

Authority: Ontario Municipal Board and Local Planning
Appeal Tribunal Decision/Orders issued on October 23,
2018 and January 28, 2019 in Board File PL030514

CITY OF TORONTO

BY-LAW 1805-2019(LPAT)

To amend General Zoning By-law 438-86, as amended, of the former City of Toronto with respect to the lands known municipally in the year 2017 as 178 and 180 Queens Quay East.

Whereas the Ontario Municipal Board and Local Planning Appeal Tribunal, by way of its Decision/Orders in PL030514 issued on October 23, 2018 and January 28, 2019, following an appeal pursuant to Section 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended, determined to amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally in the year 2017 as 178 and 180 Queens Quay East; 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 matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act provides that where an *owner* of lands elects to provide facilities, services or matters, in return for an increase in height or density of development, the *owner* may be required to enter into one or more agreements with the municipality in respect of 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 this By-law which is secured by one or more agreements between the *owner* of the land and the City of Toronto;

Therefore, By-law 438-86, the General Zoning By-law of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board as follows:

1. Section 12(1) 334 of By-law 438-86 is amended by adding the following:

"178 and 180 Queens Quay East" By-law 1805-2019(LPAT)

2. Section 12(1) of the aforesaid By-law 438-86 is amended by adding the following Exception: 492 to prevent the erection or use of buildings or structures or the use of land within the area delineated by heavy lines on Map 1 at the end of and forming part of this Exception in accordance with the following provisions:

- (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this Exception;

Permitted Uses:

- (b) the following uses shall be permitted within a CR district:
- (i) 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 for an *automobile service and repair shop, automobile service station, car washing establishment, cold storage locker plant, motor vehicle repair shop, class A, or commercial parking lot*;
 - (ii) a *district energy, heating and cooling plant*, a vacuum waste collection facility;
 - (iii) those residential uses permitted within a CR district in section 8(1)(f)(a), and subject to the qualifications in section 8(2) where applicable, provided that the *owner* of the *lot* elects to provide the facilities, services or matters referred to in paragraph (s) below and enters into the agreement(s) referred to in subparagraph (s)(i);
 - (iv) a *commercial parking garage*, the floor of which, excluding any access ramp and or pedestrian entrance, is situated wholly below finished ground level;
 - (v) a *commercial parking garage* 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*;
 - (vi) 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;
 - B. a 3.0 metre landscape strip is provided around the perimeter of the parking station, excluding any entrances and exits; and

- (vii) a *sales office*;
- (c) 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) those uses and buildings existing on the *lot* on the date of the passing of the by-law adopting this Exception, or an addition thereto not exceeding 100 square metres in *non-residential gross floor area* or 10 percent of the *non-residential gross floor area* existing on September 27, 2006, whichever is the greater;
 - (ii) any use permitted within a CR district by paragraph (b) herein, with the exception of *sensitive land uses*, within a building existing on the *lot* on the date of the by-law adopting this Exception, or an addition thereto not exceeding 100 square metres in *non-residential gross floor area* or 10 percent of the *non-residential gross floor area* existing on September 27, 2006; whichever is the greater;
 - (iii) notwithstanding Section 8(2)(11), a *commercial parking lot* provided that:
 - A. any lights used for illumination are so arranged as to divert the light away from adjacent premises;
 - B. a 3.0 metre landscape strip is provided around the perimeter, excluding any entrances and exits;
 - (iv) 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;
 - B. a 3.0 metre landscape strip is provided around the perimeter, excluding any entrances and exits;
 - (v) *temporary open air markets*; and
 - (vi) a *sales office*;

Density:

- (d) the combined total of *non-residential gross floor area* and *residential gross floor area* on the *lot* shall not exceed a maximum of 41,850.0 square metres, and the calculation of *non-residential gross floor area* shall exclude any portion of a *commercial parking garage* located below finished ground level;

Maximum Height and Building Envelope:

- (e) no portion of a building above *grade* is located otherwise than wholly within the heavy lines on Map 2 attached at the end of and forming part of this Exception;
- (f) no portion of a building shall have a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on Map 2 attached at the end of and forming part of this Exception;
- (g) notwithstanding subsections (e) and (f) above, for those portions of a building subject to the podium articulation zone shown on Map 5 attached at the end of and forming part of this Exception, a minimum of 50 percent of the exterior main wall of the southerly facade of the building, between a height of 24.0 metres and 26.6 metres above *grade*, shall have a minimum setback of 0.5 metres from the main exterior wall of the building immediately below;

Exception – Height, Building Envelope:

- (h) notwithstanding sections (e), (f) and (g) above, 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* shown on Map 2, attached to and forming part of this Exception, provided the projections comply with the restrictions set out opposite the structure in the columns entitled "MAXIMUM PERMITTED HORIZONTAL PROJECTION" and "OTHER APPLICABLE QUALIFICATIONS" and provided the projections are within the *lot*:

	STRUCTURE	MAXIMUM PERMITTED HORIZONTAL PROJECTION	OTHER APPLICABLE QUALIFICATIONS
1.	Eaves, cornices, parapets	1.0 metres	1.2 metres above the <i>heights</i> shown on Map 2
2.	Bay windows	The projection cannot exceed 1.0 metre from the wall to which it is attached	
3.	Balconies	Not more than 2.0 metres beyond the wall to which the balcony is attached	

