

Authority: North York Community Council Item 34.85,
as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

CITY OF TORONTO

BY-LAW No. 1038-2014

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally as 2384 and 2388 Yonge Street and 31 Montgomery Avenue.

Whereas the Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or 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 the height or density of development, the Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters as are hereinafter set forth; and

Whereas the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, 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 the lands and the City of Toronto (hereinafter referred to as the "City");

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the *owner*, at the *owner's* expense of the facilities, services and matters set out in Appendix 1 hereof as secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
2. Where Appendix 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of a building permit shall be dependent on satisfaction of the same.

3. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
4. Except as otherwise provided herein, the provisions of Zoning By-law No. 438-86 shall continue to apply to the lands shown on Map 1 forming part of this By-law.
5. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
 - (a) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. District Map No. 50L-313 contained in Appendix "A" of By-law No. 438-86, being "A by-law to regulate the use of 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 further amended by:
 - (a) redesignating to "MCR T0.0 C0.0 R0.0" the lands identified as "MCR T0.0 C0.0 R0.0" and as outlined by heavy lines on Map 1 attached to and forming part of this By-law; and
 - (b) redesignating to "G" the lands identified as "G" and as outlined by heavy lines on Map 1 attached to and forming part of this By-law.
7. Height and Minimum Lot Frontages Map No. 50L-313 contained in Appendix "B" of By-law No. 438-86, "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 further amended by:
 - (a) establishing the maximum permitted height in metres on lands identified as "H0.0" and as outlined by heavy lines on Map 2 attached to and forming part of this By-law.
8. In addition to the uses permitted in Section 5(1)(f) within the "G" district the following additional uses shall be permitted within the lands identified as "G", and as outlined by heavy lines on Map 1 attached to and forming part of this By-law:
 - (a) open air markets; and
 - (b) community related uses.
9. None of the provisions of Section 2 with respect to the definitions of the terms *lot*, *grade*, *bicycle parking space-occupant*, *bicycle parking space-visitor*, *dwelling unit height*, and non-residential gross floor area, and Sections 4(2)(a), 4(3), 4(12), 4(13), 8(1), 8(2), 8(3)

Part I, 8(3) Part II 4, 8(3) Part IV 2, 8(3) Part VIII 1, 8(3) Part XI 2, 12(2)118, 12(2)119, 12(2)269 and 12(2)270 of the aforementioned Zoning By-law No. 438-86, as amended, shall apply to prevent the erection or use of a *mixed-use building* on the *lot*, including uses *accessory* thereto, provided that:

- (a) the *lot* comprises at least the lands identified with hatching on Map 1 attached to and forming part of this By-law;
- (b) the *mixed use building* on the *lot* shall include the *heritage structure* and the *heritage structure* is retained in situ subject to such alterations as are permitted pursuant to a Heritage Easement Agreement or amending agreement thereto entered into between the *owner* and the City, or as amended, after the date of enactment of this By-law and registered on title to such lands pursuant to Section 37 of the *Ontario Heritage Act* together with any permit issued pursuant to Section 33 of the *Ontario Heritage Act*;
- (c) the following uses are permitted on the *lot*:
 - (i) permitted uses on the *lot* shall be in accordance with Sections 8(1) and 8(2) of By-law No. 438-86, as amended, with the exception that:
 - 1. *restaurants, take-out restaurants and bake shops* are permitted uses and are not subject to the qualifications in Section 8(2) of By-law No. 438-86, as amended;
 - (ii) rooftop terraces and *patios* used for the exclusive use of a *retail store, restaurant, take-out restaurant and bake shop*; and
 - (iii) guest suites;
- (d) the total combined *residential gross floor area* and *non-residential gross floor area* of the building shall not exceed 20,600 square metres, including a maximum of 866 square metres in the *heritage structure*, and subject to the following:
 - (i) the *residential gross floor area* shall not exceed 19,200 square metres; and
 - (ii) the *non-residential gross floor area* shall not exceed 1,500 square metres;
- (e) a maximum of 233 dwelling units shall be permitted;
- (f) no above *grade* portion of any building or structure erected or used on the *lot* shall be located other than wholly within the areas delineated by heavy lines shown on Map 3 except for the type of structures and elements listed in the column entitled "STRUCTURE" in the following chart, provided that:
 - (i) the restrictions set out opposite the structure in the columns entitled "MAXIMUM PERMITTED PROJECTION" and "OTHER APPLICABLE QUALIFICATIONS" are complied with; and

- (ii) for any structure or element located within the shaded area identified on Map 3 as "Existing Heritage Structure" as may be permitted pursuant to the Heritage Easement Agreement together with any permit issued pursuant to Section 33 of the *Ontario Heritage Act* and provided such structure or element are acceptable to Manager, Heritage Preservation Services;

