

CITY OF TORONTO

BY-LAW No. 897-2007(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto, as amended, and By-law No. 1995-0466, as amended with respect to lands known as part of 20, 22, 22A and 24 Bathurst Street.

WHEREAS this by-law is enacted in implementation of the City of Toronto Fort York Neighbourhood Part II Official Plan, as amended, for the lands outlined in heavy lines on Plan 1 attached hereto, comprising *Block 2, Block 3, Block 4 and Block 4A* and the proposed Streets; and

WHEREAS simultaneously with other adjacent lands, the *owner* of the lands shown on Plan 1 attached hereto applied for a zoning by-law amendment for the development of the lands shown on Plan 1 attached hereto and appealed that application to the Ontario Municipal Board; and

WHEREAS pursuant to Section 37 of the *Planning Act*, R.S.O 1990, c.P. 13, as amended, the Council of the Municipality, and the Ontario Municipal Board on appeal, may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law, that will be permitted in return for the provision of such facilities, services and matters as are set out in the by-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that where an owner of lands elects to provide facilities, services and 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 such facilities, services and matters; and

WHEREAS the owner of *Block 2, Block 3, Block 4 and Block 4A* has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by former City of Toronto 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, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of *Block 2, Block 3, Block 4 and Block 4A* and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Council of the City has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increase in height and density in connection with the aforesaid lands as permitted;

THEREFORE pursuant to Order No. 2374 of the Ontario Municipal Board issued on August 24, 2007 in Board File No.'s PL030379, PL030913 and PL030914, By-law No. 438-86, as amended, of the former City of Toronto is amended as follows:

1. Upon execution and registration of the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*, in accordance with the provisions of Section 6 herein, By-law No. 1995-0466, being a By-law to amend the former

City of Toronto General Zoning By-law No. 438-86, as amended, with respect to the lands generally bounded by Strachan Avenue, Lake Shore Boulevard West, the Frederick G. Gardiner Expressway and Canadian National Railways, also known as the “Fort York Neighbourhood”, is amended by:

- (1) deleting Map 1 and replacing it with Map 1 attached hereto; and
 - (2) replacing the reference to “G and R4” in section 2 with a reference to “G, R4 and CR” in that section.
2. Upon execution and registration of the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*, in accordance with the provisions of Section 6 herein, District Map 49G-313 contained in Appendix “A” of By-law No. 438-86, as amended, is further amended by redesignating the lands outlined by heavy lines on Plan 2 attached hereto and comprising *Block 2* and *Block 3* to “R4” and comprising *Block 4* and *Block 4A* to CR, as shown on such Plan 2.
 3. Upon execution and registration of the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*, in accordance with the provisions of Section 6 herein, Height and Minimum Lot Frontage Map 49G-313 contained in Appendix “B” of By-law No. 438-86, as amended, is further amended by redesignating the lands outlined by heavy lines on Plan 3 attached hereto, to “H 0.0”, “H 16.0”, “H 20.0”, “H 23.0”, “H 26.0”, “H 32.0”, “H 41.0”, “H 47.0”, “H 53.0” and “H 59.0” as shown on such Plan 3.
 4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the lands shown on Plan 1 attached hereto.
 5. None of the provisions of Section 2(1), with respect to the definitions of the words “*grade*” and “*height*” and none of the provisions of Sections 4(2)(a)(i) and (ii), 4(4), 4(6), 4(12), 4(16), 6(3) PART I, PART II and PART III and 8(3) PART I, PART II and PART III of By-law No. 438-86, as amended, and none of the provisions of Sections 2, 3 and 5 of the aforementioned By-law 1995-0466 shall apply to *Block 2*, *Block 3*, *Block 4* and *Block 4A*, provided that the provisions of Section 6 herein and the following requirements are complied with:

USE

- (1) Notwithstanding Section 6(1)(f)(b) of the aforesaid By-law No. 438-86, as amended, *street-related retail and service uses* are permitted within *Block 2* and *Block 3*;

MAXIMUM FLOOR AREA

(2) No person shall, within the *Block* or *Blocks*, listed in Column A of the Table below, erect or use a building or structure, or portion thereof, where:

- (i) the total *non-residential gross floor area* located within the *Block* or *Blocks* will exceed the amount set out in the corresponding row in Column B;
- (ii) the *residential gross floor area* located within the *Block* or *Blocks* will exceed the amount set out in the corresponding row in Column C;

provided that:

- (iii) in no case, shall the combined *non-residential gross floor area* and *residential gross floor area* located within the *Block* or *Blocks* exceed the amount set out in the corresponding row in Column D; and

Column A <i>Block</i>	Column B Maximum Non-Residential Gross Floor Area (square metres)	Column C Maximum Residential Gross Floor Area (square metres)	Column D Maximum Combined Floor Area (square metres)
2	1,000	8,949	8,949
3	1,800	23,255	23,255
4 and 4A	4,914 of which not more than 1,830 square metres may be located on <i>Block 4</i> and not more than 3,570 square metres may be located on <i>Block 4A</i> .	37,360 of which not more than 13,200 square metres may be located on <i>Block 4</i> and not more than 30,000 square metres may be located on <i>Block 4A</i> .	37,533 of which not more than 13,200 square metres may be located on <i>Block 4</i> and not more than 30,000 square metres may be located on <i>Block 4A</i> .

- (iv) the *non-residential gross floor area* located within *Block 2* and *Block 3* shall:

- (A) only be permitted within a building that also contains *residential gross floor area*; and
- (B) only be used for any of the *non-residential* uses permitted in Section 6(1)(f)(b) of By-law No. 438-86, as amended, and for *street-related retail and service uses*.

(3) Calculation of Floor Area: Parking Space Exemptions

Notwithstanding Section 5(2) herein, additional *residential gross floor area* and *non-residential gross floor area* is permitted on *Block 4A*, provided that any additional *residential gross floor area* and *non-residential gross floor area* is used for the purpose of *parking spaces* which are located above *grade* in a *parking garage* and provided that the following requirements are satisfied:

- (A) the *parking spaces* are accessory to an at *grade* unit consisting of a stacked townhouse, townhouse, *live-work unit* or *street related retail and service uses* permitted on the *lot*;
- (B) the *height* of the above *grade* portion of such *parking garage*, excluding any structures used for pedestrian access or *landscaping*, is no greater than 6.2 metres, above *grade*;
- (C) no part of the roof of such *parking garage* shall be used for the purposes of vehicular parking and the top surface shall be landscaped;
- (D) the area of such *parking garage* shall not to be used for the purposes of determining the parking requirements for the associated building or structure;
- (E) no part of such *parking garage*, excluding stairways, driveways or ramps used for access, is erected closer than 8 metres to a *lot line* that abuts a *street* or *public park*; and
- (F) uses, other than a parking use, *public park* or pedestrian walkway, which are otherwise permitted on the *lot* containing such *parking garage* are provided in an enclosed structure, between that part of the building used as a *parking garage* and each *lot line* that abuts a *street* or *public park*, for the full height and length of such *parking garage*, excluding stairways, driveways or ramps used for access.

