

Authority: Toronto Community Council Report No. 4, Clause No. 3,
as adopted by City of Toronto Council on March 2, 3 and 4, 1999
Enacted by Council: June 8, 2000

CITY OF TORONTO

BY-LAW No. 358-2000

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known as Nos. 195 and 253 Merton Street.

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services and 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, a 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 lands hereinafter referred to has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this by-law and to be secured by one or more agreements between the owner of such lands and the City of Toronto; and

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

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

1. None of the provisions of Section 2 respecting the definition of the word “*lot*” and of Sections 4(2)(a) exclusive of rooftop facilities, 4(4)(b), 4(16) or Section 8(3) PART I 3.(a) of By-law No. 438-86 of the former City of Toronto, 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 any of up to three *apartment buildings* on the *lot*, provided:

- (1) the *lot* comprises the lands shown outlined by heavy lines on the attached Plan 1;
- (2) no portion of any building is erected and used on the *lot* above *grade* otherwise than wholly within the areas delineated by heavy lines as shown on the attached Plans 2A, 2B and 2C;
- (3) at least 107 *parking spaces* for the exclusive use of residents, and at least 15 *parking spaces* for visitors to the residents, for each building, are provided and maintained in an underground garage on the *lot*;
- (4) no portion of any building is erected or used on the *lot* within Area B;
- (5) each building contains not more than 125 *dwelling units*;
- (6) the combined *residential gross floor area* of all buildings does not exceed 32 103 square metres; and
- (7) no building, exclusive of rooftop elements and facilities permitted in Section 4(2)(a) of By-law No. 438-86, is erected or used on the *lot* above the *height* in metres specified by the numbers following the symbol H within the areas delineated by heavy lines on the attached Plans 2A, 2B and 2C;

2. The density of development and *height* of development permitted by Section 1 is permitted subject to compliance with the conditions set out therein and in return for the provision by the owner of the *lot* of the following facilities, services or matters to the City of Toronto, being that the owner:

- (1) pay to the City of Toronto \$473,000.00, being the park contribution prior to the issuance of the first building permit;
- (2) provide details of the park improvements in accordance with the requirements of the Commissioner of Economic Development, Culture and Tourism;
- (3) ensure that the City has permanent access over a 4.7 metre wide right-of-way next to the easterly *lot* line to allow a public walkway connection between Merton Street and the Beltline park;
- (4) repair, replace and maintain the retaining wall within the right-of-way;
- (5) provide a letter of credit satisfactory to the City, prior to the issuance of the first building permit, to cover the costs of implementing the Environmental Remediation Plan and Program and Basic Park Construction;
- (6) pay for improvements to the public sidewalk and boulevard including paving materials and tree planting;

- (7) provide space within the development for the construction of transformer vaults, Hydro, Bell and sewer maintenance holes required in connection with the development;
- (8) provide, maintain and operate the development in accordance with the Noise Impact Statement approved by the Commissioner of Works and Emergency Services;
- (9) have a qualified architect/acoustical consultant certify in writing to the Commissioner of Works and Emergency Services that the development has been designed and constructed in accordance with the Noise Impact Statement Approved by the Commissioner of Works and Emergency Services;
- (10) conduct a detailed historical review of the *lot* to identify all existing and past, on-site and surrounding land uses which could result in negative environmental effects to the subject site, such report to be submitted for approval of the Medical Officer of Health prior to the issuance of a building permit;
- (11) conduct a site and building audit for the identification of all hazardous materials on the *lot*, such report to be submitted for approval of the Medical Officer of Health. The removal of all these materials to be conducted in accordance with Ministry of Labour and the Ministry of Environment and Energy guidelines;
- (12) conduct a soil and groundwater testing program and produce a Soil and Groundwater Management Plan which characterizes soil conditions and proposes remediation options which are satisfactory to the Medical Officer of Health;
- (13) implement, under the supervision of an on-site qualified consultant, the Soil and Groundwater Management Plan as stipulated in the report approved by the Medical Officer of Health and upon completion submit a report from the on-site environmental consultant, to the Medical Officer of Health, and certifying that the remediation has been completed in accordance with the Soil and Groundwater Management Plan;
- (14) prepare a Demolition and Excavation Dust Control Plan satisfactory to the Medical Officer of Health; and
- (15) implement the measures in the Demolition and Excavation Dust Control Plan approved by the Medical Officer of Health; and
- (16) take measures to protect significant trees on the *lot*; and
- (17) identify and secure in as much detail as possible, obligations relating to the establishment of a park on the Beltline, including conveyance to the City,