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. light fixtures, cornices, sills, eaves, bay windows, mullions, ornamental or architectural elements, and aircraft warning lighting	1.0 metres	Provided the <i>height</i> of such "STRUCTURE" is no higher than that portion of the building to which it is attached
B. canopies	3.0 metres	Provided the <i>height</i> of such "STRUCTURE" is no higher than that portion of the building to which it is attached
C. parapets and guards	1.2 metres	Provided the <i>height</i> of such "STRUCTURE" is not greater than 2.0 metres above that portion of the building to which it is attached
D. fences, safety railings and guardrails	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not exceed 3.0 metres above finished ground level
E. cornice windscreen architectural element	1.7 metres	Provided the height of such "STRUCTURE" is no greater than 1.0 metres above that portion of the building to which it is attached

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
F. stairs, stair enclosures, ramps, wheel chair ramps and/or stairs (and associated structures), underground garage ramps and their associated structures, retaining walls, air shafts, transformer vaults and building code elements required for the functional operation of the building, including but not limited to free standing Siamese connections, and free standing accessibility door operators	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not exceed 2.0 metres above finished floor level

- (g) no part of any building or structure erected or used on the *lot*, shall exceed the *heights* in metres specified by the numbers following the symbol "H" on the attached Map 3, with the exception of the following structures and elements:
- (i) to a maximum of 3.0 metres above the *height* limits established by this By-law:
 - 1. a structure used for outside or open air recreation, elements of a green roof, lighting fixtures, canopies, screens, window washing equipment, ornamental elements, architectural elements, landscaping elements, privacy walls, trellises, parapets, stairs, stair enclosures, roofing materials, lightning rods, exhaust flues, guardrails and railings;
 - (ii) to a maximum of 5.0 metres above the *height* limits established by this By-law in the area identified on Map 3 with a dashed line, provided the overall height of the building within the area of Map 3 outlined with a dashed line does not exceed 84.2 metres:
 - 1. heating, ventilation, mechanical or cooling equipment, including vents, chimneys and stacks as well as fence, wall or structure enclosing such structures and elements;
 - (iii) the structures and elements identified in subsection (f) above, subject to the restrictions therein;
- (h) the *height* of the existing *heritage structure* shall not exceed its *height* as it existed on the date of enactment of this By-law with the exception of the following

structures and elements as may be permitted pursuant to the Heritage Easement Agreement together with any permit issued pursuant to Section 33 of the *Ontario Heritage Act* and provided such are acceptable to the Manager, Heritage Preservation Services:

- (i) structures or elements associated with *patios* located on the roof;
 - (ii) elevators and associated elevator enclosures located on the roof; and
 - (iii) other similar and usual structures and elements such as mechanical equipment associated with the operation of the building acceptable to the Manager, Heritage Preservation Services;
- (i) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.2 *parking spaces* per bachelor *dwelling unit*;
 - (ii) a minimum of 0.4 *parking spaces* per one *bedroom dwelling unit*;
 - (iii) a minimum of 0.6 *parking spaces* per two *bedroom dwelling unit*;
 - (iv) a minimum of 0.8 *parking spaces* per three *bedroom dwelling unit*; and
 - (v) a minimum of 0.1 *parking spaces* per *dwelling unit* for visitors to the building;
- (j) notwithstanding Section 4(5)(a) of By-law No. 438-86, no *parking spaces* shall be required for the *non-residential* uses on the *lot*;
- (k) notwithstanding Section 4(17) of By-law No. 438-86, a maximum of 18 obstructed *parking spaces* required by this By-law are permitted having minimum dimensions of length 5.6 metres, height 2.0 metres and width 2.6 metres;
- (l) a minimum of one Type G loading space shall be provided on the lot;
- (m) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) for residential uses, a minimum of 0.75 *bicycle parking space and/or stacked bicycle parking space* for each *dwelling unit*, excluding guest suites, comprised of 0.6 *bicycle parking spaces and/or stacked bicycle parking space - occupant* and 0.15 *bicycle parking spaces and/or stacked bicycle parking space - visitor*; and
 - (ii) for non-residential uses, a minimum of 0.13 *bicycle parking spaces and/or stacked bicycle parking space - occupant* per 100 square metres of non-

residential gross floor area and the greater of 0.25 *bicycle parking spaces and/or stacked bicycle parking space - visitor* per 100 square metres of non-residential gross floor area or 6 *bicycle parking spaces and/or stacked bicycle parking space – visitor*;

