

Authority: Motion MM46.10, moved by Councillor Rae, seconded by Councillor McConnell, as adopted by City of Toronto Council on February 22 and 23, 2010 and Toronto and East York Community Council Item 29.7, as adopted by City of Toronto Council on November 30, December 1, 2, 4 and 7, 2009
Enacted by Council: February 23, 2010

CITY OF TORONTO

BY-LAW No. 234-2010

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 252 - 258 Victoria Street and 19-21 Dundas Square.

WHEREAS the Council of the City of Toronto has been requested to amend its by-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, with respect to lands municipally known in the year 2010 as 252-258 Victoria Street and 19-21 Dundas Square; and

WHEREAS the Council of the City of Toronto conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed zoning by-law amendment; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the *height* or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, in return for the provision of such facilities, services and matters as are set out in the By-law; and

WHEREAS the *owner* of the lands that is subject of this By-law has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the density and *height* permitted hereunder, beyond those otherwise permitted on the land by By-law No. 438-86, as amended, are 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 such land and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Official Plan for the former City of Toronto contains provisions relating to the authorization of the *height* and density of development; 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. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the following facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 4(k) of this By-law.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* 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 requirements.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, shall continue to apply to the *lot*.
4. None of the provisions of Sections 4(2)(a); 4(5)(b); 4(8)(b); 4(12); 4(13)(a) & (c); 8(3) PART I, 1, 2 and 3(a); 8(3) PART II 1(a)(ii); 8(3) PART III 1(a); and 12(2)216 of Zoning 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 lands 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 or use of a *mixed-use building* on the lands municipally known as 252 - 258 Victoria Street and 19-21 Dundas Square (hereinafter referred to as the *lot*), provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the *residential gross floor area* shall not exceed 18,650 square metres;
 - (c) the *non-residential gross floor area* shall not exceed 12,330 square metres;
 - (d) the *residential gross floor area* and *non-residential gross floor area* shall not exceed 30,980 square metres;
 - (e) no portion of the building or structure erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 subject to the following:
 - (i) canopies, awnings and building cornices are permitted outside the heavy line shown on Map 2;
 - (ii) lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and public art features which may extend beyond the heavy lines shown on the attached Map 2; and

- (iii) balconies, which may extend to a maximum horizontal projection from an exterior building wall of 2.0 metres beyond the heavy lines shown on Map 2, provided that such balcony does not project beyond the boundary of the *lot*;
 - (f) the *height* of any building or structure, or portion thereof, does not exceed those *heights* as indicated on the attached Map 2;
 - (g) a minimum of 97 *parking spaces* shall be provided and maintained below *grade* on the *lot* in accordance with the following:
 - (i) a minimum of 82 *parking spaces* for residents; and
 - (ii) a minimum of 15 shared *parking spaces* for residential visitors, the retail space and office space;
 - (h) a minimum of 179 *bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
 - (i) a minimum of 143 *bicycle parking spaces-occupant* on the ground floor, P1 or P2;
 - (ii) a minimum of 36 *bicycle parking spaces-visitors* on the ground floor;
 - (iii) *bicycle parking spaces* shall be common element and not combined with storage lockers for *dwelling unit*;
 - (i) at least one *loading space-type G* shall be provided and maintained on the *lot*;
 - (j) at least one *loading space-type C* shall be provided and maintained on the *lot*;
 - (k) the *owner* of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the *Planning Act*, to secure the facilities, services and matters referred to in Appendix 1 attached to this By-law and that such an agreement be registered on title to the *lot*;
 - (l) a *commercial parking garage* is not permitted within the *lot*.
5. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the *lot*.
6. Notwithstanding Section 8(1) (f) of By-law No. 438-86, no person shall use a *lot* or erect or use a building within the site for any purpose except one or more of the following uses:
- (i) *mixed-use building*;

- (ii) offices having a maximum of 12,100 square metres;
- (iii) a *retail store, restaurant, take-out restaurant* having a maximum of 230 square meters on the ground floor;
- (iv) uses *accessory* thereto, including a *parking garage* located below finished ground level.

