

Authority: Ontario Municipal Board Order issued January 22, 2016 in Board File No. PL140047

CITY OF TORONTO

BY-LAW No. 132-2016(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 20 to 26 Lombard Street and 25 Richmond Street East.

Whereas the Ontario Municipal Board pursuant to its memorandum of November 14, 2014 issued by Board Member Chee-Hing for File No. PL140047, upon hearing the appeal of Richmond Victoria Limited Partnership, under Section 34(11) of the *Planning Act*, deems it advisable to amend the General Zoning By-law of the former City of Toronto, By-law No. 438-86, with respect to the lands municipally known in the year 2014 as 20 to 26 Lombard Street and 25 Richmond Street East; and

Whereas the Council of 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, as amended, with respect to the lands known municipally in the year 2014 as 20 to 26 Lombard Street and 25 Richmond Street East; and

Whereas Council of the City of Toronto has provided adequate information to the public; 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 or matters as are set out in the by-law; and

Whereas Council of the City of Toronto at its meeting of August 25, 26, 27 and 28, 2014 determined to support the coming into force of this By-law; and

Whereas Subsection 37(3) of the *Planning Act* provides that, where an *owner* of land elects to provide facilities, services or matters in return for an increase in the *height* of 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 Council of the City of Toronto has required the *owner* of the aforesaid lands to enter into one or more agreements to secure certain facilities, services or matters in return for the increases in *height* and density in connection with the aforesaid lands set forth in the By-law; and

Whereas the *owner* of the aforesaid lands has elected to provide the facilities, services or matters as are hereinafter set forth; and

Whereas the increase in the *height* and density permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended is to be permitted subject to the provision of the facilities, services or matters set out in this By-law and to be secured by one or more agreements between the *owner* of the lands and the City of Toronto (hereinafter referred to as the "*City*"); and

Whereas the Official Plan of the City of Toronto contains provisions relating to the authorization of increases in *height* and density of development;

The Ontario Municipal Board authorizes By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended, to be further amended as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted by this By-law on the *lot* as shown on Map 1 attached to and forming part of 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 *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreement's with the *City* pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement between the *City* and 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* or a permit pursuant to the *Ontario Heritage Act*, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. 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*, 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.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply on the *lot*.
5. None of the provisions of Sections 2(1) with respect to the definitions of "*grade*", "*height*" and "*lot*", 4(2)(a), 4(5)(a), (b) and (h), 4(8) (b), 4(12), 4(17)(a) and (e), 8(3) Part I 1 and 3 (A), 8(3) Part II 1 (a), 12(1)398 and 12(2)132 of Zoning By-law No. 438-86, as amended, shall apply to prevent the erection or use of a *mixed use building* on the *lot* which building may contain *dwelling units* and non-residential uses and *accessory* uses thereto and a *commercial parking garage*, provided:
 - (a) the *lot* on which the uses are located comprises at least the lands shown delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the *existing heritage buildings* located on the *lot* and shown on Map 2 attached to and forming part of this By-law are retained *in situ* subject to such alterations as are permitted pursuant to a heritage easement agreement entered into by the *owner* with the *City* for such buildings pursuant to section 37 of the *Ontario Heritage Act* together with any permit issued pursuant to Section 33 of the *Ontario Heritage Act*;

- (c) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 52,413.0 square metres;
 - (d) the total *residential gross floor area* erected or used on the *lot* shall not exceed 51,350.0 square metres;
 - (e) the total *non-residential gross floor area* erected or used on the *lot* shall not exceed 1,080.0 square metres;
 - (f) the maximum *residential gross floor area* of each *storey* above the *height* of 17.5 metres shall not exceed 1,150.0 square metres;
 - (g) not more than 681 *dwelling units* are erected or used on the *lot*;
 - (h) a minimum of four (4) *dwelling units* erected or used on the lands must each have three or more *bedrooms* in compliance with the provisions of the Ontario Building Code (O. Reg. 322/12), as amended or replaced from time to time;
 - (i) a minimum of forty-seven (45) *dwelling units* erected or used on the lands shall:
 - (i) each shall be a minimum of 78.0 square metres;
 - (ii) collectively, shall have a minimum average *dwelling unit* size of 84.0 square metres; and
 - (iii) each shall be constructed as or readily convertible to a three *bedroom dwelling units*, without requiring structural changes to the *dwelling unit*, where:
 - A. a minimum of thirty-eight (38) convertible *dwelling units* shall have an external opening in the constructed or convertible third *bedroom*; and
 - B. each *bedroom* shall be in compliance with the provisions of the Ontario Building Code (O. Reg. 322/12), as amended or replaced from time to time;
- but nothing in subsection (ii) shall be interpreted to prevent a *dwelling unit* from having more than three *bedrooms*;
- (j) a minimum of 241 *parking spaces* shall be provided and maintained underground on the *lot* for use by the residents of the *dwelling units* erected or used on the *lot*;
 - (k) a maximum of 45 *parking spaces* shall be provided underground in a *commercial parking garage* on the *lot*;