- (n) *residential amenity space* shall be provided as follows:
 - (i) a minimum of 2 square metres of indoor *residential amenity space* shall be provided per *dwelling unit* and may be provided in separate multi-purpose rooms, provided at least one room contains a kitchen and a washroom; and
 - (ii) a minimum of 2 square metres of outdoor *residential amenity space* shall be provided per *dwelling unit*;
- 10. None of the provisions of Zoning By-law No. 438-86 or this By-law shall apply to prevent a *temporary sales office* on the *lot*.
- 11. 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:
 - (a) "*bicycle parking space - occupant*" has the same meaning as in the definition set forth in *By-law No. 438-86*, except that *bicycle parking spaces* may be provided in the form of a stacked bicycle parking space. A *stacked bicycle parking space* shall mean a horizontal bicycle parking space positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces with a minimum vertical dimension of at least 1.0 metre and minimum horizontal dimensions of at least 0.25 metres width and 1.6 metres length;
 - (b) "*bicycle parking space - visitor*" has the same meaning as in the definition set forth in *By-law No. 438-86*, except that *bicycle parking spaces* may be located in a secured room and may be provided in the form of a stacked bicycle parking space. A *stacked bicycle parking space* shall mean a horizontal bicycle parking space positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces with a minimum vertical dimension of at least 1.0 metres and minimum horizontal dimensions of at least 0.25 metres width and 1.6 metres length;
 - (c) "*dwelling unit*" has the same meaning as in the definition set forth in *By-law No. 438-86*, but excludes a guest suite;
 - (d) "*grade*" means 169.30 metres Canadian Geodetic Datum;
 - (e) "*height*" means the highest point of the roof above grade, except for those elements prescribed by this By-law;

- (f) "*heritage structure*" means that portion of the heritage building located on the *lot* in the year 2014 as shown on Map 3, subject to alterations and additions in accordance with this By-law;
 - (g) "*lot*" means at least the lands delineated by hatched lines shown on Map 1;
 - (h) "*non-residential gross floor area*" shall have the same meaning as in the definition set forth in By-law No. 438-86 but in addition to the exclusions identified in clauses (i) through (v), the part of the existing *heritage structure* below grade shall also be excluded from the *non-residential gross floor area*;
 - (i) "*owner*" means the owner of the lot or any part thereof; and
 - (j) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used exclusively for the initial sale and/or initial leasing of *dwelling units* or non-residential gross floor area to be erected on the *lot*.
- 12.** 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.
- 13.** None of the provisions of Zoning By-law No. 438-86 or this By-law shall apply to prevent a patio in the area identified as "Area 'A'" on Map 2 of this By-law.

Enacted and passed on August 28, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

Appendix 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner's* expense in return for the increase in height and density of the proposed development of the lands as secured in an agreement under Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement whereby the *owner* agrees, subject to the terms of the aforementioned agreement as follows:

1. The development permitted by this By-law on the *lot* shall incorporate and retain the existing heritage structure, as may be permitted to be altered pursuant to a heritage easement agreement or amending agreement thereto entered into by the owner of the *lands* with the *City* and registered on title to such lands at 2384 and 2388 Yonge Street pursuant to Section 37 of the *Ontario Heritage Act*, to the satisfaction of the City Solicitor and the Manager, Heritage Preservation Services, together with any permit issued by the City pursuant to Section 33 of the *Ontario Heritage Act*.
2. The *owner* shall enter into a Heritage Easement Agreement with the City pursuant to Section 37 of the *Ontario Heritage Act*, for the property at 2384 and 2388 Yonge Street in accordance with the Heritage Impact Statement, prepared by ERA Architects dated June 2, 2014, such agreement to be subsequently registered against title to the lands at 2384 and 2388 Yonge Street, all to the satisfaction of the City Solicitor in consultation with the Manager, Heritage Preservation Services.
3. Prior to the issuance of final Site Plan Approval for all or any portion of the *lot* through the Site Plan Approval process pursuant to Section 114 of the *City of Toronto Act, 2006*, the owner shall:
 - (a) provide a Conservation Plan, prepared by a qualified heritage consultant that is consistent with the conservation strategy set out in the Heritage Impact Statement for 2384 and 2388 Yonge Street prepared by ERA Architects, dated June 2, 2014 and all to the satisfaction of the Manager, Heritage Preservation Services; and
 - (b) provide final Site Plan drawings including drawings related to the approved Conservation Plan to the satisfaction of the Manager, Heritage Preservation Services.
4. Prior to the issuance of any permit for all or any part of the *lot*, excluding the portion of the *lot* known municipally in the year 2014 as 31 Montgomery Avenue and identified as "MCR T0.0 C0.0 R0.0" on Map 1 attached to and forming part of this By-law, including pursuant to the *Ontario Heritage Act* and the *Building Code Act* and including any permit for excavation and shoring or foundation, but excluding a permit for the removal of the one storey addition to the rear of the heritage structure, a rental/sales centre, repairs, maintenance and usual and minor works acceptable to the Manager Heritage Preservation Services, the *owner* of the *lot* shall:

- (a) obtain final approval for the necessary by-law amendment required for the alterations to the property at 2384-2388 Yonge Street, such amendment to have been enacted by City Council and to have come into full force and effect in a form and with content acceptable to City Council as determined by the Chief Planner, and Executive Director City Planning in consultation with the Manager, Heritage Preservation Services;
 - (b) have obtained final Site Plan Approval for such property for an above-grade building permit only;
 - (c) provide full building permit drawings, including notes and specifications for the conservation and protection measures keyed to the approved Conservation Plan, including a description of materials and finishes to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Manager Heritage Preservation Services, except in the case of any below-grade building permit, only the subject building permit drawings are to be provided;
 - (d) provide a Lighting Plan that describes how the heritage structure will be sensitively illuminated to enhance its heritage character, to the satisfaction of the Manager, Heritage Preservation Services, for an above-grade building permit only;
 - (e) provide an Interpretation Plan for Postal Station K, to the satisfaction of the Manager, Heritage Preservation Services for an above-grade building permit only; and
 - (f) provide a letter of credit to the *City* in a form and amount satisfactory to the Manager, Heritage Preservation Services prior to the issuance of any permit pursuant to the *Ontario Heritage Act* for all or any part of the *lot*, to secure all work included in the approved Conservation Plan and the approved Interpretation Plan, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the letter of credit is provided.
5. Prior to the release of such letter of credit the owner shall:
- (a) provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the conservation work and the interpretive work have been completed in accordance with the approved Conservation Plan and the approved Interpretation Plan, and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Manager, Heritage Preservation Services; and
 - (b) provide replacement Heritage Easement Agreement photographs to the satisfaction of the Manager, Heritage Preservation Services.

6. The *owner* shall provide and maintain the following:

(a) the *owner* shall construct and convey to the City for nominal consideration, a public park having a minimum size of approximately 264 square metres, with such conveyance deemed to fully satisfy the parkland contribution requirements for the development as currently proposed, and in accordance with the following and on terms and conditions as are set out in the Section 37 Agreement:

(i) prior to the issuance of the first above grade building permit the Owner shall register a Section 118 Restriction pursuant to the *Land Titles Act*, on the 264 square metre parcel of land to be conveyed as parkland, as follows:

"No sale, transfer, lease, disposition, charge or other dealing with Part 5 on Plan 66M-_____, City of Toronto, or any part thereof, shall be registered without the written consent of the Chief Planner, City Planning, City of Toronto."

(ii) the proposed parkland dedication is to be free and clear above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation except for the following:

1. a 3.0 metre wide pedestrian access easement connecting Yonge Street to the front of the heritage building;
2. easements to provide, maintain, replace, etc., hydro and water for the Development, the terms of such easements to be satisfactory to the General Manager, Parks, Forestry and Recreation, including the requirement that the Park will be reinstated with the materials and as per the approved Park Plan, at the owners expense should any services in the easements need to be replaced or repaired; but otherwise the conveyance to be free and clear, above and below grade easements, encumbrances and encroachments, including surface and subsurface easements unless approved by the General Manager, Parks, Forestry and Recreation; and
3. the City shall accept the parkland dedication subject to the foregoing easements in complete fulfillment of the parkland dedication or cash in lieu thereof requirements of the *Planning Act* for the Development. So there is no uncertainty, Council consents to the above noted easements and encroachments or obstructions in the context of section 3.2.3 of the City of Toronto Official Plan, and confirms there shall be no requirement for additional cash in lieu payment(s) as a consequence thereof.

