

Authority: Local Planning Appeal Tribunal Decision issued on July 16, 2019 and Ontario Land Tribunal Order issued on July 30, 2021 in File PL161269

CITY OF TORONTO
BY-LAW 213-2022(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known as 8 Elm Street, and 348-354 and 356 Yonge Street and a portion of 14 Elm Street.

Whereas the Ontario Land Tribunal pursuant to its Order issued on July 30, 2021 and the Local Planning Appeal Tribunal Decision issued on July 16, 2019, upon hearing an appeal under Section 34(11) of the Planning Act R.S.W. 1990, c. P.13, as amended, deems it advisable to amend By-law 438-86, as amended, for the City of Toronto with respect to lands municipally known as 8 Elm Street, and 348-354 and 356 Yonge Street and a portion of 14 Elm Street; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increase in height and density of development; 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, a 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;

By-law 438-86, as amended, of the former City of Toronto is further amended by the Local Planning Appeal Tribunal as follows:

1. Pursuant to Section 37 of the Planning Act, 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, including the provision by the *owner* of the lot the facilities, services and matters set out in Schedule A hereof, to the City at the *owner's* expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the Planning Act securing the provision of the facilities, services or matters set out in Schedule A hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter or the payment of any monetary contribution 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 requirements.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) being entered into with the City pursuant to Section 37

of the Planning Act, then once such agreement(s) 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. Except as otherwise provided herein, the provisions of By-law 438-86, shall continue to apply.
5. Map 50H-313 of the former City of Toronto By-law 438-86, as amended, is hereby amended in accordance with Maps 2a and 2b.
6. Section 12(1) of By-law 438-86, as amended, of the former City of Toronto is amended by adding the following Subsection:

None of the provisions of Section 2 with respect to the definition of "*automated parking system*", "*bicycle parking space*", "*parking stacker*", "*bicycle parking space-occupant*", "*bicycle parking space-visitor*", "*grade*", "*height*", "*lot*", Section 4(2), 4(5), 4(5) Schedule 1, 4(8), 4(9), 4(10), 4(12), 4(13)(a), (c) and (d), 4(16), 4(17), Section 8(3) PART I , 8(3) PART II , 8(3) PART III (1)(a), 8(3) Part IX(2), Section 12(1)334, 12(1)335, Section 12(1)431, Section 12(2)256, Section 12(2)259, Section 12(2)260, Section 12(2)380 of former City of Toronto By-Law 438-86 as amended, 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 in various areas of the City of Toronto", and Section 13: 440-85, shall apply to prevent the erection and use of a *mixed-use building* with *apartment dwelling units*, community space, and *non-residential uses*, on the lands municipally known as 8 Elm Street, and 348-354 and 356 Yonge Street and a portion of 14 Elm Street, provided:

- (a) the lot consists of the lands delineated by heavy lines on Maps 1a and 1b attached hereto;
- (b) on the lands outlined on Maps 1a and 1b attached to this By-law, a *temporary construction office/sales office* is permitted;
- (c) the total *residential* and *non-residential gross floor area* shall not exceed 53,400 square metres;
- (d) the minimum *non-residential gross floor area* shall be 945 square metres on the lands identified as Part B on Maps 1a and 1b;
- (e) no portion of the building or structure erected or used above *grade* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Maps 2a and 2b;
- (f) no part of any building or structure erected on the *lot* shall be located above the building *heights* shown in metres specified by the number following the symbol HT on Maps 2a and 2b;

(g) Notwithstanding Section 6(e) no portion of any building or structure shall extend beyond the solid and dashed lines delineating the building envelope, with the exception of:

- (i) Lighting fixtures, balconies and guards, balcony roof or canopies, privacy screens, mechanical and architectural screens, windowsills, chimneys, mechanical fans, retaining walls and curbs, monitor wells, structural columns, fences and safety railings, balustrades, bollards, underground garage ramps and their associated structures, and public art features by no more than 1.5 metres; and
- (ii) Notwithstanding section (g) (i) above, balconies are not permitted to encroach into the required building envelope on the north façade of any building or structure;

