

Authority Toronto South Community Council Report No. 5, Clause No. 4, as adopted by City of Toronto Council on June 22, 23 and 24, 2004; and Notice of Motion J(22), moved by Councillor Giambrone, seconded by Councillor Walker, as adopted by City of Toronto Council on July 20, 21 and 22, 2004
Enacted by Council: July 22, 2004

CITY OF TORONTO

BY-LAW No. 724-2004

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally in the year 2004 as 1245 Dupont Street.

WHEREAS the Council for the City of Toronto has been requested to amend its zoning by-law, pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, with respect to lands known municipally in the year 2004 as 1245 Dupont Street; and

WHEREAS the Toronto South Community Council conducted a public meeting on June 8, 2004, under Section 34 of the *Planning Act* regarding the Zoning Amendment; and

WHEREAS the Council of the City of Toronto, at its meeting held June 22, 23 and 24, 2004, determined to amend Zoning By-law No. 438-86, as amended, for the former City of Toronto;

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

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the owner of the *Site* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *Site*, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *Site* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirement.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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", shall continue to apply to the *Site*.
4. District Map No. 48J-313 contained in Appendix 'A' of By-law No. 438-86, as amended, is further amended by redesignating to G the lands outlined by heavy lines on Map 1 attached hereto and forming part of this By-law and as shown thereon as G.

5. Notwithstanding Section 8(1)(f) of By-law No. 438-86, as amended, no person shall erect or use a *lot* or erect or use a building within the *Site* for any purpose except one or more of the following uses,
- (a) within *Block 1A*,
 - (i) the residential uses listed in Section 8(1)(f)(a)(i) of By-law No. 438-86, as amended,
 - (ii) *dewlling units* located in the residential portion of a *mixed use building*, and
 - (iii) uses *accessory* thereto, including a *parking garage* located below finished ground level, and
 - (b) within *Block 1B*,
 - (i) a *parking garage* located below finished ground level, and
 - (ii) uses *accessory* thereto, including uses *accessory* to the uses on *Block 1* and *Block 1A*, and
 - (c) within each of *Block 1*, *Block 2*, and *Block 3*,
 - (i) *apartment buildings*,
 - (ii) *live-work units*,
 - (iii) *dwelling units* located in the residential portion of a *mixed use building*,
 - (iv) the following uses within the non-residential portion of a *mixed use building*: those *non-residential uses* listed in Section 8(1)(f)(b)(i), (ii), (iii), (iv) and (vi) of By-law No. 438-86, as amended, and a *data processing establishment*, *artist's or photographer's studio*, *community uses*, a car washing establishment in a *parking garage* located below finished ground level, a *commercial parking garage* located below finished ground level operated by the Toronto Parking Authority, and
 - (v) uses *accessory* thereto, including a *parking garage* located below finished ground level.

6. Notwithstanding Section 8(3) Part I and Section 12(2)270 of By-law No. 438-86, as amended, the maximum combined *non-residential gross floor area* and *residential gross floor area* of all buildings or structures erected within the *Site*, after the passage of this By-law, shall not exceed 135,000 square metres, of which the maximum *residential gross floor area* shall not exceed 131,400 square metres and the maximum *non-residential gross floor area* shall not exceed 3,600 square metres, and no person shall within any of *Block 1, Block 1A, Block 1B, Block 2, and Block 3* erect or use a building or structure:

- (a) where the combined *residential gross floor area* of all buildings or structures within such *Block*, as listed in Column A below, exceeds the amount set out in the corresponding row for such *Block* in Column B below; and
- (b) provided that in no case shall the combined *non-residential gross floor area* and *residential gross floor area* of all buildings or structures within such *Block*, as listed in Column A below, exceed the amount set out in the corresponding row for such *Block* in Column C below;

COLUMN A	COLUMN B	COLUMN C
BLOCK	BLOCK RESIDENTIAL GROSS FLOOR AREA (sq.m)	MAXIMUM NON-RESIDENTIAL AND RESIDENTIAL GROSS FLOOR AREA (sq.m)
<i>Block 1</i>	45 285.00 square metres	48 775.00 square metres
<i>Block 1A</i>	5 040.00 square metres	5 040.00 square metres
<i>Block 1B</i>	0 square metres	0 square metres
<i>Block 2</i>	40 480.00 square metres	43 970.00 square metres
<i>Block 3</i>	46 470.00 square metres	49 960.00 square metres

7. Notwithstanding the residential density permitted by Section 6 hereof, the maximum combined number of *dwelling units* of all buildings or structures erected within the *Site* shall not exceed 1,600.