7. For the purposes of this By-law,

- (a) *grade* means 92.000 metres Canadian Geodetic Datum.
- (b) *temporary sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of sale of *dwelling units* to be erected on the *lot*.
- (c) each word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended.

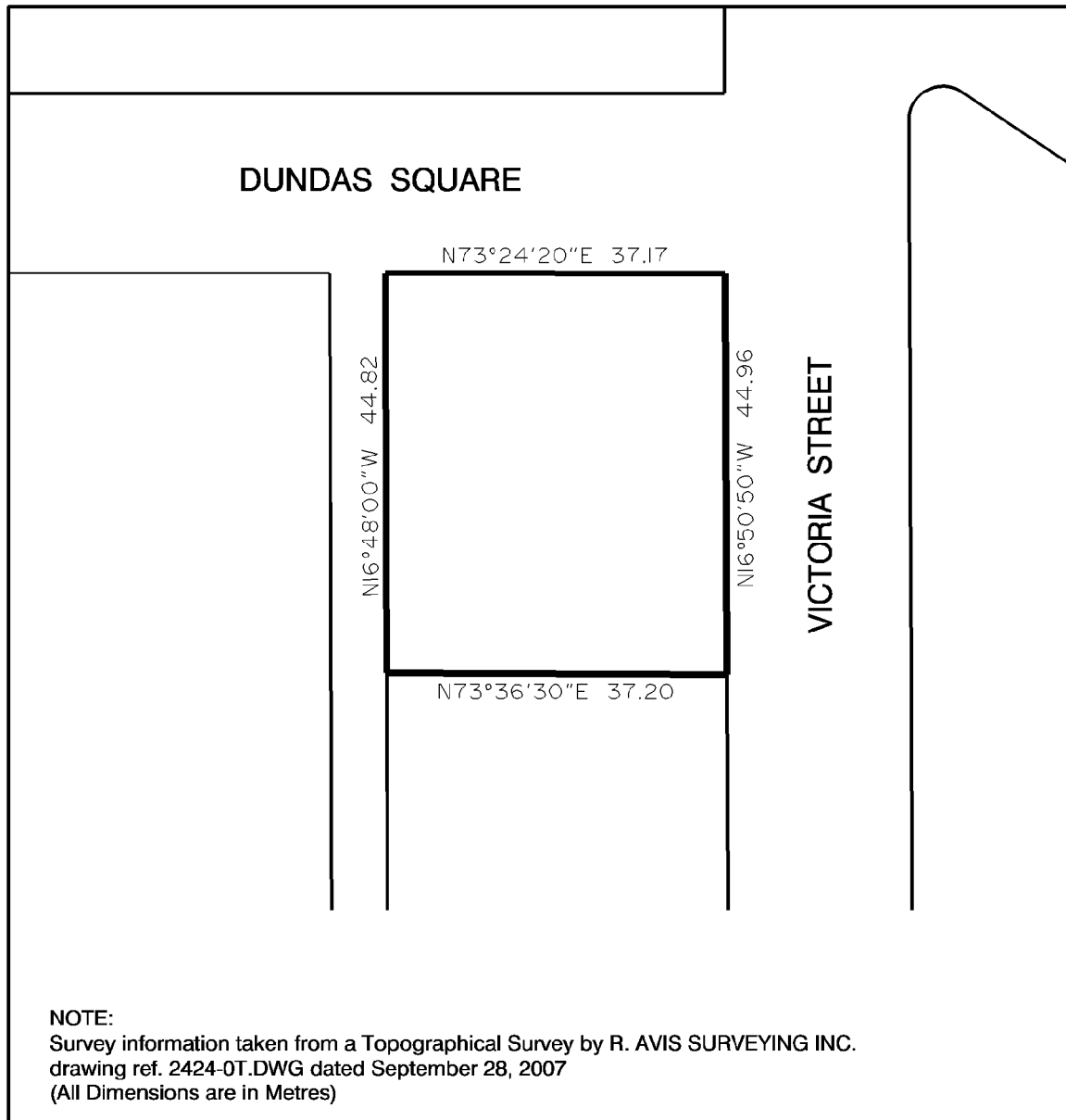
8. Building permit issuance with respect to the lands to which this By-law applies shall be dependant upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.

