

Authority: Local Planning Appeal Tribunal
Decision/Orders issued July 18, 2019, October 24, 2019
and May 18, 2021 in Tribunal File PL180020

CITY OF TORONTO

BY-LAW 441-2021(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known as 292-298 Dundas Street, 129-137 McCaul Street and 170 St. Patrick Street.

Whereas the Local Planning Appeal Tribunal pursuant to its Decision/Orders issued on July 18, 2019, October 21, 2019 and May 18, 2021, in respect of Tribunal File PL180020, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally as 292-298 Dundas Street, 129-137 McCaul Street and 170 St. Patrick Street; and

Whereas the Local Planning Appeal Tribunal has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended to pass this by-law; and

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

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and/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 municipality may require the owner to enter into one or more agreements with the municipality dealing with such facilities, services or matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set forth; and

Whereas the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by City of Toronto By-law 438-86 is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the lands and the City of Toronto; and

Whereas pursuant to Section 39 of the Planning Act, the council of a Municipality may, in a by-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

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. The lands subject to this By-law are outlined by heavy lines on Map 1 attached to this By-law.
2. Pursuant to Section 37 of the Planning Act, the *heights* and density of development permitted by this By-law on the lands identified as Parcel B as shown on Map 2 forming part of this By-law, are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the lands, at the *owner's* expense of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act and registered on title to the lands, to the satisfaction of the City Solicitor.
3. 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.
4. 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.
5. Except as otherwise provided herein, the provisions of By-law 438-86 shall continue to apply to the lands on Map 1 attached to this By-law.
6. None of the provisions of Section 2(1) with respect to the definitions of "*grade*", "*height*", "*residential gross floor area*" and "*non-residential gross floor area*", "*storey*" and "*lot*", and Sections 4(2)(a), 4(5), 4(8), 4(10), 4(12), 4(13)(a),(c) and (d), 8(3) Part I, 8(3) Part II(1)(b)(ii), 4(C), 12(2) 259, 12(2) 380 and 12(7) of By-law 438-86 of the former City of Toronto, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto" as amended, shall apply to prevent the erection and use of a *mixed-use building*, on the lands identified as Parcel B on Map 2, together with the buildings, structures and uses in existence on March 31, 2021 on the lands comprising Parcel A on Map 2 that are deemed to comply with Zoning By-law 438-86, provided that:
 - (a) The total of residential *gross floor area* and non-residential *gross floor area* on Parcel B as shown on Map 2 of By-law 441-2021(LPAT) shall not exceed 22,966 square metres, provided that:
 - (i) the maximum *residential gross floor area* shall not exceed 20,833 square metres; and
 - (ii) the maximum *non-residential gross floor area* shall not exceed 2,133 square metres, of which a minimum of 192 square metres shall be for non-residential uses on the ground floor;

- (b) A minimum of 10 percent 3-bedroom *dwelling units* shall be provided on Parcel B, of which each unit shall have a minimum size of 840 square feet;
- (c) A minimum of 15 percent 2-bedroom *dwelling units* shall be provided on Parcel B;
- (d) A maximum of 15 percent of the *dwelling units* on Parcel B are permitted to be bachelor *dwelling units*;
- (e) *Residential amenity space* for each *dwelling unit* shall be provided on Parcel B in accordance with the following:
 - (i) A minimum of 1.5 square metres of indoor *residential amenity space* is required for each *dwelling unit*; and
 - (ii) A minimum of 1.5 square metres of outdoor *residential amenity space* is required per *dwelling unit*;
- (f) No portion of any building or structure on Parcel B shall have a *height* greater than the *height* specified by the number in metres following the "H" symbol and the number of *storeys* following the symbol "ST" as shown on Map 3 of By-law 441-2021(LPAT) attached to and forming part of this By-law, with the exception of the following:
 - (i) equipment used for the functional operation of the building and structures including electrical, utility, mechanical and ventilation equipment, enclosed stairwells and lobbies, washrooms, roof access and maintenance equipment storage and mechanical penthouse may exceed the applicable *height* limits shown on Map 3 to maximum of 5.0 metres, and shall be limited to the hatched area as also shown on Map 3 of By-law 441-2021(LPAT);
 - (ii) cooling towers, generators, chimneys and vents may exceed the applicable height limits shown on Map 3 of By-law 441-2021(LPAT) to maximum of 5.0 metres;
 - (iii) elevator overrun may project up to a maximum of 3.0 metres above the elements listed in (i) above to a maximum area of 30 square metres and shall be limited to the hatched area as shown on Map 3 of By-law 441-2021(LPAT);
 - (iv) architectural features, parapets, elements and structures associated with green roof, equipment used for the exterior maintenance of the building, and window washing equipment may project up to a maximum of 2.0 metres;
 - (v) planters, landscaping features, guard rails, divider screens on a balcony and/or terrace may project up to a maximum of 2.0 metres; and