PARKING AND LOADING

(4)

- (i) The parking and loading requirements set out in Sections 4(5) and 4(8) of By-law No. 438-86, as amended, shall apply to *Block 2*, *Block 3*, *Block 4* and *Block 4A*, except in the case of the uses listed in Column A below, where the minimum required number of *parking spaces* shall be as set out in the corresponding row in Column B;

COLUMN A TYPE OF USE	COLUMN B MINIMUM REQUIRED NUMBER OF PARKING SPACES
<i>Dwelling unit</i> (other than <i>alternative housing</i> or <i>social housing</i>) in a building containing more than 6 <i>dwelling units</i>	Residents' Parking
	0.3 <i>parking space</i> for each <i>bachelor dwelling unit</i> ;
	0.7 <i>parking space</i> for each one-bedroom <i>dwelling unit</i> ;
	1.0 <i>parking space</i> for each two-bedroom <i>dwelling unit</i> ;
	1.2 <i>parking space</i> for each three or more <i>bedroom dwelling unit</i> contained therein
	<i>Visitors' Parking</i>
	0.12 <i>parking space</i> for every <i>dwelling unit</i> contained therein

- (ii) Notwithstanding Sections 8(1)(f)(a)(iii) and 8(1)(f)(b)(vii) of By-law No. 438-86, as amended, no person shall provide any vehicular parking except in a *parking space* and:

- (A) no parking shall be located in an uncovered surface parking facility except for:
- i. temporary surface visitor parking for the purpose of visiting a temporary sales showroom permitted by this By-law; and
 - ii. a maximum of three (3) short term convenience *parking spaces* which are *accessory* to a building; and
- (B) no above *grade* parking structure shall be located abutting a *street*, open space area or outdoor *residential amenity space*.

HEIGHT

- (5)
- (i) No portion of any building or structure, shall have a *height* above *grade* exceeding the *heights* shown on Plan 3 attached hereto, but this paragraph does not prevent:
- (A) The erection or use of roof top facilities and structures including, but not limited to, outside or open air recreation purposes, a

chimney stack, stair tower, or other heating, cooling or ventilating equipment or window washing equipment, provided that:

- (1) where a building or portion of a building exceeds 26 metres in height, the maximum *height* of the top of such element is no higher than the sum of 7 metres and any applicable *height* limit shown on Plan 3 attached hereto, and any such elements combined occupy no more than 75% of the roof; or
 - (2) where a building or portion of a building does not exceed 26 metres in height, the maximum *height* of the top of any such element is no higher than the sum of 3 metres and any applicable *height* limit shown on Plan 3 attached hereto, and any such elements combined occupy no more than 50% of the roof and no part of the elements is less than 2 metres from an adjacent wall or a vertical projection of a wall;
- (B) within the 0 metre *height* district located under the existing location of the Frederick G. Gardiner Expressway as shown on Plan 3 attached hereto, the erection or use of fencing or other built elements related to landscaping, pedestrian safety or amenity, including but not limited to wheelchair ramps, steps, vents, retaining walls, ornamental walls and features, arbours, trellises, privacy and wind screens, and public art, provided that the maximum *height* of any such element does not exceed 3.0 metres;
- (C) within the 0 metre *height* district located within 5 metres from the Frederick G. Gardiner Expressway as shown in hatching and identified as “Gardiner Easement Area” on Plan 3 attached hereto, the erection or use of driveways, curbs or ramps as well as the erection of landscaping elements and retaining walls that are shown on site plan drawings approved, as applicable, pursuant to Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, as amended, for development on *Block 4*;
- (D) parapets which are no higher than the sum of 1.5 metres and the applicable *height* limit shown on Plan 3 attached hereto; and
- (ii) no building shall contain more than:
- (A) 4 storeys above *grade* within a 16 metre *height* district;
 - (B) 6 storeys above *grade* within a 20 metre *height* district;
 - (C) 7 storeys above *grade* within a 23 metre *height* district;

- (D) 8 storeys above *grade* within a 26 metre *height* district;
 - (E) 10 storeys above *grade* within a 32 metre *height* district;
 - (F) 13 storeys above *grade* within a 41 metre *height* district;
 - (G) 15 storeys above *grade* within a 47 metre *height* district;
 - (H) 17 storeys above *grade* within a 53 metre *height* district; and
 - (I) 19 storeys above *grade* within a 59 metre *height* district.
- (iii) Within the area shown in cross hatching over *Block 2* on Plan 3, attached hereto, any building or portion of a building shall have a minimum height of 20 metres and shall occupy a minimum of 67% of the frontage of that height envelope.
 - (iv) In the event that no *legal commitment to remove the Gardiner Expressway* has been made at the time of site plan application pursuant to Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*, as applicable, for a new building on *Block 2*, the minimum façade height for any building or portion of the building or structure, including parapets, facing Fort York Boulevard in the area shown in hatching on Plan 3, shall be 7.0 metres.
 - (v) In the event that a *legal commitment to remove the Gardiner Expressway* has been made at the time of site plan application pursuant to Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*, as applicable, for a new building on *Block 2*, the minimum façade height for any building or portion of the building or structure, including parapets, facing Fort York Boulevard in the area shown in hatching on Plan 3, shall be 20.0 metres for no more than 67% of the frontage of that height envelope.

RESIDENTIAL AMENITY SPACE

- (6) The *residential amenity space* requirements in Section 4(12) of By-law No. 438-86, as amended, shall apply to buildings located on *Block 2*, *Block 3*, *Block 4* and *Block 4A*, except that such space may be provided:
 - (i) in any building within a *Block*, provided that the overall requirement for such *Block* is met when that *Block* is completed; and
 - (ii) in up to two above *grade* indoor locations in a single building, provided that one indoor location is contiguous with the required outdoor *residential amenity space*, and that one kitchen and washroom facility are provided in connection with this portion of the required indoor *residential amenity space*.

FLOOR AREA LIMITATION

- (7) In no case shall a building or structure exceeding 20 metres in *height* and located on *Block 4A*, contain a floor above the sixth floor that exceeds 750 square metres of *residential gross floor area*.
- (8) In no case shall a building or structure exceeding 23 metres in *height* and located on *Block 3*, contain a floor above the seventh floor that exceeds 710 square metres of *residential gross floor area*.
- (9) Section 5(8) herein shall not apply to prohibit the erection of a building or portion of building on *Block 3* that fronts onto Proposed *Street C* as shown on Plan 1 attached hereto, provided that such building or portion of a building does not exceed the *height* shown on Plan 3 for *Block 3*.