	STRUCTURE	MAXIMUM PERMITTED HORIZONTAL PROJECTION	OTHER APPLICABLE QUALIFICATIONS
4.	Patios, uncovered platform	Not more than 2.0 metres beyond the heavy lines shown on Map 2	No more than 5.0 metres above finished ground level. Patios for non-residential purposes shall be located between a building and a <i>street</i> and or between a building and the <i>Publicly Accessible Open Space</i> shown on Map 2.
5.	Privacy screens, fences and privacy walls	No restriction	The height of such structures shall be limited to 2.1 metres above finished ground level with the exception that such structures located between a building and the <i>Publicly Accessible Open Space</i> shown on Map 2 shall be limited to 1.0 metre above finished ground level and privacy screens on buildings shall be limited to 3.0 metres above the <i>heights</i> shown on Map 2.
6.	Guardrails, bollards, railings, stairs, stair enclosures, trellises, wheel chair ramps and underground garage ramps and associated structures; <i>public art</i> , noise, odour and wind mitigation features, elements related to generation of solar power	No restriction	

	STRUCTURE	MAXIMUM PERMITTED HORIZONTAL PROJECTION	OTHER APPLICABLE QUALIFICATIONS
7.	Landscape features		Height shall be limited to 3.0 metres above finished ground level
8.	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> limits 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 <i>height</i> limit, does not exceed 40 percent of the area of the total roof area of the building.
9.	Awnings, canopies.	3.0 metres beyond the heavy lines shown on Map 2.	Must be located below the level of the third storey.
10.	Elements of a green roof.		The maximum <i>height</i> of such elements shall be 1.0 metres above the <i>height</i> limits shown on Map 2.
11.	A structure on the roof of a building, used for outside or open air 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 and the <i>height</i> limits shown on Map 2 and the structures shall not enclose space so as to constitute a form of penthouse or other room or rooms.

	STRUCTURE	MAXIMUM PERMITTED HORIZONTAL PROJECTION	OTHER APPLICABLE QUALIFICATIONS
12.	Chimney stack for a district energy, heating and cooling plant, which has been approved by the Ministry of the Environment and Climate Change	No restriction	
13.	Pilaster, decorative column, sill, belt course or other similar architectural feature on a building	0.6 metres, provided the structure is no closer to a <i>lot</i> line than 0.3 metres	

Parking and Loading:

- (i) *parking spaces* shall be provided in accordance with Section 4(5) of Bylaw 438-86, as amended, except that:
- (i) *parking spaces* may be provided and maintained on the *lot* in an *automated parking system*;
 - (ii) 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; and
 - (iii) for each 5 *bicycle parking spaces - occupant* provided in excess of the minimum number of *bicycle parking spaces – occupant* required by Section 4(13) of By-law 438-86, as amended, the minimum required residential automobile *parking spaces*, subject to any reduction pursuant to subsection (ii) above, shall be reduced by 1 *parking space*, up to a maximum reduction of 20 percent of the total minimum *parking spaces* required;
- (j) loading facilities shall be provided in accordance with Section 4(8); bicycle parking shall be provided in accordance with Section 4(13);
- (k) 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;

Sales Office:

- (l) where a building or structure is erected and used for the purposes of a *sales office*, then the provisions of subparagraphs (n), (o) and (p) of this Exception, as pertains to Build-to-Lines and Ground Floor Animation Areas, shall not apply to the building or structure;

Residential Amenity Space:

- (m) *residential amenity space* shall be provided in accordance with Section 4(12), except that:
- (i) indoor *residential amenity space* shall be provided at a minimum rate of 2 square metres per *dwelling unit* for the first 100 *dwelling units* and at a rate of 1 square metre thereafter;
 - (ii) outdoor *residential amenity space* shall be provided at a minimum rate of 1 square metre per *dwelling unit*;
 - (iii) required indoor *residential amenity space* may be provided in a room or rooms which are not contiguous;
 - (iv) indoor *residential amenity space* required for a building on the *lot* may be provided within another building on the *lot* or on an abutting parcel of land provided that there is an interior connection between such buildings at or above finished ground level; 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 corridors;

Build-To Lines

- (n) no building shall be erected or used on a portion of the *lot* subject to a Build-To Line as shown on Map 4 attached to and forming part of this Exception unless:
- (i) an exterior face of the building (including balconies) is located no more than 0.5 metres back from the Build-To Line, excluding an exterior building face that contains a building entrance which may be located no more than 1.0 metres back from the Build-To-Line, where such exterior faces are located between *grade* and a *height* of 12.0 metres, where such *height* is permitted, for a minimum of 85 percent of the length of the subject exterior wall of the building facing the Build-To Line; and
 - (ii) an exterior face of the building (including balconies) is located no more than 5.0 metres back from the Build-To Line between a *height* of 12.0 metres and a *height* of 38.0 metres, for a minimum of 85 percent of the length of the main exterior wall of the building facing the Build-To Line;

Ground Floor Animation Areas:

- (o) no building or structure on the *lot* subject to a Ground Floor Animation Area requirement as shown on Map 3 attached to and forming part of this Exception, may be erected or used unless:
 - (i) at least 70 percent of the length of the exterior building wall of the *first floor* level of the building that is subject to an Animation Frontage as shown on Map 3 is used for no purpose other than *ground floor animation uses*; and
- (p) no *dwelling units* shall be located within the *first floor* of a building subject to a Ground Floor Animation Area unless other permitted uses are provided, in an enclosed structure, between the *dwelling units* and a frontage identified as being subject to a Ground Floor Animation Area;

Unit Breakdown:

- (q) not less than 10 percent of all *dwelling units* in a phase as determined pursuant to subsection (x) of this Exception, 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 one of the three *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 three *bedrooms* shall have windows on an exterior wall;

- (r) notwithstanding (i) and (ii) of Paragraph (q) 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 Agreement:

- (s) pursuant to Section 37 of the Planning Act, 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 (s), Paragraphs (t), (u), (v) and (w) of this Exception and the Appendices hereof which Appendices form part of this Exception 12(1) (492), 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 Paragraphs (t), (u) and (v) and the Appendices and provides for the securing of Sub-paragraphs (w) (iii) and (iv) 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 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;
- (t) 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; and
 - 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*; and
 - 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 the land otherwise required by sub-paragraph (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 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; and
 - B. the maximum amount of cash-in-lieu that may be provided shall not exceed 50 percent of the total *affordable rental housing* requirements on the *lot*;

provided that, for the purpose of calculating the *affordable rental housing* requirements above, 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*;

- (iv) notwithstanding subsections (i), (ii) and (iii) above, the *owner* may elect to provide not less than 20 percent of the total amount of *residential gross floor area* as *affordable rental housing* solely and entirely through a cash in lieu contribution to the City, subject to the following:
 - A. the amount shall be the value of a dedication to the City of sufficient land for the purpose of constructing 20 percent of the total *residential gross floor area* as new *affordable rental housing*;
 - B. such land shall be considered ready and available for development, including any needed remediation; and
 - C. the cash in lieu is to 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;

provided that, for the purpose of calculating the *affordable rental housing* requirements above, 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*;

- (u) 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;
- (v) 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), as such terms are set out in the Appendices, 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*;

Noise and Odour:

- (w) inclusion of a provision in a *Three Party Agreement* that the *owner* will:
 - (i) provide to the City and to *Redpath*, as part of any application for site plan approval, subject to the terms of the *Three Party Agreement*, a *noise study* and *odour study* undertaken in accordance with Sub-paragraph (x) (vii) of this By-law, such studies to be peer reviewed by the City at the *owner's* expense. The Chief Planner will consider any comments provided by *Redpath* on the *noise study* and/or *odour study* provided they are received from *Redpath* within 25 business days of *Redpath's* receipt of such studies prior to either approving such site plan application or completing a staff report to Council thereon;
 - (ii) provide written confirmation from, and a Report prepared by a qualified professional, in accordance with the *Three Party Agreement*, that the plans submitted with any *Building Permit* application for any building or part of a building that implements any mitigation works, incorporate the mitigation works set out on the approved site plan drawings for such building or part of a building and the *Three Party Agreement* to the Chief Building Official and *Redpath*;
 - (iii) the inclusion of a provision in the *Three Party Agreement* requiring the following specific warning clauses (the "*Warning Clauses*") to be contained in all agreements of purchase and sale and leases, excluding agreements pertaining to the resale or lease of individual residential condominium units:

Standard Redpath Warning Clause:

"Warning: This site is in proximity to the heavy industrial Redpath Sugar Refinery located at 95 Queens Quay Boulevard East (the "Redpath Facility") which operates 24 hours a day, 7 days a week. Various processes, shipping and receiving, either operate continuously or at any time of day or night. Activities may include: loading, unloading and repair of large tractor trailers or bulk bin trucks; docking and unloading of ocean

and lake going ships; venting of steam; construction and repair; and operation of various sugar refining processes. In addition, there may be industrial odours emanating from the refinery from time to time. Redpath may apply to alter or expand the Redpath Facility in the future. Notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise and odour impacts from the Redpath Facility, from time to time noise from the Redpath Facility is likely to be audible, odours may be unpleasant, and such potential noise and odour may impact the enjoyment of indoor and outdoor areas of this development.

Redpath Sugar advises that it will not be responsible for any complaints or claims, arising from any of the activities at or relating to the Redpath Facility, property or operations thereon."

NPC-300 Warning Clause:

"Warning: This development has been classified as a Class 4 receptor under MOECC noise guideline NPC-300. The noise limits for a Class 4 receptor in this MOECC guideline are based on sensitive windows (such as to bedrooms) being closed. Portions of this development that would potentially experience elevated sound levels from Redpath operations, including unloading of ships, have been fitted with upgraded windows. With open windows, occupants may experience sound levels from outside that may interfere with normal indoor activities and occupants are cautioned to close windows under such circumstances."

- (iv) inclusion of a provision in the *Three Party Agreement* requiring the provision of the foregoing *Warning Clauses* in any condominium disclosure statement applicable to all lands, or portion thereof, proposed to be developed with a *sensitive land use* and the condominium purchasers and their successors and assigns shall be advised of the *Warning Clauses* in the Status Certificate (both for original and subsequent purchasers). Equivalent provisions are to be contained in any consent pursuant to Section 53 of the Planning Act;

Holding Symbol:

- (x) 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 paragraph (c) 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) submission of details respecting the proposal generally consistent with the Site Plan Application(s) for review and comment by the Waterfront Toronto Revitalization Corporation Design Review Panel;
- (ii) in the case of land proposed for residential use, and where *affordable rental housing* is required for the portion of the Lands, the *owner* is required to advise the City whether it is choosing to provide the equivalent of 20 percent of all *residential gross floor area* as *affordable rental housing* solely and entirely as a cash in lieu payment in accordance with sub-paragraph (t)(iv), which choice shall be made prior to the removal of the first (h) symbol from this Exception and shall apply to all of the Lands subject to this Exception, as well as 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;
- (iii) if such choice is not made by the *owner* to provide cash in lieu solely and entirely as a cash in lieu payment in accordance with subparagraph (t)(iv) as set out in sub-paragraph (ii) above, and 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
- (iv) 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*, (including whether the *owner* is choosing to provide the equivalent of 20 percent of all *residential gross floor area* as *affordable rental housing* solely and entirely in accordance with sub-paragraph (t)(iv)), constituted as follows:
 - A. A Housing Issues Report with information that:
 - a) 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 Sub-paragraph (x);

- b) 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
 - c) 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* is 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 able to accommodate *affordable rental housing dwelling units* is 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;
- (v) 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 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;

- (vi) 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 dwelling 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;
- (vii) the *owner* shall provide a *noise study* and *odour study* and detailed design plans in support of a site plan application for any *sensitive land use* on the *lot* which demonstrates that appropriate noise and/or odour mitigation works will be implemented. The *noise study* and *odour study* shall be submitted by the *owner* to the City of Toronto and the *owner* shall provide a copy to *Redpath*. The *noise study* and *odour study* shall demonstrate to the satisfaction of the City:
- A. That the requirements of Ministry of the Environment and Climate Change regulation and guidelines, including *MOECC NPC-300*, in accordance with the *Three Party Agreement* have been satisfactorily addressed; and
 - B. That the requirements of the *Three Party Agreement* respecting noise and odour mitigation have been appropriately addressed;
- (y) 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, R.S.O. 1990, c.P.13, as amended, nothing in this By-law 438-86, as amended, including this Exception and the Appendices thereto will prevent the Board from settling the terms of the Section 37 Agreement required for the removal of the Holding Symbol, and/or amending the by-law to remove the holding symbol without the execution of a settled Section 37 Agreement, and to settle the plans referred to in sub-paragraphs

(x)(v) and (vi) should the City neglect or refuse to execute such Section 37 agreement after being given a reasonable amount of time to do so.

Definitions:

- (z) 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 manoeuvring of other vehicles may be required in order for cars to be parked or to be retrieved. Parking pallets will not conform to the *parking space* dimensions set out in By-law 438-86. For clarity, parking pallets will be considered as a parking space for the purpose of determining compliance with the requirements of 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 minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
 - B. where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance from the wall of 1.2 metres,

- a minimum width of 0.6 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 minimum vertical clearance of 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, and:
- A. where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
- B. where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance from the wall of 1.2 metres, a minimum width of 0.6 metres and a vertical dimension of at least 1.9 metres;
- C. where the bicycles are to be parked in *bicycle stacker*, has a minimum vertical clearance of 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 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 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 measured along the portion of a *lot* line that is opposite a main wall of a building or subject portion thereof which contains a main entrance;
- (xiv) "*ground floor animation uses*" means those uses listed in Sections 8(1)(f)(b)(i), (ii) and (iv) of By-law 438-86, as amended, and also includes an artist's or photographers studio, a custom workshop, and a communications and broadcast establishment;
- (xv) "*height*" means the vertical distance between *grade* and the highest point of the roof, building, structure or element;
- (xvi) "*lot*" means the lands delineated by heavy lines on Map 1;
- (xvii) "*Master Section 37 Agreement*" means an agreement pursuant to Section 37 of the *Planning Act* entered into for the purposes of Paragraph (s)(i) of this Exception;
- (xviii) "*MOECC NPC-300*" means the Ministry of Environment and Climate Change Environmental Noise Guidelines, Stationary and Transportation Sources – Approval and Planning, Publication NPC-300, as may be amended or replaced from time to time;
- (xix) "*noise study*" means a study of all relevant noise sources prepared by a qualified noise consultant that, among other matters, makes specific recommendations for noise mitigation features to be incorporated into the design of the development taking into account relevant Ministry of Environment and Climate Change guidelines, regulations and relevant sections of the Toronto Municipal Code, including Chapter 591 or its successors and as further specified in the *Three Party Agreement*;
- (xx) "*odour study*" means a study of all relevant emissions including odour prepared by a qualified air quality consultant, that makes specific

recommendations for odour mitigation features to be incorporated into the design of the development taking into account relevant Ministry of Environment and Climate Change guidelines and regulations and as further specified in the *Three Party Agreement*;

