

Authority: Toronto and East York Community Council Item TE23.6, adopted as amended, by City of Toronto Council on April 26, 27 and 28, 2017

CITY OF TORONTO

Bill 1109

BY-LAW-2017

To amend former City of Toronto Zoning By-law 438-86 with respect to lands municipally known as 571 to 597 Bloor Street West, 738 to 754 and 760 Bathurst Street, 28 to 34 Lennox Street, 581 to 603 Markham Street and 588 to 610 Markham Street.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, to pass this By-law to the lands known municipally in 2016 as 571 to 597 Bloor Street West, 738 to 754 and 760 Bathurst Street, 28 to 34 Lennox Street, 581 to 603 Markham Street and 588 to 610 Markham Street; 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, the 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; and

Whereas the Council of the City of Toronto has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by 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*;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the lands shown on Map 1 of this By-law are permitted subject to compliance with conditions set out in this By-law, and in return for the provision by the owner of the lands shown on Map 1, excluding the lands labelled G, of

the facilities, services and matters set out in Schedule A hereof, the provision of which shall be secured by one or more agreements with the City pursuant to Section 37(3) of the *Planning Act*.

2. District Map No. 49H-323 contained in Appendix "A" of By-law 438-86, as amended, is further amended by redesignating the lands shown as 'G' on Map 1 attached hereto and forming part of this By-law from "CR" to "G".
3. Upon execution and registration of one or more agreements between the City and the owner of the *lot* on title to the *lot* pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Schedule A hereof, the lands identified on Map 1 are 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 issued pursuant to the Ontario Heritage Act, such building may not be erected or used until the owner of the lands identified on Map 1 has satisfied the said requirement or precondition.
4. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the City pursuant to Section 37 of the *Planning Act*, then once such agreement(s) 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.
5. Except as otherwise provided herein, the provisions of this By-law 483-86, as amended, shall continue to apply to the *lot*.
6. None of the provisions of Section 2(1) with respect to the definition of the terms, *bicycle parking space*, *grade*, *height*, *lot*, *non-residential gross floor area*, *residential gross floor area*, *residential amenity space* and Section 4(2), 4(3), 4(4)(b), 4(4)(d), 4(4)(h), 4(4)(i), 4(4)(l), 4(6), 4(12), 4(13), 4(14), 4(16), 8(1), 8(2), 8(3), 12(2)33, 12(2)270 and 12(2)317 of general Zoning By-law 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 and use of *mixed use buildings*, an *outdoor open air market* and a *commercial parking garage* on the *lot*, provided:
 - (a) the *lot* consists of at least those lands delineated by heavy lines on Map 1 attached to and forming part of this By-law, excluding those lands labelled G;
 - (b) the total *gross floor area* of all buildings and structures on the *lot* shall not exceed 78,450 square metres, provided a maximum of 60,550 square meters may be occupied by residential uses;

Residential Uses

- (c) a minimum of 40 percent of the total *dwelling units* on the *lot* will contain two or three *bedrooms* in accordance with Schedule A hereof; and

- (d) a minimum of 10 percent of the total number of *dwelling units* on the *lot* will contain three or more *bedrooms* in accordance with Schedule A hereof and a minimum of 20 percent of the total number of *dwelling units* on the *lot* will contain two bedrooms in accordance with Schedule A hereof.

Commercial Uses

- (e) The following uses are permitted on the *lot*:
- (i) the uses permitted pursuant to Section 8(1)(f) of By-law 438-86;
 - (ii) *outdoor open air market, a public market, a custom workshop, a commercial parking garage* located below finished ground level, an *outdoor patio* and a car wash located below finished ground level;
 - (iii) a brewery operated in conjunction with a *restaurant* or a *retail store*; and
 - (iv) a brewery permitted under (iii) above, may occupy more than 50 percent of the total *interior floor area* of the *restaurant* or *retail store* provided the total *interior floor area* of the *restaurant* or *retail store* does not exceed a maximum of 5,000 square metres.
- (f) at least 10 commercial units in a building are provided at the ground floor level subject to the following:
- (i) each commercial unit shall be limited to a maximum 50 square metres of *interior gross floor area*; and
 - (ii) each commercial unit may only be occupied by permitted non-residential uses.
- (g) within the areas subject to a height limit of 15.0 metres on Map 3 and Map 4 attached to and forming part of this by-law, the *interior floor area* of a commercial unit occupied by a *restaurant, take-out restaurant, bake-shop, place of assembly, place of amusement, caterer's shop* or *club* shall not exceed 300 square metres, except that two such commercial units may exceed this maximum;
- (h) the ground floor area of any commercial unit fronting on Bathurst Street or Bloor Street West and occupied by a retail or service use shall not exceed a maximum width of 12 metres, for a depth of not less than 7.5 metres as measured from the main front wall of the commercial unit, with the exception that up to two commercial units may have a width in excess of 12 metres;

Floorplates

- (i) The portion of a building in each of Tower Zones 01, 03A, and 03B as shown on Map 2 and located above a *height* of 33 meters, is permitted a maximum *floorplate* size of 600 square metres;

- (j) The portion of a building in Tower Zone 04 as shown on Map 2 and located above a *height* of 37 metres is permitted a maximum *floorplate* size of 600 square metres;
- (k) The portion of a building in Tower Zone 02 as shown on Map 2 and located above a *height* of 18.5 metres is permitted a maximum *floorplate* size of 500 square metres;

Projections

- (l) no portion of any building erected or used above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on Maps 2, 3, 4 and 5 attached to and forming part of this By-law, with the exception of the following:
 - (i) cornices, sills, eaves, window washing equipment, railings, balustrades, awnings, piers and sun-shades, to a maximum horizontal projection of 0.5 metres beyond the heavy lines;
 - (ii) balconies to a maximum horizontal projection of 2.5 metres beyond the heavy lines;
 - (iii) canopies including supporting structures, covered walkways, privacy screens, planters, stairs, enclosed stairs, awnings, fences, lighting, bollards, safety railings, trellises, guards, guardrails, retaining walls, wheel chair ramps, bicycle parking facilities, ornamental or architectural features, landscape features, facilities accessory to a day nursery and art installations
 - (iv) pedestrian bridges linking portions of buildings on Map 4 to portions of buildings on Map 5 to a maximum height of 10.5 metres, measured between finished ground level and the highest point of the bridge;
 - (v) elements and enclosures permitted by subsection (m) below; and
 - (vi) where the main wall of a building or a portion of a building within the heavy lines shown on Map 3 attached hereto, as located north of the lands zoned G as shown on Map 1 attached hereto, has windows or openings, the main wall must be set back at least 7.0 metres from a *lot* line that is not adjacent to a *street* or lands zoned G.
- (m) No part of a building or structure erected or used above finished ground level shall exceed the *height* limits specified by the numbers following the symbol "H" shown on the attached Maps 3, 4 and 5 with the exception of:
 - (i) the items listed in subsection (l) above;
 - (ii) structures on any roof used for outdoor *residential amenity space* or open air recreation, maintenance, safety, wind or green roof purposes to a maximum vertical projection of 3.0 metres above the height limits;

- (iii) elevator overruns and related enclosures to a maximum of 1.5 metres above building heights of 80.0 metres and 60.5 metres as shown on Map 4; and
- (iv) parapets, chimneys, vents and stacks.

