

Authority: Etobicoke York Community Council Item EY10.1, as adopted by City of Toronto Council on December 9 and 10, 2015

## CITY OF TORONTO

### BY-LAW No. 1358-2015

**To amend Zoning By-law No. 569-2013, as amended, and former City of York By-law No. 197 with respect to the lands municipally known as 33 King Street, 22 John Street and 2 Elsmere Avenue.**

Whereas 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 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 the Official Plan for the City of Toronto contains 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 and 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 and 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 hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. Zoning By-law No. 569-2013, as amended, is further amended by replacing the zoning label on the Zoning By-law Map in Section 990.10 with the zoning label for the lands outlined in heavy black lines on Diagram 1 and identified as Site A and Site B.
2. Former City of York By-law No. 197 is hereby amended as follows:
  - (A) The area subject to Section 2 of this By-law consists of the lands delineated by heavy black lines and identified as Site B on Diagram 1 and 2B of By-law No. 1358-2015.

- (B) Subsection 4 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended by replacing "four hundred and ten (410) rental apartment units" with "four hundred and twenty (420) rental apartment units", so that it reads:

"The sixth to thirty-first floors inclusive shall contain four hundred and twenty apartment suites";

- (C) Subsection 2 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended by adding the following at the end of the subsection: "and may include 12 apartment units", so that it reads:

"The second, third, and fourth floors shall be used for the provision of parking required under this By-law, and may be used for two (2) stories of office space not exceeding 16,000 square feet in gross floor area, and may include 12 apartment units";

- (D) Subsection 1 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby deleted and replaced with the following:

"The following uses are permitted on the ground floor:

- i. a mall of retail of stores;
- ii. twenty-six (26) **artist live/work units**;
- iii. **community centre**;
- iv. **artist's or photographer's studios**;
- v. **multi-purpose area**;
- vi. **performing arts studio**; and
- vii. **self-storage warehouse**";

- (E) Subsection 5 of Section 1 of prevailing By-law No. 197 (Exception CR 973) is hereby amended to permit a total of 558 parking spaces on Site B. These 558 parking spaces may collectively serve the required parking spaces for the residential and non-residential uses on Site A and Site B, as shown on Diagram 1 of By-law No. 1358-2015. The 558 parking spaces existing at the time of the passing of this By-law are deemed to conform to the By-law No. 1358-2015 as it is amended from time to time;

- (F) For the purposes of this By-law, above grade parking areas are not included within the gross floor area calculation;

- (G) For the purposes of this By-law, the terms which are shown in bold type have the following meaning:

- i. **artist live/work unit** means a dwelling unit with a **home occupation**, that is limited to a studio or workshop used for the production and/or display and/or sale of art and photography with no employees;

- ii. **artist's or photographer's studio** means a studio or workshop used for the production and display of art and photography;
- iii. **community centre** means premises operated by or on behalf of a government or non-profit organization providing community activities, such as arts, crafts, recreational, social, charitable and educational activities;
- iv. **home occupation** means a business use within a dwelling unit, where the dwelling unit is the principal residence of the business operator;
- v. **multi-purpose area or multi-purpose rooms** means rooms or areas used for the display and exhibition of art, cultural and community events, and meeting, classroom and administration spaces, and uses to support parks and recreation programs;
- vi. **performing arts studio** means premises used for the rehearsal of performing arts, such as music, dance or theatre; and
- vii. **self-storage warehouse** means premises where individual enclosed areas are made available to the public for keeping or storing goods or commodities.

3. Zoning By-law No. 569-2013, as amended, is further amended as follows:

- (A) The lands subject to Sections (B) to (C) xvi of Section 3 of this By-law are outlined by heavy black lines on Diagram 1 and identified as Site A, attached to this By-law;
- (B) Zoning By-law No. 569-2013, as amended, is further amended, by replacing the zoning label on the Zoning By-law Map in Section 990.10 with the zoning label for the lands outlined in heavy black lines on Diagram 1 and identified as Site A;
- (C) Zoning By-law No. 569-2013, as amended, is further amended by replacing the wording in Exception 974 of Section 900.11.10 so that it reads:

Exception CR 974

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing Bylaws and Prevailing Sections:

Site Specific Provisions:

- i. The area subject to this exception consists of the lands delineated by heavy lines and labelled Site A on Diagram 1 of By-law 1358-2015;
- ii. None of the regulations of 5.10.40.70(4), 40.5.40.10(3)(4) and (5), 40.5.40.60, 40.10.40.50(1), 40.10.40.60, 40.10.40.70(2), 40.10.40.80(2),

40.10.80.10(1), 40.10.90.10(1), 200.5.1(2), 200.5.1(3)(A), 200.5.1.10(2)(A),(B) and (C), 200.5.1.10(4), Table 200.5.10.1, 200.5.200.40(3), 200.15.1(1), 200.15.10(1)(C), 230.5.1.10(4) and 230.40.1.20(2) will apply to prevent the erection or use of a **building, structure**, addition or enlargement if it complies with the requirements of this By-law;

- iii. The following elements of a **building** may exceed the **building** height by a maximum of 7.5 metres: appurtenances and equipment serving the building, antennas, elevator overruns, flagpoles, mechanical equipment (mechanical penthouse) and any associated enclosure structures, chimneys, parapets, pergolas, trellises, eaves, screens, stairs, satellite dishes, roof drainage, roof access, window washing equipment, lightning rods, architectural features, landscaping and elements of a green roof, structures for noise attenuation, ornamental elements, terrace and balcony guard rails and dividers, railings, planters, decorative screens, vents and window washing equipment and stairs to the roof;
- iv. No portions of any **building** or **structure** located above grade shall be located otherwise than wholly within the areas delineated by hatched lines as shown on Diagram 2A of By-law 1358-2015 except that:
  - (a) cornices, light fixtures, ornamental elements, parapets, art and landscape features, architectural flutes, pillars, pergolas, trellises, terraces, bay windows, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, and window washing equipment may extend beyond the hatched lines;
- v. **Home occupation**, and all other permitted non-residential uses, are only permitted on the ground floor of the **building** facing John Street;
- vi. The total **gross floor area** of all **buildings** and **structures** must not exceed 27,500 square metres;
- vii. The maximum individual floor plate size per floor for each of floors 8 through 30 inclusive, must not exceed 750 square metres;
- viii. Outdoor **amenity space** must be provided at a minimum rate of 1.35 square metres for each **dwelling unit**;
- ix. A minimum of 278 **stacked bicycle parking spaces** must be provided and maintained, of which:
  - (a) A minimum of 252 long-term **stacked bicycle parking spaces** must be allocated for residents, and must have a minimum length

of 1.6 metres and a minimum width of 0.4 metres, and may be located below **grade**; and

- (b) A minimum of 26 short-term **stacked bicycle parking spaces** shall be allocated for visitors, and shall have a minimum length of 1.6 metres and a minimum width of 0.4 metres;
- x. A minimum of 15 percent of the total area of the lot must be **landscaped**, and located within the hatched area of the lot on Diagram 3;
- xi. One Type "G" **loading space** must be provided and maintained, and vehicular access may be provided from the adjacent lot at 14 John Street;
- xii. A minimum of 0.6 **parking spaces** per **dwelling unit** must be provided, and may be located on Site B (33 King Street) shown on Diagram 1 of By-law 1358-2015;
- xiii. Vehicular parking for residential and non-residential uses for Sites A and B will be provided on Site B shown on Diagram 1 of By-law 1358-2015;
- xiv. The height of a **building** or **structure** is measured from the Canadian Geodetic Datum elevation of 128.395 metres;
- xv. Nothing in this By-law shall prevent the erection or placement of an office on Site A for the purposes of real estate presentations and transactions (including leases of **dwelling units**); and
- xvi. The owner shall not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to (B) through (C) xvi above, unless all provisions of Schedule A of By-law 1358-2015 are satisfied.

#### 4. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are 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;
- (B) Where Schedule A 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 such permit shall be dependent on satisfaction of the same; and

- (C) 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 Schedule A attached, are satisfied.

