

Authority: Local Planning Appeal Tribunal Decision issued on February 1, 2017 and Ontario Land Tribunal Order issued on June 25, 2021 in Tribunal Case File PL160135

## CITY OF TORONTO

### BY-LAW 593-2021(OLT)

**To amend former City of Toronto Zoning By-law 438-86, as amended, respecting the lands known municipally as 500 Dupont Street.**

Whereas the Ontario Land Tribunal pursuant to its Decision issued on February 1, 2017 and Order issued on June 25, 2021 in relation to Tribunal File PL160135, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended deems it advisable to amend By-law 438-86 as amended, of the former City of Toronto, with respect to lands municipally known as 500 Dupont Street; and

Whereas the Official Plan for the former 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 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* or density of development, the 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 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, of the former City of Toronto, as amended, is further amended by the Ontario Land Tribunal:

1. Pursuant to Section 37 of the Planning Act and subject to compliance with this By-law, the increase in *height* and density of development on the lot contemplated herein is permitted in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Schedule 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act in a form, and registered on title to the lot, to the satisfaction of the City Solicitor.

2. Where Schedule 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.
3. 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 Schedule 1 are satisfied.
4. None of provisions of Zoning By-law 1011-2014 and Zoning By-law 1694-2019 shall apply to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
5. Except as otherwise provided herein the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
6. Map 49J-313 is amended to rezone the lands shown on Map 2 of this By-law from IC D2 N1 to MCR and IC D2.
7. None of the provisions of Section 2(1) with respect to the definitions of *grade*, *height*, *interior floor area*, *lot*, *sales office*, *storey* and Sections 4(2)(a), 4(3), 4(4), 4(6), 4(7), 4(10)(a), 4(12), 4(13), 4(14)(a)(ii), 8(3) Part I 1 and 3, 8(3) PART XI (2), 9(1)(a) and (f), 9(3) Part I (2) and (3), 12(2)270, 12(2)321 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 land 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 or use of a *mixed-use building* within the *lot* which may contain *dwelling units* and non-residential uses and *accessory* uses thereto, including a *private parking garage* and a *commercial parking garage*, provided that:
  - (a) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* shall not exceed 12,300 square metres;
  - (b) the total *residential gross floor area* of buildings and structures shall not exceed 10,500 square metres;
  - (c) the total *non-residential gross floor area* of buildings and structures shall not exceed 1,800 square metres;
  - (d) a *club* and a *place of assembly* are not permitted;
  - (e) a *bake-shop*, *place of amusement*, *restaurant* and *take-out restaurant* are permitted subject to the following:
    - (i) a maximum of two such uses shall be permitted;
    - (ii) the *non-residential gross floor area* for any individual such use shall not exceed 350 square metres; and

- (iii) the *non-residential gross floor area* for any second such use shall not exceed 200 square metres;

provided that, for the purpose of this provision, the *non-residential gross floor area* of a *bake-shop, place of amusement, restaurant or take-out restaurant* means the aggregate of the areas of each floor and the spaces occupied by walls and stairs, measured above and below *grade*, measured between the exterior faces of the exterior walls of the building at the level of each floor, exclusive of only a room or partially enclosed area that is used exclusively for a kitchen, food preparation, heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that services the building, storage or washrooms;

