

# CITY OF TORONTO

## BY-LAW No. 964-2005(OMB)

### To amend By-law No. 1994-0805 of the former City of Toronto with respect to lands in the Railway Lands West known as Blocks 33 and 37.

WHEREAS the Ontario Municipal Board pursuant to its Decision/Order No. 2042 dated August 4, 2005, upon hearing the appeal of Wittington Properties Limited under Section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, deems it advisable to amend By-law No. 1994-0805, as amended, of the former City of Toronto;

THEREFORE By-law No. 1994-0805 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 Railway Lands West”, as amended, is hereby further amended as follows:

1. By-law No. 1994-0805, as amended, is further amended for *block 33* and *block 37* by:
  - (i) amending District Map 50G-321 contained in Appendix “A”, Height and Minimum Lot Frontage Map 50G-321 contained in Appendix “B”, as shown on Plans 1 and 2, respectively, attached to this By-law; and
  - (ii) deleting Maps 2, 3, 4, 4A, 5, 6 and 7, and replacing them with the new Maps 2, 3, 4, 4A, 5, 6 and 7 attached hereto.
2. Except as otherwise provided herein, the provisions of By-law No. 1994-0805, as amended, shall continue to apply to *block 33* and *block 37*.

### DEFINITIONS

3. The definition of *grade* set out in Subsection (1) of Section 2 of By-law No. 1994-0805, which states:

“*grade*”

means the average elevation of the sidewalk(s) or, where there is no sidewalk, of the roadway(s) in front of the *lot* on which the building is or is to be erected;

is deleted and replaced by the following:

“*grade*”

for all lands except *block 33* and *block 37*, means the average elevation of the sidewalk(s) or where there is no sidewalk, of the roadway(s) in front of the *lot* on which the building is or is to be erected, and for *block 33* and *block 37*, *grade* shall mean:

- (1) with respect to that portion of *block 33* with a *height* limit of 92.0 metres, the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to the easterly half of *block 33*;
- (2) with respect to that portion of *block 33* with a *height* limit of 98.0 metres, the average elevation of the sidewalk of the portion of Dan Leckie Way adjacent to the portion of *block 33* with a *height* limit of 98.0 metres; and
- (3) with respect to *block 37*, the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to *block 37*.

#### DENSITY

4. The table in Regulation 1 of Section 7 PART I entitled **MAXIMUM FLOOR AREA: MIXED USE, NON-RESIDENTIAL AND RESIDENTIAL BUILDINGS** is amended by:
  - (1) in COLUMN B, deleting the number 2 700 for *block 33* and the number 1 967 for *block 37* and replacing them with the number 5 000 for *block 33* and with the number 4 455 for *block 37*;
  - (2) in COLUMN C, deleting the number 39 878 for *block 33* and the number 28 484 for *block 37* and replacing them with the number 52 428 for *block 33* and with the number 34 807 for *block 37*; and
  - (3) in COLUMN D, deleting the number 41 228 for *block 33* and the number 29 467 for *block 37* and replacing them with the number 53 228 for *block 33* and with the number 35 907 for *block 37*.
5. Regulation 4 of Section 7 PART I entitled **EXCEPTION: NON-RESIDENTIAL GROSS FLOOR AREA: STREET-RELATED RETAIL AND SERVICE USES** is amended by adding a new paragraph (f), as follows:

“(f) Paragraph (b) shall not apply to prevent the erection or use of *non-residential gross floor area* on *block 33* and/or *block 37*, provided that any such *non-residential gross floor area* is located within a building that also contains *dwelling units*, and provided, with respect to *block 37*, that at least 200 square metres of any such *non-residential gross floor area* is used for *street-related retail and service uses*.”

#### SETBACKS

6. Regulation 3 of Section 7 PART II entitled **REQUIRED SETBACKS** is amended by:
  - (1) replacing the phrase “, *block 33, block 36 and block 37*” in paragraph (a) with the phrase “and *block 36*”; and

- (2) replacing the phrase “and *block 29*” in paragraph (b) with the phrase, “*block 29, block 33 and block 37*”.
7. Regulation 4 of Section 7 PART II entitled **LOCATION AND SIZE OF BUILDING FACE** is amended by:
- (1) replacing the phrase “*blocks 36 and block 37*” in paragraph (b) with the phrase “*block 36*”; and
  - (2) replacing the phrase “*block 36 or block 37*” later in paragraph (b) with the phrase “*block 36*”.