8. Subject to the following Section hereof and notwithstanding the provisions of Sections 5, 6, 10, 11, 13, 15 and 17 hereof,

- (a) any uses, buildings or structures located within the *Site* as of the day immediately preceding the date of the passage of this By-law continue to be permitted within the *Site*,

- (b) additions or modifications to the existing buildings or structures specified in subsection (a) hereof are permitted provided that no such building or structure specified in subsection (a) hereof shall be enlarged, in total, by more than 500 square metres, and
- (c) the *non-residential gross floor area* contained within such buildings or structures permitted by subsections (a) and (b) hereof shall not be included in the calculation of *non-residential gross floor area* for the purposes of Section 6 hereof.
9. Notwithstanding the provisions of Section 8(1) of By-law No. 438-86, as amended, and notwithstanding the previous Section hereof, upon the erection after the passage of this By-law of a building or structure pursuant to Section 5 hereof within any *Block*, no person shall erect or use any building or structure within the said *Block* for any use or purpose other than a use or purpose permitted in that *Block* by Section 5 hereof and otherwise in accordance with the provisions of this By-law.
10. No part of any building or structure erected within the *Site*, after the passage of this By-law, shall be located above finished ground level other than within a *Building Envelope*.
11. Section 10 hereof, does 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" are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
parapets	Maximum of 1.0 metre projection, provided the height of such "STRUCTURE" is not greater than 1.2 metres above the height limits established in Section 13 of this By-law
eaves, cornices or ornament, balustrades, mullions	Maximum of 1.0 metre projection, provided the height of the "STRUCTURE" is no higher than that portion of the building to which it is attached
fences, safety railings	no restriction on the extent of the projection provided the height of such "STRUCTURE" does not exceed 2.0 metres
Canopies	Maximum of 3.0 metre projection, provided the height of a Canopy is no higher than that portion of the building to which it is attached
ramps and/or stairs (and associated structures) servicing an underground parking garage.	no restriction, provided the height of such "STRUCTURES" does not exceed 2.0 metres above finished ground level

STRUCTURE	MAXIMUM PERMITTED PROJECTION
Balconies	Maximum 1.5 metre projection, provided the Balcony is no higher than that portion of the building to which it is attached
patios and decks	Maximum of 2.5 metres provided such “STRUCTURE” is not greater than 2.1 metres above finished ground level
retaining walls, landings, stairs and stair enclosures	No restriction, provided the <i>height</i> of such “STRUCTURE” does not exceed 2.0 metres
public art features, landscape features	No restriction, provided the height of such “STRUCTURE” does not exceed 5.0 metres
12.	The provisions of Section 8(3) Part II 1 of By-law No. 438-86, as amended, shall not apply to prevent the erection or use of a building or structure in which the window of a <i>dwelling unit</i> , located within the hatched areas shown on Maps 3B and 3D (other than a window of a kitchen or bathroom) is no closer than: <ul style="list-style-type: none"> <li data-bbox="289 942 1442 1005">(a) 7.0 metres to a window of another <i>dwelling unit</i> (other than a window of a kitchen or bathroom); or <li data-bbox="289 1052 1442 1115">(b) 2.0 metres to a wall which does not contain openings other than a service or fire exit door or windows that light stairways.
13.	Notwithstanding Section 4(2)(a) of By-law No. 438-86, as amended, after the passage of this By-law: <ul style="list-style-type: none"> <li data-bbox="289 1270 1442 1371">(a) a building or structure erected within the <i>Site</i> may, in respect of each <i>Building Envelope</i>, have a maximum <i>height</i> in metres above <i>grade</i> as shown following the symbol “H” on Maps 3A, 3B, 3C and 3D, and <li data-bbox="289 1417 1442 1522">(b) no building or structure shall be erected above finished ground level within the <i>Site</i> outside a <i>Building Envelope</i>, other than a structural projection permitted outside a <i>Building Envelope</i> by Section 11 hereof.
14.	The preceding Section hereof, does not apply to prevent the erection or use above the said <i>height</i> limits of: <ul style="list-style-type: none"> <li data-bbox="289 1677 1442 1740">(a) the structural projections identified in Section 11 of this By-law, subject to the limitations contained therein, <li data-bbox="289 1787 1442 1850">(b) the structures and elements identified in Section 4(2)(a)(i) of By-law No. 438-86, as amended, subject to the limitations contained therein; and