- (vi) trellises, pergolas and unenclosed structures providing safety or wind protection to rooftop *residential amenity space*, all of which may project up to a maximum of 3.0 metres;
- (g) For the purpose of this By-law, the mechanical penthouse, mechanical penthouse corridor, and elevator machine room on Parcel B shall not constitute a *storey*;
- (h) No portion of any building or structures erected or used above *grade* on Parcel B is located otherwise wholly within the areas delineated by heavy lines on the attached Map 3 of By-law 441-2021(LPAT) with the exception of the following:
 - (i) balconies, cornices, canopies, awnings, parapets, decks, guardrails, balustrades, railings, equipment used for the exterior maintenance of the building and window washing equipment may encroach to a maximum of 1.5 metres;
 - (ii) above the third *storey* on the south side of the building on Parcel B from the main wall, balcony platforms and railings may encroach to a maximum of 0.3 metres;
 - (iii) architectural features may encroach to a maximum of 2.7 metres;
 - (iv) art and landscaping features, pilasters and eaves, window sills and light fixtures may encroach to a maximum of 1.0 metres;
 - (v) stairs, stair enclosures, doors, wheelchair ramps, screens, site servicing features and underground garage ramps and associated structures; and
 - (vi) guards, railings, parapets, terraces, privacy and wind screens, landscape planters and terrace platforms may project beyond the required building setback to the extent of the main wall of the *storey* below;
- (i) The first *storey* of a *mixed-use building* must provide a minimum of 60 percent of the building frontage abutting the priority retail street identified in Section 12(2)259 of By-law 438-86 for *street related retail and service uses*;
- (j) *Parking spaces* for the *mixed-use building* shall be provided and maintained on Parcel B as shown on Map 2 of By-law 441-2021(LPAT) in accordance with the following:
 - (i) A minimum of 49 *parking spaces* must be provided for the use of the residents of the building;
 - (ii) a maximum of 60 *parking spaces* are permitted for the use of the residents of the building; and
 - (iii) no *parking spaces* will be provided for residential visitors or non-residential uses;