- (f) the maximum number of *dwelling units* shall be 157;
- (g) any new building or structure containing *dwelling units* shall be constructed to include a minimum of 10 percent 3-bedroom *dwelling units*, and a minimum of 20 percent 2-bedroom *dwelling units*;
- (h) no portion of any building or structure erected or used on the lot, shall exceed the *heights* in metres specified by the numbers following the symbol "H" on the attached Map 3, or be erected closer to a lot line than the heavy lines indicated on Map 3, with the exception of the following structures and elements:
- (i) awnings, cornices, balustrades, underground garage ramps, landscape features, lighting fixtures, trellises, eaves, window sills, wheel chair ramps, outdoor recreation and amenity area elements, architectural piers, architectural walls, landscape and green roof elements, planters, partitions dividing outdoor recreation and amenity areas, wind mitigation, noise mitigation, train derailment mitigation measures;
- (ii) elevator overruns, cooling towers, screens, window washing equipment, lightning rods, parapets, guardrails, railings, stairs, stair enclosures, vents and ventilating equipment, chimney stack, exhaust flues, garbage chute overruns and terraces;
- (iii) terraces, along the north, south and east walls only;
- (iv) balconies, and partially enclosed balconies, along the south and east walls only, may project a maximum of 1.6 metres subject to 7(h)(v) below; and
- (v) notwithstanding 7(h)(iv) above, above the 3<sup>rd</sup> storey, balconies along the east wall may not project into the 4.5 metre setback to the east *lot* line shown on Map 3;
- (i) within the *height* area identified on Map 3 as H 38.8, the only permitted uses above the *height* of H 34.3 shall be the uses listed in 7(h)(ii) above;

- (j) within the *height* area identified on Map 3 as 38.1, the only permitted uses shall be the mezzanine associated with of the *dwelling units* located directly below, with a total combined maximum *gross floor area* of 150 square metres;
- (k) notwithstanding 7(h)(ii), no portion of the building may project above a height of 38.8 metres;
- (l) no portion of any building or structure erected or used on the lot, shall exceed the number of *storeys* specified by the numbers following the symbol "S" on the attached Map 3;
- (m) *dwelling units* and balconies, excluding balcony railings, shall be set back a minimum of 13.9 metres from the north *lot* line;
- (n) within the IC zone, offices are not permitted;
- (o) within the IC zone, vehicular parking, loading, service, access, storage, bicycle parking, bicycle parking shower and change facilities, and mechanical facilities accessory to residential uses within the MCR zone are permitted;
- (p) *residential amenity space* shall be provided in accordance with the following:
  - (i) a minimum of 290 square metres of indoor *residential amenity space* shall be provided;
  - (ii) a minimum of 220 square metres of outdoor *residential amenity space* shall be provided;
  - (iii) the indoor *residential amenity space* shall include a kitchenette and a washroom;
  - (iv) a minimum of 50 square metres of indoor *residential amenity space* shall be located immediately adjacent to the outdoor *residential amenity space*; and
  - (v) all *residential amenity space* shall be located above grade;
- (q) a minimum number of *parking spaces* shall be provided and maintained below grade on the *lot* in accordance with the following:
  - (i) 0.29 *parking spaces* for each *dwelling unit*;
  - (ii) 0.06 visitor *parking spaces* for each *dwelling unit*;
  - (iii) 1.0 *parking space* per 100 square metres of *non-residential gross floor area*;

- (iv) non-residential *parking spaces* and residential visitor *parking spaces* may be provided on a non-exclusive basis from 9 a.m. to 9 p.m., and shared whereby a non-residential *parking space* can also satisfy the residential visitor *parking space* requirement on the *lot*;
  - (v) for each on-site *car-share parking space* provided on the lot, the minimum resident parking required shall be reduced by 4 *parking spaces*, up to a maximum of 1 *car-share parking space* per 60 dwelling units; and
  - (vi) for the purposes of *parking space* calculations, if the calculation of the number of required *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than one *parking space*;
- (r) a minimum of one *loading space - Type "B"* and one *loading space - Type "G"* shall be provided and maintained on the *lot*;
- (s) a minimum number of *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (i) for residential uses, a minimum of 1.0 *bicycle parking space* for each *dwelling unit*, comprised of 0.9 long-term *bicycle parking spaces* and 0.1 short-term *bicycle parking spaces*;
  - (ii) for non-residential uses, a minimum of 0.2 long-term *bicycle parking spaces* per 100 square metres of non-residential *interior floor area* and 3 *bicycle parking spaces* plus 0.3 short-term *bicycle parking spaces* per 100 square metres of non-residential *interior floor area*;
  - (iii) for the purposes of *bicycle parking space* calculations, if the calculation of the minimum *bicycle parking spaces* for all uses results in a fraction of a *bicycle parking space* being required, the number of required *bicycle parking spaces* must be rounded up to the next whole number;
  - (iv) a *bicycle parking space* may be provided in a horizontal or vertical position, and/or in a bicycle stacker as *stacked bicycle parking spaces*; and
  - (v) despite the definition of *bicycle parking space – visitor* in Section 2(1)(iii) of Zoning By-law 438-86, as amended, a *bicycle parking space* for visitors and non-residential uses may be provided within a secure room; and
- (t) none of the provisions of By-law 438-86, as amended, shall apply to prevent a *sales office* on the *lot*, and a *sales office* shall be exempt from the requirements of By-law 438-86, as amended, and this By-law, with respect to the provision of motor vehicle parking facilities.

