

Authority: Toronto and East York Community Council Item 13.8, as adopted by City of Toronto Council on March 5, 6 and 7, 2012 and MM25.48, as adopted by City of Toronto Council on July 11, 12 and 13, 2012
Enacted by Council: July 13, 2012

CITY OF TORONTO

BY-LAW No. 1049-2012

To amend Zoning By-law No. 438-86, as amended, of the former City of Toronto, respecting the lands municipally known as 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; 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 Council of the City of Toronto on September 22, 1997 adopted By-law No. 1997-0501 being a By-law "To amend the General Zoning By-law No. 438-86 with respect to lands known as 5, 7 and 9 Sultan Street"; and

WHEREAS Council of the City of Toronto on November 29, 2002 adopted By-law No. 1090-2002 being a By-law "To amend By-law No. 438-86 of the former City of Toronto, as amended, respecting lands known as Nos. 76 to 98 Charles Street West, No. 11 St. Thomas Street and Nos. 1 and 3 Sultan Street"; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the *height* or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set 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 or matters in return for an increase in *height* and 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 *owner* of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or *height* permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, 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 *owner* of such lands and the City of Toronto (the "City"); and

WHEREAS Council 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 increases in *height* and 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. Zoning By-law No. 1997-0501 being a By-law "To amend the General Zoning By-law No. 438-86 with respect to lands known as 5, 7 and 9 Sultan Street" is hereby repealed.
2. Zoning By-law No. 1090-2002 being a By-law "To amend By-law 438-86 of the former City of Toronto, as amended, respecting lands known as Nos. 76 to 98 Charles Street West, No. 11 St. Thomas Street and Nos. 1 and 3 Sultan Street" shall no longer prevail as it relates to those lands outlined by heavy lines on Map 1, attached and forming part of this By-law and the definition of "*lot*" in Zoning By-law No. 1090-2002 is amended to exclude those lands.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Sections 4(2)(a), 4(5), 4(8), 8(1)(a), 8(3) Part I (1), 8(3) Part I (2), 8(3) Part II, and 8(3) Part III of Zoning By-law No. 438-86, as amended, 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" shall apply to prevent the erection or use of any buildings or structures on the *lot* provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) only an office, *bake shop*, *caterer's shop*, *private art gallery*, *retail store*, *artist's or photographer's studio*, *software design and development establishment*, *clinic*, premises of a *charitable institution* or *non-profit institution*, *branch of a bank for financial institution*, *dry cleaner's distributing station*, *duplicating shop*, *personal grooming establishment*, *tailoring shop*, *data processing establishment*, *restaurant* and *laboratory class A* are permitted uses;
 - (c) notwithstanding the definition of *parking garage* in Section 2 of By-law No. 438-86, for the land delineated by heavy lines on Map 1 attached to and forming part of this By-law the use of *parking garage* shall be restricted to *owners* and occupants of the building;
 - (d) the aggregate of the *non-residential gross floor area* does not exceed 8,910 square metres;
 - (e) no portion of any building or structure erected and used above *grade* except for the existing heritage structural elements is located otherwise than wholly within the *lot* and wholly within the areas delineated by heavy lines on Map 2 attached hereto subject to the following which may extend beyond the areas delineated by such heavy lines: cornices, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, planters, balustrades, guard rails, stairs, wheelchair ramps, landscape and site servicing features, public art features, railings, ramps to

underground garage, which may extend beyond the areas delineated by such heavy lines;

- (f) the *height* of any building to be erected shall not exceed those *heights*, in metres, following the symbol "H", shown on Map 2 attached hereto exclusive of rooftop facilities elements and structures otherwise permitted in Section 4(2)(a)(i) of By-law No. 438-86, as amended;
- (g) parking shall be provided in accordance with the following:
 - (i) Office Use – minimum of 0.35 spaces per 100 square metres of *non-residential gross floor area* and a maximum of 0.8 spaces per 100 square metres of *non-residential gross floor area*;
 - (ii) *Retail Use* – minimum of 1 spaces per 100 square metres of *non-residential gross floor area* and a maximum of 3.5 spaces per 100 square metres of *non-residential gross floor area* if the *non-residential gross floor area* is more than 200 square metres; and
 - (iii) if the calculation of the number of required *parking spaces* results in a number containing a fraction, the number must be rounded down to the nearest whole number, but in no case may there be a requirement of less than one *parking space*.
- (h) a minimum of one *loading space - Type B* and two *loading spaces – Type C* shall be provided and maintained on the *lot*;
- (i) for the purposes of this By-law *common outdoor space* shall mean those areas of the *lot* located between the building footprint and property line as shaded on Map 2 attached hereto; and
- (j) in addition to the permitted uses identified in Section 4, a temporary sales presentation centre shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.

5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:

"*grade*" means 114.575 metres Canadian Geodetic Datum;

"*lot*" means at least the lands delineated by heavy lines shown on Map 1;

"*restaurant*" means a portion of the building to a maximum of 84 square metres used for the preparation and cooking of meals and baked goods and the sale of food and beverages to the public while they are seated. The use may include an incidental take-out service and provision of incidental retail sales but does not include provision of mechanical or electronic game machines to be used for the purposes of gambling;

"*retail use*" means those uses listed in subsection 4(b) with the exception of office.