Amenity Space

- (n) A minimum of 3.0 square metres per *dwelling unit* of *residential amenity space* shall be provided and maintained in accordance with the requirements of Schedule A attached hereto and the following:
 - (i) A minimum of 1.5 square metres per *dwelling unit* shall be provided as indoor *residential amenity space*; and
 - (ii) A minimum of 40 square metres shall be provided as outdoor *residential amenity space*, in a location adjoining or directly accessible to the indoor *residential amenity space*.
- (o) A maximum of 1,000 square metres of the required indoor *residential amenity space* may be provided within the premises of a non-residential use, except for a premises exclusively used as a *restaurant* or *retail store*, accessible to members of the public;

Parking and Loading

- (p) Loading shall be provided in accordance with the following minimum requirements:
 - (i) 1 *loading space* – type G;
 - (ii) 3 *loading space* –type B; and
 - (iii) 4 *loading space* – type C.
- (q) The number of *parking spaces* for residents shall be provided and maintained in accordance with the following minimum requirements:
 - (i) 0.15 *parking spaces* for each bachelor *dwelling unit* and *live-work unit*;
 - (ii) 0.27 *parking spaces* for each one bedroom *dwelling unit*;
 - (iii) 0.43 *parking spaces* for each *dwelling unit* containing two bedrooms;
 - (iv) 1.0 *parking spaces* for each *dwelling unit* containing three or more bedrooms; and
 - (v) Notwithstanding (i) to (iv) above, no *parking spaces* are required for *dwelling units* secured as affordable rental housing in an agreement with the City of Toronto.

- (r) *Parking spaces* for all other uses within a building or structure shall be provided in accordance with the following table:

Parking Space Rates and Parking Space Occupancy Table

AM = 6 a.m. to Noon. PM = Noon to 6 p.m. Eve= 6 p.m. to 6 a.m. Parking Occupancy Rate

Land Use	Minimum Parking Rate	Parking Occupancy Rate		
		AM PM Eve	AM – 6 a.m. to Noon PM – Noon to 6 p.m. Eve = 6 p.m. to 6 a.m.	AM PM Eve
Non-residential uses	1.0 <i>parking space</i> for each 100 square metres of <i>gross floor area</i>	20%	100%	100%
Day Nursery	0.4 <i>parking spaces</i> for each 100 square metres of <i>gross floor area</i>	100%	100%	50%
Residential visitors	0.06 <i>parking spaces</i> per <i>dwelling unit</i>	10%	35%	100%

- (s) The minimum number of *parking spaces* as required in the table above is determined as follows:
- (i) for each of the morning, afternoon and evening parking periods identified in the table above, the minimum number of *parking spaces* required for each use, is calculated using the respective parking space rate and occupancy rate;
 - (ii) the minimum number of *parking spaces* required for each parking period is the total of the *parking spaces* required for all uses during that parking period; and
 - (iii) the minimum number of *parking spaces* required is equal to the largest number of *parking spaces* required for any parking period.
- (t) notwithstanding subsection (r), no *parking spaces* are required for uses operated in connection with an *outdoor open air market, restaurants and take-out restaurants*;
- (u) for each *car-share parking space* provided, the minimum number of *parking spaces* for residents required by regulation (q) above may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula: 4 x (the total number of *dwelling units* divided by 60), rounded down to the nearest whole number;
- (v) the *parking spaces* required pursuant to subsection (r) above may be provided on a non-exclusive basis and may be provided in a *commercial parking garage*;
- (w) required *parking spaces* shall be located on the *lot* and may be located on any or all of the lands municipally known as 756 and 758 Bathurst Street in the year 2016;

- (x) all *parking spaces* shall be located below finished ground level;
- (y) if the calculation of the required number of *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number;
- (z) a room or enclosed area, including its enclosing walls within a building that is used exclusively for heating, cooling, ventilation, electrical, fire emergency stairwells, elevator shafts, atriums, utility areas, storage areas below finished ground level, parking space or loading space, or a drive aisle used to access a parking space or a loading space, is not included in the *gross floor area* for the purpose of calculating parking space requirements;
- (aa) the requirements of Section 4(17) of By-law 438-86, as amended, shall apply with the exception that:
 - (i) up to a maximum of 15 percent of the total number of *parking spaces* provided may have the following minimum dimensions, notwithstanding that such *parking spaces* are obstructed on one or two sides in accordance with Section 4(17)(e) of By-law 438-86, as amended: and
 - (1) Length – 5.6 metres;
 - (2) Width – 2.6 metres; and
 - (3) Height – 2.0 metres.
 - (ii) provided that the total number of *parking spaces* which are obstructed on two sides and provided with minimum dimensions in accordance with (i) above, is no more than 5 percent of the total number of provided *parking spaces*.
- (bb) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum standards:
 - (i) For *dwelling units*: 0.9 *bicycle parking spaces* for each *dwelling unit*, allocated as long term *bicycle parking spaces* and 0.1 *bicycle parking spaces* for each *dwelling unit* allocated as short term *bicycle parking spaces*; and
 - (ii) For non-residential uses: 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as long term *bicycle parking spaces* and 3 plus 0.3 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as short term *bicycle parking spaces*.

Definitions

7. 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, except for the following:

- (a) "*above-grade building permit*" means a *building permit* for all or any part of the *lot* which permits the construction of a building or structure, or portion thereof, *above-grade*, but does not include the construction of a *temporary sale/rental centre*, a foundation permit, a demolition permit or a *heritage permit*;
- (b) "*affordable housing*" means rents which do not exceed the *CMHC rent*;
- (c) "*bicycle parking space*" means an area used for storing bicycles having the following minimum dimensions:
- (i) where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance from the wall of 1.2 metres, a minimum width of 0.6 metres and a vertical dimension of at least 1.9 metres;
 - (iii) where the bicycles are to be parked in bicycle stacker, has a minimum vertical clearance of 1.2 metres for each *bicycle parking space*; and
 - (iv) where bicycles are to be parked in an automated bike parking facility, no minimum dimensions are required.
- (d) "*bicycle stacker*" means a device where by a bicycle parking space is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device;
- (e) "*building permit*" means a permit, for all or any part of the *lot*, issued pursuant to the *Building Code Act, 1992*, and includes conditional permits and any permit for excavation or shoring, but does not include a permit for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services, or a permit for interior alterations that do not affect the exterior building features of *heritage buildings* or a permit for the construction of a *temporary sales/rental office* on the *lot*;
- (f) "*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 and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
- (g) "*car-share parking space*" means a parking space exclusively reserved and signed for a car used only for car-share purposes;
- (h) "*CMHC rent*" means the average rent, inclusive of utilities, for private rental apartments by unit type for the City of Toronto as reported annually by Canada Mortgage and Housing Corporation in its Fall Update Rental Market Report;