SETBACKS

- (10) No person shall erect or use a building or structure, or part thereof, closer to a *lot* line than indicated by any of the setback lines designated by the letters A, B, and D as shown on Plan 4 attached hereto;
- (11) No person shall erect or use a building or structure, or part thereof, closer to the vertical projection of the existing southerly limit of the Frederick G. Gardiner Expressway than indicated by the setback line designated by the letter E shown on Plan 4 attached hereto;
- (12) Section 5(10) herein shall only apply to those portions of a building or structure above the natural or finished surface of the ground, whichever is the lower, at all points adjacent to the exterior walls of the building or structure;
- (13) No person shall erect or use a building or structure in a R district having a distance between external walls of a building or structure that face each other, that is less than:
 - (i) 11 metres; or
 - (ii) two metres where the facing walls do not contain openings other than service or fire exit doors or windows that light stairways;
- (14) No person shall erect or use a *residential building* or a *mixed-use building* on a lot in a CR district in which a window of a *dwelling unit* (other than a window of a kitchen or bathroom) or a window of a *dwelling room* in the building is closer than 11 metres to a window of another *dwelling unit* (other than a window of a kitchen or bathroom) or to a window of a *dwelling room* on the same *lot*; or

PERMITTED PROJECTIONS

- (15) Section 5(10) herein does not apply to the type of structure listed in the column entitled “STRUCTURE” in the following Chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” and “OTHER APPLICABLE QUALIFICATIONS” are complied with.

CHART

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. eaves, cornices, balustrades, and parapets	1.5 metres	None
B. fences, privacy screens, pillars and safety railings	no restriction	height of fence, privacy screen, pillar or safety railing not to exceed 2.0 metres from finished ground level
C. uncovered platform attached to the building	not more than 1.5 metres from the wall where it is attached	None
D. a balcony attached to the building	not more than 1.5 metres from the wall where it is attached	None
E. a roof over a first floor platform or terrace, attached to the building	not more than 2.5 metres from the wall where it is attached	<p>(I) the roof, if not solely supported by the building, may only be additionally supported by columns or posts;</p> <p>(II) the roof does not form part of the main building roof;</p> <p>(III) the roof does not extend beyond the side walls of the building as projected;</p> <p>(IV) the top of the roof is not used or designated to be used as a deck or terrace.</p>

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
F. canopy for a building	not more than 3.5 metres from where it is attached to the building	(I) the building has no more than three canopies supported only from a wall; (II) the aggregate area of the canopies not to exceed 0.4 square metres for each 100 square metres of <i>residential gross floor area</i> .
G. erection of a bay window	0.75 metres from the wall where it is attached	(I) width not to exceed three metres measured where the window joins the wall; (II) regulations respecting minimum distances between buildings, such distances to be measured from the external face of the window or windows.
H. vertically-oriented wind screen	not more than 2.0 metres from the wall where it is attached	None
I. public art features	no restriction	None
J. underground garage ramps and associated ramp structures, wheelchair ramps, stairs and stair enclosures, vents, and retaining walls	1.0 metres	maximum vertical projection does not exceed 3.5 metres above finished ground level.
K. concrete planter walls, ornamental walls and features, arbours, trellises and other landscape features	2.0 metres	maximum vertical projection does not exceed 3.5 metres above finished ground level.

- (16) Notwithstanding (15) D above, balconies attached to that part of the building located along *Street D* may only project a maximum of 1.0 metre.
6. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted on *Block 2, Block 3, Block 4* and *Block 4A* by this By-law are permitted in return for the provision by the *owner* of *Block 2, Block 3, Block 4* and *Block 4A* of the following facilities, services and matters to the City at the *owner's* sole expense, in accordance with and subject to compliance with the provisions of the agreement(s) to be executed and registered on title to the lands as referred to in Section 6(1) herein:

Agreement

- (1) the *owner* agrees to enter into one or more agreements with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by this Section 6 and consents to the registration of such agreement or agreements against title to the lands outlined in heavy lines on Plan 1 attached hereto together with those parts of *Street E, Street G* and the related intersections east of the heavy black line as shown on Plan 1 attached hereto, the said agreement(s) to include provisions relating to indemnity, insurance, GST, termination, unwinding, registration and priority of agreement, and the indexing of financial contributions;

Levies

- (2) The *owner* shall provide to the City, prior to issuance of a *building permit* for any building or structure on each of *Block 2, Block 3, Block 4* and *Block 4A* for such portion of the *residential gross floor area* and *non-residential gross floor area* permitted herein and to be permitted by such building permit:
- (i) City Development Levies in the amount of \$3,838.38 per residential *dwelling unit*, and \$1.96 per square metre of *non-residential gross floor area* of which \$209.00 per residential *dwelling unit* is to be directed toward Fort York improvements; and
- (ii) School Levies in the amount of \$1,481.62 per residential *dwelling unit*; which levies shall be indexed from December 2004 and payment secured by agreement(s) between the owner, the City and/or the school boards as payment in lieu of development charges and education development charges;

Public Art Contribution

- (3) the *owner* shall provide and/or maintain works of public art within *Block 2, Block 3, Block 4* and *Block 4A* or cash in lieu thereof, of a value of not less than one percent of the total cost of construction of each development proposal thereon exceeding 20,000 square metres of *residential gross floor area, non-residential gross floor area*, or a combination of both, as more particularly set out in the

agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*;

District Heating and Cooling Facility

- (4) the *owner* shall ensure that the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act* contains provisions satisfactory to the City respecting a process for the consideration by the *owner* of a proposal by Enwave District Energy Limited to service the development with a *district heating and cooling facility*;

Unit Size

- (5) the *owner* shall provide not less than 30 percent of the *dwelling units* within each of *Block 2, Block 3, Block 4* and *Block 4A*, with the following size restrictions:
- (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*;

as more particularly set out in the agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*;

Public Realm Master Plan

- (6) the *owner* shall implement at its own expense and in consultation with staff of the City's Urban Development Services Department, as necessary, the *Fort York Neighbourhood Public Realm Plan* and shall incorporate the same into plans and drawings submitted for approval pursuant to Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*, as applicable, for development of *Block 2, Block 3, Block 4* and *Block 4A*;

Street Tree Irrigation

- (7) the *owner* shall, at its own expense, install and maintain in good working order and operation, an irrigation system for all street trees in the public right-of-way, including an automatic timer, which is designed as being water efficient by a Certified Landscape Irrigation Auditor (CLIA) and is constructed with a back flow preventer to the satisfaction of the City, or some other system that is consistent with City policies;

Reports and Studies

- (8) the *owner* shall prepare and submit for the approval of the City for development on each of *Block 2, Block 3, Block 4* and *Block 4A*, or any portion thereof:
 - (i) a *Development Context Plan*;
 - (ii) a *Phasing of Road Infrastructure Plan*; and
 - (iii) a *Municipal Servicing Plan*;
- (9) the *owner* shall submit for the approval of the City, reports related to soil and groundwater management, stormwater management, pedestrian level sun, wind and shade impacts, noise and vibration impact, air quality and construction management related to the development of *Block 2, Block 3, Block 4* and *Block 4A* and shall implement the recommendations and remediation measures described in such reports;
- (10) the *owner* shall submit for approval by the City prior to issuance of a *building permit* for any building or structure to be constructed on *Block 3, Block 4* and *Block 4A* as shown on Plan 1 attached hereto, a construction management report outlining the technical details of such proposed development and required services relative to the Garrison Creek Storm Sewer;
- (11) the *owner* shall submit for approval by the City prior to issuance of a *building permit* for any building or structure to be constructed on *Block 4* a construction management report outlining the technical details of such proposed development and required services relative to the Frederick G. Gardiner Expressway as shown on Plan 1 attached hereto;
- (12) the *owner* shall submit, prior to site plan approval pursuant to Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*, as applicable, for *Block 2, Block 3 and Block 4*, or prior to release for construction of any abutting portion of *Street B, Street C, Street D* or *Street E*, an archaeological assessment and mitigation plan respecting those *Blocks* and associated streets, including the *Park Lands*, satisfactory to the City, and shall implement the recommendations therein as well as satisfy all licensing and approval requirements prior to issuance of any *building permit* for development on *Block 2, Block 3 or Block 4A* and, further, prior to any excavation, demolition, grading or other activities that would cause soil disturbances on *Block 2, Block 3, Block 4*, the *Park Lands* or associated *Street B, Street C, Street D* or *Street E*;

