

CITY OF TORONTO

By-law No. 938-2002(OMB)

To amend By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended, with respect to the lands known as 600 Fleet Street, being block 7.

WHEREAS this By-law is passed in implementation of the City of Toronto Bathurst/Strachan Area Part II Official Plan (OPA No. 7), as amended, for *block 7*; and

WHEREAS, pursuant to Section 37 of the *Planning Act*, the Council of the 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 the owner of *block 7* has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86 being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, 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 *block 7* and the City of Toronto (hereinafter referred to as the “*City*”); and

WHEREAS the Council of the *City* 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;

THEREFORE the Ontario Municipal Board has conducted a hearing and has determined as follows:

1. Intentionally deleted.
2. Upon execution and registration of the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of section 6 herein, District Map 49G-313 contained in Appendix “A” of By-law No. 438-86, as amended, is further amended by redesignating *block 7* to “R4” as shown on Plan 2 attached hereto.
3. Upon execution and registration of the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of section 6 herein, Height and Minimum Lot Frontage Map 49G-313, contained in Appendix “B” of By-law No. 438-86, as amended, is further amended by redesignating the lands outlined by heavy lines on Plan 3 attached hereto, to “H 24.0”, “H36.0”, “H55.0”, as shown on Plan 3.

4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to *block 7*.
5. None of the provisions of Sections 4(4), 4(6), 4(7), 4(12), 4(16), and 6(3) PART I, PART II, PART III and PART VI of By-law No. 438-86, as amended, and none of the provisions of Sections 2, 3 and 5 of the By-law No. 1995-0466 shall apply to *block 7* provided the provisions of section 6 herein and the following requirements are complied with:

USE

- (1) Notwithstanding Section 6(1)(f)(b) of the aforesaid By-law No. 438-86, *street-related retail and service uses* are permitted.

MAXIMUM FLOOR AREA

- (2) No person shall, within *block 7*, erect or use a building or structure or portion thereof, where:
- (i) the combined *residential gross floor area* of all buildings or structures within *block 7* exceeds 31,487 square metres; and
 - (ii) the combined *non-residential gross floor area* of all buildings or structures within *block 7* exceeds 1,983 square metres;

provided that:

- (iii) in no case shall the combined *residential gross floor area* and *non-residential gross floor area* of all buildings or structures within *block 7* exceeds 31,487 square metres; and
- (iv) the *non-residential gross floor area* permitted in subparagraph (ii), shall only be permitted:
 - A. in a building containing *residential gross floor area*; and
 - B. for any of the non-residential uses permitted in section 6(1)(f)(b) of the aforesaid By-law No. 438-86 and for *street-related retail and service uses*.

(3) Calculation of Floor Area: Pedestrian Walkway Exemption

Notwithstanding section 5(2) herein, additional *residential gross floor area* and *non-residential gross floor area* is permitted, provided the additional *residential gross floor area* and *non-residential gross floor area* is used for the purposes of:

- (i) one or more pedestrian walkways that:
 - A. provide direct access between *streets*, parks, public buildings, and/or public spaces or between such space and a similar walkway in an adjacent building or *residential amenity space* located outdoors;
 - B. are within two metres of *grade*;
 - C. are no narrower than three metres at any point;
 - D. are not used for commercial purposes, including retail areas, commercial display areas or other rentable space;
 - E. are located a minimum distance of 10 metres from any *street* that is within 20 degrees of parallel from the pedestrian walkway; and
 - F. in the instance of a pedestrian walkway providing direct access between *streets*, public buildings or similar walkways in adjacent buildings, such pedestrian walkway shall be located at a minimum distance of 60 metres from any part of any other such pedestrian walkway.
- (ii) one or more washrooms or sitting area that have access to those walkways.

SETBACKS

- (4) No person shall erect or use a building or structure closer to a *lot* line than indicated by any of the setback lines designated by the letter symbol D as shown on Plan 4.
- (5) In no case shall a building or structure be located more than two metres back from any of the required setbacks set out in section 5(4) herein, between *grade* and *height* of 20 metres above *grade*.
- (6) Sections 5(4) and 5(5) herein, shall only apply to those portions of a building or structure above the natural or finished surface of the ground, whichever is the lower, at all points adjacent to the exterior walls of the building or structure.

