

Authority: Toronto and East York Community Council Item 16.9,  
as adopted by City of Toronto Council on June 23 and 24, 2008  
Enacted by Council: July 17, 2008

## CITY OF TORONTO

### BY-LAW No. 810-2008

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 1481, 1491, 1501 Yonge Street, 25, 27 and 29 Heath Street East and 30 Alvin Avenue.**

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provisions of such facilities, services or matters as are set 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 height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the "City"); and

WHEREAS Council 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 increases in height and density in connection with the aforesaid lands as permitted in this By-law;

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

1. None of the provisions of Section 2 with respect to *lot, grade, height, parking space, bicycle parking space* and *public park* and Sections 4(2) a, 4(4) b, 4(6), 4 (11), 4(12), 4 (13)(a), 4(17), 6(1)(a), 6(3), 8(2) 7., 8(3), 12(2) 260, 12(2)267, 12(2)324, Section 11.(1)1. of By-law No. 438-86 of the former City of Toronto, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of 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 buildings containing residential and non-residential uses, a *public park*, and uses *accessory* thereto on the *lot* provided:

- (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1 attached to and forming part of this by-law;
- (b) the combined *residential gross floor area* and *non-residential gross floor area* of all the buildings erected on the *lot* shall not exceed 59,000 square metres, excluding the area occupied by a *commercial parking garage* and its *accessory* uses provided that:
  - (i) the *residential gross floor area* on the *lot* does not exceed 58,000 square metres;
  - (ii) *non-residential gross floor area* is only permitted in *Building C* and *Building D*;
  - (iii) the *non-residential gross floor area* in *Building C* is limited to a maximum of 420 square metres; and
  - (iv) the *non-residential gross floor area* in *Building D* is limited to a maximum of 3,100 square metres;
- (c) the main floor level of *Building D* shall contain *street related retail uses*, and occupy at least 60% of the length of the main wall of the building fronting onto Yonge Street;
- (d) *Building E* may contain loading facilities and non-residential uses located at 22 St. Clair Avenue East, in accordance with By-law No. 438-86 of the former City of Toronto, as amended, as it existed prior to the passing of this by-law, as well as shared loading spaces and access thereto as provided under section 1. (m) of this by-law;
- (e) the maximum number of *dwelling units* on the *lot* shall be 470;
- (f) *dwelling units* which are located adjacent to finished ground level and fronting on Alvin Avenue or Heath Street East shall be provided with an individual entrance for each dwelling unit from finished ground level;
- (g) no portion of any building above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 except for the following:
  - a. cornices, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, stair landings, terraces, platforms, canopies, wheel chair ramps, vents, underground garage ramps and their associated structures,

- fences, retaining walls, screens, water features, landscape and public art features;
- b. balconies located on *Building A* may extend to a maximum horizontal projection of 3.0 metres beyond the heavy lines shown on Map 2, except that north facing balconies may extend 3.3 metres;
  - c. balconies located on *Building B* may extend beyond the heavy lines shown on Map 2, to a maximum horizontal projection of 1.0 metre on the east side of the building and a maximum of 2.0 metres on the west side of the building;
  - d. balconies located on *Building C* and *Building D* may extend to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 2; and
  - e. rooftop architectural features located on *Building A* and *Building C* may extend beyond the heavy line shown on Map 2;
- (h) no person shall erect or use a building or structure on the *lot* having a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on the attached Map 2 except for the following:
- a. a structure on the roof of a building used for outside or open air recreation, green roof, safety or wind protection may exceed the *height* limits shown on the attached Map 2 by no more than 3.0 metres provided such structure does not enclose space so as to constitute a form of penthouse or other room or rooms;
  - b. a stair tower, elevator shaft, chimney stack or other heating, cooling or ventilating equipment or window washing equipment on the roof of *Building A, B, C or D* or a fence, wall, decorative feature or structure enclosing such elements may exceed the *height* limits shown on Map 2 provided they are located within the area labelled Mechanical Penthouse on Map 2; and
  - c. the structures and elements identified in Section 1.(f) above, subject to the limitations contained therein;
- (i) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- i. 0.3 *parking spaces* for each *bachelor dwelling unit*;
  - ii. 0.7 *parking spaces* for each one *bedroom dwelling unit*;
  - iii. 1.0 *parking spaces* for each two *bedroom dwelling unit*;
  - iv. 1.2 *parking spaces* for each three or more *bedroom dwelling unit*;

