

Authority: Ontario Municipal Board Decision issued on August 22, 2017 and Order issued on January 22, 2018 in Board File PL160684

CITY OF TORONTO

BY-LAW 171-2018(OMB)

To amend Zoning By-law 569-2013, as amended with respect to lands municipally known in the year 2016 as 19 Duncan Street, 219-223 Adelaide Street West.

Whereas the Ontario Municipal Board pursuant to its Decision issued August 22, 2017 and Order issued January 22, 2018, upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c. P.13, as amended, deems it advisable to amend By-law 569-2013, as amended, for the City of Toronto with respect to lands municipally known as 19 Duncan Street and 219-223 Adelaide Street West; and

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

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matter 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, a 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 permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are secured by one or more agreements between the owner of the land and the City of Toronto;

By-law 569-2013, as amended, of the City of Toronto is further amended by the Ontario Municipal Board as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined in heavy line to CRE (x17) as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.12.10 Exception Number CRE (x17):

Exception CRE 17

The lands or portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On the lands municipally known as 19 Duncan Street and 219-223 Adelaide Street West, shown as CRE (x17) on Diagram 2 to By-law 171-2018(OMB), if the requirements of By-law 171-2018 (OMB) are complied with, none of the provisions of Regulations 50.10.20.100(5), 50.10.40.30(1), 50.10.40.31(2), 50.10.90.40.(1) and (3), 200.5.1.10(12)(C), 200.15, 600.10, and 900.12.10(74), apply to prevent the erection or use of **buildings** or **structures** permitted in By-law 171-2018(OMB);
- (B) In addition to the uses permitted by Regulation 50.10.20.10(1) and 50.10.20.20(1), **public parking** located below finished ground, car-share parking spaces, and shared bicycle parking are permitted;
- (C) The total **gross floor area**, calculated in accordance with the provisions of 50.5.40.40, of all **buildings** and **structures**, excluding the gross **floor area** associated with **public parking** located below finished ground, must not exceed 45,000 square metres provided that:
- (i) Exclusive of any **gross floor area** associated with a **hotel** use as described in subsection (ii) below, **buildings** and **structures** or portions thereof must be occupied by a minimum non-residential **gross floor area** of 14,750.0 square metres, of which a minimum **gross floor area** of 12,500.0 square metres shall be for office uses; and
- (ii) **Hotel** suites and/or **hotel** rooms are permitted provided:
- (a) The total number of such **hotel** suites and **hotel** rooms does not exceed 40; and
- (b) The non-residential **gross floor area** used for **hotel** purposes must be located only commencing at or above a height of 41.0 metres above finished ground, save and except that such height restriction shall not apply to the associated **hotel** reception space;
- (D) At least ten percent (10 Percent) of the total number of **dwelling units** must be three-bedroom **dwelling units**;
- (E) At least twenty percent (20 Percent) of the total number of **dwelling units** must be two-bedroom **dwelling units**;

- (F) Despite all of regulations 5.10.40.70(1) and (2), 50.10.40.60, 50.10.40.70(1), (4) and 5)(A), 50.10.40.71, and 50.10.40.80(3) no portion of any **building** or **structure** above finished ground is located other than wholly within the areas delineated by heavy lines on Diagrams 3a, 3b and 3c attached to By-law 171-2018(OMB) with the exception of the following:
- (i) Public art, landscape features, wheel chair ramps, light fixtures, stairs and stair enclosures, guardrails, bollards, awnings, canopies, railings, fences, vents, shafts, stacks, chimneys, satellite dishes, retaining walls, underground garage ramp and its associated structures, and window washing equipment;
 - (ii) Eaves, cornices, window sills to a maximum projection of 0.3 metres beyond the heavy lines;
 - (iii) Architectural fins that project a maximum of 0.5 metres beyond the main wall of the building;
 - (iv) Balconies that project a maximum distance of 2.0 metres beyond the heavy lines shown on Diagram 3a, provided such balconies do not project over the portion of the **building** identified as "Existing Heritage Building" as shown on Diagram 3a; and
 - (v) The erection or use of the **structures**, elements and enclosures permitted by regulation G below;
- (G) Despite all of regulations 50.5.40.10, and 50.10.40.10, the height of any **building** or **structure**, as measured from the Canadian Geodetic Datum elevation of 87.1 metres to the highest point of the **building** or **structure**, must not exceed the height in metres specified by the numbers following the symbol HT on Diagrams 3a, 3b and 3c of By-law 171-2018(OMB), except for:
- (i) The erection or use of the **structures**, elements and enclosures permitted by regulation F above;
 - (ii) Parapets provided the maximum height of such elements is no higher than 0.5 metres above the 179.5 metre height limit specified on Diagram 3a of By-law 171-2018(OMB);
 - (iii) Privacy screens provided the maximum height of such elements is no higher than 3.0 metres above the height limits specified on Diagram 3a of By-law 171-2018(OMB);
 - (iv) Structures used for outside or open air recreation, safety or wind protection purposes, provided the height of such elements is no higher than 3.4 metres above the height limits specified on Diagram 3a of By-law 171-2018(OMB);

