

Authority: Ontario Municipal Board Decision issued on February 1, 2017 and Ontario Land Tribunal Orders issued on June 30, 2021 and August 12, 2021 in Tribunal File PL150838

CITY OF TORONTO

BY-LAW 704-2021(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, respecting the lands known municipally as 840 and 860 Dupont Street.

Whereas the Ontario Municipal Board pursuant to its Decision issued on February 1, 2017 and the Ontario Land Tribunal pursuant to its Orders issued on June 30, 2021 and August 12, 2021 in relation to Tribunal File PL150838 et al, 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 840 and 860 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 the 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-312 is amended to rezone the lands shown on Map 2 of this By-law from IC D2 N1 to MCR, IC D2 and G.
7. None of the provisions of sections Section 2(1) with respect to the definitions of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, *residential gross floor area*, *sales office*, *storey* and Sections 4(2)(a), 4(3), 4(4), 4(7), 4(12), 4(13), 4(17)(a) and (b), 8(3) Part I 1, 2 and 3, 8(3) PART II(4), 8(3) PART XI (2), 9(1)(a) and (f), 9(3) Part I (2) and (3), 12(2)270 , 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*, *commercial parking lot*, 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 33,000 square metres;
 - (b) the total *residential gross floor area* of buildings and structures shall not exceed 27,000 square metres;
 - (c) the total *non-residential gross floor area* of buildings and structures shall not exceed 6,000 square metres;
 - (d) the maximum number of *dwelling units* shall be 336;
 - (e) 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*;
 - (f) 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, canopies, cornices, pilasters, balustrades, underground garage ramps, landscape and public art features, lighting fixtures, trellises, eaves, window sills, wheel chair ramps, fences, piers, columns, outdoor recreation and amenity area elements, landscape shading elements, partitions dividing outdoor recreation and amenity areas, wind mitigation elements, noise mitigation elements, retaining walls, train derailment mitigation measures;
 - (ii) mechanical penthouse, transformer vaults, mechanical or operational equipment, elevator overruns, cooling towers, cooling tower perimeter walls, screens, window washing equipment, roof drainage components, thermal and waterproofing assembly, lightning rods, parapets, guardrails, railings, stairs, stair enclosures, vents and ventilating equipment, air shafts, landscape and green roof elements, art and landscape features, planters, chimney stack, exhaust flues, garbage chute overruns;
 - (iii) balconies or terraces which may project a maximum of 2.0 metres subject to 7(i) below; and
 - (iv) an elevated rooftop pool and elevated pool deck within the *height* area identified on Map 3 as H 7.0 metres;
- (g) 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;
- (h) the uses listed in 7(f)(ii) above may project above a *height* of 32.5 metres up to a maximum *height* of 40.5 metres, provided that:
- (i) such uses shall be set back a minimum of 4.5 metres from the edge of the roof below, except that no setback shall be required along the north edge of the roof; and
 - (ii) the aggregate horizontal area of such uses, including the area contained within an enclosure, does not exceed 30 percent of the roof area;
- (i) *dwelling units* including residential balconies, excluding architectural cornices and pilasters, shall be set back a minimum of 20.0 metres from the north *lot* line;
- (j) within the IC zone, offices are not permitted;
- (k) 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;

- (l) *residential amenity space* shall be provided in accordance with the following:
- (i) a minimum of 2 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided;
 - (ii) a minimum of 2 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided;
 - (iii) the indoor *residential amenity space* shall include a kitchenette and a washroom; and
 - (iv) indoor *residential amenity space* shall be located above grade;
- (m) a minimum number of *parking spaces* shall be provided and maintained at and below grade on the *lot* in accordance with the following:
- (i) 0.7 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) 0.8 *parking spaces* for each 1-bedroom *dwelling unit*;
 - (iii) 0.9 *parking spaces* for each 2-bedroom *dwelling unit*;
 - (iv) 1.1 *parking spaces* for each 3-bedroom *dwelling unit*;
 - (v) 0.15 visitor *parking spaces* for each *dwelling unit*;
 - (vi) 1.0 *parking spaces* per 100 square metres of *non-residential gross floor area*;
 - (vii) non-residential *parking spaces* and residential visitor *parking spaces* may be provided on a non-exclusive basis, and shared whereby a non-residential *parking space* can also satisfy the residential visitor *parking space* requirement on the *lot*;
 - (viii) 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;
 - (ix) 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*; and
 - (x) of the parking referenced in paragraph 7(m), a maximum of 10 percent of the *parking spaces* may have minimum dimensions of:
 - (i) length of 5.1 metres;

