

# CITY OF TORONTO

## BY-LAW No. 351-2006(OMB)

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto and By-law No. 1995-0466, as amended with respect to lands municipally known as 20, part of 22, 22A and 24 Bathurst Street.**

WHEREAS this by-law is enacted in implementation of the City of Toronto Fort York Neighbourhood Part II Official Plan, as amended, for the lands outlined in heavy lines on Plan 1 attached hereto, comprising *Block 6*, *Block 6A* and the proposed Streets; and

WHEREAS, simultaneously with other adjacent lands, the *owner* of the lands shown on Plan 1 attached hereto applied for a zoning by-law amendment for the development of the lands shown on Plan 1 attached hereto and appealed that application to the Ontario Municipal Board; and

WHEREAS, pursuant to Section 36 of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, by the use of a holding symbol “H” (or “h”) in conjunction with a use designation, set out the use to which lands, buildings or structures may be put prior to and following the removal of the holding symbol “H” (or “h”); and

WHEREAS, pursuant to Section 4.6.1(b) of the Fort York Neighbourhood Part II Plan, the use of a holding symbol for a portion of *Block 6* is deemed appropriate because of its current proximity to the operations of St. Marys Cement (Canada) Inc.; and

WHEREAS, pursuant to Section 37 of the *Planning Act*, the Council of the Municipality, and the Ontario Municipal Board on appeal, 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 lands elects to provide facilities, services and matters in return for an increase in height or density of development, the municipality may require the *owner* to enter into one or more agreements with the municipality dealing with such facilities, services and matters; and

WHEREAS the owner of *Block 6* and *Block 6A* 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 former City of Toronto 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 6* and *Block 6A* 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 pursuant to Order No. 1017 of the Ontario Municipal Board issued on April 4, 2006, in Board File No. PL030379, By-law No. 438-86, as amended, of the former City of Toronto is amended as follows:

1. 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, By-law No. 1995-0466, being a By-law to amend the former City of Toronto General Zoning By-law No. 438-86, as amended, with respect to the lands generally bounded by Strachan Avenue, Lake Shore Boulevard West, the Frederick G. Gardiner Expressway and Canadian National Railways, also known as the “Fort York Neighbourhood”, is amended by:
  - (1) deleting Map 1 and replacing it with Map 1 attached hereto; and
  - (2) replacing the reference to “G and R4” in section 2 with a reference to “G, R4 and CR” in that section.
2. Upon execution and registration of the agreement(s) 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 the lands outlined by heavy lines on Plan 2 attached hereto and comprising *Block 6* and *Block 6A* to “CR”, and “CR(h)”, as shown on such Plan 2.
3. Upon execution and registration of the agreement(s) 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 0.0”, “H 20.0”, “H 21.0”, “H23.0”, “H 32.0”, “H 33.0”, and “H 74.0” as shown on such Plan 3.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the lands shown on Plan 1 attached hereto.
5. None of the provisions of Section 2(1), with respect to the definitions of the words “*grade*”, “*height*” and “*live-work unit*”, and none of the provisions of Sections 4(2)(a)(i) and (ii), 4(4), 4(6), 4(12), 4(16) and 8(3) PART I of By-law No. 438-86, as amended, and none of the provisions of Sections 2, 3 and 5 of the aforementioned By-law No. 1995-0466 shall apply to *Block 6* and *Block 6A*, provided that the provisions of Section 6 herein and the following requirements are complied with:

#### USE

- (1) Notwithstanding Section 8(1)(f)(a) of By-law No. 438-86, as amended, a “live-work unit” is permitted within *Block 6* and *Block 6A*.

## MAXIMUM FLOOR AREA

- (2) No person shall, within *Block 6* and *Block 6A*, erect or use a building or structure or portion thereof where:
- (i) the total *non-residential gross floor area* located on *Block 6* and *Block 6A* exceeds 19,419 square metres of which not more than 2,000 square metres is located on *Block 6A*;
  - (ii) the total *residential gross floor area* located on *Block 6* and *Block 6A* exceeds 54,304 square metres, of which not more than 49,000 square metres is located on *Block 6* and not more than 11,500 square metres is located on *Block 6A*;

provided that:

- (iii) in no case shall the total combined *non-residential gross floor area* and *residential gross floor area* of all buildings or structures located on *Block 6* and *Block 6A* exceed 55,438 square metres, of which not more than 49,000 square metres is located on *Block 6*, and not more than 11,500 square metres is located on *Block 6A*; and
  - (iv) for any portion of a building that exceeds eight (8) metres in depth and fronts on Fort York Boulevard, at least 80% of the total at *grade non-residential gross floor area* and *residential gross floor area* within the first eight (8) metres in depth of that portion of the building shall be *non-residential gross floor area*.
- (3) Calculation of Floor Area: Parking Space Exemptions

Notwithstanding Section 5(2) herein, additional *residential gross floor area* and *non-residential gross floor area* is permitted on *Block 6* and *Block 6A*, provided the additional *residential gross floor area* and *non-residential gross floor area* is used for the purposes of:

- (i) *parking spaces* provided above grade in a parking garage in compliance with the following requirements:
  - (A) the *parking spaces* are accessory to a use permitted on the lot other than a parking use;
  - (B) the *height* of the above *grade portion* of such *parking garage*, excluding any structures used for pedestrian access or *landscaping*, is no greater than 6.2 metres, above *grade*;
  - (C) no part of the roof of such *parking garage* is to be used for the purposes of vehicular parking;

- (D) the area of such *parking garage* is not to be used for the purposes of determining the parking requirements for the building or structure;
- (E) no part of the building or structure located above *grade* or the finished surface of the ground, whichever is the lower, that is used for the purposes of parking, excluding stairways, driveways or ramps used for access, is erected closer than 10 metres to a *lot line* that abuts a *street*, public lane or *public park*; and
- (F) uses, other than a parking use, park or pedestrian walkway, which are otherwise permitted on the lot containing such *parking garage* are provided in an enclosed structure, between that part of the building used as a *parking garage* and each *lot line* that abuts a *street*, public lane or *public park*, for the full height and length of such *parking garage* excluding stairways, driveways or ramps used for access.

