

CITY OF TORONTO

BY-LAW 1483-2017(OMB)

To amend Zoning By-438-86, as amended, with respect to the lands municipally known in the year 2016 as 429 Lake Shore Boulevard East and 324 Cherry Street.

Whereas the Ontario Municipal Board, by its Decision and Order issued on December 22, 2017, in respect of Cases PL030514 and PL060106, upon hearing appeals under Sections 34(11) and 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended, determined to amend Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2016 as 429 Lake Shore Boulevard East and 324 Cherry Street; and

Whereas the Ontario Municipal Board has the authority pursuant to Section 34 of the Planning Act, as amended, to pass this By-law; and

Whereas pursuant to Section 36 of the Planning Act, as amended, the Ontario Municipal Board may, in a by-law passed under Section 34 of the Planning Act, as amended, use a holding symbol "(H)" in conjunction with any use designation to specify the use to which lands, buildings or structures may be put once the holding symbol "(H)" is removed by amendment to the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of holding symbol "(H)";

The Ontario Municipal Board orders:

1. District Maps 51G-313 and 51G-323 contained in Appendix "A" of By-law 438-86, as amended, are hereby further amended by redesignating the lands delineated by heavy lines to "CR (h)" and "G" as shown on Map A attached to this Schedule.
2. Height and Minimum Lot Frontage Maps 51G-313 and 51G-323 contained in Appendix "B" of By-law 438-86, as amended, are hereby further amended by redesignating the lands delineated by heavy lines as shown on Map B attached to this Schedule.
3. Section 12(1) of By-law 438-86, as amended, is hereby further amended by the addition of the following Exception:

"(487) to prevent the erection of buildings or structures or the use of the portion of the lands within the Keating Channel Precinct Plan West mainly known municipally as 324 Cherry Street and 429 Lake Shore Boulevard East in the year 2016 in accordance with the following provisions:

- (a) The lands subject to this Exception are comprised of the lands net of any streets or highways within the lands delineated by heavy lines on Map A at the end of and forming part of this Exception;

Permitted Uses

- (b) The following uses shall be permitted within a CR district:
- (i) those residential uses permitted within a CR district in Section 8(1)(f)(a), and subject to the qualifications in Section 8(2), provided that:
 - A. only the qualifications in Section 8(2)1 and 8(2)3 shall apply; and
 - B. the *owner* of the *lot* elects to provide the facilities, services or matters referred to in paragraph (12)(1)(487)(jj) for which Council may require that the *owner* enter into one or more agreement(s) as referred to in subparagraph (ii)(i) to secure the implementation or satisfaction of such facilities, services or matters;
 - (ii) those non-residential uses permitted within a CR district in Section 8(1)(f)(b), and subject to the qualifications in Section 8(2) where applicable, except that an *automobile service and repair shop, cold storage locker plant, commercial parking lot, car washing establishment or motor vehicle repair shop, class A* shall not be permitted;
 - (iii) *commercial parking garage* of which the entire garage level, excluding any access ramp and/or pedestrian entrance, is situated wholly below finished ground level;
 - (iv) *commercial parking garage* that is located above finished ground level, provided that:
 - A. another permitted use or uses are established on the *lot*; and
 - B. the *total gross floor area* of the *commercial parking garage* above finished ground level shall be less than the *total floor area* above finished ground level of the other permitted uses established on the *lot*;
 - (v) notwithstanding Section 8(2)(11), a *parking station*, provided that:
 - A. any lights used for illumination are so arranged as to divert the light away from adjacent premises; and
 - B. a 3-metre landscape strip is provided around the perimeter of the *parking station*, excluding any entrances and exits;

- (vi) *district energy, heating and cooling plant* located below finished ground level on the lot or wholly contained within a building in which other uses are the primary use, and a vacuum waste collection facility; and
- (vii) *sales office*;
- (c) The following uses shall be permitted within a G district:
 - (i) those uses permitted within a G and Gm district in Section 5(1)(f);
 - (ii) community related uses, playing fields; and
 - (iii) *temporary open air market*;
- (d) Where the zoning for a CR district is followed by an "h" holding symbol, permitted uses prior to the removal of the "h" shall be limited to the following:
 - (i) notwithstanding Section 8(2)(11), *commercial parking lot*, provided that:
 - A. any lights used for illumination are so arranged as to divert the light away from adjacent premises; and
 - B. a 3-metre landscape strip is provided around the perimeter of the *commercial parking lot*, excluding any entrances and exits;
 - (ii) notwithstanding Section 8(2)(11), *parking station*, provided that:
 - A. any lights used for illumination are so arranged as to divert the light away from adjacent premises; and
 - B. a 3-metre landscape strip is provided around the perimeter of the parking station, excluding any entrances and exits;
 - (iii) *sales office*;
 - (iv) *temporary open air markets*; and
 - (v) uses that are permitted and existing on the *lot* on December 22, 2017 which may include, but not be limited to, the open storage of vehicles, boats and industrial equipment;

Density

- (e) The total *non-residential gross floor area, residential gross floor area*, or any combination thereof shall not exceed the following amounts:

	Maximum Combined <i>Non-Residential Gross Floor Area</i> and <i>Residential Gross Floor Area</i> (square meters)
North of Queens Quay, between Trinity and Cherry Streets	100,000
South of Queens Quay, between Trinity and Cherry Streets	70,000
North of Queens Quay, east of Cherry Street	35,000
South of Queens Quay, east of Cherry Street	55,000

- (f) The *non-residential gross floor area*, *residential gross floor area*, or any combination thereof to be erected and used within Area A and Area B, illustrated on Map 1, shall not exceed the amounts for each area shown on the following table:

Area	Maximum Combined <i>Non-Residential Gross Floor Area</i> and <i>Residential Gross Floor Area</i> (square meters)	Maximum <i>Residential Gross Floor Area</i> (square metres)
A	222,140	166,600
B	11,700	10,450

Notwithstanding Section (12)(1)(487)(e) and (f) above, the calculation of *residential gross floor area* and *non-residential gross floor area* shall exclude any portion of a *commercial parking garage* located below finished ground level;

Maximum Height

- (g) Maximum *height* shall be in accordance with Section 4(2) except that:
- (i) one *tower* may be located within each Tower Zone as shown on Map 2 following this exception in accordance with the following Permitted Tower Areas table, provided that the *residential gross floor area*, *non-residential gross floor area*, or any combination thereof, of any floor located above the maximum *height* permitted by Section 4(2) does not exceed 750 square metres;

Permitted Tower Areas	
Permitted Tower Area (Tower Zone) Identified in Map 2	Maximum Permitted Height
1	150 metres
2	145 metres
3	137 metres

Building Setbacks

- (h) All buildings located west of the new Cherry Street along Lake Shore Boulevard East shall be set back a minimum of 7 metres from the *lot* line adjacent to Lake Shore Boulevard East;
- (i) For buildings abutting *publicly accessible open space* located on the north side of Queens Quay East, as identified on Map 4:
 - A. the exterior face of the building wall is located no more than 0.5 metres back from the *plaza* between at finished ground level and a height of 11 metres, for a minimum of 70 percent of the length of any exterior wall that faces the *plaza*;
 - B. the provisions of Section 12(1)(487)(p), (q) and (r) are complied with for all portions of a building that face areas other than a *plaza*; and
 - C. any building or structure abutting the Permitted Plaza Area may not exceed a height of 23 metres unless the portion of the building above such height is set back a minimum of 3 metres from the main building wall below;
- (j) For buildings abutting the *publicly accessible open space* located on the south side of Queens Quay East, as identified on Map 4:
 - A. the exterior face of the building wall is located no more than 0.50 metres back from the *plaza* between *grade* and a *height* of 11 metres, for a minimum of 70 percent of the length of any exterior wall that faces the *plaza*;
 - B. the provisions of Section 12(1)(487)(p), (q) and (r) are complied with for all portions of a building that face areas other than a *plaza*; and
 - C. any building or structure abutting the *plaza* may not exceed a *height* of 23 metres unless the portion of the building above such *height* is set back a minimum of 3 metres from the main building wall below;

Upper-level Stepbacks

- (k) No building or structure in a 38-metre or 27-metre *height* district may exceed a *height* of 23 metres *frontage* unless the portion of the building above such *height* is set back a minimum of 3 metres from the main building wall below at a height of 23 metres that faces Queens Quay East or new Cherry Street;
- (l) Notwithstanding Section (12)(1)(487)(k) above, along Lake Shore Boulevard East, for the area shown on Map 6 a maximum of 65 percent of the length of the Lake Shore Boulevard East *frontage* can exceed a maximum *height* of 23 metres;
- (m) No building or structure whose main building wall faces lands zoned 'G' as per Map A, west of the new Cherry Street, and is subject to the Build-To Lines as per Map 3, may exceed a *height* of 11 metres unless:
 - (i) the portion of the building above 11 metres is set back a minimum of 2 metres from the main building wall immediately below a *height* of 11 metres and facing the lands zoned 'G'; and
 - (ii) the portion of the building above 23 metres is set back a minimum of 3 metres from the main building wall immediately below a *height* of 23 metres and facing the lands zoned 'G';
- (n) Notwithstanding Section (12)(1)(487)(m) above, a maximum of 30 percent of the main building wall located above a *height* of 11 metres and at, or below, a *height* of 23 metres above *grade*, may be permitted to project beyond the main building wall located at *grade*;

Upper-level Stepbacks: Permitted Tower Areas

- (o) Notwithstanding Section 12(1)(487)(g), any portion of a building above the maximum *height* permitted by Section 4(2) shall be setback a minimum of 3 metres from the main wall below;

Separation of Buildings and Structures

- (p) Window separation requirements in section 8(3) Part II 1(a) shall apply except that the minimum distance referred to in section 8(3) Part II 1(a)(i) shall be 15 metres and the minimum distance referred to in section 8(3) Part II 1(a) (ii) shall be 7.5 metres;
- (q) No *non-residential building* or the non-residential portion of a *mixed-use building* may be erected or used on the *lot* in which a window in the building is closer than 10.0 metres to another *non-residential building* or to the non-residential portion of a *mixed-use building*;
- (r) The requirements of Sections 8(3) Part II 1(a) and 12(1)(487)(p) and (q) shall not apply to windows on walls which form an angle of 90 degrees or greater to each other, on a horizontal plane, or to windows of the same *dwelling unit*;

- (s) Notwithstanding Sections 12(1)(487)(p) and (q), for any building located south of the area identified as Private Street on Map 2, west of the new Cherry Street, a minimum separation distance of 18 metres measured from the exterior main walls at or above 11 metres above *grade* is required between any building and a *mixed-use building* or *residential building*;
- (t) Notwithstanding Sections 12(1)(487) (p) and (q), for the lands north of Queens Quay East, no *tower* erected in accordance with Section 12(1)(487)(g) may be located closer than 25 metres to any other *tower* located within a Permitted Tower Area as shown on Map 2, as measured from the exterior main building wall, above the *height* permitted by Section 4(2);

Build-to Lines

- (u) No building may be erected or used on a *lot* subject to a Build-To Line as shown on Map 3 unless the exterior face of the building wall is located no more than 0.5 metres back from the Build-To Line between *grade* and a *height* of 11 metres, for a minimum of 70 percent of the length of the main building wall on any building having *frontage* adjacent to a Build-To Line;
- (v) Notwithstanding Section 12(1)(487)(u) above, no building located south of the area identified as Private Street on Map 2, west of the new Cherry Street, may be erected or used on a *lot* subject to a Build-To Line as shown on Map 3 unless the exterior face of the building wall is located no more than 0.5 metres back from the Build-To Line between *grade* and a *height* of 11 metres, for a minimum of 50 percent of the length of the main building wall on any building having *frontage* adjacent to a Build-To Line;