- (ii) width 2.4 metres; and
 - (iii) vertical clearance of 1.7 metres;
- (n) a minimum of two *loading space - Type "B"*, and one *loading space – Type "G"* shall be provided and maintained on the *lot*;
- (o) 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 spaces* 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 meters of non-residential *interior floor area* and 3 *bicycle parking spaces* plus 0.3 short-term *bicycle parking spaces* per 100 square meters of non-residential *interior gross 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
- (p) 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 to provide 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 with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles and:
 - (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 vertical *bicycle parking space* has a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.4 metres, and a minimum horizontal clearance from the wall of 1.2 metres; and
 - (iii) 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;
- (b) *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;
- (c) *car-share parking space* shall mean a *parking space* that is reserved and use for the *car-share* purpose;
- (d) *grade* means 121.85 metres Canadian Geodetic Datum;
- (e) *gross floor area* means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level excluding:
 - (i) parking, loading and bicycle parking below-ground;
 - (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) shower and change facilities required by this By-law for required bicycle parking spaces;
 - (v) indoor amenity space required by this By-law;
 - (vi) elevator shafts;
 - (vii) garbage shafts;
 - (viii) mechanical mezzanines;
 - (ix) mechanical penthouse; and
 - (x) exit stairwells in the building.
- (f) *height* means the height above *grade* as shown on Map 3;

- (g) *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;
 - (h) *lot* shall mean the parcel of land delineated by heavy lines on Map 1 attached to and forming part of this By-law and known municipally as 840 and 860 Dupont Street in the year 2015;
 - (i) *storey* means the number of storeys above grade as shown on Map 3 as marked with a "S" and for the purposes of this bylaw mezzanines and a portion of a building on the roof top used for storage and the accommodation of mechanical equipment, do not constitute a *storey*;
 - (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 the Ontario Municipal Board Decision issued on February 1, 2017 and Ontario Land Tribunal Orders issued on June 30, 2021 and August 12, 2021 in Tribunal File PL150838

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 pay to the City the sum of \$895,000 provided that:
 - a. 10 percent (\$89,500) to be allocated to the provision of new affordable housing in Ward 19;
 - b. 10 percent (\$89,500) to be allocated to capital improvements to existing Toronto Community Housing Corporation ("TCHC") buildings in Ward 19; and
 - c. 80 percent (\$716,000) be allocated to parkland improvements and/or public realm improvements, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Parks, Forestry and Recreation and/or the General Manager, Transportation Services, in consultation with the Ward Councillor and local community;