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- (v) Elements associated with a green roof, provided the height of such elements is no higher than 3.0 metres above the height limits specified on Diagram 3 of By-law 171-2018(OMB); and
 - (vi) Notwithstanding any provision of regulation F. above, or regulation G.(1). (3), (4) and (5), no permitted projections shall exceed a height of 179.5 metres;
- (H) Despite any other provision of this By-law, that portion of the **building** or **structure** located above a height of 179.5 metres and identified as "Top of Elevator Room" on Diagram 3a of By-law 171-2018(OMB), must not exceed a height of 186.5 metres and must only be used for elevator overruns and associated machine rooms for such elevator overruns, service rooms, and emergency exiting stairs, and all such elements must in total not exceed a horizontal footprint area of 123 square metres;
- (I) Despite any other provision of this By-law, that portion of the **building** subject to a height limit of 170.0 metres as shown with a solid black line on Diagram 3c and identified as "Top H = 170.0 metres" is only permitted provided no such portion of the **building** is located below 162.0 metres above finished ground;
- (J) Despite any other provision of this By-law to the contrary, the exterior main wall of the level of the **building** located immediately above the portion of the **building** identified as "Existing Heritage Building" on Diagram 3a between a height of 22.2 metres above finished ground and 27.3 metres must be setback in accordance with the solid black line shown on Diagram 3b, and for the purposes of this subsection,
- "Existing Heritage Building" means the heritage building existing on the lands on the date of the passing of this By-law, as shown on Map 3a, including as may be altered provide such alteration is in accordance with a Heritage Easement Agreement entered into between the City and the owner pursuant to Section 37 of the Ontario Heritage Act and registered to the satisfaction of the City;
- (K) Despite regulation 50.10.40.50 amenity space must be provided on the lands for the use of residents of the **building** in accordance with the following:
- (i) A minimum of 1.5 square metres of indoor amenity space per dwelling unit must be provided in a room or rooms, one of which shall contain a kitchen and a washroom;
 - (ii) Up to a maximum 40 percent of the indoor **amenity space** required in subsection (A) above may be located within the **premises** of a non-residential use or uses within the building, on or below finished ground level only, except for **premises** exclusively used as an **eating establishment** or **retail store**, and such portion of the indoor residential **amenity space**, may also be accessible to office users, visitors, guests, and patrons of the building;

- (iii) A minimum of 1.5 square metres of outdoor **amenity space** per **dwelling unit** must be provided per **dwelling unit** of which a minimum of 40 square metres must be provided in a location directly accessible from an area containing indoor **amenity space**; and
- (iv) Up to a maximum of 65 percent of the outdoor **amenity space** required in subsection (C) above may be located within the premises of a non-residential use or uses within the building, and such portion of the outdoor residential **amenity space** may also be accessible to office users, visitors, guests, and patrons of the building;
- (L) Despite the definition of **amenity space** in regulation 800.50(15), **amenity space** must be available for use by occupants of a building for recreational or social activities and may also be available to guests and visitors of a **building**;
- (M) Despite all of regulations 50.5.80.1 and 200.5.10, **parking spaces** shall be provided and maintained in accordance with the following minimum requirements:
- (i) 0.1 **parking spaces** for each bachelor **dwelling unit**;
- (ii) 0.15 **parking spaces** for each one-bedroom **dwelling unit**; and
- (iii) 0.35 **parking spaces** for each two or more bedroom **dwelling unit**;
- (N) **Parking spaces** for all other uses on the lands shall be provided at least in accordance with the minimum requirements in the following table:

Parking Space Rates and Parking Space Occupancy Table

Land Use	Minimum Parking Rate	Parking Occupancy Rate		
		AM	PM	Eve
Non-residential	1.0 parking spaces for each 300 square metres of gross floor area	100 Percent	60 Percent	0 Percent
Residential visitors	0.06 parking spaces per dwelling unit	0 Percent	35 Percent	100 Percent