Pedestrian Walkway

- (w) One pedestrian walkway with a minimum width of 10 metres, connecting Lake Shore Boulevard East and the Permitted Plaza Area on the north side of Queens Quay, as shown on Map 4, shall be provided;

Permitted Projections

- (x) Notwithstanding Section 4(2)(a)(i)(ii) and Sections 12(1)(487)(g), (h), (i), (j), (k) (l), (m), (n), (o), (p), (q) and (r), the types of structures listed in the column entitled "STRUCTURE" in the following chart are permitted to project beyond the heavy lines and above the heights required by Section 4(2), provided they comply with the restrictions set out opposite the Structure in the column entitled "MAXIMUM PERMITTED HORIZONTAL PROJECTIONS" and "OTHER APPLICABLE QUALIFICATIONS" and provided they do not project beyond the limits of the *lot*:

	<u>STRUCTURE</u>	<u>MAXIMUM PERMITTED HORIZONTAL PROJECTIONS</u>	<u>OTHER APPLICABLE QUALIFICATIONS</u>
1	Eaves, cornices, and parapets	1.0 metre	1.2 metres above the permitted <i>height</i> .
2	Balconies	2.0 metres from the main wall to which the balcony is attached.	
3	Patios, uncovered platform	2.0 metres measured from the exterior main building wall.	No more than 0.5 metres above finished ground level. Patios for non-residential purposes shall be located between a building and a public street or between a building and a publicly accessible open space.
4	Privacy screens and privacy walls	No restriction.	<i>Height</i> shall be limited to 3.0 metres above the finished ground level and/or 3.0 metres above the roof.
5	Guardrails, bollards, railings, fences, stairs, stair enclosures, trellises, wheel chair ramps and underground ramps and associated structures; <i>public art</i> , noise and wind mitigation features, elements related to the generation of solar power	No restriction.	
6	Landscape features		<i>Height</i> shall be limited to 3.0 metres above finished ground level.

7	Elevator shaft, heating, cooling or ventilating equipment, including vents and stacks or window washing equipment on the roof of the building or a fence, wall, screen or structure enclosing such elements.		The maximum <i>height</i> of the top of such elements shall be no higher than the sum of 6.0 metres and the <i>height</i> limit applicable to the <i>lot</i>, with the exception that such elements located on the roof of a <i>tower</i> within a Tower Area as shown on Map 2 shall be no higher than 10.0 metres. Where such elements are not located on the roof of a <i>tower</i> within a Tower Area as shown on Map 2, the aggregate horizontal area of such elements, including the area contained within an enclosure measured at a point above the level of the height limit applicable to the lot, does not exceed 40 percent of the area of roof of the building.
8	Awnings, canopies	3.0 metres beyond the exterior of the wall to which such awnings and canopies are attached.	Must be located below the level of the third storey.
9	Elements of a green roof		The maximum <i>height</i> of such elements shall be 1.0 metres above the height limits shown in Section 12(1)(487)(g) and Map 2.
10	A structure on the roof of building used for outside or open recreation, or safety purposes		The maximum <i>height</i> of the top of such structures is no higher than the sum of 3.0 metres above the roof and the structure shall not enclose the space so as to constitute a form of penthouse or other room or rooms.

11	Chimney stack for a <i>district energy, heating and cooling plant</i> which has been approved by the Ministry of the Environment and Climate Change	No restriction.	
12	Pilaster, decorative columns, belt course or similar architectural features on a building	0.6 metres provided the structure is no closer to the <i>lot</i> line than 0.3 metres.	

- (y) Notwithstanding Section 4(2)(a)(i) and (ii), and Sections 12(1)(487)(g), (h), (i), (j), (k) (l),(m), (n) and (o), bay windows are permitted to project to within 1.0 metre from the wall to which it is attached;

Parking and Loading

- (z) Parking facilities shall be provided in accordance with Section 4(5) except that:
- (i) the total number of *parking spaces* required to meet the requirements for residential use (excluding visitors) may be reduced by 4 *parking spaces* for each *car-share parking space* provided and maintained on the *lot*. The limit on this parking reduction is calculated as the greater of: 4 x (total number of units/60), rounded down to the nearest whole number or 1 *parking space*;
 - (ii) for each 5 *bicycle parking spaces- occupant* provided in excess of the minimum number of *bicycle parking spaces - occupant* required by Section 4(13), the minimum required residential automobile *parking spaces* subject to any reduction pursuant to Section (12)(1)(487)(z)(i) shall be reduced by 1 *parking space*, up to a maximum reduction of 20 percent of the total minimum *parking spaces* required; and
 - (iii) *parking spaces* may be provided and maintained on the lot in an *automated parking system*;
- (aa) Loading facilities shall be provided in accordance with Section 4(8);
- (bb) Bicycle parking shall be provided in accordance with Section 4(13), subject to the definitions of *bicycle parking space – occupant*, and *bicycle parking space – visitor* in subparagraph (ss) of this Exception;
- (cc) The portion of a building used for the parking of motor vehicles at or above finished ground level, excluding driveway entrances and exits, shall be recessed a minimum of 7.5 metres from the exterior walls of the building and the area within the 7.5 metres shall be occupied by another permitted use other than the parking of motor vehicles;

Residential Amenity Space

- (dd) *Residential amenity space* shall be provided in accordance with Section 4(12), except that:
- (i) indoor *residential amenity space* shall be provided at a rate of 2 square metres per dwelling unit for the first 100 *dwelling units* and at a rate of 1 square metre per *dwelling unit* thereafter;
 - (ii) outdoor *residential amenity space* shall be provided at a rate of 1 square metre per *dwelling unit*;
 - (iii) *residential amenity space* provided indoors may be provided in rooms which are not contiguous;
 - (iv) indoor *residential amenity space* required for a building on a *lot* may be provided within another building on the *lot* or within a building on an abutting parcel of land provided that such *residential amenity space* is accessible via an *at-grade* or *above-grade* interior connection between such buildings; and
 - (v) *residential amenity space* shall only be required for buildings containing 20 or more *dwelling units* which are not grade related and where access to all such *dwelling units* is by means of common internal corridor;

Ground Floor Animation Areas

- (ee) No building or structure on a *lot* subject to a Ground Floor Animation Area requirement as shown on Map 5 may be erected or used unless:
- (i) at least 70 percent of the length of the main exterior building wall of each portion of a building subject to Ground Floor Animation Areas requirements on Map 5 is used for no purpose other than *ground floor animation uses*; and
 - (ii) no *dwelling unit* is located on the *ground floor* unless one or more other permitted uses are provided, in an enclosed structure or building, between any part of the building containing a *dwelling unit* and a *frontage* identified as a Ground Floor Animation Area;
- (ff) Notwithstanding Section (12)(1)(487)(ee), one *plaza* may be located on north side of Queens Quay East in accordance with Section 12(1)(487)(i), provided that:
- (i) at least 70 percent of the length of the main exterior building wall of each portion of a building that faces the *plaza* is used for no purpose other than *ground floor animation uses*; and

- (ii) no *dwelling unit* is located on the ground floor unless one or more other permitted uses are provided, in an enclosed structure or building, between any part of the building containing a *dwelling unit* and a *frontage* identified as a Ground Floor Animation Area;
- (gg) Notwithstanding Section (12)(1)(487)(ee), one *plaza* may be located on south side of Queens Quay East in accordance with Section 12(1)(487)(j), provided that:
 - (i) at least 70 percent of the length of the main exterior building wall of each portion of a building that faces the *plaza* is used for no purpose other than *ground floor animation uses*; and
 - (ii) no *dwelling unit* is located on the *ground floor* unless one or more other permitted uses are provided, in an enclosed structure or building, between any part of the building containing a *dwelling unit* and a *frontage* identified as a Ground Floor Animation Area;

Sales Office

- (hh) Where a building or structure is erected and is used only for the purposes of a *sales office*, then the provisions of Sections (12)(1)(487)(u) and (v) pertaining to required Build-To Lines and Sections (12)(1)(487) (ee), (ff) and (gg) pertaining to Ground Floor Animation, shall not apply to that building or structure;

Unit Breakdown

- (ii) Not less than 10 percent of all *dwelling units* in a phase, not including *affordable rental housing dwelling units*, will be three-bedroom *dwelling units*, to be comprised as follows:
 - (i) a minimum of 5 percent of the total number of *dwelling units* within a phase shall be designed as three-bedroom *dwelling units* in compliance with the provisions of the Ontario Building Code. The *dwelling units* will be shown on all marketing plans as three-bedroom *dwelling units* and will be marketed as potential three-bedroom *dwelling units*. These *dwelling units* may be sold and/or constructed with fewer bedrooms provided that provision is made in the condominium documentation to permit the conversion of such *dwelling units* to three-bedroom *dwelling units*;
 - (ii) a minimum of 5 percent of the total number of *dwelling units* within a phase shall be designed and constructed as three-bedroom *dwelling units* as follows:

- (a) a maximum of 40 percent of such three bedroom *dwelling units* (or 2 percent of the total number of *dwelling units*, not including *affordable rental housing dwelling units*) shall be constructed to a minimum unit size of 80 square metres, with no more than 1 of the 3 bedrooms being an interior bedroom with no window on an exterior wall, provided such bedroom complies with the Ontario Building Code; and
- (b) a minimum of 60 percent of such three bedroom *dwelling units* (or 3 percent of the total number of *dwelling units*, not including *affordable rental housing dwelling units*) shall be constructed to a minimum unit size of 88 square metres, and shall not contain an interior bedroom with no window on an exterior wall, such that all 3 bedrooms shall have windows on an exterior wall; and
- (iii) notwithstanding Sections (12)(1)(487)(ii)(i)(a) and (b) above, if a higher percentage of three bedroom *dwelling units* is provided in a phase than is required by subparagraphs (i) or (ii)(a) above, any surplus of three bedroom *dwelling units* can be applied to satisfy this requirement in future phases of the development within the *lot*;

Section 37 of the Planning Act

- (jj) Pursuant to section 37 of the Planning Act, as amended, the provision of *gross floor area* in a development is permitted to the limits set out in this Exception in return for the provision by the *owner* and at the *owner's* expense of the facilities, services and matters set out in this Paragraph (ii), Sections (12)(1)(487)(kk), (ll), (mm), (nn), (oo) and (pp) of this Exception and the Appendices hereof which Appendices form part of this Exception 12(1)(487), subject to and in accordance with the agreement(s) referred to in this paragraph constituted and/or governed as follows:
 - (i) prior to the issuance of the first *Building Permit* for any building on the lot, the *owner* shall have entered into the *Master Section 37 Agreement* with the City, and such agreement shall have been registered on title to the lot, which agreement has secured the section 37 contributions of Sections (12)(1)(487)(kk), (ll), (mm), (nn), (oo) and (pp) and the Appendices and provides for the securing of Subparagraphs (qq)(ix) and (x) with conditions which may provide for indexing of the financial contributions procedures to implement delivery of *affordable rental housing* requirements, indemnity, insurance, GST, termination and unwinding and registration and priority of agreement;
 - (ii) issuance of a building permit for any building or structure shall be dependent upon satisfaction of the provisions in this Exception and any applicable section 37 Agreement relating to building permit issuance, including the provision of any monetary payments and financial securities; and