- (j) *parking spaces* may be provided on the *lot* for the lands municipally known in the year 2007 as 22 St. Clair Avenue East;
  - (k) a minimum of 205 *parking spaces* shall be provided on the *lot* in a *commercial parking garage*, owned and operated by the Toronto Parking Authority, for the purpose of providing temporary short-term parking for the public and the permitted uses on the *lot*;
  - (l) a minimum of 200 *bicycle parking spaces* without a *shower-change facility* shall be provided and maintained on the *lot*, of which 160 *bicycle parking spaces-occupant* are provided and a minimum of 40 *bicycle parking spaces-visitor* are provided;
  - (m) a minimum of two *loading space-type “B”*, three *loading space-type “C”* and one *loading space-type “G”* shall be provided and maintained on the *lot* and may be shared with the lands municipally known in the year 2007 as 2 and 22 St. Clair Avenue East;
  - (n) *residential amenity space* shall be provided in accordance with the following minimum requirements:
    - a. the amount of *residential amenity space* for the *dwelling units* in *Building A* shall be provided in accordance with Section 4(12) of By-law No. 438-86 of the former City of Toronto, as amended, with the exception that the indoor amenity space may be provided in multipurpose rooms which are not contiguous, and such indoor and outdoor *residential amenity space* shall be provided within or adjacent to *Building A*;
    - b. the amount of *residential amenity space* for the *dwelling units* in *Building C* and *Building D* shall be provided in accordance with Section 4(12) of By-law No. 438-86 of the former City of Toronto, as amended, except that the indoor amenity space may be provided in multipurpose rooms which are not contiguous and such indoor and outdoor *residential amenity space* shall be provided within or adjacent to *Building C* and/or *Building D* and may be shared between *Building C* and *Building D*.
2. the owners of the *lot* are required to enter into one or more agreements pursuant to Section 37 of the *Planning Act* satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement(s) shall be registered against title to the *lot* as outlined in heavy lines on Map 1 to secure the following facilities, services or matters:
- (i) that the owner shall design and construct the park, including the public art component, to the satisfaction of the Chief Planner and Executive Director of the City Planning Division and the General Manager of Parks Forestry and Recreation;

- (ii) that the owner shall agree to dedicate an area of 736 m<sup>2</sup> as shown on the approved site plan to the City as the owner's entire obligation for the land component for the parkland dedication requirements under Section 42 of the *Planning Act* and the City's Alternative Rate Parkland Dedication By-law.

The owner shall transfer ownership of the park lands to the City prior to the issuance of the first above grade building permit or the transfer may be timed according to other such arrangement that may be satisfactory to the Chief Planner and Executive Director of the City Planning Division and to the General Manager of Parks Forestry and Recreation.

The City shall grant the owner, park occupancy for construction staging purposes for a nominal fee.

The owner shall complete the base park and above base park construction to the satisfaction of the Chief Planner and Executive Director of the City Planning Division and the General Manager of Parks, Forestry and Recreation prior to the registration of the final condominium on the lot;

- (iii) that the park construction costs shall be borne by the owner but such costs will also cover the owner's cash-in-lieu portion of the Section 42 park dedication levy under the Alternative Rate Parkland Dedication By-law. The construction costs for above base park improvements which includes the public art component of the project and the cash-in-lieu of park land dedication shall be secured by a letter of credit in the amount of \$2,000,000.00 to be submitted by the owner prior to the issuance of the first above grade building permit.

Such amount shall increase in accordance with the increase in the Non-Residential Construction Price Index from the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Ontario Municipal Board, from the date of the Board order approving the by-laws, to the date of submission of the funds by the owner to the City.

Park construction costs are estimated at \$2,000,000.00. The cash-in-lieu portion of the Section 42 park levy which in today's dollars is estimated at \$1,100,000.00 will be deducted from this amount leaving an estimated park construction cost of \$900,000.00 as the community benefit under Section 37.

No portion of the cash-in-lieu Section 42 park levy or of the Section 37 contribution shall be used for base park construction;

- (iv) a guarantee that the owner shall design and construct the westbound right turn lane within the Heath Street East right-of-way, to the satisfaction of the Director of Technical Services, as shown on the plans and drawings submitted with this application. Design and construction costs, including all costs associated with the approved pavement marking and signage plans, will be

entirely borne by the owner. Such guarantee will be secured by a letter of credit in the amount of \$150,000.00 to be submitted by the owner prior to the issuance of the first above grade building permit.

The construction of such Heath Street East improvements shall be completed within 6 months (allowing for delays resulting from poor winter weather conditions) of the construction start of the development.