- (c) the structures identified in Section 4(2)(a)(ii) of By-law No. 438-86, as amended, provided that:
 - (i) the maximum height of the top of the structure is not higher than the sum of 3.0 metres and the height limits shown on Maps 3A, 3B, 3C and 3D; and
 - (ii) the structure does not enclose space so as to constitute a form of penthouse or other room or rooms.
- 15.** Notwithstanding the Section 4(4)(b) of By-law No. 438-86, as amended, *parking spaces* shall be provided in accordance with the following:
- (a) *parking spaces* for residential uses within each *Block* shall be provided and maintained in accordance with the following minimums:
 - (i) 0.3 *parking spaces* for each *bachelor dwelling unit* located within the *Block*,
 - (ii) 0.7 *parking spaces* for each one *bedroom dwelling unit* located within the *Block*,
 - (iii) 1.0 *parking spaces* for each two *bedroom dwelling unit* located within the *Block*;
 - (iv) 1.2 *parking spaces* for each three *bedroom dwelling unit* located within the *Block*, and
 - (v) 0.12 *parking spaces* for visitors for each *dwelling unit* located within the *Block*,

provided that the *parking spaces* for *Block 1* and *Block 1A* may be located within any of *Block 1*, *Block 1A* and *Block 1B*;
 - (b) *parking spaces* for non-residential uses within each *Block* shall be provided and maintained in accordance with Section 4(4)(b) of By-law No. 438-86, as amended, provided that the *parking spaces* for *Block 1* and *Block 1A* may be located within any of *Block 1*, *Block 1A* and *Block 1B*.
- 16.** Notwithstanding Section 4(12) of By-law No. 438-86, as amended, no person shall erect or use a building, containing 20 or more *dwelling units*, within any of the *Blocks* unless *residential amenity space* is provided and maintained in accordance with the said Section 4(12), except that:
- (a) the required indoor *residential amenity space* need not be provided in contiguous multi-purpose room or rooms; and

- (b) indoor and outdoor *residential amenity space* shall not be required for *dwelling units* located on *Block 1A*.
17. The provisions of Section 8(3) Part XI of By-law No. 438-86, as amended, shall not apply to the *Site* following the passage of this By-law, provided that no person shall, within the *Site*, erect or use a building adjacent to Dufferin Street or Dupont Street unless the *frontage* of such building adjacent to Dufferin Street or Dupont Street has a main floor level,
- (a) with a depth of not less than 7.5 metres measured from the main wall adjacent to Dufferin Street or Dupont Street for a width of 60% of the length of the building face of such building adjacent to Dufferin Street or Dupont Street,
- (b) used only for *live-work units*, and/or the uses listed in Section 5(c)(iv) hereof, and
- (c) which is located within 0.2 metres of the sidewalk level, abutting such *street*, directly opposite the door to each unit.
18. The definition of *lot* and Section 4(11) contained in By-law No. 438-86, as amended, shall not apply to prevent the erection and use of any building or structure within the *Site*, after the passage of this By-law.
19. None of the provisions of By-law No. 438-86, as amended, or of this By-law shall apply to prevent the erection or use within the *Site* of up to three temporary sales showrooms for the purposes of marketing *dwelling units*, provided the *total floor area* of each showroom does not exceed 500 square metres.
20. For the purpose of the By-law, the following expressions shall have the following meaning:
- (a) “*bedroom*” means a *habitable room* larger than 7 square metres, but does not include a living room, dining room, kitchen, or that portion of a *live-work unit* used for work purposes or *accessory* work purposes,
- (b) “*Block 1*”, “*Block 1A*”, “*Block 1B*”, “*Block 2*” and “*Block 3*” means those lands respectively identified as Block 1, Block 1A, Block 1B, Block 2 and Block 3 as shown on Map 2 attached hereto and “*Blocks*” shall mean all of *Block 1*, *Block 1A*, *Block 1B*, *Block 2* and *Block 3*,
- (c) “*Building Envelope*” means a Building Envelope as delineated on Maps 3A, 3B, 3C and 3D attached hereto,
- (d) “*City*” means the City of Toronto,