- (iii) upon execution and registration of an agreement or agreements with the *owner* pursuant to section 37 of the Planning Act, as amended, securing the provision of the facilities, services and matters set out in this Exception and in the Appendices hereof, the site is subject to the provisions of this by-law, provided that in the event that the said agreement(s) requires the provisions of a facility, service or matter 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 requirement;
- (kk) The *owner* shall provide for the equivalent of 20 percent of all residential gross floor area as *affordable rental housing*, through the provision of one or a combination of two or more of the following, as elected by the *owner*, delivered in accordance with the Appendices:
 - (i) the erection and maintenance on the lot, or on other lands shown on Map 1, of not less than 10 percent of the total amount of residential gross floor area as *affordable rental housing* as follows:
 - A. dwelling units, which are provided as affordable rental housing, shall be maintained as rental housing for a term of not less than 25 years;
 - B. such dwelling units shall be maintained with affordable rents for not less than 15 years; and
 - C. such dwelling units shall be provided on a timely basis commensurate with the rate of construction of the residential gross floor area that is not affordable rental housing, or as otherwise provided for in the Appendices of this Exception;
 - (ii) a dedication to the City of land for the purpose of constructing *affordable rental housing* on the lot, as follows:
 - A. the land shall be sufficient to provide not less than 18 percent of the total residential gross floor area as affordable rental housing;
 - B. the land shall be ready and available for development, including any needed remediation; and
 - C. the land shall be provided, or is ready and able to be conveyed, on a timely basis commensurate with the rate of construction of the residential gross floor area that is not affordable rental housing, or as otherwise provided for in Appendix 2 of this Exception; or

- (iii) a cash-in-lieu contribution to the City in the amount of the value of the land otherwise required by subparagraph (ii) above, provided that the calculated amount shall equal the value of land sufficient to provide 20 percent of the total *residential gross floor area*, and subject to the following:
 - A. the maximum amount of cash-in-lieu that may be provided shall not exceed 25 percent of the total affordable rental housing requirements on the lot; and
 - B. the contribution shall be paid prior to the issuance of the first above-grade building permit for the lot or for the portion of the lot being developed, or as otherwise provided for in Appendix 2 of this Exception;

provided that, for the purpose of calculating the *affordable rental housing* requirements of Sections 3(kk)(i), (ii) and (iii), the *residential gross floor area* consists only of *residential gross floor area* attributable to the portion of a building that contains *dwelling units* and *accessory uses*, amenities and other areas related to the *dwelling units*, excluding *dwelling units* in a *university residence*;

- (ll) The erection and maintenance in building(s) within a phase of development of not less than 5 percent of all ownership *dwelling units* with the following size restrictions:
 - (i) a maximum *residential gross floor area* of 46.5 square metres for a bachelor *dwelling unit*;
 - (ii) a maximum *residential gross floor area* of 60.4 square metres for a one-bedroom *dwelling unit*;
 - (iii) a maximum *residential gross floor area* of 79 square metres for a two-bedroom *dwelling unit*;
 - (iv) a maximum *residential gross floor area* of 93 square metres for a three-bedroom *dwelling unit*;
 - (v) A maximum *residential gross floor area* of 120 square metres for a two-bedroom rowhouse/rowplex; and
 - (vi) a maximum *residential gross floor area* of 135 square metres for a three-bedroom rowhouse/rowplex;

- (mm) The *owner* shall provide a contribution of 1 percent of gross construction costs of all buildings and structures, not including buildings and structures used for the purposes of *affordable rental housing*, towards a *combination* of *Public Art* and *Community Arts Initiatives* to the satisfaction of the Chief Planner in consultation with the Ward Councillor and Waterfront Toronto, provided that the *owner* may satisfy any or all of this obligation at any time by the payment of funds to the City for the City's capital budget for *Public Art*;
- (nn) The owner shall provide *publicly accessible open space* totaling a minimum area of 1300 square metres which may be provided on a phased basis and on such terms and conditions as set out in the *Master Section 37 agreement*;
- (oo) For the lands located on the north side of Queens Quay East the *publicly accessible open space* may comprise a *plaza* in accordance with the following:
 - A. the area of the *plaza* is a minimum area of 1065 square metres; and
 - B. the *plaza* is located within the Permitted Plaza Area identified on Map 4;
- (pp) For the lands located on the south side of Queens Quay East the *publicly accessible open space* may comprise a *plaza* in accordance with the following:
 - A. the area of the *plaza* is a minimum of 235 square metres; and
 - B. the *plaza* is located within the Permitted Plaza Area identified on Map 4;

Holding Symbol

- (qq) The "h" symbol may be removed from any portion of the area covered by this Exception in accordance with this paragraph and any such portion will be considered a phase of development:

Lands zoned with the "(h)" symbol shall not be used for any purpose other than as provided in Section (12)(1)(487)(d) above until the "(h)" symbol has been removed. An amending by-law to remove the "(h)" symbol in whole or in part, and in respect of specific uses, shall be enacted by City Council when the following conditions have been addressed by the *owner* at the *owner's* sole expense to the satisfaction of Council:

- (i) the *owner* has demonstrated to the satisfaction of Council that all infrastructure and servicing requirements necessary to accommodate development of the *lot* and that all necessary transportation, servicing and infrastructure improvements necessary to serve development of the *lot* for any phase have been secured and/or shall be provided;

- (ii) the *owner* has provided a streets and block plan satisfactory to the City demonstrating how the development proposed for any phase provides for new streets and blocks in relation to the existing and proposed system of streets which among other matters will include an implementation scheme which addresses:
 - A. the manner in which the *owner* will secure land for conveyance to the City for the extension of Queens Quay East and new Cherry Street which may include further agreement(s) pursuant to the Expropriations Act;
 - B. the manner in which a plan of subdivision, or such other arrangements satisfactory to Council, will provide for the dedication of land sufficient for the *owner's* share for the laying out of new streets, other than the extension of Queens Quay East and new Cherry Street, as are required to serve development on the *lot* which may include cost sharing arrangements among the *owners* and the City for the construction of such streets; and
 - C. the manner in which the *owner* will provide any requested or required widening of Lake Shore Boulevard East;
- (iii) the *owner* has provided a phasing plan which addresses:
 - A. the sequencing of development phases; and
 - B. the timing of, the provision of and the allocation of infrastructure and services required to develop the *lot* which may include various agreement(s) pursuant to the Development Charges Act;
- (iv) the *owner* has submitted a *site plan application(s)* to the City in accordance with the requirements of Appendix 1, Section 10;
- (v) the *owner* has submitted details respecting the proposal generally consistent with the *site plan application* for review and comment to the Waterfront Design Review Panel;
- (vi) the *owner* has provided written confirmation from the Toronto and Region Conservation Authority that the flood protection landform in West Don Lands is complete and functional and the Special Policy Area designation is removed;
- (vii) in the case of lands proposed for residential uses , and where *affordable rental housing* delivery is required for that portion of the lands, the execution by the *owner* of a *Phase-Specific Section 37 Agreement* including the phase specific timely delivery requirements, and implementing as necessary the *Master Section 37 Agreement* for the purpose of securing the *affordable rental housing* requirements of this Exception; and

- (viii) the *owner* has submitted supporting materials describing how *affordable rental housing dwelling units* or lands or cash in lieu thereof will be provided, and which demonstrates how the *affordable rental housing* requirements of this Exception including the Appendices and the *Master Section 37 Agreement* are being met. Such materials will include all necessary information to permit the proposal to be reviewed by the City for this purpose, and when accepted, to be secured in a *Phase-Specific Section 37 Agreement*, constituted as follows:
- A. a Housing Issues Report with information that:
- (1) identifies the details of how the *affordable rental housing* requirements will be provided, alone, or in combination, through provision of dwelling units, or by the conveyance of land or a contribution of cash-in-lieu and otherwise addresses the requirements of this Subparagraph (qq);
 - (2) identifies the order of development of all the land parcels subject to the by-law to remove the "(h)" symbol, in order to meet the requirements for timely provision of this Exception's requirements for *affordable rental housing* as set out in this by-law; and
 - (3) describes the achievement of any previous *affordable rental housing* requirements for any of the lands in this Exception that were the subject of a previous by-law to remove the 'h' symbol, and a projection for how any *affordable rental housing* requirements remaining after the development of the lands subject to the current by-law to remove the "(h)" symbol will be met;
- B. where *affordable rental housing units* are being provided sufficient information provided pursuant to this Paragraph to illustrate and detail, the number, location, unit mix, sizes and layouts of the units, and all related facilities; and
- C. where land is able to accommodate *affordable rental housing units* being provided, sufficient information provided pursuant to this Paragraph to illustrate, the location of the land in the context of the surrounding development and access to the public realm, and which demonstrates a size such that a functional built form of a building for the amount of *affordable rental housing* and all related facilities can be accommodated on the parcel;
- (ix) where *affordable rental housing* is to be provided, the provision of drawings and/or plans for such *dwelling units* illustrating the following characteristics:

- A. a unit mix, by number of bedrooms, similar to the unit mix of the proposed market housing units on the *owner's* lands, or slightly different proportion of units with a higher number of bedrooms, a reasonable range of sizes, location and functional layout of each of the unit types;
 - B. related facilities including storage lockers, car parking, bicycle parking, laundry facilities, indoor and outdoor *residential amenity space* and such other facilities as are typically secured by the City for private market rental units; and
 - C. the provision of an appropriate residential and recreational amenity on site as are typically secured by the City for private market rental units, and reasonable accessibility to the public realm and related facilities and community amenities;
- (x) where land for *affordable rental housing* is to be provided, the provision of drawings and/or plans and/or surveys illustrating the following characteristics:
 - A. the location is appropriate for the *affordable rental housing*, and the location, size and shape of the land can accommodate a functional built-form and which is appropriate for the number and type of such units to be provided, which built form, including the size of the building, would be appropriate for the type of housing and tenant population proposed, and in relation to the surrounding development, and the building and land could accommodate the appropriate related facilities to support the affordable rental housing units;
 - B. the land can accommodate sufficient outdoor amenity space appropriate for the number and type of units to be provided, and the kind of housing and tenant population to be housed, as are typically secured by the City for such units, and acknowledging the need for good quality outdoor amenity to support high-density accommodation for families; and
 - C. the land has reasonable accessibility to the public realm including vehicular, bicycle and pedestrian access;
- (rr) In the event of an appeal to the Ontario Municipal Board to remove a holding symbol, pursuant to section 36(3) of the Planning Act, as amended, nothing in this Exception will prevent the Board from settling the terms of the Section 37 Agreement required for the removal of the Holding symbol, and/or to amending the by-law to remove the holding symbol without the execution of a settled Section 37 Agreement and to settle the plans called for under subparagraphs (qq)(ix) and (x) should the City neglect to or refuse to execute such Section 37 Agreement after being given a reasonable amount of time to do so;