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- (k) Access to a *parking space* may be provided by motor vehicle elevators, provided each motor vehicle elevator is readily accessible at all times for the parking and removal of a motor vehicle and a minimum of two (2) motor vehicle elevators are provided and maintained in the building for the use of residents of Parcel B as shown on Map 2 of By-law 441-2021(LPAT);
- (l) *Bicycle parking spaces* shall be provided and maintained on Parcel B as shown on Map 2 of By-law 441-2021(LPAT) in accordance with the following:
- (i) A minimum of 0.9 *bicycle parking spaces – occupant* shall be provided per *dwelling unit*;
- (ii) A minimum of 0.1 *bicycle parking spaces – visitor* shall be provided per *dwelling unit*;
- (m) Notwithstanding the definition of *bicycle parking space – occupant* and *bicycle parking spaces – visitor* in Section 2(1) of Zoning By-law 438-86, as amended, the *bicycle parking space* dimensions must have:
- (i) a *bicycle parking space* may be provided in a *stacked bicycle parking space* having a minimum width of 0.45 metres, a minimum length of 1.8 metres and minimum vertical clearance of 1.2 metres;
- (n) one *loading space - Type "G"* shall be provided and maintained on Parcel B as shown on Map 2 of By-law 441-2021(LPAT).
7. Despite any future development of the lands outlined by heavy black lines on Map 1 of By-law 441-2021(LPAT), the provisions of Section 6(a) to (n) of this By-law shall not apply to the lands identified as Parcel A on Map 2 of By-law 441-2021(LPAT).
8. Despite any future severance, partition or division of the lands identified as Parcel B on Map 2 of By-law 441-2021(LPAT), the provisions of this By-law shall apply as if no severance, partition or division occurred.
9. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, with the exception of the following terms:
- (a) "*grade*" means 95.25 metres Canadian Geodetic Datum;
- (b) "*height*" means, the vertical distance between *grade* and the highest point of a building or structure on Parcel B as shown on Map 3 of By-law 441-2021(LPAT), except for those elements otherwise expressly permitted in this By-law;
- (c) "*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, but excluding:

- (i) parking, loading and bicycle parking below-ground;
 - (ii) required *loading spaces* on the ground level and required *bicycle parking spaces* at or above-ground;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) shower and change facilities that are 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;
- (d) "*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* on the ground level and required *bicycle parking spaces* at or above-ground;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) shower and change facilities that are 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;

- (e) "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*; and
 - (f) "*storey*" means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it.
- 10.** Within the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law, no person shall use any land or erect or use any building or structure on Parcel B on Map 2 of By-law 441-2021(LPAT) 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.

Local Planning Appeal Tribunal Decision/Orders issued July 18, 2019, October 24, 2019 and May 18, 2021 in Tribunal File PL180020.

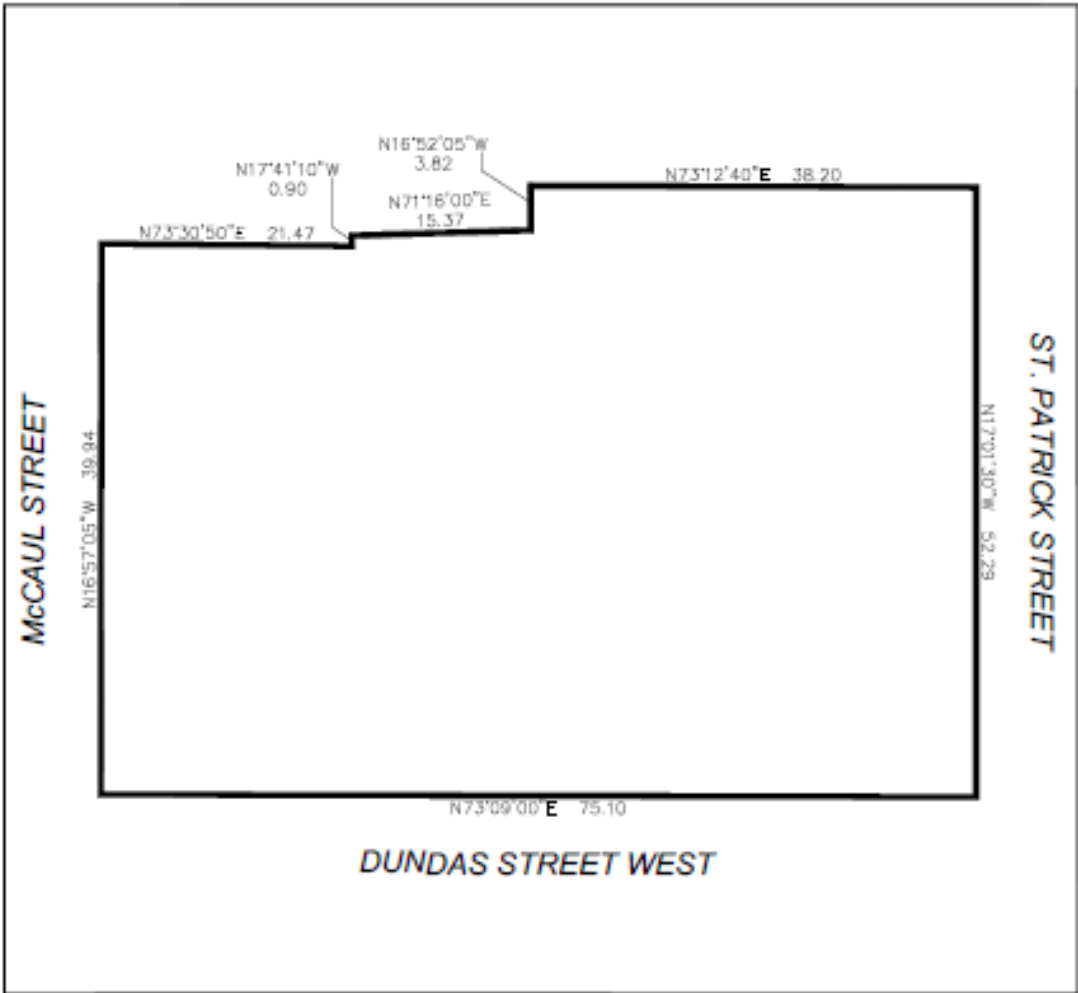
Appendix 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* of the *lands* 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, GST, HST, termination and unwinding, and registration and priority of agreement:

1. The conveyance of a fully equipped 62-spot day care, in accordance with the City's Child Care Development Guideline, 2016, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the General Manager, Children Services;
2. Prior to the issuance of the final order from the Local Planning Appeal Tribunal, the owner shall make a cash contribution in the amount of four hundred thousand dollars (\$400,000.00), to be allocated towards the relocation of the on-site daycare, with any remaining funds directed towards affordable housing in the local ward, with the allocation to be determined by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
3. The \$400,000 CAD contribution referred to in Section 2. above to be increased by upwards index in accordance with the apartment Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price indexes Publication 327-0058, or its successor, calculated from the date of the Section 37 Agreement to the date such payment is made;
4. In the event the cash contribution referred to in Section 2 and 3 above has not been used for the intended purpose(s) within three (3) years of this Zoning By-law coming into force and effect, the cash contribution may be redirected for another purposes(s), provided that the purposes(s) is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
5. The conveyance of no less than 0.0261 hectares (261 square metres) of the development site for public parkland purposes; the subject parkland conveyance is to be free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation;
6. The Owner agrees to design and construct the Above Base Park Improvements to the new park for a development charge credit against the Parks and Recreation component of the Development Charges to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the Owner of installing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of Development Charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time;

7. The Owner is required to submit a design and cost estimate to be approved by the General Manager, Parks, Forestry and Recreation, and a letter of credit equal to 120 percent of the Parks and Recreation Development Charges payable for the development; and the design, cost estimate and ultimately the letter of credit will be required prior to the issuance of the first above grade building permit;
8. City Council approve a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Owner of the Above Base Park Improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the owner of designing and constructing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time;
9. Notwithstanding Chapter 415-28 of the Municipal Code, all parkland related work and timing of such work, including conveyance of the on-site parkland dedication as well as the build out of the park to Base and Above Base Park Improvements, is to be completed to the satisfaction of the General Manager, Parks, Forestry and Recreation;
10. Prior to the issuance of Site Plan Approval, 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 that does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary;
11. Prior to the earlier of Site Plan Approval and issuance of the first Above Grade Building Permit, the Owner shall enter into an agreement with the abutting property owner at 141 McCaul Street to ensure future separation distances between the two properties are not further affected, to the satisfaction of the City Solicitor; and
12. Prior to the earlier Plan Approval and issuance of the first Above Grade Building Permit, the Owner shall provide sufficient additional information to demonstrate that appropriate easement(s) have been acquired to use the abutting property, municipally known as 141 McCaul Street, in perpetuity, for the purpose of facilitating the loading truck maneuvering and the loading maneuvering easement has been registered, at the sole expense of the Owner, all to the satisfaction of the General Manager, Transportation Services in consultation with the City Solicitor.