#### EXCEPTIONS

8. Exception (4) in Section 10, entitled **COURTYARD SPACE REQUIREMENT: BLOCKS 31, 32, 33, 36, 37** is amended by:
- (1) deleting the numbers “33” and “37” from the heading so that it states “**COURTYARD SPACE REQUIREMENT: BLOCKS 31, 32, 36,**”;
  - (2) replacing the phrase “*, block 33, block 36 or block 37*” in that exception with the phrase “*or block 36*”; and
  - (3) deleting the phrase “*block 33 or block 37*” from paragraph (iii) B.
9. Exception (5) in Section 10, entitled **PARKING BELOW COURTYARD SPACE: BLOCK 31, BLOCK 26, BLOCK 26A, BLOCK 29, BLOCK 32, BLOCK 33, BLOCK 36, BLOCK 37** is amended by:
- (1) deleting the phrases BLOCK 26, BLOCK 26A, BLOCK 29, BLOCK 33 and BLOCK 37 from the heading so that it states “**PARKING BELOW COURTYARD SPACE: BLOCK 31, BLOCK 32, BLOCK 36**”; and
  - (2) replacing the phrase “*on block 31, block 32, block 33, block 36 and block 37*”, immediately after the phrase “7 PART II 3,” in that exception, with the phrase “*on block 31, block 32 and block 36*”
10. Exception (11) in Section 10, entitled **BLOCKS 24, 25, 26 and 29 BUILDING TOWERS**, is amended by:
- (1) replacing the title with “**BLOCKS 24, 25, 26, 29, 33 and 37 BUILDING TOWERS**”;
  - (2) re-lettering paragraph (e) as (g); and

- (3) adding new paragraphs (e) and (f) as follows:

BLOCK 33

“(e)

- (i) Despite Section 4(3)(a), no person shall erect or use a building or structure on *block 33* having a *height* of more than 26 metres;
- (ii) Section (i) shall not apply to prevent the erection or use of building towers which exceed the said *height* limit, provided:
  - A. each floor, in a tower, located above the 26 metre *height* limit, contains no more than 735 square metres of *residential gross floor area*;
  - B. no more than two such building towers are located within *block 33*; and
  - C. no part of the towers exceeds the applicable *height* limit stipulated by Section 4(3)(a) other than rooftop structures and elements permitted by and complying with subparagraphs (i) or (ii) of Section 4(3)(a).

BLOCK 37

(f)

- (i) Despite Section 4(3)(a), no person shall erect or use a building or structure on *block 37* having a *height* of more than 26 metres;
- (ii) Section (i) shall not apply to prevent the erection or use of building towers that exceed the said *height* limit, provided:
  - A. with respect to the portion of *block 37* having a *height* limit of 83 metres,
    - a. each floor in the tower, located above a *height* of 26 metres, contains no more than 735 square metres of *residential gross floor area*;
    - b. no more than one such building tower is located within this portion of *block 37*; and

- c. no part of the tower exceeds the applicable *height* limit stipulated by Section 4(3)(a) other than rooftop structures and elements permitted by and complying with subparagraphs (i) or (ii) of Section 4(3)(a).
  - B. with respect to the portion of *block 37* having a *height* limit of 32 metres,
    - a. each floor in the tower, located above a *height* of 26 metres, contains no more than 900 square metres of *non-residential gross floor area, residential gross floor area* or any combination thereof;
    - b. no more than one such building tower is located within this portion of *block 37*; and
    - c. no part of the tower exceeds the applicable *height* limit stipulated by Section 4(3)(a) other than rooftop structures and elements permitted by and complying with subparagraphs (i) or (ii) of Section 4(3)(a)."
- 11. Exception (12) in Section 10, entitled **ABOVE GRADE PARKING – BLOCKS 24, 25, 26 and 29**, is amended by:
  - (1) replacing the title with "**ABOVE GRADE PARKING – BLOCKS 24, 25, 26, 29, 33 and 37**";
  - (2) replacing the phrase "and *block 29*" in paragraph (a) of that exception with the phrase, "*block 29, block 33 and block 37*";
  - (3) adding a new section (iv) to paragraph (a) of that exception, as follows:
    - "(iv) on *blocks 33 and 37*, the *height* of the above *grade* portion of such *parking garage*, excluding any structures used for pedestrian access or landscaping, is no greater than 5.2 metres, measured from 1.0 metre above *grade*, provided for the purposes of this exception, *grade* for *block 33* shall be the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to the easterly half of *block 33*;"
  - (4) renumbering the sections following the new section (iv) accordingly;