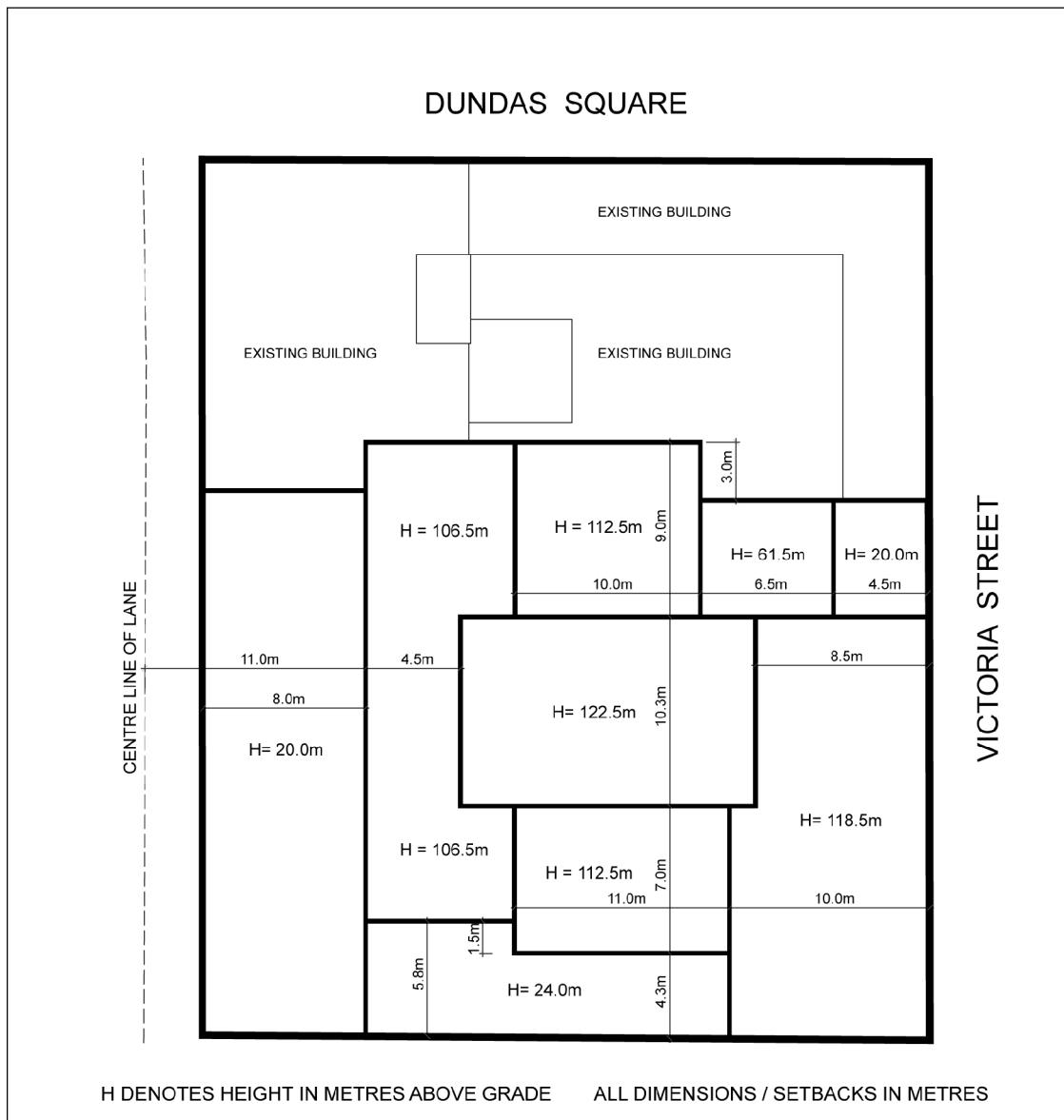
ENACTED AND PASSED this 23rd day of February, A.D. 2010.

