

CITY OF TORONTO

BY-LAW No. 942-2002(OMB)

To amend By-law No. 438-86 of the former City of Toronto as amended, respecting lands (the “Lands”) known as 164 Cheritan Avenue.

WHEREAS the Ontario Municipal Board, by way of an Order issued on September 24, 2002 determined to amend the Zoning By-law No. 438-86 as amended, of the former City of Toronto respecting the Lands; and

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may 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 or matters as are set out in the by-law; and

WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, 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 part of the provision of certain matters relates to securing affordable rental housing by the owner (the “Owner of 3000 Yonge”) on the lands known as 3000 Yonge Street, Toronto, Ontario; and

WHEREAS the owner of the Lands (the “Owner”) as well as the Owner of 3000 Yonge, have elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS the increase in height and residential density of development permitted under this By-law beyond that otherwise permitted on the 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, the Owner of 3000 Yonge and the City of Toronto;

1. None of the provisions of Sections 2(1) with respect to the definitions of “grade” and “height”, 4(2)(a), 4(4)(c)(ii), 4(12), 6(1), 6(3) Parts I, II, III, IV and 12(2)8 of the aforesaid 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 related to buildings and structures and to prohibit certain uses on land and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection and use of an *apartment building* located on the *lot* containing not more than 437 *dwelling units* and *accessory* uses including a *parking garage*, subject to the following:
 - (a) the *lot* consists of at least the lands shown within the heavy lines on the attached Map 1;
 - (b) the total *residential gross floor area* on the *lot* does not exceed 35,305 square metres;

- (c) the uses otherwise permitted in Section 6(1) of By-law No. 438-86 continue to be permitted on the *lot* subject to other applicable provisions of By-law No. 438-86 and in addition a *day nursery* is a permitted use on the *lot* provided it complies with the provisions of Section 6(2)12;
- (d) the *height* of the building and structures within the heavy lines on the attached Maps 2A, 2B and 2C, shall not exceed the *height* limits indicated thereon, except for:
 - (i) parapets extending to a maximum vertical projection of 0.5 metres above the *height* limits shown on Maps 2A, 2B and 2C;
 - (ii) fences and safety railings extending to a maximum vertical projection of 2 metres above the *height* limits shown on Maps 2A, 2B and 2C;
 - (iii) the structures identified in Section 4(2)(a)(ii), of By-law No. 438-86, as amended, are permitted provided that they comply with Sections 4(2)(a)(ii)A.;
 - (iv) vents and chimney flues extending to a maximum vertical projection of 1.2 metres above the *height* limits shown on Maps 2A, 2B and 2C;
 - (v) permanent fixed landscape planters and retaining walls extending to a maximum vertical projection of 1 metre above the height limits shown on Maps 2A, 2B and 2C;
 - (vi) eaves, cornices, balconies and bay windows; and
- (e) no part of any building or structure to be erected on the *lot*, above *grade* is located otherwise than wholly within the areas delineated by the heavy lines on Maps 2A, 2B and 2C, subject to the following:
 - (i) fences and safety railings are permitted outside the heavy lines shown on Maps 2A, 2B and 2C provided they comply with the provisions of Section 6(3) Part II 8. B.;
 - (ii) retaining walls, parking garage ramps and associated ramp structures are permitted outside the heavy lines shown on Maps 2A, 2B and 2C, provided:
 - A. such elements are limited to a maximum vertical projection of 3.4 metres above *grade*; and
 - B. fencing and safety railings on top of such elements are limited to a maximum vertical projection of two metres above the height of such elements;