- 
- (5) adding a new section (ix) to paragraph (a) of that exception, as follows:
- “(ix) notwithstanding section (vii) herein, a part of the building or structure located above the finished surface of the ground on *block 33* or *block 37*, that is used for parking may be erected to within 3.0 metres of the southerly boundary of *block 33* or *block 37* facing Housey Street, provided that such 3.0 metres is used for driveways, landscaping and pedestrian access, and notwithstanding Schedule 1 in section 4(5) with respect to the Type and Location of Parking Facilities, no setback shall apply to any *parking spaces* therein from an external wall facing Housey Street”; and
- (6) adding a new section (x) to paragraph (a) of that exception as follows:
- “(x) section (viii) shall not apply to the portion of a *parking garage* facing the southerly boundary of *Block 33* or *Block 37*”;
12. Exception 13 in Section 10, entitled **ADDITIONAL RESIDENTIAL USES – BLOCKS 24, 25, 26 & 29**, is amended by:
- (1) replacing the title with “**ADDITIONAL RESIDENTIAL USES – BLOCKS 24, 25, 26, 29, 33 and 37**”; and
- (2) replacing the phrase “and *block 29*” in that exception with the phrase “, *block 29, block 33* and *block 37*”.
13. Exception 14 in Section 10, entitled **TEMPORARY OFFICE FOR SALES & MANAGEMENT OF REAL ESTATE – BLOCK 26**, is amended by:
- (1) replacing the title with “**TEMPORARY OFFICE FOR SALES & MANAGEMENT OF REAL ESTATE – BLOCKS 26, 33 & 37**”; and
- (2) adding the phrase, “*block 33* and/or *block 37*” immediately after the phrase “*block 26*” in paragraphs (a) and (b) of that exception.
14. Exception (16) in Section 10, entitled **TERRACES & COLONNADES – BLOCKS 24, 25, 26 & 29**, is amended by:
- (1) replacing the title with “**TERRACES & COLONNADES – BLOCK 24, 25, 26, 29, 33 & 37**”;
- (2) replacing the phrase “and *block 29*” in paragraph (a) of that exception with the phrase, “*block 29, block 33* and *block 37*”; and
- (3) replacing the phrase “or *block 29*” in paragraph (b) of that exception with the phrase “*block 29, block 33* or *block 37*”.

15. Exception (17) in Section 10, entitled **PARKING IN FRONT OF A BUILDING – BLOCK 24, 25, 26 & 29**, is amended by:

- (1) replacing the title with “**PARKING IN FRONT OF A BUILDING – BLOCKS 24, 25, 26, 29, 33 & 37**”; and
- (2) replacing the phrase “and *block 29*” in that exception with the phrase, “*block 29, block 33 and block 37*”.

16. Section 10 is amended by adding a new exception (18) as follows:

“(18) Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted for *block 33* and *block 37* by this By-law are permitted in return for the provision by the respective *owner* of each of *block 33* and *block 37* to the *City* of the following facilities, services and matters, as set out in agreement(s) by the *owner* with the *City* pursuant to Section 37 of the *Planning Act*:

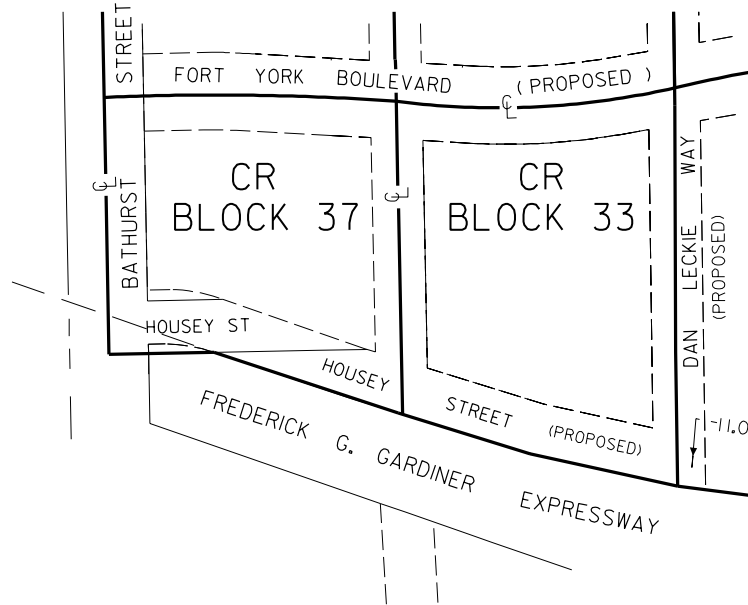
- (1) the *owner* is to ensure that phased development is to the satisfaction of the *City*;
- (2) the *owner* is to agree to the implementation of urban design and co-ordination of development and additional studies regarding such matters as sun/shade analysis, pedestrian level comfort study, and emergency evacuation plan;
- (3) the *owner* shall provide all matters needed to service each of *block 33* and *block 37*, including: phasing of infrastructure, the retention of a satisfactory consulting engineer, site grading, the construction of services including water services, sanitary and storm sewer systems, roads, streetscaping and landscaping, street trees and tree irrigation systems, road intersections, traffic signals, and utilities (including cost sharing arrangements) and the provision of all associated letters of credit, detailed design drawings, and inspection fees;
- (4) the *owner* is to satisfy all environmental matters such as: the environmental restoration or remediation of each of *block 33* and *block 37*, the retention of an environmental consultant and peer review, soil and groundwater management, certification and provision of a Record of Site Condition, the monitoring of de-watering and a commitment to mitigate as and where required by the *City*, noise and vibration, air quality, demolition and dust control;
- (5) the *owner* shall make a payment of \$470.00 for each *dwelling unit*, to a maximum of \$440,000.00, toward community daycare in the Railway Lands West;

