield Owner covenants and agrees to pay, and fully indemnify the City and 77 Dunfield in respect of any taxes, including the *Excise Tax Act* (goods and services tax) associated with the benefit to the City of any facility, service, matter or thing referenced in this Agreement and provided to the City for the benefit of the City by the 45 Dunfield Owner, including any service, matter or thing required under Section 37 of the *Planning Act* provided:

- a) such indemnity shall be net of any rebate available to the City; and
- b) the 45 Dunfield Owner may defend against the imposition of such taxes in the name of the City provided that the 45 Dunfield Owner may, in such event, elect to pay and satisfy any such claim for taxes in such event the City shall inform the 45 Dunfield Owner fully of such claim for taxes and shall offer the 45 Dunfield Owner every co-operation in the defence of said claim for taxes.

For clarity, the Parties acknowledge and agree that as at the date of execution of this Agreement the Parties have not determined whether goods and services tax will be eligible upon the said facilities, services, matters and things and agree that in the event the goods and services tax is eligible the 45 Dunfield Owner will be responsible for the payment thereof and will fully indemnify and save harmless the City with respect thereto.

- 22.2 Upon the request of the 45 Dunfield Owner, the City agrees that it shall provide the relevant, if any, HST/GST registration number for a particular department or agency of the City.

23. FACILITIES, WORKS AND MATTERS

- 23.1 The 45 Dunfield Owner agrees that certain facilities, works, matters and payments required by this Agreement shall be provided and maintained by the 45 Dunfield Owner at its sole risk and expense and to the satisfaction of the City. In addition, the 45 Dunfield Owner agrees, that upon failure by it to do any act that is required by this Agreement, the City may, in addition to any other remedy under this Agreement, enter upon the Site if necessary and do the said act at the 45 Dunfield Owner's expense and collect the cost in like manner as municipal taxes as provided for in Section 386 of the *City of Toronto Act, 2006*.

24. TIME OF THE ESSENCE

- 24.1 Time is of the essence of this Agreement and every part of this Agreement, and no extension or variation of this Agreement shall operate as a waiver of this provision.

25. **EFFECTIVE DATE**

25.1 This Agreement shall be effective from and after the earlier of the signing of this Agreement by the City, or by their duly authorized delegates, and the Final Confirmation Date.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date written above.

EXECUTED at Toronto, this ^{6th} day of ~~January~~; February 2017.

SHIPLAKE DUNFIELD LTD.

Per: 

Name: Stephen Bloom
Title: Executive Vice-President and Secretary

I have the authority to bind the corporation.

SHIPLAKE PROPERTIES LTD.

Per: 

Name: Stephen Bloom
Title: Executive Vice-President and Secretary

I have authority to bind the corporation:

APPROVED AS TO FORM


For Brian Haley,
Interim City Solicitor

CITY OF TORONTO

Per: 

Marilyn M. Toft
for Ulli S. Watkiss

Name: Ulli Watkiss
Title: City Clerk

Per: 

Name: Roberto Rossini
Title: Deputy City Manager and Chief Financial Officer

We have authority to bind the corporation.

Authorized by Toronto and East York Community Council Item TE13.5 adopted, by City Council at its meeting of February 3 and 4, 2016..

City Clerk


Marilyn M. Toft
for Ulli S. Watkiss
City Clerk

Authorized by MM 18-12
by Councillor Josh Matlow
seconded by Councillor
Gord Banks & adopted
at City Council
on May 3, 4 & 5, 2016


Marilyn M. Toft
for Ulli S. Watkiss
City Clerk

SCHEDULE "A"

LEGAL DESCRIPTION OF SITE

Municipal Address: 45 Dunfield Avenue, Toronto, ON

PART LOTS 11 TO 15 INCLUSIVE, LOTS 16 TO 32 INCLUSIVE, BLOCK E, PLAN 653Y, NORTH YORK, DESIGNATED AS PARTS 11, 12, 13, 14, AND 15 ON PLAN 66R-23094; T/W AN EASEMENT OVER PART OF LOTS 8 TO 15 (INCLUSIVE), PLAN 653Y, DESIGNATED AS PARTS 4, 5, 6, 7, 8, 9 & 10 ON PLAN 66R23094 FOR THE PURPOSE AS DESCRIBED IN AT1596964; T/W AN EASEMENT OVER PART OF LOTS 8 TO 15 (INCLUSIVE), PLAN 653Y, DESIGNATED AS PARTS 4, 5, 6, 7, 8, 9 & 10 ON PLAN 66R23094 FOR THE PURPOSE AS DESCRIBED IN AT1596964; T/W AN EASEMENT OVER PART OF LOTS 8, 9, 10, 11, 12, 14 AND 15 ON PLAN 653Y, DESIGNATED AS PARTS 5, 6, 7 AND 10 ON PLAN 66R23096, FOR THE PURPOSE AS DESCRIBED IN AT1596964; T/W AN EASEMENT OVER PART OF LOTS 8 TO 14 (INCLUSIVE), PLAN 653Y, DESIGNATED AS PART 3, PLAN 66R23094, FOR THE PURPOSE AS DESCRIBED IN AT1596964; T/W AN EASEMENT OVER LOT 9 AND PART OF LOTS 8, 10, 11, 12, 13, 14 AND 15 ON PLAN 653Y, DESIGNATED AS PARTS 2, 3, 4, 5, 6, 7, 8, 9 AND 10 ON PLAN 66R23094, FOR THE PURPOSE AS DESCRIBED IN AT1596964; S/T AN EASEMENT OVER PART OF LOTS 11 TO 24 (INCLUSIVE) AND PART OF LOTS 26 TO 30 (INCLUSIVE), PLAN 653Y, DESIGNATED AS PARTS 12 AND 13 ON PLAN 66R23094, IN FAVOUR OF THE OWNERS OF THE LANDS DESCRIBED AS LOT 9 AND PART OF LOTS 8, 10, 11, 12, 13, 14 AND 15 ON PLAN 653Y, DESIGNATED AS PARTS 2 TO 10 ON PLAN 66R23094, FOR THE PURPOSE AS DESCRIBED IN AT1596964; S/T AN EASEMENT OVER PART OF LOTS 11 TO 24 (INCLUSIVE) AND PART OF LOTS 26 TO 30 (INCLUSIVE), PLAN 653Y, DESIGNATED AS PARTS 12 AND 13, PLAN 66R23094 IN FAVOUR OF THE OWNERS OF LANDS DESCRIBED AS LOT 9 AND PART OF LOTS 8, 10, 11, 12, 13, 14 AND 15 ON PLAN 653Y, DESIGNATED AS PARTS 2 TO 10 ON PLAN 66R23094, FOR THE PURPOSE AS DESCRIBED IN AT1596964; S/T AN EASEMENT OVER PART OF LOTS 15, 18 AND 19, PLAN 653Y, DESIGNATED AS PART 14 ON PLAN 66R23094, IN FAVOUR OF THE OWNERS OF LANDS DESCRIBED AS LOT 9 AND PART OF LOTS 8, 10, 11, 12, 13, 14 AND 15 ON PLAN 653Y, DESIGNATED AS PARTS 2 TO 10 ON PLAN 66R23096, FOR THE PURPOSE AS DESCRIBED IN AT1596964. CITY OF TORONTO.