Enacted and passed on December 10, 2015.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**Schedule A**

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown on Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owners agree as follows:

**The following section applies only to the Owner of land shown as Site A (22 John Street):**

1. Prior to the issuance of an above grade building permit, other than a building permit for a temporary sales office/pavilion, the Owner shall:

(A) Demonstrate to the satisfaction of the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture that two separate leases among the Owner of 33 King Street, Toronto Artscape Inc. ("Artscape"), and the City of Toronto ("City"), have been executed and registered on title for the Site B lands on terms satisfactory to the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture. One lease shall pertain to the Artist Live/Work Units and Artists' Courtyard ("Live/Work Lease") and the other to the Community/Cultural Hub ("Community/Cultural Hub Lease"), with both spaces to be located on Site B; and

(B) Provide a letter of credit, in a form satisfactory to the City Treasurer, in the amount of no less than \$7,225,000. If a satisfactory letter of credit is not received by the City by January 31, 2017, the amount shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of the execution of the Section 37 Agreement to the date of submission of the letter of credit by the Owner to the City.

This letter of credit shall provide security for the construction and delivery of the work required by Section 2(A) below and for an operating fund for Artscape. The letter of credit is to be reduced from time to time, upon approval by the Director of the Affordable Housing Office in consultation with the General Manager of Economic Development and Culture, as more particularly described in the Section 37 Agreement, as work required by Section 2 above progresses, and shall not be reduced below the amount required for the Artscape operating fund until such fund has been paid to Artscape.

2. The Owner shall provide and maintain the following:

(A) The Owner agrees to construct, or cause to be constructed, the following:

i. 26 Artist Live/Work Units and the Artist's Courtyard, in accordance with the specifications set out in the Live/Work Lease;

- ii. The Community/Cultural Hub in accordance with the specifications set out in the Community/Cultural Hub Lease; and
- iii. The Enhanced Weston Farmer's Market Space ("Farmer's Market Space") in accordance with the specifications as generally contained in the Section 37 Agreement, the detailed design of which will be secured through the Site Plan approval process.

The above work shall be constructed concurrently with the proposed development on Site A.

(B) The Owner shall undertake the following obligations with respect to the Farmer's Market Space, which is shown as Part 6 on the Draft Reference Plan attached as Schedule B:

- i. The Owner shall install landscaping, including hard and soft landscaping and other appurtenances and fixtures, the details of which will be designed and secured through the Site Plan approval process;
- ii. The Owner shall, at its sole expense, maintain the Farmer's Market Space, in accordance with maintenance obligations established in the Section 37 Agreement. The Owner shall also provide the City with appropriate insurance and indemnification;
- iii. The Owner shall comply with the following environmental obligations:
  - (a) The Owner shall pay all costs associated with the City retaining a third-party peer reviewer to conduct a third-party review of the Risk Assessment of the property;
  - (b) The Owner shall be solely responsible for compliance with any and all Environmental Requirements stipulated in the Certificate of Property Use (CPU) issued for the property by the Ministry of Environment and Climate Change (MOECC) as part of the Risk Assessment process; and
  - (c) Where the CPU requires the Owner prepare reports, whether annual or periodic, the Owner shall provide such reports to the City and its Peer Reviewer even in cases where such reports are not required to be delivered to the MOECC, until such time that the CPU Annual Report requirements are rescinded by the MOECC.

(C) The City shall reserve an easement in the transfer of Site A from the City to the Owner for unrestricted public pedestrian access over such portion of Site A as is necessary such that there is uninterrupted access from and between Elsmere Avenue and the Farmer's Market Space, as shown as Parts 8, 12, 13, 20 and 22 on the Draft Reference Plan attached as Schedule B. The Owner will maintain said