#### PARKING & LOADING

(4)

- (i) The parking requirements set out in Sections 4(5) of By-law No. 438-86, as amended, shall apply to *Block 6* and *Block 6A*, except in the case of the uses listed in Column A below, where the minimum required number of *parking spaces* shall be as set out in the corresponding row in Column B.

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>Residents' Parking</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>;</p> <p>1.2 <i>parking space</i> for each <i>three or more bedroom dwelling unit</i> contained therein</p> <p>Visitors' Parking</p> <p>0.12 <i>parking space</i> for every <i>dwelling unit</i> contained therein</p>

- (ii) Notwithstanding Sections 8(1)(f)(a)(iii) and 8(1)(f)(b)(vii) of By-law No. 438-86, as amended, no person shall provide any vehicular parking except in a *parking space* and:
  - (A) no parking shall be located in an uncovered surface parking facility except for temporary surface visitor parking for the purpose of visiting a temporary sales showroom permitted by this By-law and up to 3 short term convenience *parking spaces accessory* to each building; and
  - (B) no above *grade* parking structure shall be located so as to be abutting a *street*, open space area or outdoor *residential amenity space*.
- (5) The loading requirements set out in Section 4(8) of By-law No. 438-86, as amended, shall apply to *Block 6* and to *Block 6A* with the exception that the required Type G loading facility for *Block 6A* is not required to be contained wholly on the *lot* or within *Block 6A* and may be part of a shared loading facility with abutting lands to the south.

#### HEIGHT

- (6)
  - (i) no portion of any building or structure, shall have a *height* above *grade* exceeding the *heights* shown on Plan 3 attached hereto, but this paragraph does not prevent:
    - (A) the erection or use of roof top facilities and structures including, but not limited to, indoor residential amenity space, outside or open air recreation purposes, a chimney stack, stair tower, or other heating, cooling or ventilating equipment or window washing equipment, provided that the maximum *height* of the top of such elements is no higher than the sum of 7 metres and the applicable *height* limit shown on Plan 3 attached hereto, and such elements combined occupy no more than 75% of the roof;
    - (B) within the 0 metre *height* district located under the existing location of the Frederick G. Gardiner Expressway as shown on Plan 3 attached hereto, the erection or use of fencing or other built elements related to landscaping, pedestrian safety or amenity, including but not limited to wheelchair ramps, steps, vents, retaining walls, ornamental walls and features, arbours, trellises, privacy and wind screens, and public art, provided the maximum *height* of any such element does not exceed 3.0 metres;

- (C) within the 0 metre *height* district located within 5 metres from the Frederick G. Gardiner Expressway as shown in hatching and identified as “Gardiner Easement Area” on Plan 3 attached hereto, the erection or use of driveways, curbs or ramps as well as the erection of landscaping elements and retaining walls that are shown on site plan drawings approved pursuant to section 41 of the *Planning Act* for development on *Block 6*;
  - (D) parapets which are no higher than the sum of 1.5 metres and the applicable *height* limit shown on Plan 3 attached hereto; and
  - (E) the erection of a structure on the roof of the building used for indoor residential amenity space, outside or open air recreation purposes which is no higher than the sum of 4 metres and the applicable *height* limit shown on Plan 3 attached hereto.
- (ii) No building shall contain more than:
- (A) 6 storeys above grade within a 21 metre height district; and
  - (B) 10 storeys above grade within a 33 metre height district.

#### RESIDENTIAL AMENITY SPACE

- (7) The *residential amenity space* requirements in Section 4(12) of By-law No. 438-86, as amended, shall apply to buildings located on *Block 6* and *Block 6A*, except that:
- (i) for *Block 6A* the required *residential amenity space* shall be a minimum of 100 square metres located indoors, and a minimum of 100 square metres located outdoors; and
  - (ii) for *Block 6*, notwithstanding the definition of “*residential amenity space*” in By-law No. 438-86, as amended, *residential amenity space* located outdoors which is in excess of the minimum of 40 square metres required to be provided in a location adjoining or directly accessible from the indoor *residential amenity space* may be shared by the residents of more than one building and may be provided anywhere within *Block 6*.

#### FLOOR AREA LIMITATION

- (8) In no case shall a building or structure exceeding 40 metres in *height* and located on that portion of *Block 6* located north of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 2 attached hereto, contain a floor above the eighth floor that exceeds 790 square metres of *residential gross floor area*.

## SETBACKS

- (9) 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 letters A and D as shown on Plan 4 attached hereto.
- (10) No person shall erect or use a building or structure closer to the vertical projection of the existing northerly or southerly limit of the Frederick G. Gardiner Expressway than indicated by the setback line designated by the letter E shown on Plan 4 attached hereto;
- (11) No person shall erect or use a building or structure closer to the *lot* line than indicated by the setback line designated by the letter F as shown on Plan 4 attached hereto;
- (12) Section 5(9) 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.
- (13) Notwithstanding Section 8(3) PART II 1(a)(ii) of By-law No. 438-86, a *residential building* or a *mixed-use building* on *Block 6A* may be located so that a window of a *dwelling unit* (other than a window of a kitchen or bathroom) or a window of a *dwelling room* in the building is located within 4.5 metres of the south limit of said *Block 6A*.

## PERMITTED PROJECTIONS

- (14) Section 5(9) herein 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" and "OTHER APPLICABLE QUALIFICATIONS" are complied with.

