

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON SEPTEMBER 9, 2019</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>LIMITING DISTANCE (NO-BUILD) AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF LONDON &amp; 947563 ONTARIO LIMITED o/a BRIDLEWOOD HOMES (1648 WARBLER WOODS WALK)</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Development & Compliance Services & Chief Building Official, the following actions be taken in respect of a limiting distance (no-build) agreement between the Corporation of the City of London and 947563 Ontario Limited o/a Bridlewood Homes (1648 Warbler Woods Walk):

- a) the attached proposed limiting distance agreement for the property at 1648 Warbler Woods Walk between the Corporation of the City of London and 947563 Ontario Limited o/a Bridlewood Homes **BE APPROVED**; and
- b) the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting of September 17, 2019 to approve the limiting distance agreement between the Corporation of the City of London and 947563 Ontario Limited o/a Bridlewood Homes for the property at 1648 Warbler Woods Walk, and to delegate authority to the Managing Director, Parks and Recreation to execute the agreement on behalf of the City of London as the adjacent property owner.

<b>PREVIOUS REPORTS</b>
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January 28, 2009 – Report to Board of Control, submitted by the Director of Building Controls to amend the Appointment By-law authorizing the Chief Building Official to bind the Corporation of the City of London while exercising his duties in executing limiting distance agreements.

<b>BACKGROUND</b>
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The purpose of this report is to authorize the Managing Director, Parks and Recreation, to execute into a limiting distance agreement on behalf of the Corporation of the City of London (Corporation) as the owner of the adjacent property. The Corporation is the owner of the park space property to the south of 1648 Warbler Woods Walk.

The owners of the property situated at 1648 Warbler Woods Walk namely, 947563 Ontario Limited o/a Bridlewood Homes have applied for a building permit to build a 3,660 sq.ft. (340 sq. m) - including the finished basement - single detached dwelling. The south exposed building face of the proposed house, would require a setback to the property line of 6.0m due to the proposed percentage of unprotected openings (16%) as per the Ontario Building Code (OBC).

The OBC provides relief from any setback restrictions by allowing for a virtual property line to be established. This requires that the affected owners enter into a limiting distance or otherwise commonly known as a “no-build” agreement with the adjacent owner(s) and the municipality.

Through the agreement, one of the affected owners covenants that no building or structure will be erected or placed on the portion of the property wherein the virtual property line has been shifted upon. This, in essence, allows the other owner to construct a building closer to the actual property line and thus being ‘relieved’ from the requirements of the OBC with respect to how the wall is to be constructed from a fire resistance standpoint.

947563 Ontario Limited o/a Bridlewood Homes (referred in the agreement as ‘Owner’), approached the Building Division with a proposal to enter into a “no-build” agreement which would eliminate the otherwise required opening restriction and result in a more aesthetic south wall design.

As previously mentioned, the OBC (Division B – Articles 9.10.14.2.(4) and (5)) allows for a municipality to enter into a “no-build” agreement with the property owners affected. The agreement will also be registered on the titles of the lands in question.

Articles (4) and (5) state:

*(4) The required limiting distance for an exposing building face is permitted to be measured to a point beyond the property line that is not the centre line of a street, lane or public thoroughfare if,*

*(a) the owners of the properties on which the limiting distance is measured and the municipality enter into an agreement in which such owners agree that,*

*(i) each owner covenants that, for the benefit of land owned by the other covenantors, the owner will not construct a building on his or her property unless the limiting distance for exposing building faces in respect of the proposed construction is measured in accordance with the agreement,*

*(ii) the covenants contained in the agreement are intended to run with the lands, and the agreement shall be binding on the parties and their respective heirs, executors, administrators, successors and assigns,*

*(iii) the agreement shall not be amended or deleted from title without the consent of the municipality, and*

*(iv) they will comply with such other conditions as the municipality considers necessary, including indemnification of the municipality by the other parties, and*

