

Authority: Toronto and East York Community Council
Item TE28.5, adopted as amended, by City of Toronto
Council on December 5, 6, 7, and 8, 2017

CITY OF TORONTO

BY-LAW 222-2021

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 1182 and 1221 King Street West.

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 the Official Plan for the City of Toronto contains such 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 and 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 By-law 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 which are secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

- 1.** Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of development permitted is permitted beyond that otherwise permitted on the lands shown on Map 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Appendix 1 hereof and 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 lands, to the satisfaction of the City Solicitor.

2. Where Appendix 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 same.
3. 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 Appendix 1 are satisfied.
4. District Map 48G-323 contained in Appendix "A" and "B" of By-law 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 further amended by redesignating from "CR T2.5 C0.5 R2.0" to "G" the lands identified as "G" on Map 1 attached to and forming part of this By-law.
5. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*', '*lot*', '*residential gross floor area*', and '*non-residential gross floor area*', and Sections 4(2)(a), 4(4), 4(6), 4(12), 4(13), 8(3) Part I, 8(3) Part II (1), 8(3) Part II (2), 8(3) Part VIII (1), 12(2) 26, 12(2) 27, 12(2) 28, 12(2) 270, and By-law 711-83 as it applies to the *lot*, of Zoning By-law No. 438-86, as amended, 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 and use of *mixed use buildings* and uses *accessory* to the foregoing use on Blocks A and B of the *lot*, provided that:
 - (a) The *lot* comprises the lands delineated by heavy lines on Map 2 attached hereto;
 - (b) No portion of any building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 3 and Map 4 attached hereto;
 - (c) Nothing in Section 5(b) of this By-law shall prevent the following elements from projecting beyond the heavy lines shown on Map 3 and Map 4:
 - i. art and landscape features, cornices, light fixtures, ornamental elements, parapets, art and landscape features, patios, decks, pillars, pergolas, trellises, balconies, terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, window washing equipment, and underground garage ramps and associated structures may extend beyond the heavy lines shown on Map 3 and Map 4 of said By-law;
 - (d) No portion of any building or structure, inclusive of mechanical penthouse elements, erected or used above *grade* shall exceed the *height* limits above

grade in metres specified by the numbers following the symbol "H" as shown on Map 3 and Map 4 attached hereto;

- (e) Nothing in Section 5(d) of this By-law shall prevent the following elements from projecting above the height limits shown on Map 3 and Map 4:
 - i. wind screens, elevator overruns, mechanical equipment and any associated enclosure structures, parapets, guard rails, railings and dividers, pergolas, trellises, eaves, screens, stair tower, chimney stack, heating, cooling or ventilating equipment, chimneys, chimney-like structures, roof drainage, window washing equipment, lightning rods, architectural features, landscaping, garbage chute, terrace build-up, and elements of a green roof, which may project up to a maximum of 5.0 metres above the height limits shown on Map 3 and Map 4;

- (f) The total gross floor area on the *lot* shall not exceed:
 - i. On Block A, 32,000 square metres, of which:
 - A. a maximum of 29,600 square metres shall be residential *gross floor area*; and
 - B. a maximum of 2,400 square metres shall be non-residential *gross floor area*;
 - ii. On Block B, 23,000 square metres, of which:
 - A. a maximum of 21,400 square metres shall be residential *gross floor area*; and
 - B. a maximum of 1,600 square metres shall be non-residential *gross floor area*;

- (g) *Parking spaces* shall be provided and maintained on the *lot*, in accordance with the following:
 - i. On Block A:
 - A. a minimum of 0.3 *parking spaces* per *dwelling unit* shall be provided for the residents of the *dwelling units*;
 - B. a minimum of 66 *parking spaces* shall be provided jointly for visitors of the *dwelling units* and *non-residential* uses on the *lot*, of which a maximum of 1 *parking space* may be a *car-share parking space*; and
 - C. the required *parking spaces* can be reduced at a rate of 4 *parking spaces* for each *car-share parking space*;

