

Authority: Toronto Community Council Report No. 11, Clause No. 4,
as adopted by City of Toronto Council on July 4, 5 and 6, 2000
Enacted by Council: October 5, 2000

CITY OF TORONTO

BY-LAW No. 848-2000

To amend By-law No. 438-86 of the former City of Toronto, as amended, respecting certain lands bounded by Elizabeth Street, Dundas Street West and Bay Street known as 532, 560, 566 570 Bay Street, 101, 109, 111, 127, 129, 131, 137, 141 Dundas Street West, 91, 99, 105, 109, 111 Elizabeth Street and 9 Foster Place.

WHEREAS pursuant to Section 37 of the Planning Act, the Council of a municipality may, in a by-law passed under Section 34 of the Planning Act, authorize increases in height or density of development beyond those otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters 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 or matters in return for an increase in 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 or matters; and

WHEREAS the owners of the lands hereinafter referred to have elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increases in density or height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 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 and are to be secured by one or more agreements between the owners of such lands and the City of Toronto, hereinafter referred to as the City; and

WHEREAS Council has required the owners of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height or density in connection with the aforesaid lands as permitted in this By-law;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Upon execution and registration of the agreement to be entered into with the City pursuant to Section 37 of the Planning Act in accordance with the provisions of Section 3 herein, *Lot A* and *Lot B* are subject to the requirements set out in this By-law and, except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to *Lot A* and *Lot B*.

2. None of the provisions of sections 4(2)(a), 8(3) Part I1, 8(3) Part I2, 8(3) Part I3, and 12(2) 111 of Zoning By-law No. 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, shall apply to prevent the erection and use of a *mixed-use building* and a *below - grade parking garage* on *Lot A* provided that:

- (1) the total of the *residential gross floor area* and the *non-residential gross floor area* to be erected on *Lot A* does not exceed 66,410 square metres, and:
 - (a) not more than 20,000 square metres of *residential gross floor area* and *non-residential gross floor area* may be erected and used on *Parcel A*;
 - (b) not more than 23,000 square metres of *residential gross floor area* and *non-residential gross floor area* may be erected and used on *Parcel B*; and
 - (c) not more than 29,000 square metres of *residential gross floor area* and *non-residential gross floor area* may be erected and used on *Parcel C*;
- (2)
 - (a)
 - (i) subject to any applicable angular plane requirements set out in section 12(2) 260 of the aforementioned By-law No. 438-86, the *height* above *grade* of any building or structure erected or used on *Lot A* shall not exceed the *heights* above *grade* shown on Plan 2; and
 - (ii) no part of any building, including rooftop elements referred to in Section 4(2)(a) of the aforementioned Zoning By-law No. 438-86, shall exceed the *height* as indicated by the “Diagonal Line” shown on Plan 3; and
 - (b) except for an underground connection to the PATH system approved by the City as referred to in subsection 3(10)(a) of this By-law, no part of any new building erected or used on *Lot A*, below *grade*, is located within the area delineated by heavy lines on Plan 4 and further described by Sections B-B and C-C on Plan 4;
- (3) no additional *non-residential gross floor area* may be erected and used on the lands comprising *Parcel D* than existed thereon on the date of enactment of this By-law, being 2,749 square metres of *non-residential gross floor area*, provided that nothing herein shall be taken to detract from the permissive exception afforded by subsection 11(1) of the aforesaid By-law No. 438-86;
- (4) not less than 30 percent of the *dwelling units* within each of *Parcel A*, *Parcel B* and *Parcel C* shall comply with the size limitations for each of the *dwelling unit* types listed in Column A below, as listed in the corresponding row under Column B, and as determined upon each application for the construction of new *dwelling units*:

Column A Dwelling Unit Type	Column B Maximum Size Limit (square metres of floor area)
<i>Bachelor dwelling unit</i>	62
<i>One bedroom dwelling unit</i>	62
<i>Two bedroom dwelling unit</i>	82
<i>Three bedroom dwelling unit</i>	98

and

- (5) *Lot B* shall be used for no purpose other than those contained in subsection 5(1) of the aforesaid By-law No. 438-86 for G uses.