Municipal Address: 77 Dunfield Avenue, Toronto, ON

Lot 9 and Part of Lots 8, 10, 11, 12, 13, 14 and 15 on Plan 653Y, designated as Parts 2, 3, 4, 5, 6, 7, 8, 9 and 10 on Plan 66R-23094; Together with an easement over Part of Lots 11 to 24 (inclusive) and part of Lots 26 to 30 (inclusive), Plan 653Y, designated as Parts 12 and 13, Plan 66R-23094 for the purpose as described in Instrument No. AT1596964; Together with an easement over Part of Lots 11 to 24 (inclusive) and Part of Lots 26 to 30 (inclusive), Plan 653Y, designated as Parts 12 and 13, Plan 66R-23094 for the purpose as described in Instrument No. AT1596964; Together with an easement over Part of Lots 15, 18 and 19, Plan 653Y, designated as Part 14 Plan 66R-23094 for the purpose as described in Instrument No. AT1596964; Subject to an easement over Part of Lots 8 to 15 (inclusive), Plan 653Y, designated as Parts 4, 5, 6, 7, 8, 9 and 10, Plan 66R-23094 in favour of the owners of lands legally described as Part of Lots 11, 12, 13, 14 and 15 and All of Lots 16 to 32 (inclusive), Plan 653Y, designated as Parts 11, 12, 13, 14 and 15 on Plan 66R-23094, for the purpose as described in Instrument No. AT1596964; Subject to an easement over Part of Lots 8 to 15 (inclusive), Plan 653Y, designated as Parts 4, 5, 6, 7, 8, 9 & 10 on Plan 66R23094, in favour of the owners of the lands described as Lots 11, 12, 13, 14 and 15 and All of Lots 16 to 32 (inclusive), Plan 653Y, designated as Parts 11, 12, 13, 14 and 15 on Plan 66R-23094, for the purpose as described in Instrument No. AT1596964; Subject to an easement over Part of Lots 8, 9, 10, 11, 12, 14 & 15 Plan 653E, designated as parts 5, 6, 7 & 10 plan 66R23094 in favour of the owners of lands described as Lots 11, 12, 13, 14 and 15 and All of Lots 16 to 32 (inclusive), Plan 653Y, designated as Parts 11, 12, 13, 14 and 15 on Plan 66R-23094, in favour of the owners of lands described as parts 11, 12, 13, 14 and 15 Plan 66R23094. For the purpose as described in AT1596964; Subject to an

Easement over Lot 9 and Part of Lots 8, 10, 11, 12, 13, 14 & 15 on Plan 653Y, designated as parts 2, 3, 4, 5, 7, 8, 9 & 10 on Plan 66R23094, in favour of the owners of lands described as Lots 11, 12, 13, 14 & 15 and all of lots 16 to 32 (inclusive) on plan 653Y, described as parts 11, 12, 13, 14 and 15 on Plan 66R-23094, for the purpose as described in Instrument No. AT1596964. City of Toronto; subject to an Easement in favour of Lot 9 and Part Lots 8, 10, 11, 12, 13, 14 & 15 PLAN 653Y Designated as Parts 2 to 10 Plan 66R23094 as in AT2121546.

SCHEDULE "B"

Amendment to the Zoning By-law No. 438-86

Authority: Toronto and East York Community Council Item TE13.5, as adopted by City of Toronto Council on February 3 and 4, 2016

CITY OF TORONTO

Bill No.

BY-LAW No. -2016

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known in 2016 as 45-77 Dunfield Avenue.

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;

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*;

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*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas Subsection 37(3) of the *Planning Act* provides that, where an owner of land 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 aforesaid lands has elected to provide the facilities, services, and matters hereinafter set out; and

Whereas the increase in the density and height permitted beyond that otherwise permitted in the aforesaid lands by By-law No. 438-86, 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 by the owner of such land and the City of Toronto (hereinafter referred to as the "City"); and

The Council of the City of Toronto enacts:

1. By-law No. 546-2002 of the City of Toronto is hereby repealed;
2. None of the provisions of Section 2 with respect to '*height*', '*grade*', '*bicycle parking space - occupant*' and '*bicycle parking space - visitor*' and Section 4(2), 4(4), 4(6)c, 4(12), 4(13), 4(17), Section 6(2)12(iii), Section 6(2)12iv, Section 6(3) Part I 1, Section 6(3) Part II 2, Section 6(3) Part II 3.A(II), Section 6(3) Part II 4, Section 6(3) Part II 5, Section 6(3) Part III 1(b), Section 12(2) 118(iv), and Section 12(2)119(iii) of Zoning By-law No. 438-86, 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", as amended, shall apply to prevent the erection and use of an apartment building or daycare, including uses accessory thereto, on the *lot* provided that:
 - (a) the *lot* consists of those lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the total *residential gross floor area* erected or used on the *lot* shall not exceed 90,000 square metres;
 - (c) the minimum total area for a 52 child *day nursery* erected or used on the lot is 531 square metres of interior space and a minimum of 254 square metres of exterior space;

- (d) no part of any building or structure erected within the *lot* shall be located above grade otherwise than wholly within the areas delineated by heavy lines on Map 2;
- (e) except where a heavy line shown on Map 2 is contiguous with the boundary of the *lot*, nothing in Section 2(d) hereof shall prevent the following elements from projecting beyond the heavy lines shown on Map 2:
 - (i) eaves, cornices, lighting fixtures, fences and safety railings, trellises, balustrades, chimneys, vents, 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, stair landings, decks, planters, and public art features;
 - (ii) balconies to a maximum horizontal projection of not more than 1.5 metres; and
 - (iii) canopies to a maximum horizontal projection of not more than 1.5 metres;
- (f) no part of any building or structure to be erected on the *lot* shall exceed the height limits in metres specified by the numbers following the symbol "H" as shown on Map 2;
- (g) nothing in Section 2(f) of this By-law shall prevent the erection or use of the building elements or structures identified in Section 4(2)(a)(i) of By-law No. 438-86, as amended;
- (h) a minimum of 27 percent of the lot area shall be maintained as *landscaped open space*;
- (i) the minimum supply of bicycle parking spaces shall be provided according in accordance with the following rates:
 - (i) a minimum of 1.0 *bicycle parking spaces – occupant per dwelling unit*;
 - (ii) a minimum of 0.2 *bicycle parking spaces - visitor per dwelling unit*;
 - (iii) a minimum of 0.2 *bicycle parking spaces - occupant per 100 square metres of non-residential gross floor area*;
 - (iv) a minimum of 6 *bicycle parking spaces – visitor for non-residential uses*;
- (j) despite the definition of *bicycle parking spaces – visitor*, bicycle parking spaces required for visitors may also be provided in a *stacked bicycle parking space*;
- (k) not more than 50 percent of *bicycle parking spaces – occupant* shall be provided in a manner that requires a person to park the bicycle in a vertical position;
- (l) a maximum of 174 parking spaces located in the existing underground garage may be a minimum of 2.2 metres in width and 5.9 metres in length, the remaining parking spaces on the *lot* will be 2.6 metres in width and 5.9 metres in length;
- (m) the minimum driveway widths for two-way operation in the existing underground garage shall be 4.5 metres in width at the loading space, and a minimum of 5.12 metres for the driveway aisle in the remaining basement garage;
- (n) a minimum of 1 *loading space – Type G*, having a length of 3.5 metres in width (4 metres where enclosed) by 13 metres in length will be provided on the *lot*;
- (o) the following provisions are complied with on *Parcel A* as delineated on the attached Map 1:
 - (i) the minimum number of *parking spaces* that shall be provided and maintained, to serve the employees, residents and their visitors shall be in accordance with the following ratios:
 - (ii) a total of 0.3 parking spaces for each *dwelling unit*, of which 0.1 parking spaces for each *dwelling unit* will be for the use of visitors;