- (i) "*custom workshop*" means a premises used for producing or making custom-made goods in limited quantities, using techniques that do not involve mass-production;
- (j) "*description*" means a description registered under the *Condominium Act*;
- (k) "*floorplate*" means the total area of a floor of a building measured from the exterior of the main wall of the floor level, excluding the areas occupied by decorative piers and columns, and including voids at the level of the floor, such as an atrium, mezzanine, stairwell, escalator, elevator, ventilation duct or utility shaft;
- (l) "*grade*" means 113.5 metres Canadian Geodetic Datum;
- (m) "*gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - (i) Parking, loading and a commercial parking garage, all as located below finished ground level;
 - (ii) Required loading spaces at the ground level;
 - (iii) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below finished ground level;
 - (iv) facilities for bicycle parking, including but not limited to the area occupied by *bicycle parking spaces*, an automated bike parking facility and required shower and change facilities;
 - (v) *Residential amenity space*;
 - (vi) Elevator shafts, garbage shafts
 - (vii) Mechanical penthouse;
 - (viii) Exit stairwells in the building or structure;
 - (ix) The area of the buildings or portions of buildings subject to a height limit of 15.0 metres as shown on Map 3 attached hereto;
 - (x) The area occupied by decorative piers and columns; and
 - (xi) The area of any uses operated in connection with an *outdoor open air market*.
- (n) "*height*" means the highest point of the building or structure above grade, except for those elements prescribed by this By-law;

- (o) "*heritage buildings*" means the existing buildings currently located on the date of enactment of this By-law on the properties municipally known in 2016 as 738,740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 593, 595, 597, 588, 590, 593, 594, 596, 598, 600, 602 and 610 Markham Street and 604 to 606 Markham Street upon the relocation of the existing building located at 610 Markham Street to 604 to 606 Markham Street;
- (p) "*heritage permit*" means a permit issued pursuant to the *Ontario Heritage Act*; *fix numbering that follows*;
- (q) "*interior floor area*" means the floor area of any part of a building measured to the interior side of a main wall or an interior wall, or as measured to a line delineating the part being measured, excluding the following areas:
 - (i) Parking, commercial parking garage, loading and bicycle parking;
 - (ii) Storage rooms, washrooms, electrical, utility mechanical ventilation rooms;
 - (iii) Shower and change facilities for *bicycle parking spaces*; and
 - (iv) Elevator shafts, mechanical penthouse, or exit stairs.
- (r) "*live-work unit*" means a *dwelling unit*, a portion of which may be occupied by a permitted non-residential use where the *dwelling unit* is the principal residence of the operator of the non-residential use;
- (s) "*long term bicycle parking space*" means a *bicycle parking space* for use by occupants or tenants of a building;
- (t) "*lot*" means in aggregate the lands outlined by heavy lines on Map 1 of this By-law, excluding those lands labelled G;
- (u) "*outdoor open air market*" means portion of a *lot* where, goods, wares, merchandise or a substance, article or thing is offered, kept or stored for retail sales, which may include food sales, retail sales and other uses from kiosks, tents, vehicles, tables or similar facilities;
- (v) "*outdoor patio*" means an outdoor area where meals or refreshments or both may be served to patrons;
- (w) "*public market*" means a portion of the *lot* that may be occupied by a single use or multiple uses including any permitted non-residential use, marketplace, bazaar and cultural entertainment use such as a cinema, theatre, opera, ballet and music performance;
- (x) "*residential amenity space*" means a common area or areas within the *lot* which are provided for the use of residents of all buildings on the *lot* and may also be available for use by guests and visitors to a building;

- (y) "*rent*" means "*rent*" as defined in the *Residential Tenancies Act* and shall include charges for heat, water, and power charges, but not parking and television or other optional services. If heat and/or water and/or power are not included in the rent and are to be paid by the tenant, then the Rent will be adjusted to the satisfaction of the Chief Planner in writing or, in the event of the execution of the Contribution Agreement by the Parties, in accordance with the Contribution Agreement;
 - (z) "*rental housing*" means a dwelling unit which is rented or available for rent pursuant to the Residential Tenancies Act but does not include a condominium-registered unit or a life-lease or co-ownership unit as defined in c.667 of the Toronto Municipal Code;
 - (aa) "*short term bicycle parking space*" means a *bicycle parking space* for use by visitors to a building;
 - (bb) "*site plan approval*" means final site plan approval issued by and to the satisfaction of the Chief Planner and Executive Director, City Planning pursuant to section 114 of the *City of Toronto Act, 2006* as amended from time to time and/or section 41 of the *Planning Act*;
 - (cc) "*temporary sale/rental centre*" means a temporary building, structure, facility or trailer on the *lot* used exclusively for the purpose of the initial sale (for non-residential uses only) and/or the initial leasing of *dwelling units* to be erected on the *lot*; and
 - (dd) "*upwards indexing*" has the meaning set out in clause 9 (v) of Schedule A hereof.
8. None of the provisions of By-laws 717-82 and By-law 228-83, shall apply to the erection and use of land, buildings and structures in accordance with the requirements of this By-law.
9. None of the provisions of Section 5(1) and 5(3)Part II of By-law 438-86, of the former City of Toronto, as amended being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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 use of the lands identified as "G" on Map 1 to this By-law for the purpose of pedestrian access, patios and loading activities accessory to the lands delineated by heavy lines on Map 1, as well as construction staging activities including the erection and use of buildings, structures or trailers used for the purpose of a construction management office, parking and materials storage.
10. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law and By-law 438-86, as amended, shall apply to the whole of the *lot* as if no severance, partition or division had occurred.

- 11.** Within the lot, no person shall use any land or erect any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (1) 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
 - (2) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
- 12.** Section 37 Provisions:
- (1) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit or a permit issued pursuant to the Ontario Heritage Act, the issuance of such permit shall be dependent on satisfaction of the same; and
 - (2) 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 Schedule A are satisfied.