- (iii) the *owner* is to pay for the costs of the preparation and registration of all relevant documents pertaining to the new parkland including registration fees and all other related costs of the land. The *owner* shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland;
- (iv) the *owner* agrees to use the Parks and Recreation component of the Development Charges to design and construct the Above Base Park Improvements for the new parkland to the satisfaction of the General Manager, Parks, Forestry and Recreation. The *owner* shall receive a credit for the Parks and Recreation component of the Development Charges payable provided that the amount of such credit is the lesser of the actual cost of the Above Base Park improvements and the Parks, Forestry and Recreation component of the Development Charges payable for the development. The *owner* is required to submit a design and cost estimate to be approved by the General Manager and a letter of credit equal to 120% of the Parks and Recreation component of the Development Charges. The cost estimate and letter of credit are required prior to the issuance of the first above grade building permit, excluding a permit for demolition, a rental/sales centre, maintenance and usual and minor works in association with the heritage structure, for the development;
- (v) prior to conveying the parkland to the City, the *owner* shall be responsible for an environmental assessment of the soil and groundwater within the park block and any associated costs or remediation as a result of that assessment. Such assessment and/or remediation shall ensure that the parkland at the time of conveyance to the City, meets all applicable laws, regulations and guidelines respecting sites to be used for public park purposes, including but not limited to City Council policies respecting soil remediation of sites to be acquired by the City and the Ministry of the Environment's Guideline for Use at Contaminated Sites in Ontario, as amended. The environmental assessment shall be prepared by a qualified environmental consultant acceptable to the Director Development Engineering, Technical Services in consultation with the General Manager, Parks, Forestry and Recreation. Prior to the conveyance of the park land to the City, the environmental assessment shall be peer reviewed by an environmental consultant retained by the City at the *owner's* expense (the 'Peer Reviewer'), and the conveyance of the park land shall be conditional upon the Peer Reviewer concurring with the *owner's* environmental consultant that the park land meets all applicable laws, regulations and guidelines for public park purposes;
- (vi) the *owner* will be responsible for the base construction and installation of the parkland. The base park improvements include the following:
 - 1. demolition, removal and disposal of all existing materials, buildings and foundations;

2. grading (inclusive of topsoil supply and placement, minimum of 150 millimetres);
3. sod (or equivalent value of other approved park development);
4. fencing to City standard (where deemed necessary);
5. all necessary drainage systems;
6. electrical and water connections to the street line, including back flow preventors;
7. street trees along all public road allowances, which abut future City owned parkland;
8. standard park sign (separate certified cheque required); and
9. hydro and water metre and chamber, as required.

All work is to be completed to the satisfaction of the General Manager, Parks, Forestry and Recreation.

- (vii) the *owner* shall ensure that the grading and drainage of the adjacent development block is compatible with the grade of the parkland to the satisfaction of the General Manager, Parks, Forestry and Recreation and the Director Development Engineering, Technical Services;
- (viii) prior to issuance of the first above grade building permit, excluding a permit for demolition, a rental/sales centre, maintenance and usual and minor works in association with the heritage structure, the *owner* shall submit the necessary plans and cost estimate for the Base Park Improvements to be approved by the General Manager, Parks, Forestry and Recreation;
- (ix) prior to issuance of the first above grade building permit, excluding a permit for demolition, a rental/sales centre, maintenance and usual and minor works in association with the heritage structure, the *owner* shall post an irrevocable Letter of Credit in the amount of 120% of the value of the Base Park Improvements for the park to the satisfaction of the General Manager, Parks, Forestry and Recreation. No credit shall be given towards the Parks and Recreation component of the Development Charges for costs associated with Base Park improvements;
- (x) The construction of the Base Park and Above Base Improvements shall be completed and the parkland shall be conveyed to the City within three years after the date of issuance of the first above grade building permit, excluding a permit for demolition, a rental/sales centre, maintenance and usual and minor works in association with the heritage structure, to the

satisfaction of the General Manager, Parks, Forestry and Recreation. Unforeseen delays (e.g. weather) resulting in the late delivery of the parkland shall be taken into consideration and at the discretion of the General Manager, Parks, Forestry and Recreation when determining a revised delivery date for the parkland; and

- (xi) the *owner*, upon satisfactory completion of the construction and installation of the park improvements shall be required to guarantee such work and associated materials. The *owner* shall provide certification from their Landscape Architect certifying that all work has been completed in accordance with the approved drawings and a final accounting of the cost to complete the Above Base Park Improvements. If the cost to construct the Above Base Park Improvements is less than the Parks and Recreation component of the Development Charge credit then the balance shall be paid to the City by certified cheque prior to release of the Letter of Credit. Upon the City's acceptance of the Landscape Architect's certification, the Letter of Credit(s) will be released less 20% which will be retained for 2 years as a performance guarantee.