- (iii) a minimum of 216 square metres of indoor *residential amenity space* shall be provided and maintained on *Parcel A*;
 - (iv) a minimum of 216 square metres of outdoor *residential amenity space* shall be provided and maintained on *Parcel A*;
 - (p) the following provisions are complied with on *Parcel B* as delineated on the attached Map 1:
 - (i) the minimum number of *parking spaces* that shall be provided and maintained, to serve the employees, residents and their visitors shall be in accordance with the following ratios:
 - (ii) 0.35 *parking space* for each *bachelor dwelling unit*;
 - (iii) 0.06 *parking space* for each *dwelling unit* for the use of visitors;
 - (iv) 0.4 parking spaces per 100 square metres of *non-residential gross floor area*;
 - (v) a minimum of 2,110 square metres of indoor *residential amenity space* shall be provided and maintained on *Parcel B*;
 - (vi) a minimum of 1,260 square metres of outdoor *residential amenity space* shall be provided and maintained on *Parcel B*; and
 - (q) the provisions of this By-law shall apply collectively to this land, notwithstanding its future division into two or more parcels of land.
3. Notwithstanding 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.
4. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *lot* contemplated herein is permitted in return for the provision by the *owner*, at the *owner's* expense, of the facilities, services and matters set out in Appendix 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
5. Where Appendix 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on the satisfaction of the same.
6. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
7. Definitions

For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended except that the following definitions shall apply:

- (a) *Height* means the vertical distance between *grade* and the highest point of the roof, building or structure, as shown on Map 2, exclusive of any elements described in 4(2)(a) herein up to a maximum of 6 metres to the top of the mechanical penthouse roof slab;
- (b) *Grade* means 160.88 metres Canadian Geodetic Datum;
- (c) *Parcel A* means the area labeled as PARCEL A on Map 1 attached hereto;
- (d) *Parcel B* means the area labeled as PARCEL B on Map 1 attached hereto;
- (e) *Stacked bicycle parking space* means a horizontal bicycle parking space that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both bicycle parking spaces,

and the parking space within the stacker shall have horizontal dimensions of at least 0.46 metres in width and 1.85 metres in length, and the stacker shall be located in an area with a vertical dimension of at least 1.2 metres.

(f) *Bicycle parking space - occupant'* means:

- (i) bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (ii) bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;

(g) *Bicycle parking space - visitor'* means:

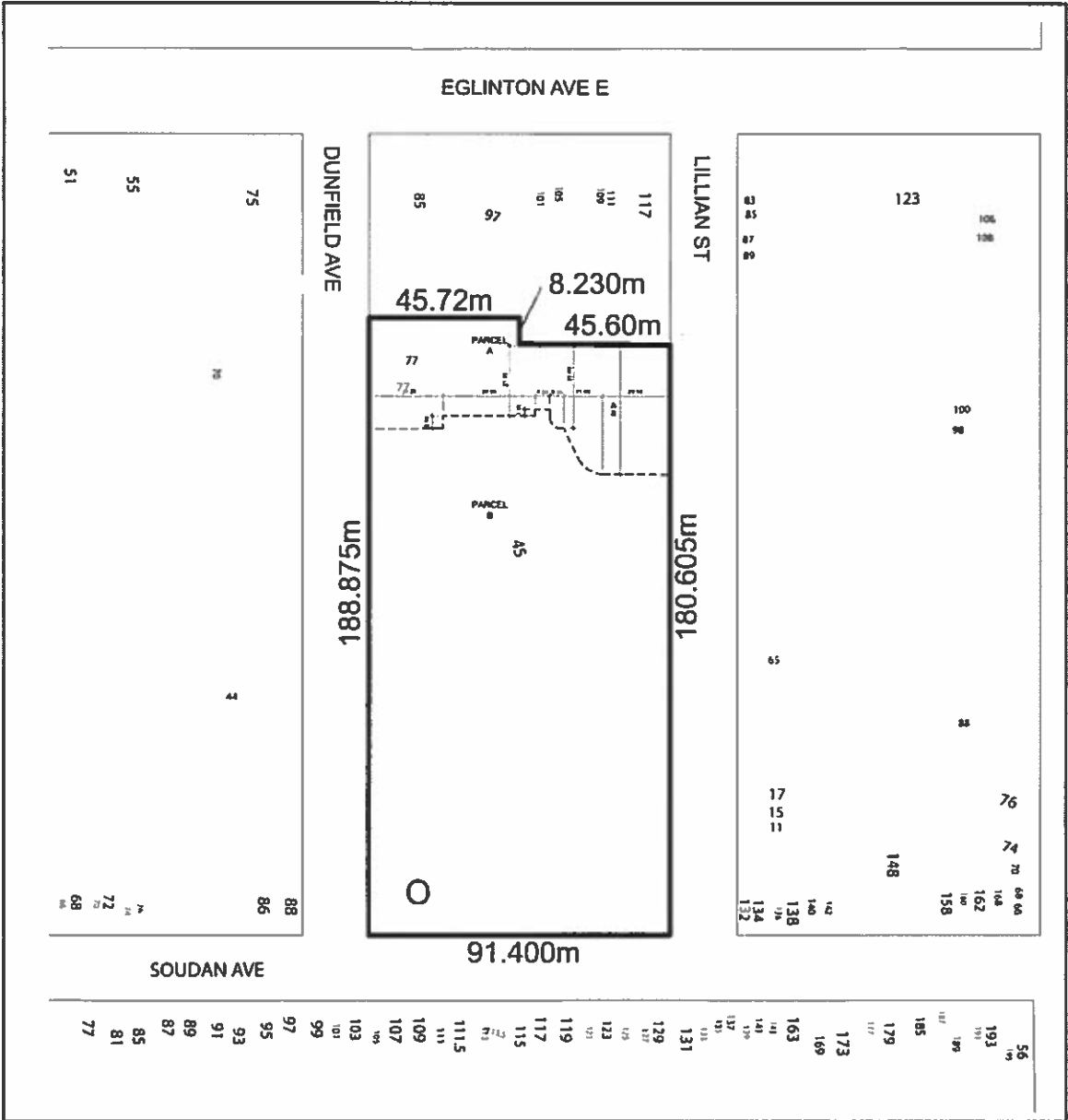
- (i) bicycles parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (ii) bicycles parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;