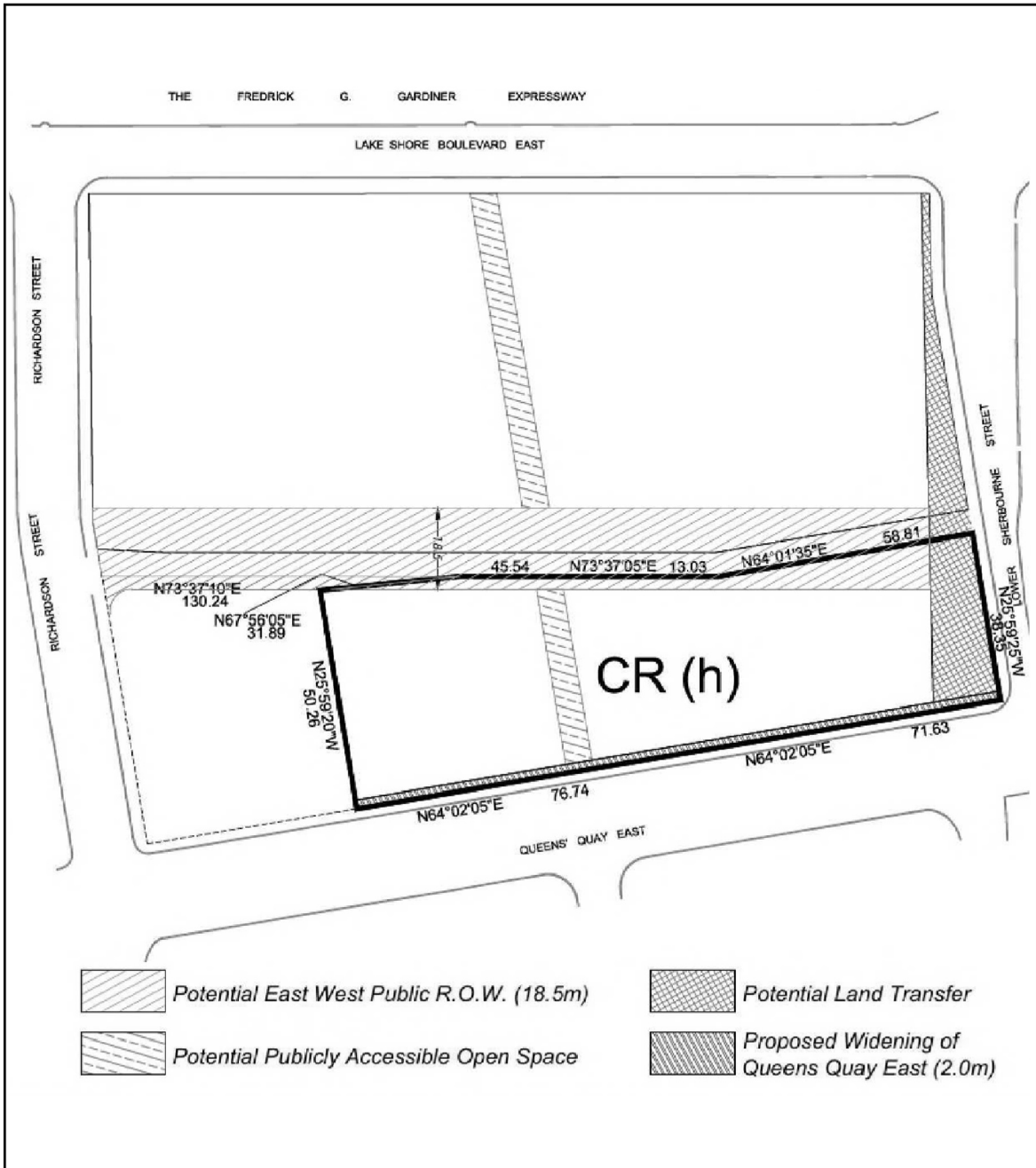
- (xxi) "*owner*" means a person who owns the fee simple or the equity of redemption in the *lot*, or any part thereof;
- (xxii) "*Phase-Specific Section 37 Agreement*" means an agreement pursuant to Section 37 of the *Planning Act* entered into for the purposes of Paragraph (w) of this Exception and shall be limited to the implementation and elaboration of this Exception as set out in the *Master Section 37 Agreement*;
- (xxiii) "*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;
- (xxiv) "*Publicly Accessible Open Space*" means an open space area, provided at finished ground level, which is publicly accessible and is not used for surface parking, loading or vehicular access;
- (xxv) "*Redpath*" means the *owner* and lessee of the Redpath Lands;
- (xxvi) "*Redpath Lands*" means the lands collectively known municipally in the year 2017 as 95 Queens Quay Boulevard East, in the City of Toronto;
- (xxvii) "*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;
- (xxviii) "*sensitive land use*" means a *hotel*, a *commercial school*, a *trade school* and all those uses permitted within a CR district in Sections 8(l)(f)(a)(i) and (ii), and in Section 8(f)(i)(b)(ii) and (iii), but does not include a fire hall, *performing arts studio*, police station, *a public art gallery or a public museum*;
- (xxix) "*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 that will be constructed

on the *lot* and or on the lands municipally known as 215 Lake Shore Boulevard East in the year 2017;