- (6) the *owner* shall make a payment of \$242,000.00 toward other community services and facilities;
- (7) the *owner* shall make a payment of \$533.00 for each *dwelling unit* as park funds for parks or other community recreational facilities to serve the Railway Lands West;
- (8) the *owner* shall provide not less than 30 percent of the *dwelling units* within *block 33* and *37*, with the following size restrictions, and pursuant to the provisions of the agreement to be entered with the City pursuant to Section 37 of the *Planning Act*:
  - (i) bachelor  
  
*dwelling units* or one-bedroom *dwelling units* shall not be greater than 62 square metres of *residential gross floor area*;
  - (ii) two-bedroom *dwelling units* shall not be greater than 82 square metres of *residential gross floor area*; and
  - (iii) three-bedroom *dwelling units* shall not be greater than 98 square metres of *residential gross floor area*;
- (9) the *owner* shall provide and maintain works of public *art* within *block 33* and *block 37* or cash in lieu thereof, of a value of not less than one percent of the cost of construction of development proposals exceeding 20,000 square metres of *residential gross floor area*, *non-residential gross floor area*, or a combination of both;
- (10) the *owner* shall enter into agreements with the *City* and or school boards regarding the payment of levies in lieu of development charges and educational development charges;
- (11) the *owner* of each of *block 33* and *block 37* is required to enter into an agreement with the *City* to secure:
  - (i) the provision of the said facilities, services and matters, in a form satisfactory to the *City* with conditions providing for indexed escalation of financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement, and
  - (ii) the matters set out in Section 11.5 or Section 11.6 of the Part II Official Plan for the Railway Lands West for the removal of a Holding Symbol for each of *block 33* and *block 37*;

- (12) Notwithstanding the foregoing, the *owner* and the *City* may modify or amend the said agreement(s), from time to time and upon the consent of the *City* and the *owner*, without further amendment to those provisions of this zoning by-law which identify the facilities, services and matters to be secured;
- (13) Notwithstanding the foregoing, where the said agreement(s) require(s) the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirement; and
- (14) unless previously completed and approved by the City, prior to approval of plans and drawing pursuant to Section 41 of the *Planning Act*, the owner shall prepare, at its own expense and in consultation with staff of the City's Urban Development Services Department, a Public Realm Master Plan and Architectural Guidelines for *block 33* and *block 37*. The owner will make reasonable efforts to consult with the owners of lands in the Fort York Neighbourhood in preparing the Public Realm Master Plan and Architectural Guidelines."

PURSUANT TO DECISION/ORDER NO. 2042 OF THE ONTARIO MUNICIPAL BOARD  
ISSUED ON AUGUST 4, 2005 IN BOARD CASE NO. PL030707.