- (7) No person shall erect or use a building or structure having a distance between external walls of a building or structure that face each other, that is less than:
- (i) 11 metres; or
 - (ii) two metres where the facing walls do not contain openings other than service or fire exit doors or windows that light stairways.

This regulation does not apply in the case of a *detached house*, a *semi-detached house*, a *duplex* or a *triplex*.

PERMITTED PROJECTIONS

- (8) Sections 5(4), 5(5), 5(6), and 5(7)(i) herein do not apply to the type of structure listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” and “OTHER APPLICABLE QUALIFICATIONS” are complied with.

CHART

STRUCTURE		MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A.	eaves or cornices	1.0 metres	none
B.	fences and safety railings	no restriction	height of fence or safety railing not to exceed 2.0 metres
C.	chimney breast	Not more than 0.3 metres from the wall where it is attached	length not to exceed 2 metres
D.	Uncovered platform attached to the <i>front wall</i> of a building	Not more than 1.5 metres from the wall where it is attached	none
E.	a balcony attached to the <i>front wall</i> of a building	Not more than 1.5 metres from the wall where it is attached	none

	STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
F.	a roof over a first floor platform or terrace, attached to the <i>front wall</i> of a building	Not more than 2.5 metres from the wall where it is attached	(I) the roof, if not solely supported by the <i>front wall</i> , may only be additionally supported by columns or posts (II) the roof does not form part of the main building roof (III) the roof does not extend beyond the side walls of the building as projected (IV) the top of the roof is not used or designated to be used as a deck or terrace
G.	canopy for an <i>apartment building</i>	Not more than 2.5 metres from the <i>front wall</i> where it is attached	(I) the <i>apartment building</i> has no more than three canopies supported only from a wall; (II) the aggregate area of the canopies not to exceed 0.4 square metres for each 100 square metres of <i>residential gross floor area</i>
H.	erection of a bay window	0.75 metres from the wall where it is attached	(I) width not to exceed three metres measured where the window joins the wall (II) regulations respecting minimum distances between buildings such distances to be measured from the external face of the window or windows

RESIDENTIAL AMENITY SPACE

- (9) The *residential amenity space* requirements in Section 4(12) of By-law No. 438-86 as amended, shall apply to *block 7* but such space may be provided anywhere within the block on which the building or structure is to be erected.

PARKING & LOADING

- (10) The parking and loading requirements set out in sections 4(5) and 4(8) of By-law No. 438-86 respectively, shall apply to *block 7*, except in the case of the uses listed in Column A below, where the minimum required number of *parking spaces* shall be set out in the corresponding row in Column B.

CHART

COLUMN A TYPE OF USE	COLUMN B MINIMUM REQUIRED NUMBER OF PARKING SPACES
<i>dwelling unit</i> (other than <i>alternative housing</i> or <i>social housing</i>) in a building containing more than 6 <i>dwelling units</i> including those that are <i>alternative housing</i> or <i>social housing</i>	<p><i>Residents' Parking</i></p> <p>0.3 <i>parking space</i> for each <i>bachelor dwelling unit</i>;</p> <p>0.7 <i>parking space</i> for each <i>one-bedroom dwelling unit</i>;</p> <p>1.0 <i>parking space</i> for each <i>two-bedroom dwelling unit</i>; and</p> <p>1.2 <i>parking space</i> for each <i>three or more bedroom dwelling unit</i> contained therein;</p> <p><i>Visitors' Parking</i></p> <p>0.15 <i>parking space</i> for every <i>dwelling unit</i> contained therein</p>

- (11) Notwithstanding Section 6(1)(f)(a)(iii) of By-law No. 438-86, as amended, no person shall provide any vehicular parking except in a *parking space* and:
- (i) no parking shall be located in an uncovered surface parking facility; and
 - (ii) no above *grade* parking structure shall be located so as to be abutting a *street*, open space area or *residential amenity space*.