- (O) The minimum number of **parking spaces** as required in the table above is determined as follows:
- (i) For each of the morning, afternoon and evening parking periods identified in the table above, the minimum number of **parking spaces** required for each use, is calculated using the respective **parking space** rate and occupancy rate;
 - (ii) The minimum number of **parking spaces** required for each parking period is the total of the **parking spaces** required for all uses during that parking period; and
 - (iii) The minimum number of **parking spaces** required is equal to the largest number of **parking spaces** required for any parking period;
- (P) Despite subsection (O) above, **parking spaces** are not required for non-residential uses located in a portion of the **building** the floor level of which is located at or below 2.5 metres above ground level;
- (Q) The **parking spaces** required pursuant to subsections (M) above may be provided on a non-exclusive basis on Level P2 and/or below in an underground parking garage, and may be provided in a **public parking** use that may or may not be **ancillary** to a permitted use on the lands;
- (R) Despite regulation 200.15 or any other provision of By-law 569-2013, as amended from time to time, a minimum of six (6) parking spaces on the lands must be provided as accessible parking spaces as follows:
- (i) Each **accessible parking space** must have the following minimum dimensions:
 - (a) Length of 5.6 metres;
 - (b) Width of 3.9 metres; and
 - (c) Vertical clearance of 2.1 metres;
 - (ii) An accessible barrier free aisle or path is not required along the length of an **accessible parking space**; and
 - (iii) An **accessible parking space** must be located within 15.0 metres of an entrance to an elevator lobby with one or more passenger elevator(s) that provide access to the first **storey** of the **building**;
- (S) Parking **spaces** must be provided and maintained in accordance with the requirements of regulation 200.5.1.10 of By-law 569-2013, as amended, with the exception of the following:

- (i) That up to a maximum of thirteen (13) obstructed parking spaces may be provided with a minimum width of 2.6 metres notwithstanding the requirements of 200.5.1.10(2)(A)(iv); and
- (ii) That up to a maximum of nineteen (19) obstructed **parking spaces** may be provided with a minimum width of 2.6 metres and a minimum length of 5.3 metres notwithstanding the requirements of 200.5.1.10(2)(A)(i) and (iv);
- (T) Car-share parking spaces are permitted, and for the purpose of this subsection:
- "Car-share" means the practice whereby a number of people share the use of one or more motor vehicles and such car-share motor vehicles are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
- A "car-share parking space" means a parking space exclusively reserved and signed for a car used only for car-share purposes;
- (U) Despite regulation 220.5.10 a minimum of one **loading space** – type G, and two **loading spaces** – type C must be provided and maintained on the lands in accordance with the requirements of 220.5.1.10(8) and 220.5.20.1;
- (V) Despite regulation 230.5.1.10(9), where located within a **building bicycle parking spaces** must be located below ground;
- (W) Despite regulations 230.5.1.10(10) and 230.50.1.20(1) "short-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space**;
- (X) A maximum of twelve (12) bicycle-share parking spaces are permitted, and for the purpose of this subsection, bicycle-share parking spaces means:
- "bicycle-share" means the practice whereby a number of people share the use of one or more bicycles that are owned by a profit or non-profit bicycle-sharing organization and such bicycle-share bicycles are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
- a "bicycle-share parking space" means a parking space exclusively reserved and signed for a bicycle used only for bicycle-share purposes;
- (Y) Despite any existing or future severance, partition, or division of the lands shown as CRE (x17) on Diagram 2 of By-law 171-2018(OMB), the provisions of this Exception and By-law 569-2013 shall apply to the whole of the lands as one lot as if no severance, partition or division had occurred.