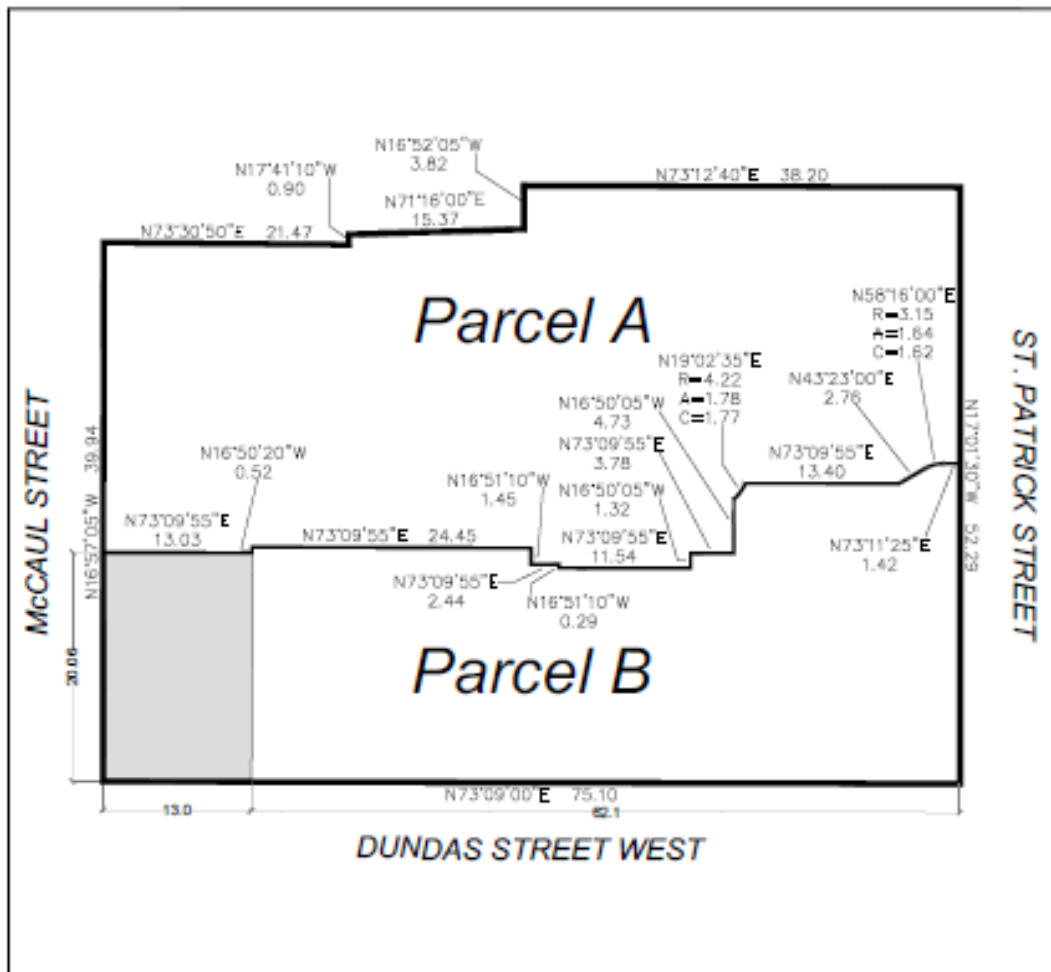
292-298 Dundas Street West, 129-137 McCaul Street
and 170 St. Patrick Street, Toronto