Enacted and passed on October , 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* at their expense to the City in accordance with one or more agreements pursuant to section 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 in return for the increase in height of the proposed development on the lands as shown on Map 1 of this By-law and as secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

1. Prior to the issuance of the first *above-grade building permit* and subject to the City obtaining funding for an investment in *affordable housing* for the *lot*, the *owner* shall enter into a contribution agreement with the City to design, construct, provide, maintain and contribute to the provision and maintenance of sixty (60) new *affordable rental housing dwelling units* on the *lot* at a value of at least \$4,000,000.00 from the *owner*, with terms in accordance with such contribution agreement, including that the average monthly rents of such sixty (60) units shall be at or below 80 percent of the *CMHC rents* for a period of twenty-five (25) years inclusive of a 5 year phase-out period from first occupancy of each such unit as *affordable rental housing* in accordance with such contribution agreement, all to the satisfaction of the Director, Affordable Housing Office, the Chief Planner and Executive Director, City Planning and the City Solicitor. And the *owner* shall thereafter provide such *affordable rental housing dwelling units* in accordance with the contribution agreement entered into with the City.
2. In the event the City does not obtain funding for an investment in *affordable rental housing* for the *lot* as required in clause 1 of this Appendix, the *owner* shall in any event provide and maintain on the *lot* at least 19 new *affordable rental housing dwelling units* distributed throughout the *lot* and comprising at least the greater of a total of 1,038 square metres or 1.7 percent of the total *residential gross floor area* erected on the *lot*, with rents not exceeding the *CMHC Rent* for at least 25 years, inclusive of a 5 year phase-out period comprised of the following:
 - a. at least 6 bachelor units, which shall have a minimum size of at least 39.5 square metres;
 - b. at least 6 one-bedroom units having a minimum size of at least 48.8 square metres;
 - c. at least 5 two-bedroom units having a minimum size of at least 67.4 square metres; and
 - d. at least 2 three-bedroom units having a minimum size of at least 85.9 square metres, such provision by the *owner* having a value of at least FOUR MILLION DOLLARS (\$4,000,000.00), subject to *upwards indexing*.

3. The *owner* shall offer all new *affordable rental dwelling units* for rent proportionately with the offering of the new *dwelling units* once the *owner* has rented 75 new *dwelling units* on the *lot* or in the case of units required under a contribution agreement as set out in clause 1 above, in the event of any conflict with the contribution agreement, such units shall be offered commencing in accordance with the timing set out in such Contribution Agreement.
4. The tenants of the new *affordable rental dwelling units* shall have access to all indoor amenity space and outdoor amenity space, and other common areas located on the lot. There shall be no cost to tenants to reserve amenity space for tenant meetings. Reasonable and customary costs may be charged to reserve or pre-book amenity space and which shall be on the same basis as other residents of the lot, subject to car parking and visitor car parking which may have charges.
5. Prior to *site plan approval* for all or any part of the *lot*, the *owner* shall provide to the satisfaction of the Chief Planner and to the Director, Affordable Housing Office, the proposed unit layouts and floor plans for any areas of buildings that provide or relate to the provision of the new *affordable rental dwelling units* required in clauses 1 and 2 above.
6. The *owner* shall enter into a memorandum of understanding with the City setting out the range of options and funding opportunities to be pursued by the City and the *owner* to seek to achieve a target of up to 20 percent of the total number of new *dwelling units* erected on the *lot* as *affordable rental housing*.
7. All of the *residential gross floor area* erected on the *lot* shall comprise and be maintained as *rental housing* for at least a continuous period of twenty-five (25) years commencing on the date the final new purpose-built rental dwelling unit in the final building to be constructed is occupied; during which time period no application shall be made to convert any *dwelling unit* to any non-*rental housing* purpose including that no application shall be made to register any *dwelling unit* under the *Condominium Act* or for any other form of ownership tenure, or to demolish any *rental housing* unit without replacement as *rental housing* on the *lot*.

At such time as the twenty-five (25 year) rental period has expired, the *owner* shall continue to provide and maintain the *rental housing* as *rental housing* until the *owner* has applied for and obtained final approval of:

- (a) a zoning by-law amendment to amend the zoning for the *lot* to delete the requirement that the *rental housing* be provided and maintained as *rental housing*;
- (b) an official plan amendment and zoning by-law amendment to amend any other applicable policies and provisions which are in force and effect at that time which might otherwise prevent the conversion or demolition of such *rental housing*;
- (c) permission under any other applicable by-laws(s) and statute(s) which restrict or regulate the demolition or conversion of *rental housing*; and

(d) a *description* respecting the building on the *lot* on which the *rental housing dwelling units* are erected, in the case of condominium registration being sought.

8. The owner shall provide and maintain on the *lot*, a minimum of:

- (a) 10 percent of the total number of residential units erected on the *lot* as three-bedroom *dwelling units*;
- (b) 20 percent of the total number of residential units as two-bedroom *dwelling units*; and
- (c) 40 percent of the total number of residential units as two and three bedroom *dwelling units*.

all to the satisfaction of the Chief Planner and Executive Director, City Planning.

9. The *owner* will provide and maintain on the *lot* and/or on adjacent lands, a non-profit community and/or cultural space in a location satisfactory to the General Manager, Parks, Forestry and Recreation, finished to a shell condition, and leased for a term acceptable to the City at nominal cost to the City, having a size of at least 325.2 square metres, with direct access from a public right-of way and/or Publicly-Accessible Privately Owned Space and/or publicly accessible pedestrian walkway fronting parkland, at a value of at least ONE MILLION DOLLARS (\$1,000,000.00) subject to *upwards indexing*, prior to the issuance of the first *above-grade building permit*.

Alternatively, should the City in its sole discretion elect in writing to the *owner* to require, the *owner* shall pay to the City prior to the issuance of the first *above-grade building permit* the sum of ONE MILLION DOLLARS (\$1,000,000.00) in lieu of the provision of such non-profit community and/or cultural space within the approved development, such payment to be used towards community and/or cultural space in the vicinity of the *lot*.

10. The *owner* shall provide the following, to the satisfaction of the General Manager, Transportation Services, the Executive Director, Engineering and Construction Services, the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:

- (a) prior to site plan approval, the *owner* shall submit a plan detailing improvements to the public realm to be implemented in support of the development permitted by this By-law, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, sidewalk treatment, outdoor seating, and cycling facilities, and Toronto Transit Commission bus/streetcar shelters, located on both public and private lands;
- (b) the plan required in clause 10.a. above shall include a streetscape improvement plan for Markham Street between Lennox Street and Bloor Street West. The streetscape improvements will be to an enhanced standard beyond the City's

typical streetscape design guidelines in the immediate vicinity of the *lot*, in the area identified as Markham Street, between Lennox Street and Bloor Street West;

