

Authority: Ontario Land Tribunal Decision issued on July 19, 2017 and September 21, 2017 and its Order issued on December 22, 2021, in Tribunal File PL160318.

## **CITY OF TORONTO**

### **BY-LAW 105-2022(OLT)**

**To amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known municipally as 263 Adelaide Street West.**

Whereas authority is given to Council by Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; 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, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18 came into force, a by-law under Section 34 of the Planning Act may authorize increase 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 matter as are set out in the by-law; and

Whereas Subsection 37(3) of the Planning Act, as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the density or height 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; and

Whereas the Ontario Municipal Board, pursuant to its Order issued on July 19, 2017, upon hearing the appeal of Adelaide Street Lofts Inc. under Section 34 of the Planning Act deems it advisable to amend the former City of Toronto Zoning By-law 438-86 with respect to the lands municipally known in the year 2020 as 263 Adelaide Street West; and

Whereas the Ontario Municipal Board is continued under the name Ontario Land Tribunal (the "OLT") and any reference to the Ontario Municipal Board, OMB or the Board in this By-law is deemed to be a reference to OLT;

Now therefore, pursuant to the Order of the Ontario Land Tribunal, By-law 438-86 is further amended as follows:

1. Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, the heights and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision at the owner's sole expense and in accordance with and subject to the agreement referred to in Schedule A of this By-law.
2. This By-law applies to the lands delineated by a heavy line and identified as "263 Adelaide Street West" as shown on Map 1 attached hereto.
3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of: Sections 2(1) with respect to the definitions of "*accessible parking space*", "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*grade*", "*height*", "*heritage building*", "*lot*" and "*street-related retail and services uses*", 4(2)(a), 4(5), 4(8), 4(9), 4(10)(a), 4(10)(d), 4(12), 4(13), 4(16), 4(17), 7(3) PART I 1, 7(3) PART II 1, 2, 4, 5, 7, and 8, 7(3) PART III 2, 7(3) PART IV, 7(3) PART VI 1, 12(2)246, 12(2)270, 12(2)380, and Height and Minimum Lot Frontage Map 50G-322 in Appendix "B" of Zoning By-law 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to 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", shall apply to prevent the erection and use of a mixed-use building on the *lot* provided that:
  - (a) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* shall not exceed 32,438 square metres, subject to the following:
    - (i) the maximum *residential gross floor area* shall be 29,938 square metres; and
    - (ii) a minimum *non-residential gross floor area* of 2,500 square metres shall be erected and used on the *lot*;
  - (b) the total number of residential *dwelling units* erected or used on the *lot* shall not exceed a maximum of 436 *dwelling units*;
  - (c) At least 25 percent of the total number of *dwelling units* shall contain two or more bedrooms, of which at least 10 percent of the total number of *dwelling units* shall contain three or more bedrooms;
  - (d) no portion of any building or structure on the *lot* shall exceed the *height* limits in metres above *grade* specified by the numbers following the symbol "H" as shown on Map 2, except for:

- (i) building elements and structures such as parapets, fences, skylights, railings, balcony and terrace guards and dividers, decorative screens, light monitors, light fixtures, elevator overruns, elevator shafts, stair towers, ornamental elements, trellises, landscape elements, elements of a *green roof*, wind mitigation features, privacy screens, planters, cornices, awnings, balustrades, open air recreation structures including a pool and associated equipment, solar panels and equipment, seating areas, public art features, retaining walls, wheelchair ramps, safety and wind protection features, vents and air intakes, antennas, satellite dishes, and cellular arrays, provided they extend no more than 2.5 metres above the applicable *height* limit specified on Map 2; and
- (ii) building elements and structures such as lighting standards and fixtures, provided they extend no more than 4.9 metres above the applicable *height* limit specified on Map 2;
- (e) notwithstanding any provision of subsection (e) above, no portion of any building or structure on the *lot*, inclusive of mechanical penthouse, elevator overruns and stairwell enclosures, shall exceed the *building height limit* of 156.9 metres above *grade* except for:
  - (i) building elements and structures such as elements of a *green roof*, parapets and skylights, provided they extend no more than 0.5 metres above the *building height limit*;
  - (ii) building elements and structures such as rooftop safety equipment including railings and lightning rods, light fixtures, solar panels and equipment, vents and air intakes, antennas, satellite dishes and cellular arrays, provided they extend no more than 2.0 metres above the *building height limit*; and
  - (iii) building elements and structures such as window washing equipment including Building Maintenance Units, provided they extend no more than 3.0 metres above the *building height limit*;
- (f) no part of the building shall be located closer to the *front lot line* than the plane formed by connecting the lines defined by:
  - (i) a setback of 5.0 metres measured horizontally from the *main wall* of the *heritage building* at a *height* of 23.0 metres above *grade*, and
  - (ii) a setback of 3.0 metres measured horizontally from the *main wall* of the *heritage building* at a *height* of 38.5 metres above *grade*;
- (g) no part of the building may be located closer to the northwest corner of the *lot* than the plane(s) formed by connecting the lines defined by:

- (i) a point located on the west *lot line* at a minimum setback of 3.0 metres measured horizontally from the *main wall* of the *heritage building*, at a height of 50.0 metres above *grade*; and
  - (ii) the line extending between a point located on the west *lot line* at a setback of 10.5 metres from the *main wall* of the *heritage building*, and a point located at a setback of 6.1 metres from the west *lot line* and a setback of 5.0 metres from the *main wall* of the *heritage building*, both at a height of 23.0 metres above *grade*;
- (h) notwithstanding sections (f) and (g) above, external building support columns may be setback a minimum of 3.0 metres from the *main wall* of the *heritage building* 23.0 metres above *grade*;
- (i) notwithstanding sections (f), (g) and (h) above, the required setbacks, vertical slopes and triangular shaped vertical planes shall not prevent the erection or use of the building elements and structures described in section (e) above or section (j) below;
- (j) no portion of a building or structure erected on the *lot* above *grade* shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached hereto except for:
- (i) building elements and structures such as cornices, awnings, skylights, ornamental elements, trellises, lighting fixtures, windows sills, railings, guardrails, balustrades, stairs, stair enclosures, wheelchair ramps, overhangs, screens, planters, underground garage ramps and their associated structures, retaining walls, air shafts, garbage storage areas, and elements required for the functional operation of the building, public art, fences, terraces, ornamental or architectural elements, parapets, landscape features/elements and seating areas may extend to a maximum of 1.8 metres beyond the heavy lines shown on Map 2; and
  - (ii) building elements and structures such as canopies and balconies may extend a maximum of 2.0 metres beyond the heavy lines shown on Map 2, as measured perpendicular to the exterior wall of the building provided they are located on the southwest exterior wall of the building;
- (k) *street-related retail and service uses* provided on the *lot* are subject to the following requirements:
- (i) the principle public entrance to each shop or store may not be located on the exterior *main wall* of the building; and
  - (ii) the principle public entrance to each shop or store must be located within 7.5 metres of the frontage of the *lot* on which the shop or store is located;

- (l) a motor vehicle entrance to or exit from the *building* that leads to a parking facility or to loading facilities and which entrance or exit is in a wall facing a street shall have a minimum width of 4.5 metres;
- (m) the minimum width of a driveway or passageway providing two-way access to loading facilities shall be 4.7 metres, except for as provided in section (l) above;
- (n) access to or from a parking facility may be provided by motor vehicle elevators, provided not less than two (2) motor vehicle elevators are provided and maintained in the building for the use of residents of the building and for non-residential uses on the *lot*;
- (o) the minimum width of a driveway or passageway providing one-way access to or from a parking facility shall be 3.5 metres, except the vehicle entrance and exit of each motor vehicle elevator shall have a minimum width of 2.44 metres;
- (p) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
  - (i) a minimum of 90 *parking spaces* for the use of residents of the building;
  - (ii) a minimum of 10 *parking spaces* for the shared use of residential visitors and non-residential uses; and
  - (iii) a maximum of 5 *parking spaces* may have a minimum width of 2.9 metres even though one or both sides of such *parking spaces* are obstructed, as the term obstructed is defined in subsection 4(17)(e);
- (q) notwithstanding subsection 4(17)(e), equipment for the charging of an electric vehicle is permitted within or adjacent to a *parking space* and does not constitute an obstruction to the *parking space*, subject to the equipment being located within or adjacent to the same *parking space* as the vehicle to be charged;
- (r) a minimum of 8 *accessible parking spaces* shall be provided on the *lot* subject to the following requirements:
  - (i) the entire length of an *accessible parking space* shall be adjacent to a 1.5 metres wide accessible barrier free aisle or path on one side of the *accessible parking space*;
  - (ii) a minimum of 4 *accessible parking spaces* shall be located close to a barrier free passenger elevator that provides access to the first storey of the building; and
  - (iii) a maximum of 4 *accessible parking spaces* may be separated from and may require the crossing of a drive aisle to reach a barrier free passenger elevator;
- (s) a minimum of one *loading space – type "G"* and one *loading space – type "C"* shall be provided and maintained on the *lot*;