3. Pursuant to Section 37 of the Planning Act, the increased *heights* or density of development permitted by this by-law are permitted subject to compliance with the conditions set out in this by-law and in return for the provision by the *owner* or *owners* of *Lot A* and *Lot B* of the following facilities, services or matters to the *Corporation* at the *owners'* sole expense as follows:

- (1) compliance with the *dwelling unit* size limitations set out in subsection 2(4) of this By-law;
- (2) (a) subject to the election of the City in subsection 3(2)(b), provide 329 square metres of *publicly accessible open space* on *Lot B* for the purpose of a children's play facility and provide funds secured by a letter of credit in an amount and in a form satisfactory to the City for the demolition of the building on *Lot B*, the environmental remediation of *Lot B* and the designing, constructing and equipping the *publicly accessible open space* on *Lot B*; and
- (b) upon the City's election to exercise an option to purchase *Lot B*, convey *Lot B* to the City for nominal consideration in fee simple, and ensure the City is provided with funds secured by a letter of credit in an amount and a form satisfactory to the City to provide parks facilities on *Lot B* to a standard comparable to parks facilities in the *Central Core*, to facilitate environmental remediation of *Lot B* and to facilitate demolition of the building on *Lot B*;
- (3) provide and maintain works of public *art* in a location or locations on *Lot A* or *Lot B* satisfactory to the City, of a value not less than one percent of the cost of construction of all buildings and structures to be erected on *Lot A* provided that the costs related to the value of parks facilities to be constructed on *Lot B* and the provision of *publicly accessible open space* shall not be included in such valuation;

- (4) pay for improvements to the public sidewalks and boulevards immediately adjacent to *Lot A* and *Lot B*, generally as shown on the landscape plan to be approved by City Council;
- (5) submit an application for such streetscape improvements to the Commissioner of Works and Emergency Services and carry out the improvements within a reasonable period of time and provide a letter of credit to secure the foregoing in an amount satisfactory to the Commissioner of Works and Emergency Services;
- (6) provide and maintain a *public pedestrian walkway* which shall directly connect, at *grade*, Elizabeth Street and Bay Street and Foster Place in a location to be determined in the context of a site plan pursuant to section 41 of the Planning Act;
- (7) provide and maintain on or adjacent to *Parcel D*, a continuous fence compatible with the historic elements of the building located on *Parcel D*, upon the construction of any building permitted on *Parcel A*, *Parcel B* or *Parcel C* by this By-law, which fence shall be indicated on any landscape plan required to be approved by the City for any such buildings;
- (8) provide and maintain a fence compatible with both the historic elements of the building located on *Parcel D* and the fence required to be constructed pursuant to subsection 3(7) herein, on that portion of *Parcel D* having frontage on Bay Street, upon the construction of any building on *Parcel A*, *Parcel B*, or *Parcel C* permitted by this By-law, which fence shall be indicated and approved on any landscape plan required for approval by the City for any such building;
- (9) satisfy the City, following the submission of any material which the City requires, including criteria, methods and sufficient and appropriately secured funds for clean-up if the City so requires, that *Parcel A*, *Parcel B*, *Parcel C*, and *Lot B* are environmentally suitable for the uses set forth in this By-law; and
- (10) enters into an agreement with the City pursuant to Section 37 of the Planning Act to secure the facilities, services and matters required to be provided by this subsection and consents to the registration on title of such agreement against *Lot A* and *Lot B*, said agreement to include provisions relating to:
 - (a) protection for an underground connection to the PATH System; and
 - (b) the payment of \$150,000.00 to the City for day care purposes.