(h) notwithstanding Section 6(f), no portion of any building or structure shall extend above the heights in metres shown on Maps 2a and 2b attached hereto, with the exception of:

- (i) A structure on the roof of the building used for outside or open air recreation, window washing equipment on the roof of a building, light fixtures, elevator overrun, railings, elements of a green roof, by no more than 5.0 metres;
- (ii) An unenclosed roof top amenity structure above the locations identified as HT 11.0 on the Part A lands on Maps 2a and 2b, by no more than 5.0 metres;
- (iii) Notwithstanding section (h) (i) above, the only permitted projections above the locations identified as HT 29.0 and HT 25.8 on the Part B lands on Maps 2a and 2b are parapets, handrails and window washing equipment that may project by no more than 2.0 metres;
- (iv) Notwithstanding sections (h) (i) and (iii) above, an architectural and mechanical screen shall be required and shall project 3.5 metres above the location identified as HT 29.0 on the Part B lands on the attached Maps 2a and 2b. For greater clarity, the architectural and mechanical screen shall be restricted to the area indicated on Maps 2a and 2b;
- (v) Notwithstanding section (h) (i), (iii) and (iv) above, no projections are permitted above the locations identified as HT 30.0 and HT 31.0 on the Part B lands on the attached Maps 2a and 2b; and
- (vi) Notwithstanding section (h) (i) above, the only permitted projections above the location identified as HT 25.8 on the Part A lands on Maps 2a and 2b are parapets, handrails, window washing equipment, privacy screens, elements of a green roof and mechanical equipment that may project by no more than 2.0 metres;

- (j) the minimum setbacks of the residential buildings above *grade*, erected on the *lot* from all lot lines shall be as shown on Maps 2a and 2b attached hereto and forming part of this By-law;
- (l) *dwelling units* shall be provided as follows:
 - (i) A minimum of 10 percent of *dwelling units* must be three-bedroom *dwelling units*;
 - (ii) A minimum of 30 percent of *dwelling units* must be two-bedroom *dwelling units*; and
 - (iii) There is no minimum gross floor area of *dwelling unit* size;
- (m) a minimum of 2.0 square metres of indoor *residential amenity space* shall be provided for each *dwelling unit*;
- (n) a minimum of 1.0 square metres of outdoor *residential amenity space* shall be provided for each *dwelling unit*;
- (o) *parking spaces* for residents on the *lot* shall be provided and maintained in accordance with the following minimum requirements:
 - (i) 0.15 *parking spaces* per *dwelling unit*;
 - (ii) No *parking spaces* are required for the non-residential uses;
 - (iii) The *parking spaces* may be in an *automated parking system*;
 - (iv) *Parking spaces* provided within an *automated parking system* will not be subject to Section 4(17) in By-law 438-86; and
 - (v) *Parking spaces* may be provided in *parking stackers*;
- (p) *parking spaces* provided in *parking stackers* must have the following dimensions:
 - (i) a minimum width of 2.2 metres; and
 - (ii) a minimum length of 5.2 metres;
- (q) no accessible *parking spaces* shall be provided;
- (r) a minimum of 1 *loading space – type C* and 1 *loading space – type B* must be provided and maintained on the *lot* and the *loading space – type B* can be provided and maintained on an automated turntable;
- (s) *bicycle parking spaces* shall be provided and maintained in accordance with the following rates:
 - (i) a minimum of 0.9 *bicycle parking spaces – occupant* shall be provided per *dwelling unit* for residential occupants;

- (ii) a minimum of 0.1 *bicycle parking spaces – visitor* shall be provided per *dwelling unit* for residential visitors; and
- (iii) No *bicycle parking spaces* shall be required for non-residential uses and *non-residential gross floor area* on the *lot*;

(t) *bicycle parking spaces* may be provided in a *stacked bicycle parking space* arrangement, in any combination of vertical, horizontal or stacked positions, may be located in a secured room or area on any floor of a building, may be located below, at or above *grade* and may be located more than 30 metres from a pedestrian entrance;

(u) *Shower-change* facilities shall not be required on the *lot*;

(v) Notwithstanding Section 4(17) of Zoning By-law 438-86 as amended, electrical vehicle infrastructure, including electrical vehicle supply equipment, does not constitute an obstruction to a *parking space*; and

(w) For the purposes of calculating *parking space* requirements in (o) above, if the calculation of the number of required *parking spaces* results in a number with a fraction, the number shall be rounded down to the nearest whole number.