- ii. On Block B:
 - A. a minimum of 0.3 *parking spaces* per *dwelling unit* shall be provided for the residents of the *dwelling units*;
 - B. a minimum of 57 *parking spaces* shall be provided jointly for visitors of the *dwelling units* and *non-residential* uses on the *lot*, of which a maximum of 1 *parking space* may be a *car-share parking space*; and
 - C. the required *parking spaces* can be reduced at a rate of 4 *parking spaces* for each *car-share parking space* provided;
- iii. Ingress and egress to and from the parking facilities shall be provided by unobstructed driveways or passageways providing access to a public highway and having a minimum width of 3.5 metres for one-way operation and a minimum width of 5.5 metres for two-way operation;
- (h) A minimum of 1 loading space – Type 'G' and 1 loading space – Type 'B' shall be provided and maintained on Block A;
- (i) A minimum of 1 loading space – Type 'G' and 1 loading space – Type 'B' shall be provided and maintained on Block B;
- (j) *Bicycle parking spaces* shall be provided and maintained Block A and Block B, in accordance with the following:
 - i. Residential:
 - A. *Bicycle parking spaces – occupant* – 0.9 spaces per *dwelling unit*; and
 - B. *Bicycle parking spaces – visitor* – 0.1 spaces per *dwelling unit*;
 - ii. Non-residential:
 - A. *Bicycle parking spaces* for non-residential visitors – 3 plus 0.3 for each 100 square metres of non-residential *gross floor area*; and
 - B. *Bicycle parking spaces* for non-residential occupants – 0.2 *bicycle parking spaces* for each 100 square metres of non- residential *gross floor area*;
- (k) *Bicycle parking spaces – visitor* may be shared with *bicycle parking spaces* for non-residential uses;
- (l) All *bicycle parking spaces* provided on the *lot* may be *stacked bicycle parking spaces*;

- (m) *Bicycle parking spaces* are not limited to the ground level and P1 level;
- (n) *Residential amenity space* shall be provided and maintained on the *lot* in accordance with the following:
 - i. on each of Block A and Block B, a minimum of 2.0 square metres per dwelling unit of indoor *residential amenity space*, in a multi-purpose room or multi- purpose rooms, at least one of which contains a kitchen and a washroom;
 - ii. on Block A, a minimum of 2.0 square metres per dwelling unit of outdoor *residential amenity space*, of which at least 40 square metres is to be provided in a location adjoining or directly accessible from an indoor *residential amenity space*; and
 - iii. on Block B, a minimum of 1.4 square metres per dwelling unit of outdoor *residential amenity space*, of which at least 40 square metres is to be provided in a location adjoining or directly accessible from an indoor *residential amenity space*;
- (o) By-law 711-83 is repealed as it applies to the *lot* as shown on Map 2; and
- (p) For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law 438-86, as amended except that the following definitions shall apply:

"car-share" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car- sharing organization, such car-share motor vehicles to be made available for short term rental, including hourly rental. Car-share organizations may require that the car-share motor vehicles be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable. Each on-site *car- share parking space* provided on the lot is equivalent of 4 parking spaces;

"car-share parking space" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposed and such car-share is for the use of at least the occupants of the building;

"grade" means 92.3 metres Canadian Geodetic Datum;

"gross floor area" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level, reduced by the area in the building used for:

- (i) parking, loading and bicycle parking below-ground;

- (ii) required *loading spaces* at the ground level and required *bicycle parking spaces – occupant* or *bicycle parking spaces - visitor* at or above-ground;
- (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- (iv) shower and change facilities required by this By-law for required bicycle parking spaces;
- (v) amenity space required by this By-law;
- (vi) elevator shafts;
- (vii) garbage shafts;
- (viii) mechanical penthouse; and
- (ix) exit stairwells in the building;

"height" means the highest point of the roof above *grade*, except for those elements prescribed by this By-law;

"lot" means those lands identified on Map 2 attached to this By-law;

"sales office" means a temporary building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* or *non-residential gross floor area* to be erected on the *lot*; and

"stacked bicycle parking spaces" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical devise providing floor level access to both *bicycle parking spaces*, and which has a minimum length of 1.8 metres, a minimum width of 0.6 metres, and a minimum vertical clearance of 1.2 metres.

