

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: May 19, 2020

CASE NO(S): PL171166

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	DCMS Realty (Bloor-Islington) Inc.
Subject:	Application to amend the former City of Etobicoke Zoning Code - Refusal or neglect of the City of Toronto to make a decision Etobicoke Centre 1 Zone - EC1
Existing Zoning:	Etobicoke Centre 1 Zone - EC1
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a mixed use 18 storey urban retirement and assisted living facility
Property Address/Description:	3429 Bloor St. W
Municipality:	City of Toronto
Municipality File No.:	17 188915 WET 05 OZ
OMB Case No.:	PL171166
OMB File No.:	PL171166
OMB Case Name:	DCMS Realty (Bloor-Islington) v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	DCMS Realty (Bloor-Islington) Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment
Existing Designation:	Mixed Use Areas
Proposed Designated:	Mixed Use Areas
Purpose:	To permit a mixed use 18 storey urban retirement and assisted living facility
Property Address/Description:	3429 Bloor St. W
Municipality:	City of Toronto
Approval Authority File No.:	17 188915 WET 05 OZ

OMB Case No.: PL171166
OMB File No.: PL180078

Heard: September 3 – 12, 2019 in Toronto, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
DCMS Realty (Bloor-Issington) Inc.	K. Kovar
City of Toronto	M. Longo

DECISION DELIVERED BY M. A. SILLS AND INTERIM ORDER OF THE TRIBUNAL

[1] The matter before the Tribunal is the appeals of DCMS Realty (Bloor-Issington) Inc. (“DCMS”) from the failure of the City of Toronto (“City”) to make a decision regarding an application for a Zoning By-law Amendment (“ZBA”), and to adopt an amendment to the City’s Official Plan (“OPA”) for the lands municipally known as 3411 (“3411 property”) and 3429 (“3429 property”) Bloor Street West (“Bloor Street”), (collectively, the “subject lands/site”).

[2] The subject lands are designated Mixed Use Areas in the City’s Official Plan (“OP”), and the proposal conforms to the applicable mixed use policies. However, there is an interpretation issue related to contradictory policies in the Etobicoke Secondary Plan (“ESP”) and out of an abundance of caution DCMS submitted an application to amend the ESP together with the zoning application.

[3] The subject lands are zoned Etobicoke Centre 1 Zone – EC1 by the former Etobicoke Zoning Code and are subject to Site Specific Zoning By-law No. 1088-2002, (“ZBL”) both of which permit a variety of uses including senior citizen apartment units, administrative/business/professional offices and retail. The current zoning permits a maximum building height of 24 metres (“m”) and a floor space index (“fsi”) of 3.5 times the lot area. The purpose and effect of the proposed ZBA is to establish site specific exceptions, including increased building height and density.

The Proposal

[4] The original application involved the 3429 property alone and proposed an 18-storey mixed use building having a height of 64 m (70 m including mechanical penthouse). The building featured a 12-storey (37.51 m) tower element above a 6-storey (26.49 m) podium with retail space at grade (622 square metres ("sq m")), office space on the second floor (851 sq m), and 176 residential units comprised of 60 assisted living units and 116 senior's independent living suites (15,323 sq m), comprising a total gross floor area of 16,796 sq m and a density of 8.7 times the area of the lot. The proposal included 1,036 sq m of indoor and 695 sq m of outdoor amenity space and surface and underground parking.

[5] DCMS subsequently acquired the adjacent 3411 Bloor Street property and reformatted the proposal to a full block plan. The revised plan features a 14-storey mixed use building (9-storey tower above a 5-storey podium) approximately 49.6 m in height. The building steps back at the fifth floor and has a gross floor area of approximately 14,855 sq m comprised of 609 sq m of retail floor space and 14,426 sq m of residential floor space. The mechanical penthouse is 4.7 m in height and is setback 4.5 m from the west, 7.1 m from the east, and 2.5 m from the north and south sides of the tower element. The proposal provides for a 1.56 m road widening along Bloor Street.

[6] The building will contain 153 living units made up of 71 assisted living and memory care studio suites on Floors 2 to 4, and 82 independent living suites (1-bedroom, 1-bedroom plus den, and 2-bedroom units) in the tower component of the structure (Floors 6 to 14). The residential component of the proposal is expected to accommodate a resident population of 169 and generate 100 full-time and part-time jobs; the retail component offers additional employment opportunities.

[7] A range of indoor and outdoor amenity spaces, including a fireplace lounge, a dining room, a bistro bar, a chapel, a billiards and games room, a multi-purpose room, and a fully connected outdoor patio will be provided at the 5th floor level. The outdoor

amenity space is stepped back 3.7 m from the fourth floor and utilizes glass windscreens, planters and shrubs to eliminate overlook to the residential neighbourhood to the south (the “Neighbourhoods”). Communal inset terraces on the second, third and fourth floors will be provided for the use of the assisted living and memory care residents. These terraces also will be screened to minimize overlook and privacy-related impacts.

[8] The proposal integrates the retail and retirement facility administrative offices and residential lobby on the ground floor. The ground floor is 6.5 m in height and is setback from the property line by 2.9 m on the north side, 1 m on the west side, 0.8 m on the east side, and 1.7 m on the south side. The entrance to the retail space will be from Bloor Street, while the residential entranceway/lobby will be accessed via Green Lanes.

[9] The building has been sited to allow for the transformation of the existing sub-standard one-way rear laneway into an upgraded two-way laneway through the conveyance of a 1.2 m wide stratified lane widening. The south wall of the building is setback from the northerly boundary of the residential neighbourhood by: 7.6 to 11.65 m at the ground floor; 7.28 m at floors 2 to 4; 10.94 m at floor 5; 10.45 m at floors 6 to 14; and 12.95 m at the mechanical penthouse.

[10] A parking ramp to be located mid-building and accessed from the rear laneway will provide access to 44 underground parking spaces; 8 additional surface spaces will be provided adjacent to the laneway.

Site and Area Context

[11] The subject lands are located in Etobicoke Centre (“EC”) on the south side of Bloor Street, one block west of Islington Avenue. EC is a provincially designated Urban Growth Centre (“UGC”). The site has approximately 73 m of frontage along Bloor Street, 29 m frontage on Clissold Road and 32 m frontage on Green Lanes, and comprises a lot area of approximately 2,326 sq m. The site is unique because it represents the last undeveloped site on the south side of Bloor Street between Islington

Avenue and the rail corridor underpass.

[12] The 3411 property is currently occupied with a single-storey commercial building maintaining an insurance company office with a surface parking area. The 3429 property currently maintains a single-storey retail building (Beer Store) with surface parking in front of the building which is accessed by an in-bound driveway off Green Lanes and egressed by an out-bound driveway to Bloor Street. A driveway from the laneway provides access to the loading area.

[13] The site is bounded on the south side by a one-way westbound, sub-standard public laneway 4.57 m in width which connects Clissold Road to Green Lanes. Beyond the laneway to the south there is a mature low-density residential neighbourhood. This neighbourhood features a lush tree canopy with several mature trees in the front and side yards. There is some indication of intensification and reinvestment in this neighbourhood, with new and larger homes replacing some of the original homes.

[14] The block across Clissold Road to the east of the site (3391 Bloor Street) is developed with a residential and retail building that occupies the entire Bloor Street frontage with a 6-storey base structure, with an 11 storey taller element situated at the east end of the structure. This building, which is 39.6 m in height (not including mechanical), does not step-back between the podium and tower and has minimum setbacks from the public realm. The building was approved by way of a settlement at the time of the creation of the ESP.