- (c) the *owner* shall construct the approved improvements required in clauses 10.a. and b. above by no later than the date that is two years following the first residential or commercial use or occupancy on the *lot*, subject to extensions, if any as are satisfactory to the Chief Planner and Executive Director, City Planning, for seasonality;
- (d) the *owner* shall maintain all improvements required in clause 10 a. above that are located on private property and the *owner* shall maintain all improvements required in clause 10.b. above;
- (e) prior to the issuance of the first *above-grade building permit*, the *owner* shall provide an *upwardly indexed* letter of credit to the City in the amount of the cost of all works required in clause 10.a. above; and
- (f) prior to the issuance of the first *above-grade building permit*, the *owner* shall provide an *upwardly indexed* letter of credit to the City in the amount of \$500,000.00, upwardly indexed, as security for the completion of the approved enhanced streetscape improvements required in clause 10.b. above;
- (g) no later than 18 months following the first use or occupancy of a unit, building or portion thereof on the *lot* after the date of enactment of this By-law, the *owner* will convey to the City for nominal consideration, free and clear of encumbrances other than those approved by the Chief Planner and Executive Director, City Planning and the City Solicitor, to be provided and maintained at the *owner's* expense and the specific location, configuration and design to be determined to the satisfaction of the Chief Planner and Executive Director, City Planning prior to the earlier of the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, and the issuance of any *above-grade building permit*, the following easements with provision for rights of support if necessary, and insurance and indemnification of the City by the *owner*, requiring that the *owner* shall own, operate, maintain and repair the Publicly-Accessible Privately Owned Space and the East-West Link., and the *owner* shall install and maintain a centralized sign on the proposed Publicly-Accessible Privately Owned Space, at its own expense, generally in accordance with the City of Toronto Publicly-Accessible Privately Owned Space Urban Design Guidelines. Members of the public shall be entitled to use the Publicly-Accessible Privately Owned Space and the East West Link 365 days a year, subject to temporary closures on terms and conditions being satisfactory to the Chief Planner and Executive Director, City Planning;, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:
 - i. Publicly-Accessible Privately Owned Space easement over the proposed re-designed and privately-owned Honest Ed's Alley in the event of the closing and sale to the *owner* by the City of the existing public lane known on the date of enactment of this By-law as Honest Ed's Alley, to provide a

privately owned publicly accessible open space (the "POPS") for use by the City of Toronto and the general public, and to provide within the area subject to the POPS easement a publicly accessible walkway having a minimum width of at least 2.1 metres for use by the City of Toronto and the general public, which easement shall include provisions for rights of support if necessary, insurance and indemnification of the City by the *owner*, and maintenance and repairs by the *owner*, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor; and

- ii. In addition, a public access easement shall be conveyed to the City over the area comprising the proposed East-West Link, identified on Reference Plan 66R29394 as Parts 12, 16 and 21.

- (h) the *owner* will provide public art on the *lot* in publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), provided such areas are clearly visible at all times from publicly accessible areas, to a minimum value of \$500,000.00, subject to *upwards indexing*, to be secured by way of an indexed letter of credit in the amount of \$500,000.00 provided by the *owner* to the City prior to the issuance of the first *above-grade building permit*. Prior to the issuance of the first *above-grade building permit*, the *owner* will submit a public art budget and a plan detailing the possible locations of any public art installations on the *lot*, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;

- (i) prior to issuance of the first *above-grade building permit*, the *owner* shall submit a Wind Study, satisfactory to the Chief Planner and Executive Director, City Planning, including wind tunnel analysis, which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, and the *owner* shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning;

- (j) the *owner* shall at its expense design and construct, at no cost to the City, improvements to the Lennox Street and Bathurst Street intersection intended to facilitate left turn movements, as identified in the Urban Transportation Considerations Report dated May 2016, prepared by BA Group, or such other improvements of equal or lesser value, all to the satisfaction of the General Manager, Transportation Services. The details and timing for such work shall be secured at the time of the first *site plan approval* for all or any part of the *lot*, with financial security to secure such work to be provided to the City prior to the issuance of the first *above-grade building permit*, all to the satisfaction of the General Manager, Transportation Services. The *owner's* obligation to construct such improvements is subject to receiving the necessary permission from the City to access the right of way, subject to the usual City requirements for insurance and indemnities;

- (k) prior to any use of the proposed building at the south west corner of Markham Street and Bloor Street West, the *owner* will design, construct, provide and thereafter maintain a below-grade pedestrian connection beneath Markham Street, at its sole expense, and will be responsible for any and all costs related to the relocation of any underground utilities to facilitate the connection, and will provide the City with an indemnity, satisfactory insurance, a security in the form of letters of credit related to the construction and ongoing maintenance of the connection, all to the satisfaction of the General Manager, Transportation Services;
- (l) the *owner* will enter into an agreement with the City to secure, at the sole cost of the *owner*, the design, construction, and ongoing maintenance of the pedestrian tunnel underneath Markham Street in clause 10(k). above, to the satisfaction of the General Manager, Transportation Services;
- (m) the *owner* shall design and construct, at no cost to the City, any required improvements to municipal infrastructure identified in the Functional Servicing and Stormwater Management Report, prepared by Cole Engineering, signed and sealed December 19, 2016, to the satisfaction of the Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, with the timing for the completion of such improvements, which may be completed on a phased basis to the satisfaction of the Executive Director, Engineering and Construction Services, and the General Manager, Transportation Services, to be determined prior to any final *site plan approval*;
- (n) prior to the issuance of the first *above-grade building permit*, the *owner* will submit plans detailing the location of the proposed Neighbourhood Energy Facility, to the satisfaction of the Chief Planner and Executive Director, City Planning and other necessary City officials, in consultation with the Ward Councillor;
- (o) prior to the commencement of any excavation and shoring work, the *owner* will submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official and Executive Director, Toronto Building, in consultation with the Ward Councillor, and thereafter shall implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, the size and location of construction staging areas, location and function of gates, information on concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, in consultation with the Ward Councillor;
- (p) within 4 years from the issuance of the first *above-grade building permit* for the development, subject to a seasonality extension satisfactory to the General Manager, Parks and Forestry and Recreation:

- i. in accordance with section 42 of the *Planning Act*, the *owner* shall convey to the City, an on-site parkland dedication, having a minimum size of 1,150.0 square metres with a minimum of 22.0 metres of frontage on Markham Street, situated on the west side of Markham Street, south of Bloor Street, as shown generally on the Site Plan, dated May 21, 2015, revised December 19, 2016 drawing number A0.05, prepared by Henriquez Partners Architects, in accordance with the following and all to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor;
- ii. the *owner* will notify the City with respect to the issuance of the *first above-grade permit* for all or any part of the *lot*;
- iii. prior to the issuance of the *first above-grade building permit*, the *owner* shall enter into an agreement of purchase and sale with the City for the onsite parkland dedication for nominal consideration, and register a section 118 of the *Land Titles Act* restriction on title, with the form of the agreement of purchase and sale and the section 118 restriction secured in the Section 37 Agreement and all to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor;
- iv. the on-site parkland dedication identified in Clause 10.p.i. above, shall be conveyed to the City in its entirety in one transaction;
- v. prior to conveyance of the lands to the City, the *owner* shall be responsible for an environmental assessment of the land and any associated costs or remediation works required as a result of that assessment. Such assessment or remediation shall ensure that the parkland will meet all applicable laws, regulations and guidelines respecting the site to be used for public park purposes, including City Council policies respecting soil remediation of sites. A qualified environmental consultant acceptable to the Executive Director, Engineering and Construction Services shall prepare the environmental assessment. Prior to transferring the parkland to the City, the environmental assessment shall be peer reviewed by an environmental consultant retained by the City at the *owner's* expense (the "Peer Reviewer"), and the transfer of the parkland shall be conditional upon the Peer Reviewer concurring within the *owner's* environmental consultant that the parkland meets all applicable laws, regulations and guidelines for public park purposes; and
- vi. the *owner's* environmental consultant shall file a Record of Site Condition on the Ontario's Environmental Site Registry and submit to the General Manager, Parks, Forestry and Recreation, the Ministry of the Environment and Climate Change 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 Ontario Regulation 153/04 and that the Ministry of the Environment and Climate Change will not audit the

Record of Site Condition at this time or that the Record of Site Condition has passed an Ministry of the Environment and Climate Change audit.