indemnification, insurance, legal descriptions and plans of survey, interim maintenance of Beltline Park lands, park improvements, letters of credit, public consultation, park utilities and services, design and construction drawings, changes, grading and fill, inspection, certifications, default, warranties, remedial work, preparation and implementation of a tree plan, access and lighting of pathways, construction of a park on Area B of Plan 1, park design, park design changes, fill and topsoil quality and depth, above ground structures, drainage, the restoration of Area B, rough grading, ground and storm water management, the phasing of park improvements, maintenance of abutting Building walls, finished elevations, lighting of the park, condition of abutting lands and structures, and linkage of the park to Mount Pleasant Road; and

- (18) enter into one or more agreements satisfactory to the City of Toronto, pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters required to be provided by subsections 2(1) - 2(17) inclusive with such agreement or agreements appropriately registered against the title to the *lot*.

3. For the purposes of this by-law,

- (1) the *lot* upon which the buildings are erected and used shall continue to comprise the lands shown outlined by heavy lines on the attached Plan 1 notwithstanding a conveyance of part of Area B to the *Corporation* for *public parks* purposes; and
- (2) each word or expression which is italicized shall have the same meaning as such word or expression as defined in By-law No. 438-86, as amended.

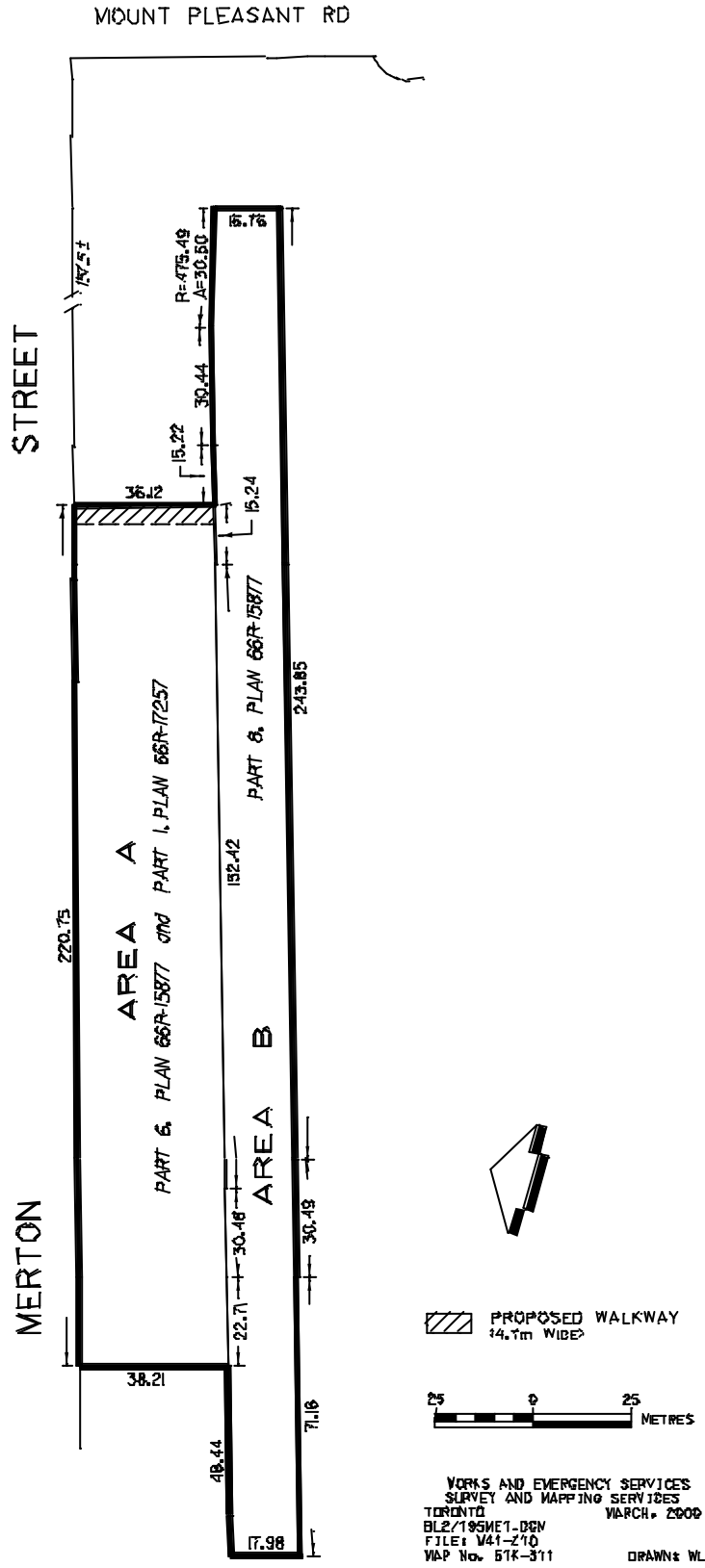
ENACTED AND PASSED this 8th day of June, A.D. 2000.

