

**CITY OF TORONTO**

**BY-LAW No. 1274-2015(OMB)**

**To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally as 99 Atlantic Avenue, 2-24A Liberty Street, 38-40 Hanna Avenue and 1 Snooker Street.**

Whereas the Ontario Municipal Board pursuant to its Order No. PL140865 issued on November 9, 2015, upon hearing the appeal of the Kevric Real Estate Corporation Inc. under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend the former City of Toronto Zoning By-law No. 438-86 with respect to the aforesaid lands; and

Whereas pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in *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 out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that, where an *owner* of land elects to provide facilities, services or matters in return for an increase in *height* or density of development, the municipality may require the *owner* to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

Whereas the *owner* of the lands hereinafter referred to as the *lot* has elected to provide the facilities, services and matters, as hereinafter set forth; and

Whereas the increase in the density or *height* permitted hereunder, beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86 of the former City of Toronto, is 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");

The Ontario Municipal Board Orders that By-law No. 438-86, the General Zoning By-law of the former City of Toronto as amended, is further amended as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law on the *lot* are permitted subject to compliance with all of the conditions set out in this By-law and in By-law No. 438-86, including the provision by the *owner* of the *lot* of:
  - (a) the facilities, services and matters set out in Appendix 1 hereof.
2. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*' and '*lot*'; and Sections 4(2)(a), Section 9 Part I (2) and (3), 12(2)270 and 12(2)298 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 and use on the lands shown delineated by heavy lines on Map 1 attached hereto of a building, provided:

- (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached hereto;
- (b) despite Section 12(2)298, all of the uses permitted in the IC zone by the chart in Section 9(1)(f) of By-law No. 438-86, as amended, including those in subsection 9(1)(f)(b)(iv) under the heading RETAIL AND SERVICE SHOPS, shall be permitted on the *lot*, subject to the limitations of subsection (d) below;
- (c) despite Sections 9(2), 9(3), 12(2)270 and 12(2)298 of By-law No. 438-86, as amended, there shall be no density limit on any of the uses permitted in Section 9(1) or subsection (b) above, except as set out in subsection (d) below;
- (d) the total *non-residential gross floor area* on the *lot* does not exceed 24,000 square metres, provided:
  - (i) the total *non-residential gross floor area* for all uses listed in subsection 9(1)(f)(b)(iv) shall not exceed 6,000 square metres;
  - (ii) the total *non-residential gross floor area* of the seating area for all restaurants shall not exceed 1,085 square metres;
  - (iii) no single restaurant use shall have a seating area which exceeds a *non-residential gross floor area* of 465 square metres, with the exception of one restaurant which may have a seating area with a maximum *non-residential gross floor area* of 500 square metres;
  - (iv) the uses permitted in subsections (i), (ii) and (iii) above shall be located only on the ground floor, except that such uses may be located on the lower ground floor and the ground floor of the *existing building* fronting on Hanna Avenue and within the *existing building* fronting on Liberty Street, including within a mezzanine level; and
  - (v) a dance floor, stage, teletheatre gambling, disc jockey, sound room, pinball machines, recreation activities or any other recreation area shall not be permitted to operate within any restaurant;
- (e) no above *grade* portion of a building or structure erected or used on the *lot* shall be located other than wholly within the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, except for the following:
  - (i) eaves, cornices, lighting fixtures, architectural features and window sills, which may extend to a maximum horizontal projection from an exterior building wall of 0.4 metres beyond the heavy lines shown on Map 2;