- 6. None of the provisions of By-law 438-86 shall apply to prevent a temporary *sales office* on the lot as of the date of the passing of this By-law.
- 7. Despite any existing or future severance, 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.
- 8. Section 37 Provisions:
 - (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lot in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in

Appendix 1 hereof and 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 lands to the satisfaction of the City Solicitor;

- (b) Where Appendix 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; and
- (c) The owner must not use, or permit the use of, a building or structure erected with an increase in height pursuant to this By-law unless all provisions of Appendix 1 are satisfied.

Enacted and passed on April 8, 2021.

Frances Nunziata,
Speaker

John D. Elvidge,
Interim City Clerk

(Seal of the City)

APPENDIX 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 of the proposed development on the lands as shown on Map 2 of this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. An indexed cash contribution in the amount of \$2,100,000.00 to be allocated as follows:
 - (a) \$200,000.00 towards capital improvements to parkland in Ward 4; and
 - (b) \$1,900,000.00 towards affordable rental housing in Ward 4.
2. In the event the cash contributions referred to in 1 (a) and (b) above have 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, City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
3. The Owner shall provide a minimum fifteen percent (15 percent) of the residential units located at 1182 King Street West having at least three bedrooms, and a minimum of ten percent (10 percent) of the residential units located at 1221 King Street West also having at least three bedrooms.
4. The Owner shall submit a wind study to the satisfaction of the Chief Planner and Executive Director, City Planning, and securing of any wind mitigation measures as set out in the submitted wind study to be secured as part of any site plan approval.
5. Prior to the issuance of the first Above Grade Building Permit for the Development, the Owner shall enter into and register a Section 118 Restriction pursuant to the Land Titles Act on the 308 square metre portion of the lands that will be dedicated for future public parkland (the "City Park"), to the satisfaction of the City Solicitor. Additionally, prior to the issuance of the first Above Grade Building Permit for the Development, the Owner shall provide the City with a Letter of Credit for 100 percent of the value of the City Park, which will be released to the Owner after the conveyance of the City Park.
6. Prior to the earlier of: the issuance of any permit after the first Above Grade Building Permit, or November 15, 2021, the Owner shall convey the City Park for parkland purposes pursuant to Section 42 of the Planning Act. The City Park is to be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation. For greater certainty, the Parties acknowledge and agree that the General Manager, Parks, Forestry and Recreation has approved the Owner's installation of tie-backs and caissons below the City Park and these tie-backs and caissons shall be a permitted encumbrance on the City Park.

- The Owner acknowledges and agrees that there will be no building permits of any kind (i.e. conditional or any other) issued for the future building to be located at 1182 King Street West until after the City Park is conveyed to the City, with the exception of any demolition, shoring and excavation permits required for site remediation purposes.
7. The Owner shall pay for the costs of the preparation and registration of all relevant documents. The Owner shall provide, to the satisfaction of the City Solicitor, all legal descriptions and applicable reference plans of survey for the City Park.
 8. Prior to the issuance of the first Above Grade Building Permit, the Owner shall satisfy the remaining Parkland Dedication requirement through a cash-in-lieu payment to the City.
 9. Prior to the fee simple conveyance of the City Park to the City, the City Park shall nonetheless be deemed to be parkland in respect of the limiting distance requirements of the Ontario Building Code Act, 1992. The Owner shall design the Development to achieve Ontario Building Code (the "OBC") setbacks related to fire separation on their own lands on the portions of the Development that abut the City Park. Prior to the issuance of any Above Grade Building Permit, the Owner shall demonstrate that the Ontario Building Code requirements have been achieved to the satisfaction of the General Manager, Parks, Forestry and Recreation.
 10. The City Park and the Dufferin-King Parkette may contain encumbrances in the form of tie-backs (non de-stressed) for a period of up to six (6) months from the date of completion of construction of the ground floor slab of the Development. Thereafter, from the date of completion of construction of the ground floor slab of the Development, the City Park and the Dufferin-King Parkette may contain encumbrances in the form of de-stressed tie-backs (the "Tie-Back Encumbrances"), where such encumbrances are deemed acceptable to the satisfaction of the General Manager, Parks, Forestry and Recreation. The Tie-Back Encumbrances under the City Park are subject to additional compensation to be paid by the Owner to the City, with such payment being made at the time the parkland is conveyed, all to the satisfaction of the General Manager, Parks, Forestry and Recreation.
 11. The additional compensation being paid by the Owner to the City for the Tie-Back Encumbrances under the existing Dufferin-King Parkette shall be a total of three hundred and eight thousand three hundred and seventy six dollars and fifty cents (\$308,376.50) plus HST under the existing Dufferin-King Parkette.
 12. Prior to issuance of the first Building Permit for the Development, the Owner shall provide drawings showing the number and location of the Tie-Back Encumbrances, and the plane area of such Tie-Back Encumbrances, all to the satisfaction of the General Manager, Parks, Forestry and Recreation.
 13. The value of the additional compensation for any accepted Tie-Back Encumbrances related to the future City Park, to be paid by the Owner to the City, is to be calculated by the City's Real Estate Services and shall be to the satisfaction of the General Manager, Parks, Forestry and Recreation.