## PLAN I

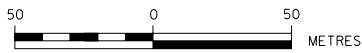
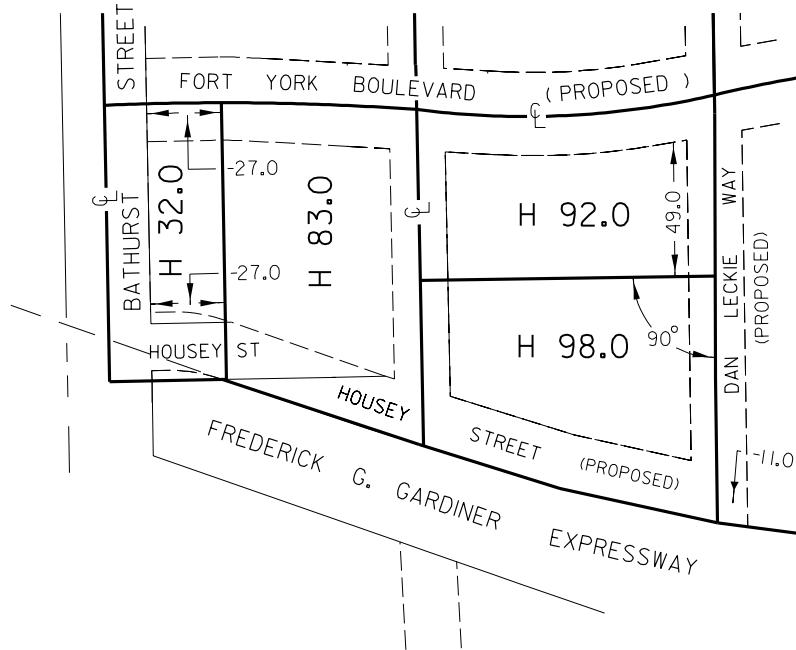


50 0 50  
METRES



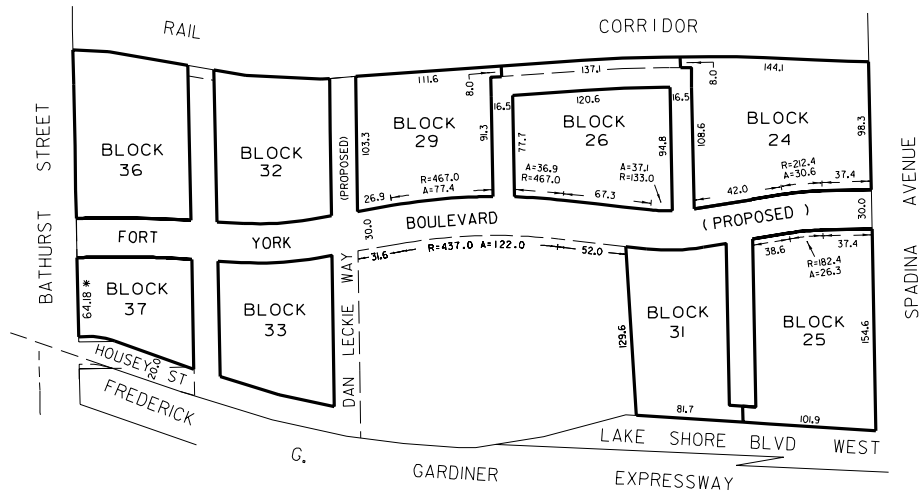
SURVEY AND MAPPING SERVICES  
TORONTO JUNE 2005  
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WEST2/PLAN1W.DGN  
MAP No. 50G-321 DRAWN: VG

## PLAN 2



SURVEY AND MAPPING SERVICES  
TORONTO JUNE 20, 2005  
FILE: 2402.42W  
WEST2/PLAN2W.DGN  
MAP No. 50G-321 DRAWN: VG

## MAP 2



□ BLOCK BOUNDARIES

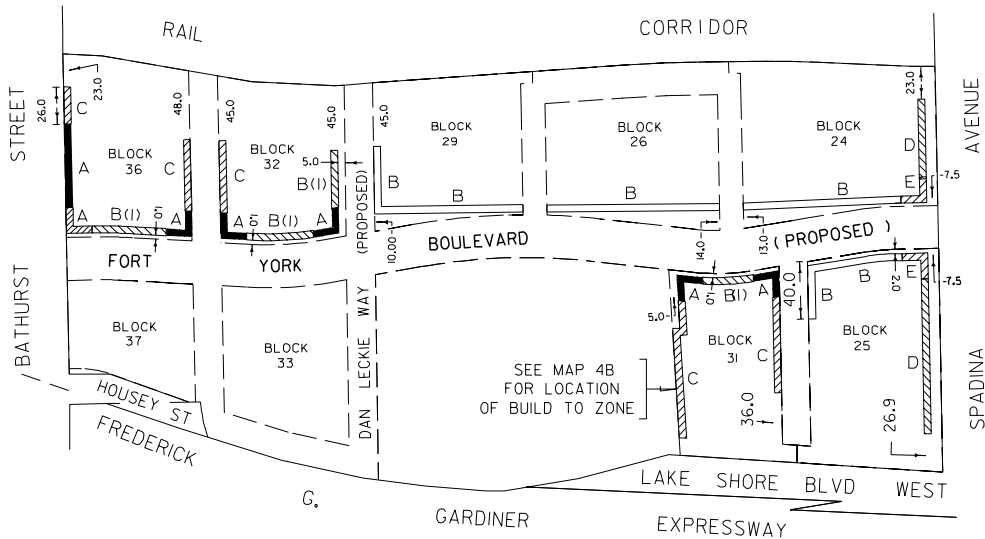
\* : MEASURED FROM THE NORTH LIMIT OF  
PART 6I PLAN 64R-1489I

