

Authority: Local Planning Appeal Tribunal Decision/Order
issued on September 4, 2018 in Tribunal File PL160006

CITY OF TORONTO

BY-LAW 1483-2019(LPAT)

To amend by-law 438-86, as amended, of the former City of Toronto with respect to the lands known in the year 2017 as 215-229 Church Street and 117 Dundas Street East.

Whereas the Local Planning Appeal Tribunal, by its Decision/Order issued on September 4, 2018, in Tribunal File PL160006 approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally as 215-229 Church Street and 117 Dundas Street East; and

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

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height and/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 and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in the By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

Pursuant to the Order of the Local Planning Appeal Tribunal, By-law 438-86, the Zoning By-law of the former City of Toronto, as amended, is further amended as follows:

1. Pursuant to Section 37 of the Planning Act, the *heights* and density of development permitted by this By-law on the *lot* identified on Map 1 forming part of this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by one or more agreements pursuant to Section 37(3) of the Planning Act and registered on title to the *lot*.
2. Upon execution and registration of an agreement between the *City* and the *owner* of the *lot* on title to the *lot* pursuant to Section 37 of the Planning Act, securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the

provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a *building permit*, such building may not be erected or used until the *owner* of the *lot* has satisfied the said requirement.

3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the *City* pursuant to Section 37 of the Planning Act, then once such agreement(s) has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, of the former City of Toronto shall continue to apply to the *lot*.
5. None of the provisions of Section 2 with respect to the definitions of *bicycle parking space occupant*, *bicycle parking space - visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, *residential gross floor area*, and *storey* and Sections 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 4(16), 8(3) Part I, 8(3) Part II, 8(3) Part III, 12(2)132, 12(2)260, and 12(2)380 of By-law 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to building and structures and to prohibit certain uses of land and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, of the former City of Toronto shall apply to prevent the erection and use of a *mixed-use building* on the *lot* delineated by heavy lines on the attached Map 1, provided that:
 - a. the *lot* upon which the proposed building and structure is erected or used comprises at least the lands shown outlined by heavy lines on the attached Map 1;
 - b. the aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures erected and used on the *lot* shall not exceed 41,250 square metres, subject to the following:
 - i. The *residential gross floor area* erected and used on the *lot* shall not exceed 40,750 square metres; and
 - ii. The *non-residential gross floor area* erected and used on the *lot* shall not exceed 500 square metres;
 - c. *residential amenity space* shall be provided and maintained on the *lot* in accordance with the following rates:
 - i. A minimum of 2.0 square metres per *dwelling unit* for indoor *residential amenity space*; and
 - ii. A minimum of 1.2 square metres per *dwelling unit* for outdoor *residential amenity space*, of which at least 40 square metres is to be provided in a

location adjoining or directly accessible from indoor *residential amenity space*;

- d. no portion of a building or structure erected on the *lot* shall have a greater height in metres and in *storeys* than the *heights* in metres and in *storeys* specified by the numbers beside the symbols HT and ST respectively, on the attached Map 2 except that:
- i. The maximum *height* for mechanical equipment and any associated enclosure structures or enclosed building elements, wind protection screens, pergolas, trellises, stairs, stair enclosures, building maintenance units and window washing equipment shall not exceed a maximum of the sum of 6.0 metres and the applicable *height* limit shown on Map 2, within any area delineated on Map 2;
 - ii. The maximum *height* for parapets, railings, lightning rods and elements of a green roof shall not exceed a maximum of the sum of 1.5 metres and the applicable *height* limit shown on Map 2 within any delineated *height* area shown on Map 2;
 - iii. The maximum *height* for terrace dividers, guard rails and outdoor *residential amenity space* elements shall not exceed a maximum of the sum of 3.0 metres and the applicable *height* limit shown on Map 2 within any delineated *height* area shown on Map 2;
 - iv. The maximum *height* for roof drainage shall not exceed a maximum of the sum of 0.5 metres and the applicable *height* limit shown on Map 2 within any delineated *height* area shown on Map 2;
 - v. The maximum *height* for architectural structures, features, and/or elements such as walls, screens, cladding and enclosures having a maximum *height* of the sum of 13.0 metres and the applicable *height* limit shown on Map 2 shall be permitted within any delineated *height* area shown on Map 2 above a *height* above 162.5 metres; and
 - vi. Landscaping and art can extend beyond the applicable height limits shown on Map 2 within any area on Map 2, but in no event shall landscaping and art be permitted above the height limit of 162.5 metres as shown on Map 2;
- e. no portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, with the exception of the following:
- i. Balconies may project a maximum of 2.0 metres beyond the heavy lines shown on Map 2, subject to clause 4 in Appendix 1 hereto;