4. For the purposes of this By-law:
- (1) “*art*” includes works of plastic art, works of graphic art, sculptured landscaping, fountains and artistic treatment of walls or other building elements clearly visible at all times from public areas, including flooring, structure, lighting and furnishings, provided such elements or works have been designed by or in collaboration with artists;
 - (2) “*grade*” means 92.15 metres Canadian Geodetic Datum;
 - (3) “*Lot A*” means those lands shown delineated by heavy lines on Plan 1, which lands shall be deemed to be one *lot*, regardless of whether two or more buildings which are not connected below *grade* are erected thereon, and regardless of any conveyances or easements made or granted to the City after the date of enactment of this By-law;
 - (4) “*Lot B*” means the *lot* delineated by heavy lines on Plan 1;
 - (5) “*Parcel A*”, “*Parcel B*”, “*Parcel C*”, and “*Parcel D*” mean the areas identified as “*Parcel A*”, “*Parcel B*”, “*Parcel C*” and “*Parcel D*” on Plan 1;
 - (6) “*public pedestrian walkway*” means interior or exterior pedestrian walkway that:
 - (a) is a *publicly accessible open space*;
 - (b) is designed and intended for and is used by the public;
 - (c) provides direct access between *streets*, parks, public buildings and/or other public spaces, and/or *common outdoor spaces*;
 - (d) is not narrower than 2.5 metres clear at any point; and
 - (e) is not used for commercial purposes, including retail areas, commercial display areas or other rentable space within the walkway, but which may be adjacent to it.
 - (7) “*publicly accessible open space*” means an open space which is:
 - (a) open and accessible to the public at all times and such access may be refused, or a person required to leave the open space, in the case of any person who:
 - (1) unreasonably interferes with the ability of other members of the public or lawful occupants to use the open space;
 - (2) carries on an unlawful activity;

- (3) acts in a manner unreasonably inconsistent with the intended use of the open space;
 - (4) injures or attempts to injure any person, property or property rights;
 - (5) obstructs or injures any lawful business or occupation carried on by the building *owner* or person in lawful possession of the open space;
 - (6) commits any criminal or quasi-criminal offence.
- (b) illuminated to a minimum average intensity of 10 lux on the walkway surface; and
 - (c) maintained clear of snow and ice at all times; and
- (8) each other word or expression which is italicized in this By-law shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.

5. By-law No. 170-93 is repealed upon the coming into force of the balance of this By-law.

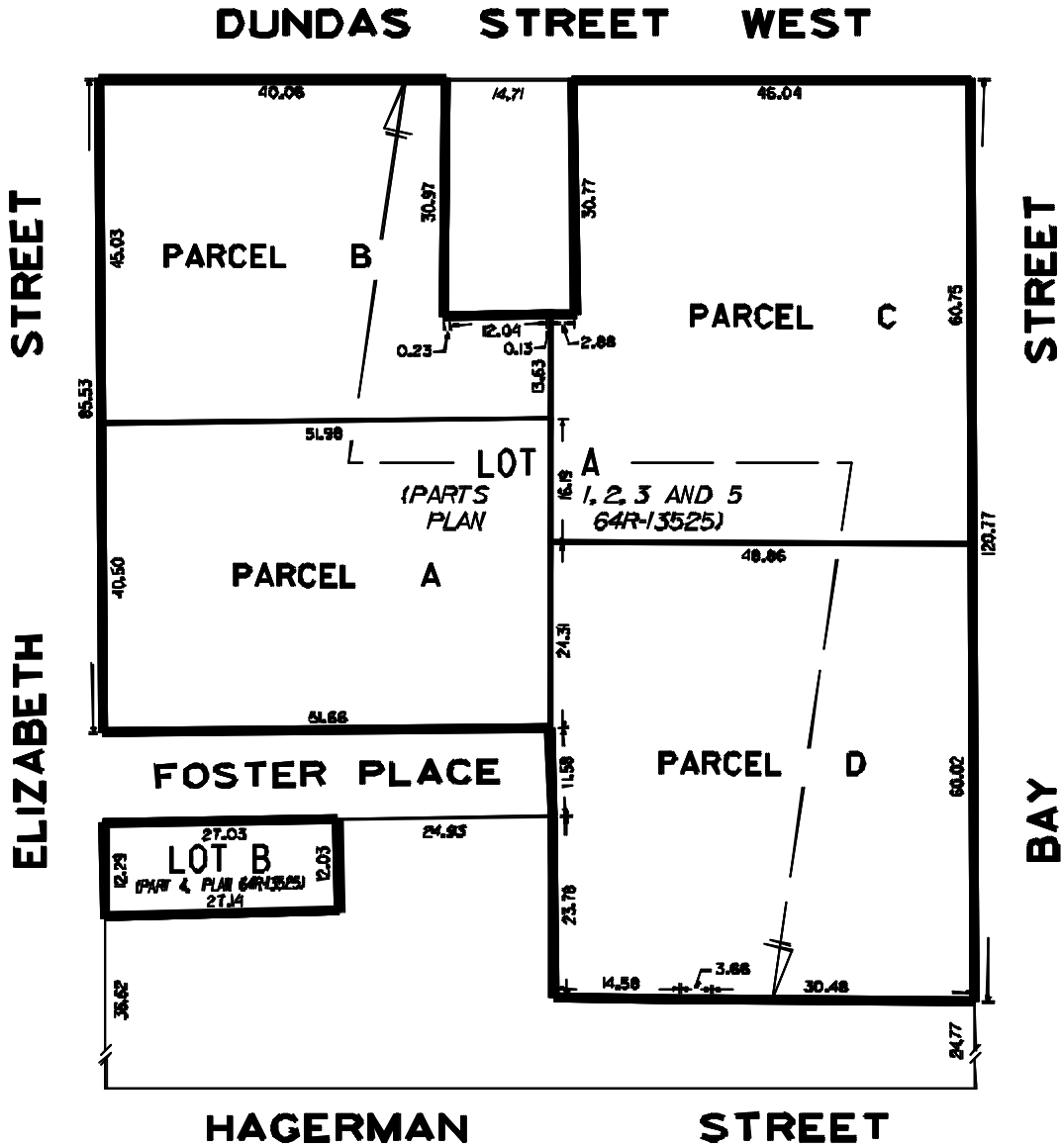
ENACTED AND PASSED this 5th day of October, A.D. 2000.