[15] A public park (Kenway Park) is situated directly across Green Lanes to the immediate west of the site, beyond which there is a 13-storey residential building 54 m in height (2 Fieldway Road).

[16] The Islington Toronto Transit Commission Subway Station lands (“subway lands”), a large triangular land parcel, are located on the north side of Bloor Street across from the site. The subway lands, which are also home to the MiWay Bus Terminal and a large surface parking lot, are part of the Create TO development

portfolio and are poised for significant redevelopment once the majority of the existing bus services are moved to the Kipling Station. These lands are currently zoned for high-rise mixed-use development with maximum allowable heights of up to 90 m, although there have been recent approvals for building heights of over 150 m.

DCMS Evidence

[17] DCMS called three witnesses: Joseph Gesualdi, Director of Development Planning for DCMS; Mark Reid, an urban designer and a landscape architect; and Emily Reisman, an professional planner and urban designer.

[18] Mr. Gesualdi is responsible for all aspects of seniors housing development for Verve Seniors Living (“Verve”). Verve was founded in 1977, and with 32 properties in operation and 10 additional projects in development, is one of the largest privately owned developers and operators of retirement residences in Canada. All of Verve’s Ontario Retirement Residences are licensed under the Retirement Home Act.

[19] Verve provides seniors housing options covering the full spectrum of care and is currently developing projects that offer the Continuum of Care model. The Continuum of Care model incorporates independent seniors living units, assisted living units, and memory care units in an integrated purpose-built building. This model provides the opportunity for aging in place by allowing the residents and/or their partners to transfer from independent living to assisted living and/or memory care units as their needs evolve.

[20] As a matter of course, an assessment of the local demographics and the existing supply of senior’s housing in the surrounding community was carried out by Verve during the site selection process. The research confirms that the provision of new retirement residences in Toronto generally, and in the local area specifically, is not meeting either the existing or expected future housing demand of the City’s aging population.

[21] Studies have identified that in choosing a seniors living retirement residence future residents prefer to stay in their own community. The applied industry standard is that approximately 70% of the occupants of a seniors residence will move from another accommodation in the surrounding neighbourhood. Thus, it is expected that an overwhelming majority of the future residents of the proposed facility will come from the identified geographic area.

[22] Verve's research demonstrates that there is a significant shortage of senior's housing to meet the needs of the aging population in the area generally bound by Highway 401 to the north, the Humber River to the east, the QEW to the south, and Etobicoke Creek to the west. The senior's population (aged 75-plus) in the identified market area is forecast to grow by 17% over the next 10 years. Taking into account the existing supply, plus the residences proposed or under construction, the market demand over the next 10 years will be approximately 900 units.

[23] Mr. Gesualdi indicated that providers of seniors' residence facilities are currently looking to sites outside of the City due to land costs and/or the shortage of available sites in Toronto. In his opinion, this will pose a significant challenge for families seeking suitable housing and care for aging family members in the coming years.

[24] Mr. Gesualdo pointed out that selecting a site for senior residences involves criteria that does not typically apply to conventional multi-unit residential buildings, such as apartment and condominium building. Seniors residences, and in particular those that provide assisted living and memory care options, require a larger floor plate to meet the established standards. The larger floor area is necessary in order to accommodate the range of required servicing space (food preparation, nursing stations, staff offices, wide corridors and elevators to accommodate assistive mobility devices, etc.) and amenity areas (recreational, dining, etc.).

[25] In this case, Verve intends to use the podium element of the building for assisted living and memory care resident suites. As the majority of residents living in these specialized units will rarely leave their floor, fresh air and higher ceiling heights are

important factors in the provision of a comfortable living environment. The tower element with the smaller floor plate will be dedicated for independent living units designed for use by residents with greater autonomy and that require fewer staff and less common amenity space.

[26] Mr. Gesualdi emphasized that the success of the Continuum of Care model depends upon certain economies of scale which are impacted, in part, by the staff-to-resident ratio and take into account the amount of common amenity, 'back-of-house' and service space for a project, which is generally fixed. Each type of care offered in this model requires a minimum number of units to support the staffing required for the appropriate levels of care. Typically, senior's residences providing this care model have a resident to staff ratio of over 2:1. To that end, the overall building has been reduced from the initial application to a point where the level of service, care and amenity required can still be provided. However, in this case the as-of-right built form is not operationally or financially viable.

[27] Mr. Reid is a full Member of the Ontario Association of Landscape Architects and the American Association of Landscape Architects. Mr. Reid has practised urban design nationally and internationally for over 27 years, and has been a partner at Urban Strategies Inc. for the past 17 years.

[28] Mr. Reid provided evidence and opinion in support of the development proposal. Overall, it is Mr. Reid's opinion that the proposed built form is appropriate for the site, conforms to the built form policies in the OP and helps to achieve many of the other goals and objectives of the OP.

[29] The subject property is located within a provincially designated urban growth area ("UGA"). By definition, an UGA designation prioritizes an area for significant intensification featuring mixed uses of urban character and assigns one of the highest densities of people and jobs. Mr. Reid underscored the fact that since the time of designation (2006) EC has supported some degree of intensification and redevelopment, but continues to be the least dense of the City's four UGCs and has

made little progress towards a more urban character.

[30] The GP requires municipalities to develop a strategy to achieve the minimum intensification target and to identify the appropriate type, height, and scale of development that is appropriate for a strategic growth area. Mixed Use Areas will have a secondary plan that will achieve a minimum gross density target of 400 jobs and residents per hectare and are expected to absorb most of the anticipated new housing in the coming decades. Notably, while the City's OP has been updated, the City has not revised the ESP or the ZBL to plan for the minimum intensification and density targets.

[31] Mixed Use Areas are intended to combine a broad mix of residential, office, retail, service, and employment uses that allow people to live, work and shop in the same area, while minimizing dependence on automobiles. The proposal supports and enhances the achievement of complete communities by expanding the range and mix of housing options available within an area that is predominantly comprised of single family homes, with some apartments.

[32] In Mr. Reid's opinion the development being proposed is of a type, height and scale that is appropriate for an UGA and provides an appropriate transition to adjacent areas. The development proposal results in a compact, high quality building, and will significantly improve the public realm and private open spaces along Bloor Street, Clissold Road and Green Lanes. The proposal supports complete communities by expanding the range and mix of housing options available within an area that is predominantly made up of single-family homes to the south and the apartment/condominium form of housing to the north.

[33] The retirement residence will provide 153 residential suites, 71 of which are carefully designed for individuals requiring a specialized form of housing. The proposed use is specifically targeted to senior's, many of whom no longer need or are able to maintain a single-family home, but do want to remain in the neighbourhood. The proposal offers a mix of accommodations that will allow area residents to age in place in a specialized facility that offers residential accommodation options suitable to their

individual needs in the present, and in the future.

[34] The proposed building has been designed in a manner that will provide for an appropriate transition to adjacent areas, and specifically, in respect to the 11-storey building at 3391 Bloor Street, the 13-storey building at 2 Fieldway Road and the adjacent residential neighbourhood to the south. The built form topology, inclusive of a podium base and taller element, is very similar to these buildings. The proposed building is massed to frame the edges of all three streets and Kenway Park, while at the same time maintaining sunlight on adjacent streets, parks and open spaces and the adjacent residential neighbourhood. This contributes to an attractive and comfortable experience for pedestrians at street level and is in line with the Mixed Use Area policies of the OP.