- ii. Awnings, canopies and window washing equipment may project a maximum of 3.0 metres beyond the heavy lines shown on Map 2; and
 - iii. Doors, cornices, ornamental elements, parapets, architectural features, columns, piers, pillars, exoskeleton structures, exoskeleton cladding, window sills, light fixtures, art and landscape features and site servicing features may project a maximum of 1.2 metres beyond the heavy lines shown on Map 2;
- f. *Parking spaces* shall be provided and maintained on the *lot* in accordance with the following, within an *accessory* underground *parking garage* on the *lot*:
- i. A minimum of 0.265 *parking spaces* per *dwelling* unit shall be for residents of the *lot*;
 - ii. No *parking spaces* for residential visitors is required;
 - iii. No *parking spaces* for non-residential uses is required;
 - iv. For each *car-share parking space* provided on the *lot*, the minimum number of required residential *parking spaces* may be reduced by 4 *parking spaces*; and
 - v. A maximum of 6 *car-share parking spaces* shall be permitted on the *lot*;
- g. notwithstanding Section 4(17)(b) of By-law 438-86, as amended, of the former City of Toronto, the minimum dimensions for a *parking space*, accessed by a one-way or two-way drive aisle having a width of less than 6.0 metres measured at the entrance to the *parking space*, shall be:
- i. Length of 5.6 metres;
 - ii. Width of 2.6 metres; and
 - iii. Height of 2.0 metres;
- except that the minimum required width of a *parking space* shall be increased by 0.3 metres for each side of the *parking space* that is obstructed in accordance with Section 4(17)(e) of By-law 438-86, as amended, of the former City of Toronto;
- h. despite (g) above and Section 4(17) of By-law 438-86, as amended, of the former City of Toronto, a maximum of 12 *parking spaces* are permitted to be obstructed on one side in accordance with Section 4(17)(e) of By-law 438-86, as amended, of the former City of Toronto without a requirement to increase the minimum required width by 0.3 metres;
- i. despite (g) above and Section 4(17) of By-law 438-86, as amended, of the former City of Toronto, a maximum of 36 *parking spaces* are permitted to have a minimum length of 5.40 metres;

- j. a minimum of one *loading space - type "G"* and one *loading space - type "C"* shall be provided and maintained on the *lot*;
 - k. bicycle parking shall be provided and maintained on the *lot* in accordance with the following:
 - i. A minimum of 0.9 *bicycle parking spaces - occupant per dwelling unit* shall be provided;
 - ii. A minimum of 0.1 *bicycle parking spaces - visitor per dwelling unit* shall be provided; and
 - iii. A minimum of 10 *bicycle parking spaces* shall be provided for non-residential uses.
6. None of the provisions of By-law 438-86, as amended, of the former City of Toronto shall apply to prevent a temporary *sales presentation centre* on the *lot*.
7. For the purposes of this By-law:
- a. "*above-grade building permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building;
 - b. "*bicycle parking space - occupant*" means an area that is equipped with a bicycle locker or a room or bicycle rack for the purpose of parking and securing bicycles and:
 - i. Where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.38 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - ii. Where the bicycles are to be parked in a vertical position, has a horizontal dimension of at least 0.38 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - iii. Notwithstanding (i) and (ii) above, where the bicycles are to be parked in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking spaces within the stacker are not subject to the dimensions outlined in (i) and (ii) above;
 - c. "*bicycle parking space - visitor*" means an area that is equipped with a room or a bicycle rack for the purpose of parking and securing bicycles and:

- i. Where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.38 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - ii. Where the bicycles are to be parked in a vertical position, has a horizontal dimension of at least 0.38 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - iii. Notwithstanding (i) and (ii) above, where the bicycles are to be parked in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking spaces within the stacker are not subject to the dimensions outlined in (i) and (ii) above;
- d. "*building permit*" means a permit issued under the Building Code Act, 1992, S.O. 1992, c.23 as amended or re-enacted from time to time, including a permit for excavation or shoring and including a conditional permit, but it does not include a permit issued to construct a temporary *sales presentation centre* or a portion thereof or for usual and minor works, repairs and maintenance of the existing buildings on the *lot* on the date of this By-law;
- e. "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a car-sharing vehicle, a person must meet the membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven;
- f. "*car-share parking space*" means a parking space exclusively for a car used only for car-sharing purposes;
- g. "*grade*" means 89.19 metres Canadian Geodetic Datum;
- h. "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- i. "*non-residential gross floor area*" means the aggregate of the areas of each floor of a *non-residential building* or the non-residential portion of a *mixed-use building*, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, exclusive of the following areas:
 - i. Parking, loading and bicycle parking below-ground;
 - ii. Required loading spaces at the ground level and required *bicycle parking spaces* at or above-ground;

- iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below-ground;
 - iv. *Any shower - change facility* required by this By-law for required *bicycle parking spaces*;
 - v. Elevator shafts;
 - vi. Garbage shafts;
 - vii. Mechanical penthouse; and
 - viii. Exit stairwells in the building;
- j. "*residential gross floor area*" means the aggregate of the areas of each floor of a residential building or the residential portion of a *mixed-use building*, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding:
- i. Parking, loading and bicycle parking below-ground;
 - ii. Required loading spaces at the ground level and required *bicycle parking spaces* at or above-ground;
 - iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below-ground;
 - iv. *Any shower - change facility* required by this By-law for required *bicycle parking spaces*;
 - v. *Residential amenity space* required by this By-law;
 - vi. Elevator shafts;
 - vii. Garbage shafts;
 - viii. Mechanical penthouse; and
 - ix. Exit stairwells in the building;
- k. "*sales presentation centre*" means a building, structure or facility on the *lot* used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*.
- l. "*storey*" means the portion of a building that is between the top of a floor and the top of the floor next above it, and if there is no floor above it, the portion between the top of the floor and the ceiling above it, except that none of the following shall be considered a *storey*:

- i. A mezzanine, which means one floor level situated immediately above the first floor, which may be non-contiguous, but may not exceed a cumulative interior floor area of 300 square metres and is limited in use to mechanical rooms and accesses thereto; and
 - ii. A mechanical penthouse comprising a maximum of two floor levels; and
 - m. each word or expression which is italicized in this By-law shall have the same meaning as each word or expression as defined in the aforesaid By-law 438-86, as amended, of the former City of Toronto unless otherwise defined in this By-law.
- 8.** Notwithstanding any severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
- 9.** Where Appendix 1 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a *building permit*, the issuance of such permit shall be dependent on satisfaction of the same:
- a. the owner shall not use, or permit the use of, a *building* or *structure* erected with an increase in *height* and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
- 10.** Within the *lot*, no person shall use any land or erect any building or structure unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- a. all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - b. all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

Pursuant to the Decision/Order of the Local Planning Appeal Tribunal issued on September 4, 2018 in Tribunal File PL160006.