Definitions

- (ss) For the purposes of this Exception, each word or expression that is italicized in this exception shall have the same meaning as each such word or expression as defined in the said By-law 438-86, as amended, except for the following or where otherwise defined in this Exception:
- (i) "*affordable rental housing*" means *dwelling units* with *affordable rents*, which are rented or available for rent pursuant to the *Residential Tenancies Act*, but does not include a condominium-registered unit or a life-lease or co-ownership as defined in c.667 of the Toronto Municipal Code;
 - (ii) "*affordable rents*" means rents where the total monthly shelter cost (gross monthly rent including utilities - heat, hydro and water- but excluding parking and cable television charges) is initially at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation, and subject only to annual increases which do not exceed any guideline therefor published by the Province of Ontario and, if applicable, permitted above-guideline increases;
 - (iii) "*automated parking system*" means a mechanical system for the purpose of parking and retrieving cars without drivers in the vehicle during parking and without the use of ramping or driveway aisles, and which may include, but is not limited to, a vertical lift and the storage of cars on parking pallets. Automated maneuvering of other vehicles may be required in order for cars to be parking or to be retrieved. Parking pallets will not conform to the *parking space* dimensions set out in By-law 438-86. For clarity, each parking pallet will be considered as a *parking space* for the purposes of determining compliance with Section 4(5) of By-law 438-86, as amended.
 - (iv) "*bicycle parking space occupant*" means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles, and:
 - (A) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (B) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres, by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (C) where the bicycles are to be parked in bicycle stacker, has a horizontal dimension of at least 0.6 metres, by 1.8 metres and has a vertical dimension for each bicycle parking spaces of at 1.2 metres;

- (v) "*bicycle parking space visitor*" means an area that is equipped with a bicycle rack, locker or *bicycle stacker* for the purpose of parking and securing bicycles:
 - (A) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (B) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres, by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (C) where the bicycles are to be parked in bicycle stacker, has a horizontal dimension of at least 0.6 metres, by 1.8 metres and has a vertical dimension for each bicycle parking spaces of at 1.2 metres; and
 - (D) may be located outdoors or indoors;
- (vi) "*bicycle stacker*" means a device whereby a bicycle parking space is positioned above or below another parking space and is accessed by means of an elevating device;
- (vii) "*Building Permit*" means a permit to construct a building or structure, or any part thereof, pursuant to Section 8 of the Building Code Act, 1992, S.O. 1992, c23, as amended, superseded or replaced from time to time, including, but not limited to, excavation, shoring, and building permits but shall not include any such permit issued in respect of a *sales office*;
- (viii) "*car-share motor vehicle*" means a motor vehicle available for short-term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the *lot*;
- (ix) "*car-share parking space*" means a *parking space* that is provided exclusively for the use of vehicles that are used exclusively for the parking of a *car-share motor vehicle*;
- (x) "*Community Arts Initiative*" means any capital facilities and/or cash contributions allocated toward the provision of capital facilities that will support art and culture on Toronto's waterfront. It is intended that such facilities will support on-site display, performance and/or education in the arts and will be publicly accessible, subject to such reasonable restrictions as typically accompany the delivery of community services. The main objective of the Community Arts Initiative is to support arts and culture on Toronto's waterfront in the form of a capital facility and/or cash contribution to be allocated toward the provision of a capital facility to support this objective;

- (xi) "*district energy, heating and cooling plant*" means a building or structure that is used for the production of electrical power, heating and/or cooling which is generated/converted at one or more linked locations and then is distributed to the users;
- (xii) "*first floor*" means the floor of the building, other than an area used for parking, that is closest in elevation to the elevation of the adjacent finished ground level;
- (xiii) "*grade*" means the average elevation of the finished ground level along the portion of the lot line which abuts a street that is opposite the main wall of a building, or subject portion thereof, which contains a main entrance;
- (xiv) "*ground floor*" means the *first floor* of a building or structure above *grade*;
- (xv) "*ground floor animation uses*" shall have the same meaning as the expression *street-related retail and service uses*, except that, in addition to those uses listed in sections 8(1)(f)(b)(i), (ii), and (iv), an *artist's or photographer's studio, a custom workshop, a communications and broadcast establishment* and an entrance to a residential building shall also be permitted;
- (xvi) "*height*" means the vertical distance between *grade* and the highest point of the roof, building, structure or element;
- (xvii) "*lot*" means the area identified in heavy lines on Map 1;
- (xviii) "*Master Section 37 Agreement*" means an agreement pursuant to Section 37 of the Planning Act entered into for the purposes of Section (12)(1)(487)(jj) of this Exception;
- (xix) "*owner*" means where used in reference to a *lot*, means a person who owns the fee simple or the equity of redemption in the *lot* or any part thereof, or a person who owns a leasehold estate in the *lot* or any part thereof, for the unexpired term of which exceeds 45 years;
- (xx) "*Phase Specific Section 37 Agreement*" means an agreement pursuant to section 37 of the Planning Act entered into for the purposes of Section (12)(1)(487)(qq) of this Exception and shall be limited to the implementation and elaboration of this Exception as set out in the *Master Section 37 Agreement*;
- (xxi) "*plaza*" means a *publicly accessible open space* located at finished ground level, which is publicly accessible and is not used for at-grade automobile parking, loading, or vehicular access;

- (xxii) "*Public Art*" means works of sculptured art, works of visual and graphic art, sculptured landscaping, fountains, and artistic treatment of publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), clearly visible at all times from publicly accessible areas, including but not limited to flooring, structure, lighting and street furnishings, provided such elements of work have been designed by or in collaboration with artists and selected by a process and are in accordance with a program recommended by the Toronto Public Art Commission (the "Commission") through the Chief Planner and approved by City Council;
- (xxiii) "*Publicly Accessible Open Space*" shall mean a *plaza*, as defined herein, subject to the permitted projections in Section 12(1)(487)(w) of this Exception, and in private ownership to which the public shall have access;
- (xxiv) "*residential amenity space*" means a common area or areas within the *lot* which are provided for the exclusive use of residents of the *lot* for recreational or social purposes;
- (xxv) "*sales office*" means a building, structure, facility or trailer, or part thereof, used for the purposes of marketing, sales, rental or leasing and other functions related to a building or buildings on the *lot*;
- (xxvi) "*site plan application*" means an application for the approval of plans and drawings pursuant to Section 41(4) of the Planning Act, as amended or the City of Toronto Act, 2006, as is applicable;
- (xxvii) "*temporary open air market*" means an area where goods, wares, merchandise, substances, articles or things are offered for retail sale on a temporary basis outside of any permanent building or structure; and
- (xxviii) "*tower*" means the portion of a building located above a *height* of 38.0 metres within "Tower Zone 1", located above a height of 38.0 metres within "Tower Zone 2", and located above a height of 38.0 metres within "Tower Zone 3", as shown on Map 2;
- (tt) Despite any existing or future severance, partition, or division of the *lot*, the provisions of this exception shall apply to the whole of the *lot* as if no severance, partition or division occurred;
- (uu) Exception 12(1)(487) of By-law 438-86 is hereby further amended by the addition of:
 - (a) Map 1 - Lot and Areas Subject to Maximum Density;
 - (b) Map 2 - Permitted Tower Areas;
 - (c) Map 3 - Build To Lines;

- (d) Map 4 - Permitted Plaza Areas;
- (e) Map 5 - Ground Floor Animation Areas;
- (f) Map 6 - Tower Zones 2 and 3 Base Height Along Lake Shore Boulevard East;
- (g) Appendix 1 – Section 37 Provisions; and
- (h) Appendix 2 - Property Specific Timely Delivery;

all of which pertain to and form part of Exception 12(1)(487);

- (vv) None of the provisions of Section 12(2)380 of the former City of Toronto By-law No. 438-86, as amended shall apply to the lands delineated by heavy lines on Map 1 at the end of and forming part of this Exception; and
- (uu) None of the provisions of Section 600.10 and Regulation 600.10.10 of City of Toronto By-law No. 569-2013, as amended shall apply to the lands delineated by heavy lines on Map 1 at the end of and forming part of this Exception.

Pursuant to Ontario Municipal Board Decision and Order issued on December 22, 2017 in Cases PL030514 and PL060106.

APPENDIX "1" TO EXCEPTION 12(1)(487)
SECTION 37 PROVISIONS - TO EXCEPTION 12(1)(487)

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* of the *lot*, at its expense, pursuant to Section 37 of the Planning Act, subject to and in accordance with agreement(s) pursuant to section 37 of the Planning Act which the City may require and which shall be provided in a form satisfactory to Council to secure the implementation or satisfaction of such facilities, services or matters:

Affordable Rental Housing

Provision of *Dwelling Units*

1. Where delivery of *affordable rental housing* is being provided by the *owner*, then the *owner* shall provide and maintain the *affordable rental housing* in accordance with the following provisions:
 - (a) the *dwelling units* provided as *affordable rental housing* shall remain as rental housing for a period of at least 25 years, with no application for demolition without replacement, or for condominium registration or any conversion to any non-rental housing purposes;
 - (b) affordable rents shall be charged to tenants who occupy a *dwelling unit* in the *affordable rental housing* during the first 15 years of its occupancy, subject to subparagraphs 1(c) and (d) of this Appendix such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and, upon turn-over, the rent charged to any new tenant shall not exceed the initial rent, increased annually by the provincial rent guideline and any above-guideline increase, if applicable, and over the course of the 15 year period, annual increases shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases;
 - (c) rents charged to tenants who first occupied a *dwelling unit* in the *affordable rental housing* during the first 10 years of the building's occupancy, and who continue to occupy such *dwelling unit* after the expiry of the 15-year period as set out in subparagraph 1(b) of this Appendix shall continue to be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, until the tenant has completed 10 full years of occupancy. Subsequently, such rents may rise to full market rates over 3 years with annual raises which are approximately equal, provided that no such phase-in to unrestricted market rents can commence before the expiry of the 15-year period set out in subparagraph 1(b) of this Appendix;

- (d) rents charged to tenants who first occupied *affordable rental housing* during the 11th to 15th year after the initial occupancy of such *dwelling unit*, and who continue to occupy such *dwelling unit* after the expiry of the 15-year period as set out in subparagraph 1(b) of this Appendix shall continue to be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, until the tenant has completed 7 full years of occupancy. Subsequently, such rents may rise to full market rates over 3 years with annual raises which are approximately equal, provided that no such phase-in to unrestricted market rents can commence before the expiry of the 15-year period as set out in subparagraph 1(b) of this Appendix; and
- (e) rents charged to tenants newly occupying a *dwelling unit* which is no longer *affordable rental housing* after the completion of the 15-year period set out in subparagraph 1(b) of this Appendix will not be subject to restrictions by the City under the terms of the section 37 agreement entered into under this by-law.

Provision of Land

- 2. Where a land parcel for *affordable rental housing* is proposed to be conveyed to the City:
 - (a) City Council may, in its discretion refuse to accept a transfer of such land;
 - (b) City Council's consideration in accepting or refusing such land will include amongst other matters set out in the Master Section 37 Agreement the following:
 - (i) the extent to which the land has the characteristics described in subparagraph (qq)(x) in this Exception; and
 - (ii) if the offer of land is of any lesser interest than fee simple; and
 - (c) remediation of the soil of the parcel necessary to permit its use for residential purposes on a site specific risk-assessed basis in accordance with applicable Provincial regulation shall be secured by the delivery to the City of a letter of credit for the cost of such remediation or the *owner* may, in its sole-discretion, choose to remediate the soil to the same standard prior to delivery.

