

Authority: Ontario Municipal Board Decision issued April 24, 2017 and Order issued September 28, 2017 in Board File PL150733

CITY OF TORONTO

BY-LAW 1193-2017(OMB)

To amend former City of Toronto Zoning By-law 438-86, as amended, and Zoning By-law 897-2007(OMB) respecting the lands known municipally in the year 2015 as 65 Grand Magazine Street.

Whereas after hearing appeals under subsections 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, the Ontario Municipal Board, by its Decision issued on April 24, 2017 and its Order issued on September 28, 2017 in respect of Board File PL150733, approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, and Site Specific Zoning By-law 897-2007(OMB) with respect to the lands; and

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

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matter as are set out 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 and matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by Zoning By-law 897-2007(OMB) and Zoning By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Municipal Board orders former City of Toronto By-law 438-86, as amended, and By-law 897-2007(OMB), are amended as follows:

1. Upon execution and registration of the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*, as amended, in accordance with the provisions of Section 5 herein, Height and Minimum Lot Frontage Map 49G-313 contained in Appendix "B" of By-law 438-86, as amended, is further amended by re-designating the lands outlined by heavy lines on Map 2 attached to and forming part of this By-law being *Block 4A*, to "H0.0", "H4.0", "H 8.0", "H20.0", "H 75.5", "H 79.0" as shown on Map 2 attached.
2. None of the provisions of Sections 5(2), 5(4)(i), 5(5)(i), 5(5)(ii), 5(7), 5(10), 5(15), 5(16) and 10(9)iv) of Zoning By-law 897-2007(OMB), being a by-law "To amend the General

Zoning By-law 438-86 of the former City of Toronto, as amended, and By-law 1995-0466, as amended with respect to the lands known as part of 20, 22, 22A and 24 Bathurst Street" shall apply to prevent the construction of an *apartment building* or a *mixed-use building* on *Block 4A*, which may contain *dwelling units*, *non-residential uses* and uses *accessory* thereto, provided that:

- (a) *Block 4A* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) in no case shall the total combined *non-residential gross floor area* and *residential gross floor area* located within *Block 4* and *Block 4A* exceed 44,700 square metres, of which a maximum of 44,500 square metres shall be *residential gross floor area*, and the maximum *residential gross floor area* on *Block 4A* shall not exceed 28,500 square metres;
- (c) the number of *dwelling units* shall not exceed 459 and will include the following unit mix;
 - (i) minimum of 8 percent bachelor *dwelling units*;
 - (ii) maximum of 64 percent one-bedroom *dwelling units*;
 - (iii) minimum of 19 percent two-bedroom *dwelling units*; and
 - (iv) minimum of 9 percent three-bedroom *dwelling units*;
- (d) the maximum *tower floor plate* shall not exceed 815 square metres for each floor above a height of 20.0 metres measured from *grade*;
- (e) the maximum *residential gross floor area* shall not exceed 775 square metres for each floor above a height of 20.0 metres, measured from *grade*;
- (f) no portion of any building or structure shall be located otherwise than wholly within the heavy lines identified on Map 2 attached, with the exception of the following located wholly within *Block 4A*:
 - (i) cornices, light fixtures, awnings, ornamental elements, parapets, landscape features, trellises, eaves, window sills, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheel chair ramps, canopies, and underground garage ramps, architectural feature wall and associated structures; and
 - (ii) balconies provided that they extend no more than 1.8 metres beyond the areas delineated by heavy lines on Map 2 attached;
- (g) no portion of any building or structure shall have a *height* in metres greater than the *height* limits specified by the numbers following the letter H on Map 2 attached, with the exception that within the *height* areas specified by the numbers 0.0, 4.0, 8.0, 20.0 and 75.5, the following are permitted:

- (i) a structure used for outside or open air recreation, safety or wind protection purposes, elements of a green roof, balconies, canopies, vents, stacks or other heating, cooling or ventilating equipment, a screen around such equipment, window washing equipment, ornamental elements, architectural elements, landscaping elements, privacy walls, trellises, parapets, stairs, stair enclosures, guardrails and railings, to a maximum projection of 3.5 metres above the applicable *height* limit;
- (h) the maximum number of *storeys* permitted in the *height* areas identified within *Block 4A* shall not exceed the following:

Maximum Number of <i>Storeys</i>	<i>Height</i> Area within <i>Block 4A</i>
1	H 4.0
2	H 8.0
6	H 20.0
24	H 75.5
25 (including the mechanical penthouse)	H 79.0

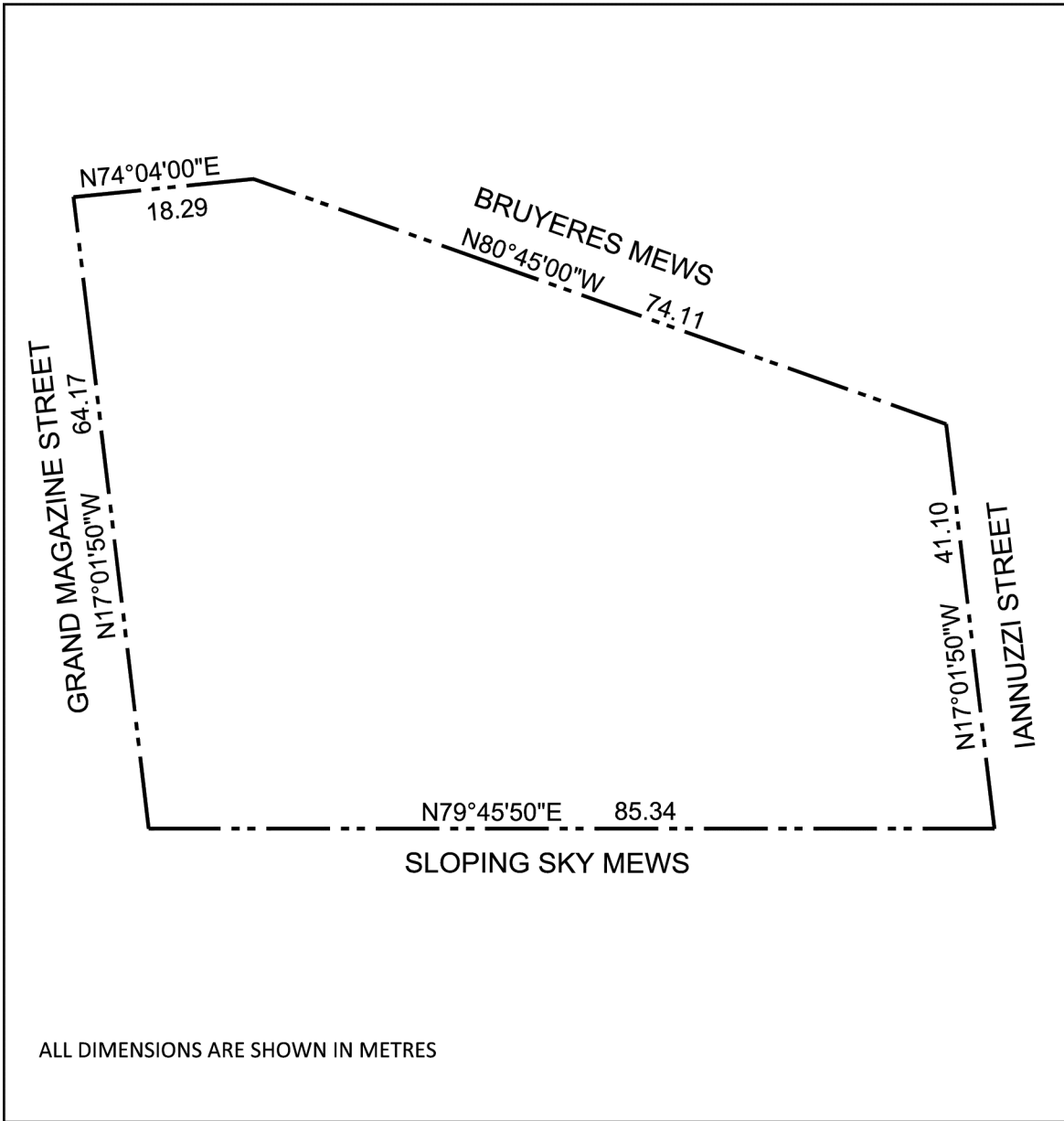
- (i) Plan 3 and Plan 4 of By-law 897-2007 are amended in respect of *Block 4A* in accordance with Map 2 attached;
- (j) *parking spaces* shall be provided and maintained on *Block 4A* in accordance with the following standards:
- (i) a minimum of 0.3 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) a minimum of 0.6 *parking spaces* for each one-bedroom *dwelling unit*;
 - (iii) a minimum of 0.9 *parking spaces* for each two-bedroom *dwelling unit*;
 - (iv) a minimum of 1.15 *parking spaces* for each three-bedroom *dwelling unit*; and
 - (v) a minimum of 0.12 visitor *parking spaces* for each *dwelling unit*; and
- (k) a minimum of one *loading space – Type G* and one *loading space – Type C* shall be provided on *Block 4A*.
3. Notwithstanding Section 4(13) of former City of Toronto By-law 438-86, as amended, a minimum of 0.9 *bicycle parking spaces – long term* per *dwelling unit* and a minimum of 0.1 *bicycle parking spaces – short term* per *dwelling unit* shall be provided and maintained on *Block 4A* and may be located on the ground floor and not lower than the first below grade parking level.
4. Where there is conflict between any provision in this By-law and former City of Toronto By-law 438-86, as amended, or By-law 897-2007(OMB), this By-law shall prevail.