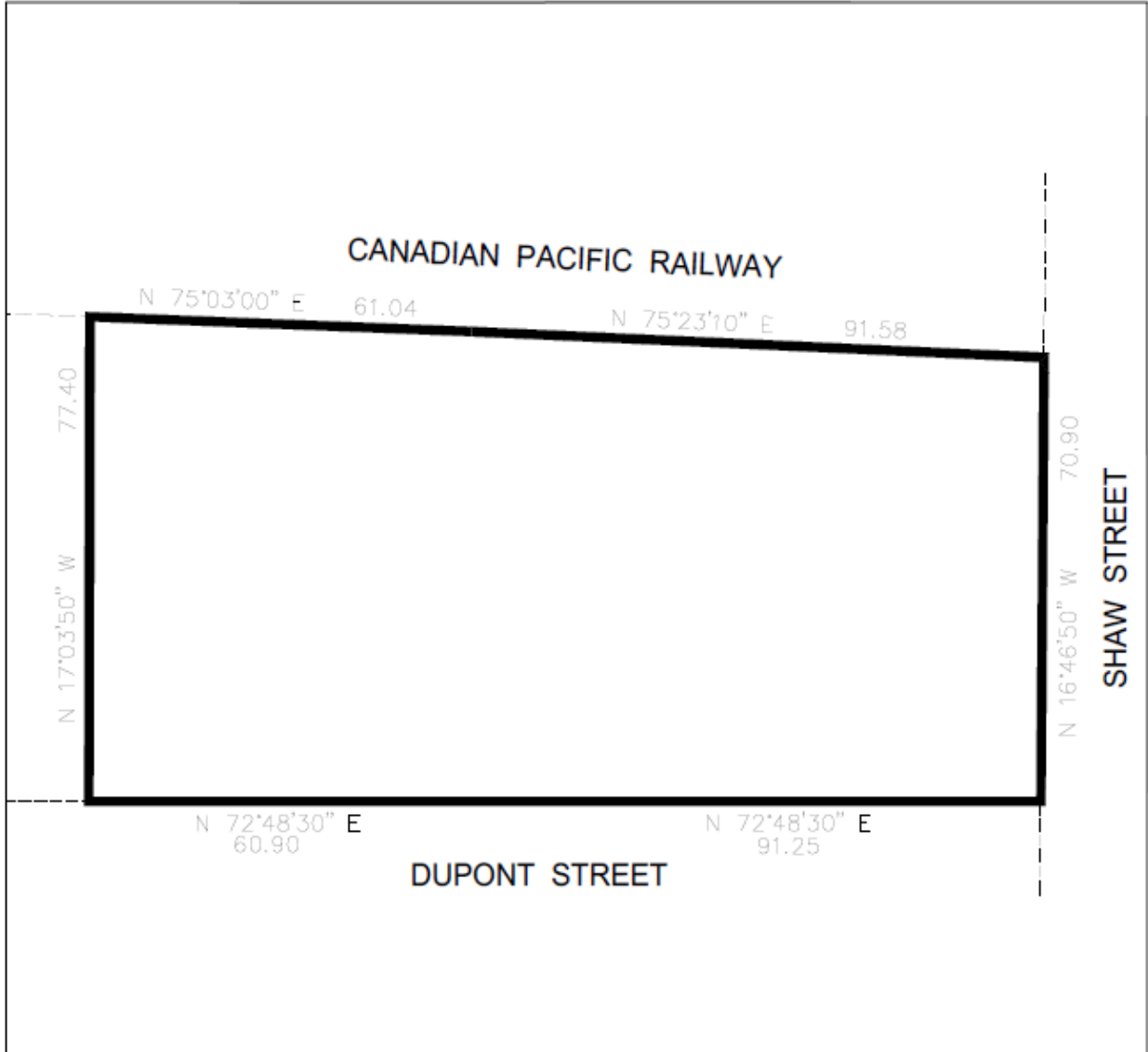
with such amounts to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.