Provision of Cash-In-Lieu

- 3. Where cash-in-lieu of land is being provided to the City:
 - (a) the calculation of the value of the land shall be determined based on a land appraisal subject to subparagraph 3(kk)(iii) of this Exception, and which assumes no additional obligation for *affordable rental housing* that would decrease the market value of the land;
 - (b) the land appraisal process, the timing of cash-in-lieu payments and the establishment of the amount of such payments and indexing will be detailed in a Section 37 Agreement; and

- (c) if the City Council does not accept a conveyance of land for *affordable rental housing* which would otherwise be suitable for *affordable rental housing*, solely because it will not accept the City's potential financial liability for remediation costs that exceed the value of the letter of credit pursuant to subparagraph 2(c) of this Appendix, then, despite subparagraph 3(kk)(iii)(A) of this Exception, the provision of cash-in-lieu for *affordable rental housing* may exceed the 25 percent cap specified therein up to the value of the proposed conveyance.

Timely Delivery

- 4. *Affordable rental housing* shall be delivered on a timely basis in accordance with the following general provisions, and shall be commensurate with the rate of residential construction pursuant to subparagraph 3(kk) of this Exception, or at the option of an *owner*, at a rate as specifically provided for in Paragraph 5 of this Appendix:
 - (a) provisions for the timely delivery of *affordable rental housing* will be secured in one or more Section 37 Agreements, and will be secured in such an Agreement for any phase of development in which *affordable rental housing* requirements are being delivered;
 - (b) the provisions may include the order of development of residential land parcels, and within each phase of development, and will include requirements that the *owner* not request the issuance of above-grade building permits for residential buildings that are not *affordable rental housing* buildings until delivery of the required *affordable rental housing*, pursuant to the timely delivery requirements secured in Section 37 Agreements; and
 - (c) where *affordable rental housing* is being provided by the *owner*, delivery is deemed to have commenced with the issuance of above-grade building permits for the units. There may also be provisions for the progress of construction of the *affordable rental housing* and there will be requirements for timely completion of the *affordable rental housing* construction, both of which may be linked to the withholding of above-grade building permits for other residential buildings.
- 5. Alternative specific timely delivery requirements will apply as outlined in Appendix 2 at the option of an *owner*, provided that the eligibility requirements of Paragraph 5(c) of this Appendix are met, and both the general and specific provisions are secured in one or more Section 37 Agreements:
 - (a) these provisions include the option to defer specified portions of the delivery of the *affordable rental housing*, in return for delivering land or *affordable rental housing* units at specified milestones during the residential development of all the lands, and that may result in completing the delivery of the total *affordable rental housing* requirements prior to the completion of the total residential development;

- (b) once the specific deferral provisions have expired and the delivery of *affordable rental housing* has commenced, the rate of achievement of the *affordable rental housing* must not fall below the amount of affordable rental housing or land or cash in lieu thereof required pursuant to subparagraph 3(kk) of this Exception; and
- (c) to be eligible for these alternative provisions, the *owner* must not be in default of *affordable rental housing* requirements from previous phases of development, and can demonstrate that the timely delivery requirements will be met in current and future phases.

Public Art

- 6. The *owner* shall provide a contribution of 1 percent of gross construction costs of all buildings and structures, not including buildings and structures used for the purposes of *affordable rental housing*, towards a *combination* of *Public Art* and *Community Arts Initiatives* to the satisfaction of the Chief Planner (the "1 percent Contribution") in consultation with the Ward Councillor and Waterfront Toronto (but not any successor thereto), provided that the *owner* may satisfy any or all of this obligation at any time by the payment of funds to the City for the City's capital budget for *Public Art*.
- 7. The *owner* shall deliver the 1 percent Contribution on a building-by-building basis, in accordance with the terms therefor as set out in a subsequent Section 37 Agreement to be entered into prior to the first above grade building permit for the building, including the following:
 - (a) the process by which *Public Art* or *Community Arts Initiative(s)* are to be determined;
 - (b) the allocation of the 1 percent Contribution between *Public Art* or *Community Arts Initiative(s)*;
 - (c) provisions for the on-going maintenance of the *Public Art* or *Community Arts Initiative(s)*;
 - (d) ownership of the *Public Art* or *Community Arts Initiative(s)*; and
 - (e) whether or not the 1 percent Contribution will be combined with a 1 percent Contribution from another building or building(s), whether already approved or pending future approval, and any terms necessary to secure this outcome;

provided that the *owner* may in its sole discretion, satisfy the obligation for the 1 percent Contribution for any building or buildings through the payment of 1 percent of the gross construction costs of such building(s) to the City for the City's capital budget for *Public Art*.

- 8. Notwithstanding paragraph 3(ll) of this Exception and s 6 and 7 of this Appendix, the parties hereby acknowledge and agree that the Chief Planner in his or her discretion may refuse any Community Arts Initiative and such refusal is not subject to appeal at the Ontario Municipal Board. In this case the *owner* is required to provide the 1 percent

Contribution in the form of Public Art. The *owner* retains the right, in its discretion and at any time, to satisfy the 1 percent Contribution by payment of funds to the City.

9. Notwithstanding paragraphs 6 and 8 of this Appendix, where the Chief Planner refuses the *owner's* proposal respecting the 1 percent Contribution the *owner* may request that such proposal be remitted to Council in which case City staff shall forthwith remit the proposal to Council and Council shall consider the proposal and may make any decision that the Chief Planner could have made. The parties acknowledge and agree that notwithstanding that the *owner* invokes the provisions of this Paragraph 9, it retains the right in its discretion and at any time, to satisfy the 1 percent Contribution by payment of funds to the City.

Site Plan

10. As a matter of convenience, the *owner* shall agree that the provision of a complete *site plan application* prior to the removal of a holding zone symbol, will among other matters address the following:
 - (a) the provision of a three-dimensional computer model, prepared by a qualified consultant, which demonstrates to the satisfaction of the City that built form continuity has been addressed;
 - (b) the provision of a noise and vibration study, prepared by a qualified consultant which considers industrial uses in the area with the potential to impact the site and other noise sources in the vicinity of the site, and detailed design plans;
 - (c) the noise and vibration study and the detailed design plans shall be peer reviewed by the City at the owner's expense and shall demonstrate to the satisfaction of the City:
 - (i) that the proposal is expected to achieve the requirements of the applicable provincial noise guidelines and regulations, including MOECC NPC 300, as may be amended from time to time, or any alternative methodologies which may be approved by the MOECC;
 - (ii) how land use compatibility is proposed to be achieved and maintained between lawfully existing industrial operations and the proposed development, including appropriate noise mitigation measures (source and/or receptor) and the method by which those mitigation measures will be secured;
 - (iii) if on-building receptor based mitigation is found to be necessary, prior to the removal of the ("h") symbol, the lands shall be classified as a Class 4 Area pursuant to MOECC NPC-300, as amended from time to time, and/or mitigation shall be employed in accordance with the alternative methodologies approved by the MOECC; and

- (iv) in this section, MOECC approval means that the MOECC has advised in writing that the proposed alternative method of noise assessment and/or noise mitigation is acceptable and that industry can rely on same in determining its compliance with MOECC requirements applicable to the industry, notwithstanding that such alternative method of noise assessment and/or noise mitigation may not be in compliance with existing MOECC noise regulations and/or guidelines, such as NPC-300;
- (d) concurrent with the provision of noise and vibration study and detailed design plans to the City, the owner shall provide same to the owner of the cement facility on Polson Street. The owner of the cement facility on Polson Street shall have a period of 45 days to review the study and submit comments in writing to the City. The City shall consider the comments received. In the event that the owner of the cement facility provides no written comments to the City in the specified time, it shall be deemed to agree with the analysis, contents and conclusions of the noise and vibration study;
- (e) the provision of a wind study, prepared by a qualified wind consultant, and detailed plans which demonstrate to the City that appropriate built form and other wind mitigation measures will be implemented;
- (f) the submission of a soil and groundwater management strategy prepared by a qualified consultant which demonstrates to the satisfaction of the City that contaminated soil and groundwater can be managed in a manner that is consistent with Provincial regulations;
- (g) the provision of plans and information demonstrating that the development to be erected on the *lot* or on a portion of the *lot* can be constructed and maintained in accordance with the Tier 1 performance measures of the Toronto Green Standard as adopted by Council as of the date of the execution of this agreement, and an agreement to do so; and
- (h) the provision for connection of buildings to a district energy system and/or on-site renewable energy sources, if available at costs comparable to other energy sources.

Publicly Accessible Open Space

- 11. The owner shall provide *publicly accessible open space* totaling a minimum area of 1300 square metres, which may be provided on a phased basis and on such terms and conditions as set out in the *Master Section 37 Agreement*.
- 12. For the lands located on the north side of Queens Quay East the *publicly accessible open space* may comprise a *plaza* in accordance with the following:
 - A. the area of the *plaza* is a minimum area of 1065 square metres; and
 - B. the *plaza* is located within the Permitted Plaza Area identified on Map 4.

13. For the lands located on the south side of Queens Quay East the *publicly accessible open space* may comprise a *plaza* in accordance with the following:
 - A. the area of the *plaza* is a minimum of 235 square metres; and
 - B. the *plaza* is located within the Permitted Plaza Area identified on Map 4.

APPENDIX "2" TO EXCEPTION 12(1)(487)

Property Specific Timely Delivery

1. Timely Delivery of *Affordable Rental Housing*

The *owner* shall agree to delivery milestones for the delivery of *affordable rental housing* based on the following:

- (a) the development of *residential gross floor area* as permitted by this Exception for the lands shown on Map 1;
- (b) for purposes of this Appendix and the establishment of the delivery milestones, lands shown on Map 1, and their maximum *residential gross floor area* as permitted by this Exception, are included; and
- (c) delivery milestones are reached when above-grade *building permits* are issued that exceed the amount of *residential gross floor area* specified below.