- (l) a maximum of seven *parking spaces* provided on the *lot* are permitted with minimum dimensions of 2.6 metres in width and 5.6 metres in length, which are obstructed on two sides;
- (m) a minimum of 1,234.0 square metres or 1.81 square metres for each *dwelling unit* erected or used on the *lot*, whichever is greater, of indoor *residential amenity space* for use by residents of the *lot*, shall be provided in a multi-purpose room or rooms (whether or not such rooms are contiguous), on the *lot*, at least one of which contains a kitchen and where a washroom is provided in close proximity to, and is on the same floor as, the room or contiguous set of rooms that contains the kitchen;
- (n) a minimum of 838.0 square metres or 1.23 square metres for each *dwelling unit* erected or used on the *lot*, whichever is greater, of outdoor *residential amenity space* for use by residents of the *lot*, shall be provided on the *lot*, of which at least 40.0 square metres shall be provided in a location adjoining or directly accessible to indoor *residential amenity space* which contains a kitchen and a washroom;
- (o) no part of any building erected or used above finished ground level is located outside the areas delineated by heavy lines shown on Map 2 attached to and forming part of this By-law, with the exception of the following:
 - (i) lighting fixtures, sills, eaves, privacy screening, parapets, railings, privacy screens, terraces, wheel chair ramps, landscape planters, public art installations and other minor architectural projections may extend beyond 0.45 metres the heavy lines shown on the attached Map 2;
 - (ii) canopies on the ground floors may extend a maximum of 1.5 metres beyond the heavy lines shown on Map 2 to this By-law, as measured perpendicular to the exterior walls of the building (excluding any balcony walls); and
 - (iii) balconies may extend a maximum of 2.2 metres measured perpendicular to the exterior walls of the building, provided,
 - A. no balcony or balconies together extending around a complete storey of the building are permitted;
 - B. no balconies are permitted on the *existing heritage buildings*; and
 - C. no balconies are permitted on the east face of the portion of the building fronting Lombard Street above the *existing heritage buildings* from the 5th to the 12th storeys for a distance of at least 10.0 metres commencing at the southern most portion of such east face;
- (p) no part of any building or structure erected or used on the *lot* shall exceed the *height* in metres or storeys specified by the numbers following the symbols "H"

and "ST" respectively, shown on Map 2 to this By-law provided this does not prevent:

- (i) the erection or use of the structures, elements and enclosures permitted by clause (o)(i) herein provided railings shall not exceed a maximum vertical projection of 2.0 metres above the *height* limits shown on Map 2 to this By-law;
 - (ii) elements on the roof of the building or structure used for green roof technology, provided the maximum vertical projection of such elements is no higher than 1.5 metres above the *height* limits shown on Map 2;
 - (iii) rooftop stacks and vents to a maximum vertical projection of 1.5 metres above the *height* limits shown on Map 2; and
 - (iv) no habitable or residential space is permitted within the 46th storey or above the height of 142.0 metres;
- (q) a minimum of one loading space - Type "C "and one loading space - Type "G" are provided and maintained on the *lot*;
 - (r) a north-south, minimum 3.1 metres wide, privately owned, publically accessible interior walkway shall be provided, extending from Richmond Street East south to the centre of the site through the first floor of a building on the *lot*, as shown on Map 3;
 - (s) an L-shaped privately owned, publically accessible exterior walkway shall be provided at ground level on the *lot* from Victoria Street to Lombard Street, and must be a minimum of 5.5 metres wide in the east-west direction, and a minimum of 5.5 metres wide in the north-south direction, all as shown on Map 3; and
 - (t) none of the provisions of this By-law shall apply to prevent a temporary *sales office* on the *lot*.
6. Notwithstanding any existing or future severances, partition or division of the *lot*, the provisions of the By-law shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
7. Within the *lot*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