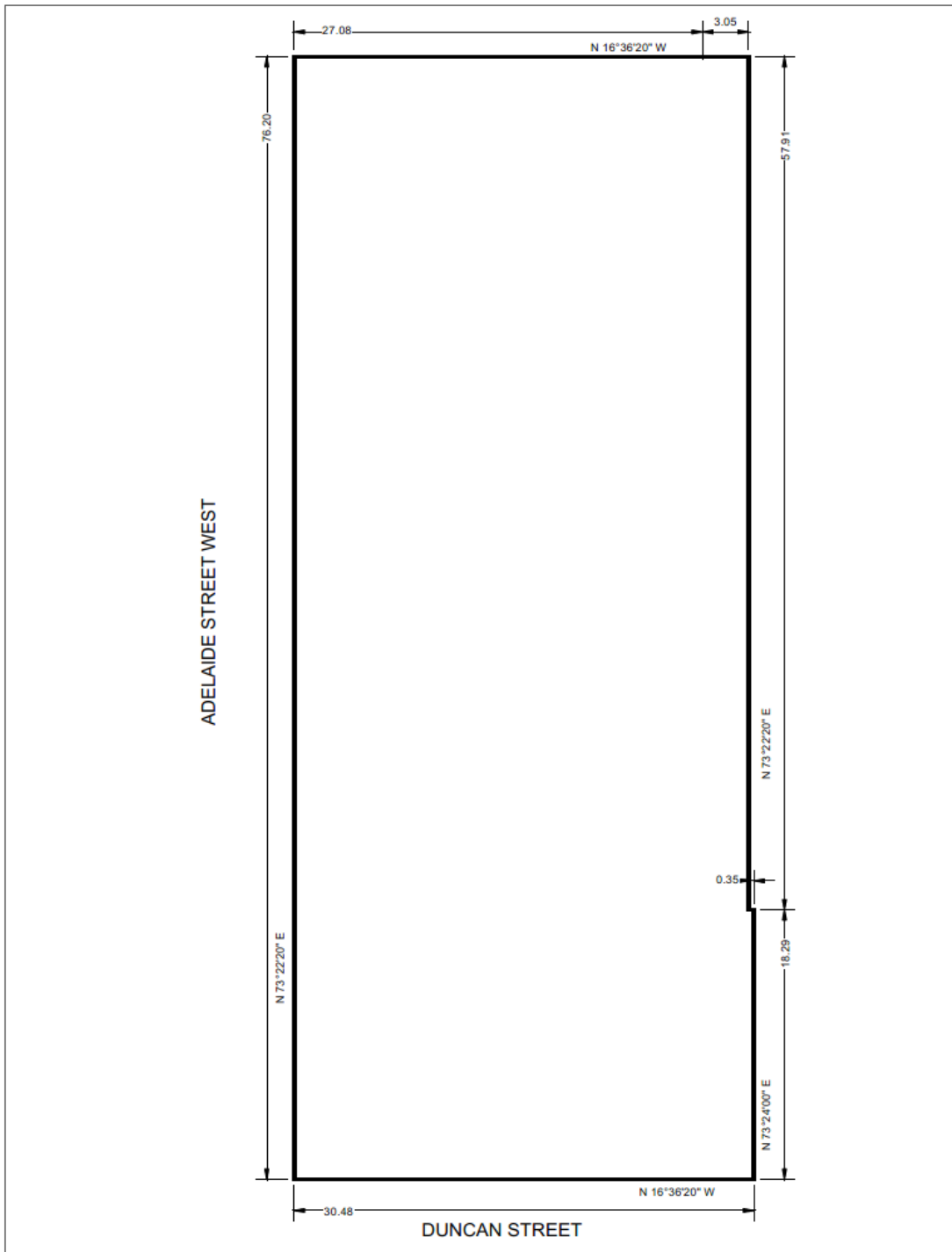
Prevailing By-law and Prevailing Sections: (None Apply)

5. 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 as CRE (x17) on Diagram 2 of this By-law, 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 must not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to Exception CRE (x17) of By-law 569-2013, as amended, unless all provisions of Schedule A of such By-law are satisfied.

Ontario Municipal Board Decision/Order issued on August 22, 2017 and January 22, 2018 in Board File PL160684

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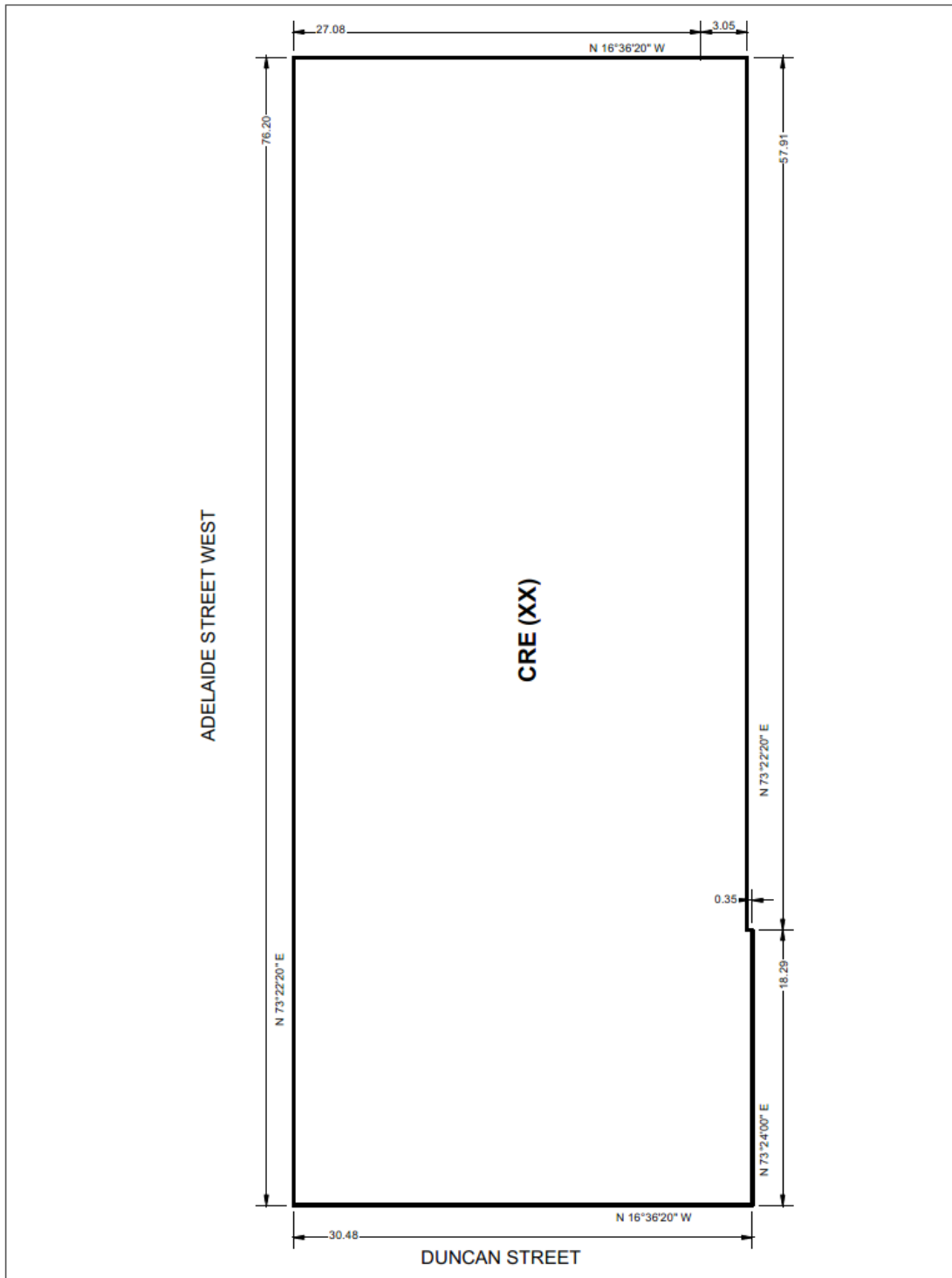