CHART

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. eaves, cornices, balustrades, and parapets	1.5 metres	None
B. fences, privacy screens, pillars and safety railings	no restriction	height of fence, privacy screen, pillar or safety railing not to exceed 2.0 metres from finished ground level
C. uncovered platform attached to the building	not more than 1.5 metres from the wall where it is attached	None

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
D. a balcony attached to the building	not more than 1.8 metres from the wall where it is attached	None
E. a roof over a first floor platform or terrace, attached to the building	not more than 2.5 metres from the wall where it is attached	(I) the roof, if not solely supported by the building, 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.
F. canopy for a building	not more than 3.5 metres from where it is attached to the building	(I) the building 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> .
G. 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.
H. vertically-oriented wind screen	not more than 2.0 metres from the wall where it is attached	None
I. public art features	no restriction	None
J. underground garage ramps and associated ramp structures, wheelchair ramps, stairs and stair enclosures, vents, and retaining walls.	1.0 metres	maximum vertical projection does not exceed 3.5 metres above finished ground level.



STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
K. concrete planter walls, ornamental walls and features, arbours, trellises and other landscape features.	2.0 metres	maximum vertical projection does not exceed 3.5 metres above finished ground level.

(15) Section 5(11) does not apply to a canopy having a maximum projection of 1.5 m and an area not exceeding 9 square metres provided that such canopy is adjacent to *non-residential gross floor area* on the ground floor.

6. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted on *Block 6* and *Block 6A* by this By law are permitted in return for the provision by the *owner* of *Block 6* and *Block 6A* of the following facilities, services and matters to the City at the *owner's* sole expense, in accordance with and subject to compliance with the provisions of the agreement(s) to be executed and registered on title to the lands as referred to in Section 6(1) herein:

#### Agreement

- (1) the *owner* agrees to enter into one or more agreements with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by this Section 6 and consents to the registration of such agreement against title to the lands outlined in heavy lines on Plan 1 attached hereto as well as all other lands referred to in subsection (16) hereof, the said agreement(s) to include provisions relating to indemnity, insurance, GST, termination, unwinding, registration and priority of agreement, and the indexing of financial contributions;

#### Levies

- (2) the *owner* shall provide to the City, prior to issuance of a *building permit* for any building or structure on each of *Block 6* and *Block 6A* for such portion of the *residential gross floor area* and *non-residential gross floor area* permitted herein and to be permitted by such building permit:
- (i) City Development Levies in the amount of \$3,838.38 per residential *dwelling unit*, and \$1.96 per square metre of *non-residential gross floor area*; and
  - (ii) School Levies in the amount of \$1,481.62 per residential *dwelling unit*;

which levies shall be indexed from December 2004 and payment secured by agreement(s) between the owner, the City and/or the school boards as payment in lieu of development charges and education development charges;

#### Public Art Contribution

- (3) the *owner* shall provide and maintain works of public art within *Block 6* and *Block 6A* or cash in lieu thereof, of a value of not less than one percent of the total cost of construction of development proposals thereon exceeding 20,000 square metres of *residential gross floor area*, *non-residential gross floor area*, or a combination of both, as set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*;

#### District Heating and Cooling Facility

- (4) the *owner* shall ensure that the agreement to be entered into 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*;

#### Unit Size

- (5) the *owner* shall provide not less than 30 percent of the *dwelling units* within *Blocks 6* and *6A*, with the following size restrictions:
- (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*;

#### Public Pedestrian Walkway

- (6) the *owner* shall provide and maintain a *public pedestrian walkway* over *Block 6A* which shall have a minimum width of 3m and shall directly connect at *grade*, Bathurst Street and *Street E* within the area identified as “Shared Access, Public Pedestrian Walkway and Landscape Area” shown in hatching on Plan 1 attached hereto, the specific location, configuration and design to be determined in the context of a site plan approval pursuant to section 41 of the *Planning Act*;

#### Public Realm Master Plan

- (7) the *owner* shall implement at its own expense and in consultation with staff of the City’s Urban Development Services Department, as necessary, the *Fort York Neighbourhood Public Realm Plan* and shall incorporate the same into plans and drawings submitted for approval pursuant to Section 41 of the *Planning Act* for development of *Block 6* and *Block 6A*;

### Street Tree Irrigation

- (8) the *owner* shall, at its own expense, install and maintain in good working order and operation, an irrigation system for all street trees in the public right-of-way that includes an automatic timer which is designed as being water efficient by a Certified Landscape Irrigation Auditor (CLIA) and is constructed with a back flow preventer to the satisfaction of the City, or some other system that is consistent with City policies.

### Reports and Studies

- (9) the *owner* shall prepare and submit for the approval of the City for development on each of *Blocks 6* and *6A*, or any portion thereof:
- (i) a *Development Context Plan*;
  - (ii) a *Phasing of Road Infrastructure Plan*; and
  - (iii) a *Municipal Servicing Plan*;
- (10) the *owner* shall submit for the approval of the City, reports related to soil and groundwater management, noise and vibration impact, and air quality, stormwater management and construction management related to the development of *Block 6* and *Block 6A* and shall implement the recommendations and remediation measures described in such reports;
- (11) the *owner* shall submit for approval by the City prior to issuance of a *building permit* for any building or structure to be constructed on that portion of *Block 6* located south of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto, or on *Block 6A*, a construction management report outlining the technical details of such proposed development and required services relative to the Garrison Creek Storm Sewer;
- (12) the *owner* shall submit for approval by the City prior to issuance of a *building permit* for any building or structure to be constructed on *Block 6* a construction management report outlining the technical details of such proposed development and required services relative to the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto.
- (13) the *owner* shall submit, prior to the first application for approval pursuant to Section 41 of the *Planning Act*, for that portion of *Block 6* north of the vertical projection of the existing northerly limit of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto, or prior to release for construction of that portion of *Street E* that abuts such lands, an archaeological assessment and mitigation plan satisfactory to the City, and shall implement the recommendations described in such plan prior to issuance of any *building permit* for development on that portion of *Block 6* and prior to any excavation, demolition, grading or

other activities that would cause soil disturbances on such portion of either *Block 6* or *Street E*;