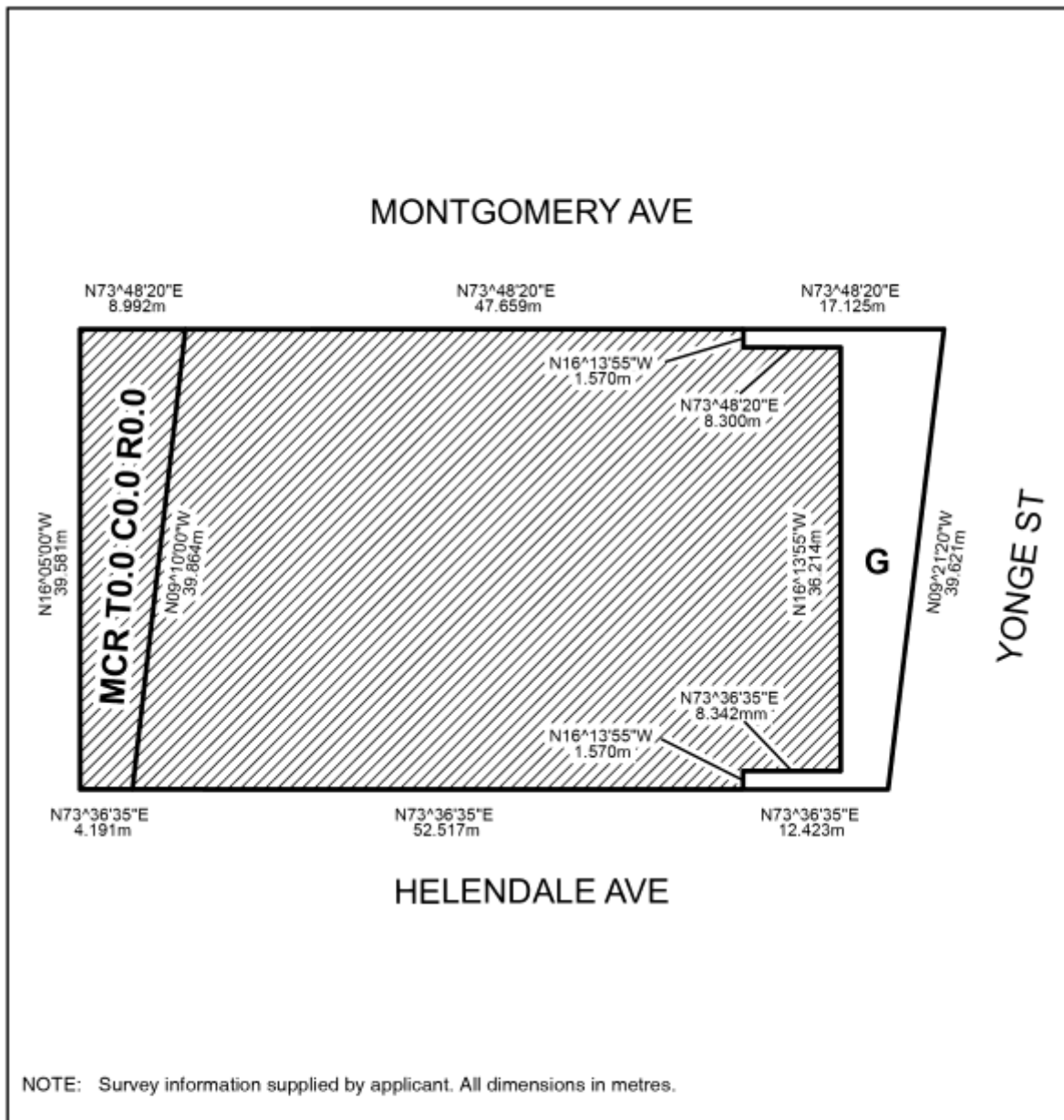
- 7. The *owner* shall maintain the public park at its sole expense, after its conveyance to the City, subject to terms and conditions to be contained in the Section 37 agreement, to the satisfaction of the General Manager, Parks, Forestry and Recreation together with provisions for protections and indemnification of the City to the satisfaction of the City Solicitor in connection with maintenance including but not limited to the regular year round maintenance of landscaping and landscape surfacing including removal of snow and ice, fixtures, irrigation, electrical, fences or other structures which form part of the park installations, and, arrangements with respect to inspection of the park and park installations by the City.