CASE OOTES,
Deputy Mayor

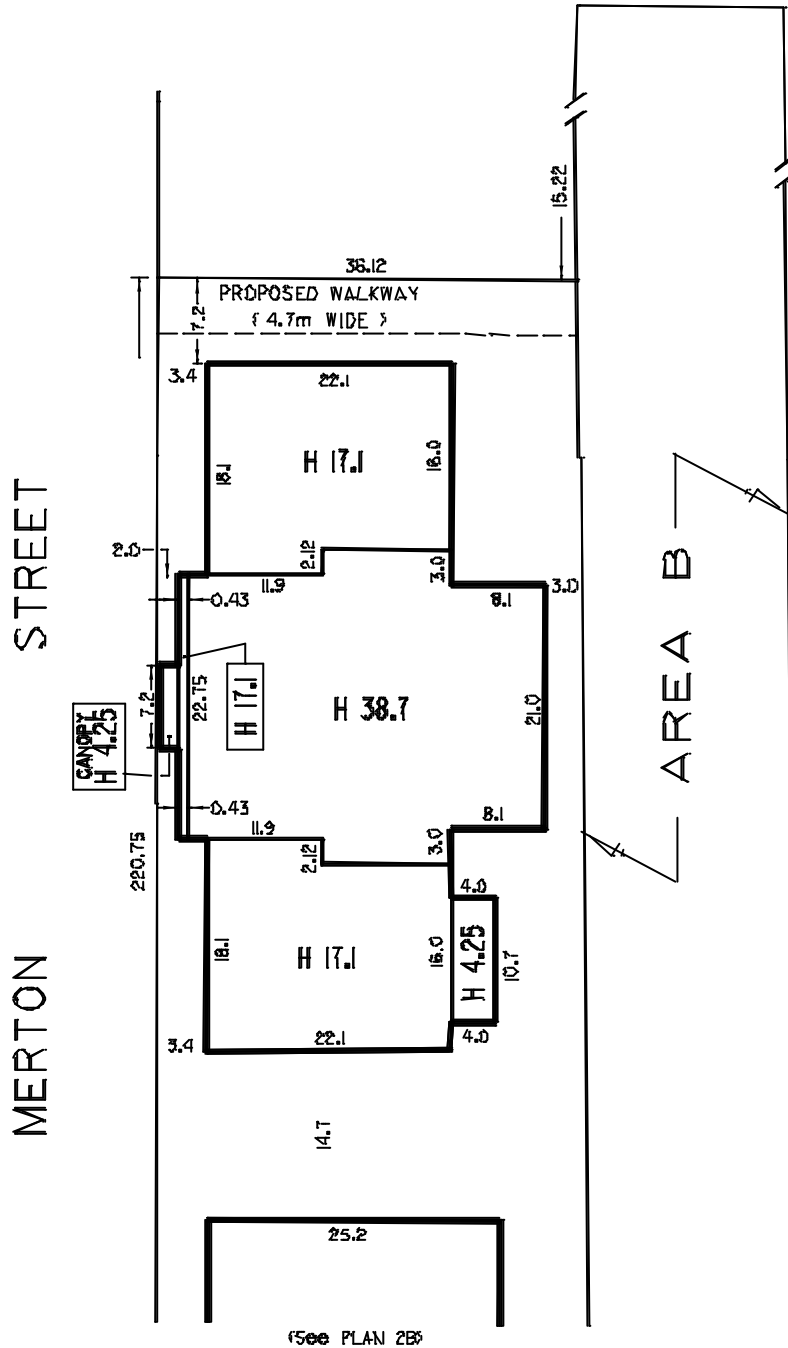
NOVINA WONG,
City Clerk

(Corporate Seal)

