

Authority: Ontario Land Tribunal Decision issued on January 31, 2019 and Ontario Land Tribunal Order issued on August 17, 2022 in File PL170831

CITY OF TORONTO

BY-LAW 1192-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 15 Duncan Street and 150-158 Pearl Street.

Whereas the Ontario Land Tribunal in its Decision issued on January 31, 2019 and Order effective on August 11, 2022 in file PL170831, upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, for the City of Toronto with respect to lands municipally known in the year 2021 as 15 Duncan Street and 150 to 158 Pearl Street; and

Whereas the Official Plan for the 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 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 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 permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, 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, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black

lines from a zone label of CRE (x74) to a zone label of CRE (x28) as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number CRE 28 so that it reads:

(28) Exception CRE 28

The lands or portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 15 Duncan Street and 150 to 158 Pearl Street, if the requirements of By-law 1192-2022(OLT), including Section 6 and Schedule A are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with regulations (B) to (P) below.
- (B) The total **gross floor area** of all **buildings** and **structures** must not exceed 42,550 square metres of which a minimum non-residential **gross floor area** of 3,915 square metres is required;
- (C) A minimum of ten percent of the total number of **dwelling units** must have three or more bedrooms;
- (D) Despite Clauses 50.10.40.70, 50.10.40.71 and 50.10.40.80, and Article 600.10.10, the minimum required **building setbacks** and minimum above-ground distance between **main walls** are shown in metres on Diagram 3, Diagram 4, Diagram 5, Diagram 6, Diagram 7, Diagram 8, and Diagram 9 of By-law 1192-2022(OLT);
- (E) Regulation 50.10.40.1(1) with respect to the first floor elevation does not apply;
- (F) Regulations 50.10.40.1(2) and (4) with respect to **building** orientation to a street do not apply;
- (G) Despite Clause 50.10.40.60 and (D) above, the following **building** elements and **structures** are permitted to encroach into required **building setbacks** shown on Diagram 3, Diagram 4, Diagram 5, Diagram 6, Diagram 7, Diagram 8, and Diagram 9 of By-law 1192-2022(OLT):
 - (i) Public art, landscape features, wheel chair ramps, light fixtures, stairs and stair enclosures, guardrails, bollards, awnings, canopies, railings, fences, vents, shafts, stacks, chimneys, roof drainage, roof ballast and thermal insulation, waterproofing, satellite dishes, retaining walls, underground garage ramp and its associated **structures**, and window washing equipment;
 - (ii) Eaves, cornices and window sills to a maximum of 0.5 metres;

- (iii) Architectural elements to a maximum of 0.5 metres;
 - (iv) Eaves, cornices, window sills and architectural elements to a maximum of 1.85 metres beyond the southerly **main wall** of the **building**, provided they are not located within areas that do not permit balconies as identified on Diagram 6, Diagram 7, Diagram 8, and Diagram 9;
 - (v) Balconies to a maximum of 2.0 metres, provided such balconies are not located within areas that do not permit balconies as identified on Diagram 6, Diagram 7, Diagram 8, and Diagram 9; and
 - (vi) Exterior **building** support columns that are located within the area identified as "HT 180.0" on Diagram 3, despite any requirements relating to the cantilevering of portions of the **building**;
- (H) Clauses 50.10.40.30 and 50.10.40.31 with respect to building depth do not apply;
- (I) Despite Regulations 50.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 86.44 metres and the elevation of the highest point of the **building** or **structure**;
- (J) Despite Regulations 50.10.40.10(1), (2) and (3), the permitted maximum height of a **building** or **structure** is the number in metres following the letters "HT" as shown on Diagram 3 of By-law 1192-2022(OLT);
- (K) Despite Regulations 50.5.40.10(3), (4), (5), (6) and (7), and (J) above, the following **building** elements and **structures** are permitted to project above the heights shown on Diagram 3 of By-law 1192-2022(OLT);
- (i) the **structures**, elements and enclosures permitted by (G) above;
 - (ii) Parapet walls provided the maximum height of such elements is no higher than 2.0 metres above the height limits shown on Diagram 3;
 - (iii) Privacy screens provided the maximum height of such elements is no higher than 3.0 metres above the height limits shown on Diagram 3;
 - (iv) **Structures** used for outside or open air recreation, safety or wind protection purposes, provided the height of such elements is no higher than 3.4 metres above the height limits shown on Diagram 3;
 - (v) Elements associated with a **green roof**, provided the height of such elements is no higher than 3.0 metres above the height limits shown on Diagram 3;
 - (vi) Despite (G) or (K) (i), (ii), (iii), (iv) and (v) above, nothing is permitted to project above the area identified as "HT 180.0" on Diagram 3;