#### Conveyances and Streets

- (14) the *owner* shall convey, upon execution of the the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*, for nominal consideration and at no cost to the City, an easement for support in favour of the City over that portion of *Block 6* described as Parts 13, 14, 15, 16, 17, 18 and 20, Plan 64R-17072 for Fort York Boulevard, which conveyance shall be free and clear of encumbrances to the satisfaction of the City Solicitor;
- (15) the *owner* shall convey, prior to issuance of a *building permit* for any building or structure to be constructed on the applicable portions of *Block 6*, for nominal consideration and at no cost to the City, a 5.0 metre wide easement in favour of the City over those portions of *Block 6* shown in hatching and identified as the “Gardiner Easement Area” on Plan 3 attached hereto for the purpose of maintenance, repair, reconstruction as well as the possible future dismantling of the Frederick G. Gardiner Expressway, which conveyances shall be free and clear of encumbrances and to the satisfaction of the City Solicitor;
- (16) the *owner* shall convey to the City in escrow, upon execution of the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* for nominal consideration and at no cost to the City, those parts of *Street F* as well as those parts of the intersection of *Street E* and *Street F* described as Parts 15, 16, 17 and 19, Plan 66R-21894, for the purpose of facilitating construction and conveyance of *Street F* at such time as may be required for the development of Blocks 3B, 4, 4A and 5 within the Fort York Neighbourhood Plan, and on terms set out in such agreement satisfactory to the City;
- (17) the *owner* shall authorize and permit construction of underground services over those parts of *Street E*, the intersection of *Street E* and *Street F* as well as the intersection of *Street E* and *Street G* described as Parts 14, 15, 26, 27, 31, 32, 37, 38 and 46 Plan 66R-21894, if that portion of *Street E* and intersections have not been previously constructed, as may be required for the development of Blocks 2, 3, 3A, 3B, 4, 4A and 5 within the Fort York Neighbourhood Plan, on terms set out in the agreement to be entered into with the City pursuant to section 37 of the *Planning Act*, and shall convey, if required by the City upon acceptance of such services, at no cost to the City and for nominal consideration, an easement in favour of the City free and clear of encumbrances for the purpose of construction and maintenance of such services, in a form satisfactory to the City Solicitor;

- (18) The *owner* shall;
- (i) provide the City with funds secured by a letter of credit in an amount and a form satisfactory to the City to construct those parts of *Street E* and *Street G* within the lands outlined by heavy lines on Plan 1 as are required to service *Block 6* or *Block 6A* according to the *Phasing of Road Infrastructure Plan*, prior to release for construction of *Street E* or *Street G* and, in any event, prior to issuance of the first above-grade *building permit* for any building or structure on *Block 6* or *Block 6A*;
  - (ii) environmentally remediate those parts of *Street E* and *Street G* referred to in (i) above to the satisfaction of the City prior to issuance of above-grade *building permit* for any building or structure on *Block 6* or *Block 6A*;
  - (iii) construct those parts of *Street E* and *Street G* referred to in (i) above to the satisfaction of the City and according to the *Phasing of Road Infrastructure Plan*;
  - (iv) prior to issuance of a final *building permit* for any building or structure on *Block 6* and *Block 6A*, and following construction and acceptance by the City of services required for such blocks, including the environmental remediation and construction to base course asphalt of those parts of *Street E* and *Street G* referred to in (i) above, convey those parts of *Street E* and *Street G* referred to in (i) above to the City in fee simple, free and clear of encumbrances, at no cost and for nominal consideration and to the satisfaction of the City Solicitor;
  - (v) comply with paragraphs (i) to (iv) above with respect to that portion of Proposed *Street E* shown south of *Block 6A* that are not within the lands outlined by heavy lines on Plan 1 attached hereto, if such portion of Proposed *Street E* has not been previously constructed and conveyed to the City and is required for either *Block 6* or *Block 6A* pursuant to the *Phasing of Road Infrastructure Plan*; and
  - (vi) be permitted to exclude from the conveyance of *Street E* and *Street G* referred to in (iv) above, a below-grade encroachment for a parking structure contemplated by the *Public Realm Plan* and on terms as set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* and provided such conveyance includes rights of support for *Street E* and *Street G* in favour of the City satisfactory to the City Solicitor;

### Cash Contributions

- (19) the *owner* shall provide a cash contribution in the amount of \$1,073,824.60 towards the construction costs of Fort York Boulevard, and \$119,457.11 towards the *FYBG Works*, to be paid as follows:
- (i) \$300,271.94 for Fort York Boulevard and \$33,403.61 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on that portion of *Block 6* north of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto;
  - (ii) \$578,770.43 for Fort York Boulevard and \$64,385.04 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on that portion of *Block 6* south of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto; and
  - (iii) \$194,782.32 for Fort York Boulevard and \$21,668.47 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on *Block 6A*;
- (20) the *owner* shall provide a cash contribution towards the construction costs of the improvements to the intersection of Bremner Boulevard, Bathurst Street and Fort York Boulevard to be paid as follows, and indexed from January 2005:
- (i) 1.23% of up to \$9,000,000.00 for construction costs of the intersection, prior to issuance of the first above-grade *building permit* for any building or structure on that portion of *Block 6* north of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto;
  - (ii) 2.38% of up to \$9,000,000.00 for construction costs of the intersection, prior to issuance of the first above-grade *building permit* for any building or structure on that portion of *Block 6* south of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto; and
  - (iii) 0.80% of up to \$9,000,000.00 for construction costs of the intersection prior to issuance of the first above-grade *building permit* for any building or structure on *Block 6A*;