8. For the purpose of this By-law, the following expressions shall have the following meaning:

"*above-grade permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building and for clarity does not include a foundation permit and does not include a permit for the *existing heritage buildings* for repairs, maintenance and usual and minor works acceptable to the *Manager HPS*;

"*Building Code Act*" means the *Building Code Act, 1992*, S.O. 1992, c.23 as amended or re-enacted from time to time;

"*building permit*" means a permit issued under the *Building Code Act*, including a permit for excavation or shoring;

"*Chief Planner*" means the *City's* Chief Planner and Executive Director, City Planning or his/her designate;

"*City*" means the City of Toronto;

"*existing heritage buildings*" means the historic R.G. McLean Building and the historic Barclay Building as they existed in the year 2014, known municipally in the year 2014 as 20-26 Lombard Street, being designated heritage properties in accordance with Part IV of the *Ontario Heritage Act*, and identified as "Heritage Buildings to be Retained" on Map 2 to this By-law;

"*grade*" means the Canadian Geodetic elevation of 86.4 metres;

"*height*" means the vertical distance between *grade* and the highest point of the building or structure;

"*lot*" means those lands outlined by heavy lines on Map 1 attached hereto;

"*Manager HPS*" means the *City's* Manager, Heritage Preservation Services;

"*Ontario Heritage Act*" means the *Ontario Heritage Act* R.S.O. 1990, c.O.18, as amended or re-enacted from time to time;

"*owner*" means the registered fee simple *owner(s)* of the *lot*;

"*sales office*" means an office, or sales trailer, used exclusively for the initial sale and/or initial leasing of *dwelling units* or the non-residential uses to be erected on the *lot*; and

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 By-law No. 438-86, as amended.

Appendix 1
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the *City* in accordance with an agreement or agreements, pursuant to Subsection 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