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- (t) a minimum of 456 *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (i) a minimum of 392 *bicycle parking spaces - occupant*;
  - (ii) a minimum of 44 *bicycle parking spaces - visitor*;
  - (iii) a minimum of 20 *bicycle parking spaces for non-residential uses*;
  - (iv) a *bicycle parking space* may be provided in a horizontal or vertical position and/or as a *stacked bicycle parking space*; and
  - (v) *bicycle parking spaces* required by (i), (ii) or (iii) above shall not be provided within a dwelling unit or a balcony thereof nor within commercial suites; and
- (u) *residential amenity space* shall be provided and maintained on the *lot* at a minimum rate of 3.3 square metres for each *dwelling unit*, of which:
- (i) a minimum of 2.0 square metres of indoor *residential amenity space* shall be provided per *dwelling unit* and may be provided in a multi-purpose room or rooms where at least one such room contains a kitchen and at least one such room contains a washroom; such rooms are not required to be contiguous but may be contiguous; and
  - (ii) a minimum of 1.5 square metres of outdoor *residential amenity space* shall be provided per *dwelling unit*, of which at least 40 square metres is provided in a location that is adjoining or directly accessible from indoor *residential amenity space*.
5. None of the provisions of By-law 438-86, as amended, shall prevent the erection and use of a *sales office* on the *lot*.
6. Definitions:

For the purpose of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:

- (a) "*accessible parking space*" means a vehicle *parking space* with the following minimum dimensions:
- (i) length of 5.6 metres;
  - (ii) width of 3.4 metres; and
  - (iii) vertical clearance of 2.1 metres;
- (b) "*bicycle parking space – occupant*" means an area that is equipped for the purpose of parking and securing bicycles, and:

- (i) where the bicycles are stacked and parked horizontally such *stacked bicycle parking spaces* shall have a horizontal dimension of at least 0.45 metres by 1.6 metres and a vertical dimension of at least 1.1 metres;
  - (ii) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
  - (iii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
  - (iv) such *bicycle parking spaces* may be located on any level below *grade* and on the first floor, second floor and mezzanine level, if any, and may be located within a secured room, enclosure or bicycle locker;
- (c) "*bicycle parking space – visitor*" means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:
- (i) where the bicycles are stacked and parked horizontally such *stacked bicycle parking spaces* shall have a horizontal dimension of at least 0.45 metres by 1.6 metres and a vertical dimension of at least 1.1 metres;
  - (ii) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
  - (iii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
  - (iv) may be located outdoors or indoors but not within a secure room, enclosure or bicycle locker;
- (d) "*bicycle parking space for non-residential use*" means an area that is equipped with a bicycle rack for the purpose of parking and securing other bicycles, and:
- (i) where the bicycles are stacked and parked horizontally such *stacked bicycle parking spaces* shall have a horizontal dimension of at least 0.45 metres by 1.6 metres and a vertical dimension of at least 1.1 metres;
  - (ii) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
  - (iii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and

- (iv) may be located outdoors or indoors and may be located within a secure room, enclosure or bicycle locker;
- (e) "*building height limit*" means the permitted maximum building *height* of 156.9 metres shown on Map 2;
- (f) "*grade*" means the Canadian Geodetic Datum elevation of 87.16 metres;
- (g) "*height*" means the vertical distance between *grade* and the highest point of the building or structure except for those elements prescribed in this By-law;
- (h) "*heritage building*" means the portions of the building on the *lot* comprising the heritage attributes as described in the heritage easement agreement registered on title to the *lot*;
- (i) "*lot*" means the whole of the lands delineated by the heavy line on Map 1, attached hereto and forming part of this By-law;
- (j) "*main wall*" means the exterior wall of the *heritage building* that faces Adelaide Street West;
- (k) "*sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the initial sales and/or initial leasing of *dwelling units* or the *non-residential gross floor area* to be erected on the *lot*;
- (l) "*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
- (m) "*street-related retail and service uses*" means one or more of the uses listed in sections 8(1)(f)(b)(i), (ii), and (iv).

7. Section 37 Provisions:

- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of Part A is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (b) Where Schedule A 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; and
- (c) 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 on Part A unless all provisions of Schedule A are satisfied.



8. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

Pursuant to the Ontario Land Tribunal Decision issued on July 19, 2017 and September 21, 2017 and its Order issued on December 22, 2021, in Tribunal File PL160318.