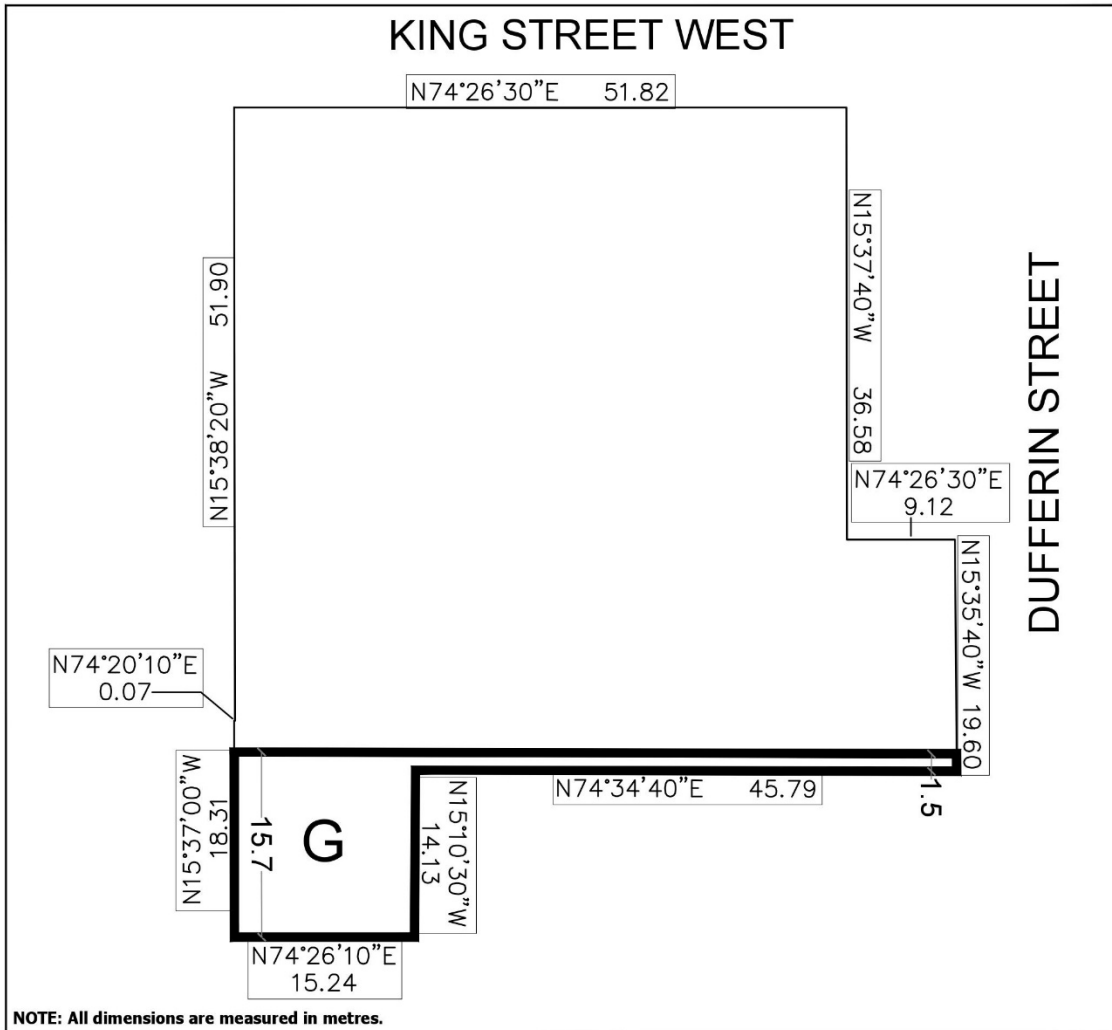
14. The Owner acknowledges that, following the expiry of six (6) months from the date of completion of construction of the ground floor slab of the Development, the Tie-Back Encumbrances will be de-stressed and will no longer provide physical support to any element or part of the building or structure located on the lands. For further clarity, the City shall require the Owner to de-stress all of the Tie-Back Encumbrances from the City Park and Dufferin-King Parkette. The Owner agrees that the Owner shall provide its full cooperation to the City with respect thereto.
15. The Owner releases, waives and forever discharges the City and its officers, agents, servants, contractors, representatives, employees, elected and appointed officials, successors and assigns (collectively the "Released Persons") of and from any and all manner of claims, demands, damages, costs, expenses, actions and causes of actions, whether in law or equity, in respect of death, injury, loss or damage to the person or any property of the Owner, the City or others howsoever caused, which the Owner may at any time hereafter have against any of the Released Persons arising or to arise by reason of the City de-stressing and removing any and all Tie-Back Encumbrances that remain on the parkland after conveyance.
16. The Owner shall prepare and submit one (1) Record of Site Condition (RSC) for the entire lands; the Owner shall not separate the Record of Site Condition for the Parkland Dedication and building components. Prior to conveying the City Park to the City, the Owner must:
 - (a) Submit a Qualified Person Preliminary Statement Letter, that is dated and signed by the applicant's Qualified Person, as defined in the Record of Site Condition Regulation Ontario Regulation 153/04 (O. Reg. 153/04), as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's peer reviewer to support this conveyance; all environmental documentation consistent with O. Reg. 153/04 requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with O. Reg. 153/04, as amended, insurance requirements or such greater amount specified by the Chief Engineer and Executive Director, Engineering and Construction Services and copy to the General Manager, Parks, Forestry and Recreation. (See the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act adopted by City Council on February 10 and 11, 2015);
 - (b) Pay all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City (7 percent), and submit an initial deposit of \$8,000.00 towards the cost of the peer review in the form of a certified cheque, to the Chief Engineer and Executive Director, Engineering and Construction Services. The Owner must submit further deposits, when requested, to cover all costs of retaining a third-party peer reviewer;
 - (c) Submit, to the satisfaction of the City's peer reviewer, all Environmental Site Assessment reports prepared in accordance with O. Reg. 153/04, (as amended) describing the current conditions of the parkland to be conveyed to the City and