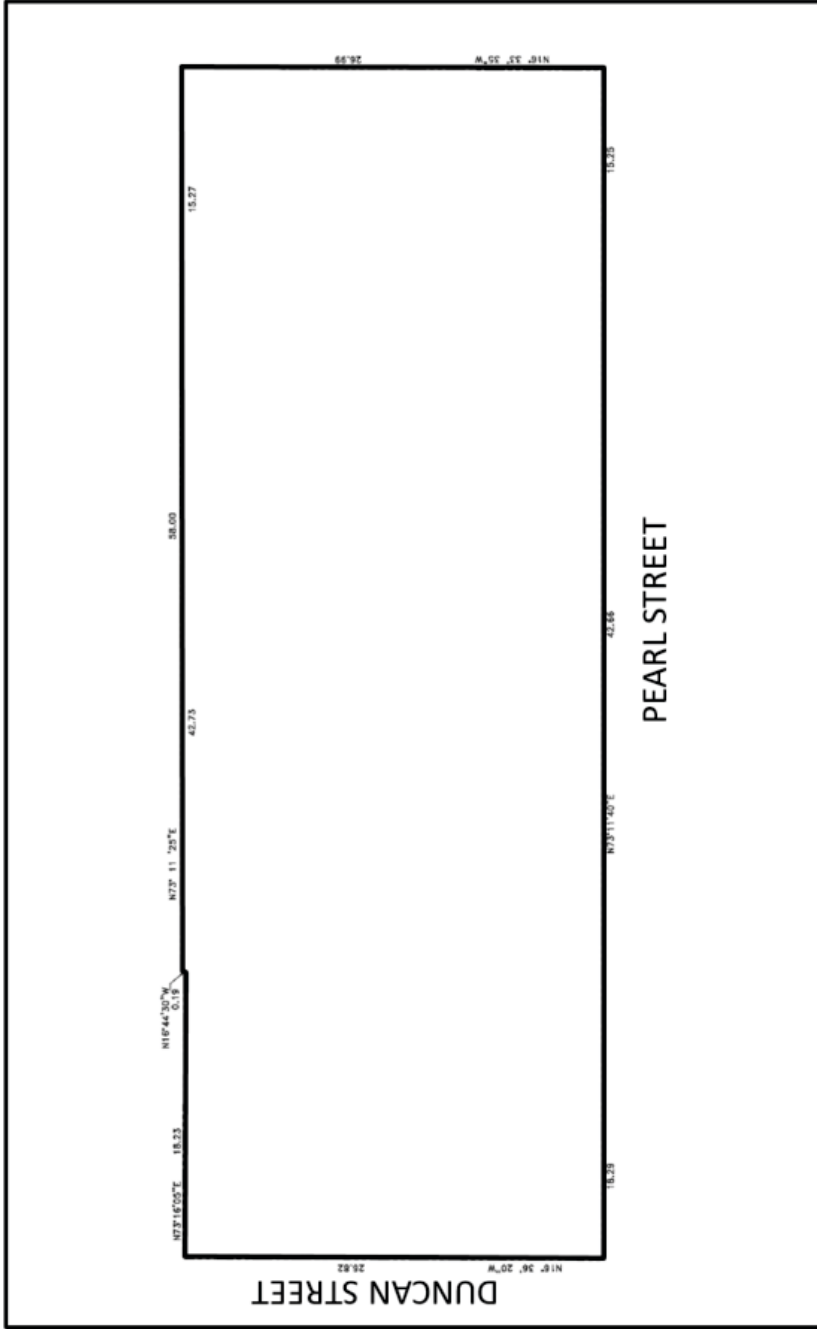
- (vii) Despite (K)(vi) above, within the area identified as "HT 180.0" on Diagram 3, chimneys, pipes and vents are permitted to project above a height of 180.0 metres, provided the maximum height of such elements is no higher than 3.0 metres; and
- (viii) Despite (K)(vi) above, for that portion of the **building** or **structure** identified as "Elevator Machine Room" on Diagram 3, elevator overruns and associated machine rooms for such elevator overruns, service rooms, and emergency exiting stairs, are permitted to project above a height of 180.0 metres, provided the height of these elements does not exceed the permitted maximum height by more than 7.0 metres, and that the total area of all such elements must not exceed an area of 150 square metres, measured horizontally;
- (L) Despite Regulation 50.10.40.50(1) **amenity space** must be provided on the lands for the use of residents of the **building** in accordance with the following:
 - (i) A minimum of 2.0 square metres of indoor **amenity space** per **dwelling unit** must be provided; and
 - (ii) A minimum of 1.3 square metres of outdoor **amenity space** per **dwelling unit** must be provided;
- (M) Despite Clause 200.5.10.1 and Article 200.20.10, **parking spaces** must be provided in accordance with the following:
 - (i) a minimum of 0.2 residential occupant **parking spaces** for each **dwelling unit**;
 - (ii) a minimum of 0.25 **parking spaces** for each 100 square metres of non-residential **gross floor area**; and
 - (iii) Despite regulation 200.5.1.10(12)(C), the **vehicle** entrance or exit to the **building** must be at least 3.0 metres from the **lot line** abutting the **street**;
- (N) Despite Regulation 200.5.10.1(1), and (M) above, "car-share parking spaces" may replace **parking spaces** otherwise required for residential occupants, subject to the following:
 - (i) a reduction of 4 residential occupant **parking spaces** will be permitted for each "car-share parking space" provided, and that the maximum reduction permitted be 16 residential occupant **parking spaces**;
 - (ii) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor vehicles and such "car-share" motor vehicles are made available to at least the occupants of the building for short-term rental, including hourly rental; and

- (iii) for the purpose of this exception, "car-share parking space" means a parking space exclusively reserved and signed for a vehicle used only for "car-share" purposes;
- (O) Despite Clauses 220.5.10.1 and 50.10.90.40, a minimum of one **loading space** – Type "G" and one **loading space** – Type "C" must be provided on the lands in accordance with the requirements of Regulations 220.5.1.10(5), (6) and (8), and 220.5.20.1;
- (P) Despite Regulations 230.5.1.10(10) and 230.50.1.20(1), "short term" **bicycle parking spaces** may be located in a **stacked bicycle parking space**.