EXCEPTION: NON-RESIDENTIAL USES

- (12) None of the provisions of this By-law or By-law No. 438-86, as amended, shall apply so as to prevent the erection or use on *block 7 of non-residential buildings* for any of the uses listed in Section 9(1)(f) of By-law No. 438-86, as amended, with the exception of an *automobile service and repair shop*, a *contractor's shop*, *class A*, a *sheet metal shop*, a *tannery*, or a *welder's shop*, provided that:
- (i) the combined *non-residential gross floor area* of all such buildings or structures on *block 7* does not exceed 15,732 square metres;
 - (ii) no building is erected or used above a *height* of 24 metres;
 - (iii) in no case shall the density provisions of section 5(2) herein be combined with the density provisions of this subsection; and
 - (iv) no building or structure or addition thereto is erected or used in the area labelled "Service and Pedestrian Access" as shown on Plan 1.
6. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted by this By-law, are permitted in return for the provision by the *owner* of *block 7* of the following facilities, services, or matters to the *City* at the *owner's* sole expense in accordance with and subject to the agreement referred to in Section 6(1) herein:
- (1) the *owner* agrees to enter into an agreement with the *City* pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by Section 6 of this By-law herein and consents to the registration on title of such agreement against *block 7*, said agreement to include provisions relating to the indexing of funds to be received pursuant to this Section by way of an adjustment either upwards or downwards, annually, since May 21, 1996, in accordance with the change in the Construction Price Index during such one-year period, with the proviso that the amounts payable shall not be less than the dollar amounts set out in this by-law;
 - (2) the *owner* shall provide to the *City*, prior to the issuance of each *building permit* respecting development of *block 7*, funds in the amount of \$392.00 per residential *dwelling unit* indexed in accordance with section 6(1) herein, towards parks improvements;
 - (3) the *owner* shall provide to the *City*, prior to the issuance of each *building permit* respecting development of *block 7*, funds in the amount of \$403.00 per residential *dwelling unit* indexed in accordance with section 6(1) herein, and \$0.44 per square metre of *non-residential gross floor area* indexed in accordance with section 6(1) herein, towards community centre facilities;

- (4) the *owner* shall provide to the City, prior to the issuance of each *building permit* respecting development of *block 7*, funds in the amount of \$250.00 per residential *dwelling unit* indexed in accordance with section 6(1) herein, towards daycare facilities;
- (5) the *owner* shall provide to the City, prior to the issuance of each *building permit* respecting development of *block 7*, funds in the amount of \$277.00 per residential *dwelling unit* indexed in accordance with section 6(1) herein, and \$1.00 per square metre of *non-residential gross floor area* indexed in accordance with section 6(1) herein, towards library facilities;
- (6) the *owner* shall provide to the City, prior to the issuance of each *building permit* respecting development of *block 7*, funds in the amount of \$154.00 per residential *dwelling unit* indexed in accordance with section 6(1) herein, toward improvements to Fort York buildings, grounds, programming or marketing;
- (7) the *owner* shall provide and maintain works of public *art* within *block 7* or cash in lieu thereof, of a value of not less than one percent of the cost of construction of development proposals exceeding 20,000 square metres of *residential gross floor area*, *non-residential gross floor area*, or a combination of both, provided that the costs related to the provision of parks improvements, Fort York improvements, daycare facilities, community centre facilities, library facilities, and a *district heating and cooling facility* pursuant to this section shall not be included in such valuation;
- (8) the *owner* shall ensure that the agreement to be entered with the City pursuant to Section 37 of the *Planning Act* contains provisions satisfactory to the City respecting a process for the consideration by the *owner* of a proposal by Enwave District Energy Limited to service the development with a *district heating and cooling facility*, as well as the provision of funds in the amount of up to \$100,000;
- (9) the *owner* shall provide not less than 30 percent of the *dwelling units* within *block 7* with the following size restrictions, and pursuant to the agreement to be entered with the City pursuant to Section 37 of the *Planning Act*:
 - (i) *bachelor dwelling units* or *one-bedroom dwelling units* shall not be greater than 62 square metres of *residential gross floor area*;
 - (ii) *two-bedroom dwelling units* shall not be greater than 82 square metres of *residential gross floor area*; and
 - (iii) *three-bedroom dwelling units* shall not be greater than 98 square metres of *residential gross floor area*;