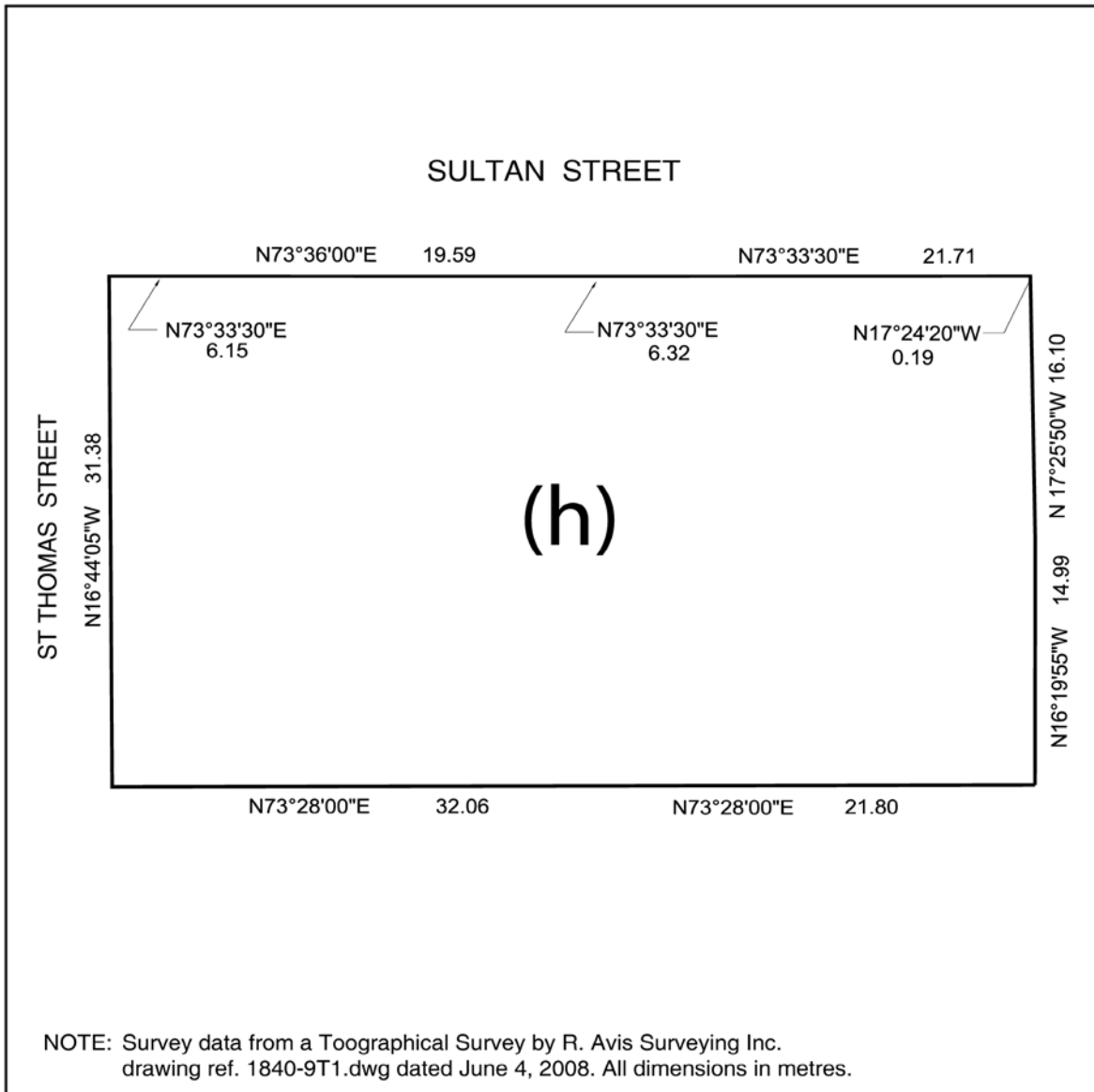
6. Pursuant to Section 37(1) of the *Planning Act* the *heights* and density of the development permitted in the By-law are permitted subject to compliance with all the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* expense and in accordance with and subject to the agreement referred to in Section 7 of this by-law.
7. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provisions of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is 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 of payment of any monetary contribution 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 requirements.
8. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
9. The lands zoned with the "(h)" symbol delineated by heavy lines on Map 1 attached to and forming part of this By-law shall not be used for any purpose other than those uses and buildings as existing on the site as of July 10, 2012 until the "(h)" symbol has been removed. An amending by-law to remove the "(h)" symbol shall be enacted by City Council when the following condition has been fulfilled to the satisfaction of Council:
 - (i) arrangements have been made by the Owner with the City for the provision of the necessary upgrades to the watermain on St. Thomas Street from Bloor Street West to Charles Street West to the satisfaction of the Executive Director of Technical Services.