- (v) a guarantee that the owner designs and constructs a lane widening on the west side of Alvin Avenue, to the satisfaction of the Director of Technical Services, as shown on the plans and drawings submitted with this application. Design and construction costs of the Alvin Avenue widening, including all costs associated with the approved pavement marking and signage report will be entirely borne by the owner. Such guarantee will be secured by a letter of credit in the amount of \$101,000.00 to be submitted by the owner prior to the issuance of the first above grade building permit.

The construction of such Alvin Avenue improvements shall be completed within 6 months (allowing for delays resulting for poor winter weather conditions) of the construction start of the development;

- (vi) a guarantee that the owner shall design and construct improvements to the sidewalks in the Yonge Street and Alvin Avenue rights-of-way, to the satisfaction of the Chief Planner and Executive Director of the City Planning Division and the Director of Technical Services, as shown on the plans and drawings. Such work is to include, sidewalk upgrade treatments to mark the entrance to the public park from Yonge Street and to mark the public access to the privately owned landscaped open space from Alvin Avenue. Design and construction costs of sidewalk improvements in the Yonge Street and Alvin Avenue rights-of way will be entirely borne by the owner. Such guarantee will be secured by a letter of credit in the amount of \$24,000.00 to be submitted by the owner prior to the issuance of the first above grade building permit;
- (vii) the owner shall make a cash contribution of \$250,000.00, prior to the registration of the last condominium on the lot, which is to be held in a dedicated reserve fund for mechanical maintenance of equipment installed in the park including water circulating equipment relating to the operation of the water wall or reflective pond, decorative lighting, and heating elements of pedestrian walkways and for the watering system equipment necessary for the establishment and maintenance of espalier plants in the proposed living wall;
- (viii) that the owner shall develop and implement, to the satisfaction of the Chief Planner and Executive Director of the City Planning Division, an appropriate Construction Mitigation Plan and Resident Communication Strategy prior to the issuance of the first building permit (including excavation permit) and the owner shall also be required to meet with a Resident Construction Liaison Committee on a regular basis during the construction planning and execution process, and the Residents Construction Liaison Committee membership and

meeting schedule is to be established by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor's office;

- (ix) that the owner shall agree to grant an easement in favour of the City over the walkway that the owner will construct through the private landscaped open space that connects the proposed linear public park to Alvin Avenue as shown on the approved plans and drawings to the satisfaction of the Director of Community Planning Toronto and East York District prior to the registration of the last condominium on the lot;
- (x) that the owner shall agree to grant an easement in favour of the City over the condominium access driveway leading from Alvin Avenue and over the short term visitor parking to facilitate maintenance of the park;
- (xi) that the owner shall incorporate, in the construction of the building exterior materials to be shown on 1:50 scale drawings along Alvin Avenue, Yonge Street and Heath Street East with building materials labelled to the approval of the Chief Planner and Executive Director; and
- (xii) that the owner shall agree to design and construct a new landscaping treatment for the north side of Heath Street East (on the lands owned by Yorkminster Park Baptist Church) following the construction of the proposed right turn lane as mentioned in 5(iv) above.

### 3. Definitions:

- (i) For the purpose of this By-law, the terms set forth in italics, subject to Section 3 (ii) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86 of the former City of Toronto, as amended;
- (ii) the following definitions shall apply:
  - A. “*grade*” means the Canadian Geodetic elevation of 147.2 metres;
  - B. “*height*” means the highest point of the roof above *grade* except for those elements prescribed in this By-law;
  - C. “*lot*” means those lands outlined in heavy lines on Map 1 attached hereto;
  - D. “*Building A, Building B, Building C, Building D and Building E*” means the areas identified as A, B, C, D and E on Map 2;
  - E. “*parking space*” means an unobstructed area, at least 5.2 metres in length and at least 2.6 metres in width and a vertical height of at least 2.0 metres, together with a drive aisle width of 7.0 metres that is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle;