- (iii) eaves and cornices are permitted to project a maximum of 0.45 metres beyond the heavy lines shown on Maps 2A, 2B and 2C;
 - (iv) balconies are permitted to project a maximum of 1.7 metres beyond the heavy lines shown on Maps 2A, 2B and 2C;
 - (v) uncovered platforms are permitted outside the heavy lines shown on Maps 2A, 2B and 2C provided they comply with the provisions of Section 6(3) Part II 8. D. except that *grade* as used in Section 6(3) Part II 8. D. shall have the meaning defined in section 2.(1) below;
 - (vi) canopies are permitted outside the heavy lines shown on Maps 2A, 2B and 2C provided they comply with the provisions of Section 6(3) Part II 8. G.;
 - (vii) permanent fixed landscape planters are permitted outside the heavy lines shown on Maps 2A, 2B and 2C; and
 - (viii) bay windows, up to a maximum of 4.0 metres in width, are permitted to project a maximum of 1.0 metre beyond the heavy lines shown on Maps 2A, 2B and 2C adjacent to Rosewell Avenue;
- (f) a minimum of 35% of the dwelling units shall be low-end-of-market dwelling units;
- (g) a minimum of 45% of the area of the *lot* shown on Map 1 shall be provided as *landscaped open space* and for the purpose of this by-law the area of all uncovered platforms, patios and decks, decks on the roof of any portion of the *apartment building* and *parking garage* including but not limited to such decks identified by the words “landscape deck” on Maps 2A, 2B and 2C, shall be included in the calculation of *landscaped open space*;
- (h) 2 square metres of *residential amenity space* shall be provided for each *dwelling unit* in multi-purpose rooms or contiguous multi-purpose rooms, provided:
- (i) at least one of the rooms contains a kitchen and a washroom;
 - (ii) the required amount of *residential amenity space* is provided in a maximum of four multi-purpose rooms or four separate areas of contiguous multi-purpose rooms; and
 - (iii) each multi-purpose room or separate area of contiguous multi-purpose rooms providing the required amount of *residential amenity space* is not less than 110 square metres in area;
- (i) 2 square metres of *residential amenity space* shall be provided outdoors for each *dwelling unit* of which at least 40 square metres is to be provided in a location adjoining or directly accessible from one of the required indoor *residential amenity spaces*;

- (j) Section 4(4)(c)(ii) of By-law No. 438-86, as amended, shall apply, except that driveways having access control features including islands and control arms may have a minimum clear width of 3.0 metres for one-way operation;
- (k) (i) the owner of the *lot* at its expense and in accordance with and subject to the agreement referred to in paragraph 1(k)(iii) shall:
- A. provide to the City of Toronto \$35,000.00 for future traffic modifications prior to applying for, or the issuance of, the first building permit for the *lot* or any portion thereof, to be secured by way of a letter of credit or certified cheque payable to the City of Toronto;
- B. convey to the City of Toronto for nominal consideration the lands required for a roundabout which are designated as Part 2 on reference plan 66R-19775, (the “Roundabout Lands”) and are located at the intersection of Rosewell Avenue and Cheritan Avenue, prior to the earlier of:
- (a) the first occupancy of any *dwelling* unit on the *lot*;
- (b) the date excavation commences on that portion of the *lot* located south of the northern limit of the southern above *grade* building area identified by heavy lines on Map 2C; and
- (c) 90 days after the date of commencement of the demolition of the buildings existing as of June 1, 2002 on the Roundabout Lands;
- failing which, in addition to any other remedies, the City of Toronto may revoke any and all permits issued pursuant to the *Building Code Act, 1992*;
- C. construct a roundabout, at the intersection of Rosewell Avenue and Cheritan Avenue, subject to the following:
- (a) the construction shall be completed prior to the earlier of:
- (i) first occupancy of any *dwelling unit* in the southern above *grade* building area identified by heavy lines on Map 2C; and
- (ii) three years from the date that a demolition permit has been issued for all of the buildings that existed on June 1, 2002 and excavation has commenced on the *lot*;