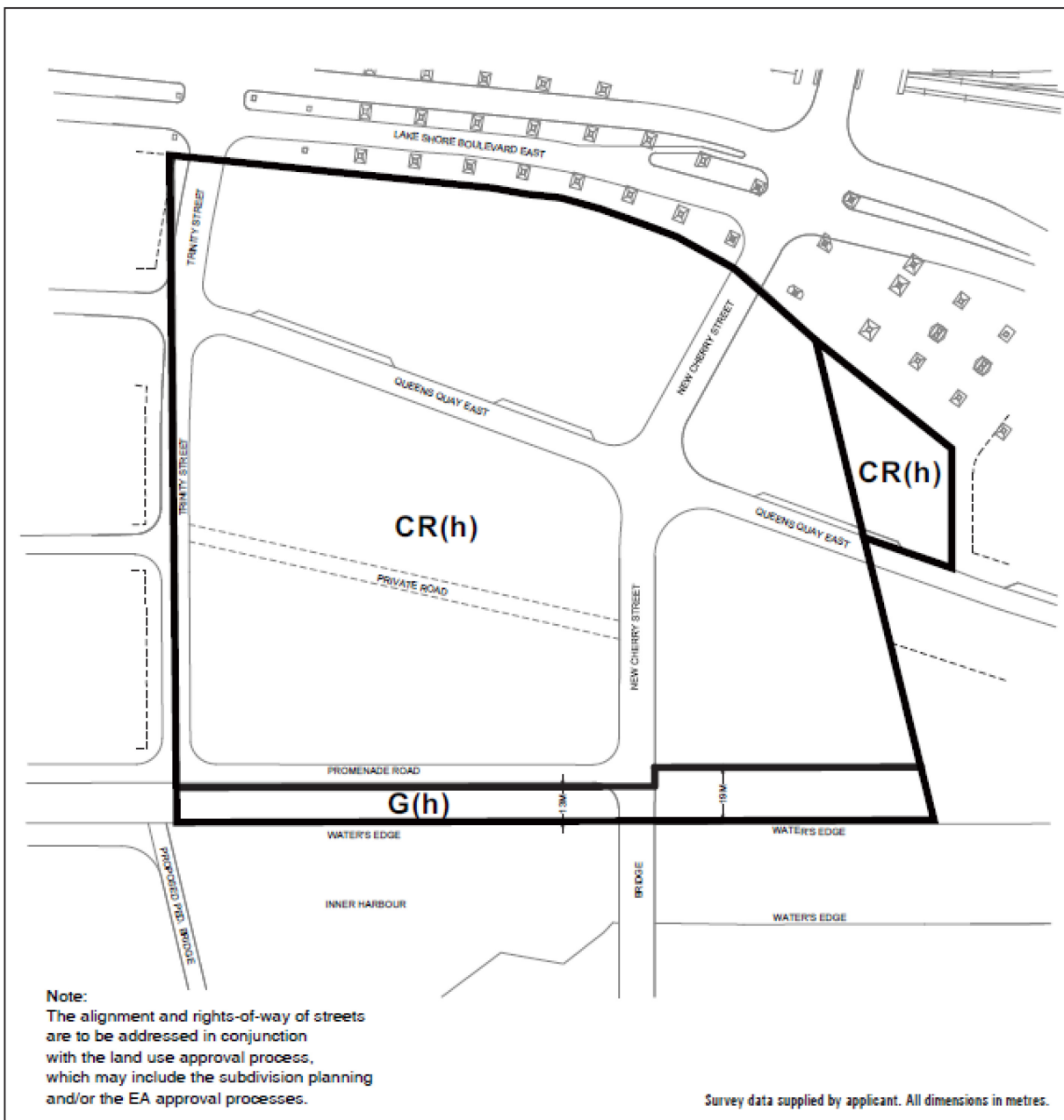
2. The specific delivery milestones and obligations are as described below:

- (a) an initial deferral of *affordable rental housing* delivery is permitted until the first delivery milestone is reached equalling 30,200 square metres of *residential gross floor area*;
- (b) *affordable rental housing* must be secured in a *Phase-specific Section 37 Agreement* prior to the earlier of the removal of 'h' provisions or applying for any above- grade *Building Permit* that would provide for the development of more than 30,200 square metres of *residential gross floor area*;
- (c) the *owner* must commence delivery of *affordable rental housing* commensurate with the rate of residential development prior to requesting issuance of any above-grade *Building Permit* that would permit any additional *residential gross floor area* other than for *affordable rental housing* beyond 30,200 square metres;
- (d) if the *owner* is providing cash-in-lieu of *affordable rental housing*, it may be provided in the form of a letter of credit provided that:
 - (i) it is in the full amount of the maximum cash-in-lieu permitted in (kk)(iii); and
 - (ii) the *owner* agrees to make an election for *affordable rental housing* delivery in the form of *dwelling units* or land prior to removal of 'h' provisions that would provide for residential development beyond the second delivery milestone of 40,900 square metres;
- (e) the second delivery milestone is equal to a total *residential gross floor area* of 40,900 square metres;

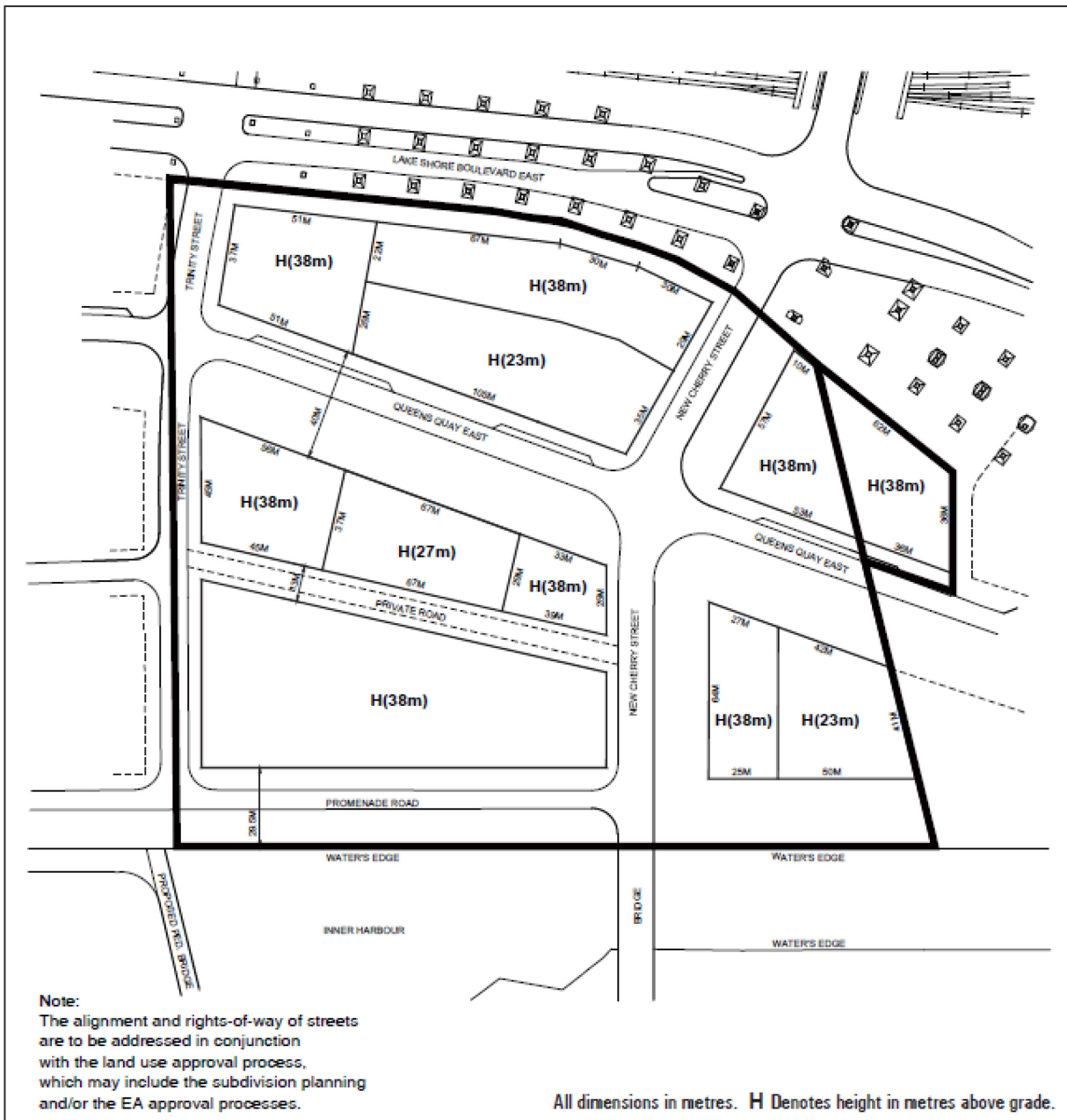
- (f) if land for *affordable rental housing* has been elected and a letter of credit for cash-in-lieu of *affordable rental housing*, was provided subject to 2(d) of this Appendix:
- (i) the required amount of *affordable rental housing* to be secured at the second delivery milestone shall be commensurate with the rate of total residential development permitted when the third delivery milestone is reached, and calculated on the cumulative amounts of any previous delivery of *affordable rental housing* and the combined amount of *residential gross floor area* for *affordable rental housing* that would result from the land to be delivered and the cash-in-lieu of land delivery required to meet the delivery obligations;
 - (ii) the cash-in-lieu required in (f)(i) herein shall be delivered at the second delivery milestone by cashing the letter of credit for cash-in-lieu of *affordable rental housing* to the required amount; and
 - (iii) the land must be secured in a *Phase-specific Section 37 Agreement* and delivered subject to (kk)(ii) of this Exception prior to the earlier of removal of 'h' provisions or applying for any above- grade building permit that would provide for residential development beyond the third delivery milestone;
- (g) if the delivery of *dwelling units* that are *affordable rental housing* has been elected at the second delivery milestone, these shall be secured in a *Phase-specific Section 37 Agreement* as follows:
- (i) prior to the removal of 'h' provisions that permit any *residential gross floor area* other than for *affordable rental housing* units beyond the amount of *residential gross floor area* specified for the applicable third delivery milestone in (h) herein; and
 - (ii) in the amount required to ensure the delivery of *affordable rental housing* commensurate with the rate of development of the total residential gross floor area permitted up to the third delivery milestone;
- (h) the third delivery milestone is reached with the issuance of above-grade *building permits* for the fourth residential building, other than buildings with *affordable rental housing*, or with the *residential gross floor area* milestone calculated as follows:
- (i) at least two residential buildings are constructed north of Queens Quay East;
 - (ii) if the first three residential buildings are north of Queens Quay East, total *residential gross floor area* of 70,145 square metres; and
 - (iii) if one of the three residential buildings is south of Queens Quay East, total *residential gross floor area* of 65,970 square metres;

- (i) delivery of dwelling units that are *affordable rental housing* in the amount required in (g)(ii) herein shall be as follows:
 - (i) delivery will commence prior to any approval to remove the 'h' provision that would permit any additional *residential gross floor area* other than for *affordable rental housing* beyond the third delivery milestone or for a fourth residential building other than for *affordable rental housing*;
 - (ii) delivery will commence prior to the issuance of any above-grade *building permit* for any building with *residential gross floor area* other than for *affordable rental housing* beyond the third delivery milestone or for a fourth residential building other than for *affordable rental housing*;
 - (iii) a component equivalent to two full residential above-grade floors of *affordable rental housing* (structure only) shall have been constructed prior to the issuance of any above-grade *building permit* for any building, or part thereof, with *residential gross floor area* beyond the third delivery milestone or for a fourth residential building other than for *affordable rental housing*; and
 - (iv) notwithstanding (i)(i) and (i)(ii) herein, if the *affordable rental housing* is being provided in a building that also contains *dwelling units* that are not *affordable rental housing*, then removal of the 'h' provision or the issuance of an above-grade *building permit* for *residential gross floor area* beyond the third delivery milestone is permitted if the *residential gross floor area*, or part thereof, is intended to satisfy the cumulative *affordable rental housing* obligations then outstanding and on condition that the *affordable rental housing* to be provided comprises at least 60 percent of the total *residential gross floor area* associated with the building for which the removal of the 'h' provision or the above grade building permit is sought; and
- (j) in addition to the amount of *affordable rental housing* delivery required in (f) and (g) herein, the amount of *affordable rental housing* delivery required to approve the removal of the 'h' provision and the issuance of above-grade building permits that permit *residential gross floor area* beyond the third milestone shall be commensurate with the rate of development of the combined *residential gross floor area* permitted by the development for which removal of the 'h' provision is sought and all previous approvals.

