

Authority: Ontario Municipal Board Decision issued on December 7, 2017 and Ontario Land Tribunal Order issued on March 31, 2022 in File PL150658

CITY OF TORONTO

BY-LAW 220-2022(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2021 as 328-332 Dupont Street.

Whereas the owner of the lands appealed a proposed zoning by-law amendment to the Ontario Municipal Board (continued as the Local Planning Appeal Tribunal and now as the Ontario Lands Tribunal) pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Ontario Municipal Board Decision, issued on December 7, 2017 and the Ontario Land Tribunal Order, issued on March 31, 2022, in File PL150658 determined to amend By-law 438-86, as amended, with respect to the lands known municipally in the year 2021 as 328-332 Dupont Street; and

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to further amend By-law 438-86, as amended; 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, a by-law under section 34 of the Planning Act, may authorize increases 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 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, and the Ontario Municipal Board on appeal, 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;

The Ontario Land Tribunal Orders:

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 beyond that otherwise permitted on the *lot* is permitted as contemplated herein in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Schedule 1 attached to and forming part of this By-law, 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 of this By-law 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* being the lands delineated by heavy lines on Map 1 attached.
6. Map 50J-311 of By-law 438-86, as amended, is amended to rezone the lands shown on Map 2 attached to and forming part of this By-law from IC D2 N2 to MCR and IC D2.
7. None of the provisions of Section 2(1) with respect to the definitions of "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*commercial parking garage*", "*grade*", "*height*", "*lot*", and "*storey*", and Section 4(2), 4(3), 4(5), 4(8), 4(10), 4(11), 4(12), 4(13), 4(16), 8(3) Part I (1), (2) and (3), 8(3) PART II, 8(3) Part IV (1), 8(3) PART XI (2), 9(1)(a) and (f), 9(3) Part I (2) and (3), 9(3) Part XI (1), 12(2)132, 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* and a *commercial parking garage* provided that:
 - (a) the total combined *residential gross floor area* and *non-residential gross floor area* of buildings and structures on the *lot* shall not exceed 12,000 square metres;
 - (b) the total *residential gross floor area* of buildings and structures shall not exceed 10,400 square metres;

- (c) the total *non-residential gross floor area* of buildings and structures shall not exceed 1,700 square metres;
- (d) the maximum number of *dwelling units* shall be 123;
- (e) a minimum of ten percent (10 percent) of the total number of *dwelling units* shall have three (3) or more *bedrooms*;
- (f) no portion of any building or structure erected above *grade* or used on the *lot*, shall exceed the heights in metres specified by the numbers following the letters "HT" shown on Map 3 attached, with the exception of the following structures and elements:
 - (i) cornices, balustrades, parapets and lighting fixtures to a maximum of 1.5 metres;
 - (ii) planters, roof drainage, fences, partitions dividing outdoor recreation and amenity areas, architectural elements, ornamental elements, landscape elements, privacy screens, privacy walls, wind mitigation measures, noise mitigation measures, guardrails, railings, screens, vents and ventilating equipment, wheelchair ramps and ramps to underground, safety and wind protection/mitigation features, solar panels and equipment, landscape elements, green roof elements, structures used for outside or open-air recreation, chimney stack, exhaust flues, and train derailment mitigation measures, to a maximum of 3.0 metres;
 - (iii) cooling towers, cooling tower perimeter walls, window washing equipment, ladders, lightning rods, stair enclosures, stairs, trellises, garbage chute overruns, mechanical distributions, mechanical equipment, enclosures of mechanical equipment, mechanical penthouse, elevator overrun, elevator access lobby, pool mechanical room, pool storage room, to a maximum of 5.0 metres;
 - (iv) a rooftop pool, pool deck, deck, sloped walkway, mechanical and storage rooms, and an elevator access lobby;
 - (v) pet relief area, watering station, waste station, and furniture; and
 - (vi) train derailment safety walls;
- (g) no portion of any building or structure erected above *grade* or used on the *lot*, shall be erected closer to a *lot* line than the heavy lines indicated on Map 3 attached to and forming part of this By-law, with the exception of the following structures and elements:
 - (i) ventilation shafts, windows sills, cornices, lighting fixtures, ornamental elements, building cladding, landscape elements, flutes, eaves, canopies, awnings, screens, parapets, window sills, railings, guardrails, fences,