- (10) the *owner* shall ensure:
 - (i) the City is provided with funds secured by a letter of credit in an amount and a form satisfactory to the City to construct *Street E* prior to the first *building permit* for residential development issued respecting *block 7*;
 - (ii) *Street E* is decommissioned to the satisfaction of the City;
 - (iii) *Street E* is decommissioned and constructed by the owner prior to the *owner* giving notice respecting the completion of, or occupancy of the first residential building on *block 7*; and
 - (iv) that following the decommissioning and construction of *Street E*, *Street E* is conveyed to the City for a nominal consideration in fee simple;
 - (11) the *owner* shall prepare and submit for the approval of the City, prior to the first application for approval pursuant to Section 41 of the *Planning Act* for *block 7* or any portion thereof:
 - (i) a *Development Context Plan*;
 - (ii) a *Phasing Plan*; and
 - (iii) a *Municipal Servicing Plan*;
 - (12) the *owner* shall submit satisfactory reports related to soil and groundwater management, noise and vibration impact, air quality, wind, sun and shade and waste management as a condition of approval of an application pursuant to Section 41 of the *Planning Act* and implements the recommendations and remediation measures described in such studies;
 - (13) the *owner* shall submit a satisfactory study related to stormwater control measures and a satisfactory construction practices and procedures plan prior to undertaking any infrastructure work; and
 - (14) the *owner* shall provide funds to the City, secured by a letter of credit as required, in an amount not less than thirteen percent (13%) of two-thirds (2/3) of the cost of constructing that portion of Fort York Boulevard shown on Plan 1 and labelled "Portion of Fort York Boulevard to be Cost Shared" prior to the issuance of *building permits* representing residential development of one-third(1/3) of the land area of *block 7*.
7. Wherever in this by-law a provision is stated to be conditional upon the execution and registration of an agreement with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of section 6 herein, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

8. For the purposes of this By-law;

- (i) “*art*” includes works of plastic art, works of graphic art, sculptured landscaping, fountains, and artistic treatment of walls or other building elements clearly visible at all times from public areas, including flooring, structure, lighting and furnishings, provided such elements or works have been designed by or in collaboration with artists;
- (ii) “*block 7*” means those lands shown as “BLOCK 7” on Plan 1 appended hereto;
- (iii) “*building permit*” means a permit to demolish a building or to construct a building, or any part thereof, pursuant to Section 8 of the *Building Code Act*, 1992, including but not limited to demolition, excavation, shoring, building or any other permit;
- (iv) “*Development Context Plan*” means a plan submitted by the *owner* satisfactory to the City for the entire block on which the development is located, the purpose of which shall be:
 - A. to provide a context for co-ordinated incremental development by showing the proposed development in relation to relevant adjacent conditions in the area surrounding the site;
 - B. to assist the City in evaluating the conformity of the proposed development with the relevant provisions of the Official Plan and Urban Design Guidelines related thereto; and
 - C. to assist the City in evaluating applications for review under Section 41 of the *Planning Act*,

and which plan shall contain the following:

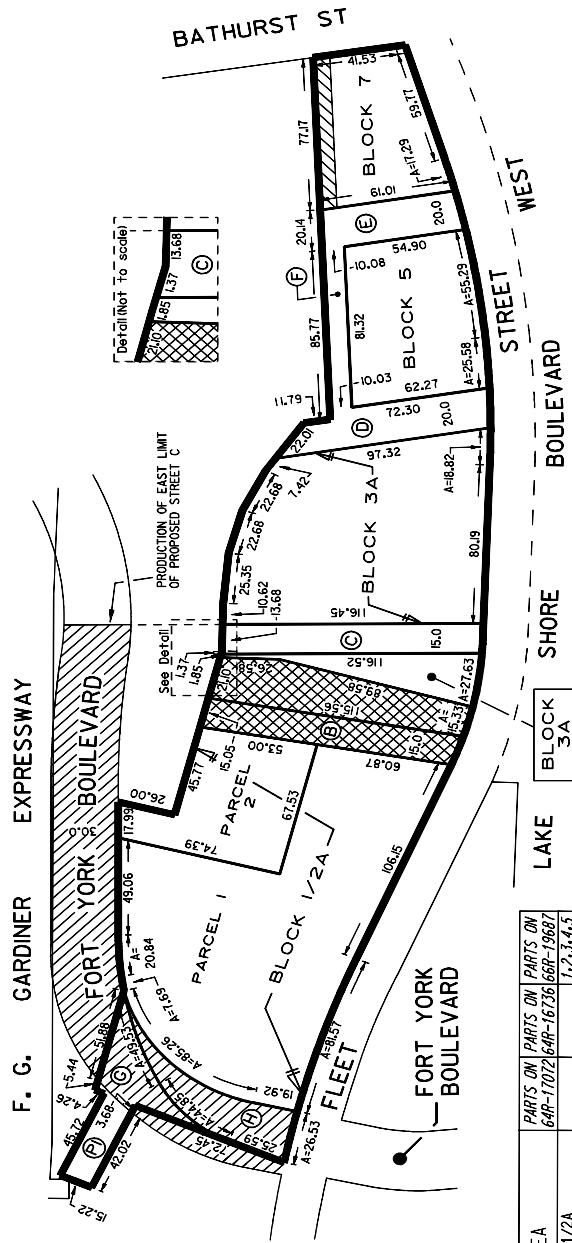
- D. the proposed massing of buildings on the block, including *heights*, setbacks above the street wall or podium level, and distribution of density on the block, illustrating how the proposed development addresses the goals and framework set out in the Official Plan;
- E. the location, dimensions and character of interior and exterior publicly accessible private open spaces showing their continuity and complementary relationship to adjacent public spaces and *streets* and their pedestrian amenity including weather protection;
- F. the location and dimensions of any arcades, canopies and other weather-protected routes and their relationship to the public pedestrian system;