Map A



Map B



429 Lake Shore Boulevard East
and 324 Cherry Street

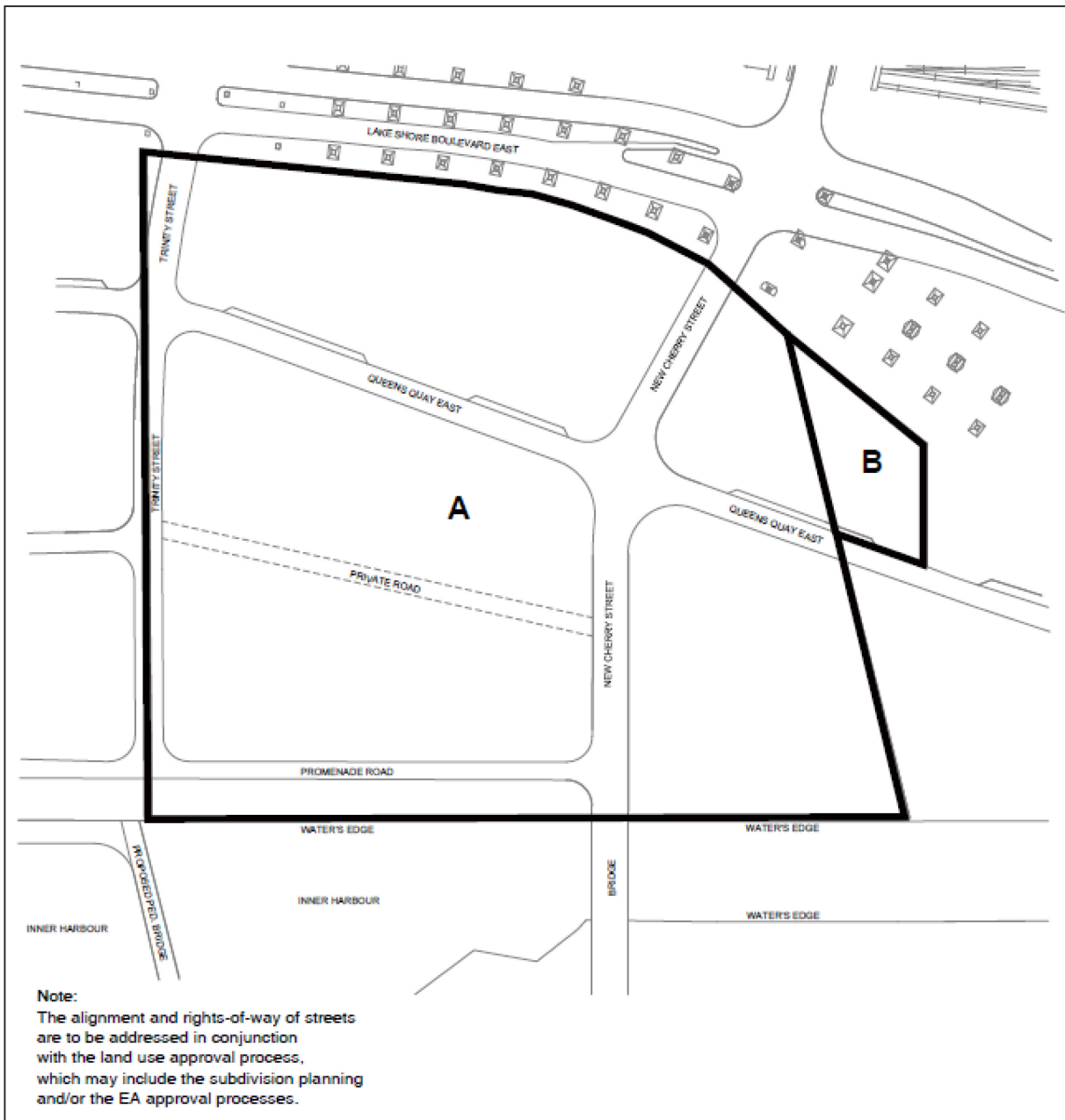
Map B - Maximum Base Building Heights

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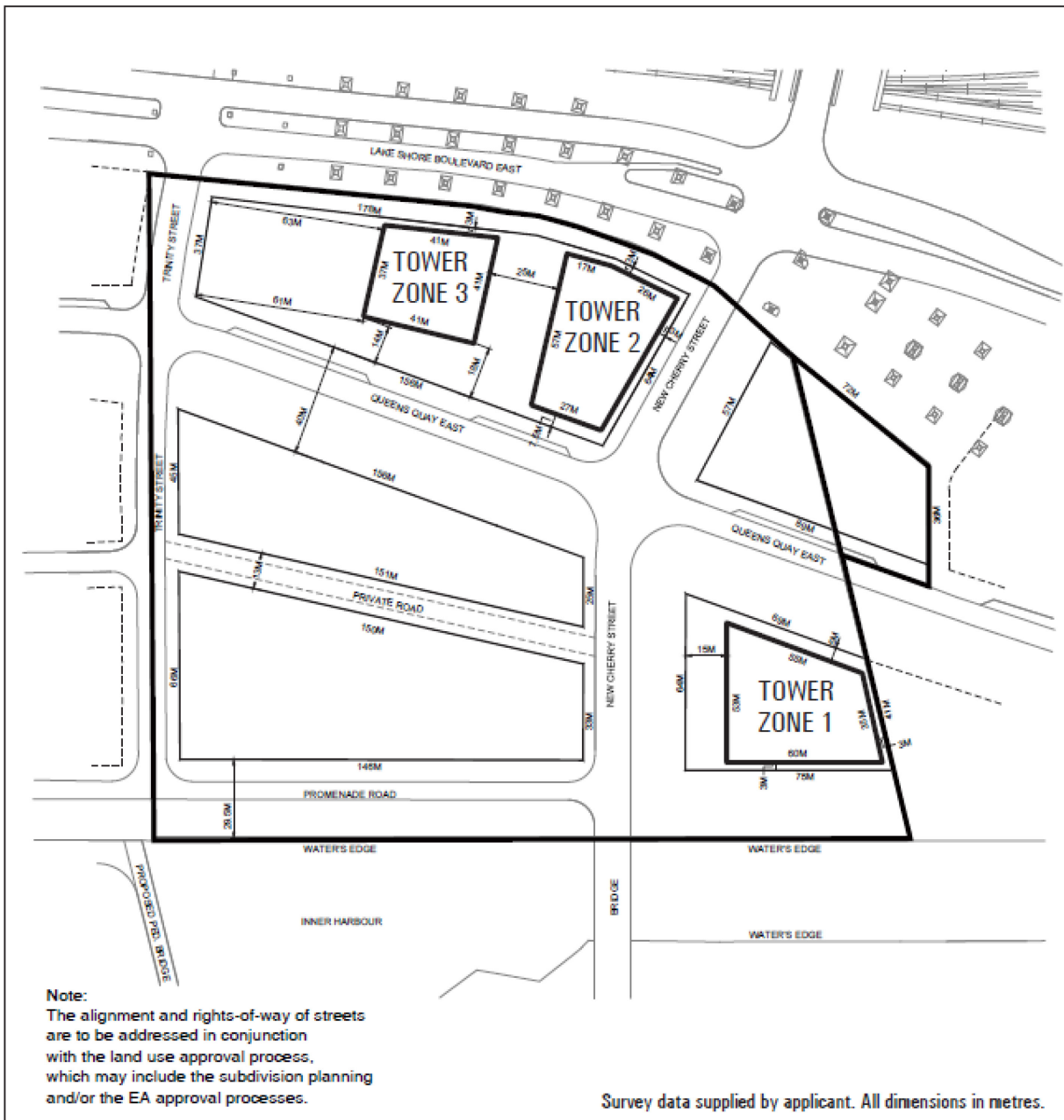


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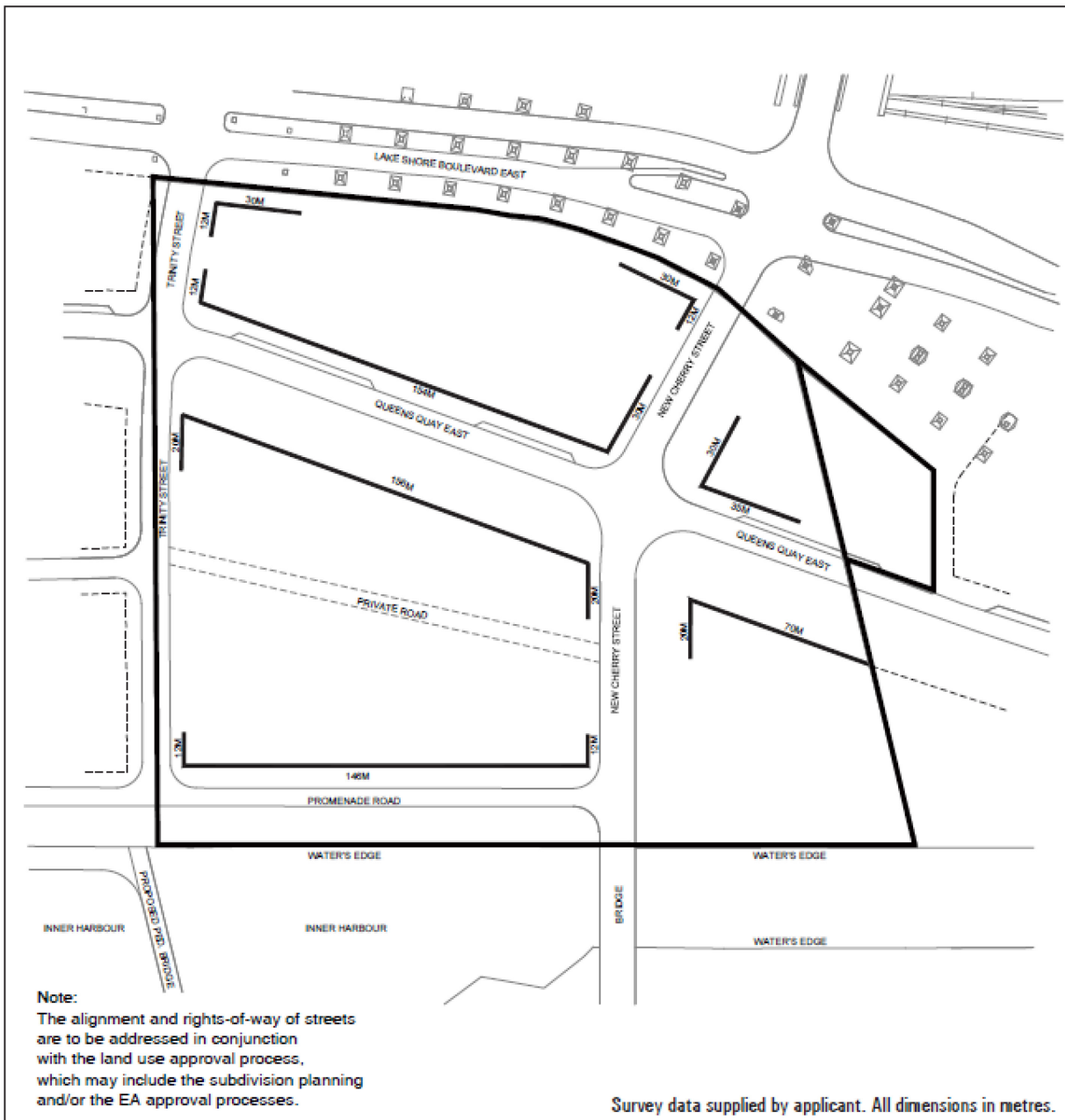
Map 1