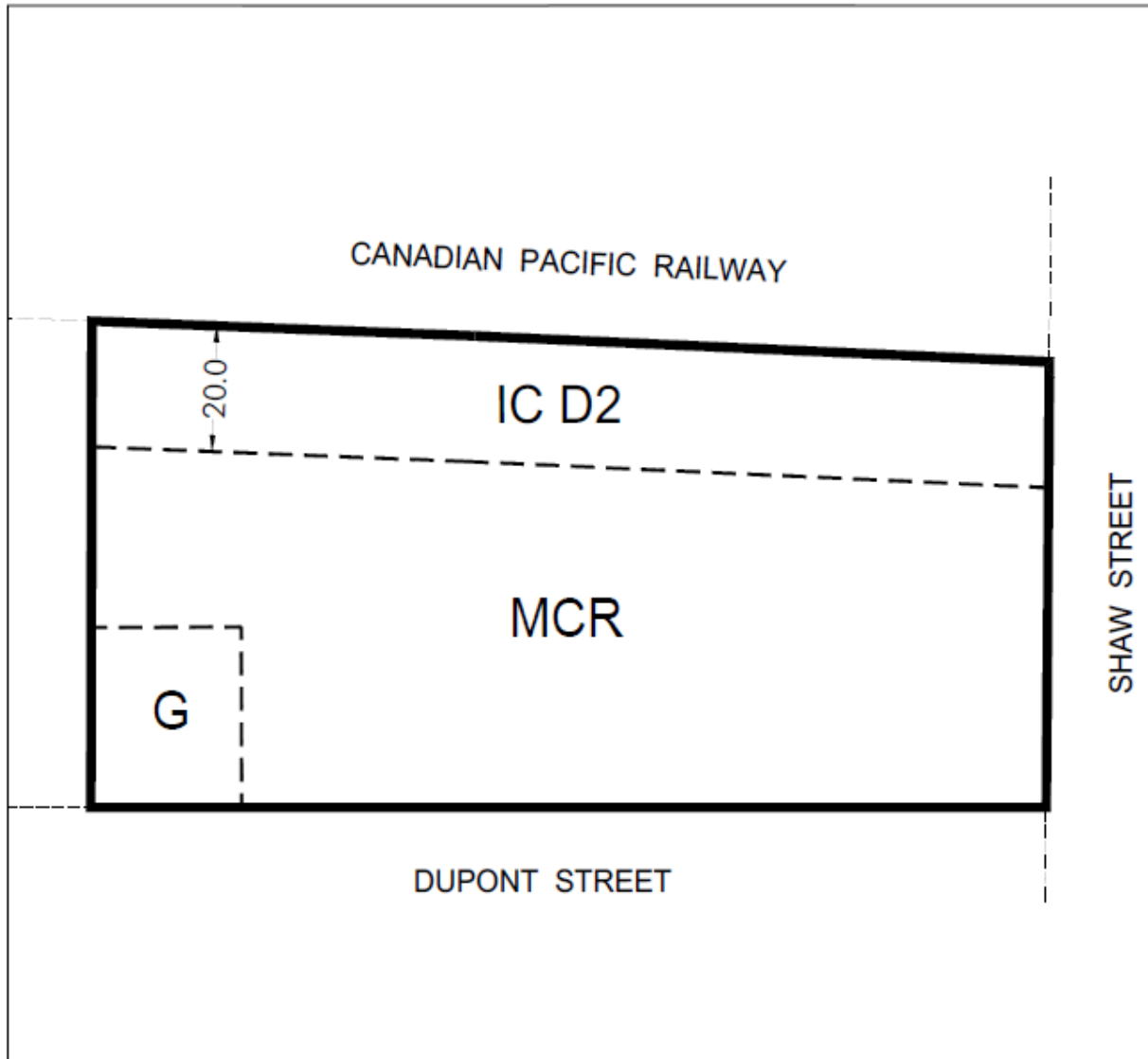
2. The owner of the lot shall convey to the City an on-site parkland dedication of a minimum size of 700 square metres, to be conveyed to the City in partial fulfilment of the owner's required parkland dedication pursuant to section 42 of the Planning Act, and to be secured in the Section 37 Agreement required in this Schedule 1, all to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Parks Forestry and Recreation and the City Solicitor.
3. Prior to the issuance of the first above-grade permit for any portion of the lot, the owner of the lot shall provide a letter of credit to the City, to include provision for upwards indexing, in a form satisfactory to the City, in the amount of the remaining parkland dedication requirement, as determined by the City's Appraisal Services staff, which will be held as security by the City for the satisfactory completion, by the owner of the lot, of the construction of the required above-base park improvements.
4. 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