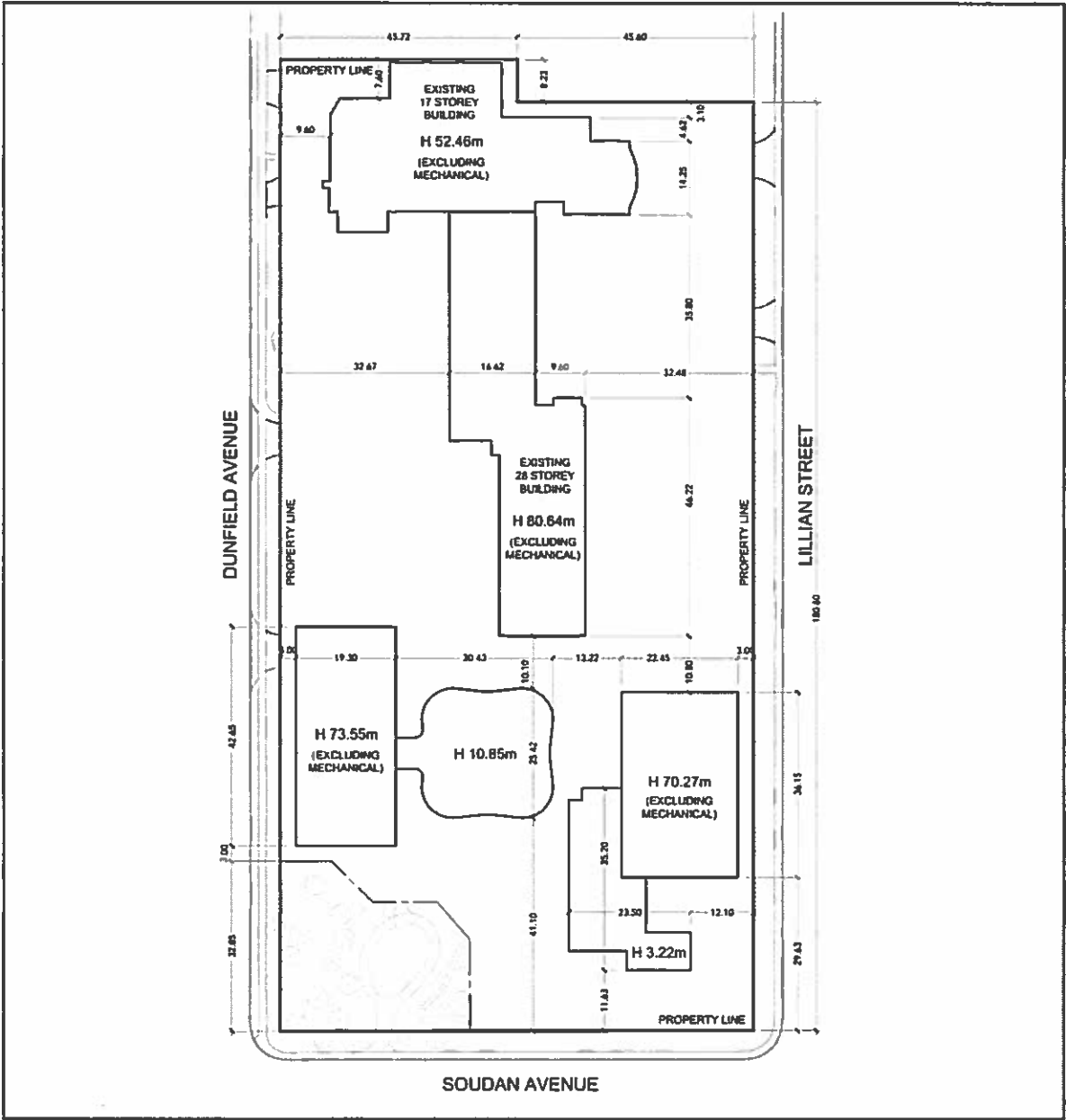
Enacted and passed on (), 2016.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





Appendix 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

1.
 - a. the construction, finishing, furnishing and equipping of a non-profit licensed child care facility to accommodate at least 52 children, including 10 infants, 10 toddlers and 32 preschoolers in two groups of 16, comprising 531 square metres of interior space and 254 square metres of exterior space adjacent to the interior space, including outdoor storage, and the provision of a minimum of 3 child care-pick-up and drop-off parking spaces and 3 parking spaces for child care facility staff adjacent to the child care facility;
 - b. prior to the issuance of the final building permit, the completion Child Care Facility and the entering into a lease agreement with the City for one 99-year term; and such facility shall be free of all rent, the cost of all utilities and municipal services supplied to the facility, caretaking costs, repair and maintenance costs, property damage, liability insurance, realty taxes and local improvement charges;
 - c. prior to the issuance of an above grade building permit, a one-time cash contribution of \$180,000 to a replacement reserve fund to replace appliances and large equipment for the child care facility due to wear and tear; and
 - d. prior to the issuance of an above grade building permit, a one-time cash contribution of \$150,000 to start-up costs for the defrayment of operational deficits during the child care facility's first year of operation.
2. Require that the amounts identified in 1. c. and d. above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment.
3. The following matters are also recommended to be secured in the Section 3 Agreement as a legal convenience to support development:
 - a. an easement for the provision of 6,060 square metres of privately owned, publicly accessible open space all located on the site.
 - b. the Owner shall provide and maintain 177 existing dwelling units at 77 Dunfield Avenue and 575 existing dwelling units at 45 Dunfield Avenue on the site as rental housing for the period of at least 20 years, from the date of the Zoning By-Law being in-force and effect, with all the new and retained associated facilities and amenities of the buildings to be secured for the rental housing units, at no extra cost to the existing tenants, and with no applications for demolition or conversion from residential rental use, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor;
 - c. the Owner shall provide and maintain 519 new rental units on the site as rental housing for the period of at least 10 years, with no application for demolition or conversion for a period of at least 10 years from the date of first occupancy;
 - d. the Owner shall provide a Construction Mitigation Plan that includes provisions for special needs tenants, mitigation for tenants during construction periods, including compensation for the removal of facilities currently associated with the units, a respite room and other measures as may be deemed reasonable and appropriate to the satisfaction of the Chief Planner and Executive Director, City Planning Division, without cost-pass through to tenants; and

- e. the Owner shall provide a Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

SCHEDULE "C"

Amendments to the Zoning By-law No. 569-2013

Authority: Toronto and East York Community Council Item TE13.5, as adopted by City of Toronto Council on February 3 and 4, 2016

CITY OF TORONTO

Bill No.

BY-LAW No. -2016

To amend Zoning By-law No. 569-2013 of the City of Toronto with respect to the lands municipally known in 2016 as 45 and 77 Dunfield Avenue.

Whereas Council of the City of Toronto has the authority to pursuant to 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, 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 out in the by-law; and

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

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters, as hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements by the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to R (f 12.0, a400)(x22) as shown on Diagram 2 attached to this by-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding regulation 900.2.10(22), so that it reads:

Exception R 22

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 45-77 Dunfield Avenue, if the requirements of by-law [Clerks to insert by-law#] are complied with, none of the provisions of Chapter 10.5.40.60, 10.5.50.10(4)(A), 10.5.50.10(5), 10.5.100.1(5), 10.10.40.40(1), 10.10.40.1(2), 10.10.40.10(1), 10.10.40.30(1)(B), 10.10.40.50(1), 10.10.40.70(1), 10.10.40.70(2), 10.10.40.70(3)(C)(ii), 10.10.40.80(1)b, 10.10.40.80(1)c, 150.45.40.1(1), 150.45.50.1(1), 200.5.10.1(1), 220.5.10.1(2), 220.5.20.1(1)(A)(ii), and 230.5.1.10(4), apply to prevent the erection and use of a **building, structure, addition or enlargement** permitted in by-law [Clerks to insert by-law#];
- (B) The total residential **gross floor area** erected or used on the lands must not exceed 90,000 square metres;
- (C) A **day nursery** must have:
- (i) at least 531 square metres of total **interior floor area**; and
 - (ii) at least 254 square metres of dedicated outdoor play area; and
- (D) On Parcel "A" and Parcel "B" as identified on Diagram 1 of by-law [Clerks to insert], **amenity space** is required as follows:
- (i) on Parcel "A",
 - (a) at least 216 square metres of indoor **amenity space**
 - (b) at least 216 square metres of outdoor **amenity space**
 - (ii) on Parcel "B",
 - (a) at least 2,110 square metres of indoor **amenity space**
 - (b) at least 1,260 square metres of outdoor **amenity space**
- (E) No part of a **building or structure** above ground may be closer to a **lot line** than the distance shown between a **main wall** and the corresponding **lot line** as shown on Diagram 3 of by-law [Clerks to insert];
- (F) The following elements of a **building** may encroach into a required **building setback** required by (E) above to a maximum of:
- (i) 1.5 metres for canopies and balconies
 - (ii) 0.45 metres for eaves, cornices, lighting fixtures
- (G) Except where a heavy line shown on Diagram 3 is contiguous with the boundary of the lands, nothing will prevent the following elements from projecting beyond the heavy lines shown on Diagram 3:
- (i) fences and safety railings, trellises, balustrades, chimneys, vents, 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, stair landings, decks, planters, and public art features;
- (H) Despite regulation 10.5.40.10(1), the height of a building is measured from the Canadian Geodetic Datum elevation of 160.88 metres to the highest point of the **building**;
- (I) Excluding **building** elements identified in regulation 10.5.40.10(2)(3)(4), no part of any **building or structure** may exceed the maximum height permitted by the numbers following the symbol "H" on Diagram 4 of by-law [Clerks to insert];
- (J) Equipment and **structures** on the roof of a **building** may exceed the permitted maximum height of that **building** by 6.0 metres subject to the regulations of 10.5.40.10(4);
- (K) A minimum of 27 percent of the **lot area** must be maintained as **landscaping**;
- (L) On Parcel "A", as shown on Diagram 1 of by-law [Clerks to insert], **parking spaces** must be provided for the residents and their visitors and employees as follows:

- (i) for residents, at least 0.3 **parking spaces** for each **dwelling unit**; and
 - (ii) for visitors and employees at least 0.1 **parking spaces** for each **dwelling unit**;
- (M) On Parcel "B", as shown on Diagram 1 of by-law [Clerks to insert], **parking spaces** must be provided as follows:
 - (i) for residents, at least 0.35 **parking space** for each bachelor **dwelling unit**;
 - (ii) for visitors, at least 0.06 **parking space** for each **dwelling unit**;
 - (iii) for non-residential uses, at least 0.4 **parking spaces** for each 100 square metres of non-residential **gross floor area**;
- (N) Despite regulation 10.5.100.1(4), the minimum width of a two lane **drive aisle** in the **lawfully existing** below-ground garage shall be at least:
 - (i) 4.5 metres in width at the **loading space**, and
 - (ii) a minimum of 5.12 metres for all other two lane **drive aisles**;
- (O) No more than 174 **parking spaces** in the **lawfully existing** below-ground **parking garage** may have the following minimum dimensions:
 - (i) length of 5.9 metres; and
 - (ii) width of 2.2 metres
- (P) At least 1 Type "G" **loading space** must be provided on the lands;
- (Q) **Bicycle parking spaces** must be provided as follows:
 - (i) at least 1.0 long-term **bicycle parking spaces** for each **dwelling unit**;
 - (ii) at least 0.2 short-term **bicycle parking spaces** for each **dwelling unit**;
 - (iii) at least 0.2 long-term **bicycle parking spaces** for each 100 square metres of non-residential **gross floor area**;
 - (iv) at least 6 short-term **bicycle parking spaces** for non-residential uses;
- (R) A **stacked bicycle parking space** must:
 - (i) have a minimum width of 0.46 metres;
 - (ii) have a minimum length of 1.85 metres; and
 - (iii) the stacker must be located in an area with a vertical dimension of at least 1.2 metres;
- (S) Short-term **bicycle parking spaces** may be provided in a **stacked bicycle parking space**; and
- (T) a **bicycle parking space** must comply with the following dimensions:
 - (i) at least a length of 1.8 metres;
 - (ii) at least a width of 0.6 metres;
 - (iii) at least a vertical clearance from the ground of 1.9 metres; and
- (U) the minimum dimension of a **bicycle parking space** if placed in a vertical position on a wall, **structure** or mechanical device is at least:
 - (i) a length or vertical clearance of 1.9 metres;

- (ii) a width of 0.6 metres;
- (iii) a horizontal clearance from the wall of 1.2 metres;

5. Section 37 Provisions

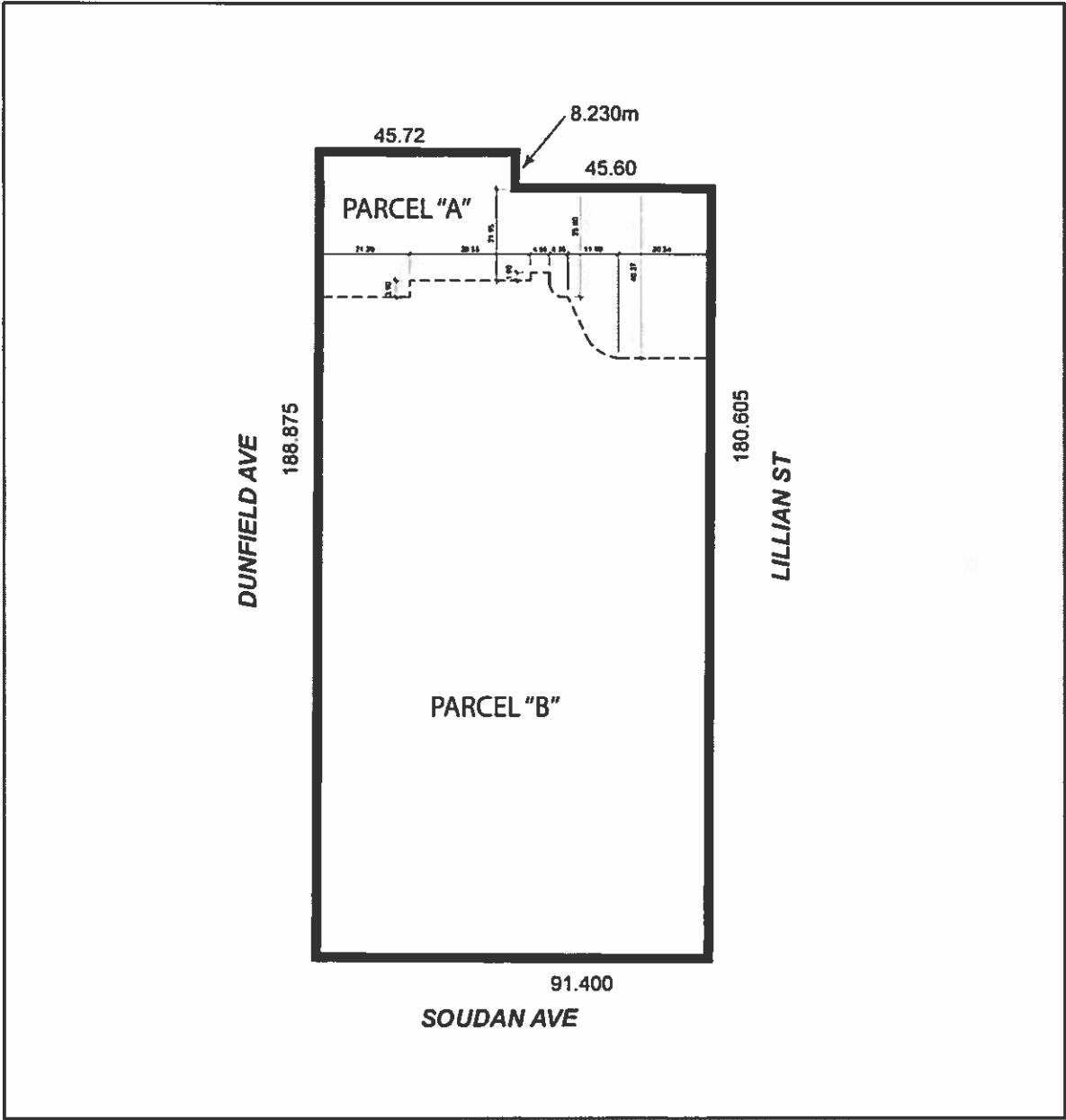
- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