### Servicing Requirements

- (21) the *owner* shall provide, to the satisfaction of the City, all matters required to service each of *Block 6* and *Block 6A*, including, but not limited to, phasing of infrastructure, the retention of a satisfactory consulting engineer, site grading, the construction of services including water services, sanitary and storm sewer

systems, roads, streetscaping and landscaping, street trees and tree irrigation systems, road intersections, traffic signals and utilities (including cost sharing arrangements ) and the provision of all associated letters of credit, detailed design drawings, inspection fees on terms set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*; and

#### Environmental Requirements

- (22) the *owner* shall satisfy all environmental requirements of the City such as: the environmental restoration or remediation of each of *Block 6* and *Block 6A* as well as lands to be conveyed to the City for roads and services, the retention of an environmental consultant and peer review, soil and groundwater management, certification and provision of a Record of Site Condition, the monitoring of dewatering and a commitment to mitigate as and where required by the City, noise and vibration, air quality, waste management, demolition and dust control on terms set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*.
7. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into 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. Notwithstanding any of the foregoing provisions, where the provisions of this By-law or the Section 37 Agreement(s) require provision of facilities, services and matters prior to issuance of a *building permit* for the proposed development of *Block 6* and *Block 6A*, including provision of financial securities, payment of levies or contributions, environmental requirements, construction of services and land conveyances, the *owner* may not erect or use any building or structure on *Block 6* or *Block 6A* until the owner has satisfied the said requirements and building permit issuance shall be dependent on the same.
9. Notwithstanding any of the foregoing provisions, the *owner* and the *City* may modify or amend the said Section 37 agreement(s) from time to time and, upon the consent of the *City* and the *owner*, without further amendment to those provision of this By-law which identify the facilities, services and matters to be secured.
10. For the purposes of this By-law:
- (1) “*art*” includes works of plastic art, works of graphic art, sculptured landscaping, fountains, and artistic treatment of fencing, 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 designated by or in collaboration with artists;

- (2) “*Block 6*” and “*Block 6A*” mean those lands shown as “*Block 6*” and “*Block 6A*” on Plan 1 attached hereto;
- (3) “*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, provided that this definition does not preclude the Section 37 agreement referred to in Section 6 herein from requiring certain matters to be provided after a permit for excavations, shoring or demolition has been issued;
- (4) “*Development Context Plan*” means a plan submitted by the *owner* satisfactory to the City for the block on which the development is located and the adjacent development blocks, the purpose of which shall be:
- (i) 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;
  - (ii) to assist the City in evaluating the conformity of the proposed development with the relevant provisions of the Official Plan and the Fort York Neighbourhood *Public Realm Plan* related thereto; and
  - (iii) to assist the City in evaluating applications for review under Section 41 of the *Planning Act*,

and which plan shall contain the following:

- (A) 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;
- (B) 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;
- (C) the location and dimensions of any arcades, canopies and other weather-protected routes and their relationship to the public pedestrian system;
- (D) 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;



- (E) the general locations of principal pedestrian entrances and their relationship to *street frontages* to ensure that such entrances reinforce the role of the *street*;
  - (F) the general location of the public pedestrian routes including the primary system of public *streets* and alternative secondary routes and their relationship; and
  - (G) the location of public *street*-related uses.
- (5) “*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 6* and *Block 6A*;
- (6) “*FYBG Works*” means the below grade hard services lying underneath Fort York Boulevard required to service *Block 6* and *Block 6A*;
- (7) “*Fort York Neighbourhood Public Realm Plan*” means the report entitled Fort York Neighbourhood Public Realm Plan, prepared by du Toit Allsop Hillier, dated February 2004, and approved by the Council of the Corporation of the City of Toronto at its meeting of May 18, 19 and 20, 2004, as may be amended from time-to-time;
- (8) “*grade*” means:
- (i) with respect to the portion of *Block 6* located north of the vertical projection of the existing centreline of the Gardiner Expressway as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to the easterly half of *Block 6*;
  - (ii) with respect to the portion of *Block 6* located south of the vertical projection of the existing centreline of the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of Bathurst Street adjacent to the portion of *Block 6* located south of the Frederick G. Gardiner Expressway; and
  - (iii) with respect to *Block 6A*, the average elevation of the sidewalk adjacent to *Street E*.
- (9) “*height*” means the vertical distance between *grade* and the highest point of the roof or structure, exclusive of permitted projections set out in Section 6 herein;
- (10) “*live-work unit*” means a *dwelling unit* that is also used for work purposes by the resident or residents of the *dwelling unit* as well as any number of other persons, is directly accessible from *grade* and is located within the first or first and second storeys of the building within which it is located;