[35] The development proposal includes active retail uses on the ground floor and offers a high degree of transparency between the indoors and outdoors to support an animated and vibrant streetscape experience. The proposal supports a high-quality public realm and achieves a significant contribution to greening through appropriate setbacks at-grade. The conveyance of the land along the Bloor Street frontage to enable the widening of the public realm allows for the provision of streetscape elements including trees and planters. Although the proposal does not include publicly-accessible open space at grade, it is Mr. Reid's opinion that the intent of the Parks and Open Space guidelines is being met.

[36] It is Mr. Reid's opinion that the Tall Buildings Guidelines ("TBG") should be applied in this case as the other defined typologies do not adequately relate to the existing or planned context for the site. Provincial and municipal policy requires that the greatest level of intensification is to occur in designated UGCs and adjacent to higher-order transit.

[37] The proposed building does not maintain the 1:1 ratio proportion of the right-of-way for the Bloor Street frontage along the podium; the setback for the tower element of the building (49% of the site frontage) is greater than the 1:1 ratio. Mr. Reid pointed out

that although a 1:1 ratio is typically appropriate for development along designated Avenues and low-rise retail main streets, Bloor Street is not a designated Avenue and the site is not part of a low-rise retail main street area. Given that the site is within a designated UGC and across the street from a subway station, it is his position that a greater than 1:1 ratio is required in order to achieve an appropriate level of intensification.

[38] The TBG suggest the use of a 45-degree angular plane where appropriate. The proposal does not provide a 45-degree angular plane, and in Mr. Reid's opinion, the site is not an appropriate area to apply the angular plane. The application of the angular plane guideline would restrict the development potential of a site in an area that is intended to accommodate the greatest heights and densities within EC; in the vicinity of a major transit station and within an UGC. In this case, transition impacts including shadowing, overlook and privacy impacts are expected to be minimal. The Shadow Study demonstrates that the proposed building results in minimal shadowing impacts.

[39] Following from that, it is his opinion that the development proposal meets the intent of the TBG. The proposal utilizes a 5-storey base stepped back at the fifth floor, creating a perception of a 4-storey base condition for pedestrians at grade as seen from the south side of Bloor Street. The tower element of the building has a 752 sq m gross enclosed floor plate that is stepped back from the podium between 2.2 and 4.5 m. At the widest point, the tower is about 35 m.

[40] Building heights of up to 90 m are permitted on the lands to the north immediately across Bloor Street from the site, and more recently approvals for heights of up to 150 m have been granted on lands just north of the rail corridor. In his opinion, the 49.6 m height of the proposed building is appropriate as it transitions down from the north to the south and is between the heights of the buildings at 2 Fieldway Road (54 m) and 3391 Bloor Street (36 m).

[41] It is Mr. Reid's professional opinion that the proposed development represents appropriate built form in terms of building massing and scale, building heights, density

and design, and transition to adjacent properties. The proposed development delivers a high-quality architectural and massing that minimizes the impacts of the taller element of the building while concurrently achieving the objective of adequate intensification of a site designated for growth across the street from a subway station. The proposal fits contextually with surrounding development, while at the same time creates an appropriate transition between the planned developments to the north and the residential neighbourhood to the south. It is his position that it would be inappropriate and counter to provincial planning policy goals to severely restrict the height and density of this large consolidated property immediately adjacent to a subway and within the UGC.

[42] Ms. Reisman is an urban planner with more than 15 years of professional experience in a wide variety of planning matters. She is a registered professional planner and a Member of the Canadian Institute of Planners.

[43] In Ms. Reisman's opinion the site location calls for an appropriate use, density and design to support and efficiently use existing infrastructure and invest in this provincially and municipally identified UGC. The built-form, use and density being proposed together with the associated improvements to the public realm and the rear public laneway will contribute to high quality public spaces, add to the sense of place at the Bloor/Islington node and further strengthen this regionally significant UGC.

[44] The current development proposal has appropriate regard for the matters of provincial interest identified in s. 2 of the *Planning Act*. The proposal is a desirable use in an appropriate form, both of which are compatible with the residential nature of the adjacent neighbourhood and constitute good planning.

[45] The GP acknowledges that there are several challenges that will result from the growth expected in coming decades. Among these, is the anticipated increase in the population proportion of seniors. People over the age of 60 are expected to comprise more than 45% of the population by 2041.

[46] The GP establishes guiding principles for managing growth which include the achievement of complete communities to support health and active living throughout an entire lifetime; prioritizing intensification and higher densities in strategic growth areas (UGCs) to make efficient use of land and existing infrastructure and support transit viability; and, to support a range and mix of housing to serve all sizes, incomes and ages of households.

[47] The GP explicitly directs municipalities to develop a housing strategy that supports the achievement of the minimum intensification and density target of the plan (400 residents and jobs combined per hectare by 2031) by identifying a range and mix of housing options and densities. The OP identifies EC as having significant development potential, particularly around its two subway stations.

[48] UGC's are to be planned as focal points for regional public service facilities and expected to accommodate significant population and employment growth and support the transit network. Ms. Reiman provided a detailed analysis which demonstrates that even with the approval of this development, EC will still fall short of the minimum population and jobs target.

[49] The GP requires municipalities to delineate boundaries for Major Transit Station Areas ("MTSA") on a priority transit corridor or subway in a transit-supportive manner. The intent is to maximize the number of transit users within walking distance of the station. MTSA's are generally defined as areas that are within 500 to 800 m of a transit station or about a 10-minute walk. The site is located within 120 m of the closest entry to Islington station. Neither the OP nor the ESP have been updated to delineate the boundaries for the Islington Station MTSA.

[50] The *Planning Act* requires all planning decisions to be consistent with the Provincial Policy Statement, 2014 ("PPS"). The PPS establishes policy direction on matters of Provincial interest related to land use planning and development, and includes policies for the wise management and use of land. The City's OP and the ESP and its implementing ZBL were all adopted by City Council prior to the introduction of

the first PPS; the policies of the ESP and the zoning regulations have not been updated since 2002.

[51] The PPS requires planning authorities to provide an appropriate range and mix of housing types and densities to meet the needs of the market, and specially identifies housing for older citizens. This is to be achieved by allowing all forms of housing required to meet the social, health and well-being requirements of current and future residents.

[52] In Ms. Reisman's opinion, the proposed built form and use represents the very type of development that the PPS seeks to achieve through its policies. The site is located in an area identified by the PPS and the OP for intensification and is within an identified Major Transit Area. Mixed Use Areas are intended to combine a broad array of residential, office, retail, service and other uses that allow people to live, work and shop in the same area, while minimizing their dependence on automobiles.

[53] The proposal offers a range of specialty housing that will allow seniors to age in place in their chosen community, and provides employment opportunities in proximity to major transit infrastructure and public service facilities. The site is within the vicinity of parks, the Islington Senior's Centre, Brentwood Library and local shops and services, and the proposal provides for residential, retail, and employment uses within a UGC opposite to a transit station.

[54] The proposal presents a built form that provides a gradual transition between the much greater heights permitted on the mixed-use designated lands on the north side of Bloor Street and the Neighbourhoods to the south. The form and massing of the building appropriately frames the adjacent streets and Kenway Park and provides appropriate transitioning between the neighbourhood and the existing and planned taller building context to the north. The proposal maintains sunlight on parks and streets and adequately limits shadowing and other impacts. All servicing and back-of-house areas are appropriately screened; significant indoor and outdoor space is being provided for residents of the building; a sufficient supply of parking is being provided; and the

widening of the public laneway will allow for a much improved access to the site. Unlike a typical condominium or apartment building, the proposal will not generate significant traffic. It is Ms. Reisman's professional opinion that the proposal represents good land use planning and is in the public interest.