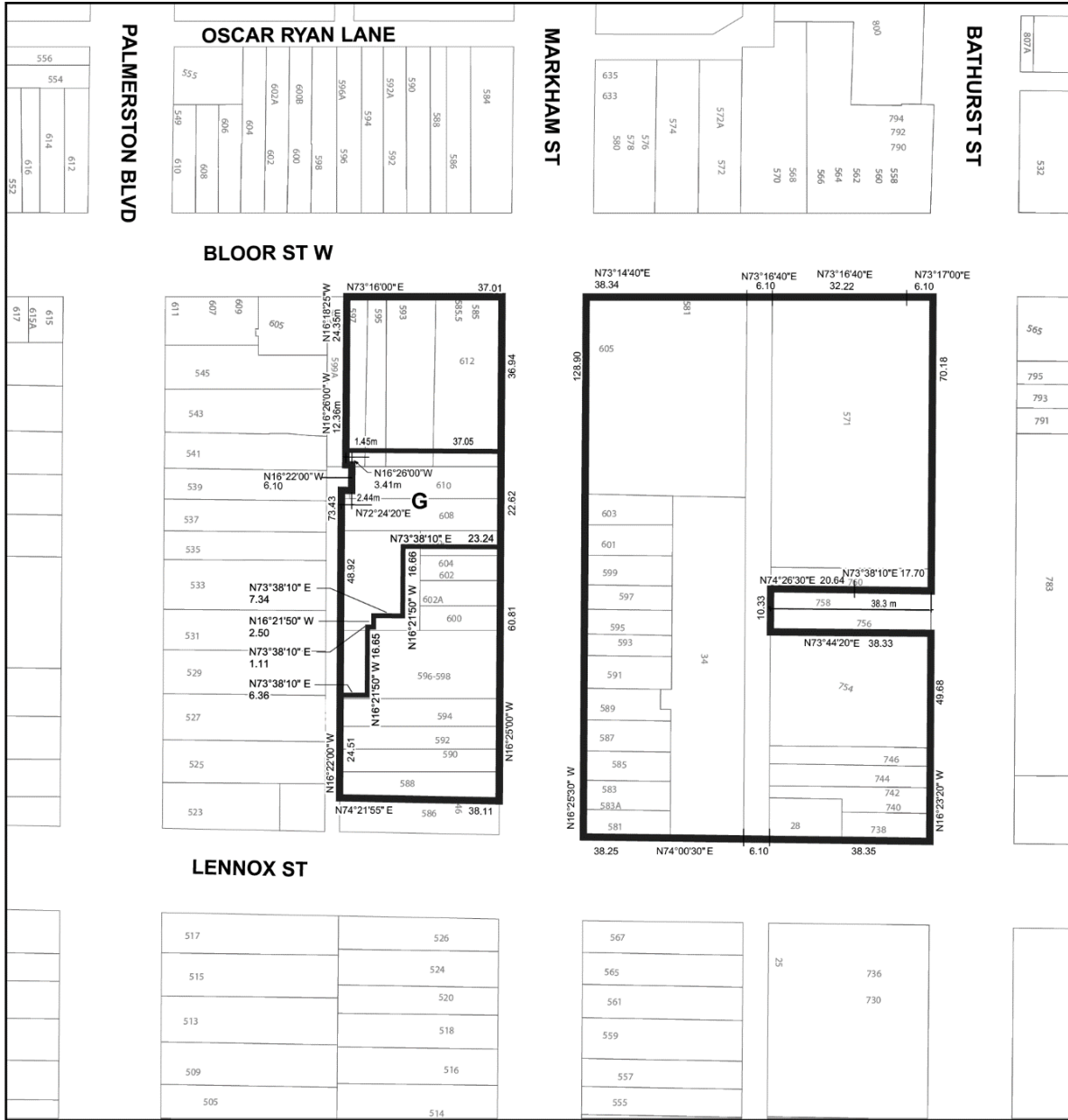
- (q) the *owner* acknowledges that the remaining section 42 parkland dedication requirement not fulfilled through the required on-site land conveyance, as set out under clause 10.p. above, shall be satisfied through a cash-in-lieu of parkland payment to the City, to the satisfaction of the General Manager, Parks, Forestry and Recreation. The amount of cash-in-lieu to be paid will be determined at the time of issuance of the first *above-grade building permit* and provided to the City as follows:
- i. the *owner* shall provide the cash-in-lieu funds in the form of a letter of credit and these remaining monies will be directed towards the Above Base Park Improvements of the on-site parkland dedication to the extent required. The *owner* shall construct the Above Base Park Improvements to the amount of any development charges payable under the Parks, Forestry and Recreation portion of such charges and any deficiency required to construct such improvements shall be from such cash-in-lieu, as determined by the General Manager, Parks, Forestry and Recreation, all to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- (r) prior to final Site Plan Approval for the properties located at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 598, 590, 594, 596, 598, 600, 602, and 610 Markham Street the *owner* shall provide:
- i. final site plan drawings substantially in accordance with the approved heritage Conservation Plan(s) required for such lands, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - ii. Interpretation Plan(s) for the heritage properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602, and 610 Markham Street (as relocated to 604-606 Markham Street) to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan(s) to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - iii. a Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services; and
 - iv. a detailed Landscape Plan for the subject properties, satisfactory to the Senior Manager, Heritage Preservation Services.

- (s) prior to the issuance of any permit for all or any part of the heritage properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602 and 610 Markham Street, Services, including a *heritage permit* or a *building permit*, but excluding permits for: such repairs and maintenance and usual and minor works for the existing heritage buildings; and for interior alterations that do not affect the exterior building features as are acceptable to the Senior Manager, Heritage Preservation Services:
- i. the related site specific Official Plan Amendment and Zoning By-law Amendment giving rise to the proposed alterations shall have been enacted by City Council and have come into full force and effect in a form and with content acceptable to City Council, as determined by the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Preservation Services;
 - ii. the *owner* shall provide full building permit drawings for the subject phase of development, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan(s), 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 Senior Manager, Heritage Preservation Services; and
 - iii. the *owner* shall provide letter(s) of credit, including provision for *upwards indexing*, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan(s) and Interpretation Plan.
- (t) in addition to the requirements of clause 10.s.above, prior to the issuance of any *heritage permit* or *building permit* for: i. the removal and relocation of the building at 610 Markham Street; and ii. the demolition of the buildings on the properties at 599 and 601 Markham Street and 760 Bathurst Street:
- i. the *owner* shall provide full documentation of the existing buildings at 610 Markham Street, 599-601 Markham Street and at 760 Bathurst Street, including two (2) printed sets of archival quality 8 inch by 10 inch colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of original drawings as may be available, all to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (u) prior to the release of the letter(s) of credit required in clause 10.s.above the *owner* shall:
- i. have obtained final *site plan approval* for the properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602, and