19 Duncan Street, 219-223 Adelaide Street West

Diagram 1

File # 15 164825 STE 20 OZ

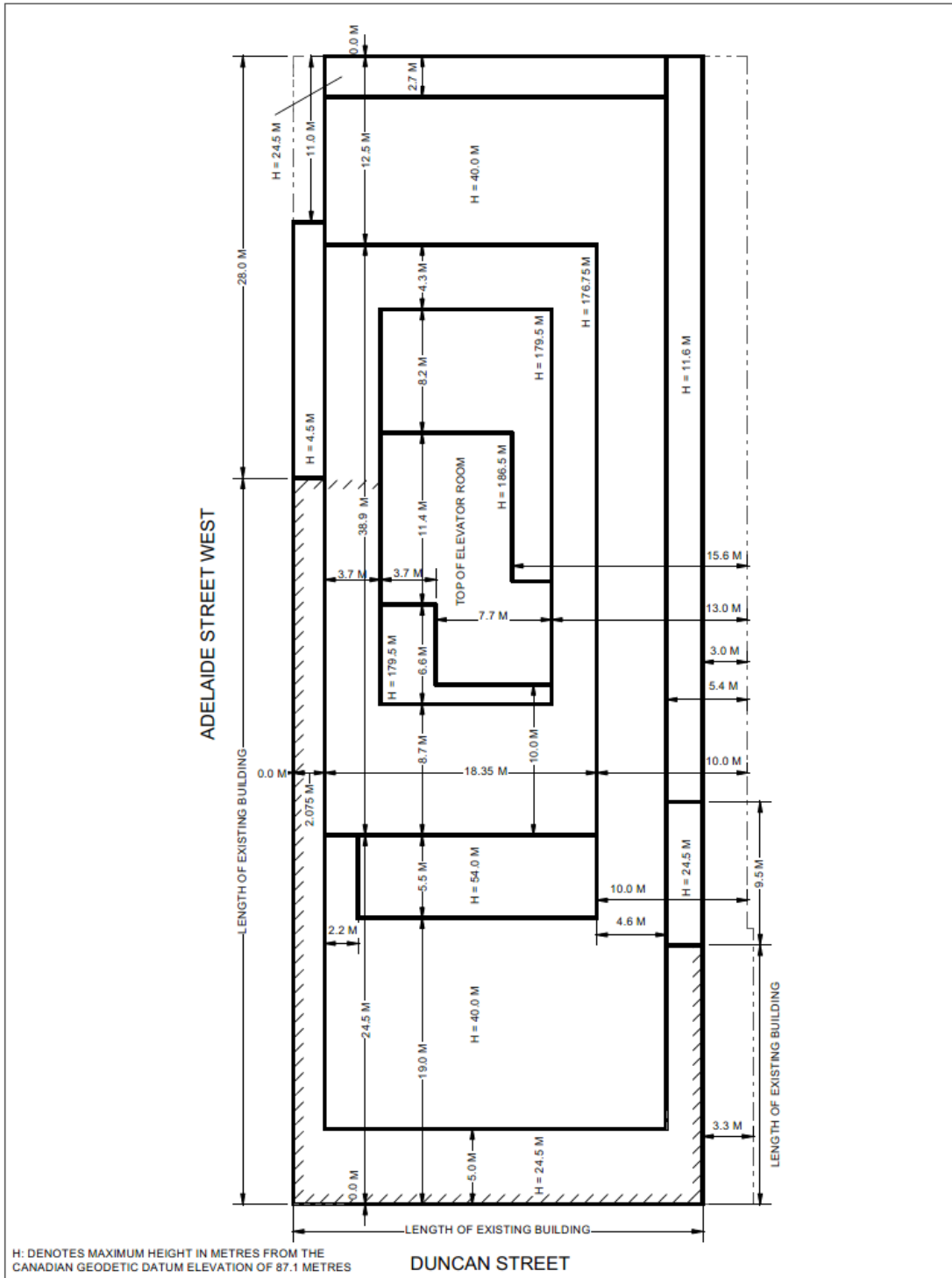
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19 Duncan Street, 219-223 Adelaide Street West