City's Evidence

[55] The City called two witnesses: Allison Reid, a registered professional planner and Member of the Canadian Institute of Planners and the Ontario Professional Planners Institute; and Jennifer Renaud, a City Senior Planner.

[56] It is Ms. Reid's opinion that the proposed 14-storey, 49.6 m high (not including the mechanical) mixed use tall building, equivalent to a typical 16-storey residential development, results in inappropriate over-development of the site. In her view, the proposal does not fit harmoniously into the existing and planned context, and the built form, height, scale and massing of the building visually overwhelms the surrounding area.

[57] Section 2 of the *Planning Act* requires planning authorities to have regard to matters of Provincial interest, such as the appropriate location of growth and development, the promotion of built-form that is well-designed and encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant. The proposal does not have appropriate regard to these matters.

[58] In her opinion, a well designed built form should be assessed in relation to the existing and planned context, which for the site supports mid-rise, pedestrian scale development that transitions down to, and is compatible with, the adjacent low-rise neighbourhood. The proposal is not well designed to be contextually appropriate for the site and does not encourage the sense of place envisioned for this location within EC.

[59] The proposed development is located at the planned westerly extension of a "main street" shopping district, which is comprised of existing and planned mixed use

buildings along the south side of Bloor Street which are all lower scale than the proposed development. In her opinion the tall building development being proposed does not encourage the sense of place envisioned for this area in the ESP, the ZBL and the Urban Design Guidelines (“Guidelines”). The subject lands are constrained and the proposed tall building built form lacks adequate setbacks, step backs and good street proportion. The proposal will diminish the overall quality of the surrounding public realm, and negatively impact the skyview of pedestrians.

[60] The PPS directs planning authorities to identify appropriate locations and development standards to promote opportunities for intensification and re-development, taking into account existing building stock or areas. Ms. Reid contends that the City provides a comprehensive planning policy framework to direct growth and development through the OP, the ESP, the ZBL and the Guidelines.

[61] According to Ms. Reid the OP adopted by City Council in November 2002 and approved by the Ontario Municipal Board in 2006, reflects the latest planning and urban design thinking of City Planning staff and City Council to guide development in the City.

[62] In her opinion the proposed development is not consistent with the PPS. The proposal is not well designed to be contextually appropriate for the site and does not encourage the sense of place envisioned for this location within EC.

[63] The proposal is not in conformity with the Healthy Neighbourhoods, Mixed Uses Areas, Public Realm, Tall buildings and Built Form policies of the OP. The site is located at the boundary of the designated UGC and adjacent to a low-rise residential area, which in her opinion is an inappropriate location for the scale and intensity of development being proposed. The height, scale and massing of the proposed building is not compatible with the neighbourhood context and does not encourage a sense of place as envisioned for this location within EC. The proposed transition to the adjacent neighbourhood to the south is too abrupt and does not demonstrate a compatible urban design relationship between the proposed development and the height, scale and character of the existing low-rise residential context.

[64] The building setbacks and stepbacks are insufficient and do not reflect current area-specific or City-wide standards and design guidelines for the proposed built form. It has not been demonstrated that the subject lands are able to accommodate the proposed building height, massing and density in a manner that maintains good proportion or that the building setbacks are sufficient to accommodate tree planting and landscaping.

[65] Ms. Reid contends that the proposal results in shadow impacts to the residential neighbourhood and the public realm. The rear windows and southern orientation of the balconies will contribute to extensive overlook and loss of privacy and adversely affect the amenity area of local residents and result in shadow impacts to the planned public realm.

[66] The site is at the planned westerly boundary of a “main street” shopping district which is comprised of existing and planned mixed use buildings along the south side of Bloor Street that are all of lower scale than what is being proposed, which in her opinion, is an inappropriate location for intensification.

[67] The development is not appropriately massed to fit harmoniously into the existing and planned context and does not demonstrate an appropriate transition and compatible relationship to the adjacent neighbourhood. The proposal does not maintain a good street proportion (1:1 ratio) for the lands along Bloor Street and adjacent to Fenway Park. The resulting loss of skyview and additional shadowing on the north side of Bloor Street diminishes the quality of the public realm and compromises the planned public realm and streetscape improvements for the area.

[68] Ms. Renaud is not a registered professional planner, but she does have considerable tenure in the City’s planning department and obtained a Masters of Urban Development from Ryerson University. The concern of counsel to DCMS about the qualification of this witness is acknowledged, but the Tribunal will qualify her on the basis of her experience tenure in urban planning matters.

[69] It is Ms. Renaud's opinion that the development proposal does not have appropriate regard for the matters of provincial interest set out in s. 2.1 of the *Planning Act*; is not consistent with the PPS; does not comply with the policies of the OP and the ESP; and does not represent good planning.

[70] Ms. Renaud noted that the purpose of the *Planning Act* is to provide a land use planning system led by provincial policy and to integrate matters of provincial interest in provincial and municipal planning decisions, among other matters. Section 2(p) of the *Planning Act* identifies "the appropriate location of growth and development" as a matter of provincial interest.

[71] The GP, 2019 supports the achievement of complete communities that feature a diverse range and mix of housing options to accommodate people at all stages of life. Complete communities also feature a diverse mix of land uses, employment uses and services and public service facilities with convenient access to local stores. The proposal provides for a range and mix of housing options and employment uses and opportunities, but the built form is not appropriate and does not fit with the scale and intensity of the surrounding context.

[72] The PPS directs upper-tier municipalities to identify areas where growth will be directed and EC is considered as a location for growth. The ESP is prescriptive in the type of built form that is envisioned for the south side of Bloor Street and how it will relate to the existing context. Ms. Renaud maintains that although the site is an appropriate location for some degree of intensification and redevelopment, the massing and scale of the proposed building is not consistent with the policy objectives and vision of the OP, ESP and Guidelines.

[73] The ESP provides policies and direction regarding what type and scale of anticipated growth is contextually appropriate. The proposal's approach to intensification is contrary to the objectives of the ESP that seek to ensure that intensification maintains a built form that respects the local context and transitions downward in scale and intensity in the *Neighbourhoods* designation.

[74] The existing and planned context for the site does not support the height and density of the current proposal. The proposal does not have appropriate regard for the OP and ESP, both of which contemplate a pedestrian scale building for this site - not a tall building. In her opinion, a 49.6 m tall building at this site is not acceptable as it fails to respond to its existing and planned context and is not consistent with the policies setting out the vision for development along the south side of Bloor Street, or within the Bloor/Islington Focus Area of the ESP.

[75] Ms. Renaud maintains the proposed tall building massing introduces a building typology that is not contemplated or compatible to the existing scale of development on south side of Bloor Street within the Bloor/Islington Focus Area. The massing of a tall building is not contextually appropriate and does not respond to the character and scale that are envisioned in the ESP, the ZBL, and the Guidelines. The proposal does not demonstrate a relationship to the established pedestrian scale context of the south side of Bloor Street and fails to provide sufficient transitions to the designated Neighbourhoods lands directly south of the site. The proposed development fails to meet the Mixed Use Areas development criteria to step down in height and to locate massing with good proportion.