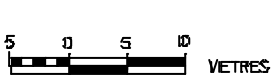
PLAN 1



PLAN 2A



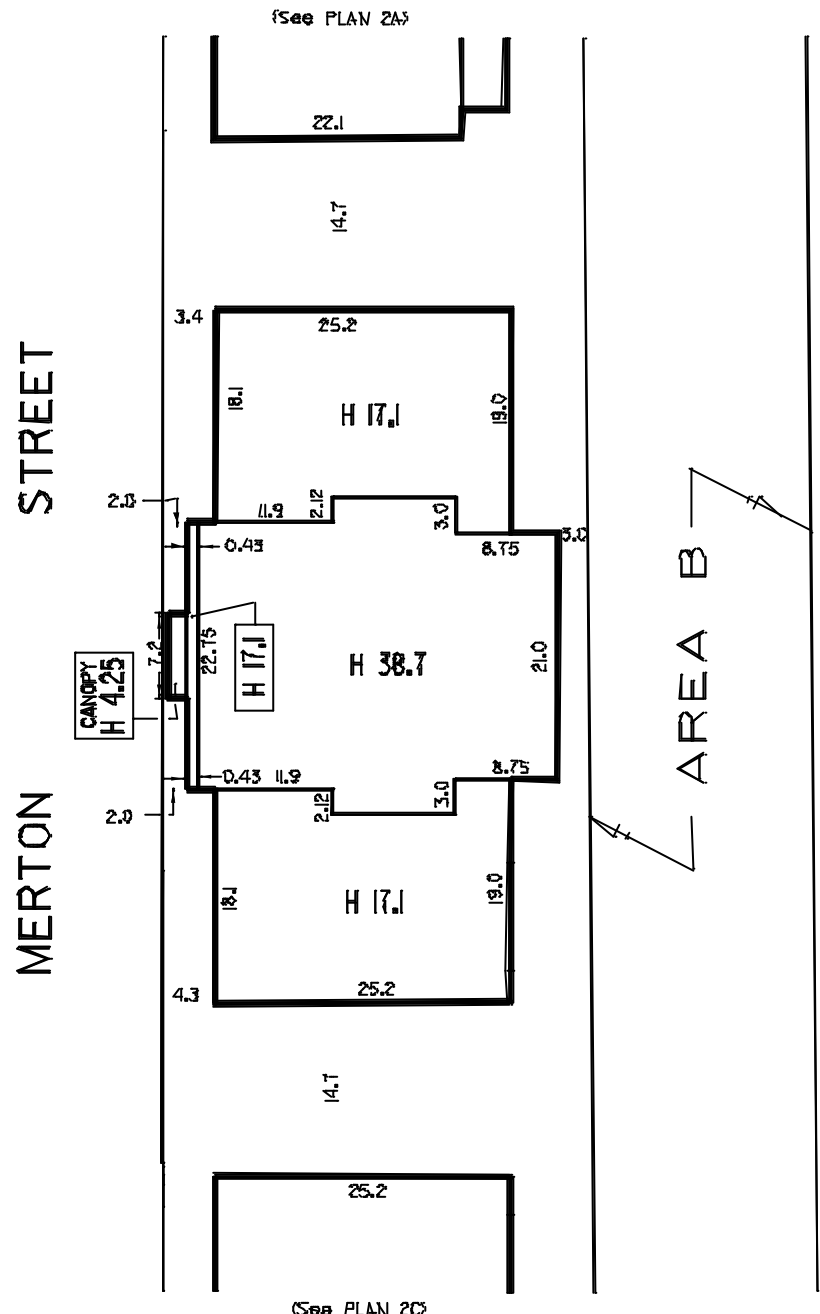
**H: DENOTES MAXIMUM HEIGHT IN METRES
ABOVE 152.90m CANADIAN GEODETIC DATUM**



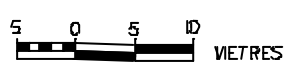
WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING
TORONTO
BL2/195VE2A.DGN
FILE: V41-Z10
VAP No. 511-311