8. For the purpose of this By-law, all italicized words and expression have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (a) *bicycle parking space* means an area that is equipped for the purpose of parking and securing bicycles and may be provided as *stacked bicycle parking spaces*;
  - (b) *bicycle parking space* means an area that is equipped for the purpose of parking and securing bicycles and may be *stacked bicycle parking spaces*;
  - (i) a horizontal *bicycle parking space* has a minimum length of 1.8 metres, a minimum width of 0.4 metres, and a minimum vertical clearance from the ground of 1.9 metres;
  - (ii) a *stacked bicycle parking space* has a minimum length of 1.6 metres, a minimum width of 0.4 metres, and a minimum vertical clearance of 1.2 metres;
  - (c) *car-share* means the practice where a number of people share the use of one or more motor vehicles. Such car-share motor vehicles shall be made available for short term rental, including hourly rental. Car-share operators may require that the car-share motor vehicles be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing operator, including the payment of a membership fee that may or may not be refundable;
  - (d) *car-share parking space* shall mean a *parking space* that is reserved and use for the *car-share* purpose;
  - (e) *grade* means 122.2 metres Canadian Geodetic Datum;
  - (f) *height* means the height above *grade* as shown on Map 3;
  - (g) *storey* means the number of storeys above grade as shown on Map 3 as marked with a "S" and for the purpose of this bylaw, mezzanines, and portions of the building on the roof top used for storage and the accommodation of mechanical equipment do not constitute a *storey*;
  - (h) *interior floor area* means the floor area of any part of a building, measured to: (A) the interior side of a main wall; (B) the centreline of an interior wall; or (C) a line delineating the part being measured;
  - (i) *lot* shall mean the parcel of land outlined by delineated by heavy lines on Map 1 attached to and forming part of this By-law and known municipally as 500 Dupont Street in the year 2015;
  - (j) *sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* and non-residential units to be erected on the *lot*; and

- (k) *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*.
9. Despite any existing or future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

Pursuant to Local Planning Appeal Tribunal Decision issued on February 1, 2017 and Ontario Land Tribunal Order issued on June 25, 2021 in Tribunal Case File PL160135.