7. For the purposes of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law 438-86, as amended, except that the following definitions shall apply:

(a) "*Bicycle parking space – occupant*" means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:

- (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (ii) where the bicycles are to be parked in a stacked position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.2 metres;
- (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- (iii) in the case of a bicycle rack, is located in a secured room or area;

(b) "*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 to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;

- (ii) where the bicycles are to be parked in a *stacked bicycle parking space*, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.2 metres;
- (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- (iii) may be located indoors or outdoors including within a secured room or enclosure;
- (c) "*Grade*" means 93.72 metres Canadian Geodetic Datum;
- (d) "*Height*" means the vertical distance between *grade* and the highest point of the roof, building or structure, as shown on Maps 2a and 2b, exclusive of any elements described in 6(g)(i) herein;
- (e) "*Lot*" means those lands outlined on Maps 1a and 1b attached to this By-law;
- (f) "*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*;
- (g) "*Parking stacker*" shall mean a mechanical motor vehicle parking facility with parking spaces which are positioned above each other, which may not readily be accessible at all times without maneuvering another vehicle or a device;
- (h) "*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 and parking elevators 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 or as an accessible parking space for the purpose of determining compliance with the requirements in Zoning By-law 438-86 and relevant clauses above in By-law 213-2022(OLT);
- (i) *temporary construction office/sales office* means buildings, structures, facilities or trailers on the lot used for the purpose of the administration and management of construction activity on the lot and/or used for the purpose of selling or leasing dwelling units and/or non-residential gross floor area on the lot.

8. 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 the development is permitted beyond that otherwise permitted on the lands shown on Maps 1a and 1b 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.
- (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 unless all provisions of Schedule A are satisfied.

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

Ontario Land Tribunal Order issued on July 30, 2021 and Local Planning Appeal Tribunal Decision issued on July 16, 2019 in File PL161269.

SCHEDULE A**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 *lands* as shown on Maps 1a and 1b 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:

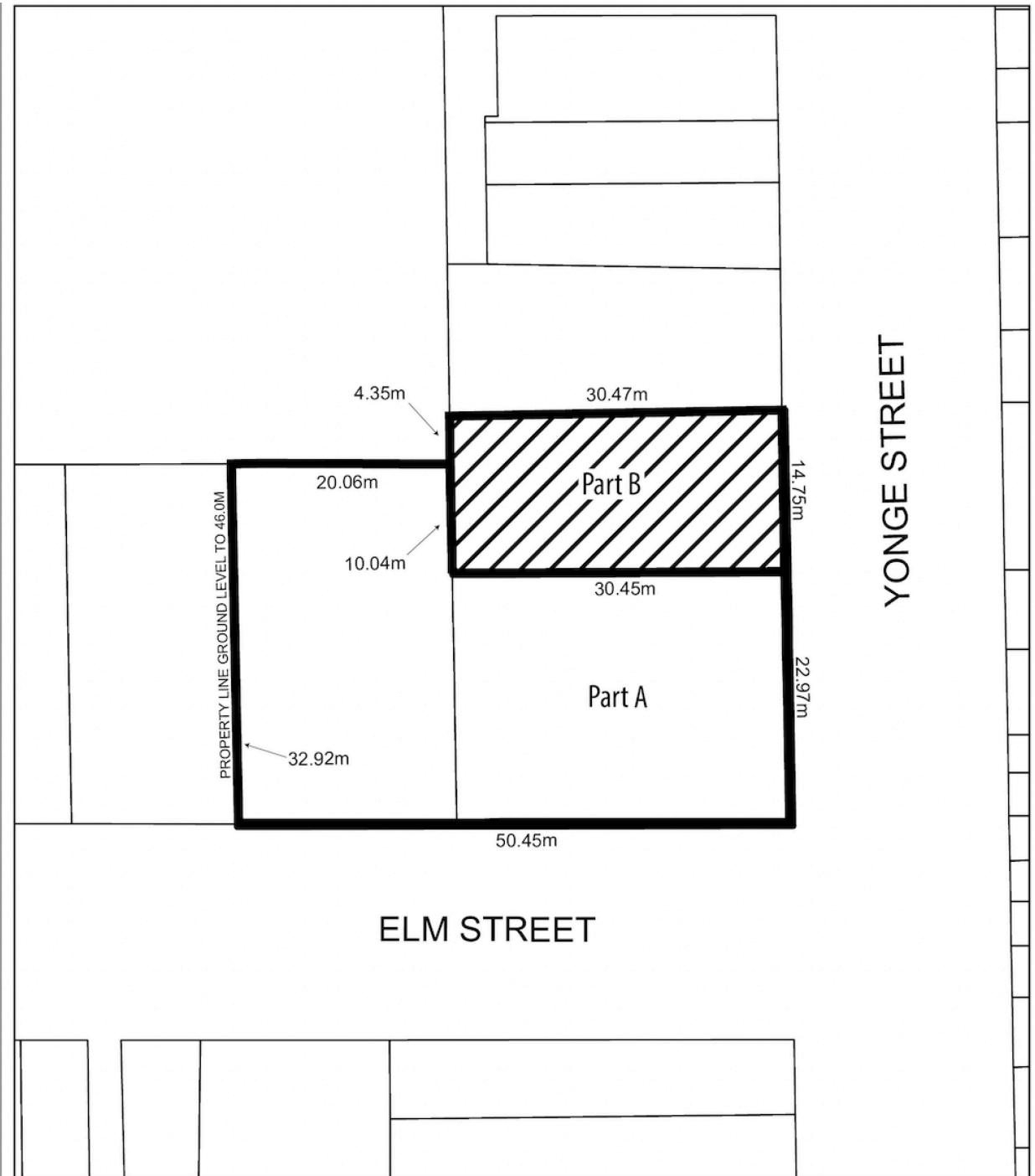
1. Prior to the issuance of an above-grade building permit, the *owner* shall provide the sum of Two Million Dollars (\$2,000,000.00) to the Affordable Housing Capital Revolving Fund for the provision of off-site affordable housing within Ward 11;
2. The payment amount referenced in 1. above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index, calculated from the date of the City Council decision authorizing the Zoning By-law Amendment to the date of payment;
3. The *owner* shall, at the option of and complete discretion of the City shall either:
 - a. Make a payment in the amount of Five Million Dollars (\$5,000,000.00) for the provision of off-site affordable housing within Ward 11, or towards other Section 37 matters as determined by the Ward Councillor, in consultation with the Chief Planner and Executive Director, City Planning, payable prior to the issuance of the first above-grade building permit, and indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index and calculated from the date of the City Council decision authorizing the Zoning By-law Amendment; or in the alternative;
 - b. Design, construct to base building standards and convey to the City in fee simple a minimum of 471 square metres of community space on the third floor of the proposed building and make a further cash payment to the City in accordance with the following:
 - i. Prior to filing a site plan application, the *owner* will provide written notice to the City of its intention to apply for Site Plan Approval, after which date the City would have 90 days to elect whether to take the \$5,000,000.00 as a cash contribution described in 3.a. above or take the conveyance of 471 metres of on-site community space; if the City elects to take the conveyance of the community space, then:
 1. The *owner* will design and construct the community space to base building standards as approved by the City and agreed to by the *owner*;
 2. The City and the *owner* will enter into an easement and cost sharing agreement to facilitate the integration of the development and the community space, with the City being responsible for its pro rata share of operating costs for shared facilities, and for

paying utilities for the community space; and further that the *owner* will not be required to pay development charges, if any, in respect of such community space to be conveyed to the City;