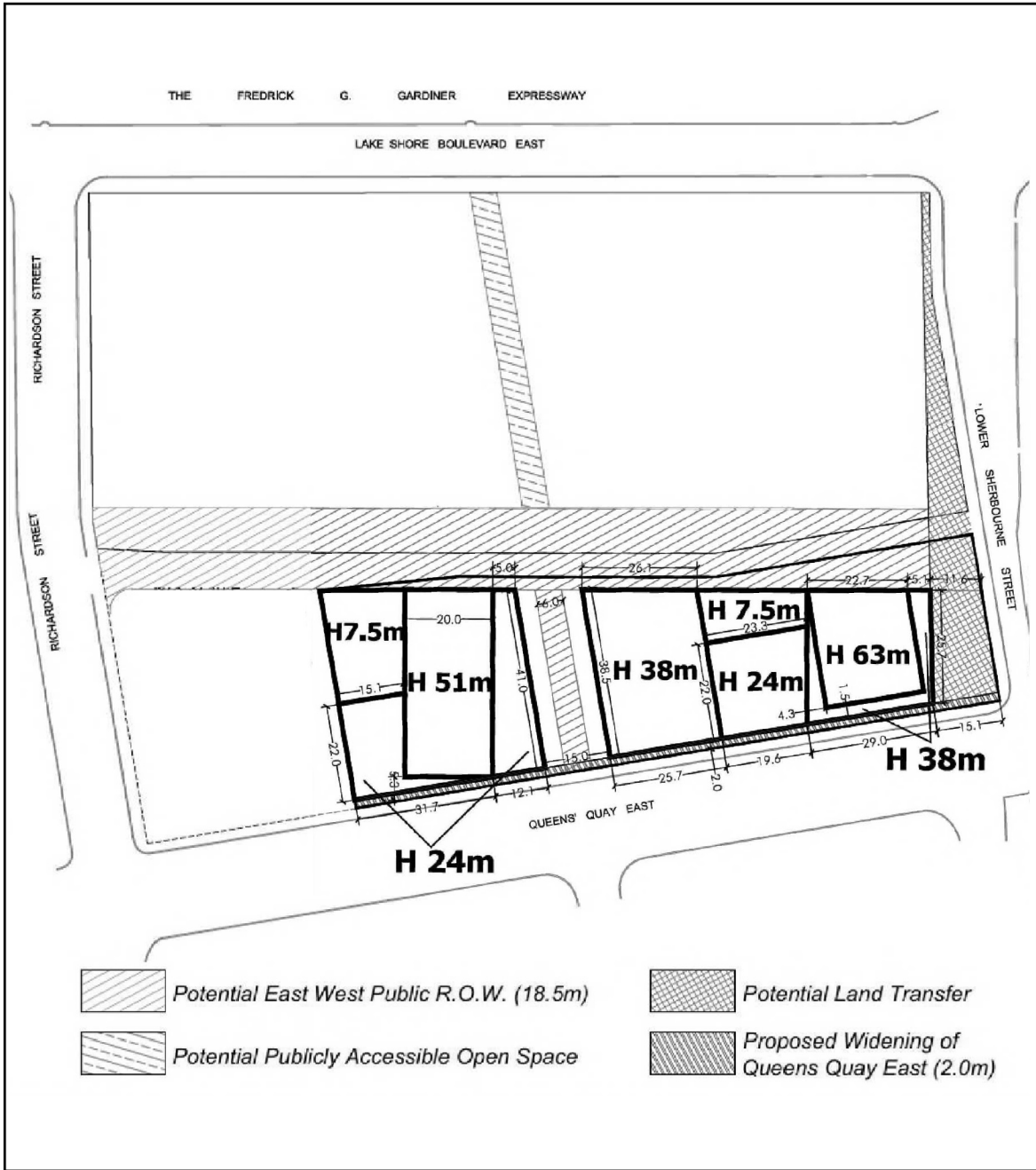
- (xxx) "*temporary open air markets*" means an area where good, wares, merchandise, substances articles or things are offered for retail sale on a temporary basis, outside of any permanent buildings or structures;
- (xxxi) "*Three Party Agreement*" means a three party agreement pursuant to Section 37 of the *Planning Act* which is among the City, the *owner* and *Redpath* entered into for the purposes of Paragraph (w) of this Exception;
- (aa) None of the provisions of Section 12(2)380 of By-law 438-86 apply to prevent the erection or use of a building or structure on the *lot*; and
- (bb) 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.

Pursuant to the Order/Decision of the Ontario Municipal Board/Local Planning Appeal Tribunal issued on October 23, 2018 and January 28, 2019, in Board File PL030514.