**SCHEDULE 1**  
**Section 37 Provisions**

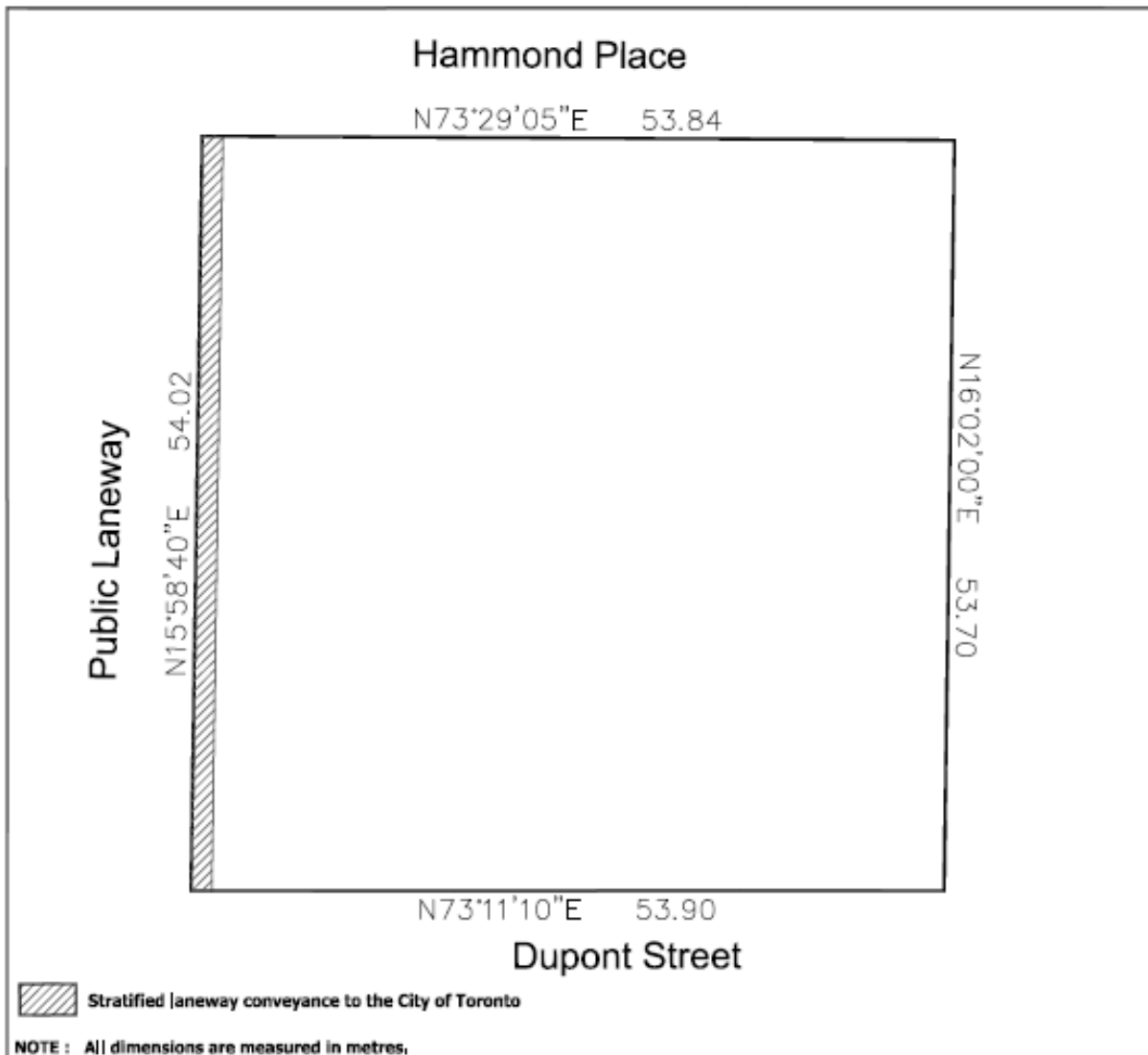
The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lot and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade building permit for the proposed development on the lot, other than a building permit for a temporary sales office/pavilion, the Owner shall:
  - a. pay to the City the sum of \$100,000, to be allocated to public realm improvements and/or parkland improvements in the neighbourhood to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the General Manager, Parks, Forestry and Recreation and/or the General Manager, Transportation Services, the Ward Councillor and local community; andwith such amounts to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.
2. Prior to the issuance of the first building permit, the owner will 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 and Executive Director, Toronto Building, 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 details regarding size and location of construction staging areas, dates and 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.

**Other matter to support the development of the lot:**

3. As a condition of Site Plan Approval, the owner will provide, to the satisfaction of the City's Chief Planner and Executive Director of City Planning, detailed drawings which illustrate the proposed rail mitigation measures for the proposed development on the *lot*.