- balustrades, retaining walls, planters, trellises, transformer vaults, wheel chair ramps, window washing equipment, air shafts, damper equipment to reduce building movement, wind mitigation measures, noise mitigation measures, and train derailment mitigation measures, train derailment safety wall;
- (ii) terraces, balconies, terrace or balcony platforms, terrace or balcony guards and dividers to a maximum of 1.6 metres; and
 - (iii) despite (g)(ii) above, terraces at the 4th storey and on the roof may project to a maximum of 3.0 metres to the south;
- (h) no portion of any building or structure erected or used on the *lot*, shall exceed the number of *storeys* specified by the numbers preceding the letters "ST" shown on Map 3 attached;
- (i) *dwelling units* and residential balconies, excluding juliet balcony railings and architectural fins, shall be set back a minimum of 20 metres from the north *lot* line;
- (j) within the IC zone, vehicular parking, loading, service, access, storage, bicycle parking, bicycle parking shower and change facilities, and mechanical and electrical facilities accessory to residential uses within the MCR zone are also permitted;
- (k) driveway access/egress, below-grade parking access, below-grade parking garage, loading, vehicular parking, bicycle parking, bicycle parking shower and change facilities, storage rooms, garbage storage, elevators, and mechanical and electrical services required for the building on the *lot* may be provided on the easterly adjacent lands municipally known in the year 2021 as 316-320 Dupont Street, and may be shared with the uses permitted on 316-320 Dupont Street, and, to the extent provided on 316-320 Dupont Street, shall not be required on the *lot*;
- (l) *residential amenity space* shall be provided in accordance with the following:
- (i) a minimum of 0.813 square metres of indoor *residential amenity space* for each unit shall be provided, and is not required to contain a washroom, kitchenette, nor be contiguous to outdoor *residential amenity space*;
 - (ii) a minimum of 1.87 square metres of outdoor *residential amenity space* for each unit shall be provided; and
 - (iii) all *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) 0.3 *parking spaces* for each bachelor *dwelling unit*;

- (ii) 0.5 *parking spaces* for each 1-bedroom *dwelling unit*;
- (iii) 0.8 *parking spaces* for each 2-bedroom *dwelling unit*;
- (iv) 1.0 *parking spaces* for each 3-bedroom *dwelling unit*;
- (v) 0.1 residential visitor *parking spaces* for each *dwelling unit*;
- (vi) for non-residential uses, other than office uses: 1.0 *parking spaces* per 100 square metres of *non-residential gross floor area*;
- (vii) for office uses: 0.35 *parking spaces* per 100 square metres of office *non-residential gross floor area*;
- (viii) 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*;
- (ix) 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 50 dwelling units;
- (x) 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*;
- (xi) a minimum of 4 accessible *parking spaces* shall be provided and maintained on the *lot*, provided that a minimum of an additional 2 accessible *parking spaces* are provided and maintained on the easterly adjacent lands municipally known in the year 2021 as 316-320 Dupont Street; and
- (xii) the accessible *parking spaces* are not required to be the closest *parking spaces* to a barrier free entrance or a passenger elevator;
- (n) a minimum of one shared *loading space - Type "G"/"B"*, and one *loading space - Type "C"* shall be provided and maintained on the *lot* for the shared use by the building on the *lot* and a building on the easterly adjacent lands municipally known in the year 2021 as 316-320 Dupont Street;
- (o) a minimum number of *bicycle parking spaces* shall be provided and maintained 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*;