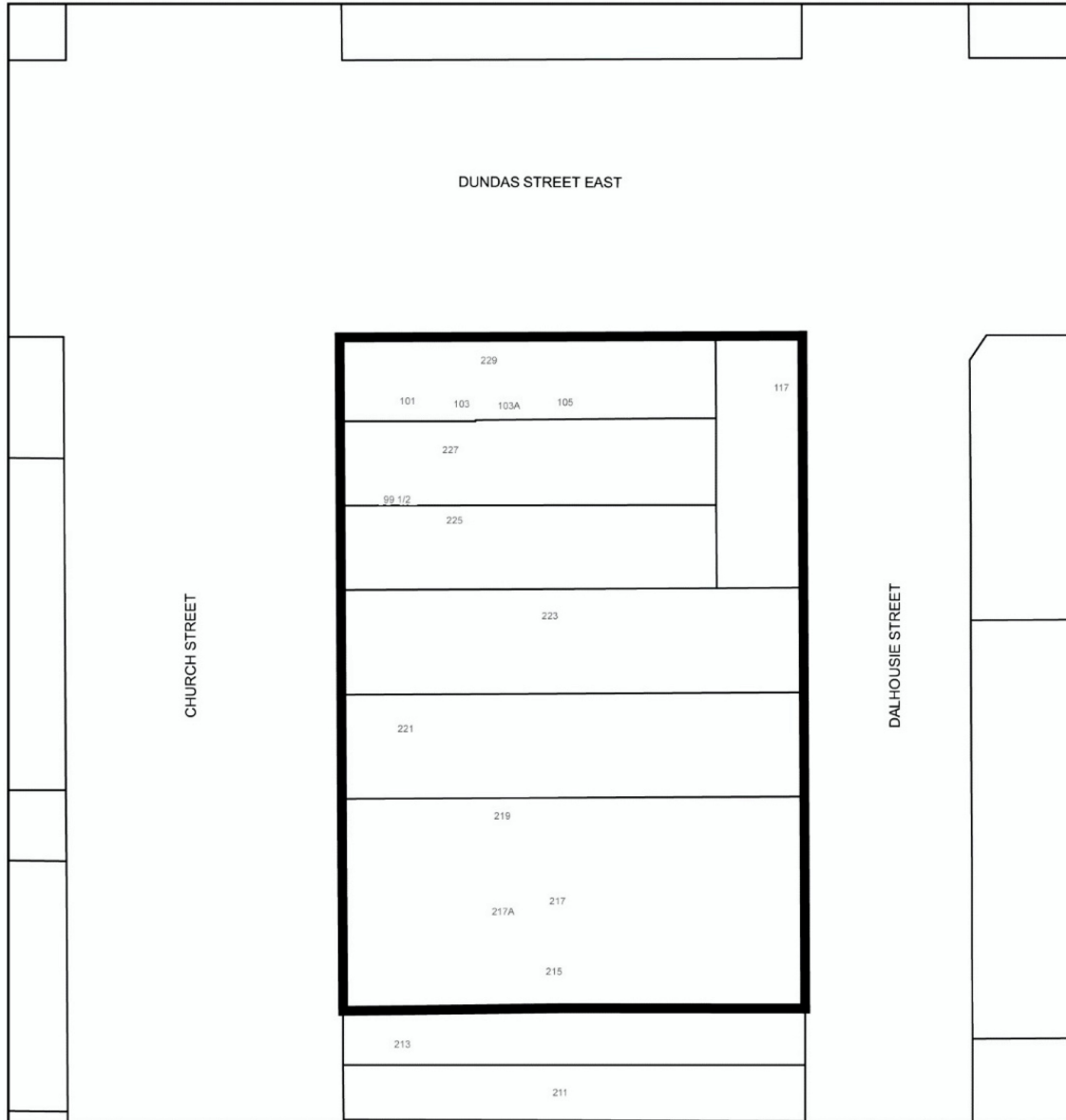
APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the *City* in accordance with 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, HST, termination and unwinding, and registration and priority of agreement:

1. The *owner* shall pay to the *City* the sum of THREE MILLION ONE HUNDRED THOUSAND DOLLARS (\$3,100,000.00) prior to the issuance of the first *above-grade building permit* for all or any part of the *lot*, to be allocated towards capital improvements in the vicinity of the *lot* satisfactory to the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, for one or more of the following:
 - a. conservation of publicly owned heritage resources and/or including the heritage component of the Seaton House redevelopment project;
 - b. John Innes Community Recreation Centre/Moss Park Arena;
 - c. affordable housing; and
 - d. community/cultural space.
2. The financial contribution identified in Section 1 herein shall be paid by certified cheque to the City, and the amount set out in Section 1 herein shall be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of this Agreement to the date of payment to the City.
3. In the event that the cash contribution identified in Section 1 has not been used for the intended purpose within three (3) years after the issuance of the first Above-Grade Building Permit for all or any part of the *lot*, the cash contribution may be redirected for another purpose or purposes, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose or purposes are identified in the Official Plan and will benefit the community in the vicinity of the *lot*.
4. The balcony projection permitted in Section 5(e)(i) of this By-law shall be limited as set out in the site plan approval Drawing A004 dated 2018-06-05, to the satisfaction of the Chief Planner and Executive Director, City Planning.
5. Prior to the issuance of any permit for all or any part of the *lot*, the owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of