- G. the general location of parking facilities and vehicular access points which are of sufficient detail to assess the effect of these facilities on the public sidewalks and on adjacent signalized intersections;
 - H. the general locations of principal pedestrian entrances and their relationship to *street frontages* to ensure that such entrances reinforce the role of the *street*;
 - I. the general location of the public pedestrian routes including the primary system of public *streets* and alternative secondary routes and their relationship; and
 - J. the location of public *street*-related uses.
- (v) “*district heating and cooling facility*” means a facility operated by Enwave District Energy Limited on a non-profit basis for the purposes of providing heating and cooling of buildings and structures located within *block 7*;
 - (vi) “*Municipal Servicing Plan*” means a plan submitted by the *owner* satisfactory to the City addressing the adequacy of existing municipal services;
 - (vii) “*Phasing Plan*” means a plan submitted by the *owner* satisfactory to the City which indicates the coordination of development of *community services and facilities, public parks, pedestrian connections and roads* with each phase of development, provides a schedule of land transfers and improvements, and where necessary addresses continued operations and the continued existence of buildings on *block 7*;
 - (viii) “*Street E*” means the proposed *street* labelled “E” on Plan 1 and includes all municipal services, utility services and connections associated therewith; and
 - (ix) with the exception of the words or expressions referred to in subparagraphs (i) to (viii), each word or expression which is italicized, shall have the same meaning as the said word or expression has for the purposes of the aforesaid By-law 438-86, as amended.

9. By-law No. 1996-0246 is repealed upon the coming into force of this By-law.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON OCTOBER 3, 2002 IN BOARD CASE NO. PL001302

PLAN I



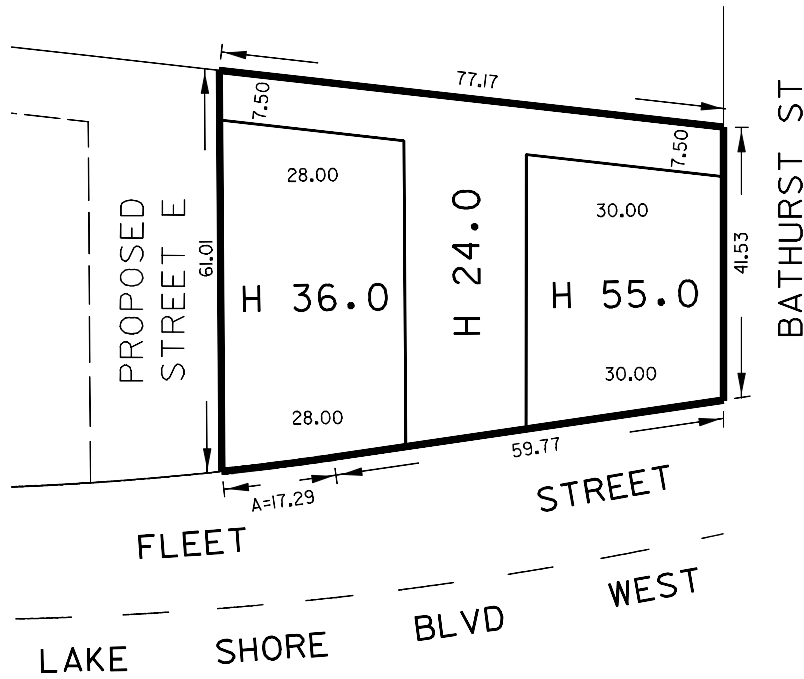
AREA	PARTS ON	PARTS ON
BLOCK 1/2A	64R-1702	64R-16736
BLOCK 1/2A - PARCEL 1		1, 3, 4
BLOCK 1/2A - PARCEL 2		2, 5
BLOCK 3A		6, 8, 15
BLOCK 5		3
BLOCK 7		7
PROPOSED PUBLIC PARK		21
PROPOSED STREET B		9
PROPOSED STREET C		7
PROPOSED STREET D		5
PROPOSED STREET E		2
PROPOSED STREET F (SOUTHERN HALF)		4
FORT YORK BLVD		6
FORT YORK BLVD		8