**SCHEDULE A**  
**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided to the City by the *Owner* at the *Owner's* expense in return for the increase in height and density of the proposed development on the *lot* as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the *Owner* agrees as follows:

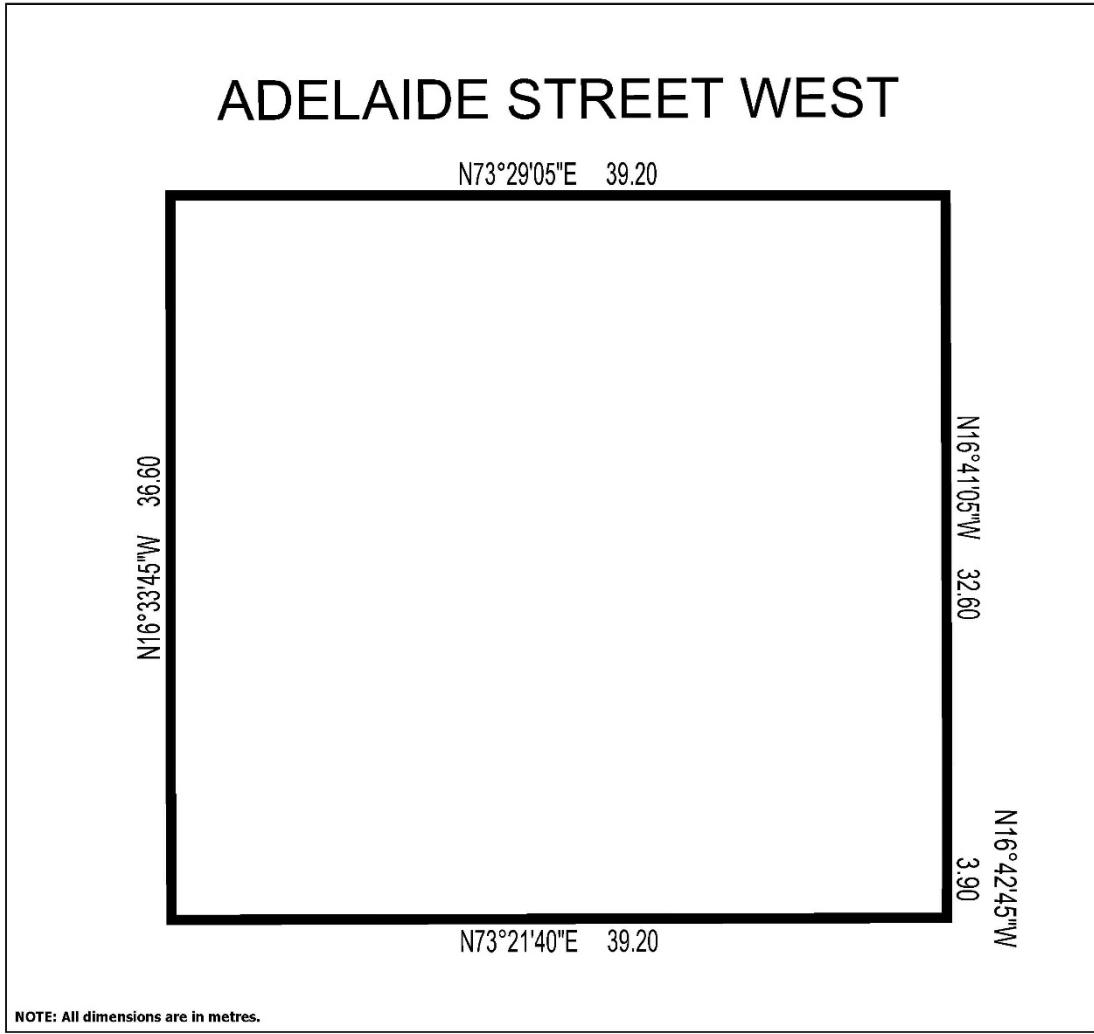
- (1) Prior to issuance of an above grade building permit for the *lot* (other than a building permit for a temporary sales office/pavilion) the *Owner* shall provide a financial contribution to the City to be used for the following community benefits in the amount of \$2.5 million, consistent with the Ward Councillor's request:
  - a. \$2,000,000 for community services and facilities in the King - Spadina Area, how the funds are to be used is at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
  - b. \$250,000 for capital improvements to existing rental housing units provided by Toronto Community Housing Corporation in Ward 10 Spadina-Fort York; and
  - c. \$250,000 for the provision of new affordable rental housing as part of the Alexandra Park Revitalization in Ward 10 Spadina-Fort York, to be directed to the Capital Revolving Fund for Affordable Housing.