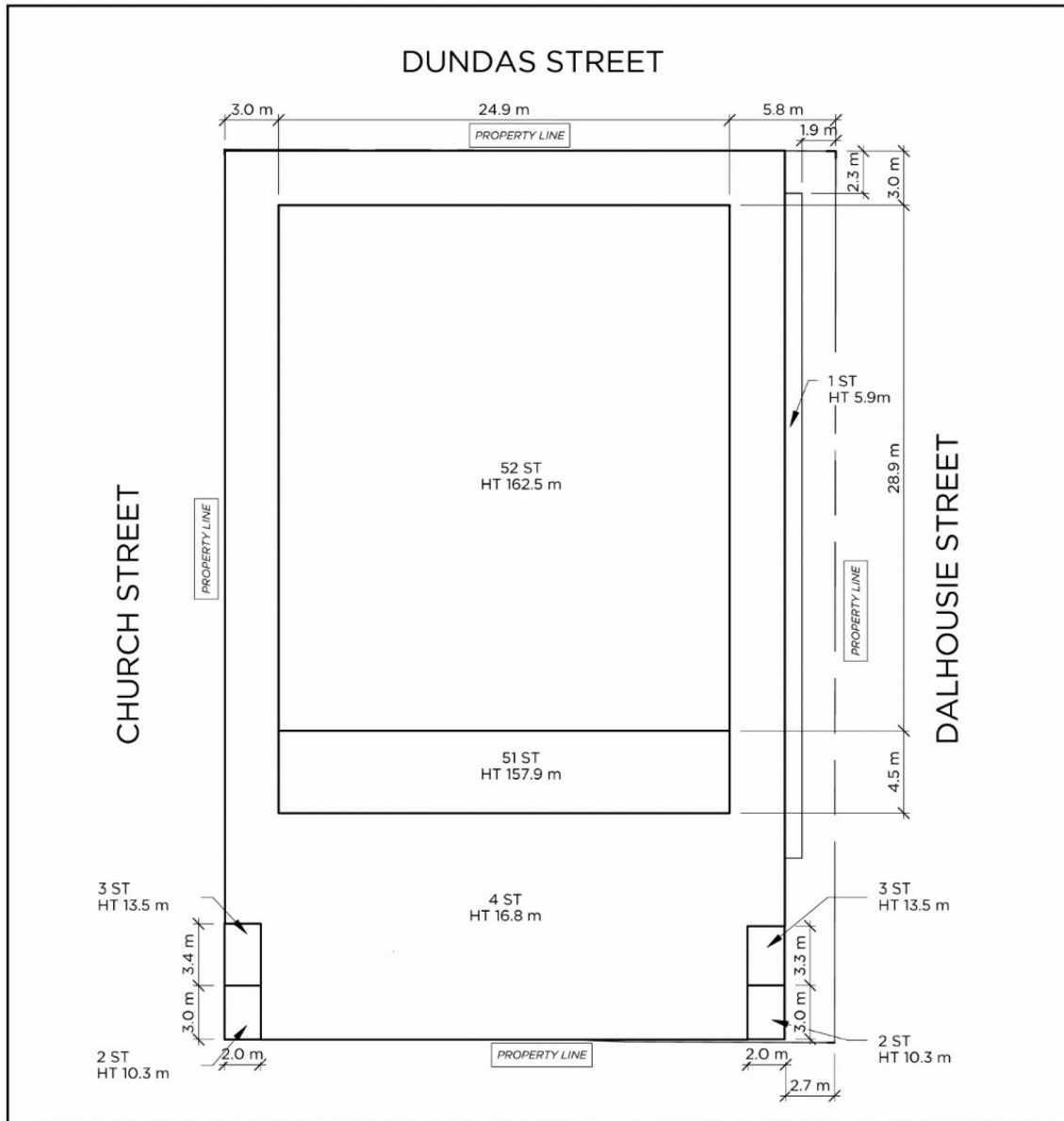
the development will implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary.

6. Notwithstanding Section 5 above, if the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor, determine that any of the matters in Section 5 are not relevant or necessary for the construction of the Development, then the Construction Management Plan need not include those matters.




 **TORONTO**
Map 1

**215-229 Church Street &
117 Dundas Street East**
File # 14 264043 STE 27 OZ



 **TORONTO**
Map 2

**215-229 Church Street &
117 Dundas Street East**
File # 14 264043 STE 27 OZ


City of Toronto By-Law 438-86
Not to Scale
4/16/2018