Conveyances

- (13) the *owner* shall convey, prior to issuance of a *building permit* for any building or structure to be constructed on the applicable portions of *Block 4*, for nominal consideration and at no cost to the City, a 5.0 metre wide easement in favour of the City over those portions of *Block 4* shown in hatching and identified as the

“Gardiner Easement Area” on Plan 3 attached hereto for the purposes of maintenance, repair, reconstruction as well as the possible future dismantling of the Frederick G. Gardiner Expressway, which conveyances shall be free and clear of encumbrances and to the satisfaction of the City Solicitor;

- (14) the owner shall in accordance with provisions more particularly set out in agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*:
- (i) provide the City with funds secured by a letter of credit in an amount and a form satisfactory to the City to construct those parts of *Street B, Street C, Street D, Street E, Street F* and *Street G* as are required, both within and external to the development lands, to service each of *Block 2, Block 3, Block 4* or *Block 4A* according to the *Phasing of Road Infrastructure Plan*, prior to release for construction of *Street B, Street C, Street D, Street E, Street F* or *Street G* respectively, and, in any event, prior to issuance of the first above-grade *building permit* for any building or structure on *Block 2, Block 3, Block 4* or *Block 4A*;
 - (ii) environmentally remediate those parts of *Street B, Street C, Street D, Street E, Street F* or *Street G* referred to in i) above to the satisfaction of the City prior to issuance of an above-grade *building permit* for any building or structure on *Block 2, Block 3, Block 4* or *Block 4A*, or such later date that may be acceptable to the Executive Director TS;
 - (iii) construct those parts of *Street B, Street C, Street D, Street E, Street F* or *Street G* referred to in i) above to the satisfaction of the City and according to the *Phasing of Road Infrastructure Plan*;
 - (iv) prior to the issuance of a final *building permit* for any building or structure on *Block 2, Block 3, Block 4* or *Block 4A*, respectively, and following construction and acceptance by the City of services required for such *Blocks*, including the environmental remediation and construction to base course asphalt of those parts of *Street B, Street C, Street D, Street E* or *Street F* or *Street G* referred to in i) above, convey, or cause to be conveyed, those parts of *Street B, Street C, Street D, Street E, Street F* or *Street G* referred to in i) above to the City in fee simple, free and clear of encumbrances, at no cost and for nominal consideration and to the satisfaction of the City Solicitor; and
 - (v) be permitted to exclude from the conveyance of *Street B, Street C, Street D, Street E, Street F* or *Street G* referred to in iv) above, a below-grade encroachment for a parking structure contemplated by the *Public Realm Plan* and on terms as set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* and provided such conveyances includes rights of support for *Street B, Street C, Street D, Street E, Street F* or *Street G* in favour of the City satisfactory to the City Solicitor;

- (15) prior to the earlier of release for construction of services or issuance of a *building permit* for a building or structure on *Block 2*, but in no case later than December 31, 2009, the owner shall convey to the City at no cost, free and clear of encumbrances, for nominal consideration and to the satisfaction of the City Solicitor, those lands designated as Part 2, Plan 66R-23058 for public highway purposes to form part of Fort York Boulevard;
- (16) prior to the earlier of release of construction of services or issuance of a *building permit* for a building or structure on *Block 3*, but in no case later than December 31, 2009, the owner shall convey to the City at no cost, free and clear of encumbrances, for nominal consideration and to the satisfaction of the City Solicitor, those lands designated as Parts 3 and 6, Plan 66R-23058 for public highway purposes to form part of Fort York Boulevard;
- (17) owner shall authorize and permit construction of underground services over those parts of *Street E*, the intersection of *Street E* and *Street F* as well as the intersection of *Street E* and *Street G* described as Parts 14, 15, 26, 27, 31, 32, 37, 38 and 46, Plan 66R-21894, if that portion of *Street E* and intersection have not been previously constructed as may be required for the development of Blocks 2, 3, 3A, 3B, 4, 4A and 5 within the Fort York Neighbourhood Plan, on terms set out in the agreement(s) to be entered into with the City pursuant to section 37 of the *Planning Act*, and shall convey, if required by the City upon acceptance of such services, at no costs to the City and for nominal consideration an easement in favour of the City free and clear of encumbrances for the purpose of construction and maintenance of such services in a form satisfactory to the City Solicitor.
- (18) the *owner* shall:
 - (i) convey the *Park Lands* to the City in escrow concurrent with execution and delivery of the agreement applicable to Block 3 to be entered into pursuant to Section 37 of the *Planning Act*, for a public park and to the satisfaction of the City Solicitor;
 - (ii) decommission the *Park Lands* prior to its release from escrow and conveyance to the City;
 - (iii) provide security to secure the decommissioning of the *Park Lands* in an amount satisfactory to the Executive Director Technical Services prior to issuance of an above grade *building permit* for the first building or structure to be constructed on either *Block 2* or *Block 3*; and
 - (iv) convey the *Park Lands* upon the earlier to occur of:
 - A. issuance of a final *building permit* for the first building or structure on either of *Block 2* or *Block 3*; and
 - B. September 30, 2013;

as set out in the agreement(s) to be entered into pursuant to Section 37 of the *Planning Act*, including provisions related to notice, timing and procedures for release of the *Park Lands* from escrow, to co-ordinate the development of June Callwood Park.

Cash Contributions

- (19) owner shall provide a cash contribution in the amount of \$1,350,793.65 towards the construction costs of Fort York Boulevard, and \$150,268.39 towards the *FYBG Works*, to be paid as follows:
- (i) \$173,339.98 for Fort York Boulevard and \$19,283.12 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on *Block 2*;
 - (ii) \$450,445.69 for Fort York Boulevard and \$50,109.61 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on *Block 3*;
 - (iii) \$219,110.99 for Fort York Boulevard and \$24,374.90 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on *Block 4*; and
 - (iv) \$507,896.99 for Fort York Boulevard and \$56,500.76 for the *FYBG Works* prior to issuance of the first above-grade *building permit* for any building or structure on *Block 4A*;
- (20) the owner shall provide a cash contribution towards the construction costs of the improvements to the intersection of Bremner Boulevard, Bathurst Street and Fort York Boulevard to be paid as follows, and indexed from January 2005:
- (i) 0.71% of up to \$9,000,000.00 for construction costs of the intersection, prior to issuance of the first above-grade *building permit* for any building or structure on *Block 2*;
 - (ii) 1.85% of up to \$9,000,000.00 for construction costs of the intersection, prior to issuance of the first above-grade *building permit* for any building or structure on *Block 3*;
 - (iii) 0.90% of up to \$9,000,000.00 for construction costs of the intersection, prior to issuance of the first above-grade *building permit* for any building or structure on that portion of *Block 4*; and
 - (iv) 2.09% of up to \$9,000,000.00 for construction costs of the intersection prior to issuance of the first above-grade *building permit* for any building or structure on *Block 4A*;

Servicing Requirements

- (21) the *owner* shall provide, to the satisfaction of the City, all matters required to service each of *Block 2*, *Block 3*, *Block 4* and *Block 4A*, including, but not limited to, phasing of infrastructure within and external to the development lands, 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, inspection fees on terms set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*; and

Environmental Requirements

- (22) the *owner* shall satisfy all environmental requirements of the City such as: the environmental restoration or remediation of each of *Block 2*, *Block 3*, *Block 4* and *Block 4A* as well as lands to be conveyed to the City for roads and services, 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 dewatering and a commitment to mitigate as and where required by the City, noise and vibration, air quality, waste management, demolition and dust control on terms set out in the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act*.