- (b) the construction shall occur only in the months of July and August, with minor exceptions unless otherwise acceptable to the Commissioner of Works and Emergency Services; and
 - (c) the owner shall provide a letter of credit to the City of Toronto in the amount of 120 percent of the construction costs of the roundabout prior to the completion of the conveyance required in paragraph 1.(k)(i)B herein;
- D. complete the construction of the widening of Lawrence Avenue West to accommodate a west bound left turn lane into the *lot*, subject to the following:
 - (a) the construction shall be completed prior to the first occupancy of any *dwelling unit* on the *lot*; and
 - (b) the owner of the *lot* shall provide a letter of credit to the City of Toronto in the amount of 120 percent of the construction costs prior to the issuance of a building permit for the foundation of the *apartment building* to be constructed on the *lot* or any portion thereof;
- E. provide and maintain on the *lot* 25 affordable replacement rental dwelling units in the northern building area as shown on Map 2A attached hereto (“Building A”), subject to the following provisions:
 - (a) the owner of the *lot* shall provide and maintain affordable rents charged to the tenants who rent each affordable replacement rental dwelling unit in Building A for a period of 5 years from the date that the 25 units are available for occupancy (the “5 Year Period for New Units”), in an amount based on the 2001 Canada Mortgage and Housing Corporation Rental Market Survey average rent by unit type, subject to certain adjustments and to annual increases in accordance with the Provincial rent guideline and other permitted increases;
 - (b) rents charged to subsequent tenants who rent an affordable replacement rental dwelling unit in Building A after the completion of the 5 Year Period for New Units, shall be governed by the Provincial legislation in force at the time;
 - (c) the owner of the *lot* agrees to not apply to convert Building A to a condominium during the 5 Year Period for New Units; and,

- (d) the owner of the lot shall generally provide access to, both initially and for the duration of the 5 Year Period for New Units, the 25 affordable replacement rental dwelling units to tenants referred by a local non-profit agency for tenant placement that is jointly agreed to by the owner and the City;
 - F. provide to the City of Toronto the sum of \$21,000 for affordable housing upon the later of the issuance of a demolition permit in respect of the existing buildings on the *lot* or issuance of a full building permit in respect of new construction on the *lot*;
 - G. provide a construction management plan satisfactory to the City of Toronto prior to the issuance of the first building permit for the *lot* or any portion thereof and shall implement such plan; and
 - H. provide a noise impact statement and dust control plan satisfactory to the City of Toronto prior to the issuance of the first building permit for the *lot* or any portion thereof, and shall implement such statement and plan; and
- (ii) the owner of the lands known as 3000 Yonge Street (the “3000 Yonge Lands”) shall provide and maintain on the 3000 Yonge Lands, 25 affordable replacement rental dwelling units, subject to the following provisions and in accordance with and subject to the agreement referred to in paragraph 1(k)(iii):
- A. the owner of the 3000 Yonge Lands shall provide and maintain affordable rents charged to the tenants who rent each affordable replacement rental dwelling unit on the 3000 Yonge Lands which are available for occupancy for a period of 5 years (the “5 Year Period for Existing Units”) in an amount based on the 2001 Canada Mortgage and Housing Corporation Rental Market Survey average rent by unit type, subject to certain adjustments and increases permitted by Provincial legislation in force at the time;
 - B. rents charged to subsequent tenants who rent an affordable replacement rental dwelling unit after the completion of the 5 Year Period for Existing Units on the 3000 Yonge Lands, shall be governed by the Provincial legislation in force at the time; and
 - C. the owner of the 3000 Yonge Lands shall generally provide access to, both initially and for the duration of the 5 Year Period for Existing Units, the 25 affordable replacement rental dwelling units on the 3000 Yonge Lands to tenants referred by a local non-profit agency for tenant placement that is jointly agreed to by the owner of the 3000 Yonge Lands and the City, after initially providing opportunities to rent to certain remaining and former tenants;

- (iii) the owner of the *lot* and the owner of the 3000 Yonge Lands shall enter into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required in paragraphs 1(k)(i) with respect to the *lot* and 1(k)(ii) with respect to the 3000 Yonge Lands and each such owner agrees to the registration of such agreement against the *lot* and the 3000 Yonge Lands prior to this Zoning By-law Amendment coming into full force and effect; and
- (iv) notwithstanding paragraph 1(k)(iii) above, the owner of the *lot* shall also enter into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required in the above paragraph 1(k)(ii) above, only until such time as the 5 Year Period for New Units has commenced, and agrees to the registration of such agreement against the *lot*, prior to the implementing Zoning By-law Amendment coming into full force and effect.