Concerns of Local Residents

[76] Of the fifteen individuals that were given participant status in this matter, only Jennifer Kosiw and Renata Vystavil addressed the Tribunal.

[77] Ms. Vystavil has resided at 17 Green Lanes for the last 20 years and it is apparent from the photos provided that she takes great pride in her property, as do many of her neighbours. Ms. Vystavil told the Tribunal that to live on this street is to be a part of a community where everyone knows and looks out for each other. She does not object to a retirement facility at the site, but does think that a 14-storey tower element with a 2-storey mechanical level is excessive in terms of height.

[78] In her view, the proposed building will physically and visually overwhelm the

neighbourhood, block sunlight and skyviews, create uncomfortable wind conditions and set a precedent that would make it difficult for residents to object to a similar development proposal. She suggests that a 6-storey building height would be more appropriate at this location.

[79] Her other concerns are that a medical emergency at the retirement home could overwhelm the local hospitals (St. Joseph and Trillium) which she said are already overcrowded; that it would be difficult to safely evacuate the residents of the building if there was a fire; that the proposed building will worsen an existing water pooling problem at the south-west corner of Green Lanes; and that not enough on-site parking is being provided. She is also concerned about the nuisance impacts that the residents of the neighbourhood will be subjected to, such as a loss of privacy and an increase in noise disturbance. In her opinion, a 14-storey building would be better suited to the north side of Bloor Street.

[80] Ms. Kosiw has lived in what she referred to as a “wonderful community” for almost 30 years. She told the Tribunal that this well-established, treelined neighbourhood was originally developed in the 1940s and is the only residential neighbourhood south of Bloor Street, west of Islington Avenue, to Highway 427.

[81] In her view, the proposed building is situated too close to the traffic lights at the Green Lanes and Bloor Street intersection and she is concerned the proximity to these lights may result in traffic backup and increase the likelihood of pedestrian and vehicle accidents. She suggests the residents’ entrance to the building is too close to this busy intersection, and the change of the laneway at the back of the building to a 2-way directional will create further confusion. She also is concerned about the loss of privacy and skyviews. Their existing view looking north from their home is of 3 tall buildings on the other side of Bloor Street and the proposed building will further diminish their skyview.

ANALYSIS AND FINDINGS

[82] In arriving at its determination on these applications, the Tribunal is persuaded by the evidence and opinions of Mr. Reid and Ms. Reisman and finds that the development proposal warrants approval. Their planning policy analysis was comprehensive, cogent, and balanced.

[83] The Tribunal finds that the development of the site in the manner being proposed is appropriate. The proposal has appropriate regard to the matters of Provincial interest enumerated in s. 2 of the *Planning Act*, conforms to the policy directives established by the GP and maintained in the policies of the OP, and is consistent with the policy direction of the PPS.

[84] The proposal provides for orderly development in a location that is appropriate for growth and development. The proposal facilitates built form that is well-designed and sustainable, and encourages a sense of place. The proposal will add to the supply and range of much needed accommodation for the aging population while providing employment opportunities and protecting the public health and safety.

[85] The Tribunal notes that the Provincial Policy Statement, 2020 (“PPS 2020”) came into effect on May 1, 2020. The Tribunal reviewed the evidence of Mr. Reid and Ms. Reisman in support of their professional opinions that the proposal is consistent with the PPS 2014, and is satisfied that the same reasons apply to the PPS 2020. The Tribunal finds that the proposal is consistent with the PPS 2020.

[86] Ms. Reid and Ms. Renaud have taken the position that the building format (height, density, setbacks) of the proposed building results in overdevelopment of the site and adversely impacts the area and adjacent residential neighbourhood. In their collective opinions, the proposed building will overwhelm the site and result in adverse impacts, including diminished sunlight, privacy and skyview.

[87] From their perspective the proposal is not well-designed; does not encourage a

sense of place; does not fit harmoniously with the existing and planned context; diminishes the quality of the public realm; and introduces a building topography that is not contemplated or compatible at this location.

[88] The Tribunal perceives the development proposal in a very different light. The block to the east is developed with an 11-storey (39.6 m) structure. The building being proposed for the site is 14 storeys (49.6 m) and has a similar built form, except that the taller component of the structure is at the opposite end of the building (west). The building beyond Kenwood Park to the west is 13-storeys (54 m). The Tribunal finds that the building being proposed fits nicely into the site and is consistent with the character and existing context of this section of Bloor Street.

[89] The site is currently developed with two single-storey non-distinct buildings, one of which has a large asphalt driveway in the front yard. In my view, rather than diminish the public realm the proposal will improve the streetscape and enliven the public realm and experience by creating a continuous retail frontage along the pedestrian walkway. The public realm and pedestrian experience is further improved with a wider pedestrian walkway and enhanced greening amenities.

[90] The Shadow Study provided by DCMS demonstrates that only a small north-east corner section of Kenway Park will experience some shadowing. The proposal meets the 3-hour Guideline on the north side of Bloor Street, and the shadow impact on the residential neighbourhood is minimal. The Tribunal is satisfied that the proposal does not present an intrusion of views beyond what is to be expected in an UGC in a metropolitan City. The proposed building has been purposely designed so that there are no protruding balconies in the tower element of the building, and the outdoor amenity area and inset terraces will be screened. The Tribunal finds that there are no privacy and overlook issues and the proposal does not result in any unacceptable adverse impacts.

[91] The Provincial planning regime directs social planning policy through the GP and the PPS. The OP is the vehicle for implementing the provincial direction. One such

directive is that municipalities are to plan for the housing needs of their older citizens. The proposal will add to the housing options and opportunities available to seniors.

[92] The Tribunal is alive to the substantive shortage of housing for all sectors within the Greater Toronto Area and throughout the Province. The research conducted by Verve confirms that the City generally, and the local area specifically, is not keeping-up with the current demand for seniors housing. Considering the forecasted increase in seniors population over the next 10 years (17%), it is anticipated the City will have a significant shortfall in this type of housing. If the current trend holds, it is to be expected that 70% of the suites in the proposed retirement residence will be occupied by residents of the local community.

[93] Mr. Gesualdi explained in the course of his evidence that for each type of care offered in the Continuum Care model there is a minimum number of units needed to support the staffing necessary to provide the appropriate levels of care. He also stated that in this case the as-of-right built form was not financially feasible. If it was not clear before, the importance of an adequate supply of well-staffed, quality housing opportunities for the aging population is made even more relevant by the unfortunate events of the past few months. The proposal will make a contribution to the future supply of housing opportunities available to the aging population.

[94] The Tribunal finds that the proposal furthers the Provincial directive of the provision of housing for the aging population and is in the public interest.

ORDER

[95] The Tribunal orders that the appeals are allowed and the Official Plan for the City of Toronto is amended in the manner set out in Attachment 1 to this order;

[96] The amendments to the former City of Etobicoke Zoning By-law and the City of Toronto Zoning By-law No. 1088-2002 as set out in Attachment 2 to this order are approved.

[97] The Final Order is being withheld pending confirmation from the parties that the conditions set out in Attachment 3 to this order have been satisfied.

"M. A. Sills"

M. A. SILLS
VICE CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

AMENDMENT NO ~ TO THE OFFICIAL PLAN

For the lands known municipally as 3411 and 3429 Bloor Street West.