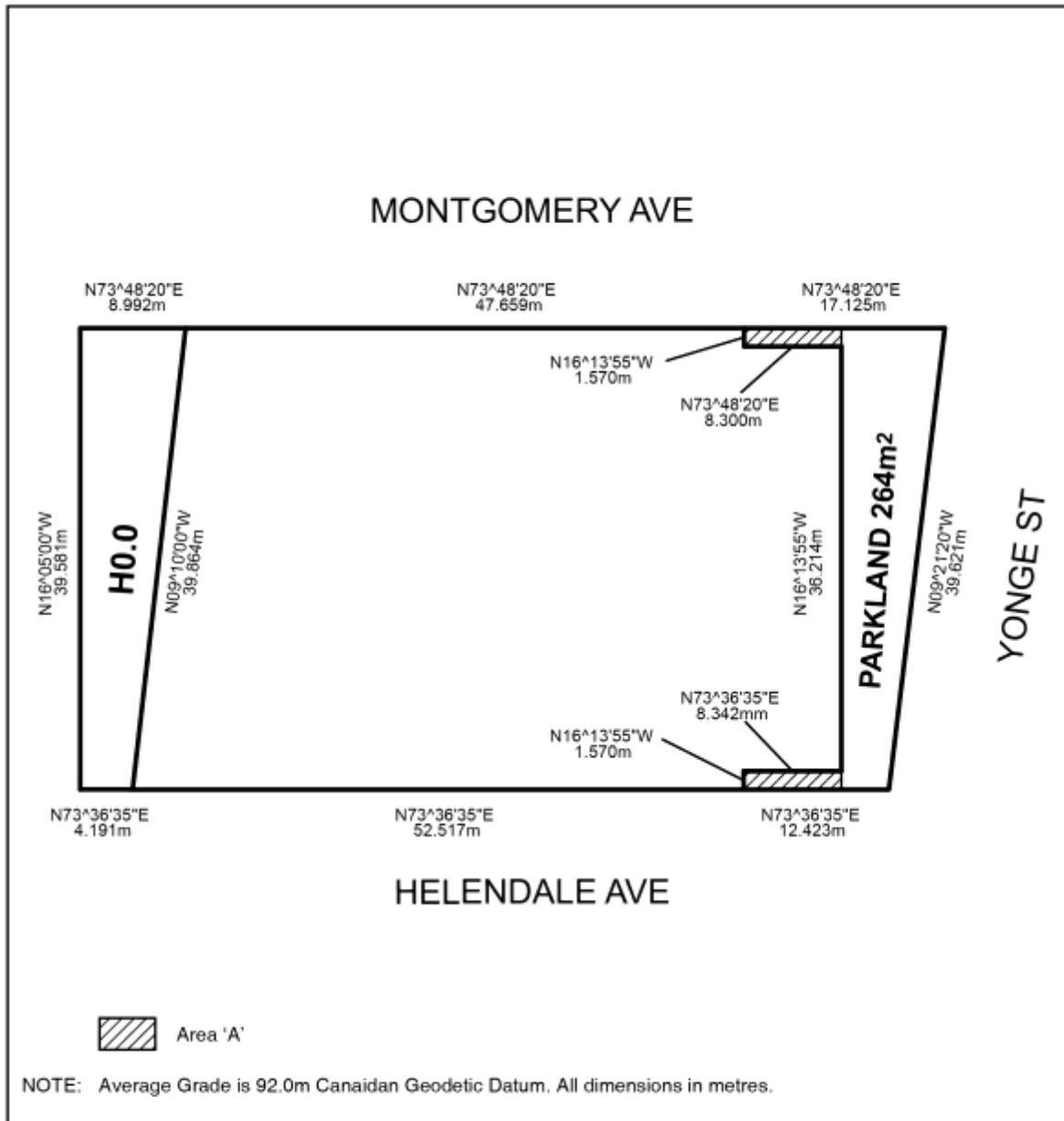
In the event of a future division of the ownership between the residential and non-residential components of the development, all maintenance obligations regarding the proposed park shall be borne by the *owner* of the non-residential portion of the lot.