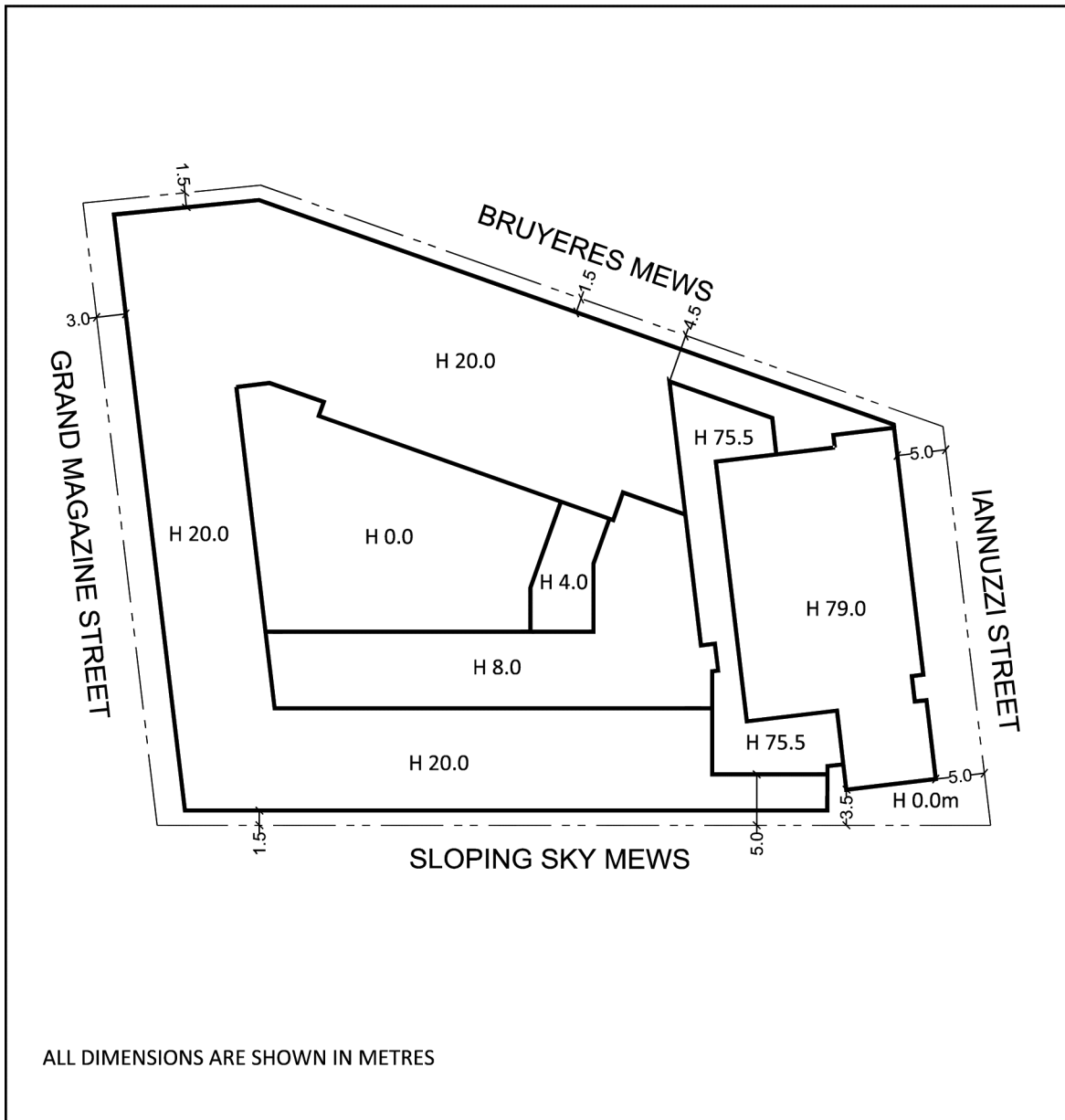
5. In addition to the contributions required by By-law 897-2007(OMB), pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on *Block 4A* contemplated herein is permitted in return for the provision by the *owner*, at the *owner's* expense, of the facilities, services and matters set out in Schedule 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
6. Where Schedule 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
7. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule 1 are satisfied.
8. Definitions:

For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, or By-law 897-2007(OMB), except for the following:
 - (a) "*Block 4A*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
 - (b) "*bicycle parking spaces – long term*" means *bicycle parking space* for use by the occupants or tenants of a building;
 - (c) "*bicycle parking spaces – short term*" means *bicycle parking spaces* for use by visitors to a building;
 - (d) "*grade*" means 78.2 metres Canadian Geodetic Datum; and
 - (e) "*tower floor plate*" means the floor area of each floor measured from the outside of the exterior walls, but excluding inset and projecting balconies.
9. Despite any existing or future severance, partition, or division of *Block 4A*, the provisions of this By-law shall apply to the whole of the *Block 4A* as if no severance, partition or division occurred.
10. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, and By-law 897-2007(OMB) shall continue to apply to the lands shown on Map 1 attached.
11. Within *Block 4A*, no person shall use any land or erect or use any building or structure unless the following municipal sewers are provided to the lot line and the following provisions are complied with:
 - (a) all new public roads have been constructed to a minimum 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.

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SCHEDULE 1**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in *height* and density of the proposed development on *Block 4A* and secured in an agreement or agreements under section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

1. Prior to issuance of the first above-grade building permit for a building on *Block 4A* the *owner* shall make a financial contribution in the amount of Five Hundred and Seventy-five thousand dollars (\$575,000.00 CAN) to be allocated at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor, toward one or more improvements to parks and public realm, such as Gore Park, within the vicinity of *Block 4A* with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date of payment.
2. In the event the financial contribution referred to in Section 1. of this Schedule has not been used for the intended purpose within five (5) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of *Block 4A*.