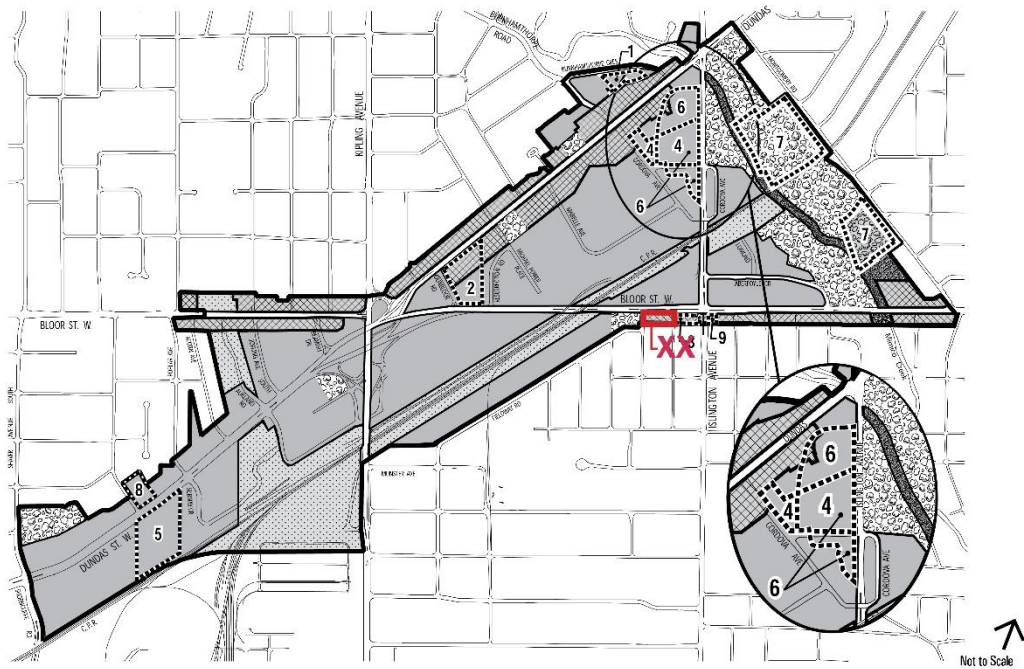
The Official Plan for the City of Toronto is amended as follows:

1. Chapter 6, Secondary Plans, Chapter 12, Etobicoke Centre Secondary Plan, is amended by adding the following to Section 4 of the Secondary Plan titled “Site and Area and Specific Policies” and by adding the mapping of Area XX below to Map 12-5 Land Use in regard to the lands known municipally as 3411 and 3429 Bloor Street West.

XX. 3411 and 3429 Bloor Street West

Notwithstanding the policies of the Etobicoke Centre Secondary Plan, for the lands shown as Area XX on Map 12-5 Land Use Plan:

- a) The lands known municipally as 3411 and 3429 Bloor Street West may develop at greater heights and densities than provided for in other Mixed Use Area B designations.



ATTACHMENT 2

CITY OF TORONTO BY-LAW No. XXXX-2019 (LPAT)

To amend Chapters 320 and 324 of the Zoning Code of the former City of Etobicoke, as amended, and Zoning By-law No. 1088-2002 of the City of Toronto, as amended, with respect to the lands municipally known as 3411 and 3429 Bloor Street West

Whereas the Local Planning Appeal Tribunal, after hearing the appeals in Case No. PL171166, deems it advisable to amend the Zoning Code of the former City of Etobicoke and By-law 1088-2002 of the City of Toronto.

The Local Planning Appeal Tribunal enacts:

1. Notwithstanding Sections 3 A (i), 4, 5, 6 (i), (iv) and (v), 8 (vii) and 9 of By-law No. 1088-2002 (The Etobicoke Centre Zoning By-law), the following provisions shall apply to the EC1 lands described on Schedule 'A' attached hereto.
2. **Permitted Uses**

In addition to the uses permitted in the EC1 zone, a Senior Citizens' Retirement Home Facility is permitted on the Lands.
3. **Density**

The maximum Floor Space Index permitted on the Lands shall be 6.4. The maximum total Gross Floor Area (GFA) permitted on the Lands shall be 14,900 square metres.
4. **Height**
 - a. The maximum building Height in metres above Grade permitted on the Lands shall be as shown following the letter H on Schedule "B", attached hereto.
5. **Building Envelope**
 - a. Every portion of a building or structure located above finished ground level on the Lands shall be located within the Building Envelope shown on Schedule "B", attached hereto.
6. **Floor Plate**
 - a. Each Storey located above a Height of 25.0 metres shall have a Floor Plate Area no greater than 755.0 square metres.
7. **Vehicle Parking**
 - a. Vehicle parking shall be provided on the Lands as follows:

i.

Use	Minimum parking standard
Senior Citizens' Retirement Home Facility	0.3 Parking Spaces per Dwelling Room
Retail Store	1 Parking Space per 100 sq. m. of gross floor area

ii.

If the calculation of the number of required Parking Spaces results in a number with a fraction, the number shall be rounded down to the nearest whole number.

iii. Parking Spaces provided for visitors and non-residential uses may be shared.

iv. A required Parking Space may not be a Tandem Parking Space.

v. The minimum dimensions of a Parking Space shall be 5.6 metres in length and 2.6 metres in width.

vii. The minimum dimensions of an accessible Parking Space shall be 5.6 metres in length and 3.4 metres in width, in addition to an adjacent area having a minimum width of 1.5 metres.

viii. The minimum required width of a Parking Space shall be increased by 0.3 metres for each side of the Parking Space that is obstructed in accordance with subsection 320-18A(3) of the Etobicoke Zoning Code.

8. **Bicycle Parking**

a. Bicycle parking spaces shall be provided on the Lands as follows:

i.

Use	Type of bicycle parking	Minimum bicycle parking requirement
Retail Store	Short Term	3 + 0.25 spaces/100 square metres of interior floor area
	Long Term	0.13 spaces/100 square metres of interior floor area

9. **Loading**

a. Loading spaces shall be provided on the Lands as follows:

i. One Type "B" loading space with minimum dimensions of 11.0 metres in length, 3.5 metres in width and a vertical clearance of 4.0 metres.

- ii. One Type “C” loading space with minimum dimensions of 6.0 metres in length, 3.5 metres in width and a vertical clearance of 3.0 metres.

10. **Definitions**

- a. For the purposes of this By-law, the following definitions shall apply:
 - i. “Building Envelope” shall mean the area shown within the heavy lines on Schedule “B” to this By-law;
 - ii. “Dwelling Room” shall mean separate living quarters located in a Senior Citizens’ Retirement Home Facility designed or intended for use or used by an individual or individuals and which shall include at least one room and separate sanitary conveniences and shall not include a kitchen with cooking facilities, with a private entrance from outside and/or from a common hallway inside;
 - iii. “Grade” shall mean 121.03 metres Canadian Geodetic Datum;
 - iv. “Gross Floor Area” shall have the same meaning as in By-law 1088-2002 except that the following areas shall also be excluded: all parking areas including access thereto, garbage and loading areas, bicycle parking areas and 1.5 square metres of indoor amenity space per Dwelling Room in the Senior Citizens’ Retirement Home Facility;
 - v. “Lands” shall mean the parcel of land outlined by heavy lines on Schedule “A” attached hereto;
 - vi. “Tandem Parking Space” shall mean a Parking Space that is only accessed by passing through another Parking Space from a street, lane, drive aisle or driveway.

