

Authority: Etobicoke York Community Council Item EY10.1, as adopted by City of Toronto Council on December 9 and 10, 2015

CITY OF TORONTO

Bill No. 1391

BY-LAW No. -2015

To amend former City of York Zoning By-law No. 1-83, as amended, and By-law No. 197 with respect to the lands municipally known as 33 King Street, 22 John Street and 2 Elsmere 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;

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*;

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

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 matters as are set out in the by-law;

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, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters;

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 former City of York Zoning By-law No. 1-83 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 Council of the City of Toronto enacts:

1. Section 16 General Exceptions of By-law No. 1-83 is amended by adding the following subsection:

(XXX) LANDS: 33 KING STREET, 22 JOHN STREET and 2 ELSMERE AVENUE

- (a) Zoning By-law 1-83, as amended, is further amended by replacing the zoning label on Zoning Sheet District 2 with the zoning label for the lands outlined in heavy black lines on Schedule A and identified as Site A and Site B.

- (b) Except as otherwise provided herein, the provisions of By-law No. 1-83, as amended, shall continue to apply to Site A and Site B.
- (c) The area subject to this By-law consists of the lands delineated by heavy lines and titled Site A and Site B on Schedule A, attached to and forming part of this By-law.
- (d) Notwithstanding the provisions of Subsection 3.1.3 ACCESS TO PROPERTIES, 3.2.1 OFF STREET PARKING, 3.2.2 OFF-STREET LOADING, 3.3 YARDS, 3.4.7 PORCHES, VERHANDAHS, DECKS AND BALCONIES, 3.4.14 REFUSE HANDLING FACILITIES, 3.5.3 OUTDOOR DISPLAYS AND EATING AREAS, 3.5.5 PUBLIC GARAGES and Section 12, the area subject to this By-law as delineated by heavy lines on Schedule A attached to and forming part of this By-law, and municipally known as 33 King Street, 22 John Street and 2 Elsmere Avenue, may be used for the purposes of two mixed-use buildings containing residential and non-residential uses, provided all of the requirements of by-law (**Clerks to supply by-law #**) are complied with, subject to the following provisions:
 - i. The area subject to this By-law consists of the lands delineated by heavy lines and titled *Site A* and *Site B* on Schedule A, attached to and forming part of this By-law.

SITE A – 22 John Street and 2 Elsmere Avenue

NUMBER OF DWELLING UNITS

- (e) A maximum of 370 *dwelling units* are permitted.

MAXIMUM FLOOR SPACE INDEX

- (f) That maximum *floor space index* on *Site A* shall not exceed 4.8 and for the purposes of calculating *floor space index* it shall also exclude any roof top mechanical room and stair access to the roof.

MAXIMUM FLOOR PLATE

- (g) The maximum individual floor plate size per floor for floors 8 through 30 inclusive on *Site A*, shall not exceed 750 square metres.

BUILDING HEIGHT

- (h) *Height* shall be measured from *grade*, which is established as the Canadian Geodetic Datum value of 128.395 metres; and
- (i) The maximum *height* of any building or structure, or portion thereof, shall not exceed the *height* limits in metres specified by the numbers following the letter

"H" as shown on Schedule B1 attached to and forming part of this By-law, except for the following:

- i. Any appurtenances and equipment serving the building, antennas, elevator overruns, flagpoles, mechanical equipment (mechanical penthouse) and any associated enclosure structures, chimneys, parapets, pergolas, trellises, eaves, screens, stairs, satellite dishes, roof drainage, roof access, window washing equipment, lightning rods, architectural features, landscaping and elements of a green roof, structures for noise attenuation, ornamental elements, terrace and balcony guard rails and dividers, railings, planters, decorative screens, vents and window washing equipment and stairs to the roof, provided that the maximum *height* of the top of such element or enclosure is no higher than the sum of 7.5 metres plus the height limit otherwise applicable as shown on Schedule B1.

ACCESS

- (j) At least one main pedestrian building entrance shall provide direct access to the private driveway.

PARKING

- (k) A minimum of 0.6 parking spaces per dwelling unit must be provided, and may be located on *Site B*.