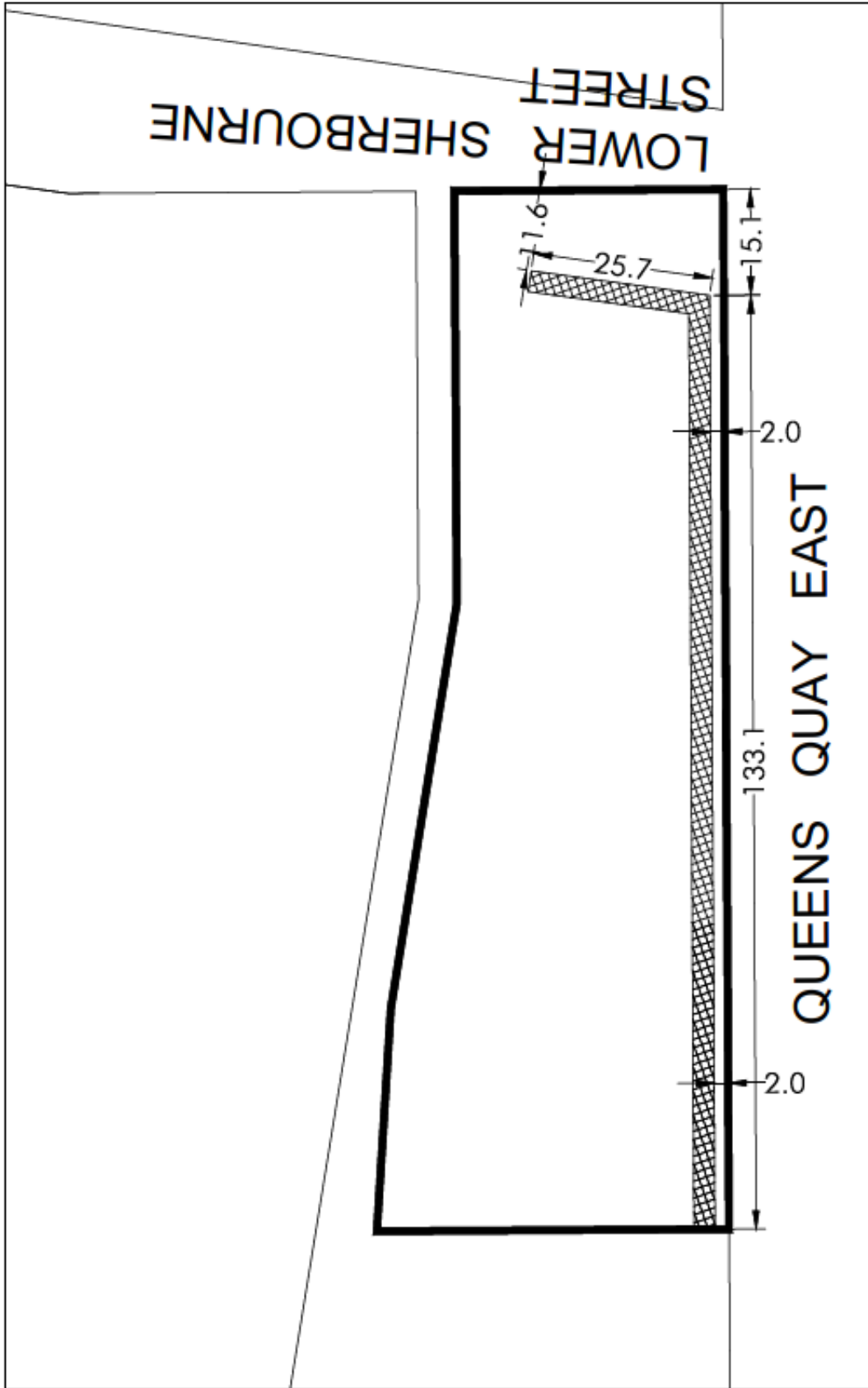
Map 1



Map 2

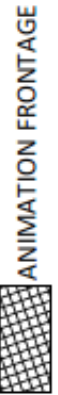


Map 3



East Bayfront - West Precinct

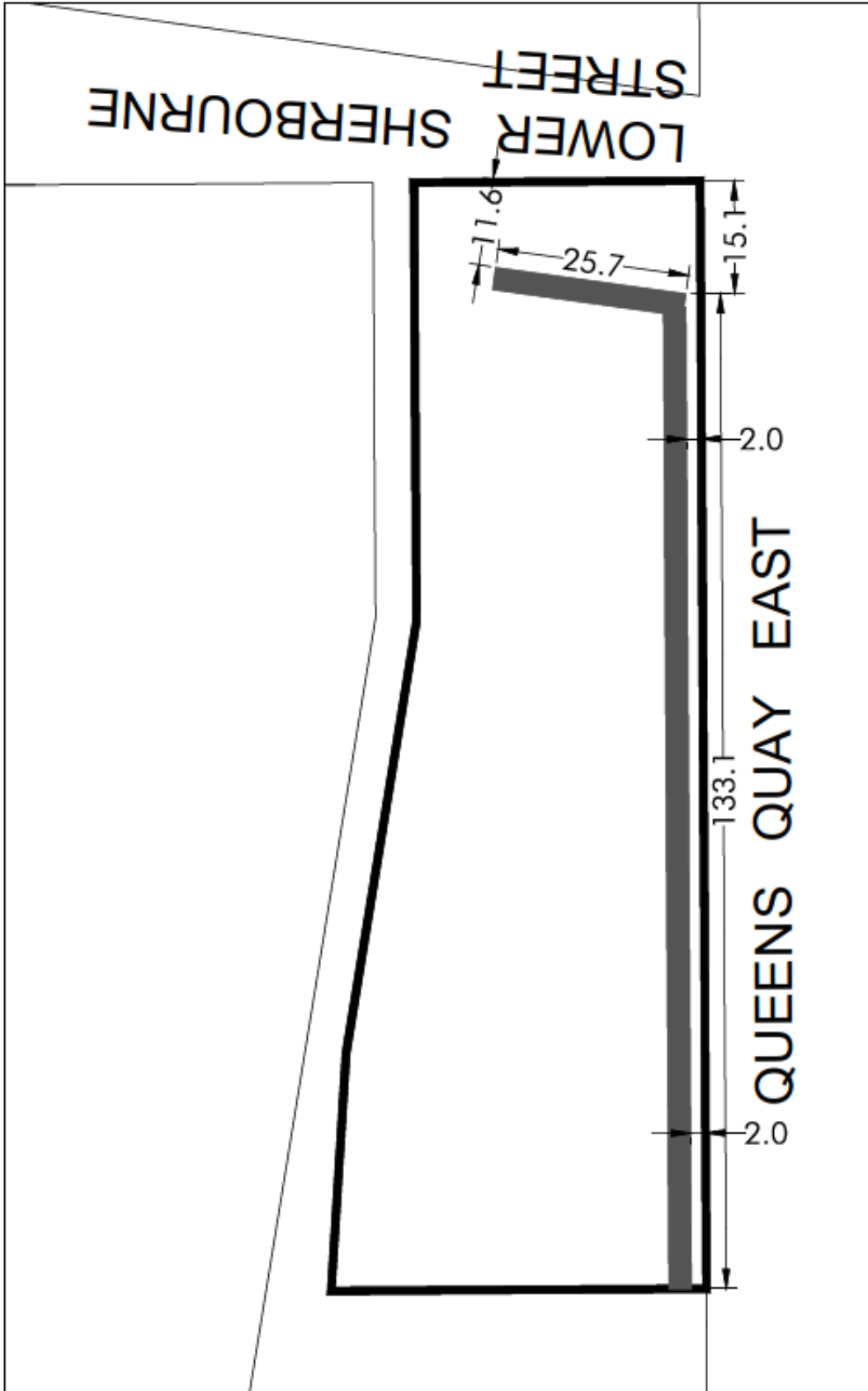
Map 3 : Ground Floor Animation Area



May 11, 2015



Map 4



East Bayfront - West Precinct



Map 4 : Build to Line

█ BUILD TO LINE

May 11, 2015



Map 5



Map 5: Articulation Zones

East Bayfront - West Precinct



ARTICULATION ZONES

Appendix 1

Section 37 Provisions

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 agreements(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 sub-paragraphs 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 sub-paragraph (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 sub-paragraph 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 sub-paragraph 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 sub-paragraph 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 sub-paragraph 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 sub-paragraph (x)(v) of this Exception; and
 - (ii) if the offer of land is of any lesser interest than fee simple;
 - (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 sub-paragraph (t)(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 sub-paragraph 2(c) of this Appendix, then, despite sub-paragraph (t)(iii) B of this Exception, the provision of cash-in-lieu for *affordable rental housing* may exceed the 50 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 paragraph (t) of this Exception, or at the option of an *owner*, at a rate as specifically provided for in Paragraph 0 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 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 0 of this Appendix are met, and the 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 Paragraph (t) 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.
6. Where the *owner* elects to provide *affordable rental housing* in accordance with subparagraph (t) (iv) of this Exception, the following shall apply:
- (a) Paragraphs 1 to and including 5 of Appendix 1 shall not apply;
 - (b) The calculation of the value of the land shall be determined based on a land appraisal which assumes no additional obligation for *affordable rental housing* that would decrease the market value of the land;
 - (c) 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
 - (d) The cash in lieu payments 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 Paragraph (t) of this Exception, and shall not include alternative specific delivery requirements as provided in paragraph 5 of this Appendix 1, and shall be subject to the following:
 - (i) Provisions for the timely delivery of *affordable rental housing* through a cash in lieu payment solely and entirely 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; and
 - (ii) The provisions may include requirements that the *owner* not request the issuance of above-grade building permits for residential buildings without the required cash in lieu payment for such residential buildings, pursuant to the timely delivery requirements secured in Section 37 Agreements.

Local Infrastructure Improvements

7. Local infrastructure improvements to be secured through the provision of one or a combination of the following:
- (a) To provide a contribution of \$69.86 per square metre of *residential gross floor area* towards local infrastructure improvements, to 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; and
 - (b) To undertake local infrastructure improvements in lieu of part or all of the contribution set out in subclause (a) above, the value of which is to be determined by the City.