11. The provisions of this By-law shall apply collectively to the Lands not withstanding any future division of the Lands.

12. Pursuant to s.37 of the Planning Act, prior to the issuance of the first above grade building permit the owner shall provide to the City:

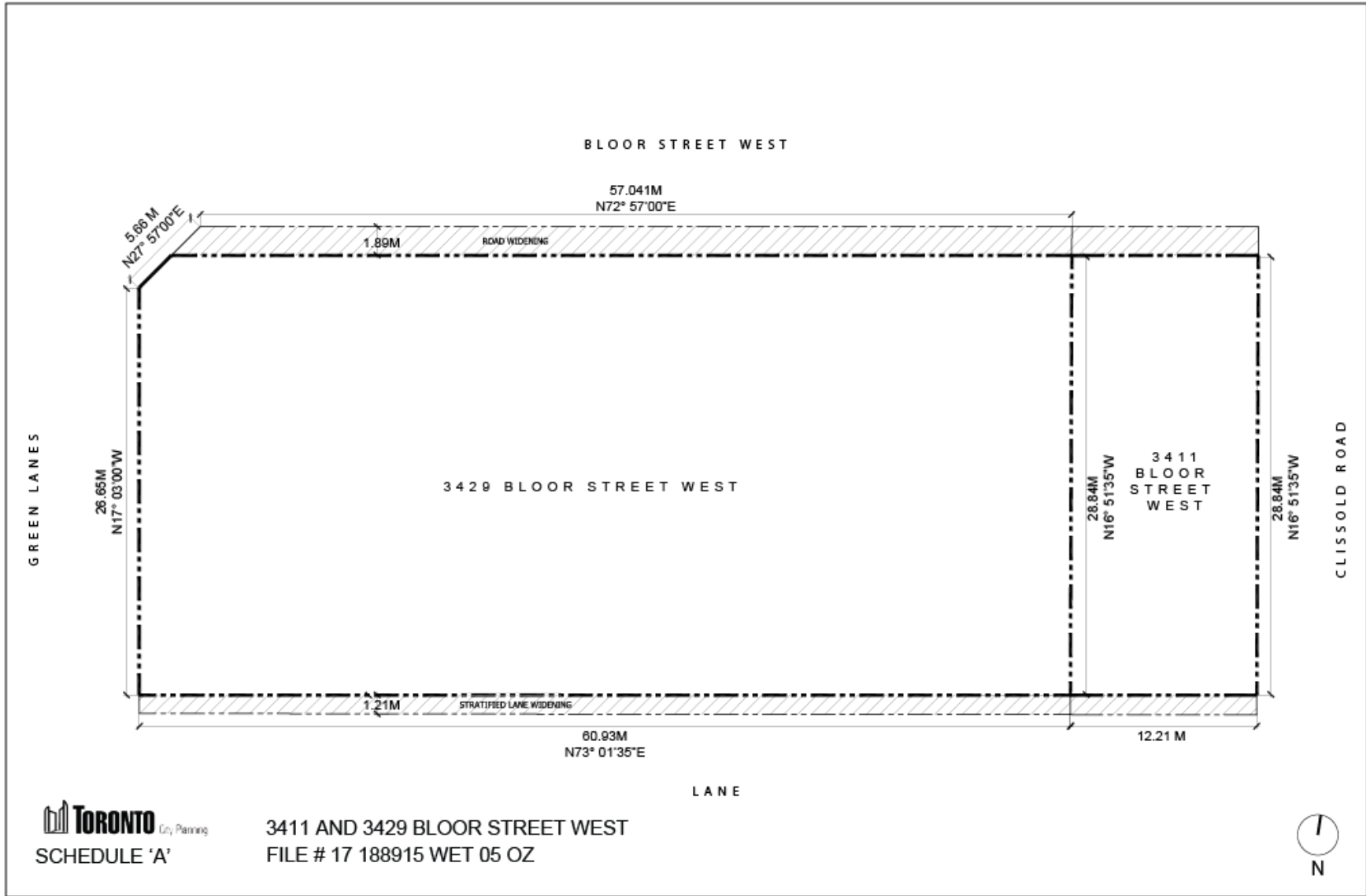
- a. a cash contribution in the amount of \$1,000,000.00 to be allocated towards community facilities, park improvements and local traffic calming in the vicinity of the site, at the discretion of the Chief Planner and Executive Director in consultation with the Ward Councillor.
- b. the owner will be responsible for the cost of designing and implementation of the protected westbound advance left turn phase at the Bloor Street West and Green Lanes intersection during the weekday peak periods, to the satisfaction of Transportation Services and at no cost to the municipality;
- c. the owner will be responsible for the 1.21 m wide stratified widening of the public lane along the rear of the property, including any applicable signage and required removal of existing signage, to the satisfaction of Transportation Services and at no cost to the municipality;