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- (ii) for *non-residential* uses, other than office 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 gross floor area*;
 - (iii) for office uses: a minimum of 0.2 long-term *bicycle parking spaces* per 100 square metres of office *interior floor area* and 3 short-term *bicycle parking spaces* plus 0.2 short-term *bicycle parking spaces* per 100 square metres of office *interior gross floor area*;
 - (iv) 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;
 - (v) a *bicycle parking space* may be provided in a bicycle rack or stacker;
 - (vi) the short-term *bicycle parking spaces* may be provided off-site on the westerly adjacent lands municipally known in the year 2021 as 344 Dupont Street, in proximity to the shared property line; and
 - (vii) 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 for the purpose of parking and securing bicycles, and:
 - (i) a "*bicycle parking space – occupant*" has a width of at least 0.6 metres by a length of 1.8 metres and a vertical clearance of at least 1.2 metres, or if placed in a vertical position on a wall, a width of at least 0.6 metres by a length of 1.2 metres and vertical clearance of at least 1.9; and
 - (ii) a "*bicycle parking space – visitor*" has a width of at least 0.24 metres by a length of 1.8 metres and a vertical clearance of at least 1.1 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) "*commercial parking garage*" means premises having an area for the parking of one or more vehicles as a principal use and the parking of a vehicle is available for public use with or without a fee;
 - (e) "*grade*" means 121.51 metres Canadian Geodetic Datum measured as an average across the combined front property line of the *lot* and the easterly adjacent lands municipally known in the year 2021 as 316-320 Dupont Street;
 - (f) "*height*" means the vertical distance between *grade* and the highest point of any building or structure;
 - (g) "*interior floor area*" means the floor area of any part of a building, measured to:
 - (i) the interior side of a main wall;
 - (ii) the centreline of an interior wall; or
 - (iii) a line delineating the part being measured;
 - (h) "*lot*" means the parcel of land delineated by heavy lines on Map 1 attached to and forming part of this By-law and known municipally in the year 2021 as 328-332 Dupont Street;
 - (i) "*storey*" means the level of a building above *grade* located between any floor and the floor, ceiling or roof immediately above it, but mezzanines and a portion of a building on the roof top used for elevator access, elevator access lobby, elevated pool and deck, exit corridors, storage rooms and the accommodation and storage of mechanical equipment do not constitute a *storey*; and
 - (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*.
9. Despite any existing or future severance, partition or division of the *lot* as shown on Map 1 attached, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.
10. Within the lands shown on Map 1 attached, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:

- (a) any 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.

Pursuant to Ontario Municipal Board Decision issued on December 7, 2017 and Ontario Land Tribunal Order issued on March 31, 2022 in File PL150658.

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:

Financial Contribution – Affordable Housing

1. Prior to the issuance of the first above-grade building permit (other than building permit for a temporary sales office/pavilion), the owner shall make a cash contribution to the City in the amount of one million dollars (\$1,000,000.00 CAN) toward capital improvements to new and/or existing affordable housing in the vicinity of the *lot*, to be allocated at the discretion of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor, and which amount will be indexed upwardly in accordance with the construction price index calculated from the date of execution of the Section 37 Agreement for the development to the date of payment.
2. In the event that the financial contribution referred to in Clause 1. of this Schedule has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the financial contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the *lot*.

Traffic Signal – Financial Contribution and Design

3. Prior to the issuance of the first above-grade building permit (other than building permit for a temporary sales office/pavilion) and to the satisfaction of the General Manager, Transportation Services, the owner shall make a cash contribution to the City in the amount of two hundred thousand dollars (\$200,000.00 CAN) toward the installation of signalized traffic control at Dupont Street and Kendal Avenue which amount will be indexed upwardly in accordance with the construction price index calculated from the date of execution of the Section 37 Agreement for the development to the date of payment.
4. Prior to issuance of the first building permit and in support of the development, the owner shall, to the satisfaction of the General Manager, Transportation Services, design traffic signal works along the north side of Dupont Street required for the new traffic signal control installation at Dupont Street and Kendal Avenue.