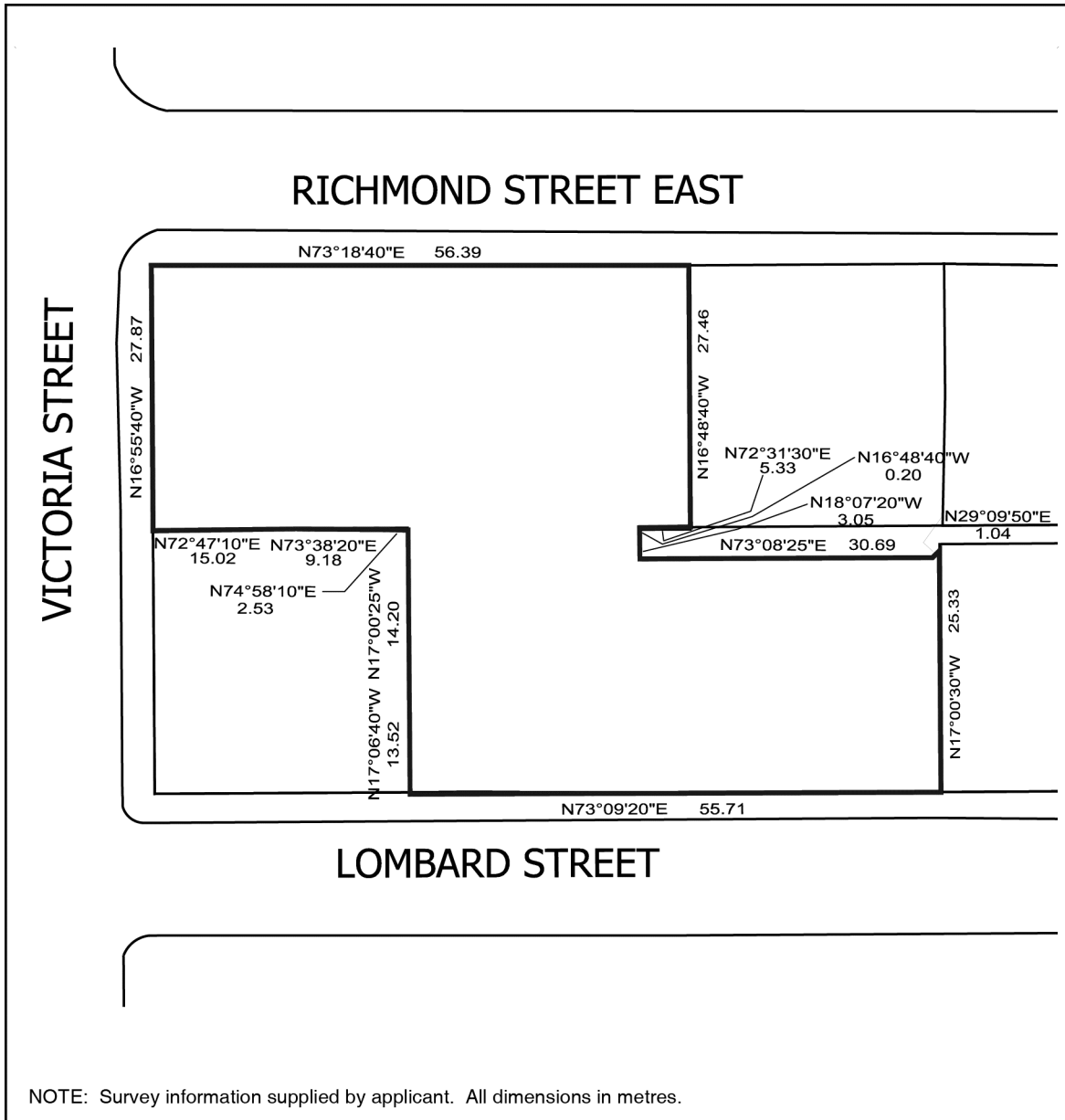
1. The *owner* shall pay to the *City* by certified cheque the sum of Three Million Dollars (\$3,000,000.00), as follows:
 - (a) Prior to the issuance of the first *above-grade permit* for all or any part of the *lot*, the sum of Three Million Dollars (\$3,000,000.00) by certified cheque, to be used by the *City* towards capital improvements as follows:
 - (i) \$500,000.00 to be used towards the North St. Lawrence Market redevelopment;
 - (ii) \$500,000.00 to be used towards the implementation of heritage lighting and /or Interpretation Master Plan for Old Town Toronto;
 - (iii) \$1,500,000.00 to be used towards local streetscaping and/or park improvements in the vicinity of the *lot*; and
 - (iv) \$500,000.00 to be used towards the First Parliament Building site, municipally known in 2014 as 25 Berkeley Street, 54 Parliament Street, 265 Front Street East, and 271 Front Street East,
 - (b) With the payments in this Section 1 of Appendix 1 to be increased by upwards indexing in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto calculated from the date of the execution of the Section 37 Agreement required in Sections 1 and 2 of this By-law and in Section 9 of this Appendix 1 of this By-law, to the date of each such payment to the *City*;
 - (c) Despite the foregoing, in the event all or any portion of the Three Million Dollar (\$3,000,000.00) payment to the *City* has not been used by the *City* for the intended purpose(s) set herein, within three (3) years of this By-law coming into force and effect, such payment(s) to the *City* may be redirected by the *City* for other capital improvement purposes at the direction of the *Chief Planner* in consultation with the local Councillor, provided such purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.

2. The *owner* shall provide and maintain the following:
 - (a) At least 4 *dwelling units* erected or used on the *lot* shall have three or more *bedrooms* in compliance with the provisions of the Ontario Building Code (O. Reg. 322/12), as amended or replaced from time to time; and
 - (b) A minimum of 45 two-*bedroom dwelling units* erected or used on the *lot* must be capable of conversion to three-*bedroom* units, in compliance with the provisions of the Ontario Building Code (O. Reg. 322/12), as amended or replaced from time to time, and must comply with the following:
 - (i) each *dwelling unit* must be a minimum size of 78.0 metres;
 - (ii) collectively, the average size of each *dwelling unit* must be a minimum of 84.0 metres; and
 - (iii) a minimum of 38 of these *dwelling units* must have an external opening in each *bedroom*.
3. Prior to the coming into force of this By-law, the *owner* shall enter into and register a heritage easement agreement with the *City* pursuant to Section 37 of the *Ontario Heritage Act*, for the *lot*, all to the satisfaction of the *Manager HPS* and the *City Solicitor*.
4. Prior to the issuance of any permit for all or any part of the *lot*, including pursuant to the *Ontario Heritage Act* or a *building permit*, the *owner* of the *lot* shall:
 - (a) Provide final *building permit* plans and drawings for the alterations and new construction for the development permitted by this By-law, to the satisfaction of the *Manager HPS*, including drawings related to an approved conservation plan to the satisfaction of such *Manager* and including notes and specifications for the conservation and protective measures keyed to such a conservation plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the *Manager HPS*;
 - (b) Provide a detailed Conservation Plan prepared by a qualified heritage consultant that is consistent with the conservation strategy set out in the Heritage Impact Statement for the lands at 20 to 26 Lombard Street, dated June 28, 2013 and revised July 8, 2014 and all to the satisfaction of the *Manager HPS*;
 - (c) Provide site plan drawings pursuant to Section 114 of the *City of Toronto Act, 2006*, satisfactory to the *Chief Planner* and the *Manager HPS* and this By-law shall be in full force and effect in a form and with content acceptable to the *City*;
 - (d) Provide a Lighting Plan that describes how the *existing heritage buildings* will be sensitively illuminated to enhance their heritage character, to the satisfaction of the *Manager HPS* and thereafter implement such plan;