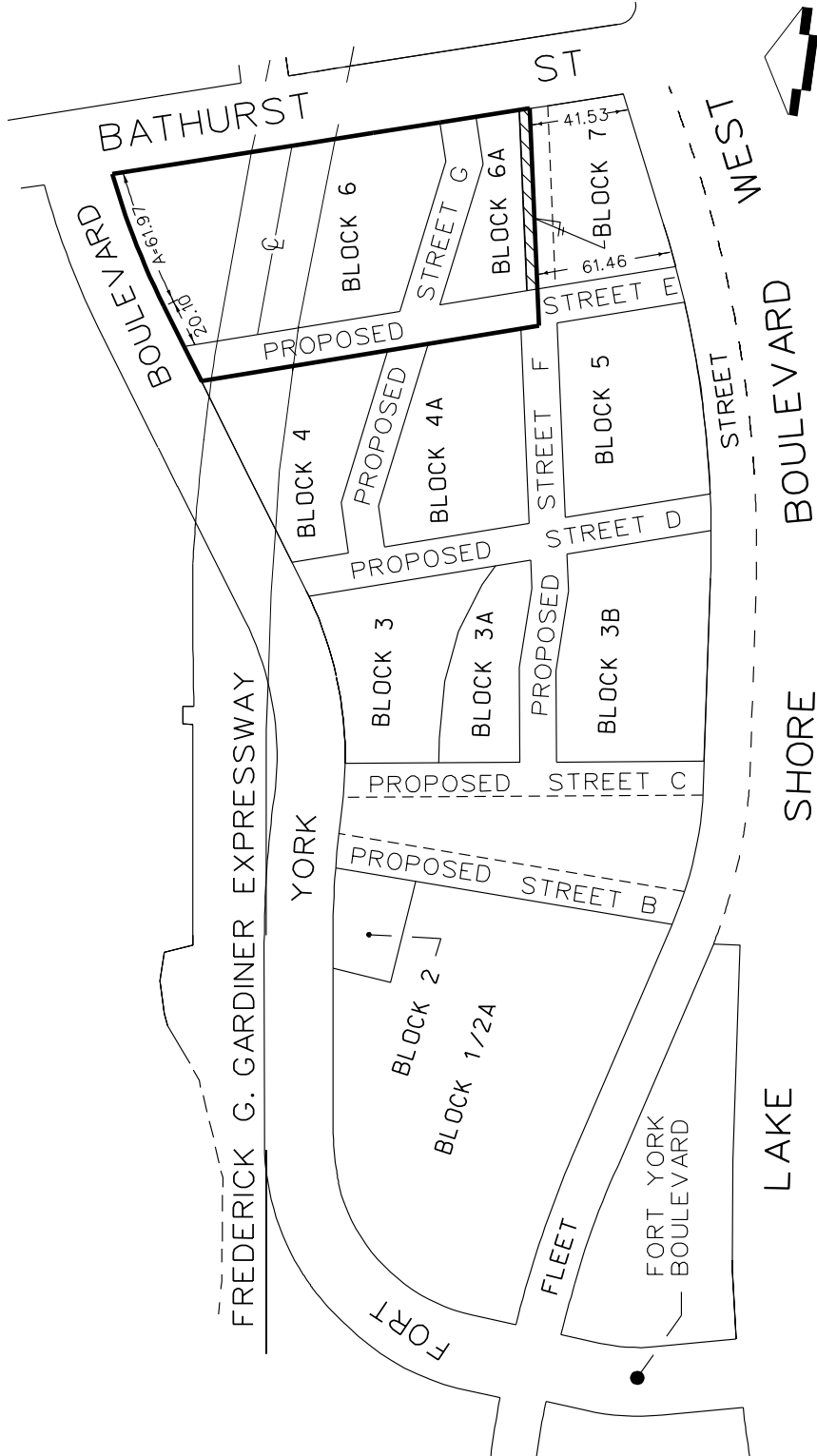
- (11) “*Municipal Servicing Plan*” means a plan submitted by the owner satisfactory to the City addressing the adequacy of existing and proposed municipal services required to develop *Block 6* and *Block 6A*;
- (12) “*Phasing of Road Infrastructure Plan*” means a plan submitted by the owner satisfactory to the City which indicates the required construction of pedestrian connections and roads with each phase of development.
- (13) “*public pedestrian walkway*” means an interior or exterior pedestrian walkway that:
- (i) is a publicly accessible open space;
  - (ii) is designed and intended for and is used by the public;
  - (iii) provides direct access between *streets*, parks, public buildings and/or other public spaces, and/or *common outdoor spaces*; and
  - (iv) is not used for commercial purposes, including retail areas, commercial display areas or other rentable space within the walkway, but which may be adjacent to it;
- (14) “*publicly accessible open space*” means an open space which is:
- (i) open and accessible to the public at all times and such access may be refused, or a person required to leave the open space, in the case of any person who:
    - (A) unreasonably interferes with the ability of other members of the public or lawful occupants to use the open space;
    - (B) carries on an unlawful activity;
    - (C) acts in a manner unreasonably inconsistent with the intended use of the open space;
    - (D) injures or attempts to injure any person, property or property rights;
    - (E) obstructs or injures any lawful business or occupation carried on by the building owner or person in lawful possession of the open space; and
    - (F) commits any criminal or quasi-criminal offence.
  - (ii) illuminated to a minimum average intensity of 10 lux on the walkway surface; and

- (iii) maintained clear of snow, ice and obstructions at all times.
  - (15) “*Streets E, F and G*”, or reference to any one of *Streets E, F and G*, means the proposed streets or part thereof labelled “Proposed Street E”, “Proposed Street F”, or “Proposed Street G”, respectively, on Plan 1 attached hereto, and includes all municipal services, utility services and connections associate therewith; and
  - (16) with the exception of the words or expressions referred to in subparagraph (1) to (16), 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 No. 438-86, as amended.
- 11.** None of the provisions of this By-law or any restrictive by-law shall apply to prevent the use of the lands shown on Plan 1 attached hereto for a temporary sales showroom for the purpose of selling the residential dwellings set out in this By-law.
- 12.** While the “(h)” Holding symbol is in place, no person shall within the lands zoned CR “(h)” on Plan 2 attached hereto, use any lot or erect, alter or use any building or structure for any purpose except uses existing on the date of passing of this By-law, temporary sales showrooms for the purpose of selling units, and surface parking. Upon removal of the “(h)” symbol, pursuant to Section 36 of the *Planning Act*, permitted uses shall be as set out in a CR Zone in Section 8(1) of By-law No. 438-86, as amended, and Section 5(1) herein.

PURSUANT TO ORDER/DECISION NO. 1017 OF THE ONTARIO MUNICIPAL BOARD ISSUED ON APRIL 4, 2006 IN BOARD FILE NO. PL030379.