- F. “*public park*” means land that is used for passive public recreation and that is owned by the government or a government authority or agency, and shall only include therein, benches, landscape features, fences, botanical gardens, water features, public art features, *ornamental structures*, vents and uses *accessory* to the permitted uses located below finished ground level; and
- G. “*bicycle parking space-visitor*” means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles which may be located outdoors or indoors, including within a secured room, enclosure or bicycle locker.”
4. By-law No. 130-74, being “A By-law to amend By-law No. 20623 respecting certain lands on the north side of St. Clair Avenue East, between Yonge Street and Alvin Avenue”, as amended, is amended by deleting Plans 1, 2 and 3 and replacing them with the Plans 1, 2 and 3 in Appendix A attached hereto and the TRUCK ACCESS identified on Plan 1 may be shared with any permitted uses on the lot and any uses on the lands at 2 and 22 St. Clair Avenue East.
5. (i) By-law No. 366-76 is repealed upon the date this by-law comes into force and effect; and
- (ii) By-law No. 272-77 is repealed upon the date this by-law comes into force and effect.
6. None of the provisions of By-law No. 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the *lot* of a temporary sales showroom.
7. None of the provisions of this by-law shall prevent the existing buildings and structures located at 2 and 22 St. Clair Avenue East, which may be altered in accordance with By-law No. 438-86, as amended, as it exists prior to the date of the passing of this by-law.
8. Notwithstanding anything contained in this by-law, nothing shall prevent the development of the *lot* to occur in phases, which may occur in any order.
9. Notwithstanding any existing or future severances, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

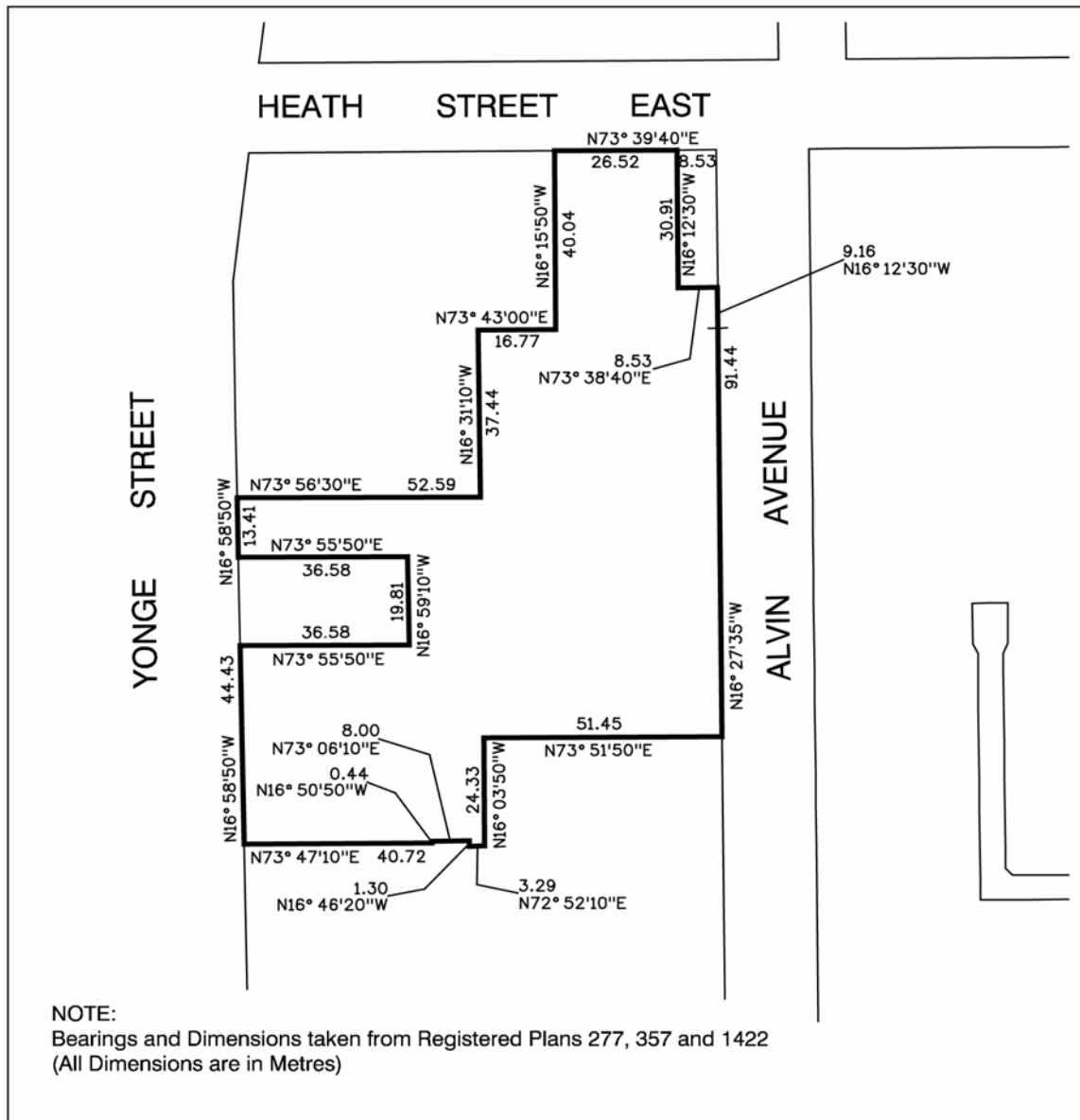
ENACTED AND PASSED this 17th day of July, A.D. 2008.