- (e) “*community use(s)*” shall mean community activities managed or controlled by the *City*, a local board thereof, or operated in a space leased by the *City*, or local board thereof, consisting exclusively of one or more of the following uses: a *community centre*, a non-profit business incubator, as well as performing or visual arts facilities operated or directly funded by a government agency or *non-profit institutions* which are accessible to the public, such as *public art galleries*, *public museums* and public performing arts facilities, including uses *accessory* to all of the forgoing uses,
- (f) “*grade*” shall mean an elevation of 120.5 metres above sea level based on Geodetic Survey of Canada 1929 mean sea level vertical datum (1978 Southern Ontario Adjustment),
- (g) “*height*” shall mean the vertical distance between *grade* and the highest point of the building or structures,
- (h) “*owner*” means the owner of the fee simple of the *Site* or any part thereof,
- (i) “*Site*” means those lands outlined by heavy lines on Map 2 attached hereto, and
- (j) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in the said By-law No. 438-86, as amended.

ENACTED AND PASSED this 22nd day of July, A.D. 2004.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

APPENDIX 1

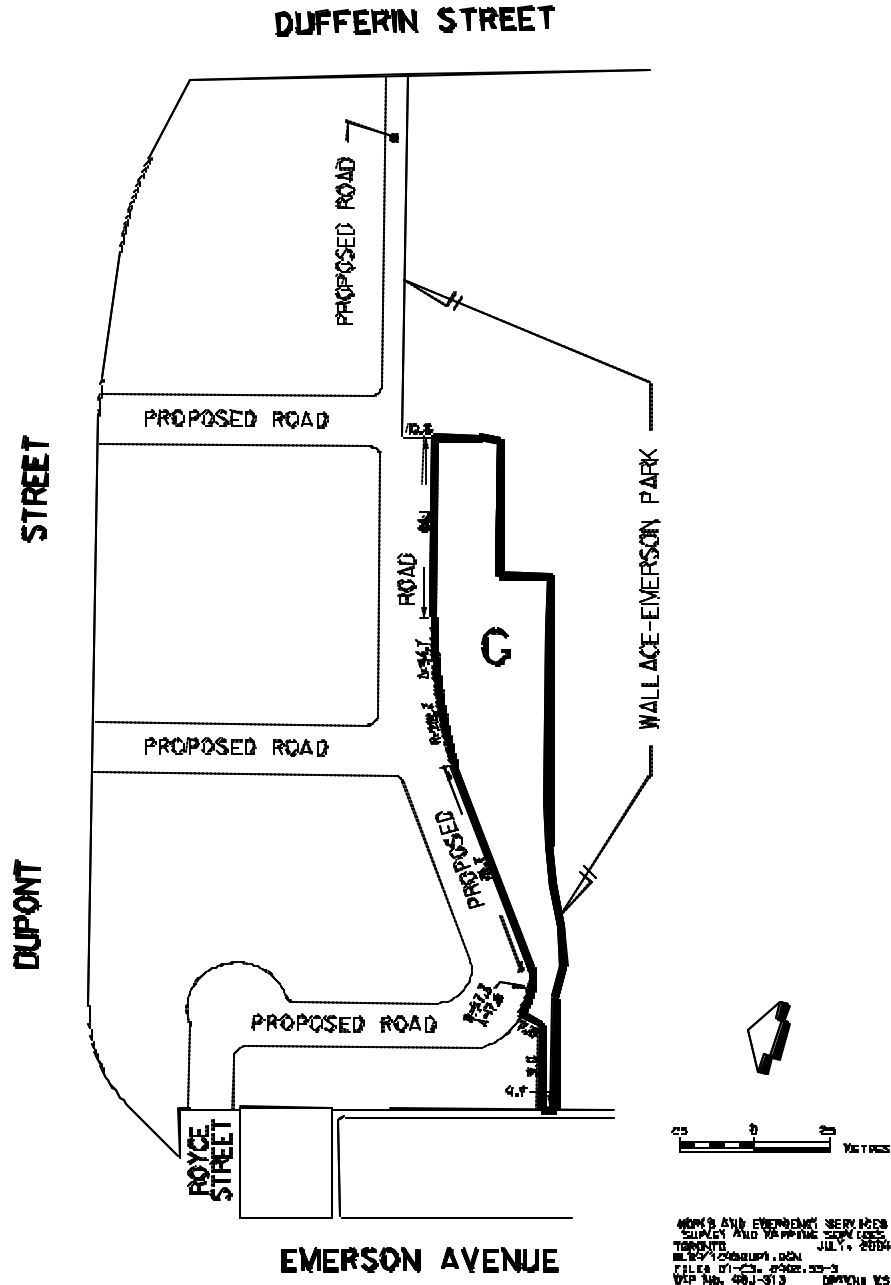
SECTION 37 PROVISIONS

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the owner of the *Site* to the City in accordance with an agreement or agreements pursuant to Section 37(1) of the *Planning Act*:

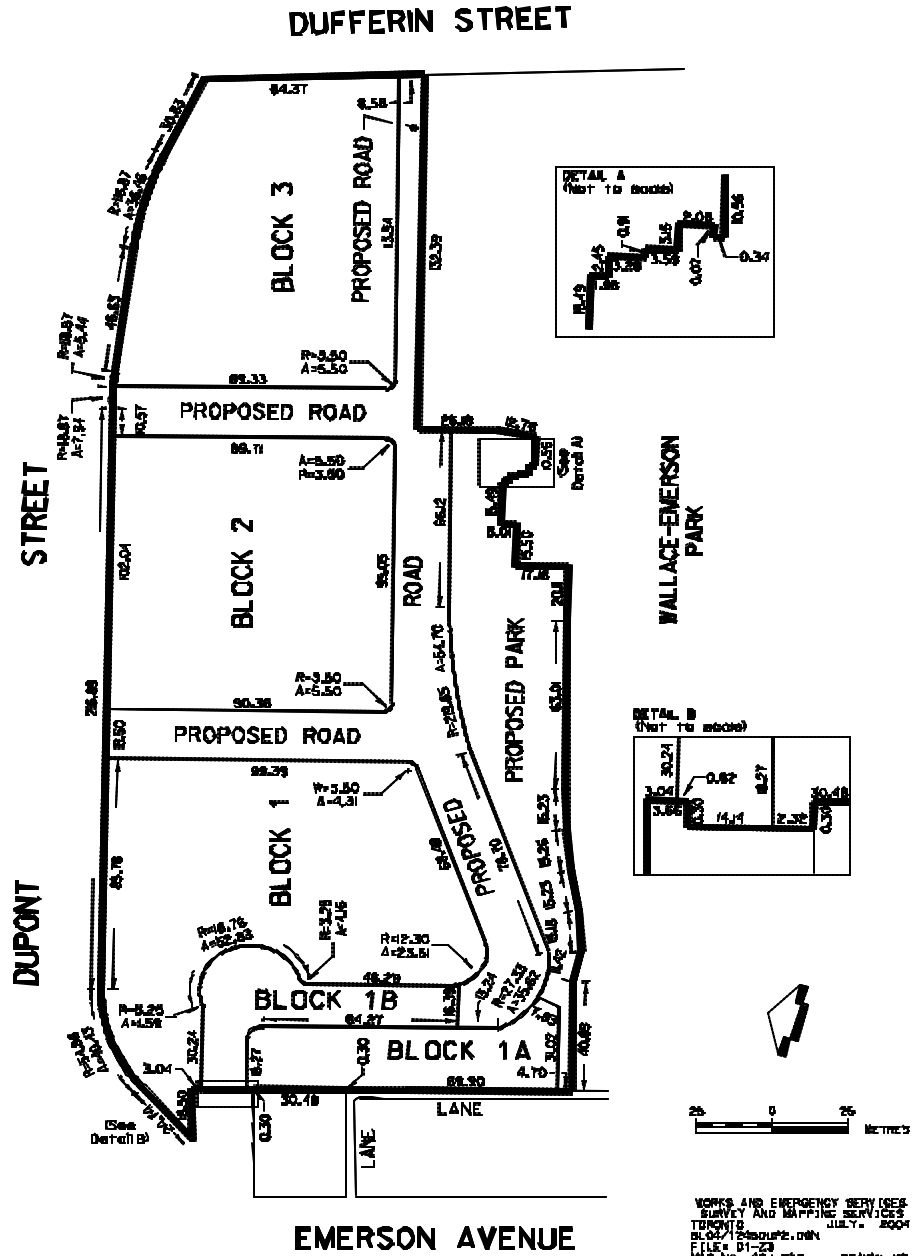
- (a) the owner is to ensure that the phased development of the *Site* is to the satisfaction of the City, including requirements for the matters to be secured such as an overall municipal servicing and grading plan and a stormwater management report and requirements with respect to each phase such as, site integration, loading, interim use of balance of *Site*, construction staging and temporary landscaping, if required;
- (b) the owner is to satisfy all environmental matters such as soil and groundwater management, the environmental remediation of the entire *Site* and lands to be conveyed to the City, provision of a Record of Site Condition, remediation of any contamination from the *Site* into adjacent streets, demolition and dust control, noise and vibration, the monitoring of de-watering and a commitment to mitigate as and where required by the City;
- (c) the owner shall provide all matters needed to service the *Site*, including the retention of a satisfactory consulting engineer, the conveyance and construction of a new public streets and all required letters of credit, detailed design drawings, inspection fees, utilities, and timing of the completion of the new public street, all costs associated with any required traffic alterations and the provision of space within the development for the construction of any transformer vaults, Hydro, Bell maintenance and sewer maintenance holes;
- (d) prior to the issuance of the first building permit, the owner shall agree to the timing of the remediation and conveyance of all lands to be conveyed to the City as public streets and for public park purposes;
- (e) the owner shall convey a minimum of 5 520.00 square metres of land to the City for public park purposes, which may be conveyed on a phased basis, provided that no further requirement is made of the Owner for park land conveyance or for the payment of money in lieu thereof pursuant to the *Planning Act* or *Condominium Act*;
- (f) the owner shall, in respect of the park land, also agrees to the construction and installation of base park improvements, all required letters of credit, certification of completed work and be responsible for an environmental assessment of the lands to be conveyed as parkland;
- (g) the owner shall make a payments of: \$150,000.00, prior to the first above grade building permit in the second phase as established by the Commissioner of Urban Development Services, for improvements to the Wallace Emerson Park;