3. Any changes to the location of the space to be to the satisfaction of the Chief Planner and Executive Director, City Planning; and
4. In addition to the fee simple conveyance of the community space, the *owner* will make a cash payment of One Million Five Hundred Seventy Seven Thousand Eight Hundred Fifty Five Dollars and Thirty Cents (\$1,577,855.30), towards Section 37 matters as determined by the Ward Councillor, in consultation with the Chief Planner and Executive Director, City Planning, payable prior to the issuance of the first above-grade building permit and indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index and calculated from the date of the City Council decision authorizing the Zoning By-law Amendment;
4. As a condition of Site Plan Approval and prior to the issuance of any foundation permit, the *owner* shall submit a Crane and Construction Structures Plan to the satisfaction of the City in consultation with the Hospital for Sick Children demonstrating that no part of any structure used in conjunction with the construction of the development will interfere with the Obstacle Limitation Surface shown in By-law 1432-2017;
5. As a condition of Site Plan Approval and prior to the issuance of any foundation permit, the *owner* shall demonstrate that the *owner* has entered into an agreement with the Hospital for Sick Children securing compliance with the Crane and Construction Structures Plan;
6. As a condition of Site Plan Approval and prior to the issuance of any foundation permit, the *owner* shall submit an Obstacle Marking and Lighting Plan to the Hospital for Sick Children for review and approval;
7. Prior to the issuance of the Notice of Approval Conditions and as a condition of Site Plan Approval, the *owner* shall be required to provide an updated Hydrological Review to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services in consultation with Toronto Water;
8. If required by the Toronto Transit Commission, prior to the issuance of the Notice of Approval Conditions and as a condition of Site Plan Approval, the *owner* shall be required to complete a Toronto Transit Commission Technical Review with respect to the subway, and obtain the Toronto Transit Commission's written acknowledgment that the *owner* has satisfied all of the conditions arising out of the review;
9. Prior to a demolition permit being issued, the *owner* shall provide final specifications, including drawings, for the dismantling and reconstruction of the property at 352-354 Yonge Street and to provide final project specifications, including drawings for the second-storey panelizing and ground floor dismantling and reconstruction of the

property municipally known as 348-350 Yonge Street, satisfactory to the Senior Manager, Heritage Planning;

10. Prior to a demolition permit being issued, the *owner* shall provide a Letter of Credit in a form and amount satisfactory to the Senior Manager, Heritage Planning to secure the approved dismantling and reconstruction of the property at 352-354 Yonge Street and the second-storey panelizing and ground floor dismantling and reconstruction of the property municipally known as 348-350 Yonge Street;
11. Prior to the release of the Letter of Credit described in 10. above, the *owner* shall provide a certificate of completion prepared by a qualified heritage consultant confirming that the work has been completed in accordance with the approved drawings and specifications to the satisfaction of the Senior Manager, Heritage Planning;
12. As a condition of Site Plan Approval, the *owner* shall submit a Construction Management Plan to the satisfaction of the General Manager, Transportation Services and in consultation with the Ward Councillor. The *owner* shall implement the Construction Management Plan, which shall include the size and location of construction staging areas, dates of significant concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the General Manager, Transportation Services, in consultation with the Ward Councillor, during the course of construction. The *owner* and the City agree that the Ontario Land Tribunal may be spoken to should any issues arise in satisfying this condition;
13. As a condition of Site Plan Approval, the *owner* shall implement wind mitigation measures as part of its application for Site Plan Approval, to the satisfaction of the Chief Planner and Executive Director, City Planning.