# PLAN 1

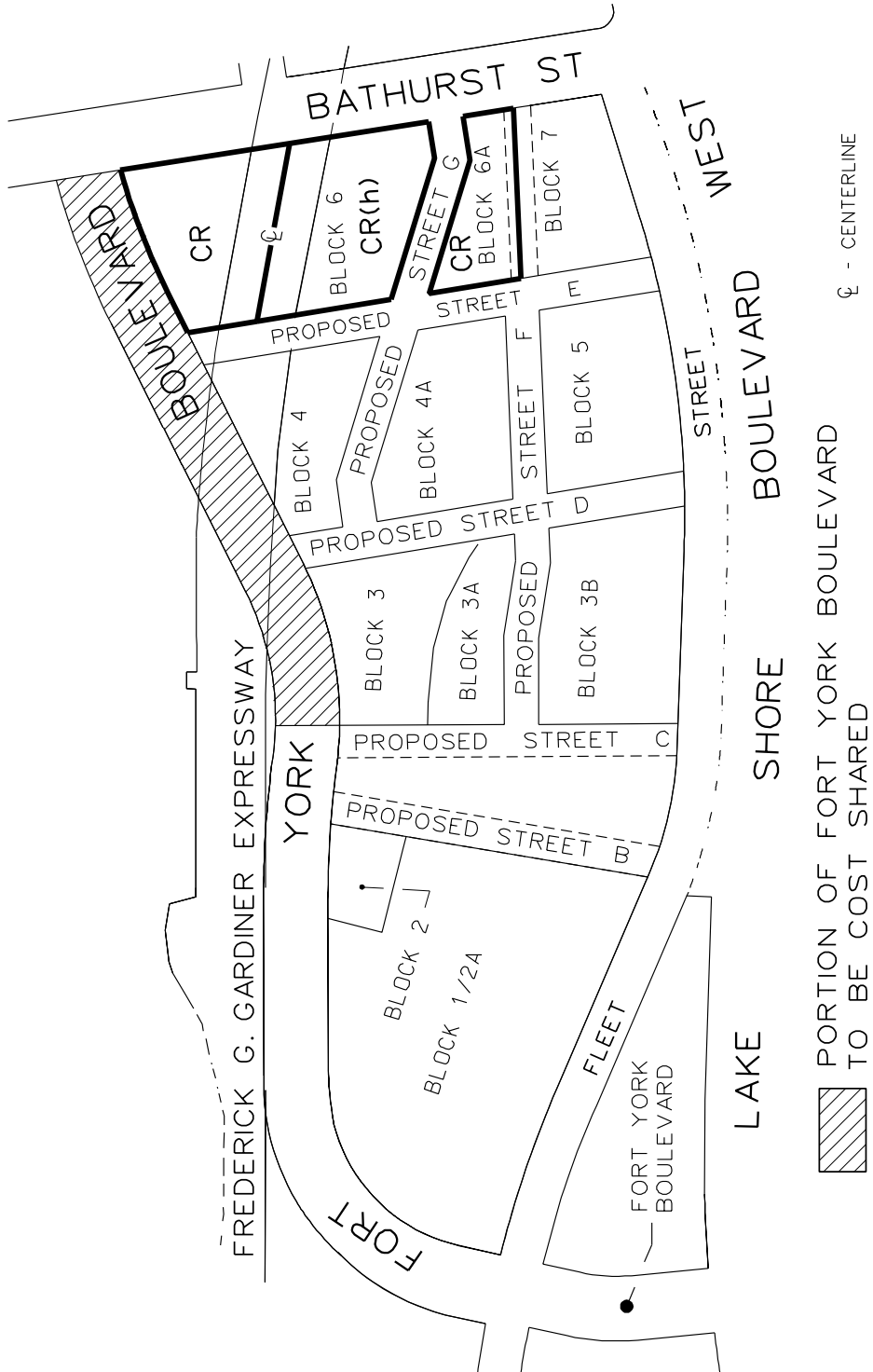


SURVEY AND MAPPING SERVICES  
 TORONTO AUGUST 25, 2005  
 BLO5/BLK6PL1.DGN DRAWN: HM  
 FILES: 2402.53-3, F4-Z1, 2402.76  
 MAP Nos. 49G-313, 49G-323

-  SHARED VEHICULAR ACCESS, PUBLIC PEDESTRIAN WALKWAY AND LANDSCAPED AREA (MINIMUM WIDTH 4.5 METRES)
-  SUBJECT LANDS
- ⊘ - CENTERLINE