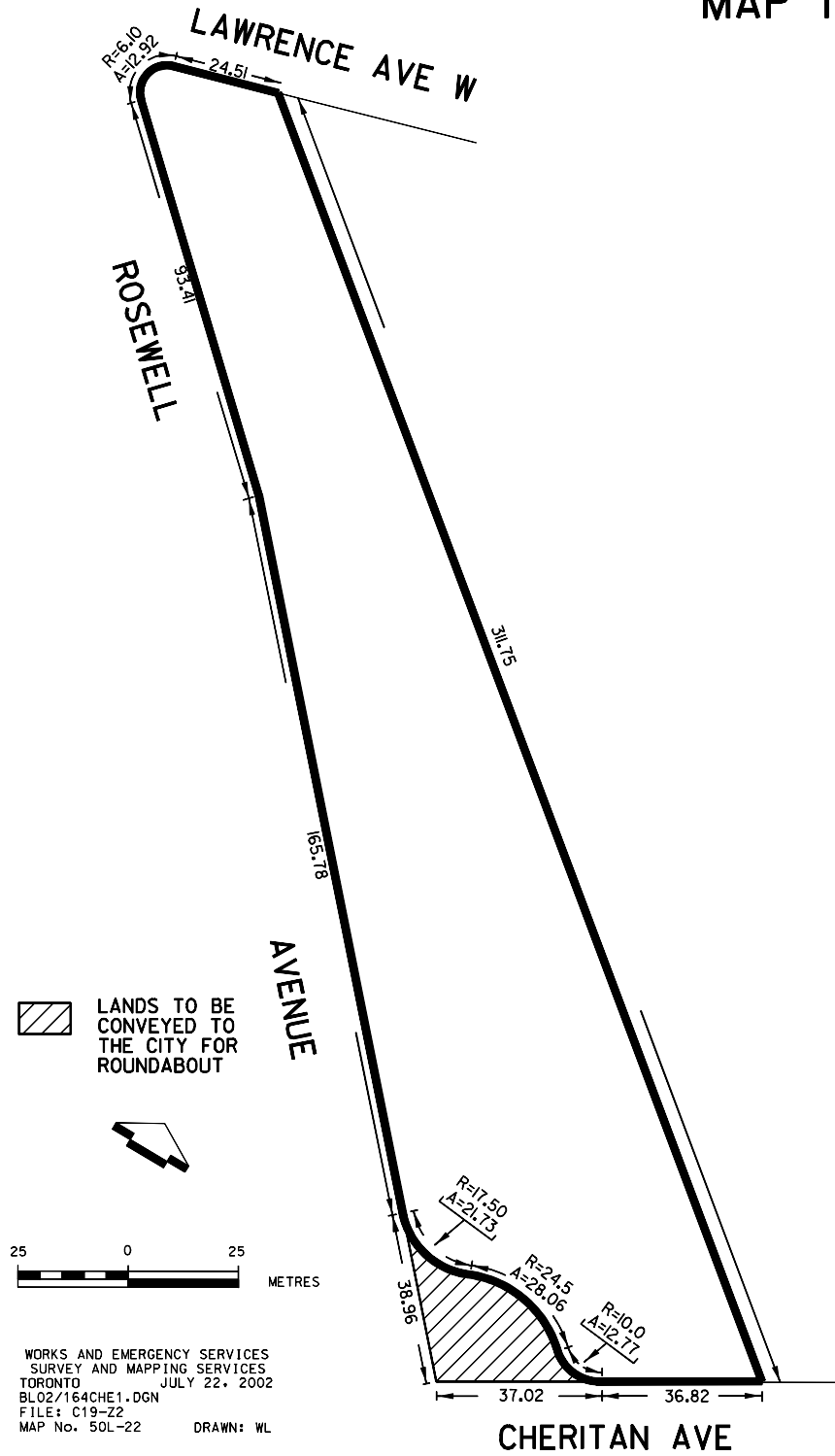
2. For the purpose of this By-law:

- (1) “*grade*” means 170.37 metres Canadian Geodetic Datum;
- (2) “*height*” means the vertical distance between *grade* and the highest point of the roof, building or structure shown on Maps 2A, 2B and 2C; and
- (3) “*low-end-of-market housing*” means *dwelling units* which are subject to the following size restrictions:
 - (i) the *residential gross floor area* of a bachelor *dwelling unit* does not exceed 46.45 square metres;
 - (ii) the *residential gross floor area* of a one bedroom *dwelling unit* does not exceed 60.39 square metres; and
 - (iii) the *residential gross floor area* of a two bedroom *dwelling unit* does not exceed 78.97 square metres.