the proposed Remedial Action Plan based on the site condition standards approach, to the Chief Engineer and Executive Director, Engineering and Construction Services;

- (d) At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person based on the submitted environmental documents, to the Chief Engineer and Executive Director, Engineering and Construction Services for peer review and concurrence, which states:
- i. In the opinion of the Qualified Person:
 - I. It is either likely or unlikely that there is off-site contamination resulting from past land uses on the lands that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and
 - II. To the extent that the opinion in (I) above is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health.
 - ii. Lands to be conveyed to the City meets either:
 - I. the applicable Ministry of the Environment, Conservation and Parks, including its successors and predecessors, Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9; subject to applicable exemptions as stated in O. Reg. 153/04) for the most environmentally sensitive adjacent land use; or

the Property Specific Standards as approved by the Ministry of the Environment, Conservation and Parks, including its successors and predecessors for a Risk Assessment / Risk Management Plan which was conducted in accordance with the conditions set out herein.
- (e) The Qualified Person's statement, referenced in 16(a) above, will include a Reliance Letter that is dated and signed by the Owner's Qualified Person, as defined in O. Reg. 153/04, as amended, confirming that both the City and the City's peer reviewer can rely on the environmental documentation submitted, consistent with O. Reg. 153/04 requirements, and the Qualified Person's opinion as to the conditions of the site; all environmental documentation consistent with O. Reg. 153/04 requirements and opinions shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with O. Reg. 153/04, as amended, insurance requirements or such greater amount specified by the Chief Engineer and Executive Director, Engineering and Construction Services.