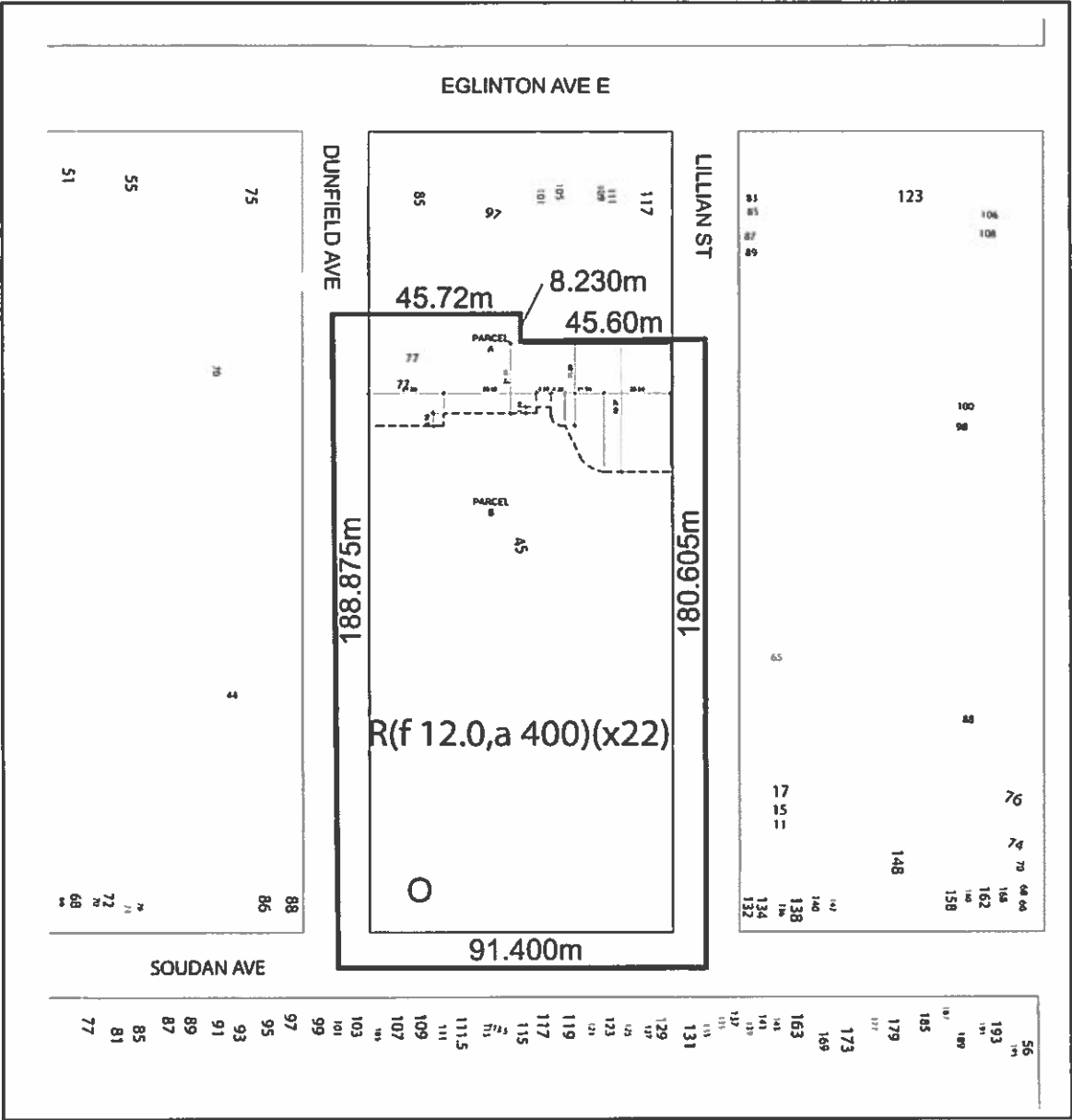
Enacted and passed on (), 2016.

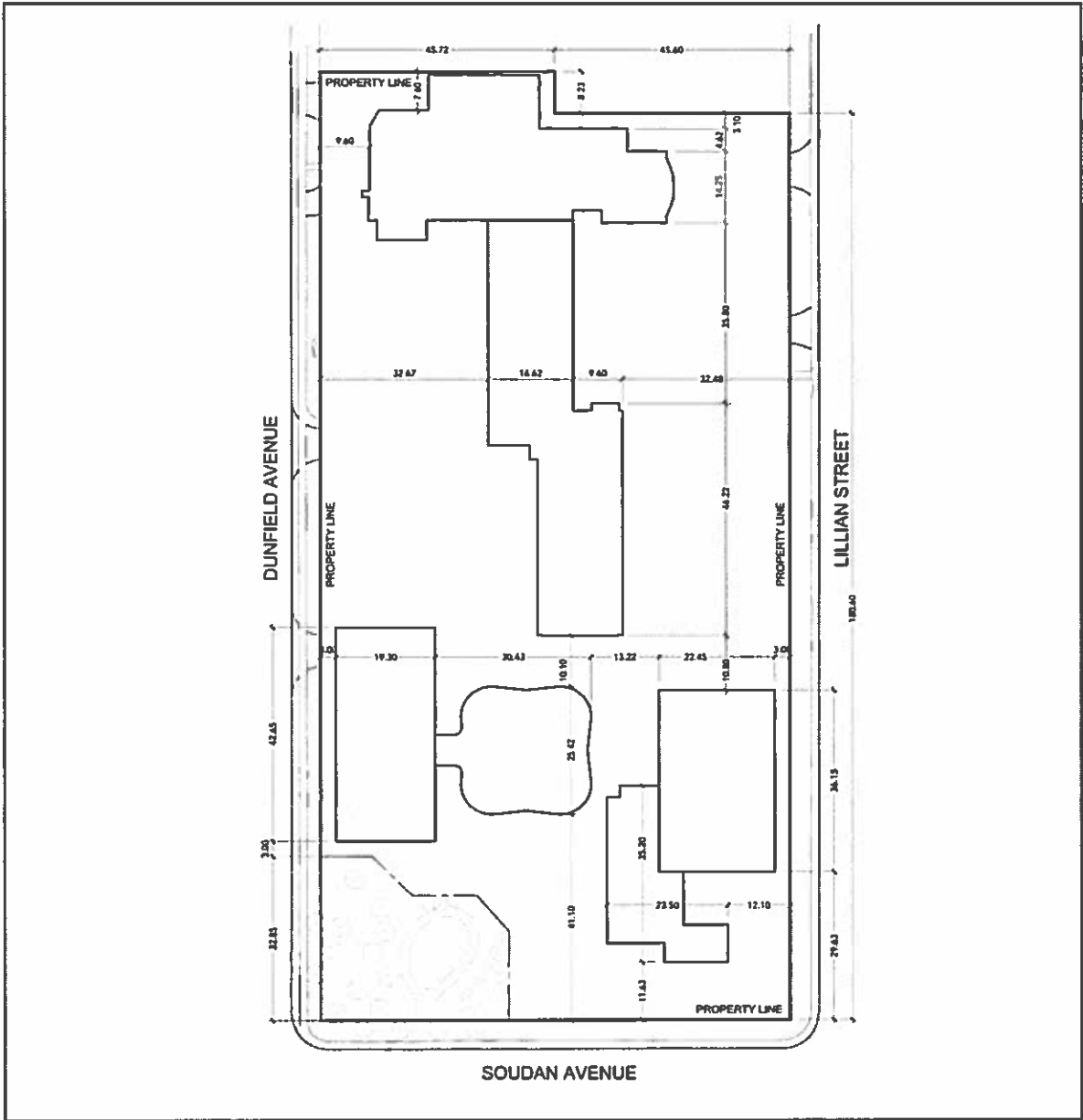
Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)