Prevailing By-laws and Prevailing Sections: (None Apply)

- 5. Despite any future severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 6. Section 37 Provisions:
 - (A) Pursuant to Section 37 of the Planning Act, , as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, C.18, as amended, came into force, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 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 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 upon 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 unless all applicable provisions of Schedule A are satisfied.

Ontario Land Tribunal Decision issued on January 31, 2019 and Ontario Land Tribunal Order issued on August 17, 2022 in File PL170831.



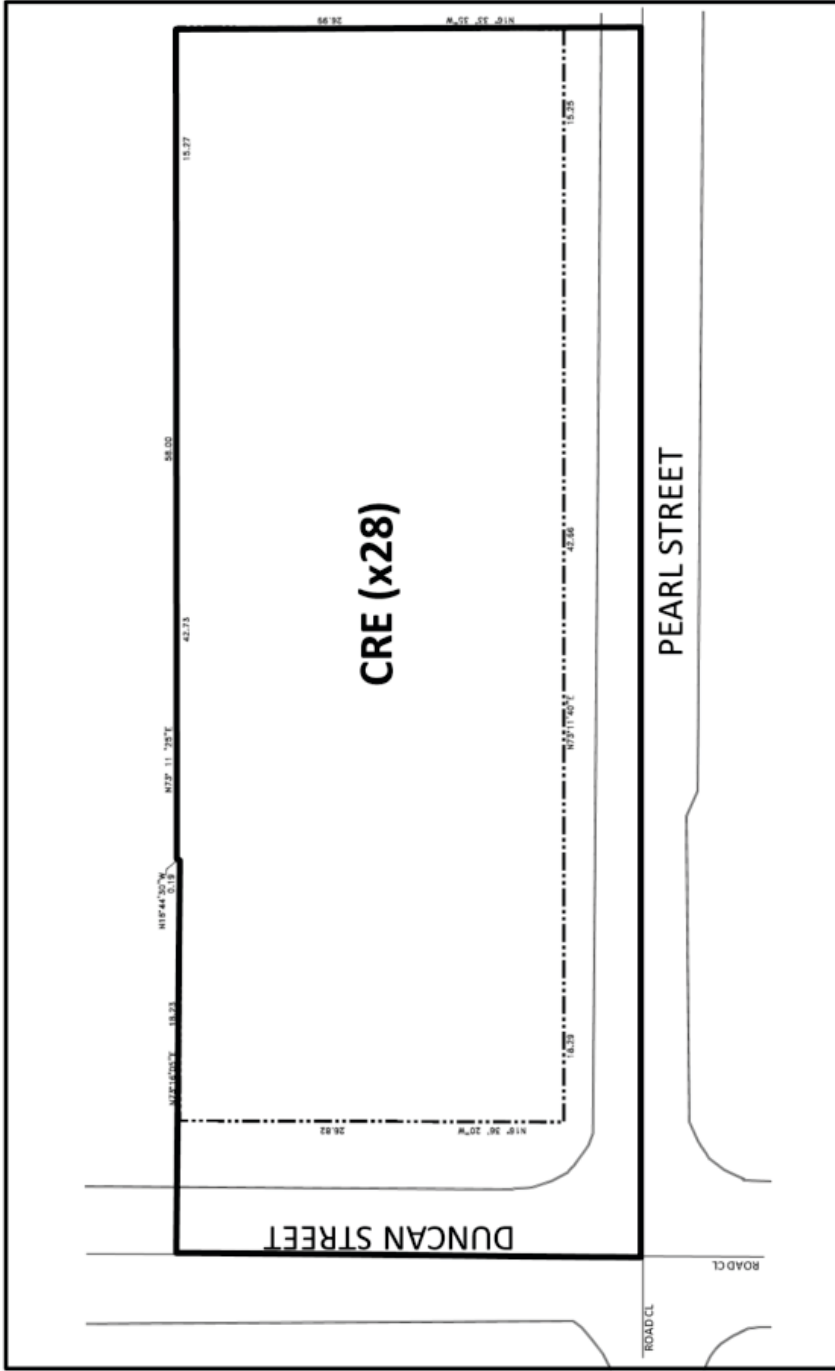
15 Duncan Street, 150-158 Pearl Street

File # 16 269407 STE 20 OZ



Not to Scale

Diagram 1



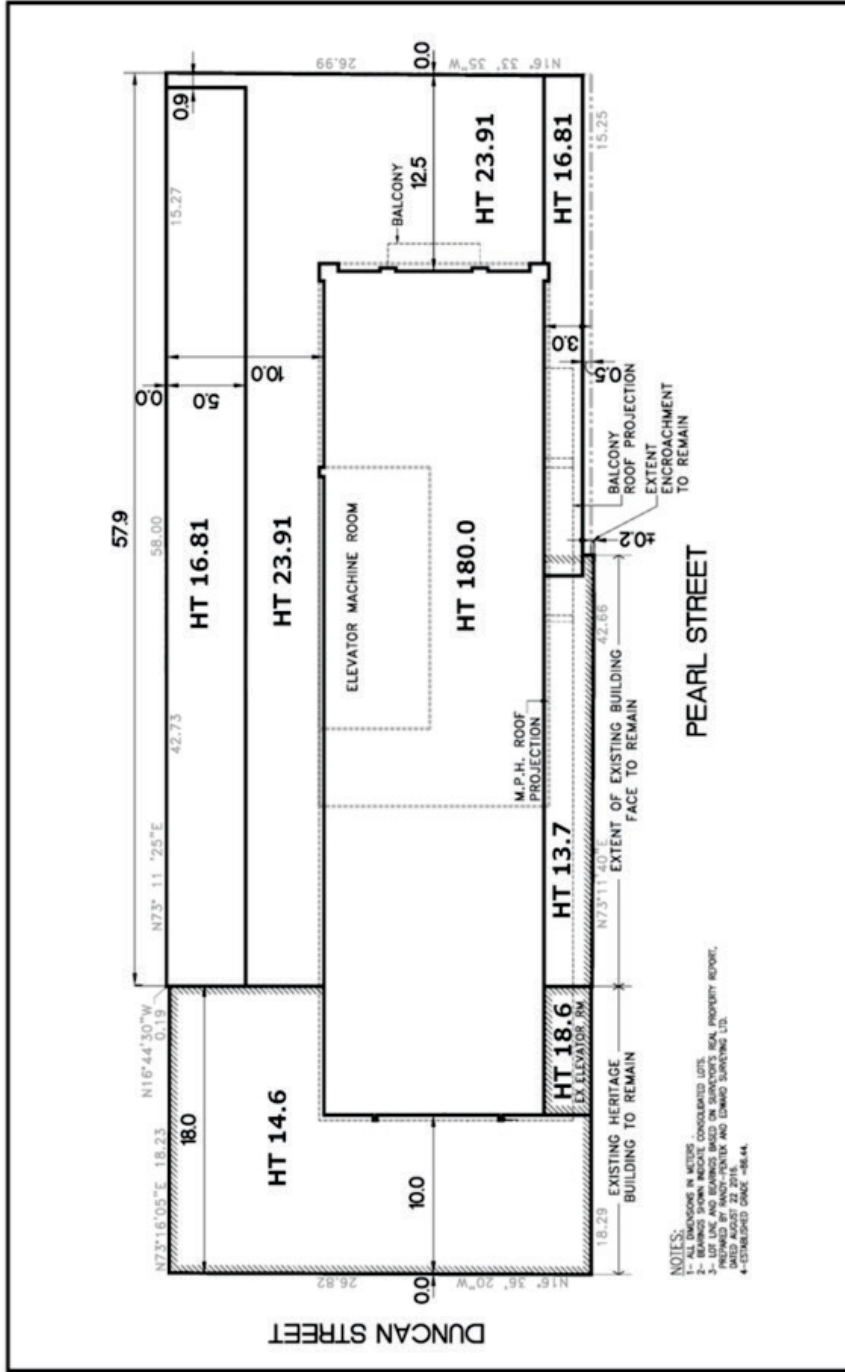
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Diagram 2





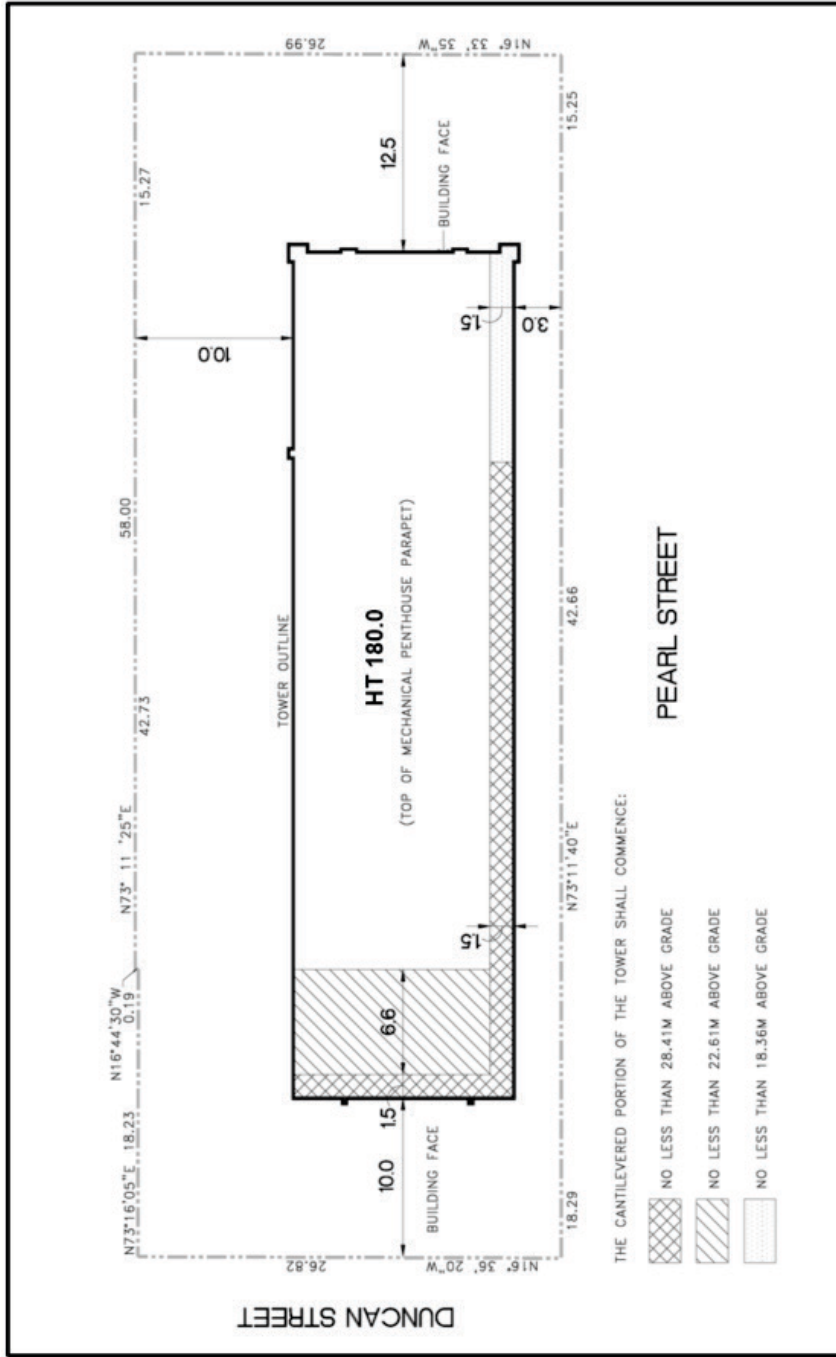
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Diagram 3