- (f) For conveyance of lands requiring a Record of Site Condition:
 - i. File the Record of Site Condition on the Ontario Environmental Site Registry; and
 - ii. Submit the Ministry's Letter of Acknowledgement of Filing of the Record of Site Condition confirming that the Record of Site Condition has been prepared and filed in accordance with O. Reg. 153/04, as amended, to the Chief Engineer and Executive Director, Engineering and Construction Services and to the General Manager, Parks, Forestry and Recreation.



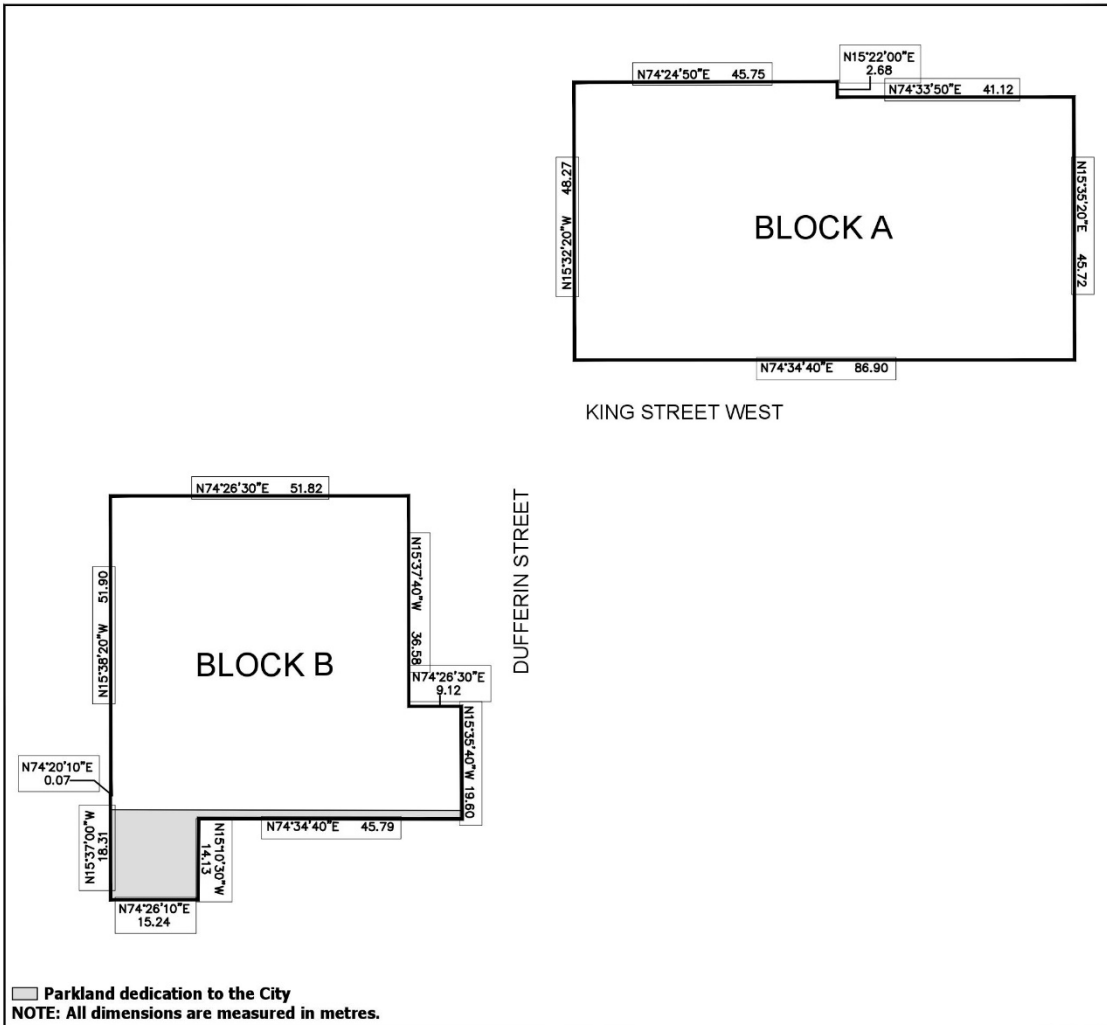
1182 & 1221 King Street West, Toronto

Map 1

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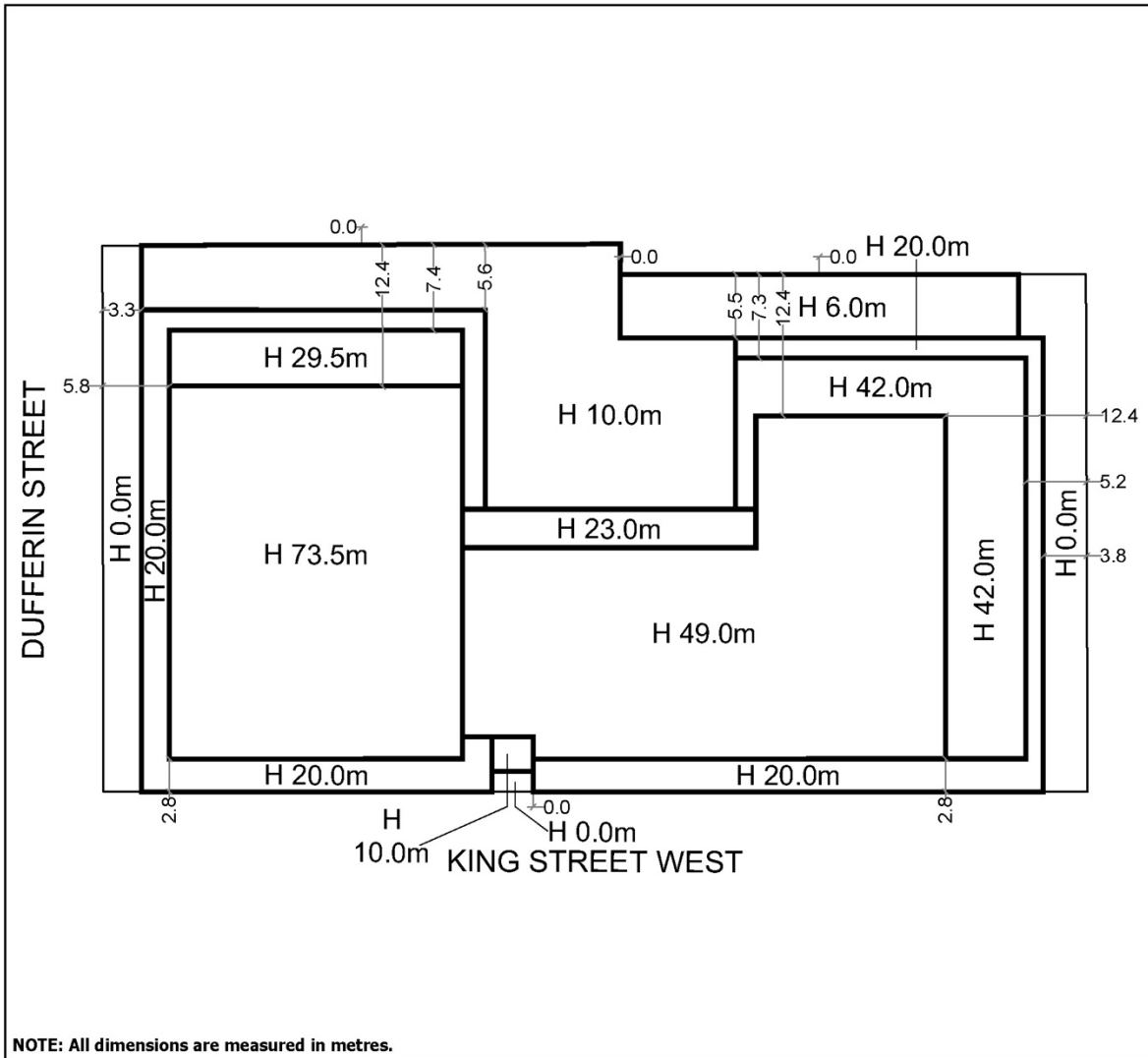
1182 & 1221 King Street West, Toronto

Map 2

File #15 _____



Not to Scale



NOTE: All dimensions are measured in metres.