BICYCLE PARKING

- (l) A minimum of 278 *stacked bicycle parking spaces* shall be provided and maintained on *Site A*, of which:
 - i. A minimum of 252 long-term *stacked bicycle parking spaces*, with a minimum length of 1.6 metres and a minimum width of 0.4 metres, shall be allocated for residents, which may be located below grade; and
 - ii. A minimum of 26 short-term *stacked bicycle parking spaces*, with a minimum length of 1.6 metres and a minimum width of 0.4 metres, shall be allocated for visitors.

LANDSCAPED OPEN SPACE

- (m) A minimum of 15 percent of the total area of *Site A* shall be provided as landscaped open space with both hard and soft landscaping elements, in the hatched portion as shown on Schedule C attached to and forming part of this By-law. Landscaped open space shall be comprised of both hard and soft landscaping elements.

AMENITY

- (n) Indoor *amenity space* shall be provided on *Site A* at a minimum rate of 2.0 square metres for each *dwelling unit*, and outdoor *amenity space* shall be provided on *Site A* at a minimum rate of 1.35 square metres for each *dwelling unit*.

REFUSE HANDLING

- (o) Refuse shall be stored and maintained within a refuse room located on the ground floor of *Site A*. Vehicular access to the refuse room shall be provided and maintained from the adjacent lot at 14 John Street.

LOADING

- (p) One Type "G" loading space shall be provided and maintained on *Site A*, and vehicular access to the loading space shall be provided and maintained from the adjacent lot at 14 John Street.

ADDITIONAL PERMITTED USES

- (q) *Home occupation*, and all other permitted non-residential uses, are only permitted on the ground floor of the building facing John Street.

PRESENTATION CENTRE

- (r) Nothing in this By-law shall prevent the erection or placement of an office on *Site A* for the purposes of real estate presentations and transactions (including leases of *dwelling units*).

SITE B – 33 King Street (Existing Building)

- (s) Schedule "B" of prevailing By-law No. 197 is hereby amended by adding Schedules A and B2 attached hereto;
- (t) Sub-section 4 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended by replacing "four hundred and ten (410) rental apartment units" with "four hundred and twenty (420) rental apartment units", so that it reads:
- "The sixth to thirty-first floors inclusive shall contain four hundred and twenty apartment suites";
- (u) Sub-section 2 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended by adding the following at the end of the sub-section: "and may include 12 apartment units", so that it reads:
- "The second, third, and fourth floors shall be used for the provision of parking required under this by-law, and may be used for two (2) stories of office space not

exceeding 16,000 square feet in gross floor area, and may include 12 apartment units"; and

- (v) Sub-section 1 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby deleted and replaced with the following:

"The following uses are permitted on the ground floor:

- i. a mall of retail of stores;
- ii. twenty-six (26) *artist live/work units*;
- iii. *community centre*;
- iv. *artist's or photographer's studios*;
- v. *multi-purpose area*;
- vi. *performing arts studio*; and
- vii. *self-storage warehouse* "; and

- (w) For the purposes of this By-law, above grade parking space areas are not included within the gross floor area calculation.

SITE A and SITE B

SETBACKS

- (x) No portions of any building or structure located above *grade* shall be located otherwise than wholly within the areas delineated by hatched lines as shown on Diagrams "B1" and "B2", attached to and forming part of this By-law, except that:
- i. Cornices, light fixtures, ornamental elements, parapets, art and landscape features, architectural flutes, pillars, pergolas, trellises, terraces, bay windows, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, and window washing equipment may extend beyond the hatched lines as shown on Schedules B1 and B2.

PARKING

- (y) Subsection 5 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended to permit a total of 558 parking spaces on *Site B*. These 558 parking spaces may collectively serve the required parking spaces for the residential and non-residential uses on *Site A* and *Site B*, as shown on Diagram 1 of By-law [Clerks to supply By-law #]. The 558 parking spaces existing at the time of the passing of this By-law are deemed to conform to the By-law [Clerks to supply By-law #] as it is amended from time to time.