- 
- (ii) canopies and awnings, which may extend to a maximum horizontal projection from an exterior building wall of 2.0 metres beyond the heavy lines shown on Map 2; and
  - (iii) fences and safety railings, trellises, guardrails, terraces and platforms that are less than 1.2 metres above finished grade, gas meters, transformer vaults, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, underground garage ramps and their associated structures, stair landings, planters, and public art features;
- (f) 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 2, with the exception of the following:
- (i) the chimney on the roof of the *existing building* fronting on Liberty Street; and
  - (ii) fences and safety railings, architectural features, parapets, trellises, balustrades, window washing equipment, privacy screens, mechanical and architectural screens, guardrails, chimneys, vents, louvres, stacks, flue vents for unit heaters, rooftop mechanical units, fresh air intake goosenecks, condensers for indoor air conditioners, roof penetration for power to rooftop equipment, skylights, elevator overruns, and elements or structures on the roof of the building used for outside or open air recreation, green roof and safety or wind protection purposes, provided:
    - (1) subject to (2) below, no part of such structures is higher than the sum of 1.8 metres and the *height* limits specified on Map 2;
    - (2) one privacy wall with a *height* of 2.5 metres shall be permitted in the location shown on Map 3; and
    - (3) the structures do not enclose space so as to constitute a form of penthouse;
- (g) Despite the provisions of Section 4(17) of By-law No. 438-86, a maximum of 4 *parking spaces* will not comply with the dimensions therein.
3. For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended, except that the following definitions shall apply:

*"existing building"* means a building identified as "existing building" on Map 2;

*"grade"* means 87.80 metres Canadian Geodetic Datum;

*"height"* means the highest point of the roof above *grade*, except for those elements prescribed by this By-law; and

*"lot"* means those lands identified on Map 1 attached to this By-law.

4. 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.

PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD  
ISSUED ON NOVEMBER 9, 2015 IN BOARD CASE NO. PL140865.