- PORTION OF FORT YORK BOULEVARD TO BE COST SHARED
- SERVICE AND PEDESTRIAN ACCESS (MINIMUM WIDTH 7.5 METRES)
- VIEW CORRIDOR (POTENTIAL FUTURE STREET - PARTS 8&9 ON PLAN 64R-16736)


WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO/LETP1.DGN NOVEMBER, 2002
FILES: FA-71, 2402.76
MAP No. 49C-13 DRAWN: W.L.

HEIGHT MAP

PLAN 3



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

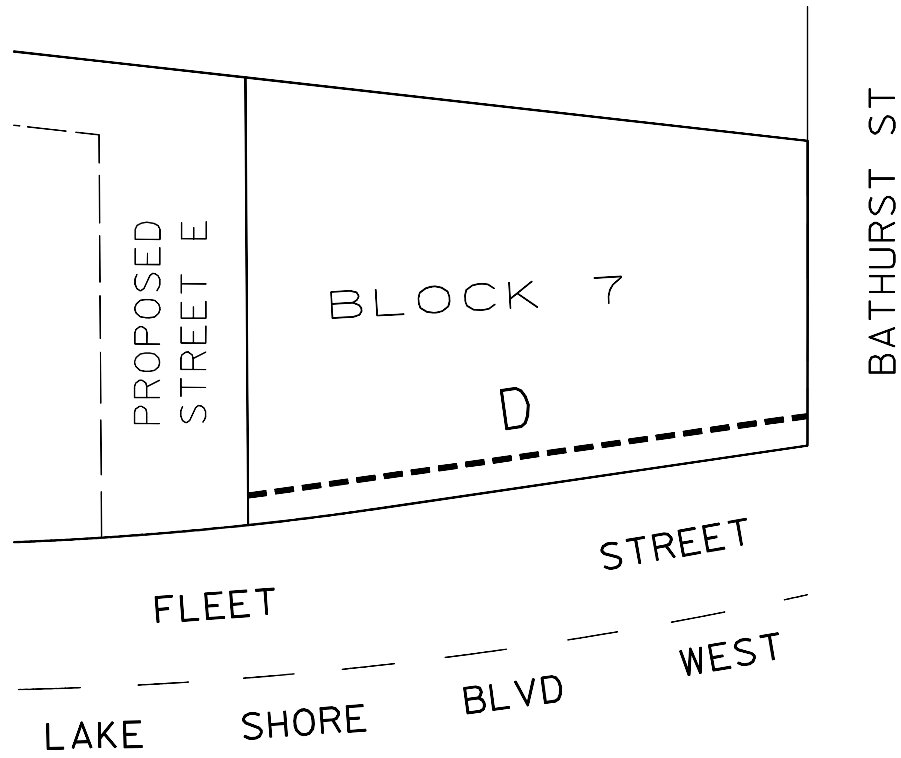
 BLOCK 7 AS SHOWN ON PLAN 1
(PART 1 on Plan 64R-16736)



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO AUGUST 30, 2002
 BLO2/FLEE73.DGN
 FILES: F4-Z1, 2402.76 & 2402.78
 MAP No. 49G-313 DRAWN: WL

SETBACKS MAP

PLAN 4



SETBACKS REFERRED TO IN SECTION 5(4)

D - - - - 4.0 METRE SETBACK LINE WITH PROJECTIONS PERMITTED



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO AUGUST 30, 2002
 BLO2/FLEE74.DGN
 FILES: F4-Z1, 2402.76 & 2402.78
 MAP No. 50G-322 DRAWN: W-L.