DEFINITIONS

- (z) For the purposes of this By-law defined terms which are italicized shall have the same meaning as found in Section 2 of By-law No. 1-83, and the following additional defined terms shall apply:
- i. "amenity space" shall mean a common area or areas within the area subject to this By-law which are provided for the exclusive use of residents of a building for recreational or social purposes;
 - ii. "artist live/work unit" shall mean a dwelling unit with a *home occupation*, that is limited to a studio or workshop used for the production and/or display and/or sale of art and photography with no employees;
 - iii. "artist's or photographer's studio" shall mean a studio or workshop used for the production and display of art and photography;
 - iv. "community centre" shall mean premises operated by or on behalf of a government or non-profit organization providing community activities, such as arts, crafts, recreational, social, charitable and educational activities;
 - v. "grade" shall mean an elevation of 128.395 metres Canadian Geodetic Datum;
 - vi. "height" shall mean the vertical distance between established *grade* and the highest point of the building or structure;
 - vii. "home occupation" shall mean a *dwelling unit* which may also be used for work purposes by the residents of the *dwelling unit*;
 - viii. "multi-purpose area or multi-purpose rooms" shall mean rooms or areas used for the display and exhibition of art, cultural and community events, and meeting, classroom and administration spaces, and uses to support parks and recreation programs;
 - ix. "performing arts studio" shall mean premises used for the rehearsal of performing arts, such as music, dance or theatre;
 - x. "self-storage warehouse" shall mean premises where individual enclosed areas are made available to the public for keeping or storing goods or commodities;
 - xi. "Site A" shall mean any building or structure, above and below grade, located as shown on Schedule A and municipally known as 22 John Street and 2 Elsmere Avenue;

- xii. "Site B" shall mean any building or structure, above and below grade, located as shown on Schedule A and municipally known as 33 King Street; and
- xiii. "stacked bicycle parking space" shall mean a horizontal bicycle parking space that is positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces.

SEVERANCE

- (aa) The provisions of this by-law shall apply collectively to the areas subject to this By-law notwithstanding any future severance, partition, or division of the areas subject to this By-law.

OTHER PROVISIONS

- (bb) No person shall use land or erect or use any building or structure, excluding a temporary presentation centre on *Site A* unless the following municipal services are provided to the lot line and the following provisions are complied with:
 - i. All new public roads have been constructed to a minimum base curb and base asphalt and are connected to an existing public highway; and
 - ii. All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
2. Section 16, Exception 261 of Zoning By-law 1-83, as amended, is hereby deleted.

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 lands shown on Schedule A 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 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.

Enacted and passed on December , 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

APPENDIX 1

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 the lands as shown on Schedule A in this By-law and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owners agree as follows:

The following section applies only to the Owner of land shown as Site A (22 John Street)

1. Prior to the issuance of an above grade building permit, other than a building permit for a temporary sales office/pavilion, the Owner shall:
 - (a) Demonstrate to the satisfaction of the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture that two separate leases among the Owner of 33 King Street, Toronto Artscape Inc. ("Artscape"), and the City of Toronto ("City"), have been executed and registered on title for the Site B lands on terms satisfactory to the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture. One lease shall pertain to the Artist Live/Work Units and Artist's Courtyard ("Live/Work Lease") and the other to the Community/Cultural Hub ("Community/Cultural Hub Lease"), with both spaces to be located on Site B; and
 - (b) Provide a letter of credit, in a form satisfactory to the City Treasurer, in the amount of no less than \$7,225,000. If a satisfactory letter of credit is not received by the City by January 31, 2017, the amount shall be indexed upwardly 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 the execution of the Section 37 Agreement to the date of submission of the letter of credit by the Owner to the City.

This letter of credit shall provide security for the construction and delivery of the work required by Section 2(a) below and for an operating fund for Artscape. The letter of credit is to be reduced from time to time, upon approval by the Director of the Affordable Housing Office in consultation with the General Manager of Economic Development and Culture, as more particularly described in the Section 37 Agreement, as work required by Section 2 above progresses, and shall not be reduced below the amount required for the Artscape operating fund until such fund has been paid to Artscape.

2. The Owner shall provide and maintain the following:
 - (a) The Owner agrees to construct, or cause to be constructed, the following:
 - i. 26 Artist Live/Work Units and the Artist's Courtyard, in accordance with the specifications set out in the Live/Work Lease;

- ii. The Community/Cultural Hub in accordance with the specifications set out in the Community/Cultural Hub Lease; and
- iii. The Enhanced Weston Farmer's Market Space ("Farmer's Market Space") in accordance with the specifications as generally contained in the Section 37 Agreement, the detailed design of which will be secured through the Site Plan approval process.