Diagram 2

File # 15 164825 STE 20 OZ

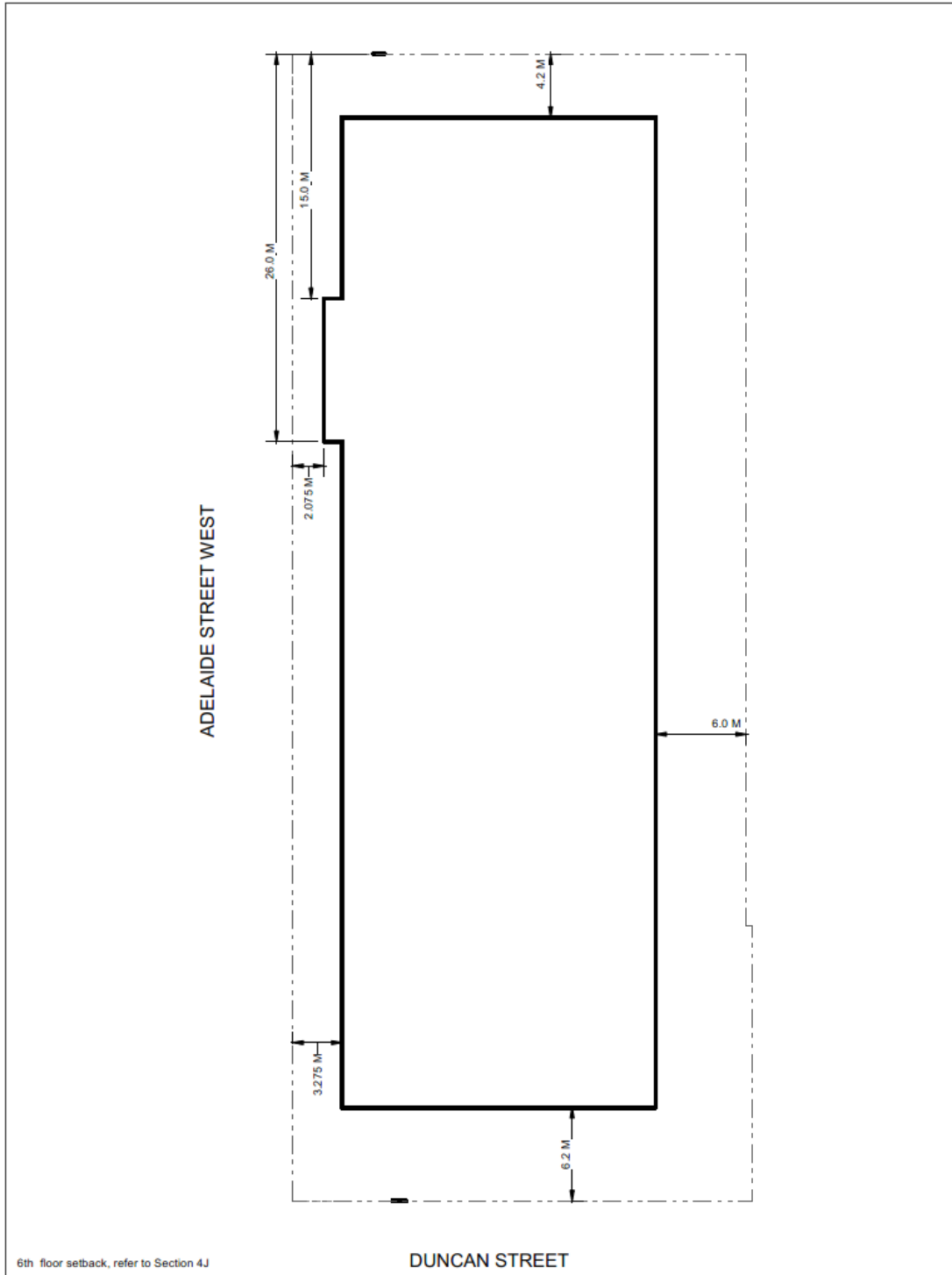


19 Duncan Street, 219-223 Adelaide Street West

Diagram 3a

File # 15 164825 STE 20 OZ

City of Toronto By-Law No.: -2017

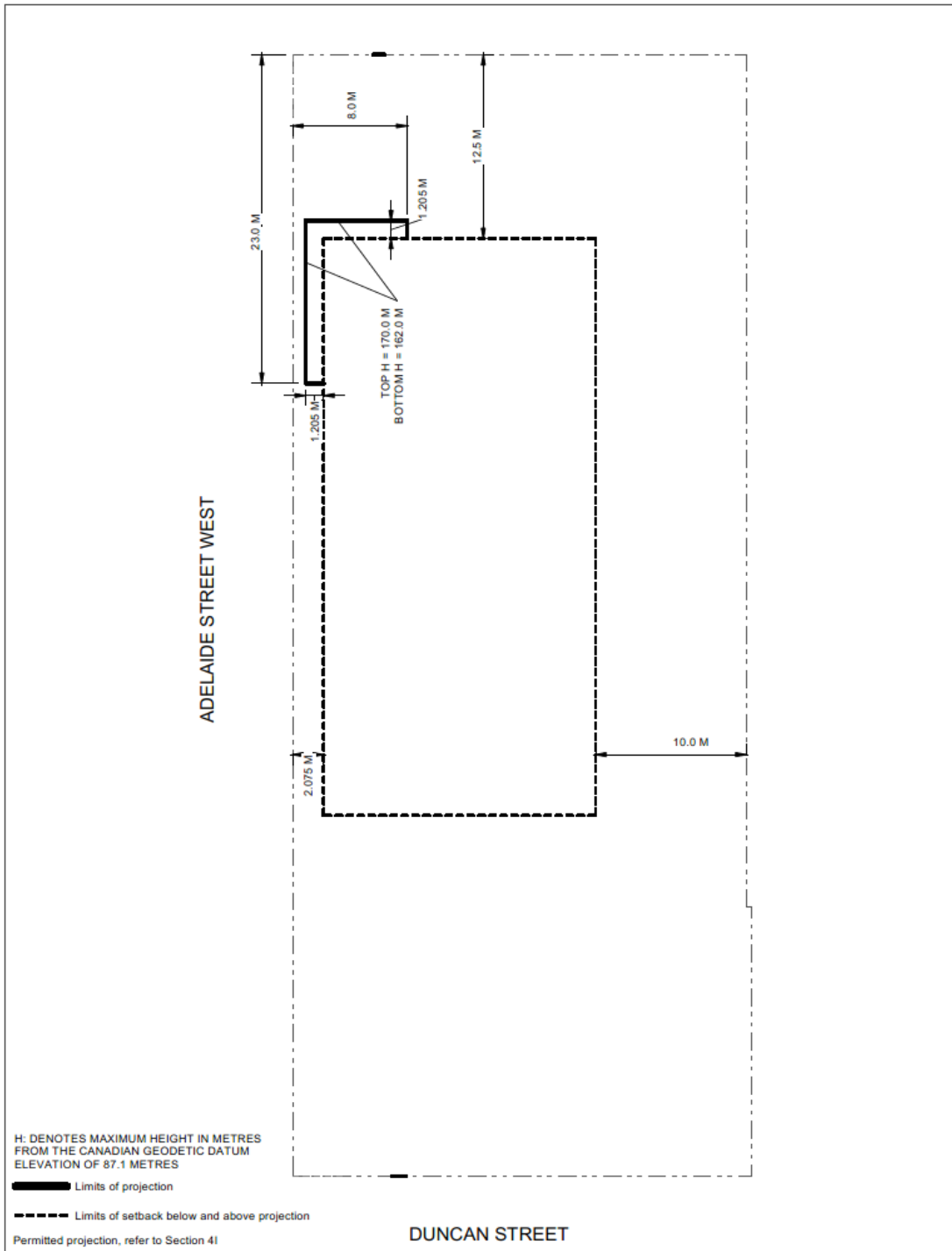


19 Duncan Street, 219-223 Adelaide Street West

Diagram 3b

File # 15 164825 STE 20 OZ

City of Toronto By-Law No.: -2017



19 Duncan Street, 219-223 Adelaide Street West

Diagram 3c

File # 15 164825 STE 20 OZ

SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in accordance with this By-law and as further specified in one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of the agreement in return for the increase in **height** and/or density of the proposed development on the lands as follows, all to the satisfaction of the Chief Planner:

1. Prior to the issuance of the first above-grade building permit for all or part of the lands, the owner shall pay to the City the sum of \$2,750,000 to be allocated as follows:
 - (i) \$330,000 for capital improvements to existing rental housing units provided by Toronto Community Housing Corporation in Ward 20;
 - (ii) \$330,000 for the provision of new affordable rental housing units as part of the Alexandra Park Revitalization in Ward 20, to be directed to the Capital Revolving Fund for Affordable Housing; and
 - (iii) \$2,090,000 for community services and facilities comprising capital expenditures in the King-Spadina Area, at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor;