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15 Duncan Street, 150-158 Pearl Street

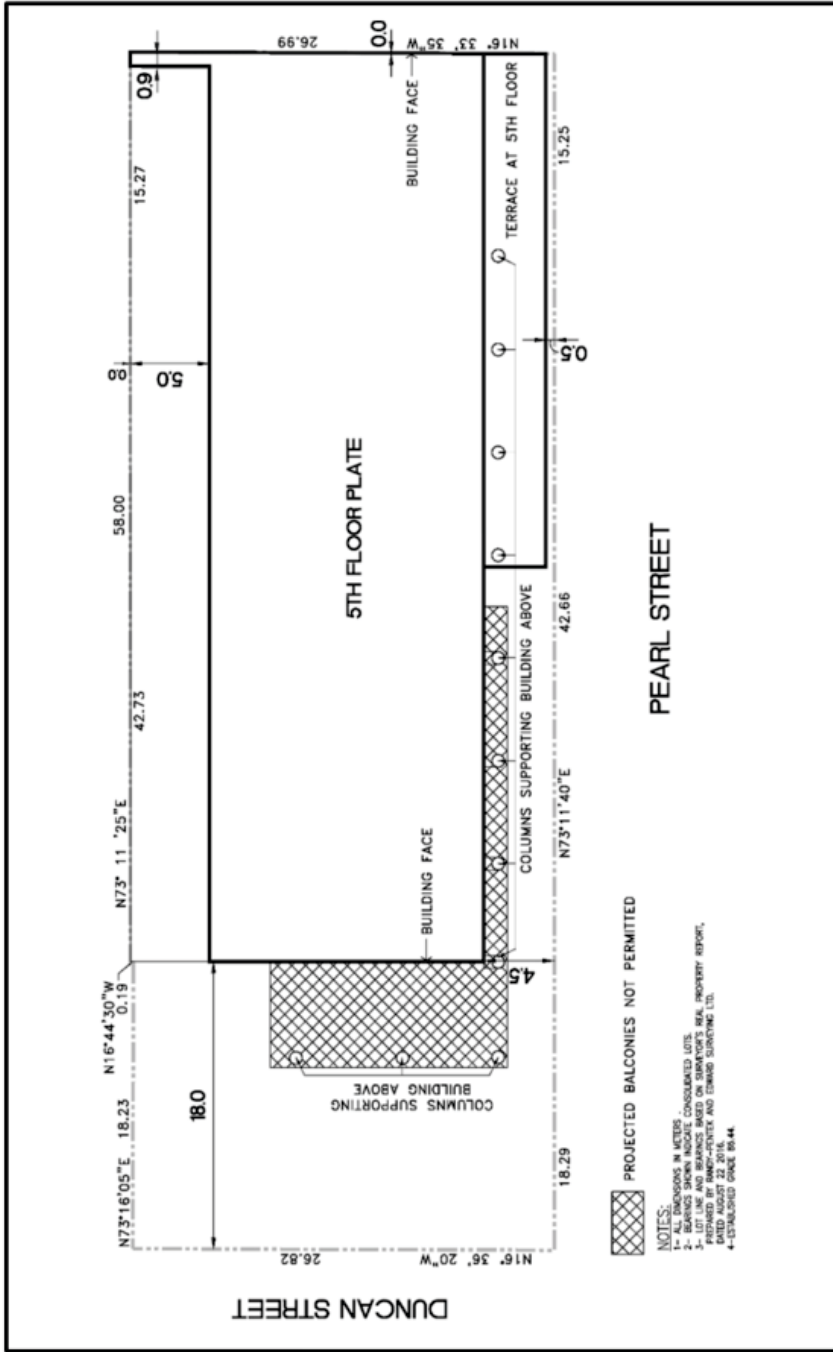
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Diagram 5



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15 Duncan Street, 150-158 Pearl Street