CASE OOTES,
Deputy Mayor

NOVINA WONG,
City Clerk

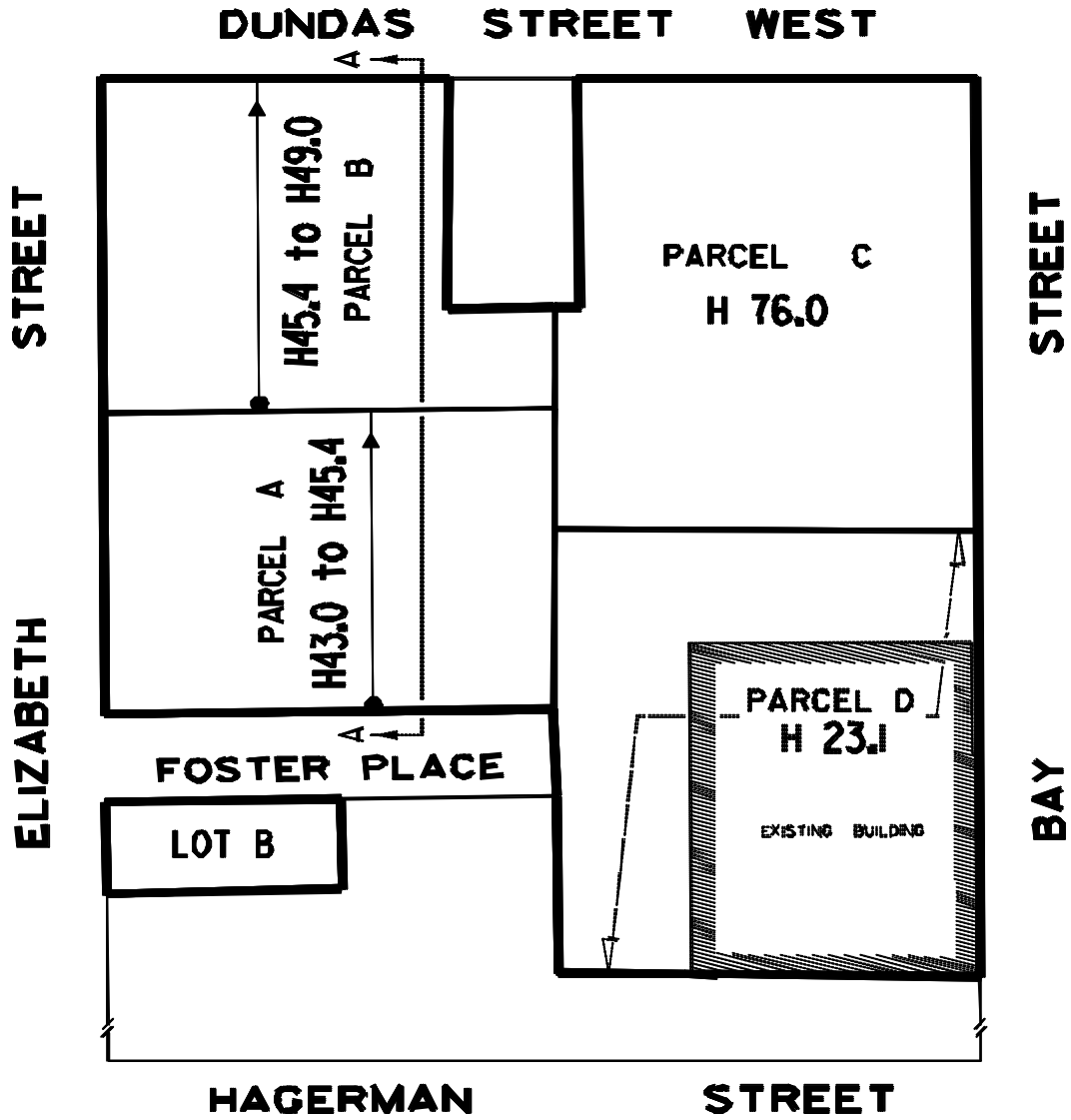
(Corporate Seal)