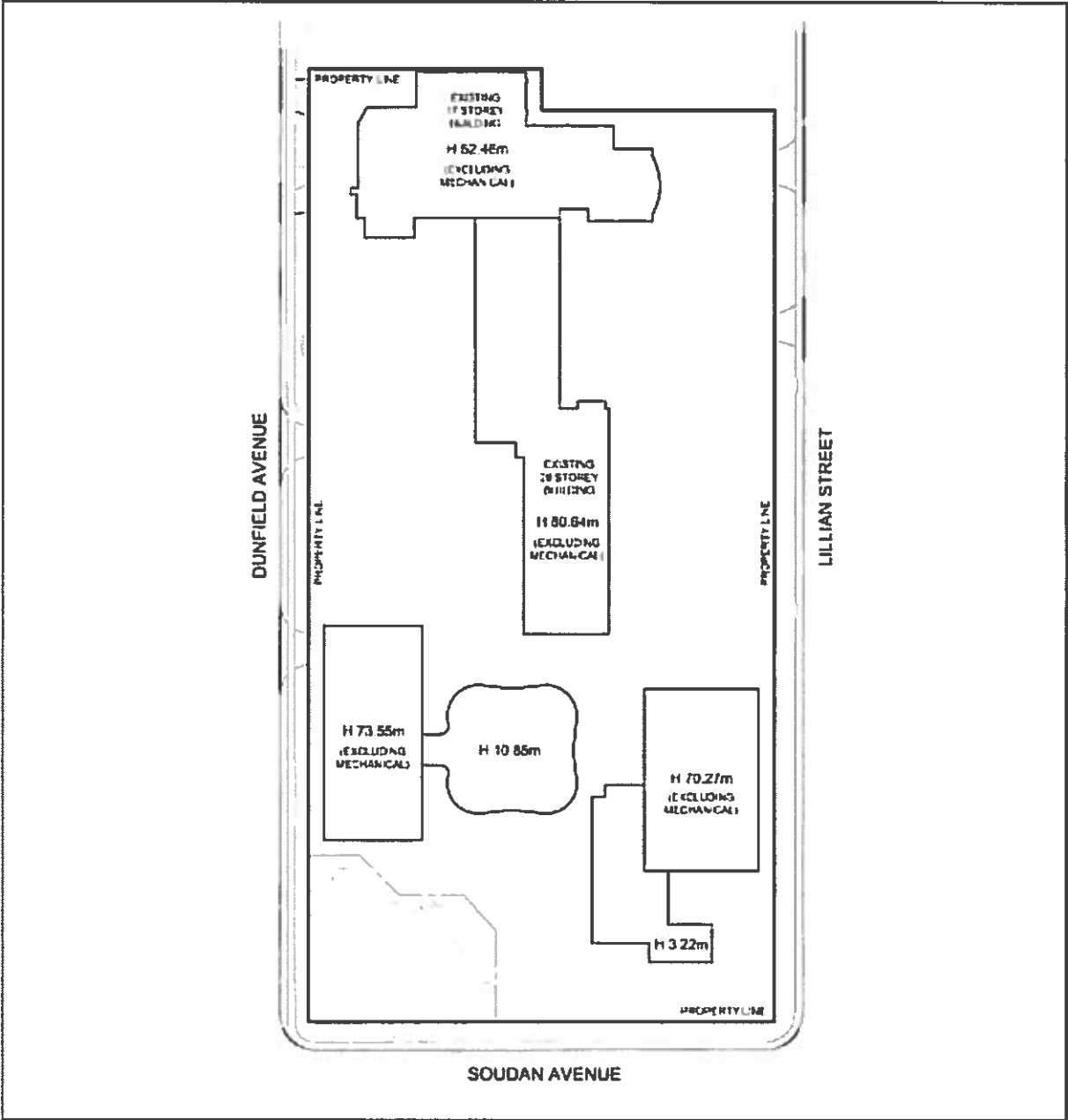




Toronto City Planning
Diagram 3

45-77 Dunfield Avenue
File # 13 271686 STE 22 02

↑
Not to Scale
Extracted 12/02/2015



SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law and secured in an agreement or agreements, pursuant to Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- (1) Prior to issuance of an above grade building permit, the owner shall provide:
- a. a one-time cash contribution of \$180,000 to a replacement reserve fund to replace appliances and large equipment for the child care facility due to wear and tear; and
 - b. a one-time cash contribution of \$150,000 to start-up costs for the defrayment of operational deficits during the child care facility's first year of operation.

With such amount to be indexed upwardly in accordance with the Statistics Canada Apartment Building Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.

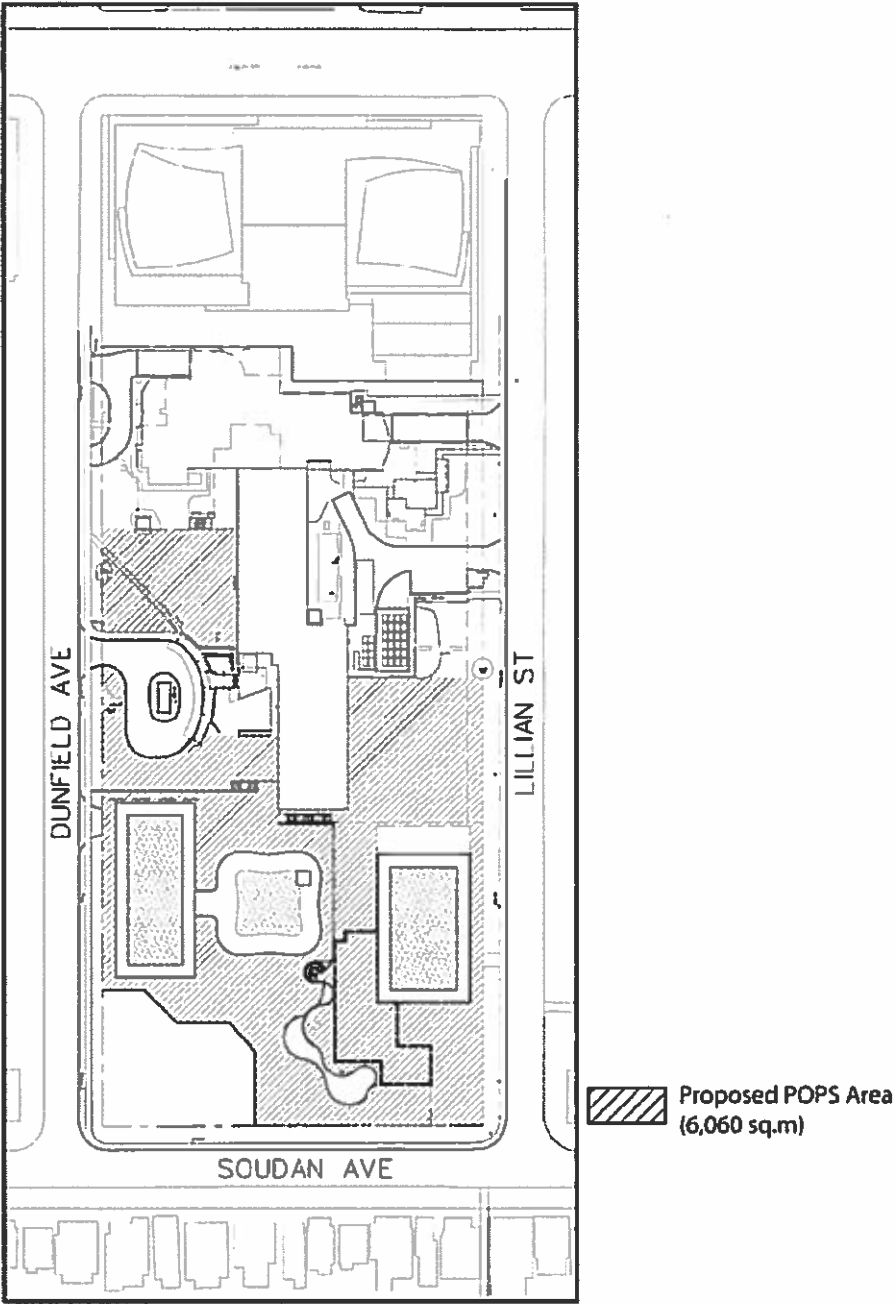
- (2) The owner shall provide and maintain the following:
- a. the construction, finishing, furnishing and equipping of a non-profit licensed child care facility to accommodate at least 52 children, including 10 infants, 10 toddlers and 32 preschoolers in two groups of 16, comprising 531 square metres of interior space and 254 square metres of exterior space adjacent to the interior space, including outdoor storage, and the provision of a minimum of 3 child care-pick-up and drop-off parking spaces and 3 parking spaces for child care facility staff adjacent to the child care facility;
 - b. prior to the issuance of the final building permit, the completion Child Care Facility and the entering into a lease agreement with the City for one 99-year term; and such facility shall be free of all rent, the cost of all utilities and municipal services supplied to the facility, caretaking costs, repair and maintenance costs, property damage, liability insurance, realty taxes and local improvement charges;
- (3) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
- a. an easement for the provision of 6,060 square metres of privately owned, publicly accessible open space all located on the site;
 - b. the owner shall provide and maintain 177 existing dwelling units at 77 Dunfield Avenue and 575 existing dwelling units at 45 Dunfield Avenue on the site as rental housing for the period of at least 20 years, from the date of the Zoning By-Law being in-force and effect, with all the new and retained associated facilities and amenities of the buildings to be secured for the rental housing units, at no extra cost to the existing tenants, and with no applications for demolition or conversion from residential rental use, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor;
 - c. the Owner shall provide and maintain 519 new rental units on the site as rental housing for the period of at least 10 years, with no application for demolition or conversion for a period of at least 10 years from the date of first occupancy;
 - d. the Owner shall provide a Construction Mitigation Plan that includes provisions for special needs tenants, mitigation for tenants during construction periods, including compensation for the removal of facilities currently associated with the units, a respite room and other measures as may be deemed reasonable and appropriate to the satisfaction of the