Map 1A

Ground to Measured Height of +46.0m

8 Elm St & 348-356 Yonge St &
a portion of 14 Elm St

File #: 16 189782 STE 27 OZ

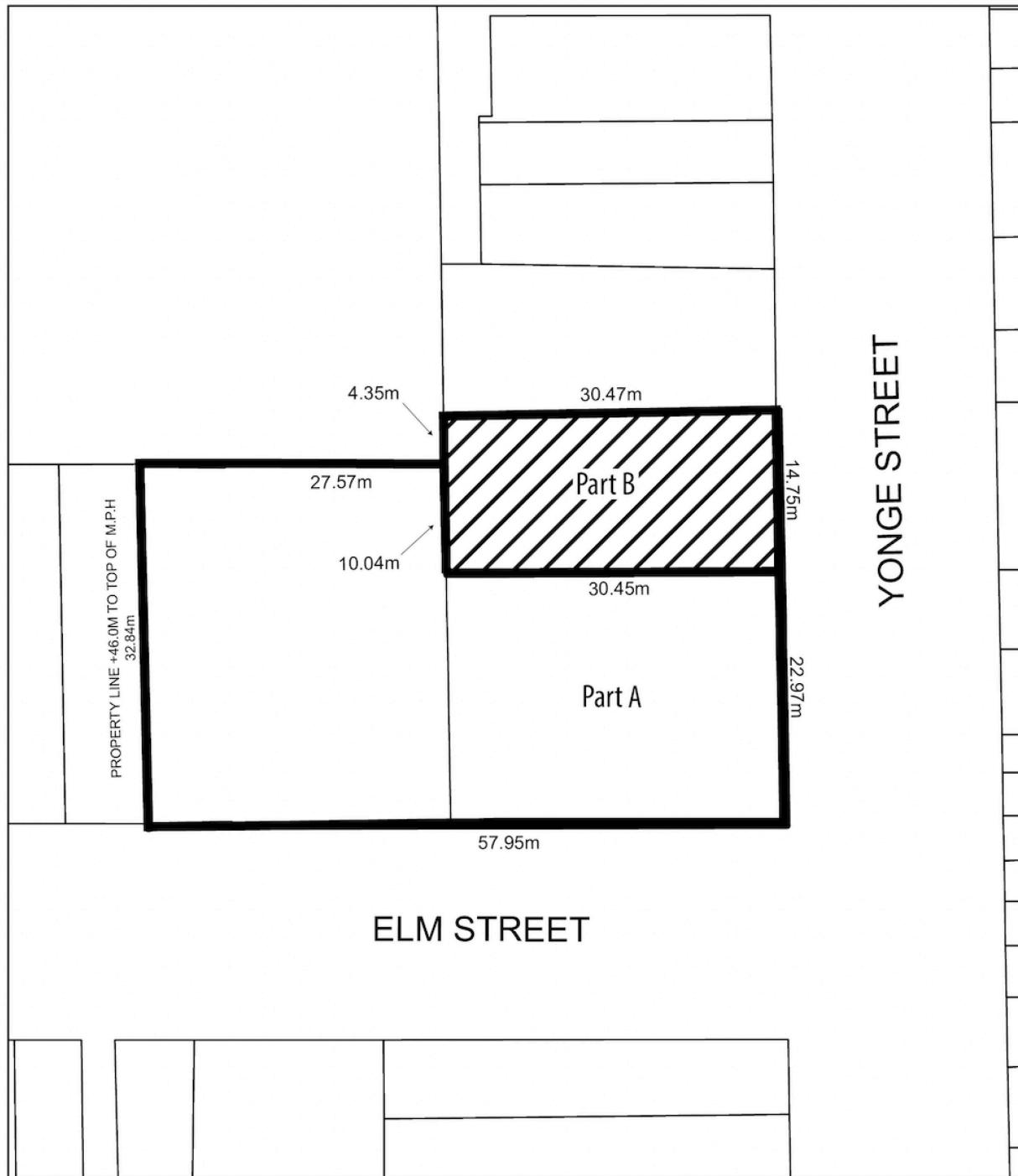


PART A: 8 ELM STREET & 348-354A YONGE STREET



PART B: 356 YONGE STREET





Map 1B

+46.0m to top of M.P.H

8 Elm St & 348-356 Yonge St &
a portion of 14 Elm St

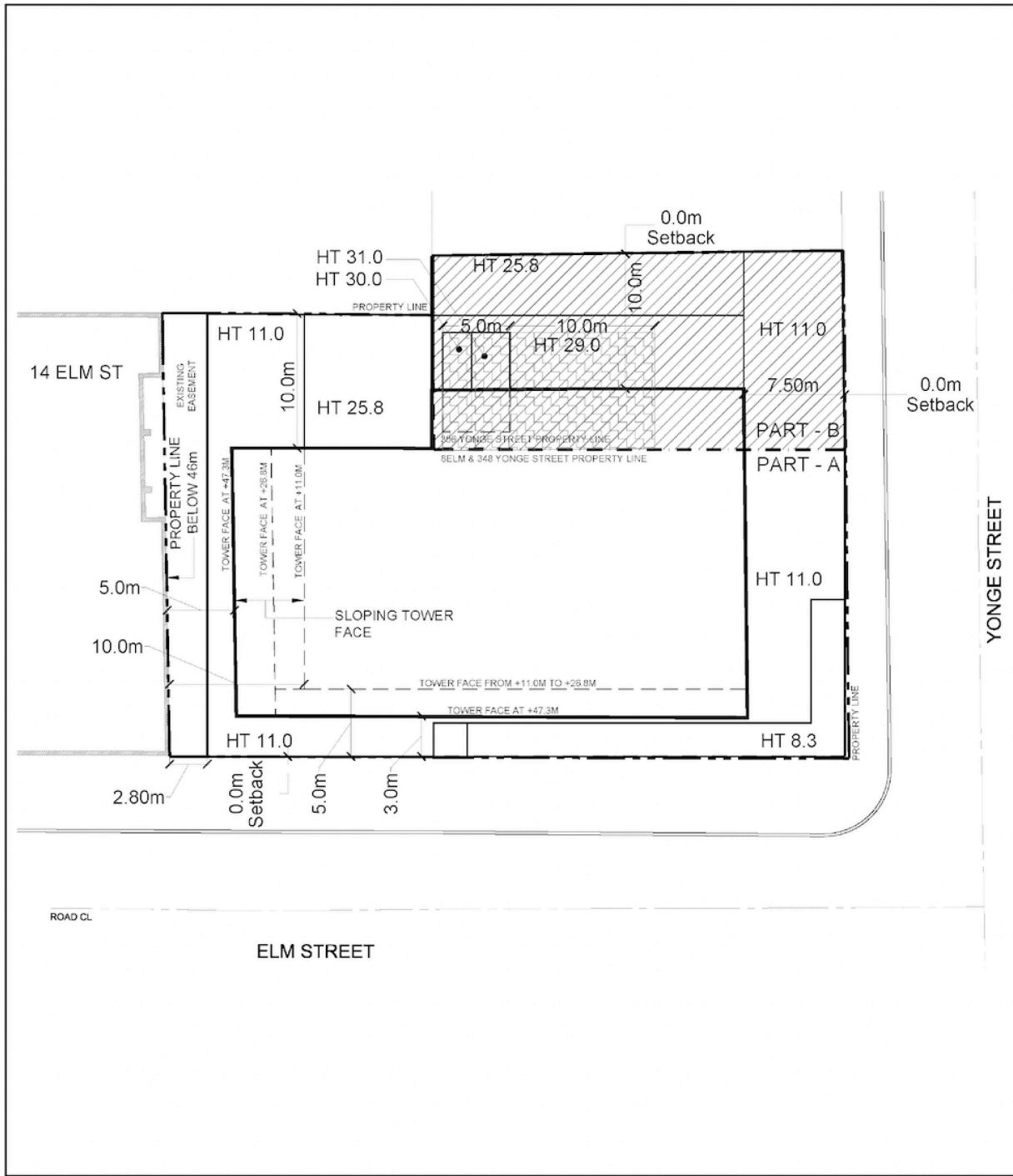
File #: 16 189782 STE 27 0Z