SANDRA BUSSIN,
Speaker

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 *lot* to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- (a) Prior to the issuance of the first above grade permit, submit to the City financial security in the form of a Letter of Credit in the sum of \$1,000,000 consisting of \$600,000 towards the heritage upgrade of 19-21 Dundas Square (HNR Building) and \$400,000 towards capital improvements to O'Keefe Lane and additional street improvements within the immediate area;
- (b) Require that the amount of the financial security identified in a) shall be indexed in accordance with the Non-Residential Construction Price Index for 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 to the date of submission of the financial security by the owner to the City;
- (c) Provide a letter of undertaking to the satisfaction of the Manager, Heritage Preservation Services indicating the applicant's support, as a condition of planning approvals, for the designation and entering into of an heritage easement agreement for each of the properties at 19 and 21 Dundas Square, the reasons for designation and identification to be based on the Heritage Impact Statement and the Conservation Plan prepared by ERA Architects Inc. dated April 14, 2008 and March 24, 2008 respectively;

Although the following matters are not considered to be Section 37 contributions or benefits, they will be secured in the Section 37 Agreement as a convenience:

- (d) Provide a Detailed Conservation Plan and estimate of costs for the implementation of the Detailed Conservation Plan to be prepared by a qualified heritage architect to the satisfaction of the Manager, Heritage Preservation Services;
- (e) Retain a consultant archaeologist, licensed by the Ministry of Culture under the provisions of the *Ontario Heritage Act* (R.S.O. 1990 as amended) to carry out a Stage 1 archaeological assessment of the entire development property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The assessment is to be completed in accordance with the 2009 Final Draft - Standards and Guidelines for Consulting Archaeologists, Ministry of Culture;
- (f) Incorporate significant archaeological resources and findings into the proposed development through either in situ preservation and interpretation where feasible, or commemorated and interpreted through exhibition development on site including, but not limited to, commemorative plaquing;

- (g) Ensure no demolition, construction, grading or other soil disturbances shall take place on the subject property prior to the City's Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) confirming in writing that all archaeological licensing and technical review requirements have been satisfied;
- (h) Prior to
 - a. the issuance of the first above grade permit for the development, the applicant shall provide the Letter of Credit noted in (a) above in the amount of \$600,000, to secure the work identified in the detailed conservation plan; and
 - b. the issuance of any building permit for 252-258 Victoria Street including a permit for demolition of existing buildings, excavation and/or shoring of the subject property the applicant shall provide building permit drawings including construction specifications for the proposed conservation work prepared by the heritage architect satisfactory to the Manager, Heritage Preservation Services;
- (i) Prior to the release of the Letter of Credit the applicant shall:
 - a. complete the conservation work satisfactory to the Manager, Heritage Preservation Services; and
 - b. provide a notice of substantial completion prepared by the heritage architect satisfactory to the Manager, Heritage Preservation Services.
- (j) Provide and maintain an irrigation system at the owner's expense for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the General Manager, Technical Services;
- (k) Provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that up-grades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director of Technical Services;
- (l) Improve the laneway from Shuter Street to Dundas Square for access into the site to the satisfaction of Executive Director of Technical Services and Chief Planner and Executive Director, City Planning Division;
- (m) Incorporate in the construction of the building, and maintain, design and exterior materials satisfactory to the Chief Planner and Executive Director;
- (n) Provide knock-out panels at the northwest corner of the site on the Dundas Square wall to accommodate a potential future connection to the PATH system, satisfactory to the Chief Planner and Executive Director, City Division;

- (o) As part of the site plan approval process, the owner will:
1. submit architectural plans, elevations and landscaping including 1:50 scale elevations to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the owner will be required to, in conjunction with each Site Plan Application submit 1:50 scale drawings in conformity with this requirement;
 2. provide for improvement of the street right-of-ways abutting the lot, including streetscaping and tree installation, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager, Parks, Forestry and Recreation Division, and the Executive Director, Technical Services Division.
 3. provide for continuous weather protection with a minimum clear depth of three metres on Victoria Street.
 4. complete a Wind Assessment study and employ the results of the study into the design of the building, satisfactory to the Chief Planner and Executive Director, City Planning Division.
- (p) The Owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director, date stamped August 4, 2009.