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

The following matters are also required to be secured in the Section 37 Agreement to support development:

- (2) Replacement rental dwelling units shall be provided by the *Owner* in accordance with the following conditions:
  - a. the *Owner* shall provide and maintain on the *lot* twelve (12) replacement rental dwelling units, comprised of four (4) bachelor, two (2) one-bedroom, two (2) two-bedroom and four (4) three-bedroom units on the subject site for a period of at least twenty (20) years, as generally shown on the plans prepared by Quadrangle Architects Limited as submitted to the City Planning Division and attached to the Section 37 Agreement. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - b. the *Owner* shall provide at least two (2) bachelor and one (1) two-bedroom replacement rental dwelling units at affordable rents as well as two (2) bachelor, two (2) one-bedroom and two (2) three-bedroom replacement rental dwelling units at mid-range rents for a period of at least ten (10) years;
  - c. the *Owner* shall provide en-suite laundry facilities in all replacement rental dwelling units;

- d. the *Owner* shall provide one (1) resident bicycle parking space per replacement rental dwelling unit and shall provide and make available a total of three (3) vehicle parking spaces to the tenants of the replacement rental dwelling units for a predetermined monthly fee subject to annual increases tied to the Provincial rent increase guidelines, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - e. the *Owner* shall provide at least twelve (12) storage lockers to the tenants of the replacement rental dwelling units, for a predetermined monthly fee subject to annual increases tied to the Provincial rent increase guidelines, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - f. the *Owner* shall provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities on the *lot* and visitor parking on the *lot*, all on the same terms and conditions as other residents of the building; and
  - g. the *Owner* shall provide tenant relocation and assistance to all eligible tenants of the existing rental dwelling units, including the right to return to a replacement rental dwelling unit, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- (3) Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the Planning Act, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
- (4) No other Section 37 contributions or public art contributions in addition to those listed in Schedule A herein will be sought from the *Owner* in connection with the proposed development of the *lot*.
- (5) The *Owner* shall be financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of any above or below-grade public or private utility resulting from the development of the *lot*.
- (6) In the event the financial contribution(s) has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the financial contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.



263 Adelaide Street West, Toronto

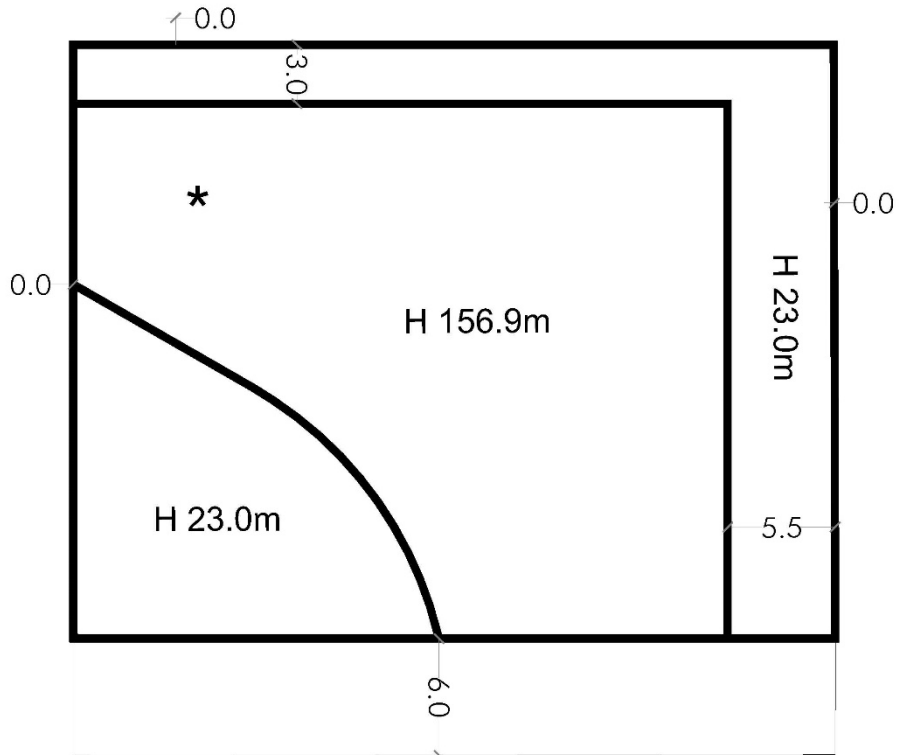
Map 1

File # \_\_\_\_\_



Not to Scale

# ADELAIDE STREET WEST



\* Refer to Section 4 (g) and (f) of this exception for building chamfering requirements in this location

NOTE: All dimensions are in metres.