— — PROPOSED PUBLIC HIGHWAYS

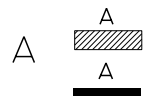


SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
WEST2/MAP2W.DGN  
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MAP No. 50G-321 DRAWN: VG

# MAP 3



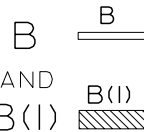
— — PROPOSED PUBLIC HIGHWAYS



**90% BUILD TO ZONE**  
GRADE TO ELEVATION  
110.0m CANADIAN GEODETIC DATUM  
OR GRADE TO THE HEIGHT SET OUT ON  
MAPS 4A AND 4B, APPLICABLE TO THE LOT



TYPICAL



**66% BUILD TO ZONE**  
GRADE TO 12.0m ABOVE GRADE &  
**60% BUILD TO ZONE**  
10.0m ABOVE GRADE TO ELEVATION  
110.0m CANADIAN GEODETIC DATUM  
OR GRADE TO THE HEIGHT SET OUT ON  
MAPS 4A AND 4B, APPLICABLE TO THE LOT



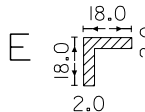
TYPICAL



**80% BUILD TO ZONE**  
GRADE TO 10.0m ABOVE GRADE



**75% BUILD TO ZONE**  
GRADE TO 18.0m ABOVE GRADE

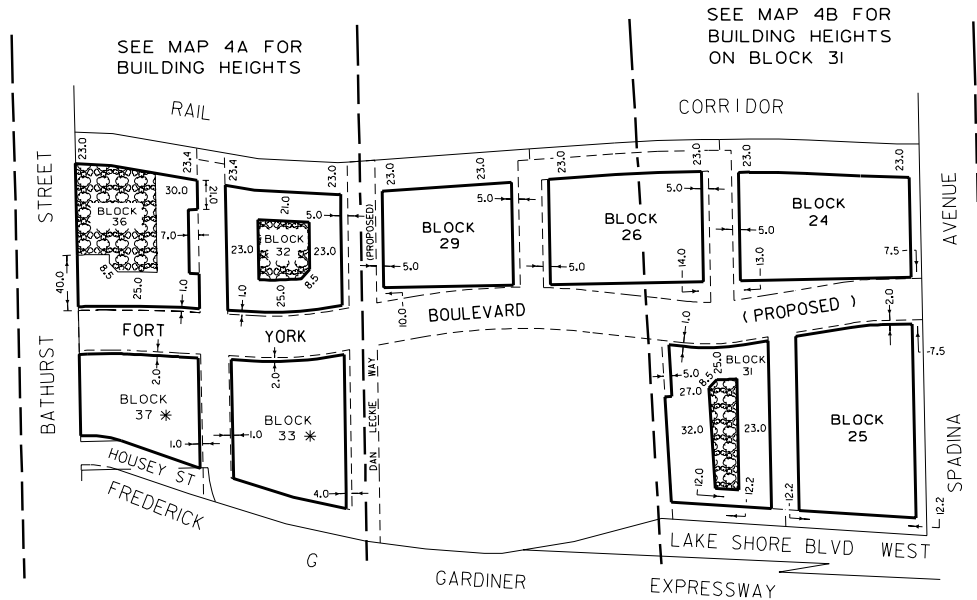


**90% BUILD TO ZONE**  
GRADE TO 18.0m ABOVE GRADE



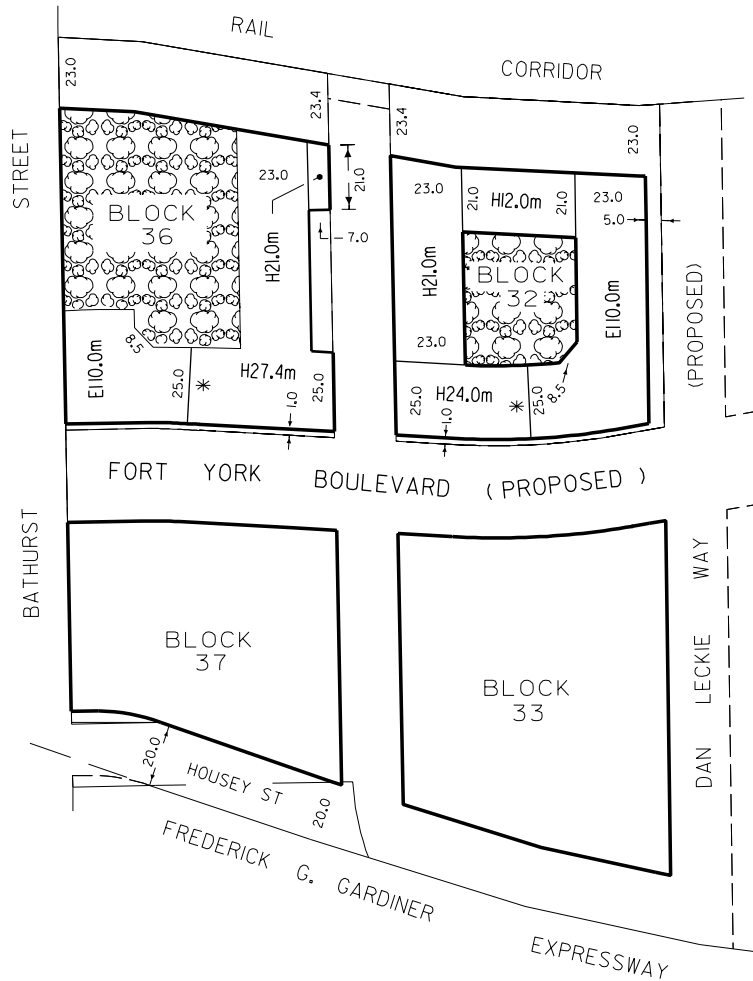
SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
FILE: 2402.42W  
WEST2/MAP3W.DGN  
MAP No. 50G-32I DRAWN: VG

## MAP 4



SURVEY AND MAPPING SERVICES  
TORONTO JUNE 2005  
FILE: 2402.42W  
WEST2/MAP4W.DGN  
MAP No. 50G-321 DRAWN: VG

## MAP 4A

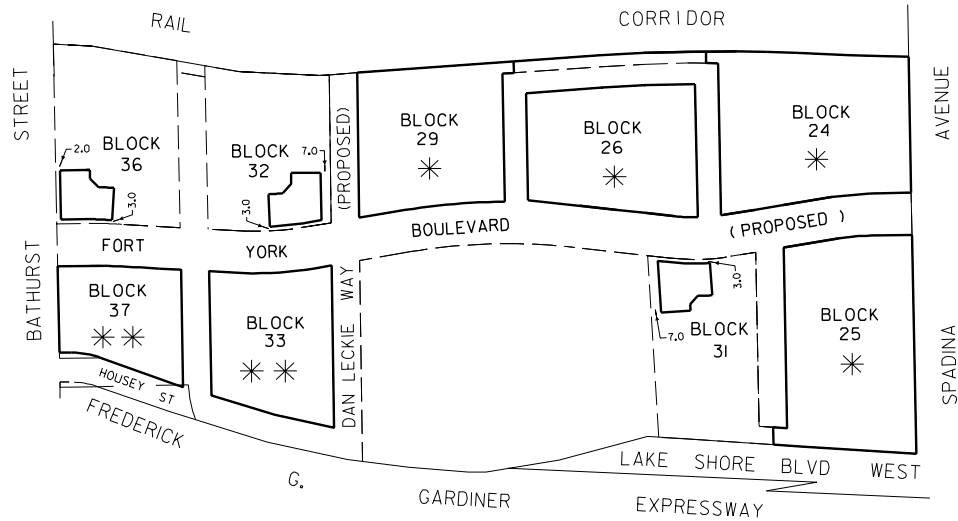


\* : LOCATION OF BUILDING ENVELOPE LINE  
AS SHOWN ON MAP 5  
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE  
E: DENOTES MAXIMUM CANADIAN GEODETIC DATUM  
ELEVATION IN METRES



SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
FILE: 2402.42W  
WEST2/MAP4AW.DGN  
MAP No. 50G-32I DRAWN: VG

## MAP 5



"BUILDING ENVELOPE LINE" AT AND ABOVE:



- (i) ELEVATION 110.0m CANADIAN GEODETIC DATUM; OR
- (ii) THE HEIGHT SET OUT ON MAPS 4A AND 4B APPLICABLE TO THE LOT OR PORTION OF THE LOT

\* REFER TO SECTION 10(1) TO DETERMINE THE FLOORPLATE RESTRICTIONS ABOVE A HEIGHT OF 26.0 AND 35.0 METRES

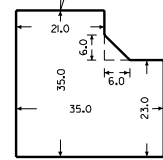
\* \* REFER TO SECTIONS 10(1)(e) AND 10(1)(f)