*(b) the agreement referred to in Clause (a) is registered against the title of the properties to which it applies.*

*(5) Where an agreement referred to in Sentence (4) is registered against the title of a property, the limiting distance for exposing building faces in respect of the construction of any buildings on the property shall be measured to the point referred to in the agreement.*

The Corporation (referred in the agreement as 'Adjacent Owner'), is the owner of the property to the south. Considering the property is parkland-open space, entering into a "no-build agreement" with the Owner and the Corporation as the adjacent property owner, is considered a feasible option. This would result in the elimination of the percentage of unprotected opening restriction and/or fire resistance rating of the south exposed building face of the proposed dwelling unit.

The Building Division consulted with the Manager III, Parks Planning and Design, Planning Services with respect to the agreement, who advised that there was no objection with this proposal.

A site plan depicting the proposed dwelling as well as the South Elevation are included in Appendix 'A'.

<b>CONCLUSION</b>
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Previously, City Council has resolved to authorize the Chief Building Official to bind the Corporation in executing the limiting distance agreements, exercising his duties under the provisions of the Ontario Building Code.

The purpose of this report is to authorize the Managing Director, Parks and Recreation, to execute a limiting distance agreement on behalf of the Corporation in its capacity as the Adjacent Owner. The Corporation is the owner of the open space property to the south of 1648 Warbler Woods Walk.

The agreement, a provision under the Ontario Building Code, would allow the owner of 1648 Warbler Woods Walk to increase the percentage of wall openings and essentially provide a more feasible design option for the dwelling's south wall.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<p><b>PETER KOKKOROS, P.ENG. DEPUTY CHIEF BUILDING OFFICIAL, DEVELOPMENT AND COMPLIANCE SERVICES</b></p>	<p><b>GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b></p>

c.c Andrew MacPherson, Manager III, Parks Planning and Development  
Dave Munteer, Solicitor II

Bill No.

By-law No.

A By-law to approve a limiting distance agreement between the Corporation of the City of London and 947563 Ontario Limited o/a Bridlewood Homes for the property at 1648 Warbler Woods Walk, and to delegate authority to the Managing Director, Parks and Recreation to execute the agreement on behalf of the City of London as the adjacent property owner.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into a limiting distance agreement with 947563 Ontario Limited o/a Bridlewood Homes for the property at 1648 Warbler Woods Walk (the "Agreement");

AND WHEREAS it is appropriate to delegate authority to the Managing Director, Parks and Recreation to execute the agreement on behalf of the City of London as the adjacent property owner;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement substantially in the form attached as Schedule "A" to this by-law and to the satisfaction of the City Solicitor, being limiting distance agreement between the Corporation of the City of London and 947563 Ontario Limited o/a Bridlewood Homes for the property at 1648 Warbler Woods Walk, is hereby APPROVED.
2. The Managing Director, Parks and Recreation is hereby authorized to execute the Agreement approved under section 1 of this by-law on behalf of the City of London as the adjacent property owner.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council , 2019

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First reading -  
Second reading –  
Third reading –

**SCHEDULE "A"**

**THIS AGREEMENT** made in duplicate this \_\_\_th day of September, 2019 .

**BETWEEN:**

**947563 Ontario Limited o/a Bridlewood Homes**  
(hereinafter called the "OWNER")

of the FIRST PART

- and -

**THE CORPORATION OF THE CITY OF LONDON**

(hereinafter called the "CITY")

of the SECOND PART

- and -

**THE CORPORATION OF THE CITY OF LONDON**

(hereinafter called "ADJACENT OWNER")

of the THIRD PART

**WHEREAS** the Owner is the registered owner of the lands described in Schedule "A" (the "Owners' Lands");

**AND WHEREAS** Adjacent Owner is the registered owner of lands described in Schedule "B" (the "Adjacent Lands");

**AND WHEREAS** the Owner's Lands abut and are immediately to the North of the Adjacent Lands;

**AND WHEREAS** the Owner has applied to the City for permission to be exempted from certain provisions of the Ontario Building Code pertaining to unprotected openings and fire rating in the wall of a Single Detached Dwelling constructed on the Owner's Lands;