## APPENDIX 1

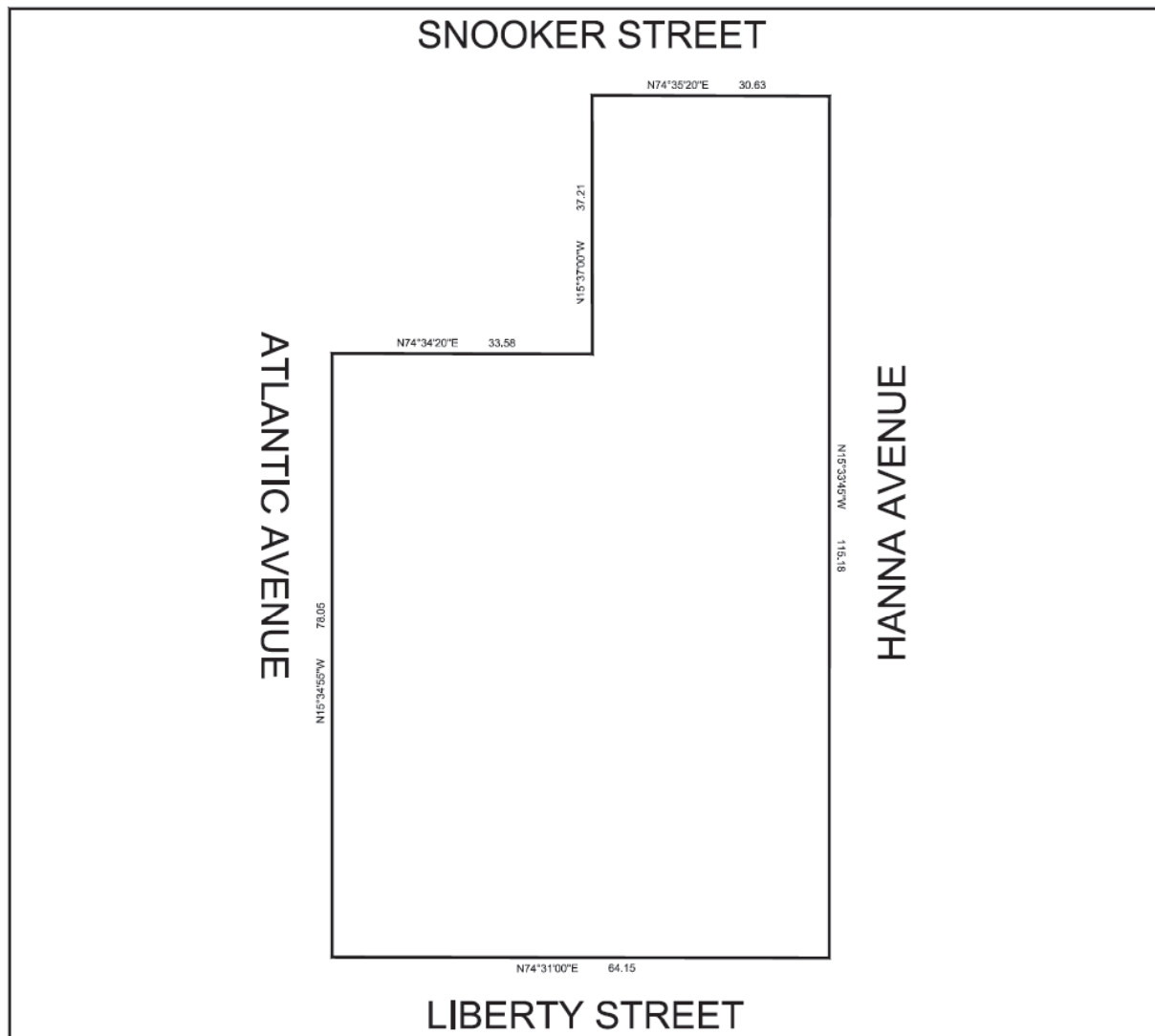
### Section 37 Provisions

The facilities, services, and matters set out herein are the matters required to be provided by the *owner* of the *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 Chief Planner and Executive Director, City Planning Division and the City Solicitor, with conditions providing for indexing escalation of financial contributions and letters of credit, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement and such agreement(s) shall be registered against title to the *lot* to secure facilities, services, and matters as follows:

- a. A cash contribution of \$250,000.00 towards securing and/or constructing community services and/or facilities within the general area of 99 Atlantic Avenue be paid to the City prior to the issuance of the first above grade building permit (for the 8-storey building). The above cash contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the execution of the Section 37 agreement to the date of payment.
- b. Provision of a Privately Owned Publicly-Accessible Space (a "POPS") at the corner of Liberty Street and Hanna Avenue, including the following:
  - i. the POPS shall be subject to an easement agreement in favour of the City permitting free access to the public subject to provisions allowing for restrictions to access related to unlawful behaviour or maintenance needs;
  - ii. the POPS shall have a minimum area of 312 square metres, as shown on Map 3;
  - iii. the owner shall have the right to have patios and seasonal structures within the open space at the corner of Liberty Street and Hanna Avenue associated with the restaurant/retail uses;
  - iv. the owner shall have the right to use the entire POPS exclusive of any space within the City's right-of-way for special events up to 12 times a year or additional time as may be agreed to by the City; and
  - v. the POPS shall be maintained in a good state of repair and be cleared of debris, snow and ice by the owner.
- c. The owner shall enter into a Heritage Easement Agreement for the property with the City to the satisfaction of the Manager, Heritage Preservation Services, including registration of such agreement to the satisfaction of the City Solicitor.
- d. The owner shall submit a construction management plan, which will include but not be limited to details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary to the satisfaction of the Chief Planner and Executive Director, City Planning

Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.

- e. The owner to provide and pay for any improvements to the municipal infrastructure in connection with the site servicing assessment, as accepted by the Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.