Construction Management Plan

5. Prior to the issuance of the first building permit and in support of the development, the owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager,

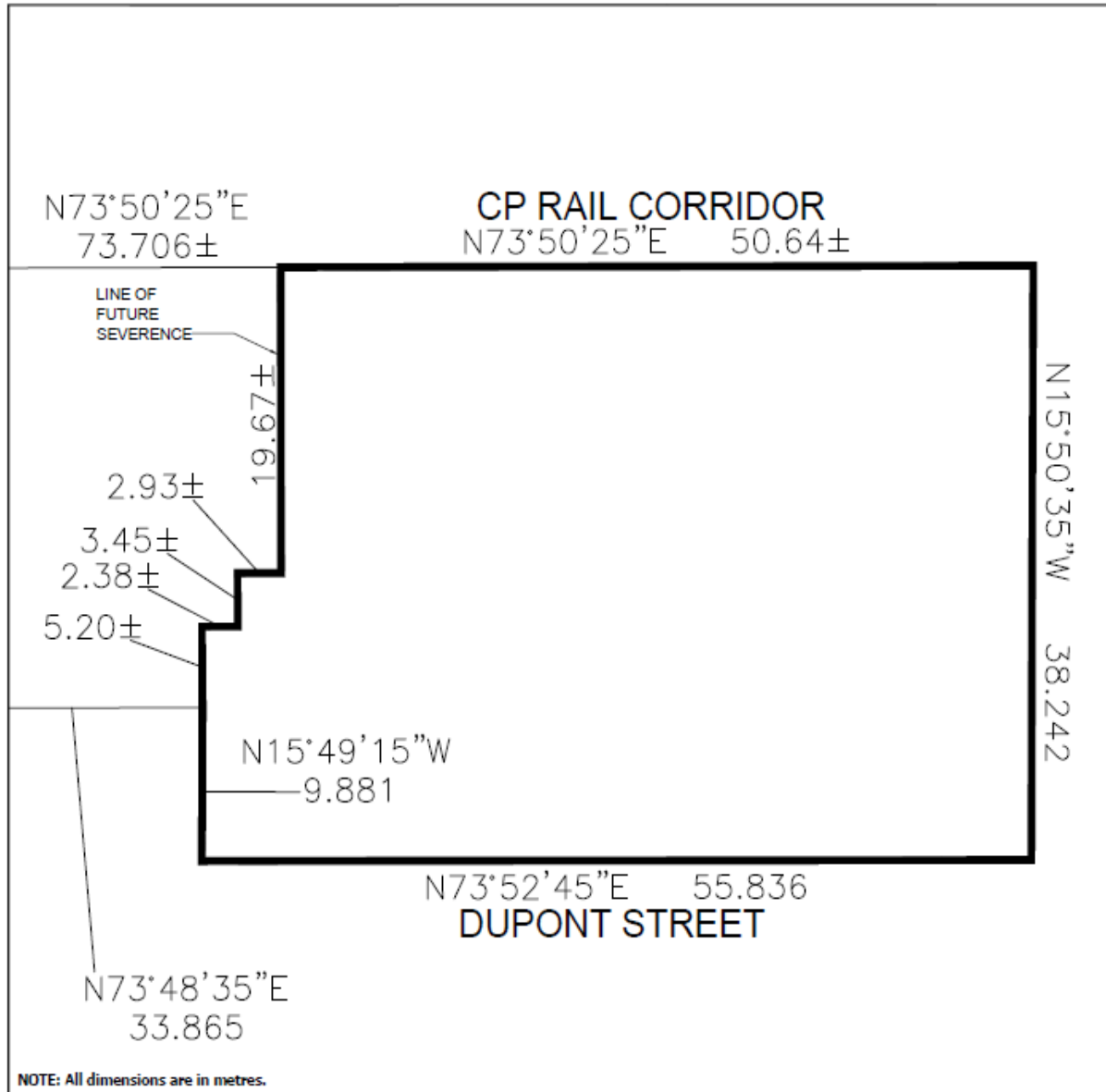
Transportation Services, in consultation with the Ward Councillor and thereafter will satisfactorily implement the plan during the course of construction.

Rail Mitigation Measures

6. As a condition of Site Plan Approval and in support of the development, the owner shall provide, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, detailed drawings which illustrate the proposed rail mitigation measures for the proposed development on the *lot*.

Municipal Infrastructure

7. As a condition of Site Plan Approval and in support of the development, the owner shall make satisfactory arrangements with the Chief Engineer and Executive Director, Engineering and Construction Services, for the design and construction of new municipal infrastructure and/or any improvements or upgrades to the existing municipal infrastructure if determined to be required, including entering into a financially secured agreement therefore.