**AND WHEREAS** the south face of the single detached dwelling will abut the Adjacent Lands;

**AND WHEREAS** the City wishes to ensure that no building or structure will be erected on the Adjacent Lands within 6.0 metres of the south face of the Single Detached Dwelling on the Owner's Lands;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the sum of \$2.00 and other good and valuable consideration now paid by each of the parties hereto to the other, the receipt and sufficiency of which is hereby acknowledged, the City, the Owner and Adjacent Owner hereby covenant and agree as follows:

1. The Adjacent Owner irrevocably agrees with the Owner not to construct any building or structure within 6.0 metres of the South face of the Single Detached Dwelling on the Owner's Land; failing which, the Adjacent Owner shall be fully liable for all costs of the work to be performed pursuant to the requirements of the Ontario Building Code.
2. The Adjacent Owner acknowledges and agrees that the 6.0 metre line as established by this agreement shall be the "limiting distance" for the purposes of the determining unprotected openings or fire rating on the wall as required by the Ontario Building Code, of the North face of any building subsequently erect on the Adjacent Lands.
3. For the purposes of this agreement "limiting distance" shall mean a line 6.0 metres from the South wall of the house on the Owner's Lands.
4. This restriction shall run with the Owner's Lands and the Adjacent Lands and shall bind all Parties hereto, their successors and assigns.
5. The Owner covenants and agrees with the City, that the Owner will forthwith bring the South wall of the Single Detached Dwelling into compliance, as is prescribed by the Ontario Building Code then in effect, coincidental with the construction of any building or structure upon the Adjacent Lands, which is within 6.0 metres of the South face of the Single Detached Dwelling on the Owner's Lands.

6. Further, the Owner covenants and agrees with the City, that the City may at any time Utilize its land to the south of 1648 Warbler Woods Walk as parkland, which may include the installation of standard park amenities and/or tree planting.
7. The Owner, successors and heirs of the subject property at 1648 Warbler Woods Walk agree(s) to restore to the City's satisfaction any disturbance of the parkland immediately adjacent to the south.
8. Removal of this agreement from the title of either property shall require the written agreement of all parties (or their heirs or assigns) to this agreement.

**IN WITNESS WHEREOF** the parties hereto have hereunto duly executed this agreement.

**SIGNED, AND DELIVERED**  
in the presence of:

) **947563 Ontario Limited o/a Bridlewood Homes**  
 ) (Owner)  
 ) per: Carmine Gargarella  
 )  
 ) \_\_\_\_\_  
 ) Authorized Officer  
 )  
 )  
 )  
 ) **THE CORPORATION OF THE CITY OF LONDON**  
 ) (City)  
 ) per: George Kotsifas, P.Eng.  
 )  
 ) \_\_\_\_\_  
 ) Authorized Officer  
 )  
 )  
 ) **THE CORPORATION OF THE CITY OF LONDON**  
 ) (Adjacent Owner)  
 ) per: Scott Stafford-Managing Director,  
 ) Parks & Recreation  
 )  
 ) \_\_\_\_\_  
 ) Authorized Officer

**SCHEDULE 'A'**

PLAN 33M711 LOT 89 (Municipal Address 1648 Warbler Woods Walk)