The above work shall be constructed concurrently with the proposed development on Site A.

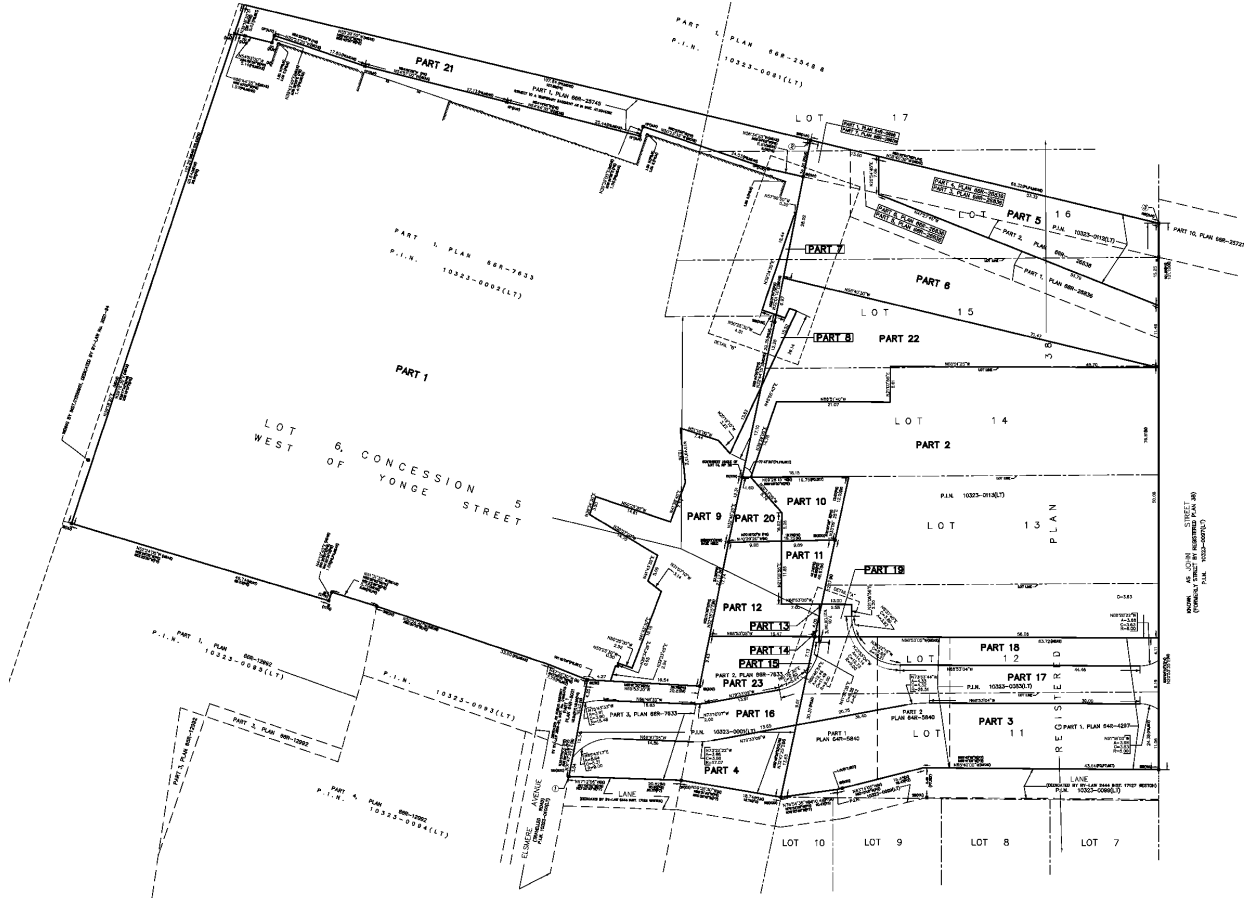
- (b) The Owner shall undertake the following obligations with respect to the Farmer's Market Space, which is shown as Part 6 on the Draft Reference Plan attached as Appendix 2:
 - i. The Owner shall install landscaping, including hard and soft landscaping and other appurtenances and fixtures, the details of which will be designed and secured through the Site Plan approval process;
 - ii. The Owner shall, at its sole expense, maintain the Farmer's Market Space, in accordance with maintenance obligations established in the Section 37 Agreement. The Owner shall also provide the City with appropriate insurance and indemnification;
 - iii. The Owner shall comply with the following environmental obligations:
 - a. The Owner shall pay all costs associated with the City retaining a third-party peer reviewer to conduct a third-party review of the Risk Assessment of the property;
 - b. The Owner shall be solely responsible for compliance with any and all Environmental Requirements stipulated in the Certificate of Property Use (CPU) issued for the property by the Ministry of Environment and Climate Change (MOECC) as part of the Risk Assessment process; and
 - c. Where the CPU requires the Owner prepare reports, whether annual or periodic, the Owner shall provide such reports to the City and its Peer Reviewer even in cases where such reports are not required to be delivered to the MOECC, until such time that the CPU Annual Report requirements are rescinded by the MOECC.
- (c) The City shall reserve an easement in the transfer of Site A from the City to the Owner for unrestricted public pedestrian access over such portion of Site A as is necessary such that there is uninterrupted access from and between Elsmere Avenue and the Farmer's Market Space, as shown as Parts 8, 12, 13, 20 and 22 on the Draft Reference Plan attached as Appendix 2. The Owner will maintain said