PART A: 8 ELM STREET & 348-354A YONGE STREET



PART B: 356 YONGE STREET



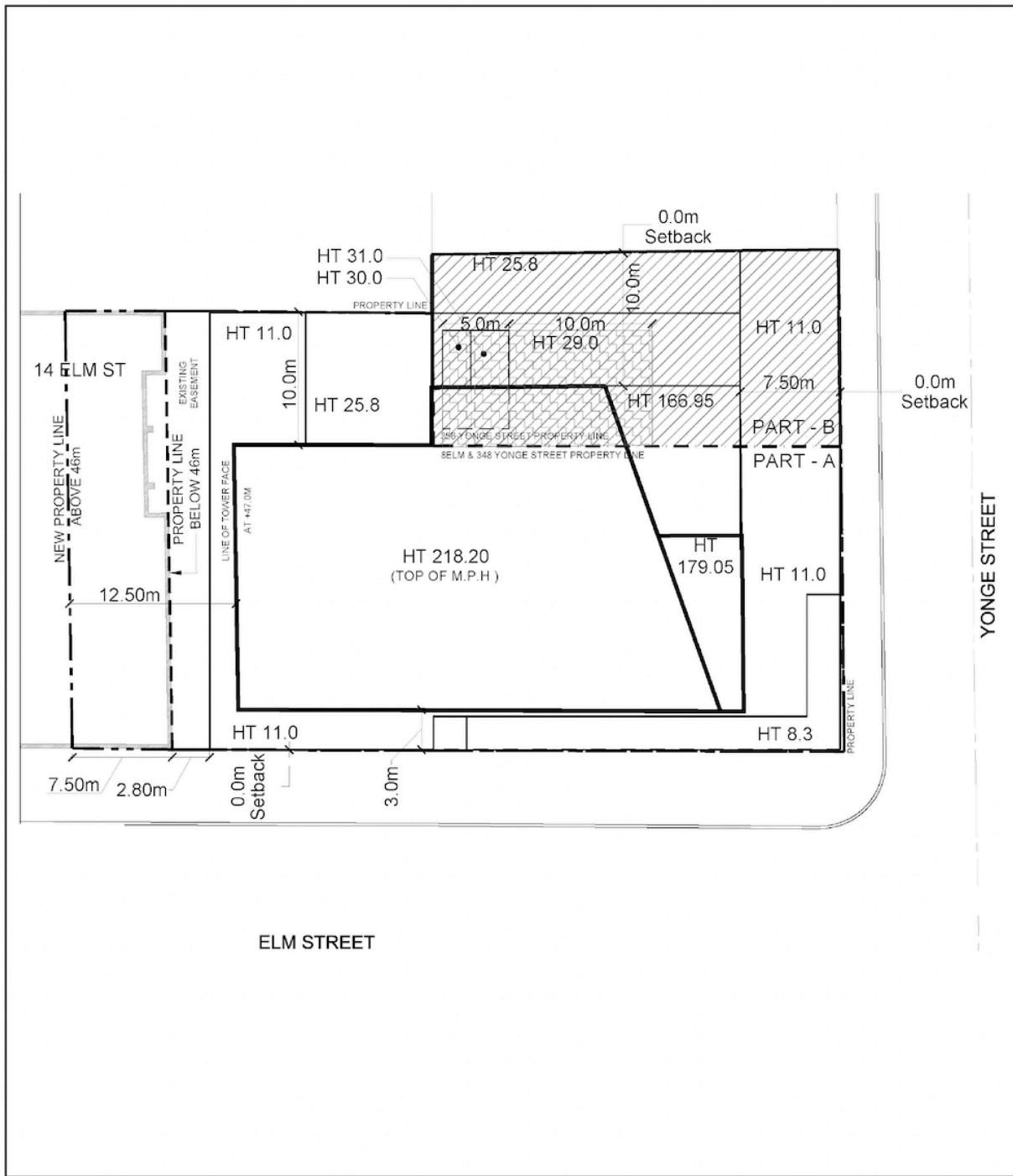
 **TORONTO**
Map 2A
Ground to Measured Height of +46.0m

**8 Elm St & 348-356 Yonge St &
a portion of 14 Elm St**

File #: 16 189782 STE 27 0Z

-  PART - A : 8 ELM ST & 348-354A YONGE ST
-  PART - B : 356 YONGE ST
-  HATCH DENOTES THE AREA
THAT 3.5M SCREEN IS RESTRICTED TO


City of Toronto By-law 438-86
Not to Scale
07/15/2021



Map 2B +46.0m to top of M.P.H

8 Elm St & 348-356 Yonge St &
a portion of 14 Elm St

File #: 16 189782 STE 27 0Z

 PART - A : 8 ELM ST & 348-354A YONGE ST
 PART - B : 356 YONGE ST
 HATCH DENOTES THE AREA
THAT 3.5M SCREEN IS RESTRICTED TO

— - - - Property line above 46m
— - - - Property line below 46m

City of Toronto By-law 438-86
Not to Scale
07/15/2021