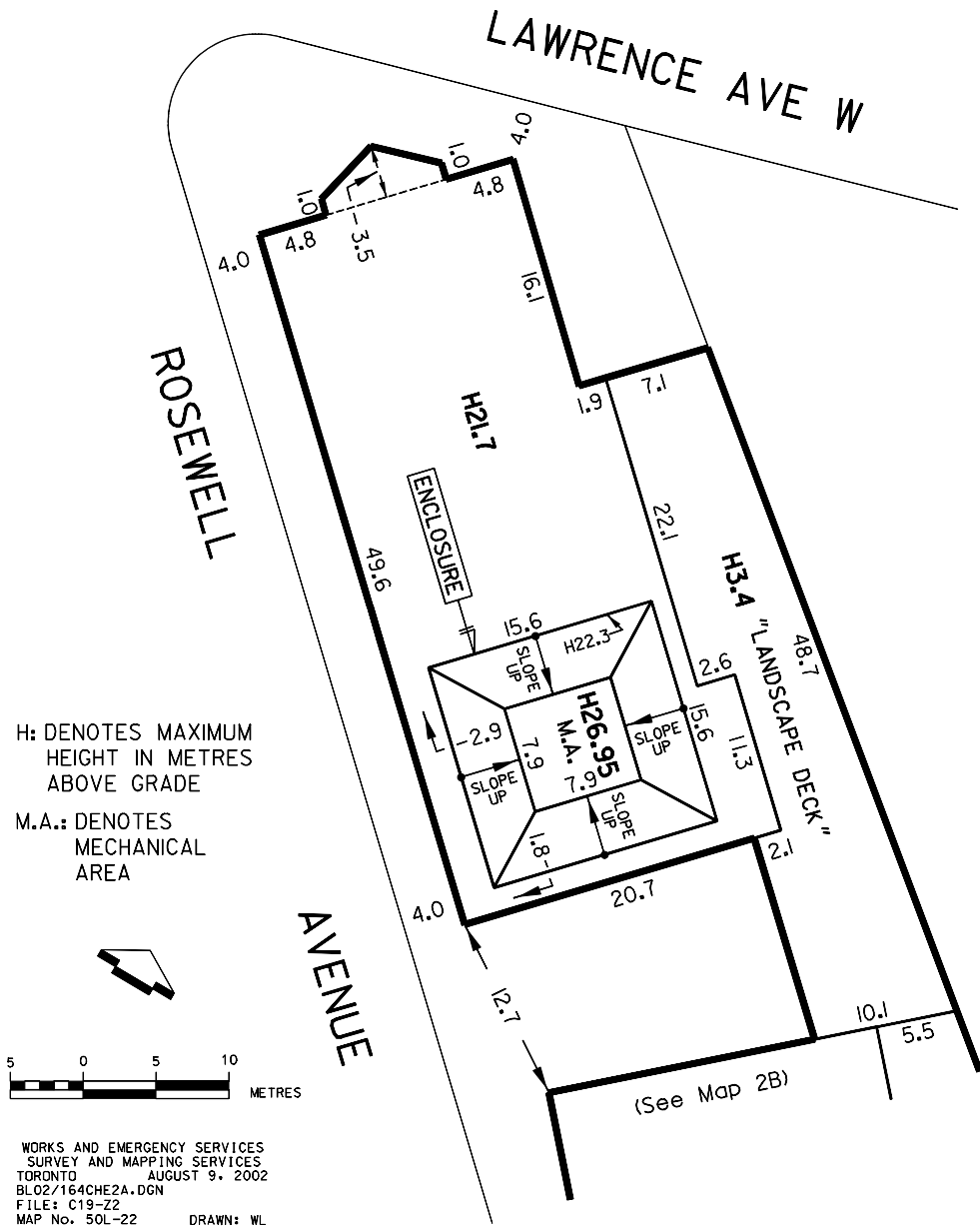
3. Each word or expression which is italicized herein shall have the same meaning as such word or expression as defined in the aforesaid By-law No. 438-86, as amended, unless otherwise defined herein.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON SEPTEMBER 24, 2002 IN BOARD CASE NO. PL000143.