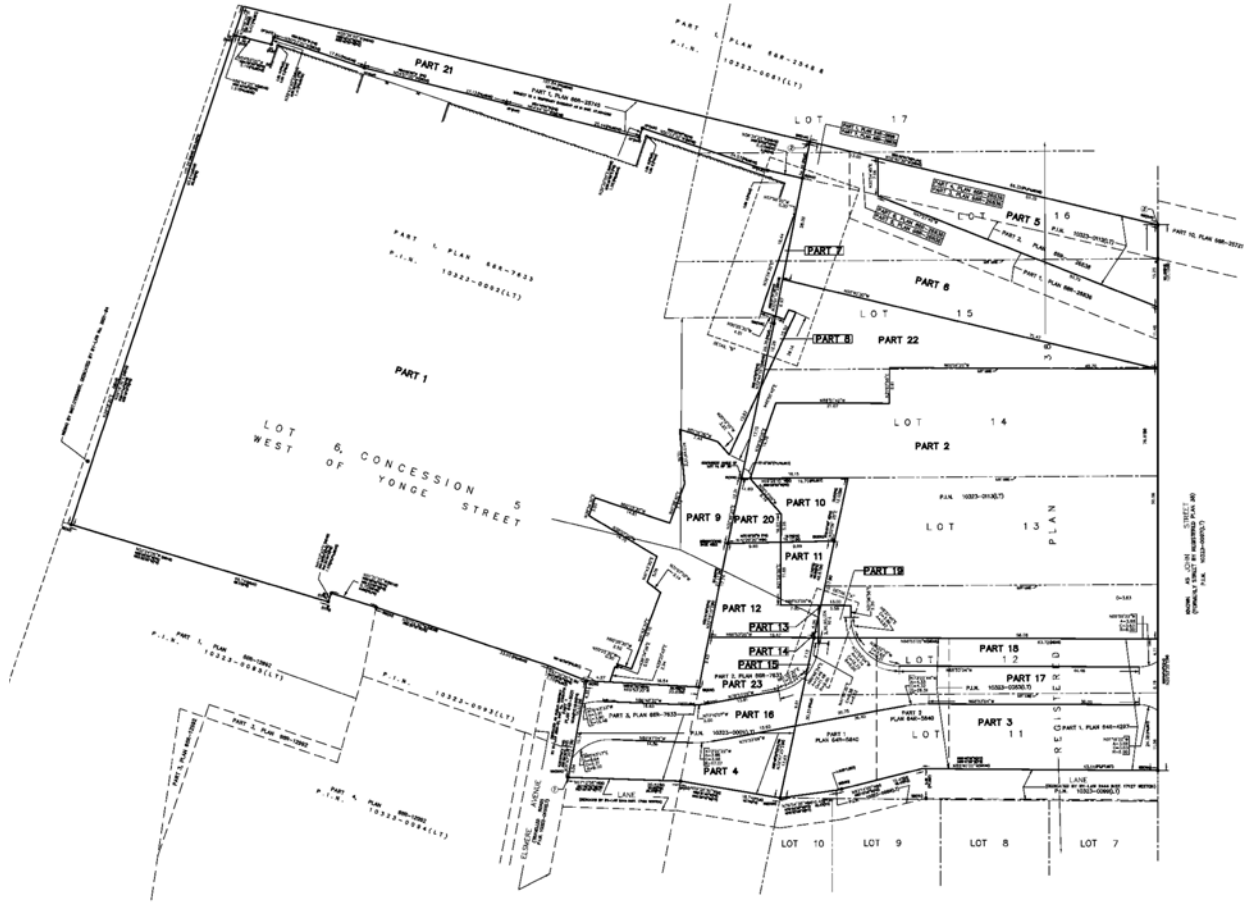


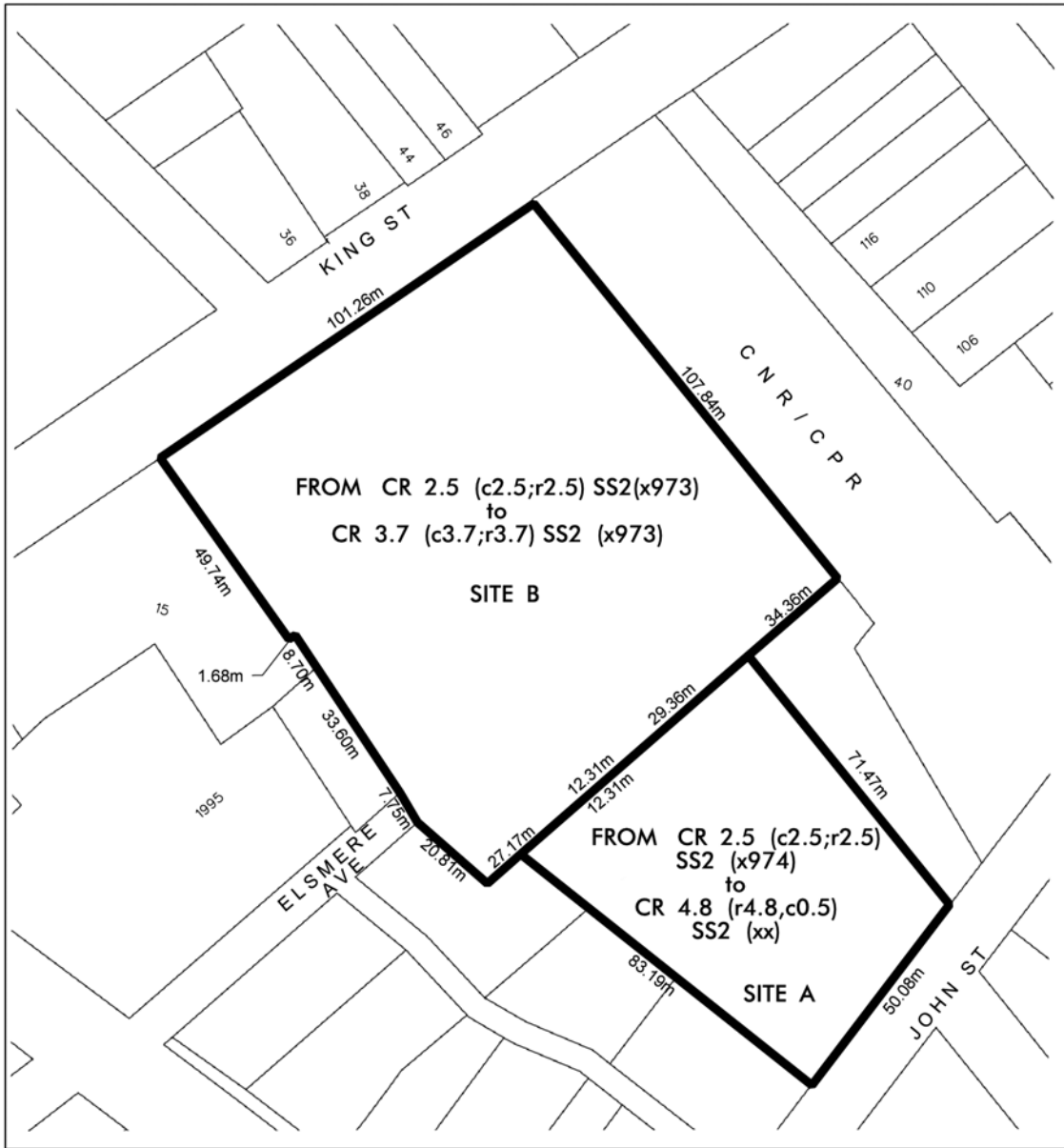
lands, and Owner will provide the City with appropriate insurance and indemnification.

**The following section applies only to the Owner of land shown as Site B (33 King Street - Existing Building)**

1. The Owner shall provide and maintain the following:
  - (A) The Owner covenants and agrees to maintain the 420 existing rental residential units and the 12 additional rental units approved by the Committee of Adjustment on March 6, 2014 in decision number A64/14EYK ("Rental Dwelling Units") as rental housing for a minimum period of twenty (20) years commencing from the date of final approval of the zoning by-law amendment, and agrees that no application will be made for a demolition permit or for purposes of condominium registration, pursuant to the *Condominium Act*, for the Rental Dwelling Units during the twenty (20) year period; and
  - (B) The Owner agrees that it shall not apply to the Ontario Rental Housing Tribunal, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in rent above the Guidelines established under the *Act* in relation to the Rental Dwelling Units arising from any of the costs of constructing the Artist Live/Work Units, Community/Cultural Hub and the Artists Courtyard.
2. The Owner shall provide the following to support the development of the lands:
  - (A) The Owner shall make available, a minimum of 222 parking spaces in the existing above grade parking garage at 33 King Street for the use of the residents of 22 John Street ("22 John Street Residents") and shall provide necessary access to the 22 John Street Residents;
  - (B) The Owner shall make available, at the same rates as paid by the tenants of the Rental Dwelling Units, a minimum of 16 parking spaces in the existing above grade parking garage at 33 King Street for the use of the residents of the Artist Live/Work Units and shall provide necessary access to the residents of those units; and
  - (C) The Owner shall enter into two leases with Toronto Artscape Inc. ("Artscape") and the City of Toronto ("City") on terms satisfactory to the Director of the Affordable Housing Office and the General Manager of Economic Development and Culture, and further agrees to register the leases on title, one of which will pertain to the Artist Live/Work Units and Artists' Courtyard ("Live/Work Lease") and the other to the Community/Cultural Hub ("Community/Cultural Hub Lease").