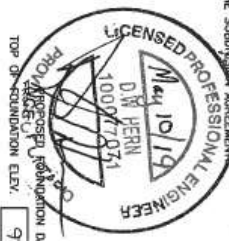
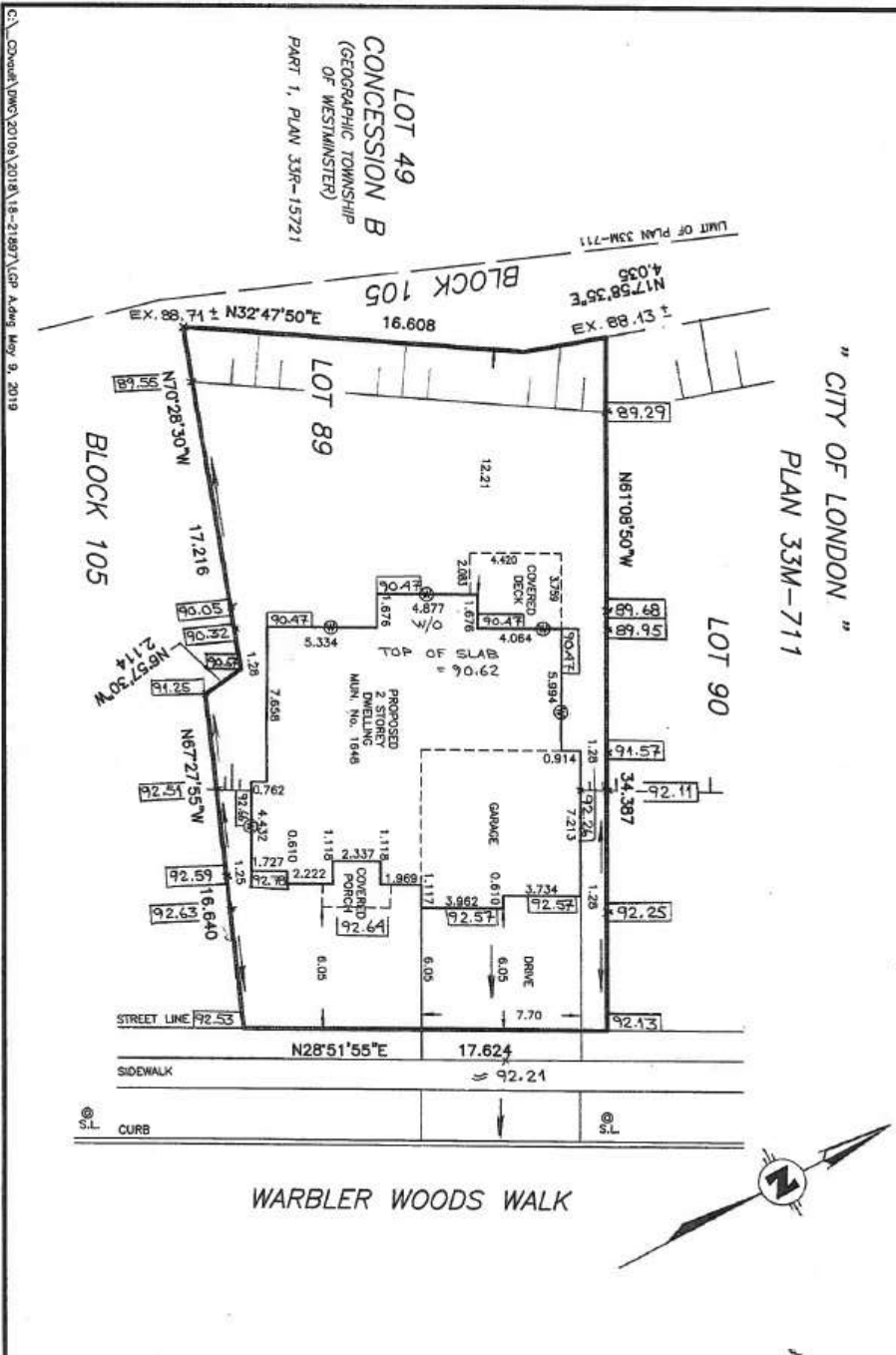
**SCHEDULE 'B'**

PLAN 33M711 BLK 105 RP  
33R19765 PARTS 1 AND 2

APPENDIX 'A'

NO.	DATE	LRP	DATE	L/O
1	APR 28 2019	VL		
2	MAY 9 2019	VL		

NOTE:  
STEP FOOTING FOR FROST COVER.  
STEP FOUNDATION TO SUIT GRADE.