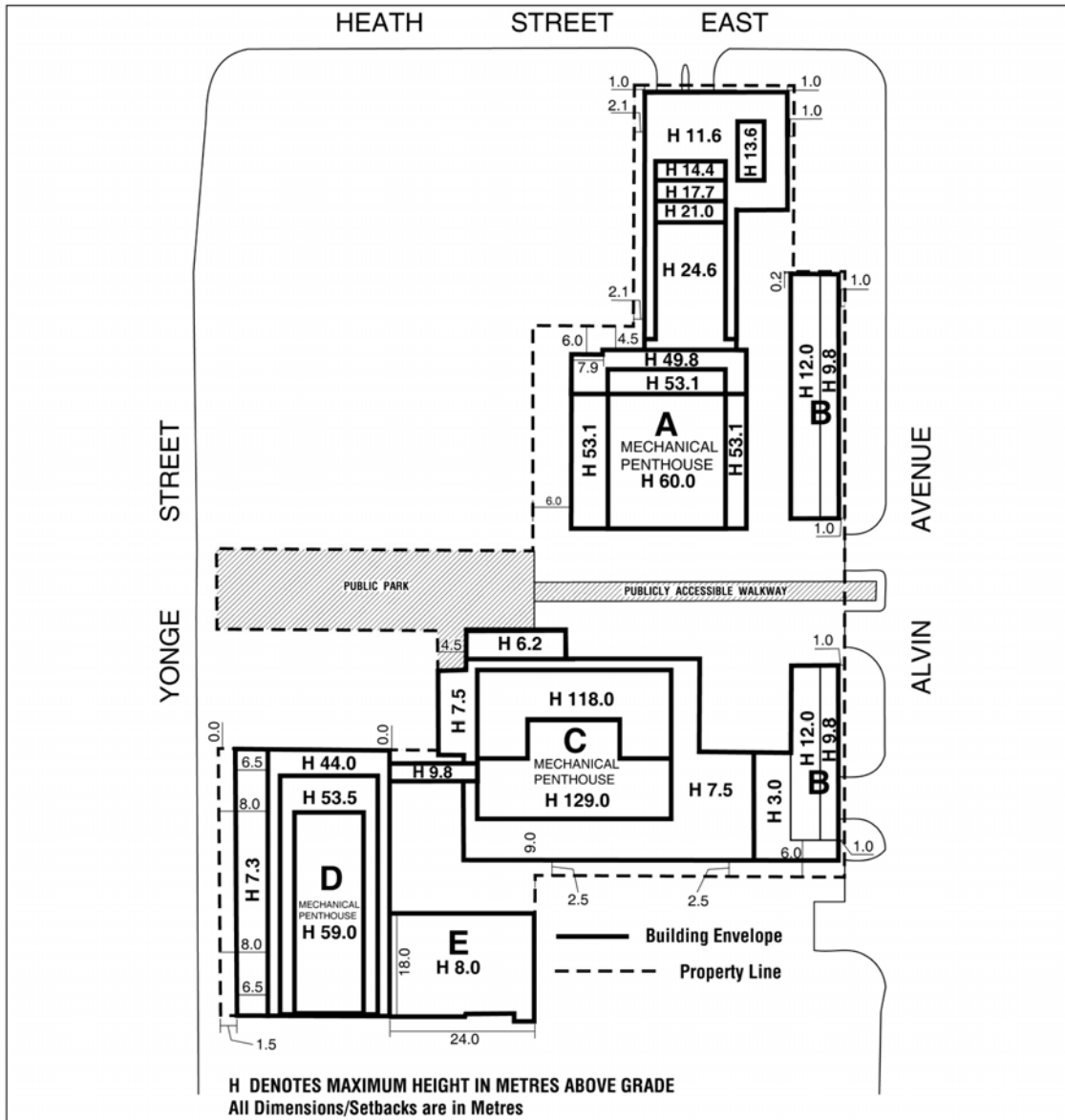
SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)







**Appendix A**

Amendments to By-law No. 130-74 being “A By-law to amend By-law No. 20623 respecting certain lands on the north side of St. Clair Avenue East, between Yonge Street and Alvin Avenue”