610 Markham Street issued by the Chief Planner and Executive Director, City Planning;

- ii. provide a letter of substantial completion for the subject phase of work prepared and signed by a qualified heritage consultant confirming that the required conservation work and the required interpretive work has been completed in accordance with the Conservation Plan(s) and Interpretation Plan(s) and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - iii. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (v) the financial contributions, securities and letters of credit required in this Schedule shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period beginning from the date of the execution of the Section 37 Agreement required by this Schedule and By-law to the date of each such payment or provision or completion as applicable (the "*upwards indexing*").
11. The following matters are also to be secured in the Section 37 Agreement to support the development:
- (a) the *owner* shall enter into a Memorandum of Understanding with the City which shall form part of the Section 37 Agreement, which sets out the range of options and funding opportunities by the *owner* and the City to further develop the affordable housing plan for the *lot* to achieve up to a target of 20 percent of the total *dwelling units* as affordable *rental housing*;
 - (b) the *owner* shall present its retail strategy, on a confidential basis with no more than six (6) representatives of local Residents Associations and Business Improvement Areas as selected by the Ward 19 and 20 Councillors in consultation with the *owner*, where the representatives will be required to sign an undertaking confirming confidentiality; and
 - (c) No later than three months following the first site plan submission, the *owner* shall host a meeting within the context of the consultation process related to the site plan submission, which shall be attended by representatives from both BA Group, or such other transportation consultant retained by the *owner* in its discretion, and City of Toronto Transportation Services, to discuss the transportation study dated May 2016, prepared by BA Group, and if requested in writing by the Ward 19 and 20 Councillors after said meeting, the *owner* will be required to submit a peer review to the City of the aforementioned BA Group study, at a cost to the *owner* no greater than \$5,000.00 where such peer review will review the recommended traffic improvements.

12. The *owner* shall enter into and register an agreement with the City pursuant to section 37 of the *Planning Act* (the "Section 37 Agreement") to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

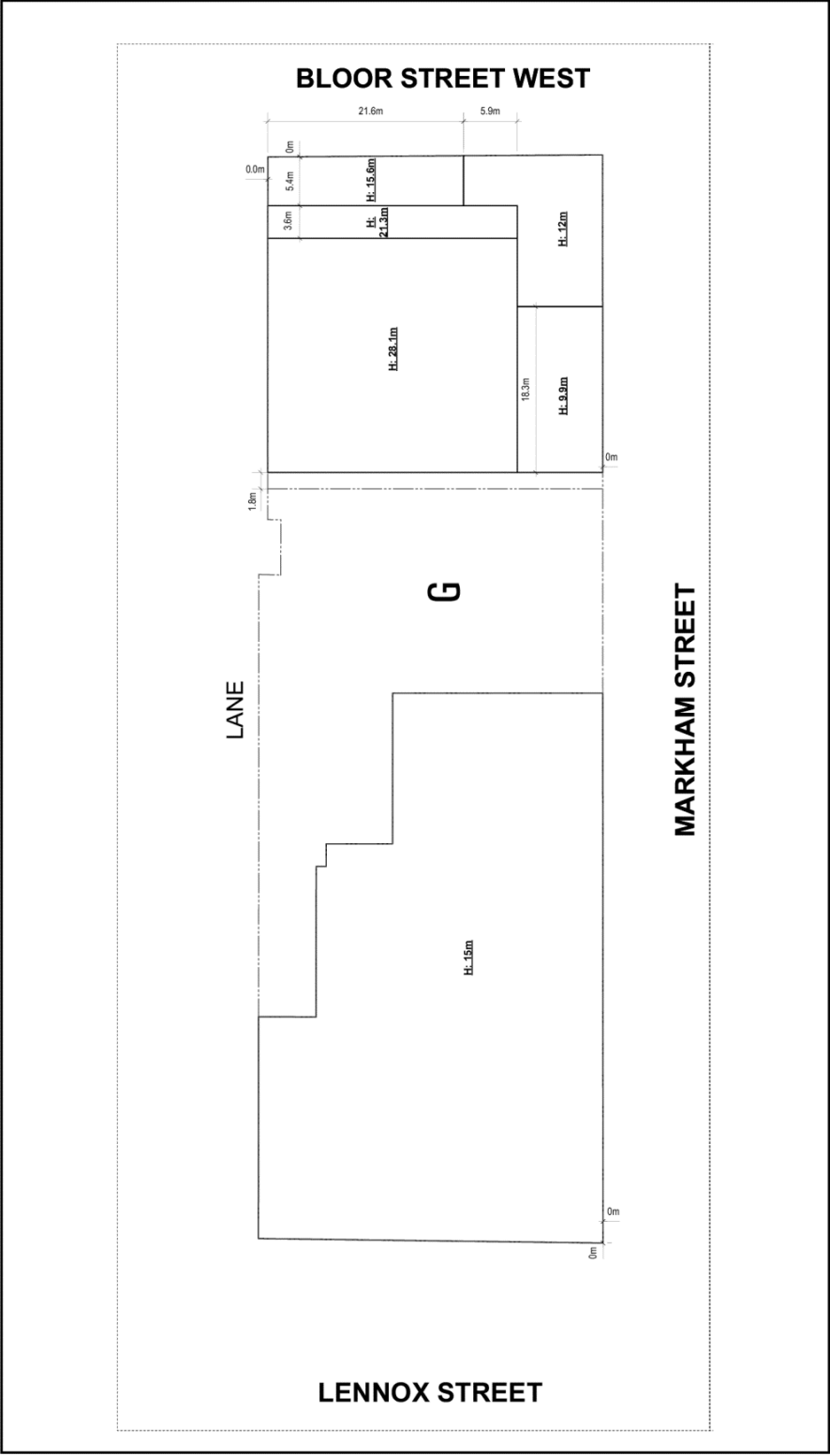


571 to 597 Bloor Street West, 738 to 782 Bathurst Street,
26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street
File # 15 188751 STE 19 OZ and 15 188805 STE 19 OZ