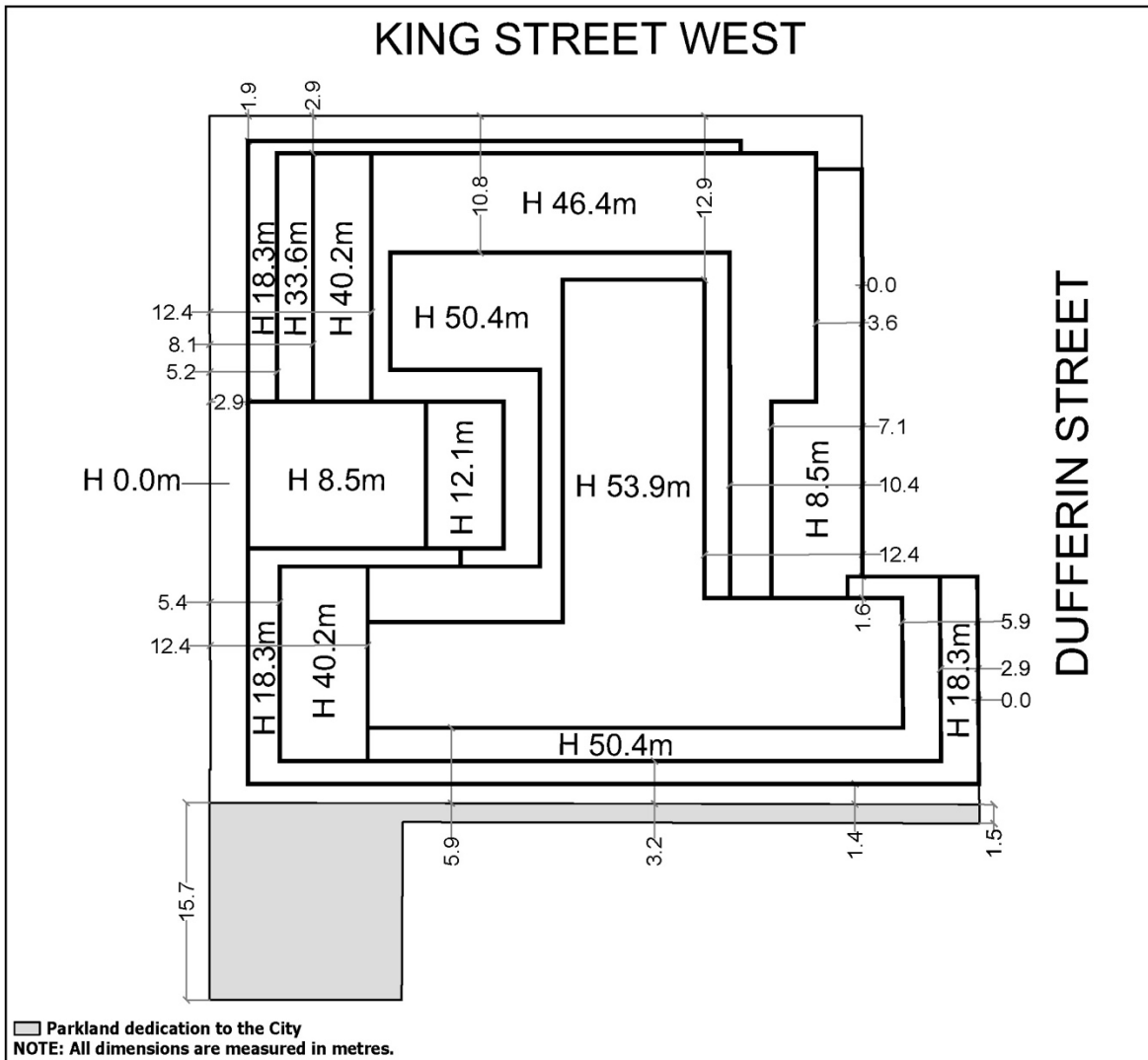
1182 King Street West, Toronto

Map 3

File #20 _____



Not to Scale



1221 King Street West, Toronto



Map 4

File #15



Not to Scale