In the event the cash contributions in (iii) has not been used for the intended purpose within three (3) years of the date of the issuance of the first above-grade building permit, cash contribution may be redirected for other purposes, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purposes are identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands;

2. The owner shall provide and maintain public art on the lands, to be located on portions of the lands that are visible from publicly accessible areas, in accordance with the City of Toronto Percent for Public Art Guidelines, to a minimum value of \$550,000 or such greater amount as the owner may in its discretion determine. Prior to the issuance of the first above-grade building permit for all or any part of the lands, the owner shall:
 - (i) Prepare a public art plan detailing the proposed design and construction of any public art installations on the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor; or
 - (ii) In the alternative to (i) above, the owner shall pay to the City the sum of \$550,000 towards the City's capital budget for public art programs;
3. The payments and public art requirements required in items 1 and 2 above shall be increased by upwards indexing in accordance with the Non-Residential Building

Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of the Section 37 Agreement to the date each such payment is made;

4. In the event the Chief Planner and Executive Director, City Planning, in the Chief Planner's sole discretion determines in writing to require the provision of a walkway and easement respecting such walkway, the construction, provision and maintenance on the lands of a publicly accessible pedestrian walkway together with conveyance by the owner, to the City of an easement for use of such walkway by the general public, together with rights of support should the City Solicitor require same, and such easement to be at nominal cost, free and clear of encumbrances except for easements for the properties at 150-158 Pearl Street and 15 Duncan Street, to be generally located along the southern boundary of the Lands, with an approximate size of 239 square metres, as determined in the Site Plan Approval process, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, with the conveyance of such easement and the construction of such walkway to be completed no later than prior to the earlier of any residential use of the Lands and in any event prior to any condominium registration of all or any part of the Lands. The timing of the completion of the construction of the walkway can be extended by up to an additional 6 months at the sole discretion of the Chief Planner and Executive Director, City Planning in writing;
5. The owner shall provide a minimum of 10 percent of the residential dwelling units within the development to be three-bedroom dwelling units and a minimum of 20 percent of the residential dwelling units within the development to be two-bedroom dwelling units;
6. The owner shall make satisfactory arrangements with the Executive Director, Engineering and Construction Services to design, financially secure, pay for, construct and make operational any upgrades and improvements to the municipal infrastructure, should it be determined that upgrades and/or improvements are required to the infrastructure to support this development, in accordance with the functional servicing and stormwater management report(s) and the hydrogeology assessment and the geotechnical report, all as accepted by the Executive Director, Engineering and Construction Services;
7. Prior to Final Site Plan approval in connection with the Zoning By-law Amendment for the property at 19 Duncan Street and 219-223 Adelaide Street West:
 - (i) the owner shall provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (ii) the owner shall have obtained final approval for the necessary Zoning By-law Amendments, with such Amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council as determined to the satisfaction of the Chief Planner and Executive Director, City Planning and with such by-laws having come into full force and effect;

- (iii) the owner shall provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (iv) the owner shall provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character as viewed from the public realm to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (v) The owner shall submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (vi) the owner shall be financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of any above or below-grade public or private utility resulting from the development of this property; and
 - (vii) the owner shall submit a Wind Study for the proposed development and thereafter shall implement the necessary mitigation measures, to all the satisfaction of the Chief Planner and Executive Director, City Planning;
8. Prior to the issuance of any permit for all or any part of the property at 19 Duncan Street including a heritage permit or a building permit but excluding permits for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services:
- (i) the owner shall have obtained final approval for the necessary Zoning By-law Amendments required for the subject properties with such amendments being the subject of an Ontario Municipal Board Order, allowing the Zoning By-law appeal in part and with the support and agreement of the City Council as determined to the satisfaction of the Chief Planner and Executive Director, City Planning, and with such by-laws having come into full force and effect;
 - (ii) the owner shall provide building permit drawings for the specific phases of work for which the permit is being sought, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - (iii) the owner shall provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan and the Interpretation Plan, and subsequently, prior to the release of the Letter of Credit to secure the Conservation work:

- A. the owner shall have obtained final site plan approval for the subject property, issued by the Chief Planner and Executive Director, City Planning;
 - B. the owner shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work has been completed in accordance with the approved Conservation Plan, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - C. the owner shall provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services;
- (iv) the owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary;
 - (v) the owner shall provide any necessary modifications to the functional servicing and stormwater management report(s), to the satisfaction of the Executive Director, Engineering and Construction Services; and
 - (vi) the owner shall provide any necessary modifications to the hydrogeology assessment, geotechnical report and associated municipal servicing plans, to the satisfaction of the Executive Director, Engineering and Construction Services.