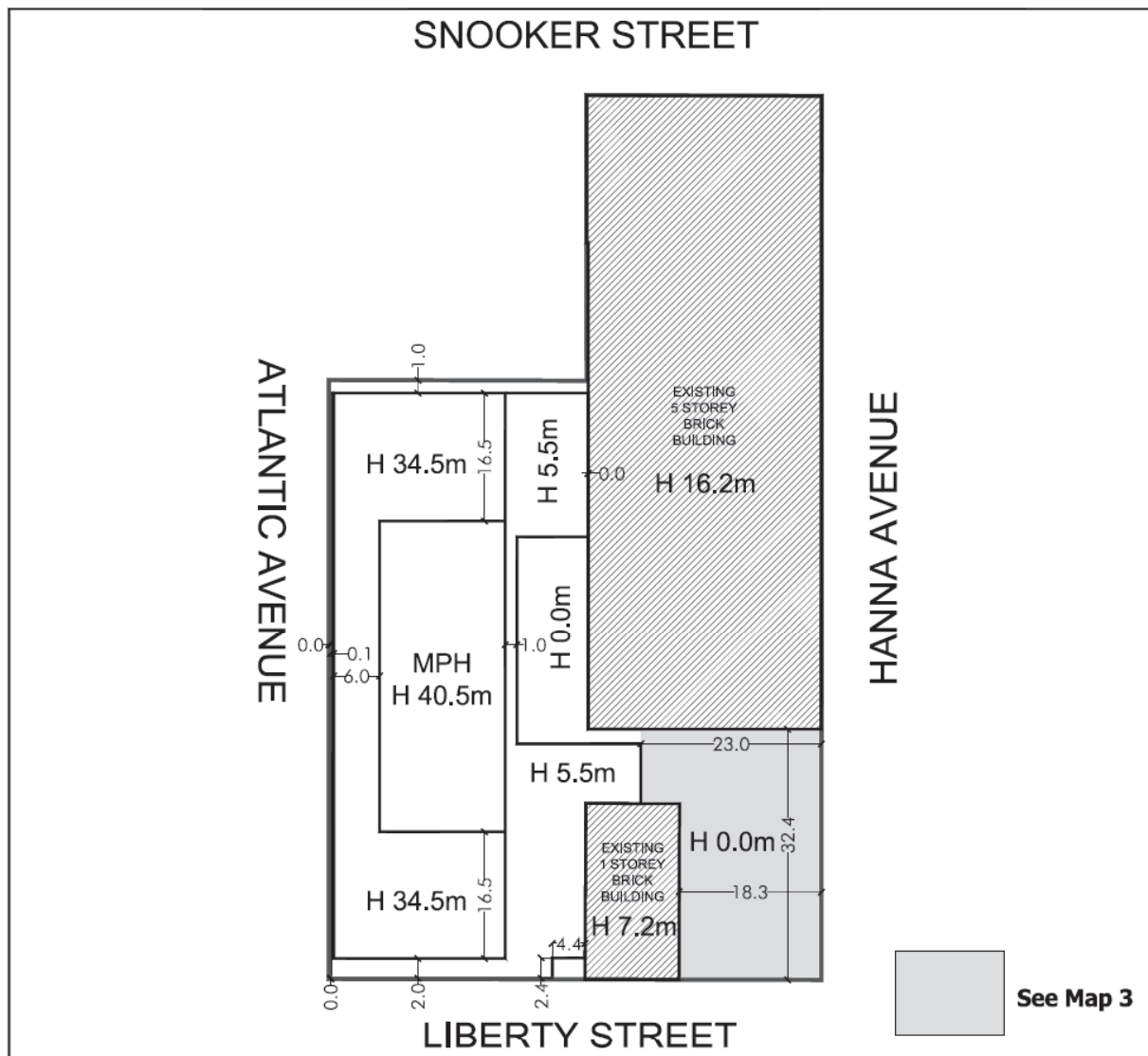
**99 Atlantic Avenue, Toronto**

### Map 1

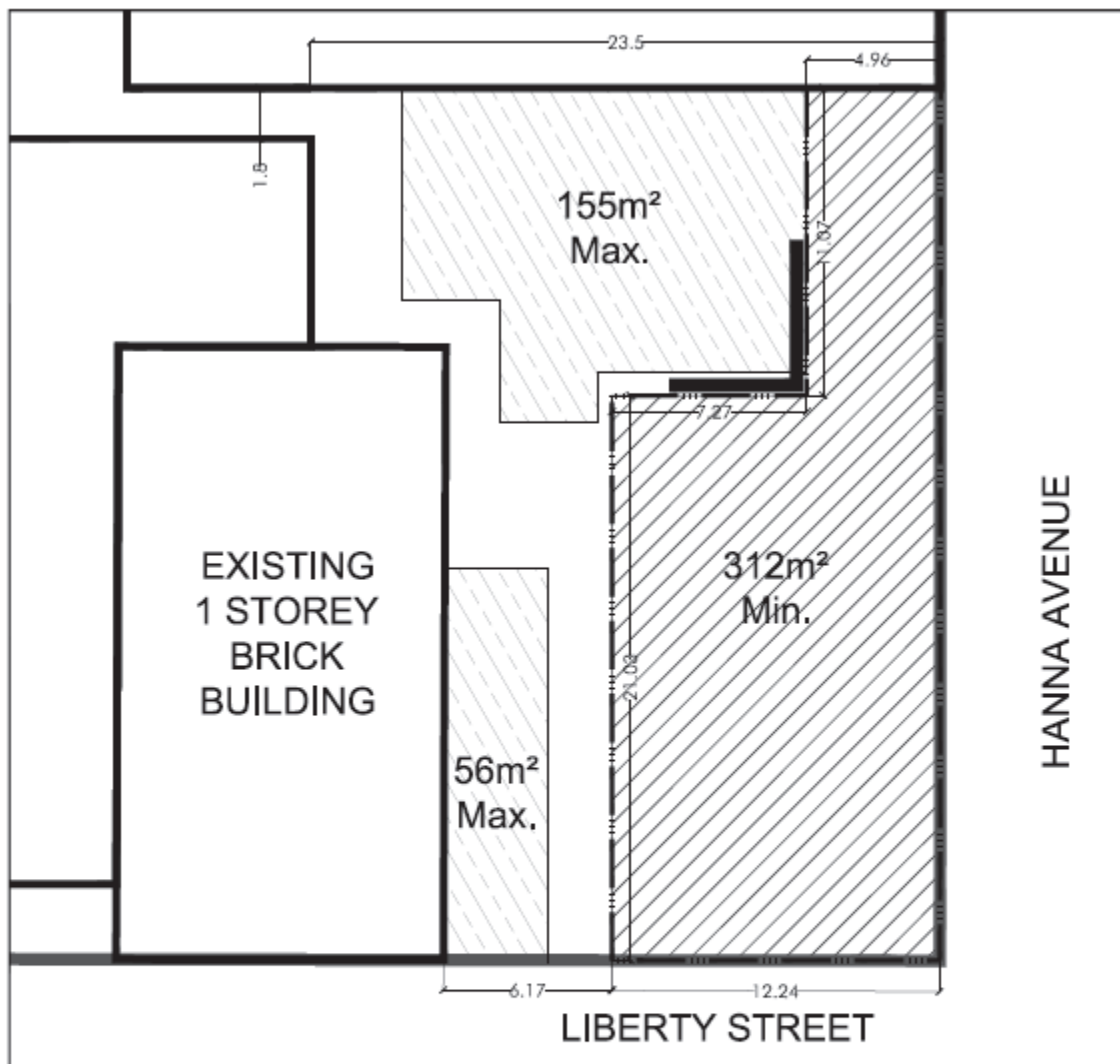
File #14\_\_\_\_\_



**Not to Scale**







**Toronto** City Planning Division

**99 Atlantic Avenue, Toronto**

**Map 3**

File #14\_\_\_\_\_



**Location of POPS**



**Location of Terraces**



**Privacy Wall**



**Not to Scale**