Chief Planner and Executive Director, City Planning Division, without cost-pass through to tenants; and

- e. the Owner shall provide a Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

SCHEDULE "D"

Privately Owned, Publicly Accessible Open Space Plan



Privately Owned Publicly Accessable Space (POPS)

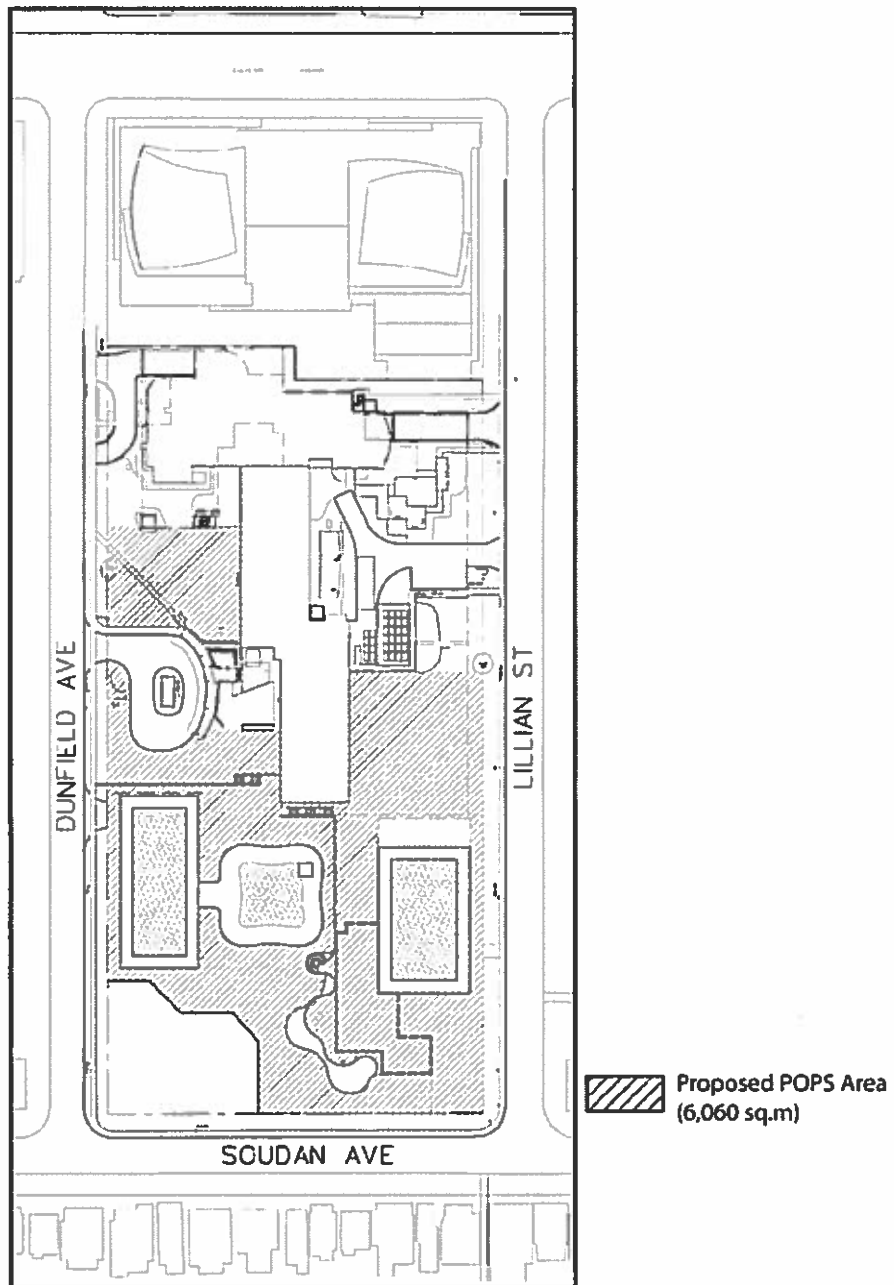
45-77 Dunfield Avenue

Applicant's Submitted Drawing

Not to Scale
12/2/2015



File # 13 271686 STE 22 02



Privately Owned Publicly Accessable Space (POPS)

45-77 Dunfield Avenue

Applicant's Submitted Drawing

Not to Scale
12/2/2015



File # 13 271686 STE 22 OZ



- 50 -
SCHEDULE "E"

Rent Abatement Units and Amounts

The following units within the Building at 45 Dunfield are entitled to abatements in accordance with sections 4.7.1(e) to 4.7.1(j) of this Agreement:

A monthly abatement of \$50.00 per month:

Main Floor: Unit 117;

Floors 2 to 28: All units ending in the number 16 or in the number 17; and

Penthouse: PH16 and PH 17.

A monthly rent abatement of \$75.00 per month:

Main floor: Unit 118;

Floors 2 to 28: all units ending in the number 18 or the in the number 19; and,

Penthouse: PH 19.

A monthly rent abatement of \$100.00 per month:

Main floor: Unit 121;

Floors 2 to 28: all units ending in the number 20 or in the number 21; and,

Penthouse: PH20 and PH 21.