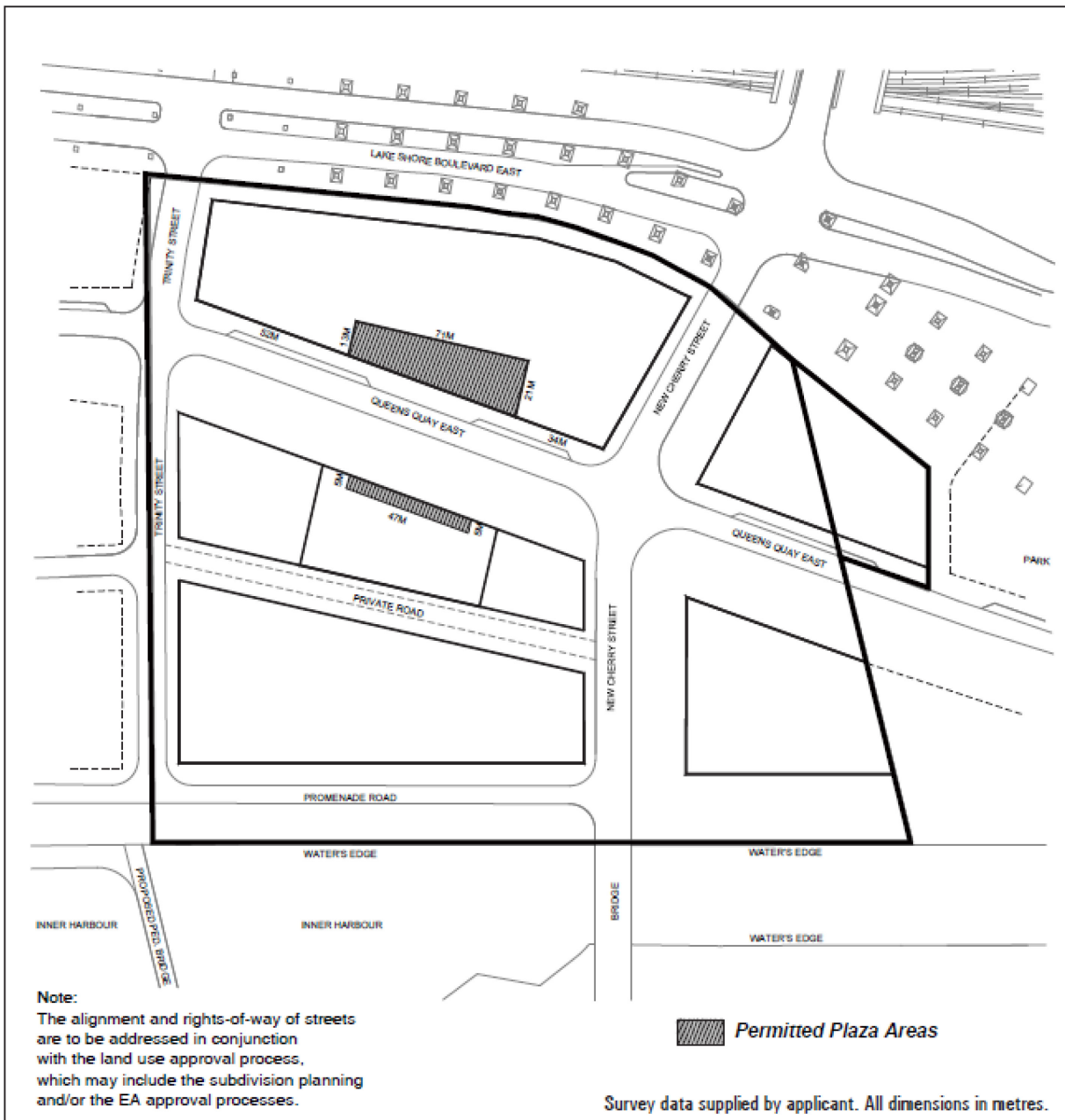
Map 2



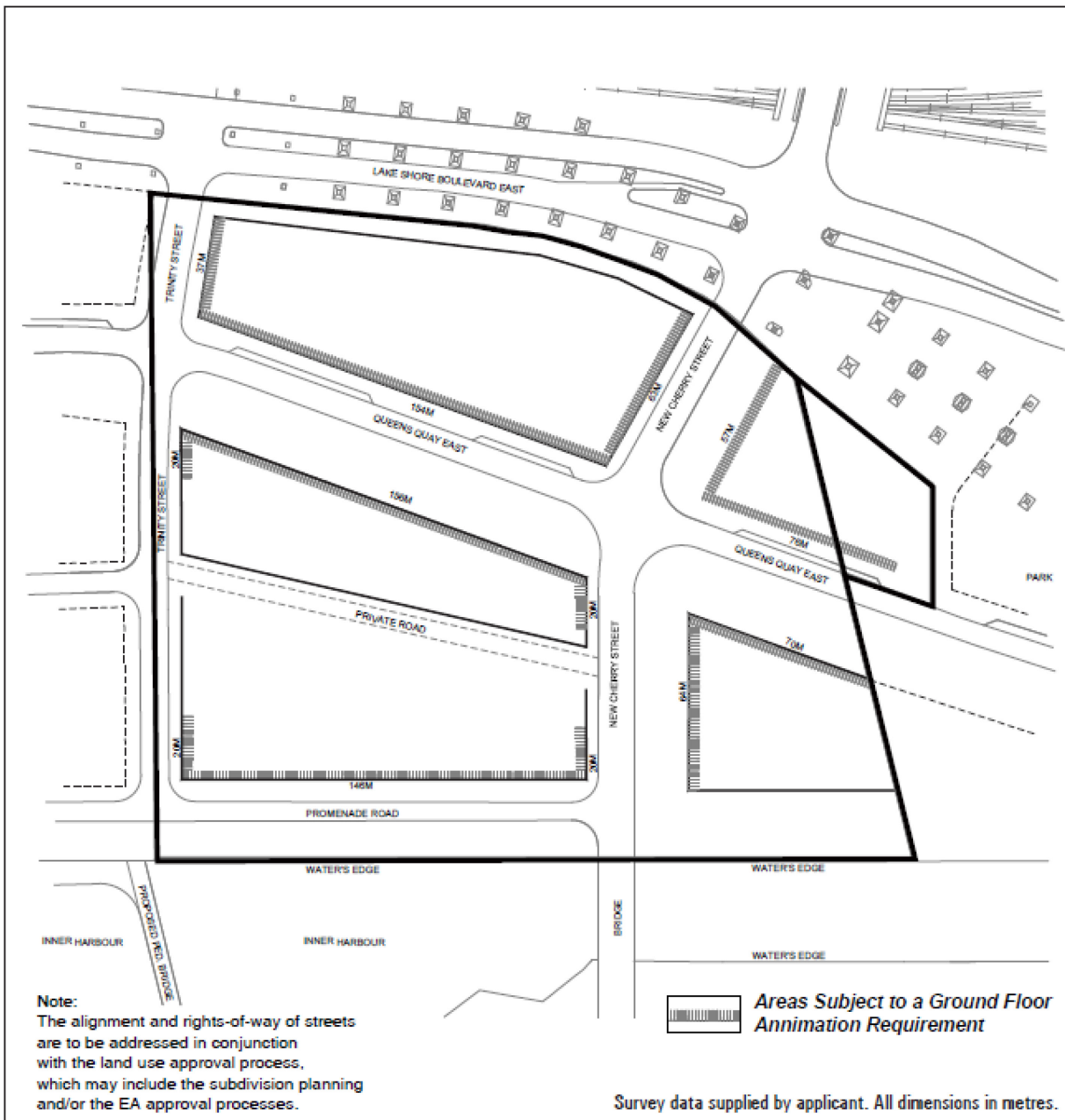
Map 3



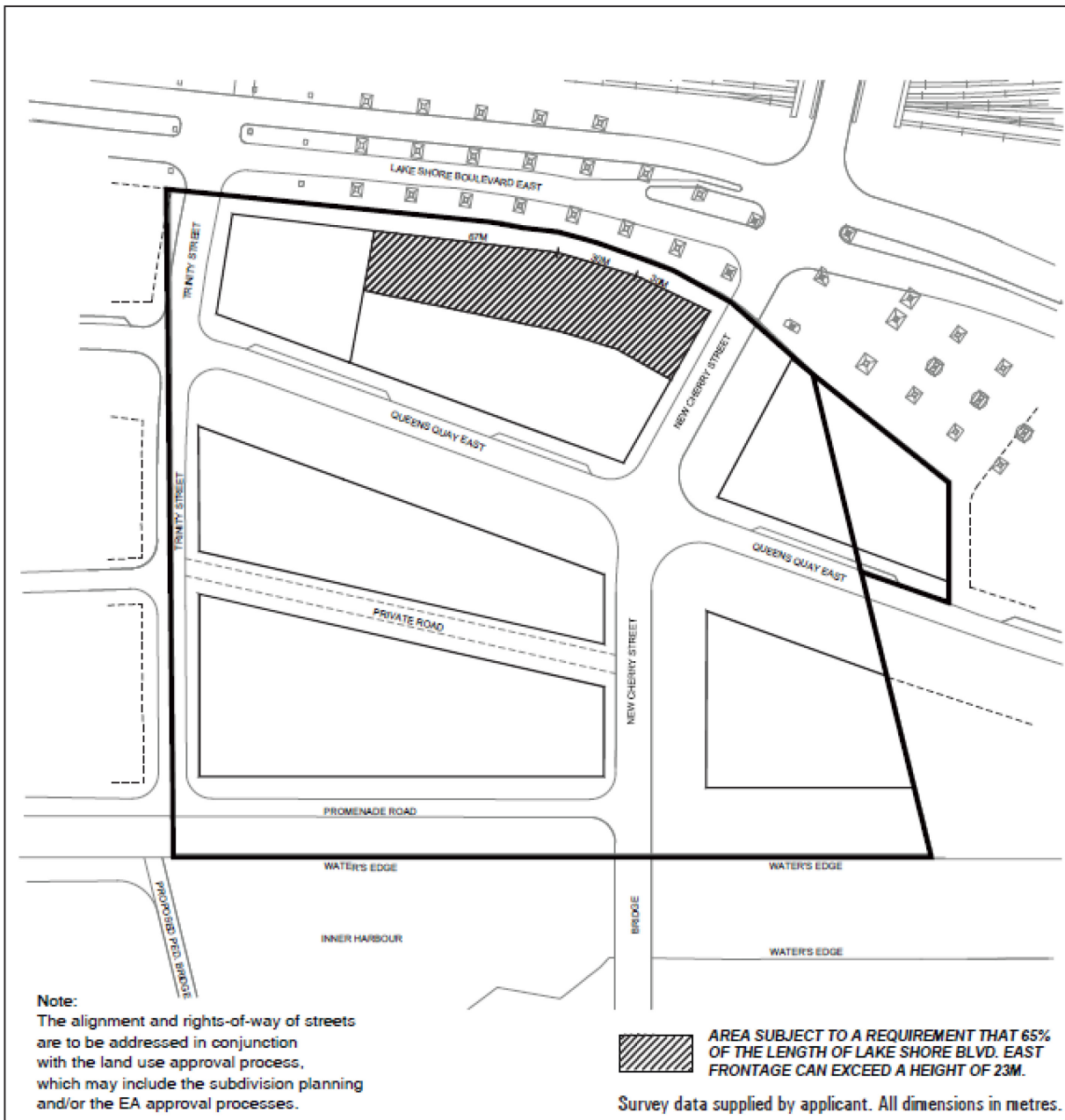
Map 4



Map 5



Map 6



**Map 6 - Tower Zones 2 & 3 - Base Height Area
Along Lake Shore Boulevard East**

**429 Lake Shore Boulevard East
and 324 Cherry Street**

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