Public Art

8. 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;
 - (i) 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*.
9. Notwithstanding paragraph (v) of this Exception and paragraph 8. 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.
10. Notwithstanding paragraph 9. 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 10., it retains the right in its discretion and at any time, to satisfy the 1 percent Contribution by payment of funds to the City.

Green Standard

11. 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 measure 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.

District and/or On-Site Renewable Energy

12. The provision for connection of all buildings to be erected on the *lot* or portion of the *lot* to a district energy system and/or on-site renewable energy sources if available at costs comparable to other energy sources.

Archaeological Assessment

13. The provision of a Stage 1 Archaeological Resource Assessment for the *lot* and the provision for implementing a management plan related to such Assessment.

Queen Quay East Road Widening

14. Subject to the terms of the Site Plan Approval process, in and through that process, the *owner* has provided for conveyance of land to the City for the proposed 2.0 metre widening of Queen Quay East.

Publicly Accessible Open Space

15. An area of *Publicly Accessible Open Space*, located at finished ground level and having a minimum width of 6.0 metres, shall be provided as shown on Map 1, attached to and forming part of Exception 12(1)(492), which may be provided on a phased basis and on such terms and conditions as set out in the *Master Section 37 Agreement*.

Appendix 2

Alternative Timely Delivery

Alternative Timely Delivery

1. The obligations are as described below:
 - (a) *Affordable rental housing* delivery is deferred for the first delivery 3,940 square metres square metres of *residential gross floor area*.
 - (b) The owner will commence delivery of *affordable rental housing* commensurate with the rate of residential development calculated on the amount of *residential gross floor area* beyond 3,940 square metres, 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 3,940 square metres.
 - (c) For subsequent buildings or phases of development both the requirement for *affordable rental housing* and the satisfaction of that requirement will be assessed on the basis of the combined amounts of *residential gross floor area* and *affordable rental housing* that have proceeded and/or are proposed in a new phase of development.
 - (d) Prior to the earlier of the removal of "h" provisions or applying for an above-grade *Building Permit* that would provide for the development of more than 19,685 square metres of *residential gross area*, the owner, if no previously delivered *affordable rental housing* was in the form of land or *dwelling units*, will elect to provide land or *dwelling units* for *affordable rental housing* and secure same in a *Phase-Specific Section 37 Agreement*.
 - (e) The obligation of *affordable rental housing* for the phase of development which would cause 29,530 square metres of *residential gross floor area* on the lot to be exceeded shall include, in addition to the obligation calculated in accordance with Sub-paragraph 1(c) of this Appendix, the obligation for *affordable rental housing* in this By-law deferred in Sub-paragraph 1(a) of this Appendix (i.e. the obligation applicable to 3,940 square metres of *residential gross floor area*).