### TYPICAL

(not to scale)

BUILDING LINE AT 90° TO ADJACENT STREET LINE OR BLOCK LIMIT (35.0M AT CENTRE POINT)

NORTH/SOUTH STREET LINE OR BLOCK LIMIT



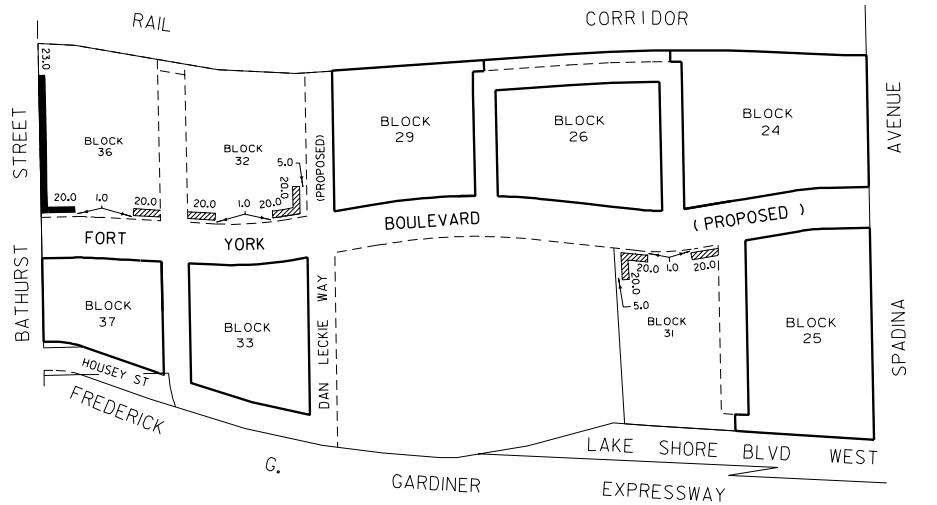
BUILDING LINE AT 90° TO BRENNER BOULEVARD (PROPOSED) (35.0M AT CENTRE POINT)

BRENNER BOULEVARD (PROPOSED)



SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
FILE: 2402.42W  
WEST2/MAP5W.DGN  
MAP No. 50G-321 DRAWN: VG

## MAP 6

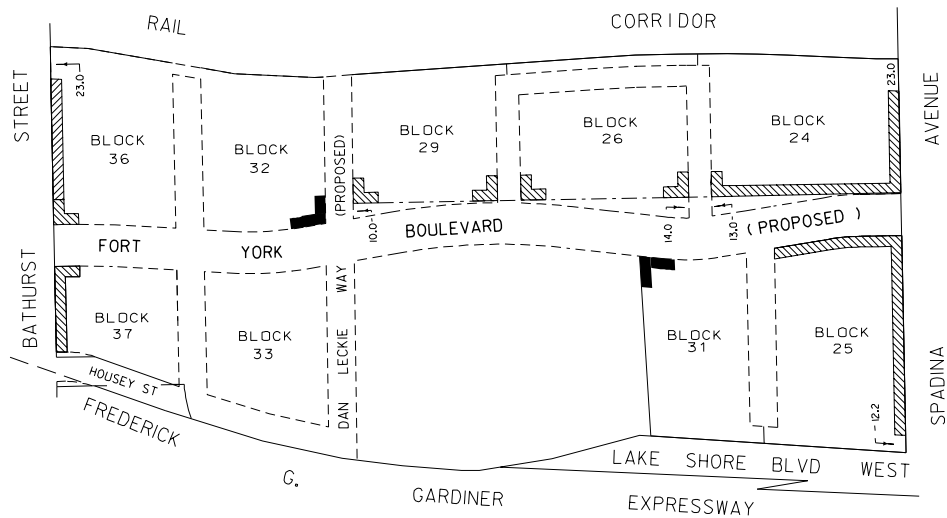



-  STREET RELATED RETAIL AND SERVICE USES  
 PRIORITY STREET RELATED RETAIL AND SERVICE USES



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 TORONTO MAY 2005  
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 MAP No. 50G-321 DRAWN: VG

# MAP 7

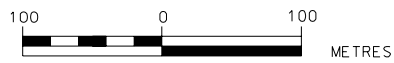


 LOCATION OF COLONNADES

 ZONE FOR COLONNADES OR CANOPIES

 LOCATION OF CANOPIES

 TYPICAL



SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
FILE: 2402.42W  
WEST2/MAP7W.DGN  
MAP No. 50G-321  
DRAWN: VG