lands, and Owner will provide the City with appropriate insurance and indemnification.

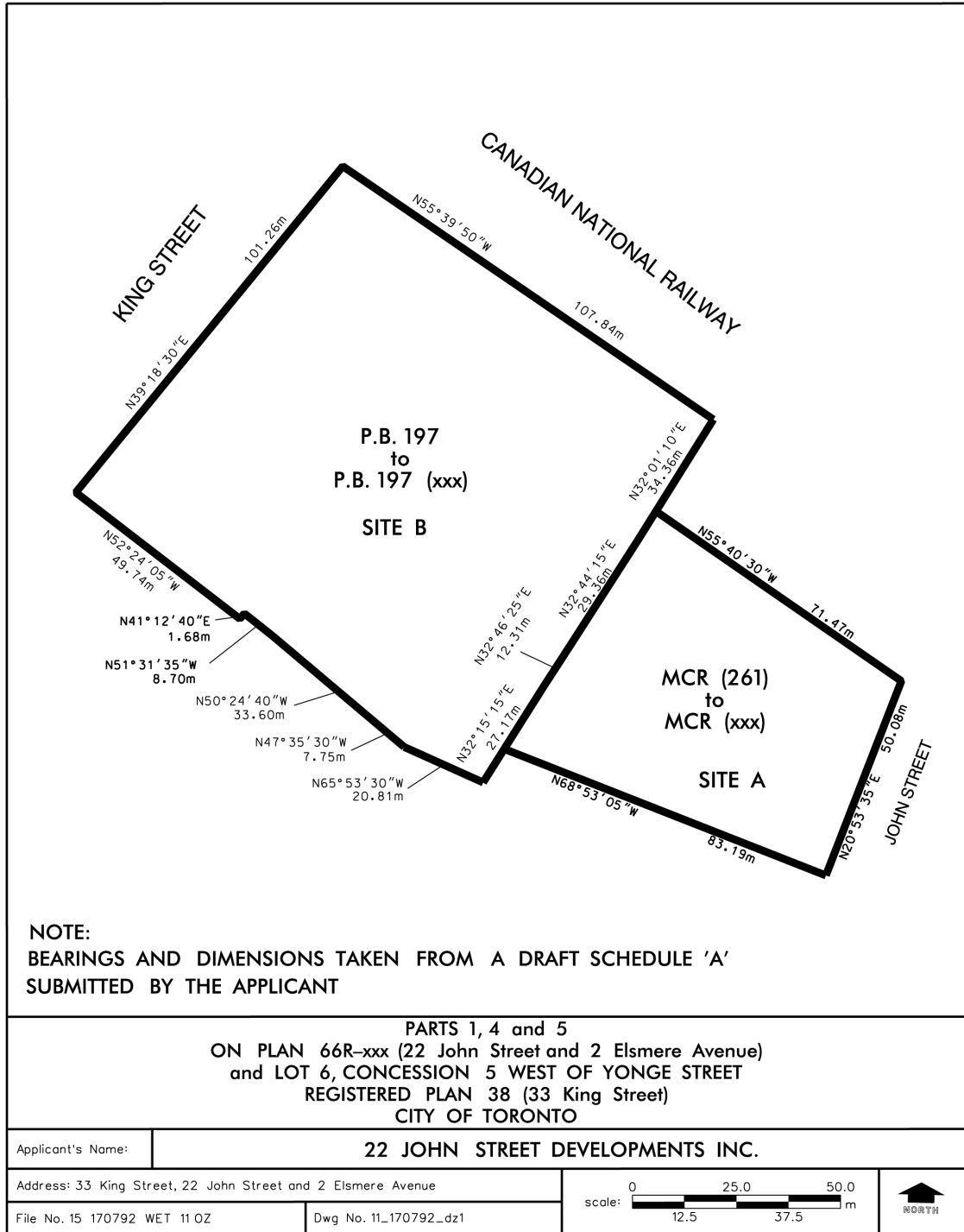
The following section applies only to the Owner of land shown as Site B (33 King Street – Existing Building)