MAP I

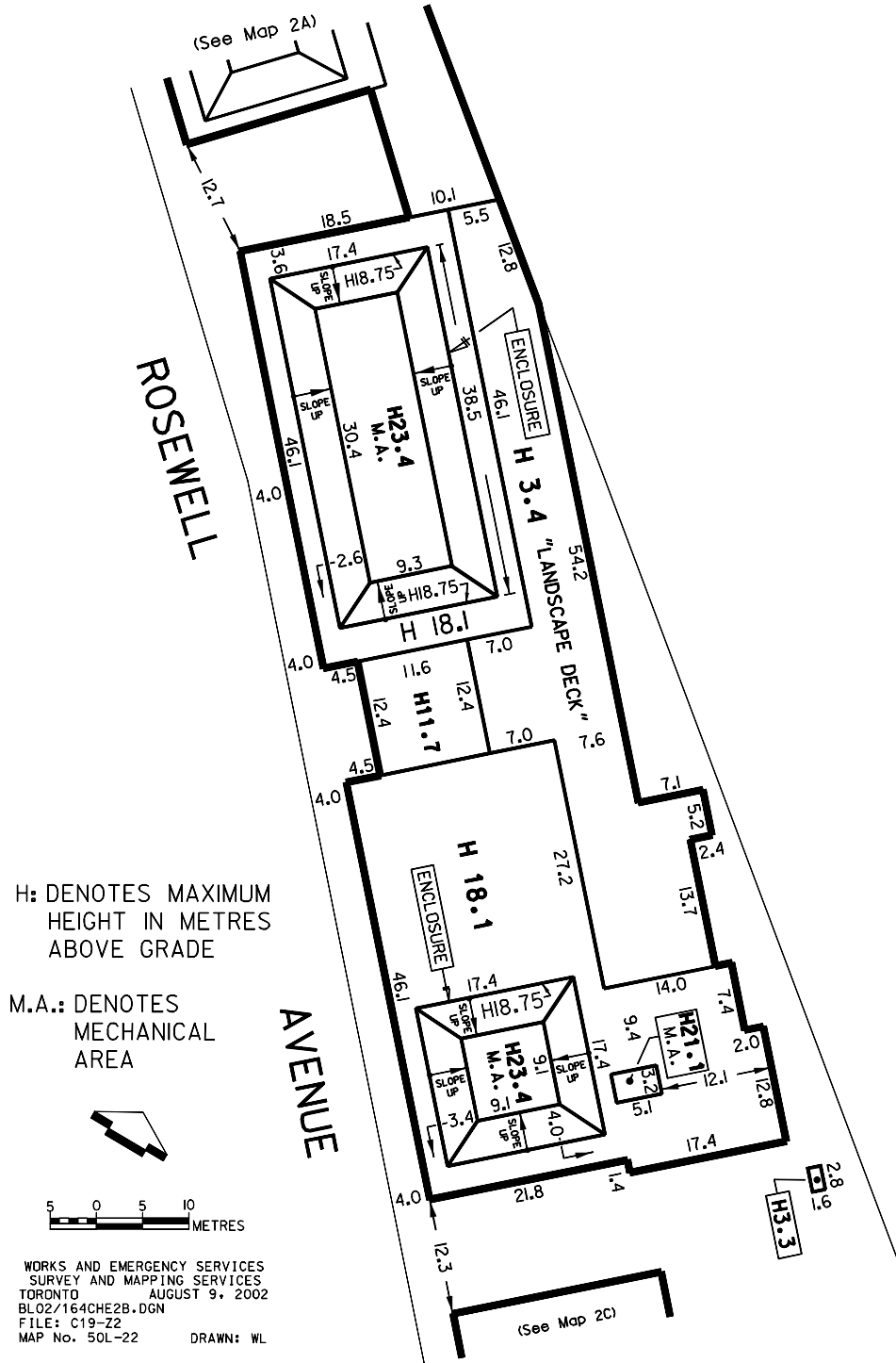


MAP 2A



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO AUGUST 9, 2002
BLO2/164CHE2A.DGN
FILE: C19-22
MAP No. 50L-22 DRAWN: WL

MAP 2B



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

M.A.: DENOTES MECHANICAL AREA



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO AUGUST 9, 2002
BL02/164CHE2B.DGN
FILE: C19-22
MAP No. 50L-22 DRAWN: WL