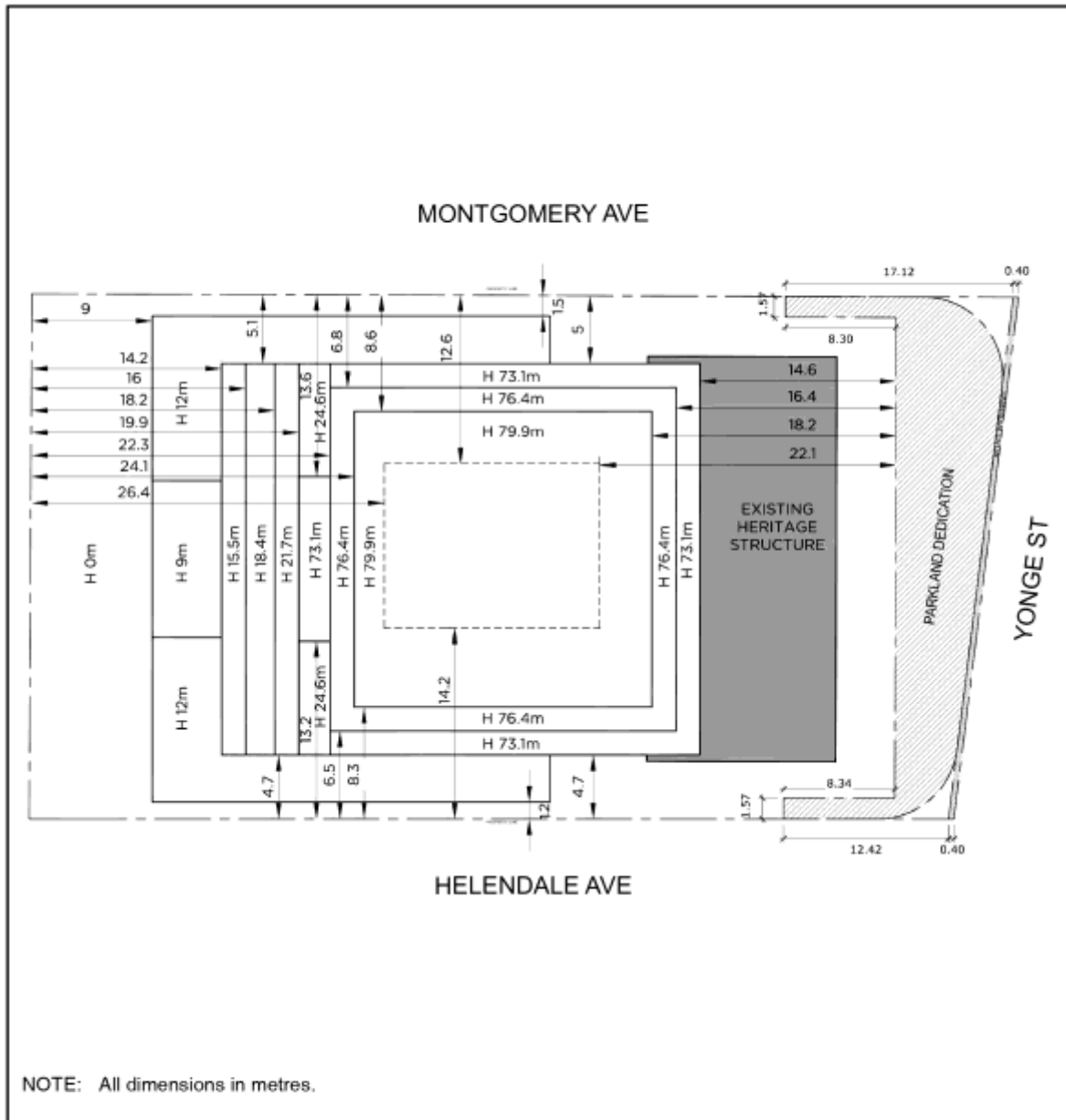
- 8. The *owner* shall provide a letter of credit in the City standard form, prior to the issuance of the first above-grade building permit, excluding a permit for demolition, a rental/sales centre, maintenance and usual and minor works in association with the heritage structure, in the amount of five hundred thousand dollars (\$500,000.00), to guarantee the cost for public art on the lands, such public art to be provided by the owner, where such amount shall be the maximum public art contribution and such amount shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, where such indexing shall not commence until August 31, 2015, unless a letter of credit to secure such contribution has been provided prior to the issuance of the first above grade building permit, subject to the exclusions noted above. The *owner* shall submit a Public Art Plan that is substantially in accordance with the City's Percent for Public Art Guidelines with the details of the public art process to be set out in the Section 37 Agreement to the satisfaction of City Council.

9. The *owner* shall provide a letter of credit in the City standard form, prior to the issuance of the first above-grade building permit, excluding a permit for demolition, rental/sales centre, maintenance and usual and minor works in association with the heritage structure, in the amount of one hundred thousand dollars (\$100,000.00), to guarantee the cost for streetscape improvements to be provided by the *owner*, to Yonge Street, Helendale Avenue and Montgomery Avenue abutting the site and parkland, such streetscape improvements in accordance with designs to be approved in connection with the Midtown in Focus, Parks, Open Space and Streetscape Master Plan Study for Yonge-Eglinton, the details of which to be determined in association with site plan approval, where such amount shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, where such indexing shall not commence until August 31, 2015 unless a letter of credit to secure such contribution has been provided prior to the issuance of the first above grade building permit subject to the exclusions noted above. The owner may, in consultation with City Staff increase the scope of the streetscape improvements so as to take advantage of Development Charge credits available thereof.
10. The *owner* shall provide a non-exclusive public pedestrian easement to the City on terms and conditions satisfactory to the City Solicitor in a location generally described as a north/south access over the western portion of the site, with details of the location and final design to be determined in the context of site plan approval for the development and that such easement lands be maintained by the *owner* at its sole cost. The conveyance of the easement shall be for nominal consideration at no cost to the City to the satisfaction of the City Solicitor and the *owner* shall be responsible to prepare, submit to the City for approval and deposit all required reference plans to describe the easement.

In the event of a future division of the ownership between the residential and non-residential components of the development, all the obligations with respect to the public walkway easement at the west end of the development shall be borne by the *owner* of the residential portion of the lot.
11. The *owner* shall provide a minimum of four (4), three-bedroom units in the building.







TORONTO City Planning
Map 3

2384-2388 Yonge Street &
31 Montgomery Avenue
File # 13 127993 NNY 16 02

 Heritage Building to be Retained


Not to Scale
07/22/2014