- (h) the owner shall, prior to the first occupancy of any building in the third phase as established by the Commissioner of Urban Development Services, (or earlier if agreed) provide and maintain one or more works of public art on the *Site* with a minimum combined value of \$200,000.00;
- (i) the owner shall make a payments of: \$325,000.00, prior to the first above grade building permit, for improvements to the Wallace Emerson Community Centre;
- (j) the owner shall, prior to the first occupancy of any building in the second phase, as established by the Commissioner of Urban Development Services, provide to the City, at no cost to the City, a 20 year lease for a unit accessible from finished ground level and containing at least 185.5 square metres of *non-residential gross floor area*, to be used for *community uses* acceptable to the City and the owner, to be delivered at the owner's expense;
- (k) the owner shall agree to such other matters as are specified by the reports of Urban Development Services recommending the passage of the by-law or as specified by the Council as a condition of the passage of the by-law, and
- (l) the owner of the Site is required to enter into an agreement with the City pursuant to Section 37 of the *Planning Act*, to secure the provision of the said facilities, services and matters, in a form satisfactory to the City with conditions providing for indexed escalation of financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement.
- (m) Notwithstanding the foregoing, the owner and the City may modify or amend the said agreement(s), from time to time and upon the consent of the City and the owner, without further amendment to those provisions of this zoning by-law which identify the facilities, services and matters to be secured.