1. The Owner shall provide and maintain the following:
 - (a) The Owner covenants and agrees to maintain the 420 existing rental residential units and the 12 additional rental units approved by the Committee of Adjustment on March 6, 2014 in decision number A64/14EYK ("Rental Dwelling Units") as rental housing for a minimum period of twenty (20) years commencing from the date of final approval of the zoning by-law amendment, and agrees that no application will be made for a demolition permit or for purposes of condominium registration, pursuant to the *Condominium Act*, for the Rental Dwelling Units during the twenty (20) year period; and
 - (b) The Owner agrees that it shall not apply to the Ontario Rental Housing Tribunal, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in rent above the Guidelines established under the *Act* in relation to the Rental Dwelling Units arising from any of the costs of constructing the Artist Live/Work Units, Community/Cultural Hub and the Artist's Courtyard.
2. The Owner shall provide the following to support the development of the lands:
 - (a) The Owner shall make available, a minimum of 222 parking spaces in the existing above grade parking garage at 33 King Street for the use of the residents of 22 John Street ("22 John Street Residents") and shall provide necessary access to the 22 John Street Residents;
 - (b) The Owner shall make available, at the same rates as paid by the tenants of the Rental Dwelling Units, a minimum of 16 parking spaces in the existing above grade parking garage at 33 King Street for the use of the residents of the Artist Live/Work Units and shall provide necessary access to the residents of those units; and
 - (c) The Owner shall enter into two leases with Toronto Artscape Inc. ("Artscape") and the City of Toronto ("City") on terms satisfactory to the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture, and further agrees to register the leases on title, one of which will pertain to the Artist Live/Work Units and Artist's Courtyard ("Live/Work Lease") and the other to the Community/Cultural Hub ("Community/Cultural Hub Lease").