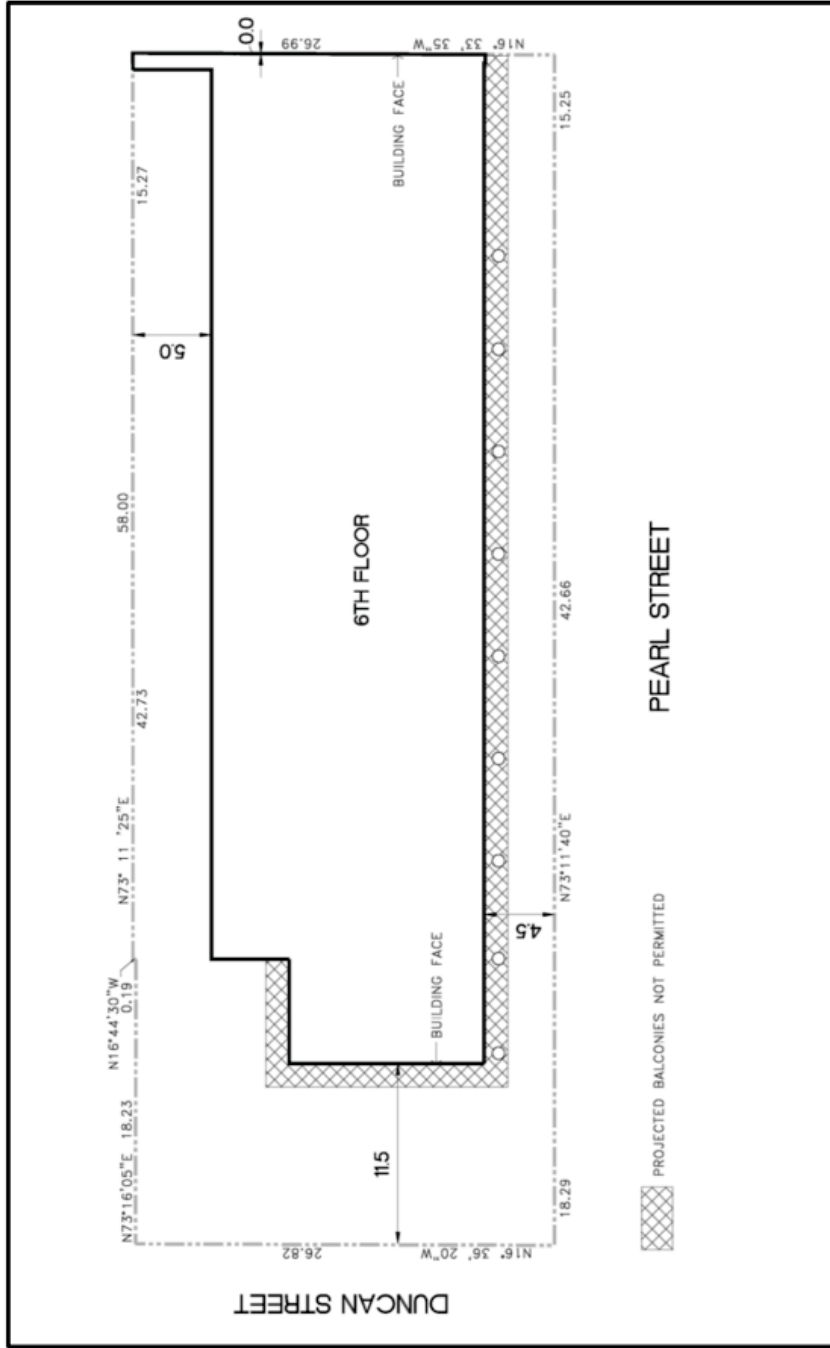
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Diagram 6