Ownership

- (23) Where *Block 3* and *Block 3A* or *Block 2* and *Block 2A* as shown on Plan 1 are held under separate ownership, prior to the earlier of issuance of a first *building permit* for *Block 2* or for *Block 3* and release for construction of services for either of those *Blocks*, the owner shall submit a *Development Context Plan* satisfactory to the Chief Planner for *Block 3/Block 3A* or *Block 2/Block 2A*, respectively.

Ongoing Industrial Uses

- (24) Where an industrial use continues on any part of *Block 2*, *Block 3*, *Block 4* or *Block 4A*, the owner shall, prior to issuance of an above-grade *building permit* for any building or structure on *Block 2*, *Block 3*, *Block 4* or *Block 4A*, submit a report to establish that the proposed development can proceed in accordance with all applicable guidelines of the Ministry of Environment and further that arrangements are in place satisfactory to the Executive Director, Technical Services requiring that the owner be responsible for the cost of all related mitigation measures, as more particularly set out in agreement(s) to be entered into with the City pursuant to Section 37 of the *Planning Act*.

7. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of Section 6 herein, then once such agreement 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.
8. Notwithstanding any of the foregoing provisions, where the provisions of this By-law or the Section 37 Agreement(s) require provision of facilities, services and matters prior to issuance of a *building permit* for the proposed development of *Block 2*, *Block 3*, *Block 4* and *Block 4A*, including provision of financial securities, payment of levies or contributions, environmental requirements, construction of services and land conveyances, the *owner* may not erect or use any building or structure on a particular development block (*Block 2*, *Block 3*, *Block 4* or *Block 4A*) until the owner of such development block has satisfied the said requirements for that block and *building permit* issuance shall be dependent on the same.
9. Notwithstanding any of the foregoing provisions, the *owner* and the *City* may modify or amend the said Section 37 agreement(s) from time to time and, upon the consent of the *City* and the *owner*, without further amendment to those provisions of this By-law which identify the facilities, services and matters to be secured.
10. 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 fencing, 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 designated by or in collaboration with artists;
 - (2) “*Block*” or “*Blocks*” shall mean block 2, block 3, block 4 and block 4A as the case may be;
 - (3) “*Block 2*”, “*Block 2A*”, “*Block 3*”, “*Block 3A*”, “*Block 4*” and “*Block 4A*” mean those lands shown as “*Block 2*”, “*Block 2A*”, “*Block 3*”, “*Block 3A*”, “*Block 4*” and “*Block 4A*” on Plan 1 attached hereto;
 - (4) “*building permit*” means a permit to demolish a building or to construct a building, or any part thereof, pursuant to Section 8 of the *Building Code Act*, 1992, including but not limited to demolition, excavation, shoring, building or any other permit, provided that this definition does not preclude the Section 37 agreement(s) referred to in Section 6 herein from requiring certain matters to be provided after a permit for excavations, shoring or demolition has been issued;

- (5) “*Development Context Plan*” means a plan submitted by the *owner* satisfactory to the City for the block on which the development is located and the adjacent development blocks, the purpose of which shall be:
- (i) to provide a context for co-ordinated incremental development by showing the proposed development in relation to relevant adjacent conditions in the area surrounding the site;
 - (ii) to assist the City in evaluating the conformity of the proposed development with the relevant provisions of the Official Plan and the Fort York Neighbourhood *Public Realm Plan* related thereto; and
 - (iii) to assist the City in evaluating applications for review under Section 41 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*,

and which plan shall contain the following:

- (A) the proposed massing of buildings on the block, including *heights*, setbacks above the street wall or podium level, and distribution of density on the block, illustrating how the proposed development addresses the goals and framework set out in the Official Plan;
- (B) the location, dimensions and character of interior and exterior publicly accessible private open spaces showing their continuity and complementary relationship to adjacent public spaces and *streets* and their pedestrian amenity including weather protection;
- (C) the location and dimensions of any arcades, canopies and other weather-protected routes and their relationship to the public pedestrian system;
- (D) the general location of parking facilities and vehicular access points which are of sufficient detail to assess the effect of these facilities on the public sidewalks and on adjacent signalized intersections;
- (E) the general locations of principal pedestrian entrances and their relationship to *street frontages* to ensure that such entrances reinforce the role of the *street*;
- (F) the general location of the public pedestrian routes including the primary system of public *streets* and alternative secondary routes and their relationship; and
- (G) the location of public *street*-related uses.

- (6) “*district heating and cooling facility*” means a facility operated by Enwave District Energy Limited on a non-profit basis for the purposes of providing heating and cooling of buildings and structures located within *Block 2, Block 3, Block 4 and Block 4A*;
- (7) “*FYBG Works*” means the below grade hard services lying underneath Fort York Boulevard required to service *Block 2, Block 3, Block 4 and Block 4A*;
- (8) “*Fort York Neighbourhood Public Realm Plan*” means the report entitled Fort York Neighbourhood Public Realm Plan, prepared by du Toit Allsop Hillier, dated February 2004, and approved by the Council of the Corporation of the City of Toronto at its meeting of May 18, 19 and 20, 2004, as may be amended from time-to-time;
- (9) “*grade*” means:
 - (i) with respect to *Block 2* as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to *Block 2*;
 - (ii) with respect to *Block 3* as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of Fort York Boulevard adjacent to *Block 3*;
 - (iii) with respect to *Block 4* as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of *Street G* adjacent to *Block 4*; and
 - (iv) with respect to *Block 4A* as shown on Plan 1 attached hereto, the average elevation of the sidewalk of the portion of *Street G* adjacent to *Block 4A*;
- (10) “*height*” means the vertical distance between *grade* and the highest point of the roof or structure, exclusive of permitted projections set out in Section 6 herein;
- (11) “*June Callwood Park*” means the public park to be created on those lands bounded by *Street B* to the west, *Street C* to the east, Fleet Street to the south and Fort York Boulevard to the north as shown on Plan 2 attached hereto;
- (12) “*legal commitment to remove the Gardiner Expressway*” means a resolution by Council of the City of Toronto that legally binds the City to remove the Gardiner Expressway within a period of two years;
- (13) “*Municipal Servicing Plan*” means a plan submitted by the owner satisfactory to the City addressing the adequacy of existing and proposed municipal services required to develop *Block 2, Block 3, Block 4 and Block 4A*;