MARCH, 2000
DRAWN: WL

PLAN 2B



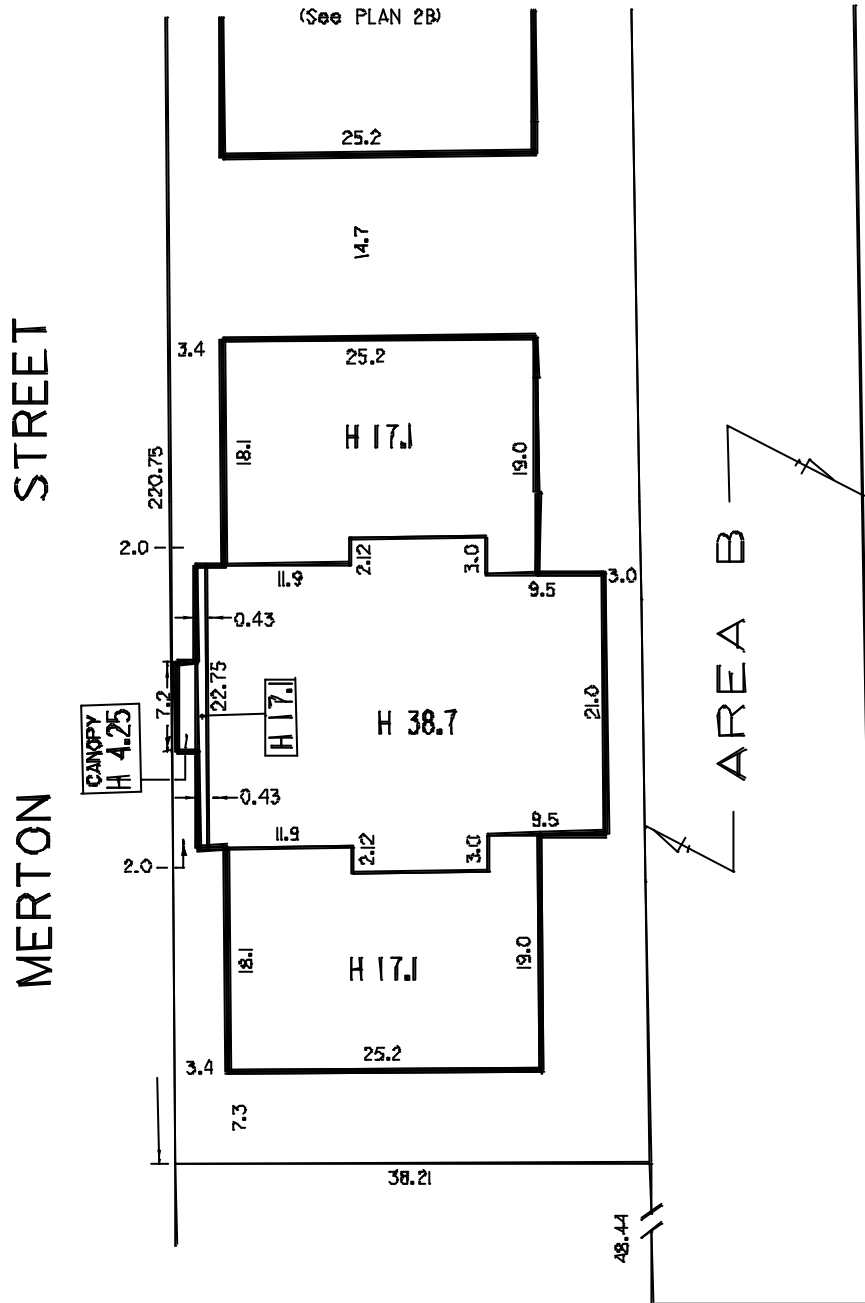
H_i DENOTES MAXIMUM HEIGHT IN METRES
 ABOVE 154.10m CANADIAN GEODETIC DATUM



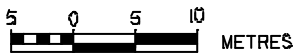
WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO MARCH, 2000
 BL2/195ME2B.DGN
 FILE: M41-Z10
 MAP No. 51K-311

DRAWN: WL

PLAN 2C



**H: DENOTES MAXIMUM HEIGHT IN METRES
 ABOVE 154.10m CANADIAN GEODETIC DATUM**



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING
 TORONTO
 BL2/195ME2C.DCN
 FILE: M41-Z10
 MAP No. 51K-311

MARCH, 2000

DRAWN: WL