I HEREBY CERTIFY THAT THE PROPOSED GRADING AND APPURTENANT DRAINAGE WORKS COMPLY WITH SOUND ENGINEERING DESIGN AND THAT THE PROPOSED GRADING IS IN GENERAL CONFORMITY WITH THE SUBDIVISION GRADING PLANS FILED WITH THE CITY ENGINEER OR ATTACHED TO THE SUBDIVISION GRADING PLANS.

PROPOSED FOUNDATION DATA:

TOP OF FOUNDATION ELEV.	93.08
FRONT:	90.39
REAR:	89.25
BASEMENT WINDOW SILL ELEV.	N/A
8'4" FOUNDATION WALL HEIGHT	2.54
20" TOP OF FOUNDATION TO FINISHED GARAGE FLOOR	0.51

UNDERSIDE OF FOOTING

BASEMENT WINDOW SILL ELEV. N/A

8'4" FOUNDATION WALL HEIGHT 2.54

20" TOP OF FOUNDATION TO FINISHED GARAGE FLOOR 0.51

SITE DATA:  
 SITE AREA = 642,268 SQ.M.  
 BUILDING AREA = 202,091 SQ.M. (31%)  
 DRIVEWAY AREA = 48,232 SQ.M. (7%)  
 LANDSCAPED AREA = 391,336 SQ.M. (61%)

NOTE: ADD 200 METRES TO ALL ELEVATIONS TO OBTAIN GEODETIC DATUM.  
 DENOTES OPENING(S) PRESENT ON SIDE OF BUILDING (N.T.S.)