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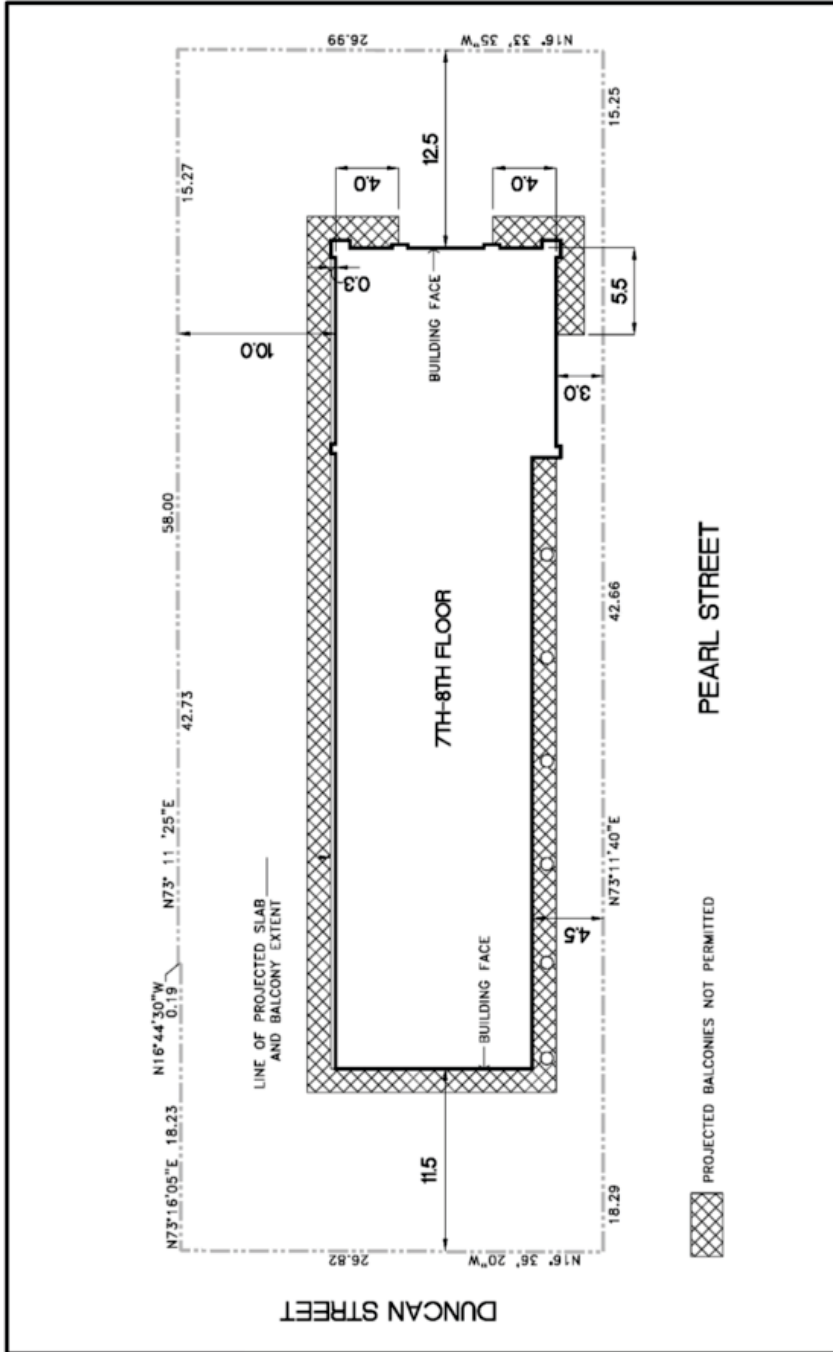
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Diagram 7