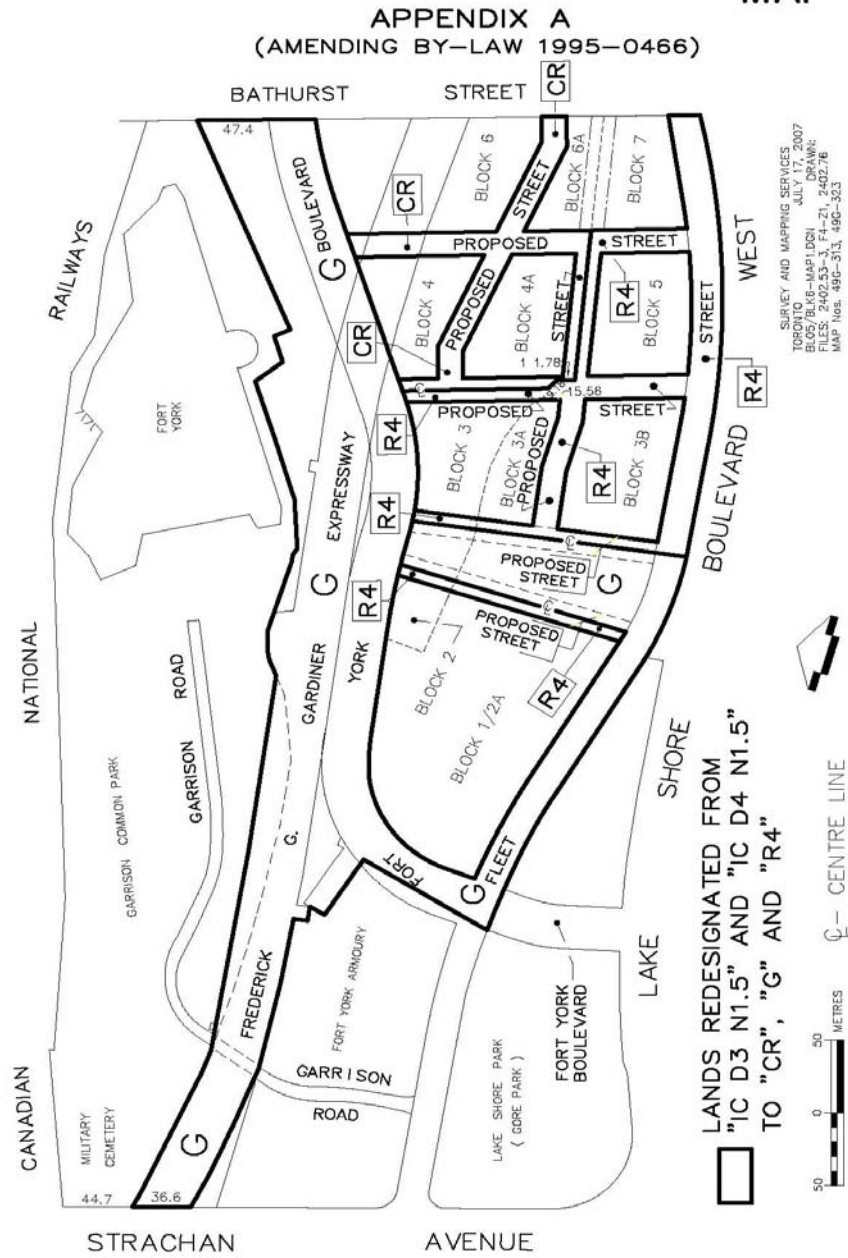
- (14) “*Park Lands*” means those lands zone “G” on Plan 2 attached hereto being designated as Part 93, Plan 66R-22894 and proposed to form part of the June Callwood Park.
- (15) “*Phasing of Road Infrastructure Plan*” means a plan submitted by the owner satisfactory to the City, which indicates the required construction of pedestrian connections and roads with each phase of development for *Block 2*, *Block 3*, *Block 4* and *Block 4A*.
- (16) “*Streets B, C, D, E, F and G*”, or reference to any one of *Streets B, C, D, E, F* and *G*, means the proposed streets or part thereof labelled “Proposed Street B”, “Proposed Street C”, “Proposed Street D”, “Proposed Street E”, “Proposed Street F”, or “Proposed Street G”, respectively, on Plan 1 attached hereto, and includes all municipal services, utility services and connections associate therewith; and

with the exception of the words or expressions referred to in subparagraph (1) to (16), each word or expression which is italicized shall have the same meaning as the said word or expression has for the purposes of the aforesaid By-law No. 438-86, as amended.

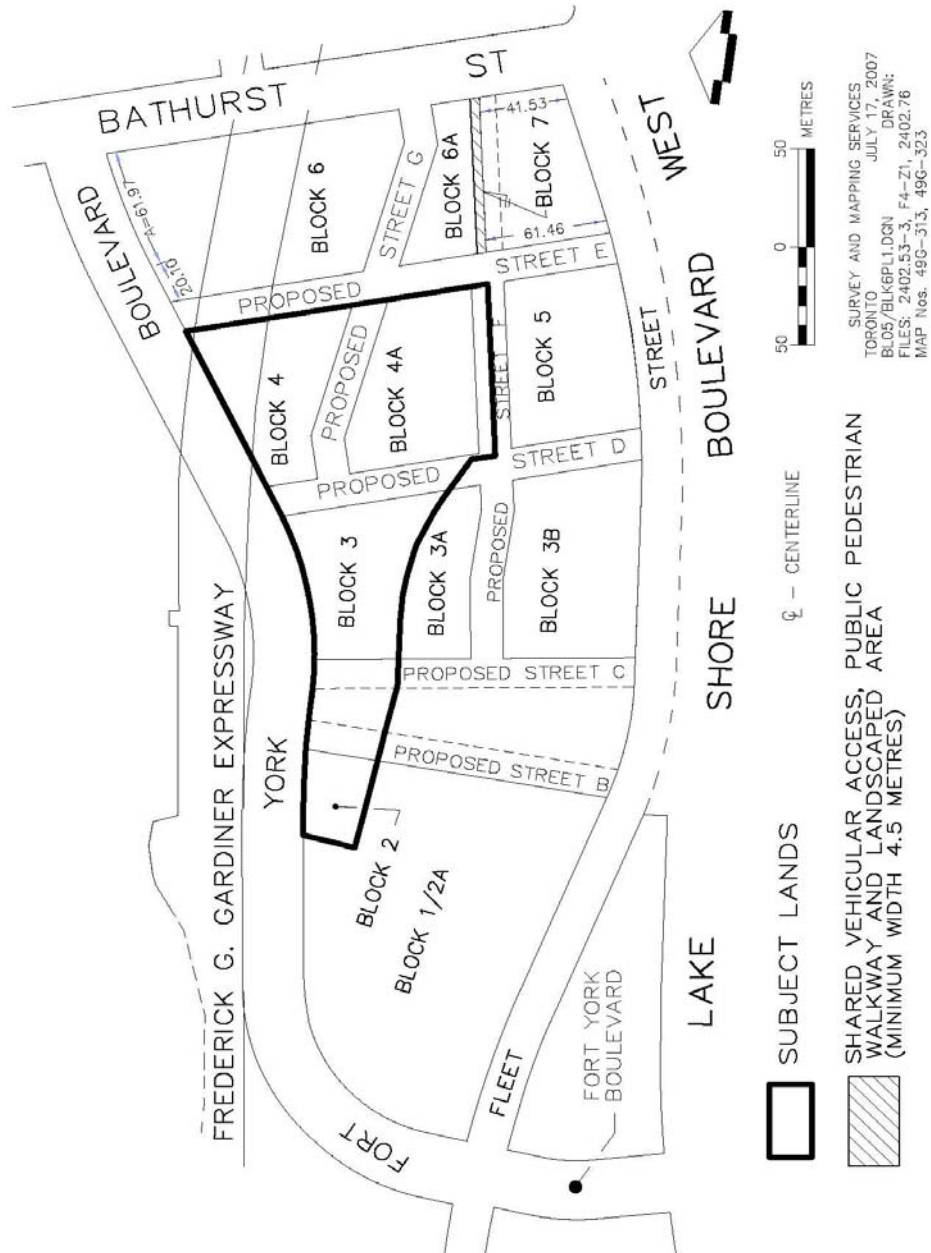
- 11.** None of the provisions of this By-law or any restrictive by-law shall apply to prevent the use of the lands shown on Plan 1 attached hereto for a temporary sales showroom for the purpose of selling the residential dwellings set out in this By-law.