PLAN 2

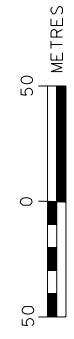
ZONING AMENDMENT MAP



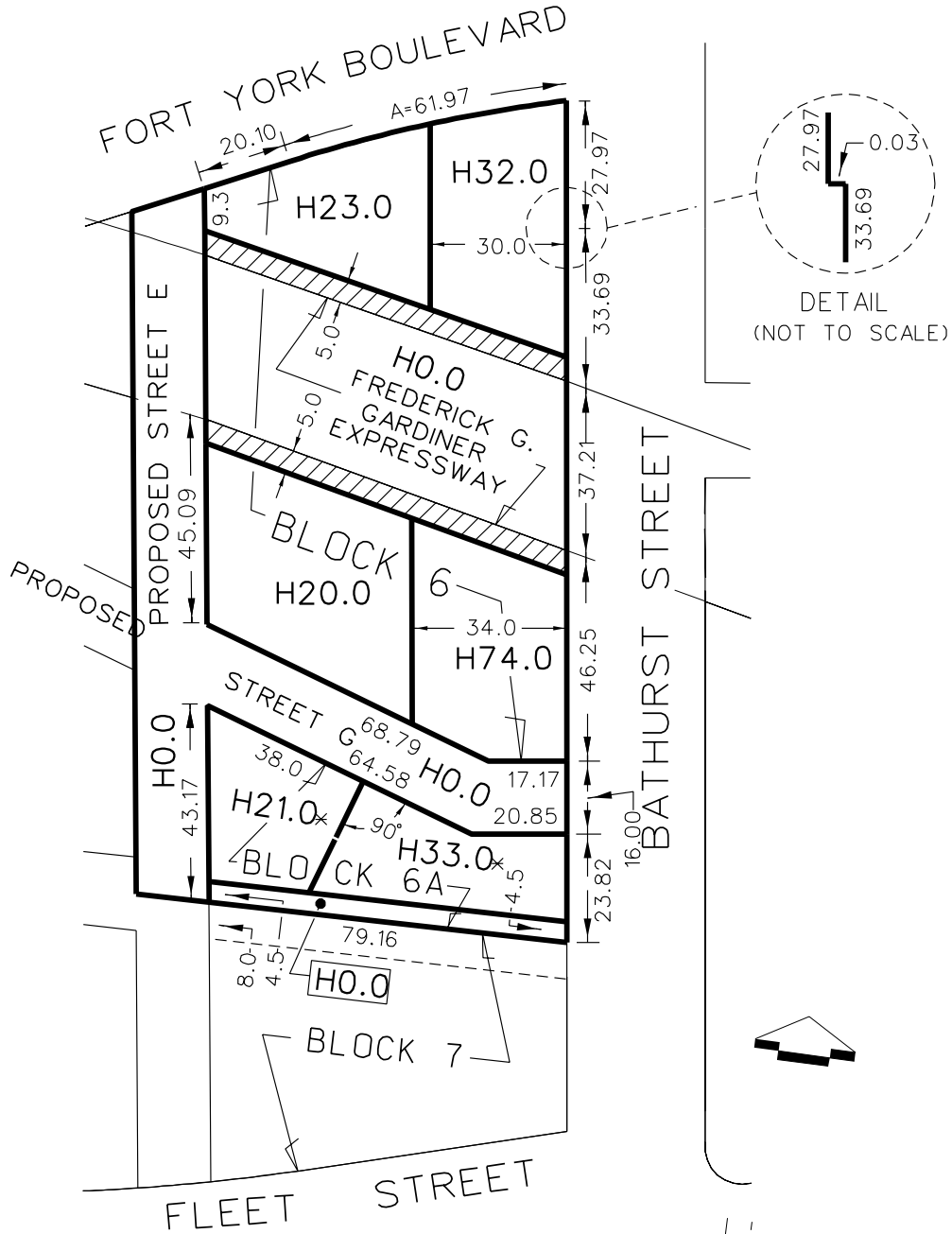
SURVEY AND MAPPING SERVICES  
 TORONTO, ONTARIO, AUGUST 25, 2005  
 BL05/BLK6PL2.DGN DRAWN: HM  
 FILES: 2402.53-3, F4-Z1, 2402.76  
 MAP Nos. 49G-313, 49G-323



 PORTION OF FORT YORK BOULEVARD TO BE COST SHARED  
 ⊥ - CENTERLINE



# PLAN 3



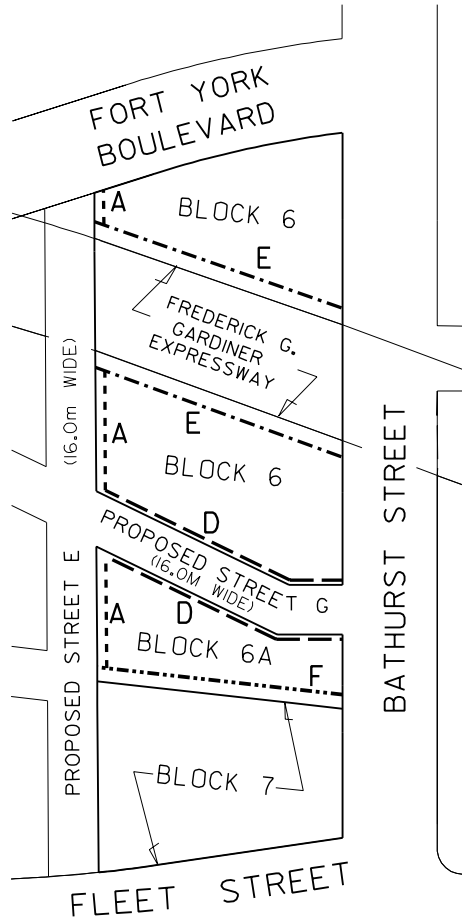
\* MAXIMUM OF 6 STOREYS IN THE H21.0 ZONE AND  
 \* MAXIMUM OF 10 STOREYS IN THE H33.0 ZONE

 GARDINER EASEMENT AREA



SURVEY AND MAPPING SERVICES  
 TORONTO AUGUST 25, 2005  
 BL05/BLK6PL3.DGN DRAWN: HM  
 FILES: 2402.53-3, F4-Z1, 2402.76  
 MAP Nos. 49G-313, 49G-323

# PLAN 4



- A - - - - - 3.0 METRE SETBACK LINE WITH PROJECTIONS PERMITTED
- D - - - - - 1.0 METRE SETBACK LINE WITH PROJECTIONS PERMITTED
- E - - - - - 5.0 METRE SETBACK LINE WITH NO PROJECTIONS PERMITTED
- F - - - - - 4.5 METRE SETBACK LINE WITH PROJECTION OF CANOPY PERMITTED



SURVEY AND MAPPING SERVICES  
 TORONTO SEPTEMBER 2005  
 BLO5/BLK6PL4.DGN DRAWN: VG  
 FILES: 2402.53-3, F4-21, 2402.76  
 MAP Nos. 496-313, 496-323