PLAN 1



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO SEPTEMBER, 2000
 BLOB/STOBAY1.DCN
 FILE # D71-263
 MAP No. 30H-313 DRAWN: D.R.

PLAN 2

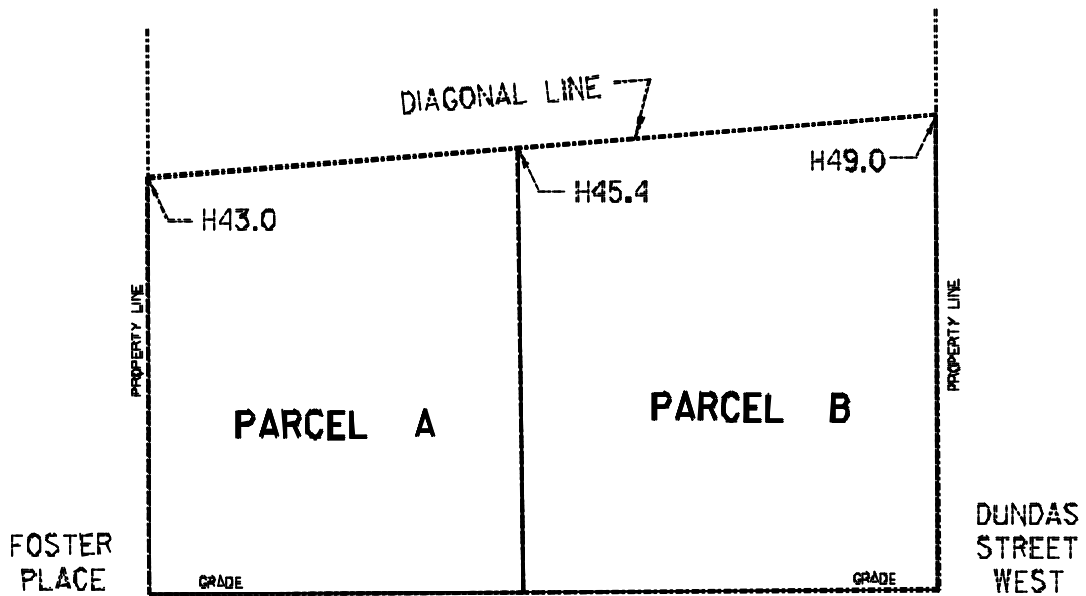


H_z DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE FOR SECTION A-A, SEE PLAN 3



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO SEPTEMBER, 2000
 BLOO/B70BAY2.DGN
 FILE: D11-283
 MAP No. DOH-313 DRAWN: D.R.