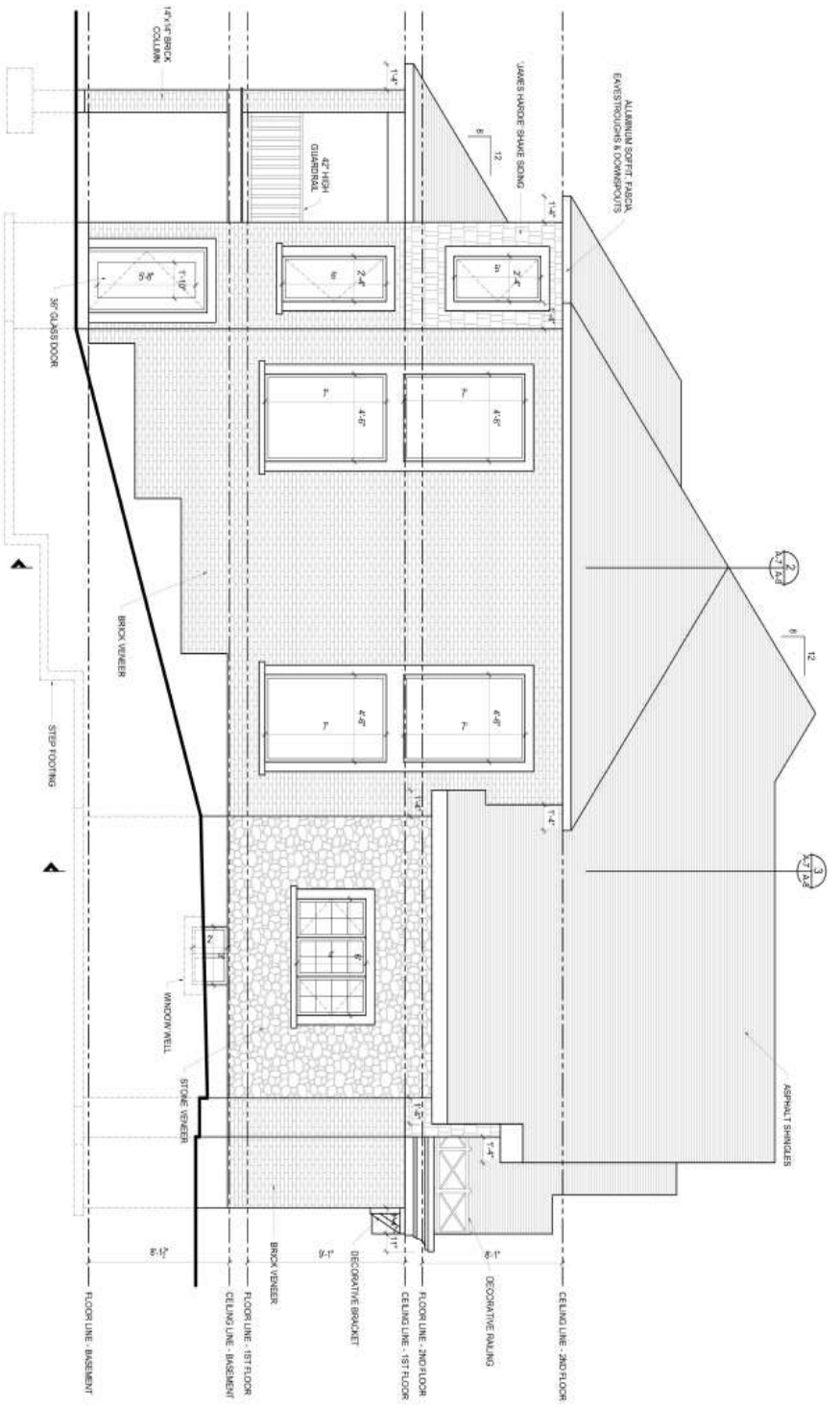
ZONING BASED ON: R1-5

**Callon + Dietz**  
 INCORPORATED  
 ONTARIO LAND SURVEYORS  
 LONDON NORTH BAY ST. THOMAS  
 TEL (519) 673-0220 FAX (519) 673-5052

PLAN PREPARED FOR:  
 BRIDLEWOOD HOMES

PLAN No.: 33M-711 FILE No.: 18-21887 A  
 DRAWN BY: VL SCALE: 1:250

C:\Oswald\DWG\2019\18-21887\LRP A.dwg May 9, 2019



**LEFT ELEVATION**

SCALE: 1/4"=1'

**LIMITING DISTANCE CALCULATIONS**

TOTAL AREA OF EXPOSING BUILDING FACE (SQ FT) (TOTAL)	11527.1107
TOTAL AREA OF EXPOSING BUILDING FACE (SQ FT) (GLAZED)	181.80
PERCENTAGE AREA OF GLAZED OPENINGS	1.58%

**Table 9.10.15.4**  
**Maximum Area of Glazed Openings in Exterior Walls of Houses**  
 Forming Part of Sentences 9.10.15.4.(1) and (2)

Item	Column 1	Maximum Aggregate Area of Glazed Openings, % of Exposing Building Face Area														
		2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	Less Than 1.2	1.2	1.5	2	2.5	3	4	6	8	10	11	12	16	20	25	
		1.2	1.5	2	2.5	3	4	6	8	10	11	12	16	20	25	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	1.2	0	8	12	21	33	55	96	100	—	—	—	—	—	—	
		0	8	10	17	25	37	67	100	—	—	—	—	—	—	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	1.5	0	8	10	15	21	30	53	100	—	—	—	—	—	—	
		0	8	9	13	19	26	45	100	—	—	—	—	—	—	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	2	0	7	9	12	17	23	39	88	100	—	—	—	—	—	
		0	7	8	11	15	20	32	69	100	—	—	—	—	—	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	2.5	0	7	8	10	14	18	28	57	100	—	—	—	—	—	
		0	7	8	9	11	13	18	34	56	84	100	—	—	—	
Maximum Total Area of Exposing Building Face, m <sup>2</sup>	3	0	7	7	8	9	10	12	12	28	40	55	92	100	—	
		0	7	7	7	8	9	10	12	12	28	40	55	92	100	