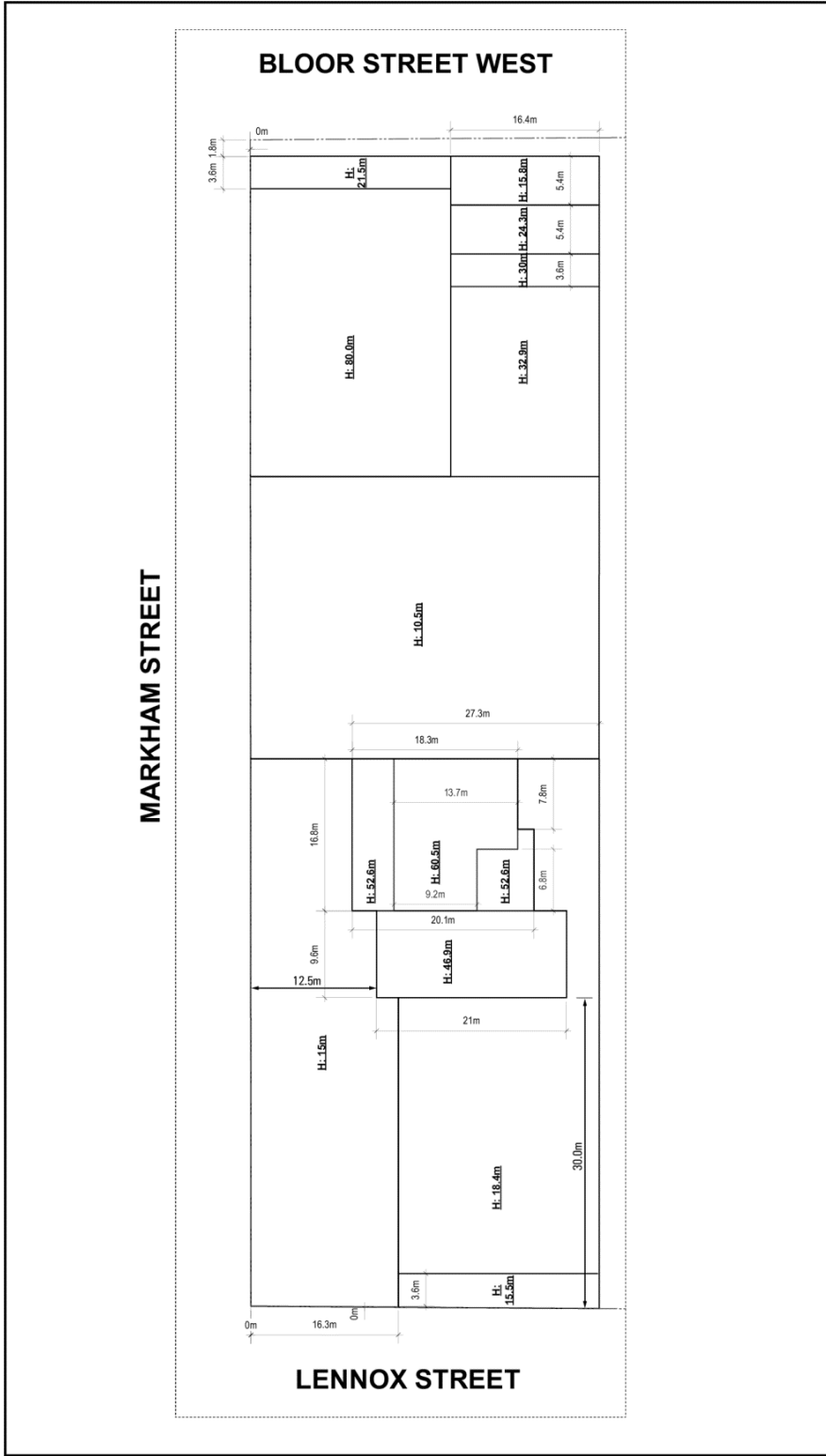
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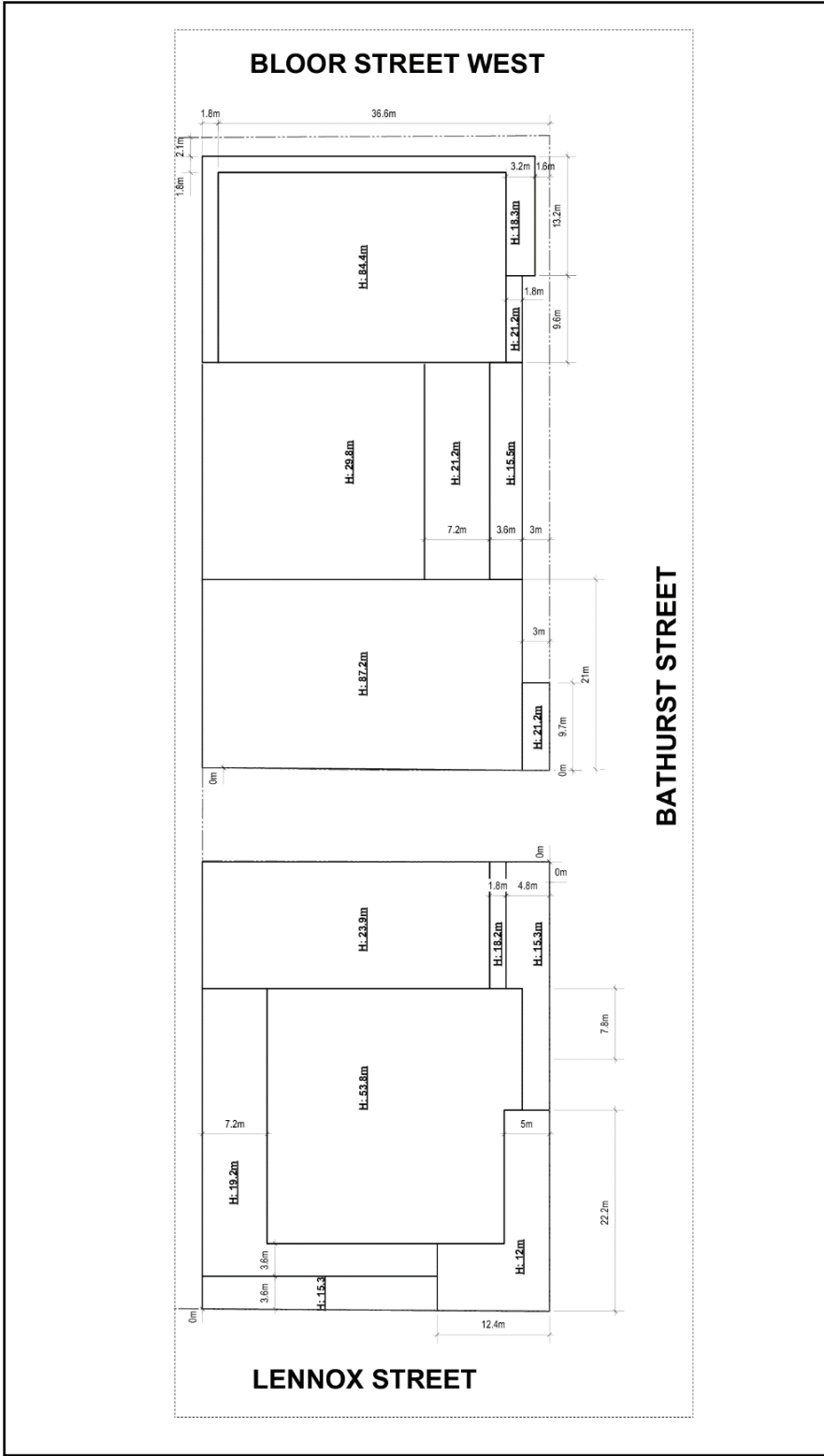
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