- (e) Provide an Interpretation Plan for the *existing heritage buildings* to the satisfaction of the *Manager HPS* and thereafter implement such plan; and
 - (f) Provide a letter of credit, including provisions for upward indexing, in a form and from a bank acceptable to the *Manager HPS*, to secure all work included in the approved Conservation Plan, the approved Lighting Plan and the approved Interpretation Plan. Prior to the release of the letter of credit the *owner* of the *lot* shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the conservation work, lighting work and the interpretive work have been completed in accordance with the approved Conservation Plan, the approved Lighting Plan and the approved Interpretation Plan, and that an appropriate standard of conservation has been maintained, all to the satisfaction of the *Manager HPS*.
5. The *owner* shall pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the *City's* Executive Director of Engineering and Construction Services (*the "Executive Director EC"*), should *the Executive Director EC* determine that improvements to the infrastructure are required to support the development.
 6. The *owner* shall construct and provide streetscape improvements to the public street right-of-way abutting the entire *lot*, including but not limited to, sidewalk bump-outs, street lighting, pavers, street furniture and tree trench installation, to the satisfaction of the *Chief Planner*, the *City's* General Manager, Park, Forestry and Recreation Divisor, and the *City's* Executive Director *EC*, such work to be secured by the provision of a letter of credit satisfactory to the *Chief Planner* prior to the issuance of any site plan approval pursuant to section 114 of the *City of Toronto Act, 2006* or any *building permit* for all or any part of the *lot*.
 7. Prior to the issuance of any *above-grade building permit* for all or any part of the *lot* the *owner* shall convey to the satisfaction of the *City* Solicitor in consultation with the *Chief Planner*, one or more easements in perpetuity together with necessary rights of support, in favour of the *City of Toronto* for use by the *City* and the general public as a publicly accessible, privately owned, pedestrian walkway for purposes including creating a mid-block pedestrian connection within the *lot* in the areas identified by hatched lines as shown on and in accordance with the requirements of Map 3 of this By-law, with the specific location, configuration and design to be determined to the satisfaction of the *Chief Planner* as part of any site plan approval for all or any part of the *lot* pursuant to Section 114 of the *City of Toronto Act, 2006*, including provision for indemnification and insurance, to come into effect on the first residential or non-residential use of any building erected on all or any part of the *lot* after the date of enactment of this By-law, save and except for a temporary sales office, and including that the indoor pedestrian easement will be publicly accessible from the hours of 8 a.m. to 10 p.m. daily, 7 days a week.
 8. The *owner* shall construct, repair and maintain the publicly accessible pedestrian walkways and rights of support to the satisfaction of the *Executive Director EC*.

9. Prior to the earlier of the issuance of any site plan approval pursuant to section 114 of *the City of Toronto Act, 2006* for all or any portion of the *lot*, the issuance of any *building permit* or permit pursuant to the *Ontario Heritage Act* for all or any part of the *lot*, the *owner* shall provide a detailed Construction Management Plan for the *lot*, to the satisfaction of the *Chief Planner* and thereafter shall implement such plan.

10. The *owner* enters into and registers on title to the *lot* one or more agreements with the *City* pursuant to Section 37 of the *Planning Act*, to the satisfaction to the *City Solicitor*, in consultation with the *Chief Planner*, to secure the facilities, services and matters set forth in this Appendix 1.