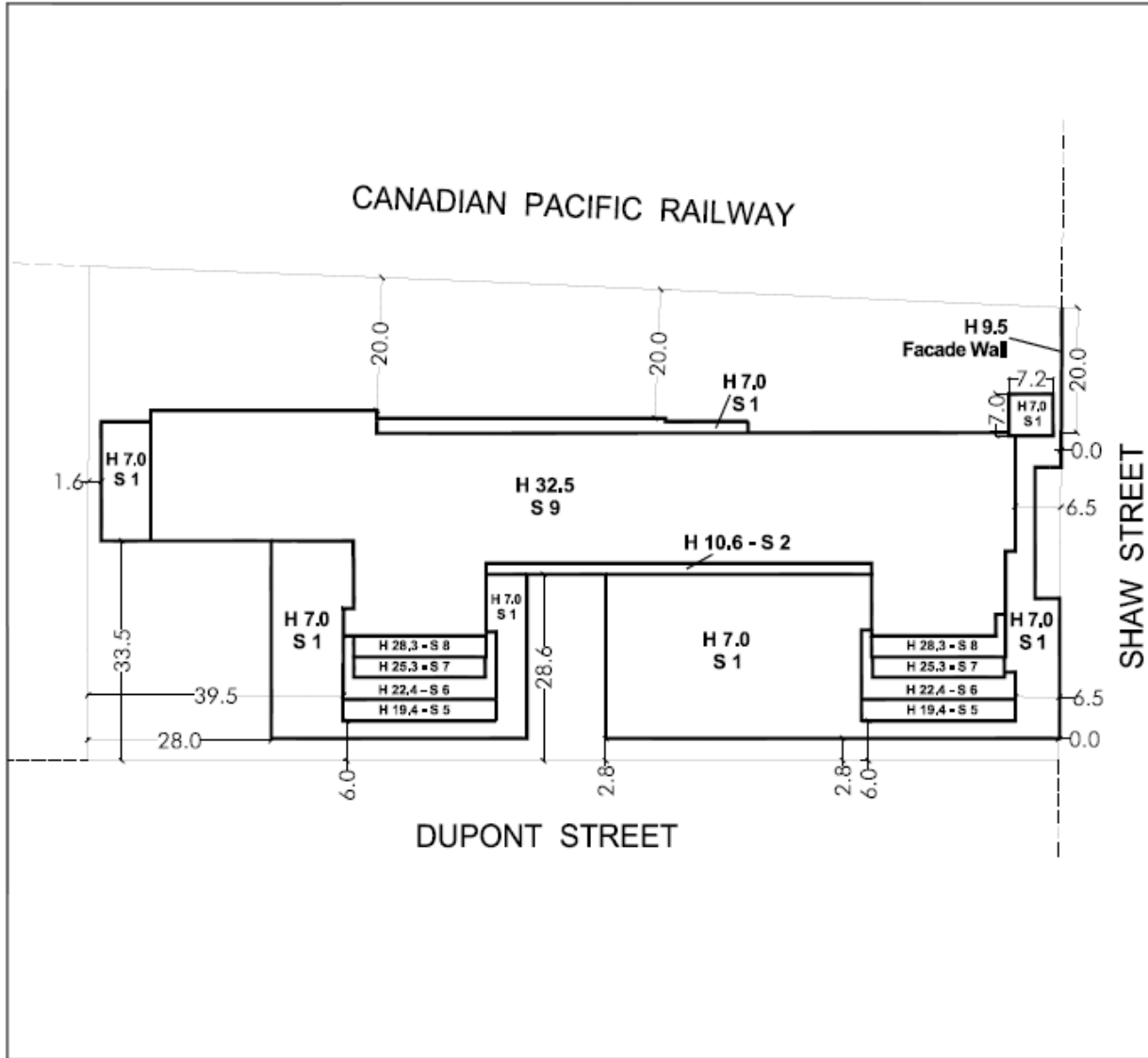
location of construction staging areas, dates and significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary.

Other matter to support the development of the lot:

5. 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*.







840 & 860 Dupont Street, Toronto

Map 3

File #13 203675 STE 19 OZ



Not to Scale