MAP I

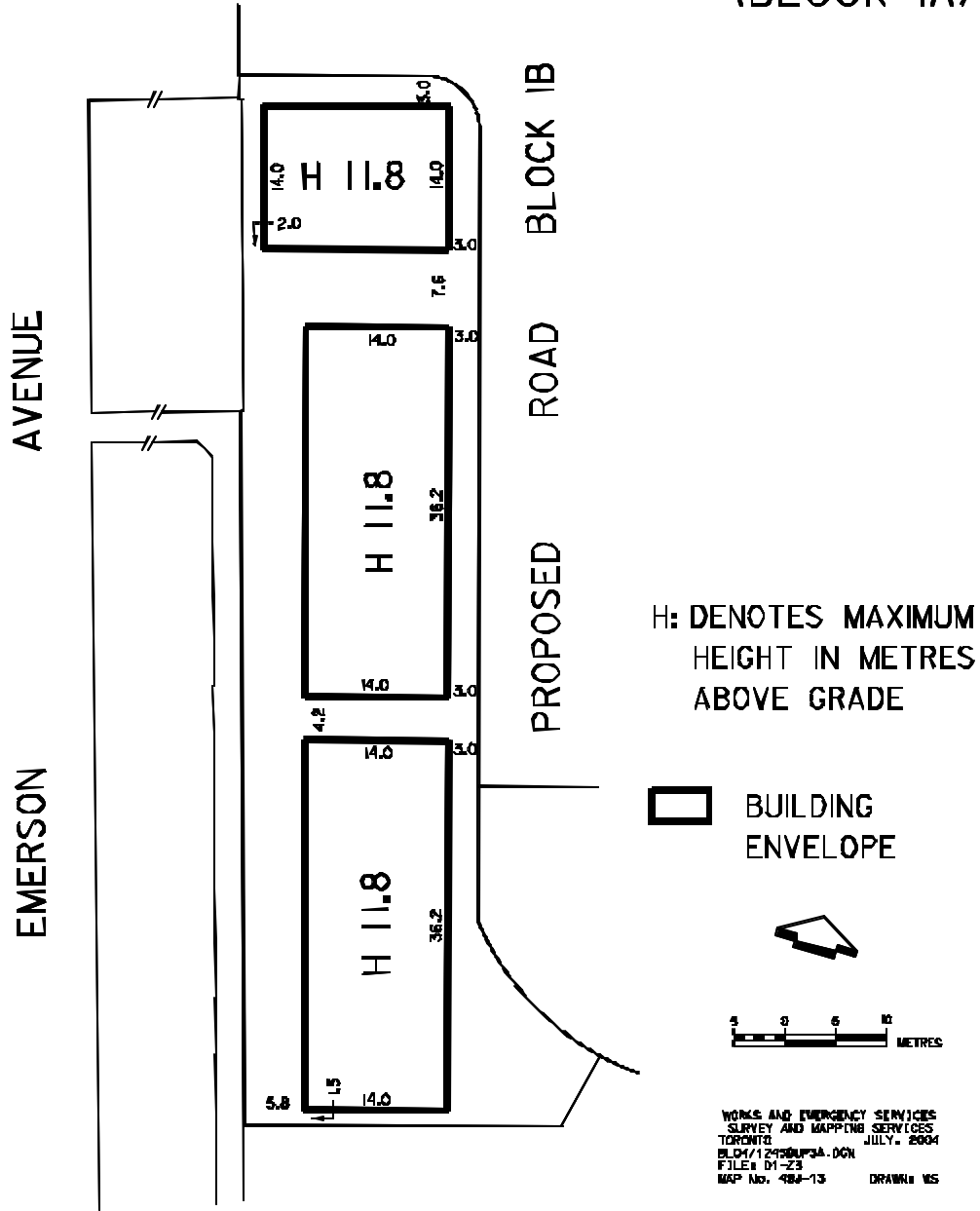


MAP 2



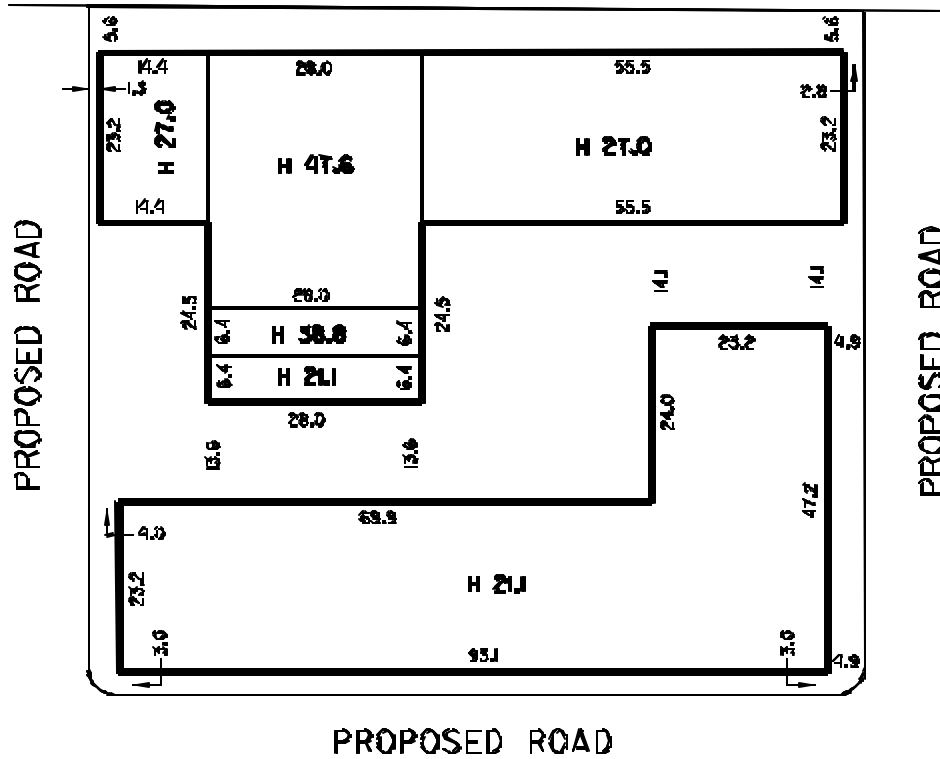
WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO JULY 2004
 BLOCK 1 resource.mfn
 FILE # D1-23
 MAP No. 484-012 DRAFT: US