PURSUANT TO ORDER/DECISION NO. 2374 OF THE ONTARIO MUNICIPAL BOARD
ISSUED ON AUGUST 24, 2007 IN BOARD FILE NO. PL030379, PL030913 AND PL030914.

MAP 1

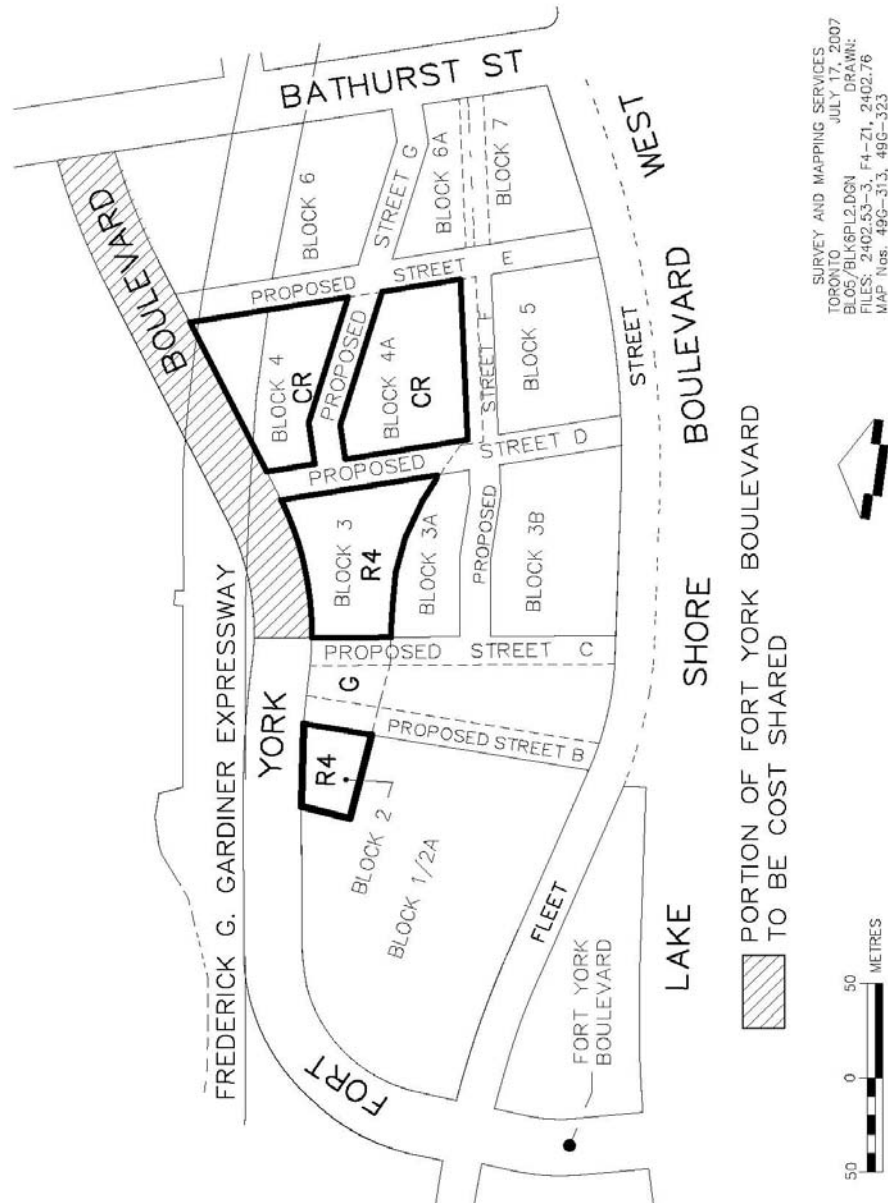


PLAN 1

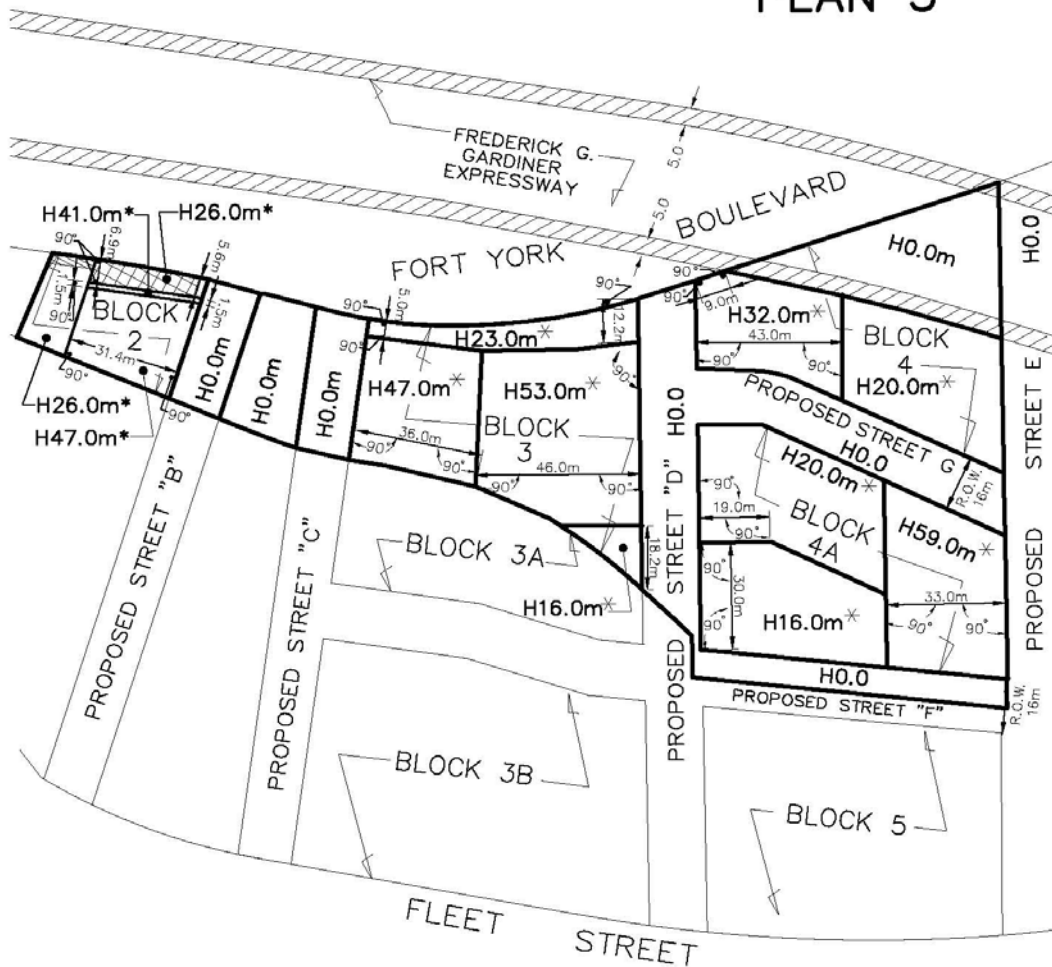


PLAN 2

ZONING AMENDMENT MAP



PLAN 3



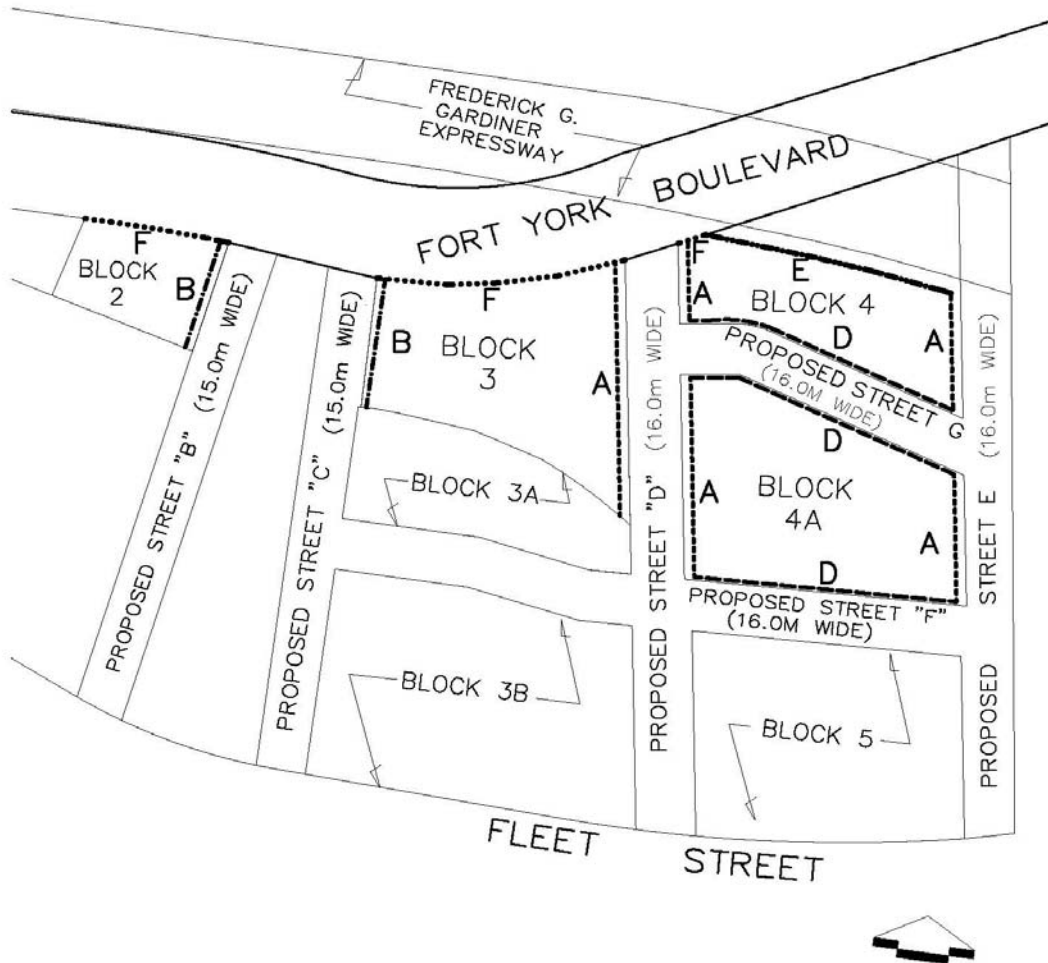
- * MAXIMUM OF 4 STOREYS IN THE H16.0 ZONE
 MAXIMUM OF 6 STOREYS IN THE H20.0 ZONE
 MAXIMUM OF 7 STOREYS IN THE H23.0 ZONE
 MAXIMUM OF 8 STOREYS IN THE H26.0 ZONE
 MAXIMUM OF 10 STOREYS IN THE H32.0 ZONE
 MAXIMUM OF 13 STOREYS IN THE H41.0 ZONE
 MAXIMUM OF 15 STOREYS IN THE H47.0 ZONE
 MAXIMUM OF 17 STOREYS IN THE H53.0 ZONE
 MAXIMUM OF 19 STOREYS IN THE H59.0 ZONE

- [Hatched Box] BUILDING TO HAVE MINIMUM HEIGHT OF 20.0 METRES AND OCCUPY 67% OF HEIGHT ENVELOPE FRONTAGE