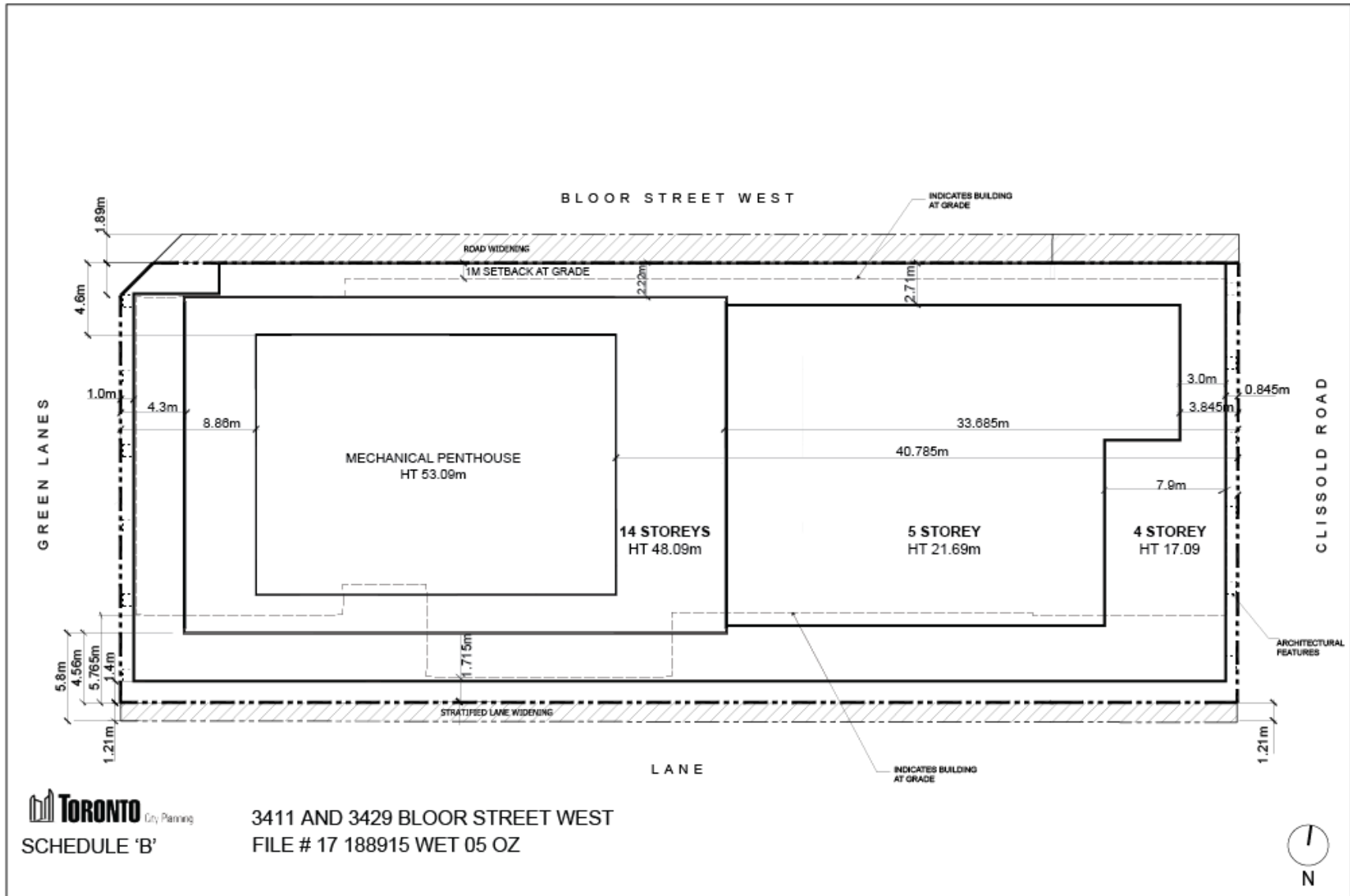
- d. the owner agrees that the following matters will be addressed at the site plan approval stage:
- i. To satisfy accessibility requirements in the Toronto Green Standard, the municipal sidewalks along the Bloor Street West, Green Lanes, and Clissold Road site frontages must be reconstructed to a minimum width of 3.0 metres, 2.4 metres, and 2.1 metres, respectively and designed according to the cross-section requirements of City of Toronto Design Standard No. T-310.010-2. The sidewalk must be designed to the satisfaction of Transportation Services and reconstructed at no cost to the municipality.
 - ii. The applicant shall prepare drawings to demonstrate compliance with the accessible parking space dimensional requirement in Section No. 200.15 of City of Toronto Zoning By-law 569-2013, as amended by By-law 579-2017.
 - iii. The applicant shall prepare drawings to illustrate the dimensions of the parking ramp, including the curved ramp section and transition ramp at the P1 Level, which must be designed to the satisfaction of Transportation Services. More specifically, Transportation services will expect:
 1. The maximum slope of a covered or heated ramp shall be 15 percent;
 2. The maximum slope of an outdoor unheated ramp shall be 10 percent;
 3. The maximum sloped floor for direct access to parking areas shall be 5 percent;
 4. The minimum centreline radius for two way driveways, including curved parking ramps, shall be 7.5 metres;
 5. For curved ramp sections, a width of 4.0 metres shall be provided for a lane on the inside of the curve and a width of 3.5 metres shall be provided for a lane on the outside of the curve;
 6. For ramp slope changes of 7.5 percent or greater, a transition area with a minimum length of 3.65 metres (measured parallel to the direction of travel on the ramp) must be provided. The slope of the transition area shall be half the difference of the first slope of the ramp or driveway and the second slope of the ramp or driveway; and
 7. The owner will provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers By-law Chapter 68-10.

13. Where the provisions of the Etobicoke Zoning Code or By-law 1088-2002 conflict with this By-law, the provisions of this By-law shall prevail.

14. Chapter 324, Site Specifics, of the Etobicoke Zoning Code, is amended to include reference to this By-law by adding the following to Section 324-1, Table of Site-Specific By-laws:

By-law Number and Adoption Date	Description of Property	Purpose of By-law
XXXX- 2019	3411 and 3429 Bloor Street West	To amend the provisions of By-law 1088-2002 and provide site-specific development standards to permit a mixed-use development of the Lands.





ATTACHMENT 3

DRAFT ORDER AND CONDITIONS

The appeals by DCMS (Bloor-Islington) Inc. are allowed in part.

The draft Official Plan Amendment in Exhibit No. 19 is approved.

The draft Zoning By-law Amendment in Exhibit No. 20 is approved in principle.

The Final Order respecting the Official Plan Amendment and Zoning By-law Amendment shall be withheld until the following conditions have been satisfied:

1. The final version of the Zoning By-law Amendment, to the satisfaction of the Chief Planner and Executive Director, City Planning, the City Solicitor and the appellant, is provided to the Tribunal; and
2. The Tribunal is advised by the City Solicitor that:
 - A. The owner has executed an Agreement under Section 37 of the *Planning Act* which shall include the following benefits:
 - i) a cash contribution in the amount of \$1,000,000 to be allocated at the discretion of the Chief Planner in consultation with the Ward Councillor toward community benefits in the vicinity of the site and in accordance with the policies of the Official Plan;
 - ii) the owner will be responsible for the cost of designing and implementation of the protected westbound advance left turn phase at the Bloor Street West and Green Lanes intersection during the weekday peak periods, to the satisfaction of Transportation Services and at no cost to the municipality;
 - iii) the owner will be responsible for the 1.21 m wide stratified widening of the public lane along the rear of the property, including any applicable signage and required removal of existing signage, to the satisfaction of Transportation Services and at no cost to the municipality;
 - iv) the owner agrees that the following matters will be addressed at the site plan approval stage:
 - a) To satisfy accessibility requirements in the Toronto Green Standard, the municipal sidewalks along the Bloor Street West, Green Lanes, and Clissold Road site frontages must be reconstructed to a minimum width of 3.0 metres, 2.4 metres, and 2.1 metres, respectively and designed according to the cross-section requirements of City of Toronto Design Standard No. T-310.010-2.

The sidewalk must be designed to the satisfaction of Transportation Services and reconstructed at no cost to the municipality.

- b) The applicant shall prepare drawings to demonstrate compliance with the accessible parking space dimensional requirement in Section No. 200.15 of City of Toronto Zoning By-law 569-2013, as amended by By-law 579-2017.
 - c) The applicant shall prepare drawings to illustrate the dimensions of the parking ramp, including the curved ramp section and transition ramp at the P1 Level, which must be designed to the satisfaction of Transportation Services. More specifically, Transportation services will expect:
 - a. The maximum slope of a covered or heated ramp shall be 15 percent;
 - b. The maximum slope of an outdoor unheated ramp shall be 10 percent;
 - c. The maximum sloped floor for direct access to parking areas shall be 5 percent;
 - d. The minimum centreline radius for two way driveways, including curved parking ramps, shall be 7.5 metres;
 - e. For curved ramp sections, a width of 4.0 metres shall be provided for a lane on the inside of the curve and a width of 3.5 metres shall be provided for a lane on the outside of the curve;
 - f. For ramp slope changes of 7.5 percent or greater, a transition area with a minimum length of 3.65 metres (measured parallel to the direction of travel on the ramp) must be provided. The slope of the transition area shall be half the difference of the first slope of the ramp or driveway and the second slope of the ramp or driveway; and
 - g. The owner will provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers By-law Chapter 68-10.
- B. The owner has submitted a revised Stormwater Management Study to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- C. The owner has submitted a Sanitary Sewer Analysis to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

- D. The owner has submitted a Hydrant Pressure and Volume Test to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- E. The owner has entered into a financially secured agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades and road improvements are required to support the development, according to the Transportation Impact Study accepted by the General Manager, Transportation Services and the Stormwater Management Study, Sewer Analysis and Hydrant Pressure and Volume Test accepted by the Chief Engineer and Executive Director, Engineering and Construction Services.

The Tribunal may be spoken to in the event that the Parties have difficulty in implementing any of these conditions.