SCHEDULE B



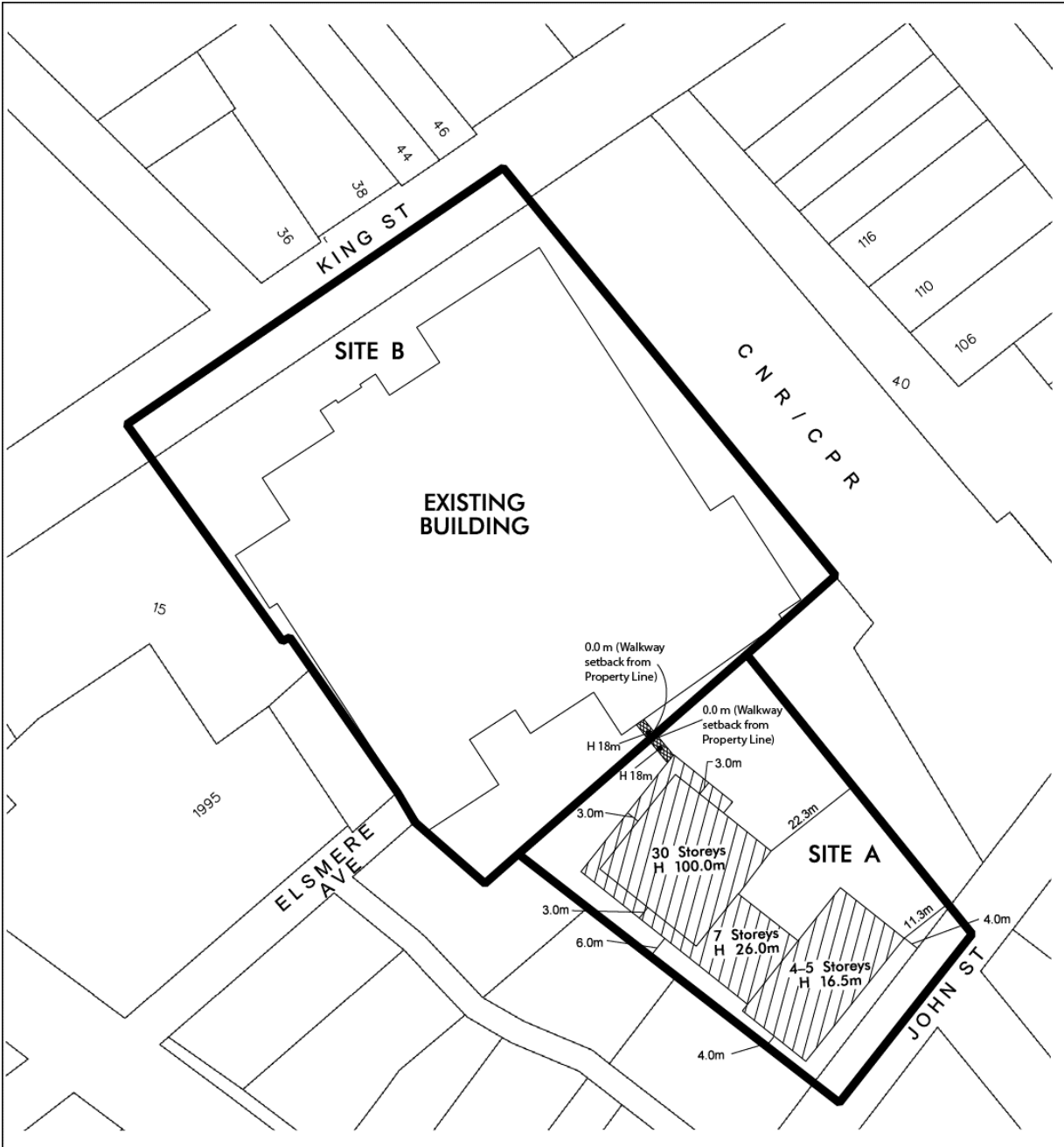


**TORONTO** City Planning  
Diagram 1

33 King Street, 22 John Street  
and 2 Elsmere Avenue

File # 15 170792 WET 11 02

↑  
City of Toronto By-Law 569-2013  
Not to Scale  
10/26/2015