MAP 3A (BLOCK 1A)



MAP 3C
(BLOCK 2)

DUPONT STREET



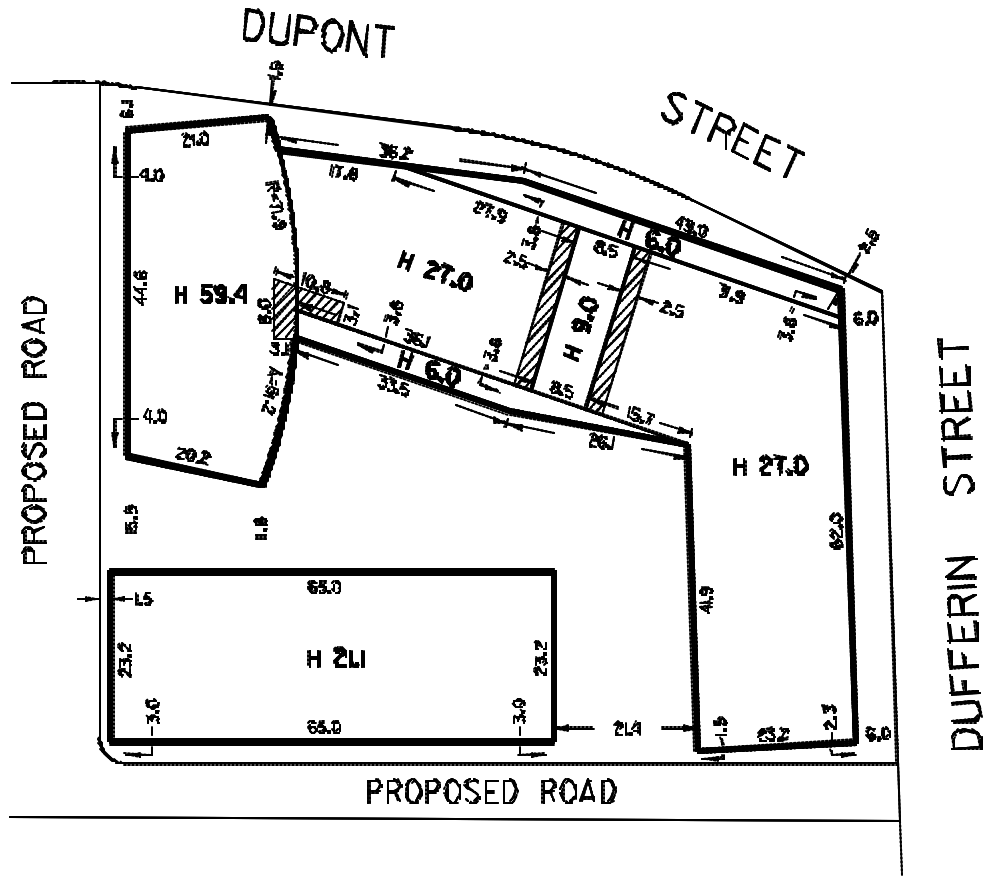
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 BUILDING ENVELOPE



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO
 BLOCK 2 (DUPONT-004) JULY, 2004
 FILE# D1-22
 Y&P No. 483-19 BROWN NS

MAP 3D
(BLOCK 3)



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

□ BUILDING ENVELOPE



WATER AND SEWERAGE SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO JULY, 2004
 FILE # 01-22
 WAP No. 001-313 DRAWN: MS