APPENDIX 2

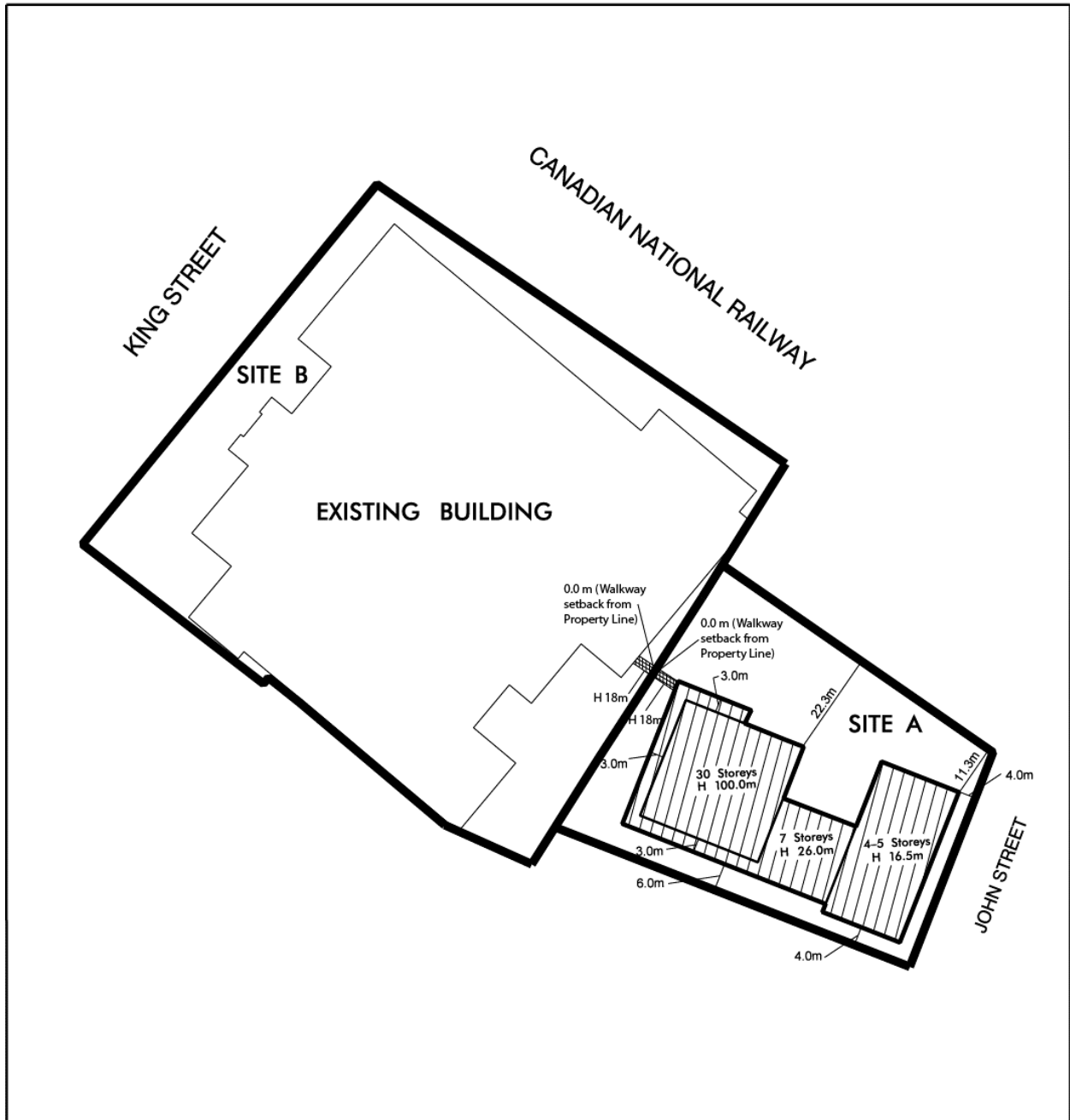


TORONTO Schedule 'A' BY-LAW Number
 and to Section 16(xxx) of Zoning By-Law 1-83





**Schedule 'B1' BY-LAW Number
 and to Section 16(xxx) of Zoning By-Law 1-83**

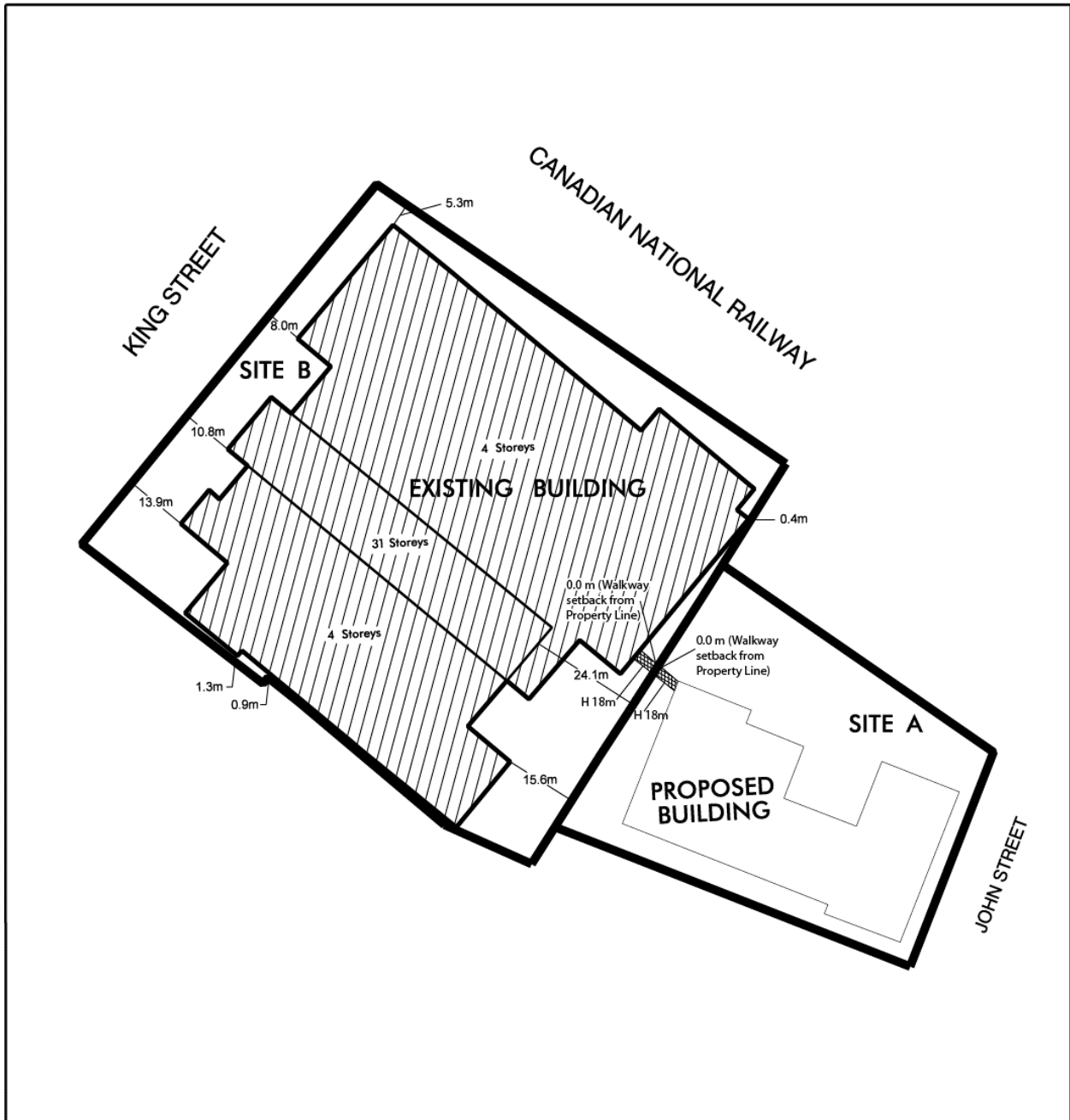


**PARTS 1, 4 and 5
 ON PLAN 66R-xxx (22 John Street and 2 Elsmere Avenue)
 and LOT 6, CONCESSION 5 WEST OF YONGE STREET
 REGISTERED PLAN 38 (33 King Street)
 CITY OF TORONTO**

Applicant's Name:	22 JOHN STREET DEVELOPMENTS INC.		
Address: 33 King Street, 22 John Street and 2 Elsmere Avenue	scale:		
File No. 15 170792 WET 11 OZ	Dwg No. 11_170792_dz2A		



**Schedule 'B2' BY-LAW Number
 and to Section 16(xxx) of Zoning By-Law 1-83**



**PARTS 1, 4 and 5
 ON PLAN 66R-xxx (22 John Street and 2 Elsmere Avenue)
 and LOT 6, CONCESSION 5 WEST OF YONGE STREET
 REGISTERED PLAN 38 (33 King Street)
 CITY OF TORONTO**

Applicant's Name:	22 JOHN STREET DEVELOPMENTS INC.		
Address: 33 King Street, 22 John Street and 2 Elsmere Avenue	scale:		
File No. 15 170792 WET 11 0Z	Dwg No. 11_170792_dz2B		

TORONTO Schedule 'C' BY-LAW Number
 and to Section 16(xxx) of Zoning By-Law 1-83