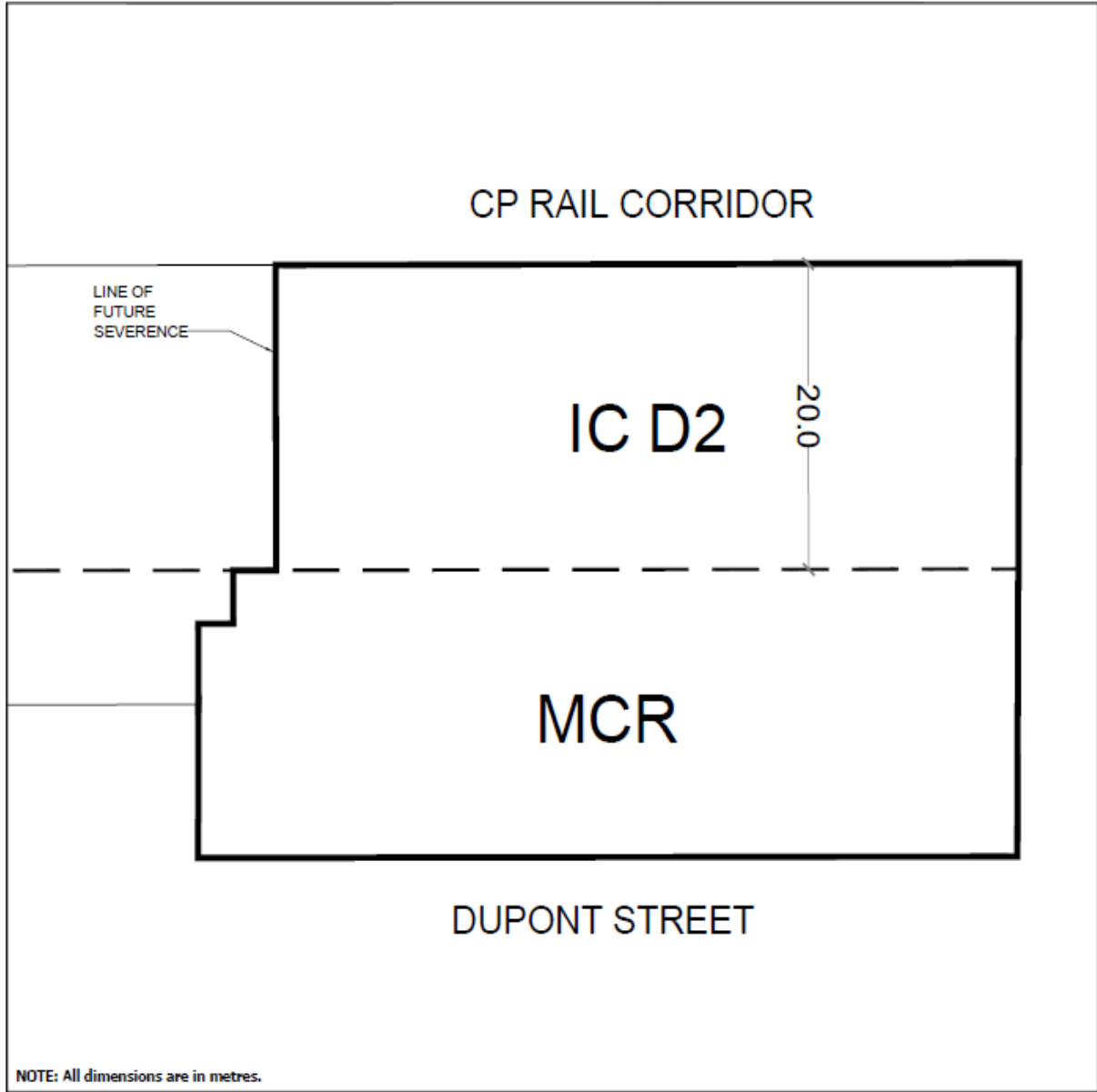
328-332 Dupont Street, Toronto

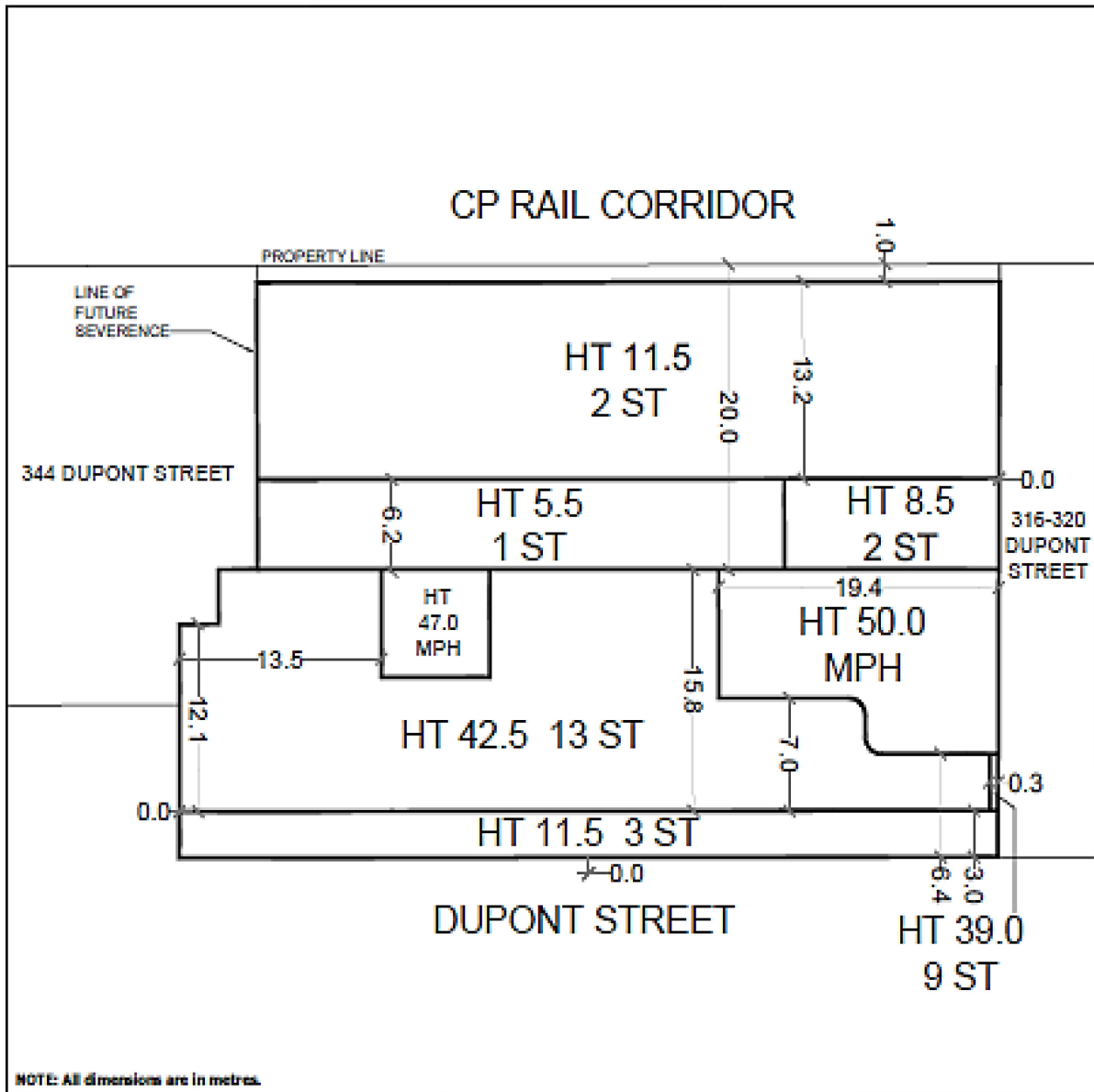
Map 1

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Not to Scale





328-332 Dupont Street, Toronto

Map 3

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Not to Scale