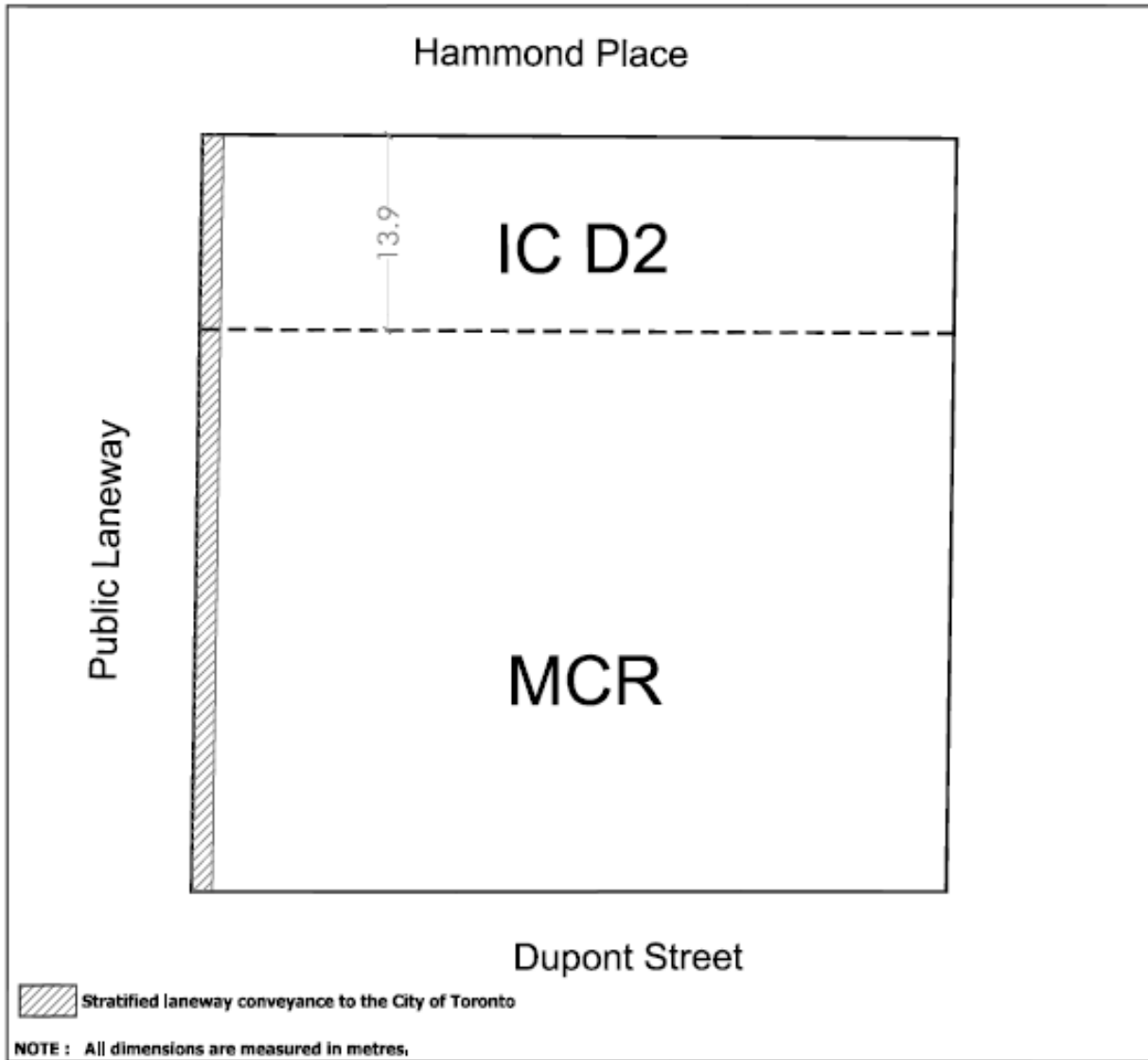
500 Dupont Street, Toronto

# Map 1

File #15 226388 STE 20 02



Not to Scale



NOTE: All dimensions are measured in metres.