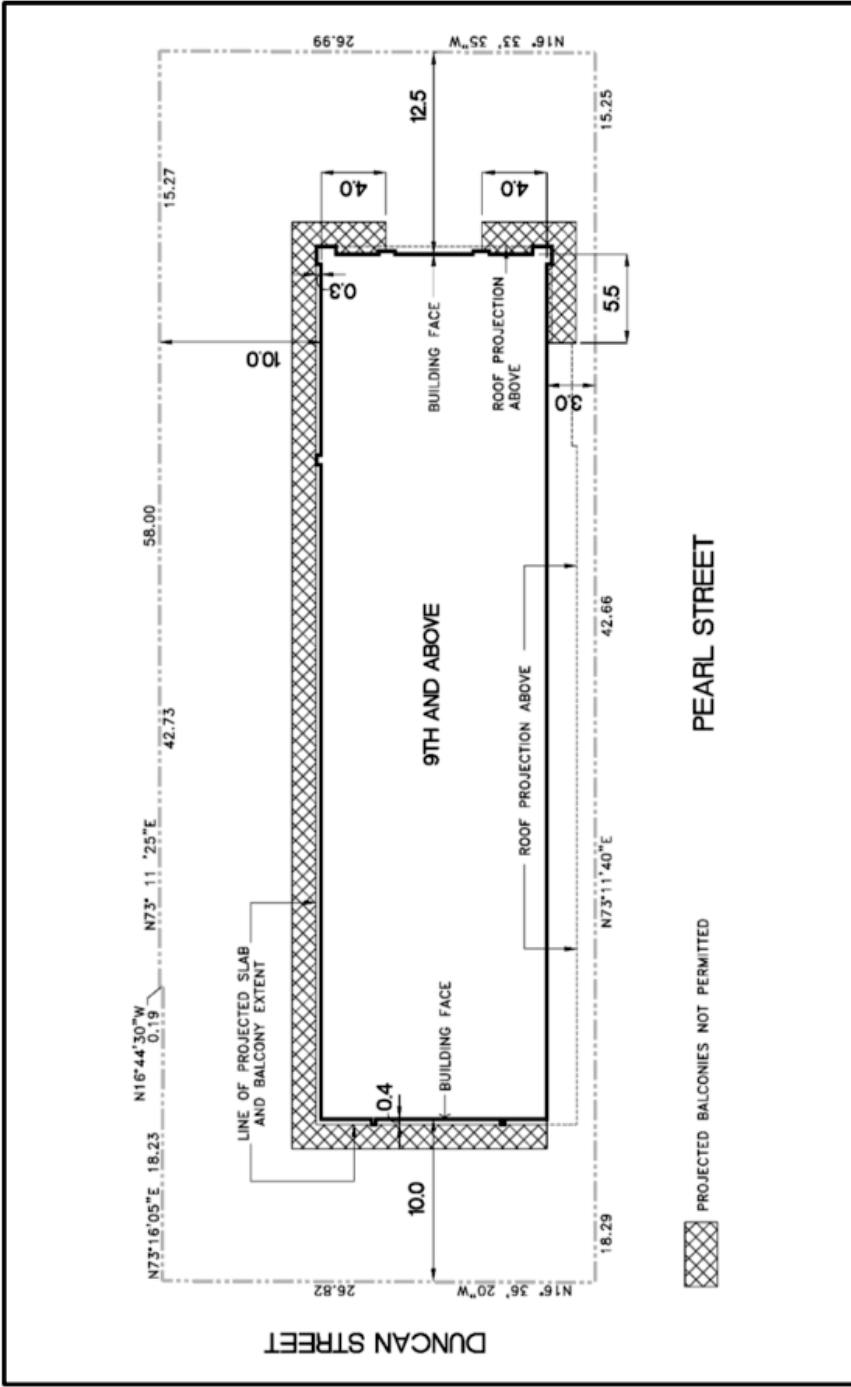
15 Duncan Street, 150-158 Pearl Street

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Diagram 8



15 Duncan Street, 150-158 Pearl Street

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Diagram 9



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 shown in Diagram 1 in this By-law. Prior to the issuance of any **building** permit, the owner shall enter into an agreement, on such terms and conditions, including upwards indexing, securities, details and requirements, and register such agreement on title to the lands, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the Planning Act, as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, C.18, as amended, came into force, (the "**Section 37 Agreement**") to secure the community benefits and matters required to support the development below, whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade **building** permit for all or part of the lot, the owner shall pay to the City the sum of \$4,175,000, to be allocated as follows:
 - (A) \$1,900,000 for streetscape improvements to Pearl Street, Duncan Street and/or John Street, of which up to \$1,000,000 may be spent on the John Street Cultural Corridor project;
 - (B) \$800,000 for Community Services and Facilities contribution within or serving the King–Spadina neighbourhood, including those identified within the Downtown Community Services and Facilities Strategy and through the John Street Precinct Plan process;
 - (C) \$975,000 for the provision of new affordable rental housing units in the Alexandra Park Revitalization project, and
 - (D) \$500,000 for the provision of arts and cultural spaces in the King-Spadina neighbourhood.
2. The payments required in item 1 above shall be increased by upwards indexing in accordance with the Construction Price Index, calculated from the date of the Ontario Land Tribunal decision to the date of payment.
3. In the event that the cash contribution has not been used for the intended purposes within three (3) years after the date the Amending By-law comes into full force and effect, the cash contribution may be redirected for another purpose or purposes, at the discretion of the Chief Planner in consultation with the Ward Councillor, provided that the purpose or purposes are identified in the Official Plan and will benefit the community in the vicinity of the lands.
4. The owner shall provide a minimum of 10 percent of the residential dwelling units within the development to be three-bedroom dwelling units.
5. The owner shall make satisfactory arrangements with the Executive Director, Engineering and Construction Services to design, financially secure, pay for, construct

and make operational any upgrades and improvements to the municipal infrastructure, should it be determined that upgrades and/or improvements are required to the infrastructure to support this development, in accordance with the functional servicing and stormwater management report(s) and the hydrogeology assessment and the geotechnical report, all as accepted by the Chief Engineer and Executive Director, Engineering and Construction Services.

6. Prior to Final Site Plan approval in connection with the Zoning By-law Amendment for the property at 15 Duncan Street and 150-158 Pearl Street, the owner shall:
 - (A) provide final site plan drawings related to the approved Conservation Plan, to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning;
 - (B) provide an Interpretation Plan for the subject properties, including reference to Upper Canada College formerly situated on the site, to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning and afterward, shall implement such Plan to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning;
 - (C) provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning;
 - (D) provide a detailed Landscape Plan for the subject property satisfactory to the Senior Manager, Urban Design/Heritage, City Planning;
 - (E) submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning;
 - (F) 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 this property; and
 - (G) The owner shall submit a Wind Study for the proposed development and thereafter shall implement the necessary mitigation measures, to all the satisfaction of the Chief Planner and Executive Director, City Planning.

7. Prior to the issuance of any permit for all or any part of the properties at 15 Duncan Street and 158 Pearl Street, including a heritage permit or a building permit but excluding permits for repairs, maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Urban Design/Heritage, City Planning, the owner shall:
 - (A) obtain final approval for the necessary zoning by-law amendments required for the alterations to the properties at 15 Duncan Street and 158 Pearl Street, such amendments to have been enacted by City Council in connection with a Ontario Land Tribunal Order, and to have come into effect in a form and with content acceptable to City Council as determined by the Director, Urban Design, City

Planning, in consultation with the Senior Manager, Urban Design/Heritage, City Planning;

- (B) provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning;
 - (C) provide a Letter of Credit, including provisions for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Urban Design/Heritage, City Planning, to secure all work included in the approved Conservation Plan, Heritage Lighting Plan, Landscape Plan and Interpretation Plan;
 - (D) prior to the release of the Letter of Credit required in Clause 7.(C) above, the owner shall:
 - (i) provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work, required heritage lighting work, and the required interpretive work has been completed in accordance with the Conservation Plan, Lighting Plan, Landscape Plan and Interpretation Plan and that the appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning; and
 - (ii) provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Urban Design/Heritage, City Planning.
8. The owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services and the Chief Building Official, 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, but not be limited to, details regarding size and location of construction staging areas, dates of 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 matter deemed necessary.
9. The owner shall provide any necessary modifications to the functional servicing and stormwater management report(s), to the satisfaction of the Executive Director, Engineering and Construction Services.
10. The owner shall provide any necessary modifications to the hydrogeology assessment, geotechnical report and associated municipal servicing plans, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.