PLAN 3



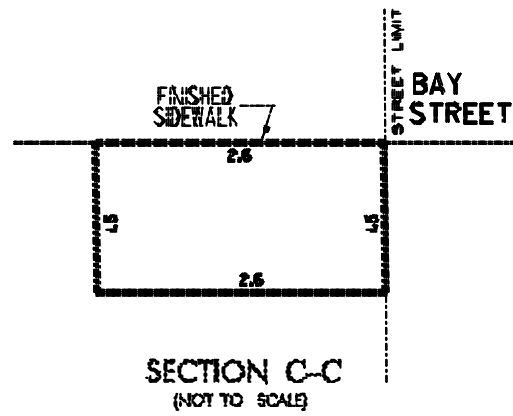
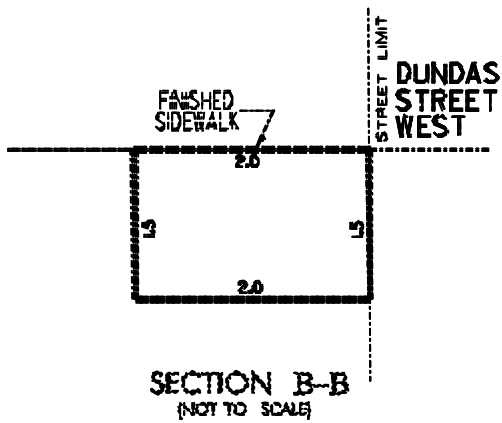
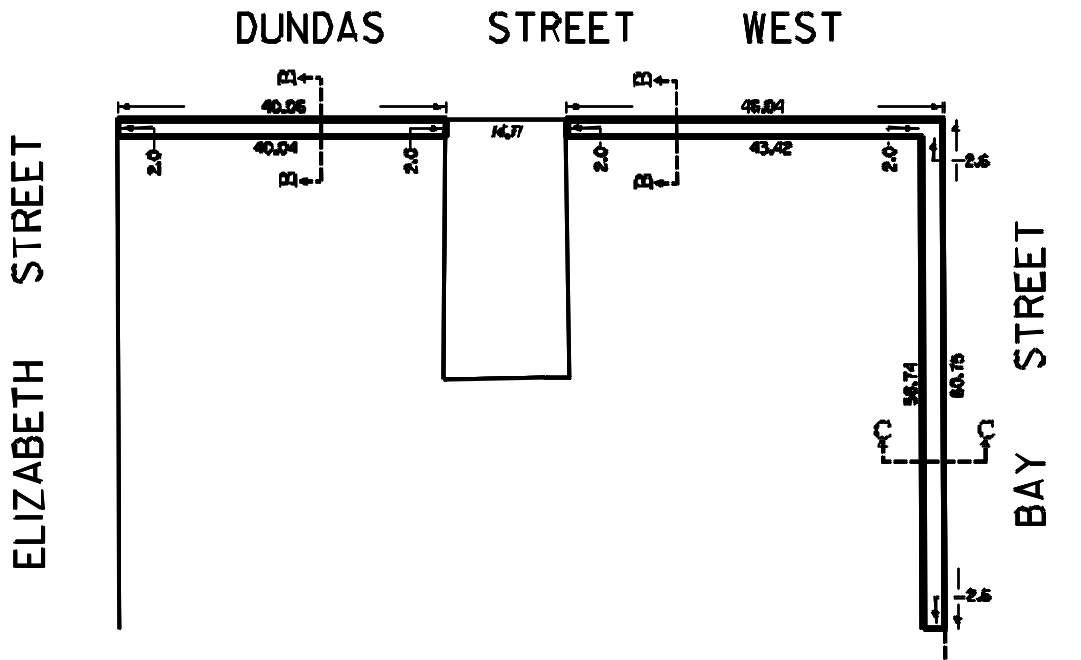
SECTION A - A

H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO SEPTEMBER, 2000
BLOD/570BAY3.DGN
FILE: D11-283
MAP No. 50H-313 DRAWN: D.R.

PLAN 4



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO SEPTEMBER, 2000
BL00/ST00BAY4-BGM
FILE: D11-283
MAP No. 50H-313 DRAWN: V-L.