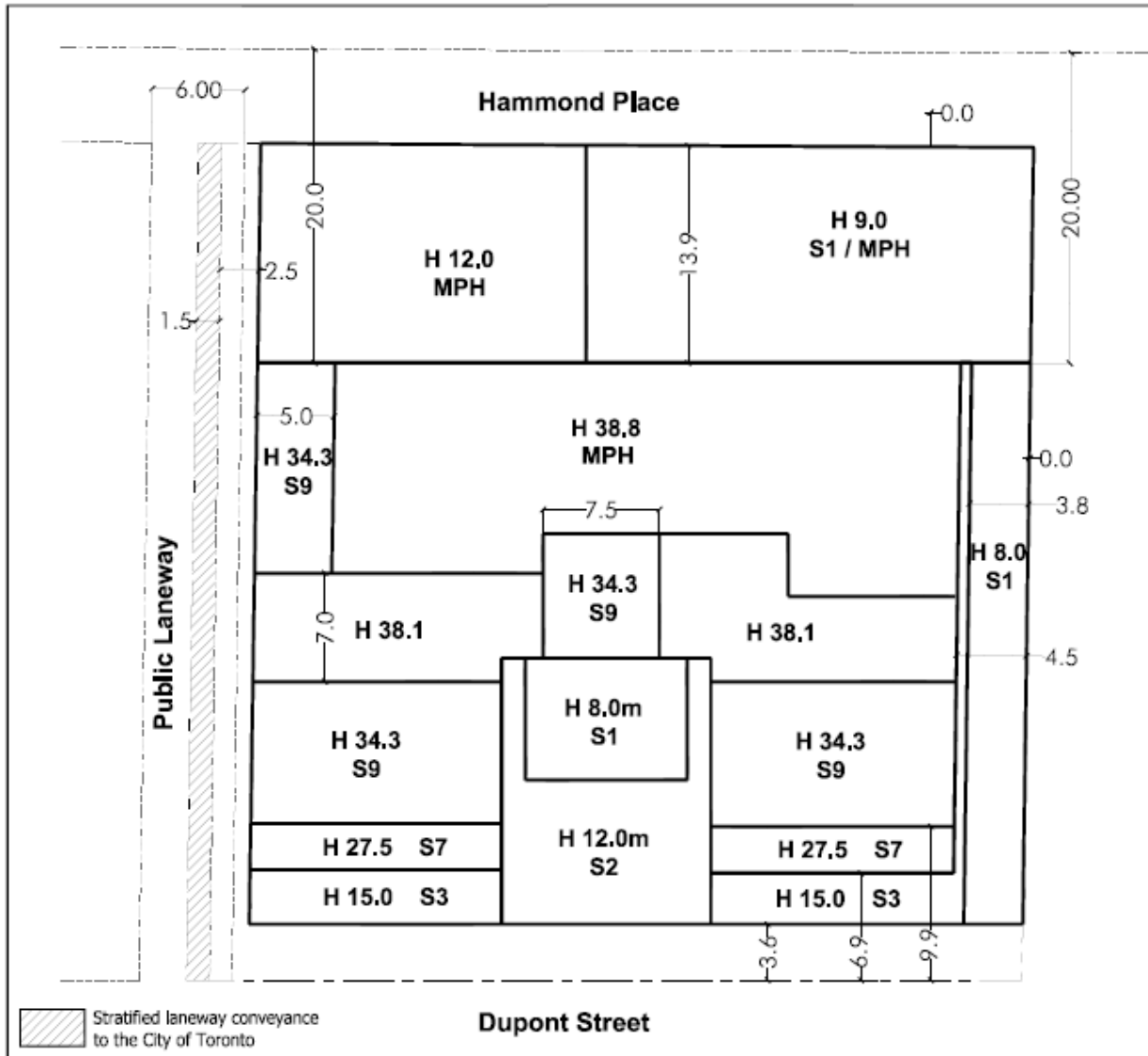
500 Dupont Street, Toronto

## Map 2

File #15 226388 STE 20 02



Not to Scale



Stratified laneway conveyance to the City of Toronto



Dupont Street

500 Dupont Street, Toronto

Map 3

File #15 226388 STE 20 0Z

Not to Scale