 [Hatched Box] 7.0 METRES MINIMUM FACADE HEIGHT – OCCUPYING 67% OF HEIGHT ENVELOPE FRONTAGE, SUBJECT TO SECTION 5(5)(v) OF THIS BY-LAW
 [Hatched Box] GARDINER EASEMENT AREA

25 0 25 METRES

SURVEY AND MAPPING SERVICES
 TORONTO JULY 17, 2007
 BLOS/BLK6PL3.DGN DRAWN:
 FILES: 2402.53-3, F4-Z1, 2402.76
 MAP Nos. 49G-313, 49G-323

PLAN 4



- A----- 3.0 METRE SETBACK LINE WITH PROJECTIONS PERMITTED
- B----- 2.5 METRE SETBACK LINE WITH PROJECTIONS PERMITTED
- D----- 1.0 METRE SETBACK LINE WITH PROJECTIONS PERMITTED
- E----- 5.0 METRE SETBACK LINE WITH NO PROJECTIONS PERMITTED
- F----- 3.0 METRE SETBACK LINE WITH NO PROJECTIONS PERMITTED



SURVEY AND MAPPING SERVICES
 TORONTO JULY 17, 2007
 BL05/BLK6PL4.DGN DRAWN:
 FILES: 2402.53-3, F4-Z1, 2402.76
 MAP Nos. 49G-313, 49G-323