Map 1

File #17225847 STE 20 02



Not to Scale



292-298 Dundas Street West, 129-137 McCaul Street and 170 St. Patrick Street, Toronto

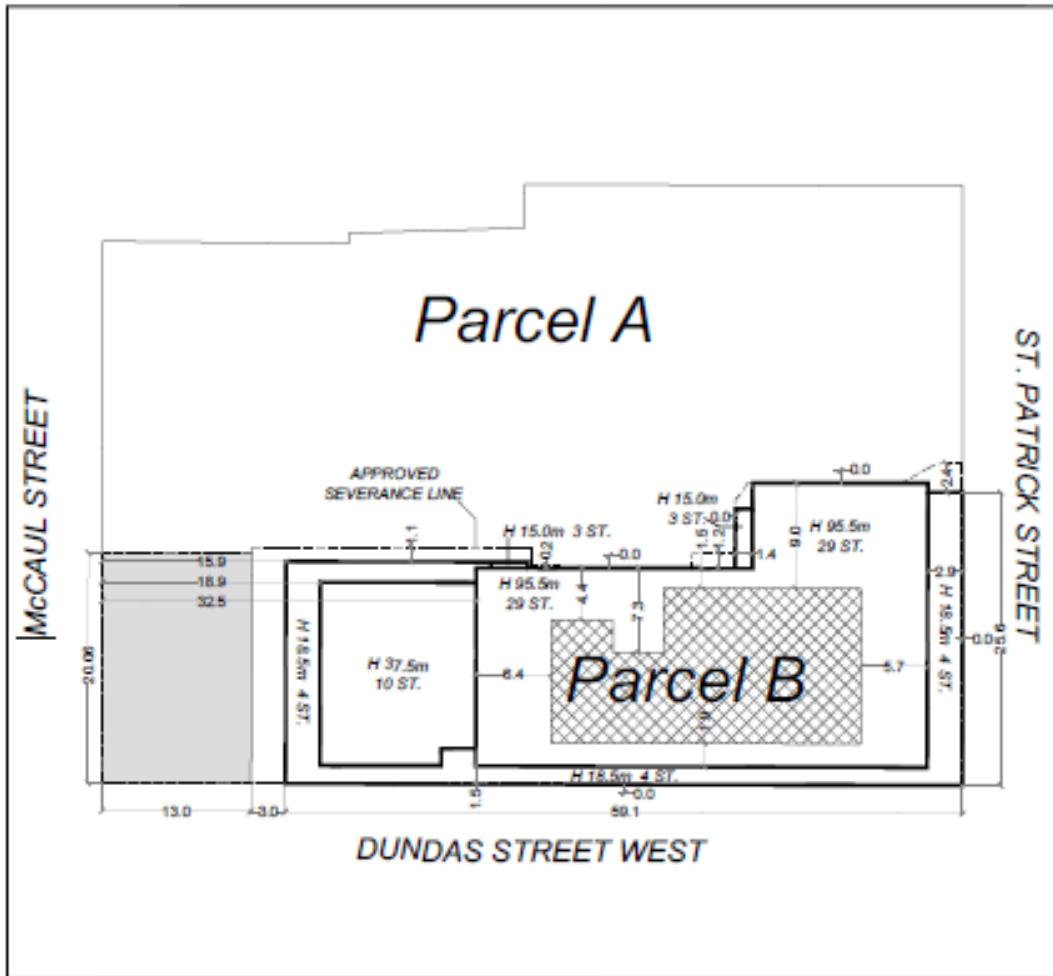
Map 2

File #17225847 STE 20 02

▭ Parkland dedication to the City



Not to Scale



292-298 Dundas Street West, 129-137 McCaul Street
and 170 St. Patrick Street, Toronto

Map 3

File #17125847 STE 20 02

- Parkland dedication to the City
- Approved Severance Line



Not to Scale