# Diagram 2A

## 33 King Street, 22 John Street and 2 Elsmere Avenue

File # 15 170792 WET 11 0Z



City of Toronto By-Law 569-2013  
Not to Scale  
10/26/2015

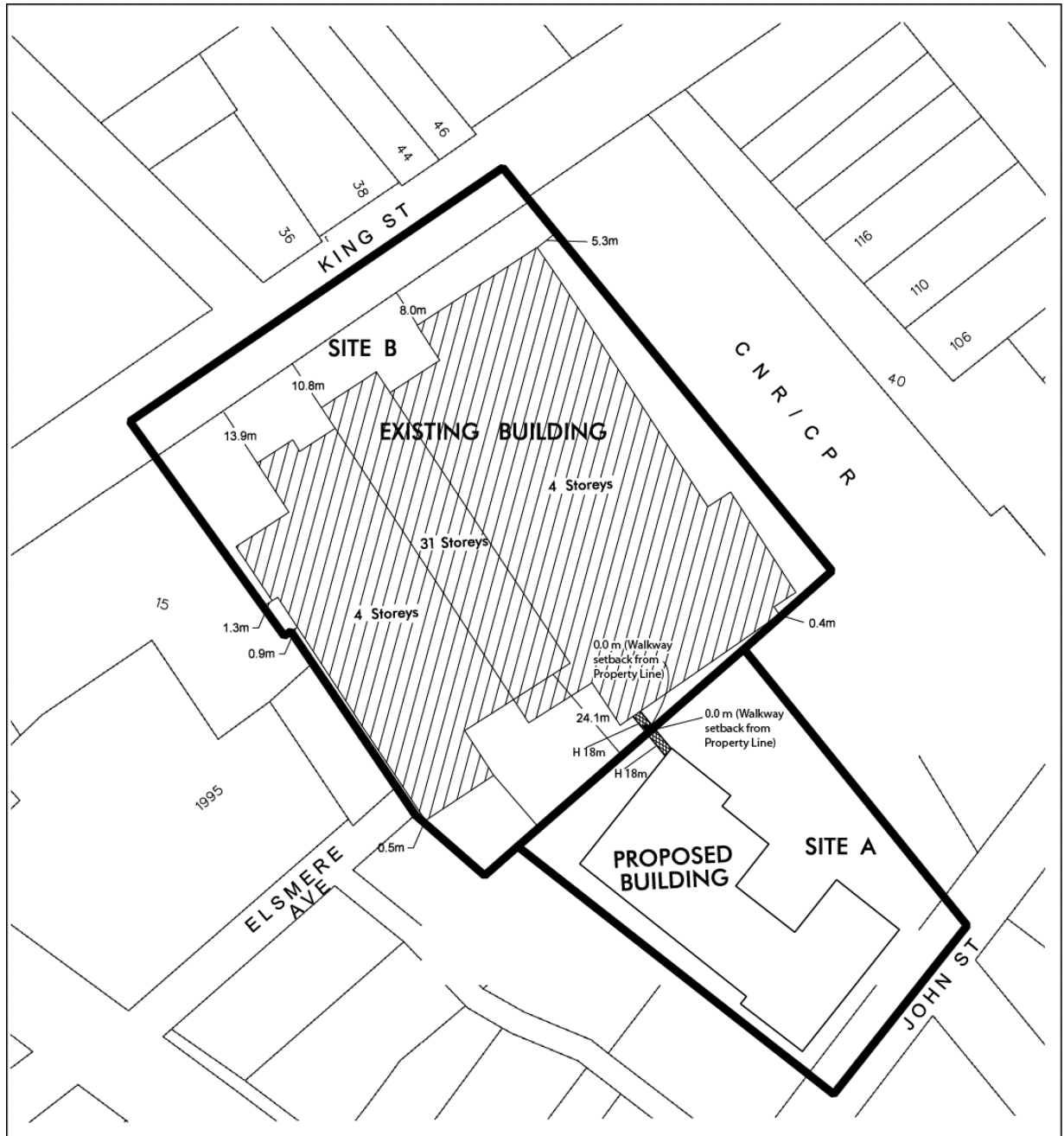


Diagram 2B

33 King Street, 22 John Street and 2 Elsmere Avenue

File # 15 170792 WET 11 0Z