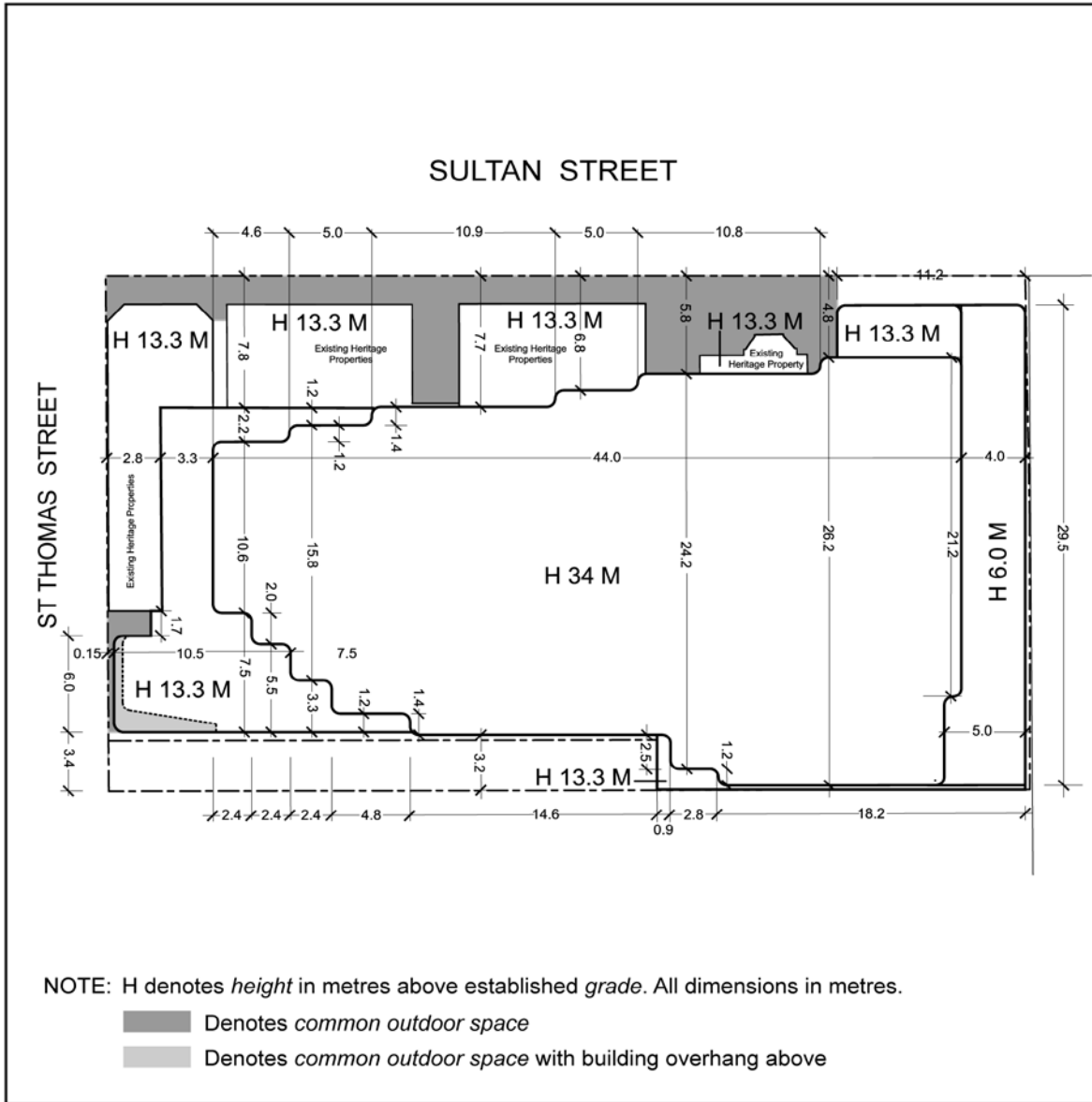
ENACTED AND PASSED this 13th day of July, A.D. 2012.

FRANCES NUNZIATA,
Speaker

ULLI S. WATKISS,
City Clerk

(Corporate Seal)





Appendix "1"**Section 37 Provisions**

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of that *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* and the *owner* with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement:

1. The *owner* shall design and construct streetscape improvements, at a minimum cost of \$500,000, to the north and south side of Sultan Street, portions of St. Thomas Street and the local area (the "Streetscape Improvements") to the satisfaction of the Executive Director, Technical Services and the Ward Councillor.
2. Prior to the issuance of the first above *grade* building permit the *owner* shall submit to the City a design for the Streetscape Improvements acceptable to the Executive Director, Technical Services, and provide the City with a Letter of Credit to secure the approved design in a form and amount acceptable to the Executive Director, Technical Services.
3. The *owner* shall construct the Streetscape Improvements at the same time and in co-ordination with the construction of the site.
4. The minimum construction cost of \$500,000 shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date the Section 37 Agreement to the date of the submission of the acceptable Streetscape Improvement design.
5. If it is determined by the Executive Director, Technical Services that the Streetscape Improvements cost less than \$500,000, or are no longer required, the remainder of the minimum construction cost of \$500,000 shall be used for community benefits as determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.
6. The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2012 as 1, 3, 5, 7 and 9 Sultan Street and 11 St. Thomas Street, one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.