NOTE: Survey information supplied by applicant. All dimensions in metres.



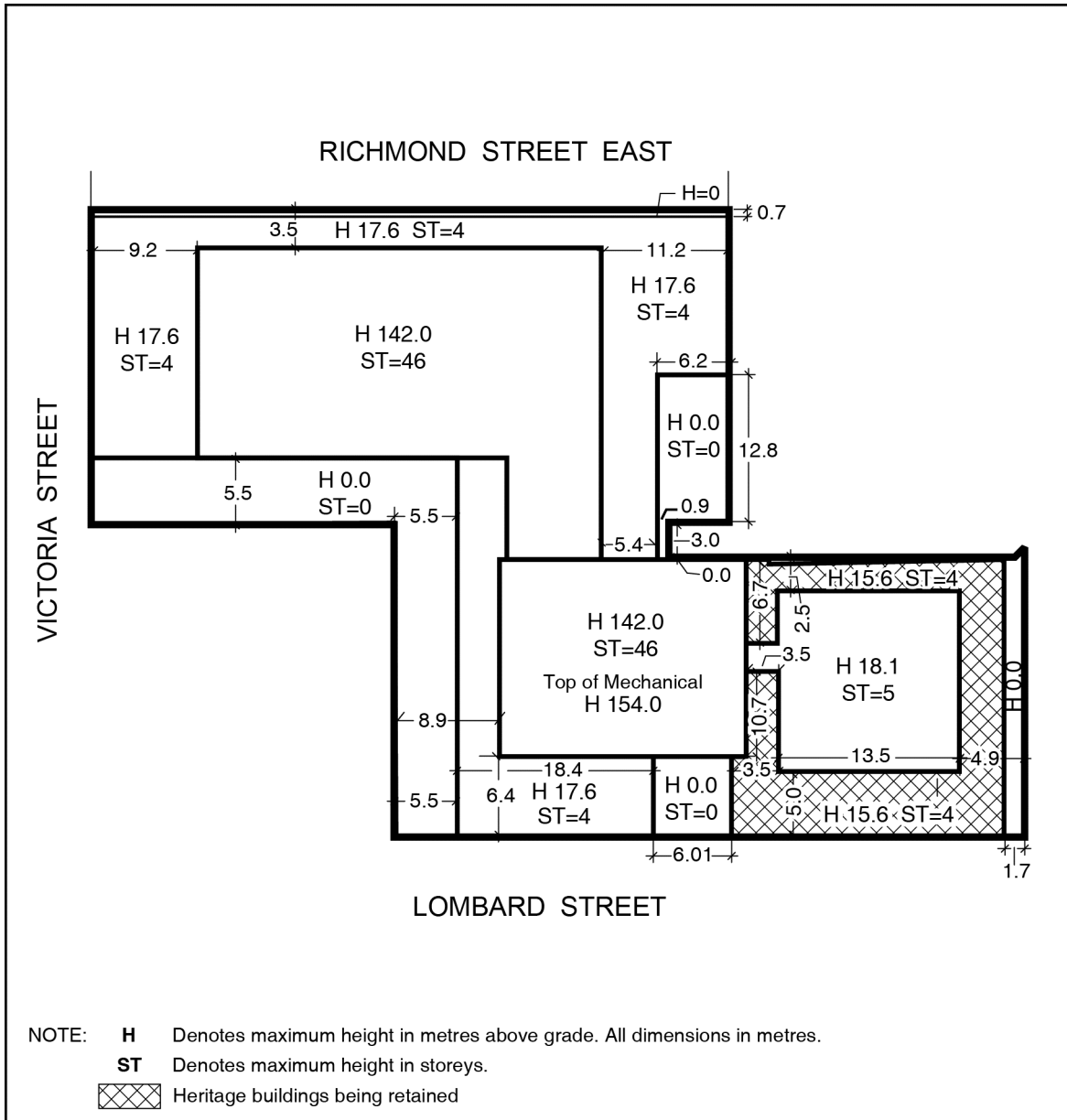
25 Richmond Street East and
20 & 26 Lombard Street

Map 1

File # 13 197153 STE 28 0Z



Not to Scale
11/03/2015



25 Richmond Street East and
20 & 26 Lombard Street

Map 2

File # 13 197153 STE 28 0Z



Not to Scale
12/07/2015

