

345, 347 and 349 Carlaw Avenue - Zoning Amendment Application – Supplementary Report

Date:	October 5, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 30 – Toronto-Danforth
Reference Number:	11 235789 STE 30 OZ

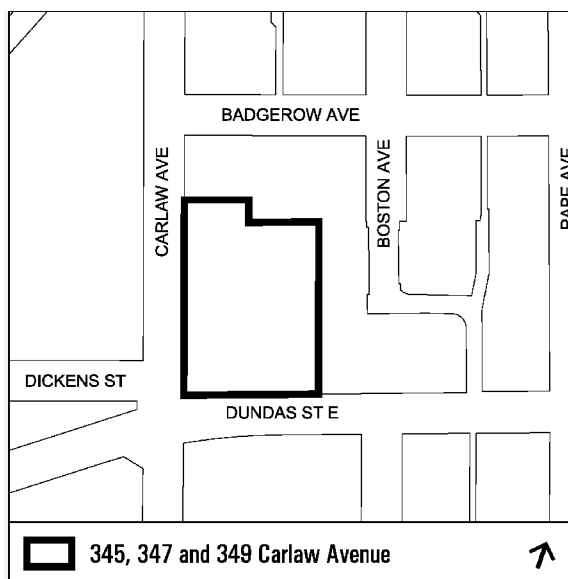
SUMMARY

This supplementary report replaces certain recommendations to the September 21, 2012 report to change the timing for the Section 37 letter of credit requirement and makes minor revisions to the wording of the recommendations relating to the Section 37 requirements. In addition, the draft Zoning By-law is included in this supplementary report as Attachment 1.

RECOMMENDATIONS

The City Planning Division recommends that:

1. Recommendation 1 of the report from the Director, Community Planning, Toronto and East York District (dated September 21, 2012), headed "345, 347 and 349 Carlaw Avenue- Zoning Amendment Application – Final Report" be replaced with the following:
 - "1. City Council amend the City of Toronto Zoning By-law 438-86 for the lands at 345, 347 and 349 Carlaw Avenue substantially in accordance



with the draft Zoning By-law Amendment attached as Attachment 1 of the report from the Director, Community Planning, Toronto and East York District (October 5, 2012) headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application - Supplementary Report".

2. Recommendations 3, 4 and 5 of the report from the Director, Community Planning, Toronto and East York District (dated September 21, 2012), headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application – Final Report" be replaced with the following:
 - "3. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into an Agreement pursuant to Section 37 of the Planning Act, satisfactory to the City Solicitor, to secure the following:
 - a. The conveyance, at no cost, of not less than 450 square metres of non- residential gross floor area to a non-profit arts and culture organization acceptable to the Executive Director, Economic Development and Culture Division or, where the conveyance is not able to be completed as contemplated on terms specified in the Section 37 Agreement, and in the alternative, the payment of a cash contribution in the amount of \$1,150,000.00 to the City to be applied at the discretion of the Chief Planner and Executive Director of City Planning in consultation with the Ward Councillor, that will be directed to community services and facilities or parkland/open space and or streetscape improvements in the Dundas Street and Carlaw Avenue community within Ward 30;
 - b. The non-residential gross floor area referred to in Recommendation 3 a. shall be separately conveyable and finished to a reasonable shell base standard for the intended use to the satisfaction of the Chief Planner and Executive Director, City Planning and including available connection to functioning electrical, plumbing and HVAC systems;
 - c. An Agreement of Purchase and Sale shall be entered into with the accepted non-profit arts and culture organization in respect of the conveyance referred to in Recommendation 3 a. prior to the earlier of October 1, 2013 and issuance of a first above grade building permit for any building or structure within the development and shall include the City of Toronto as a party to the satisfaction of the City Solicitor;
 - d. A provision allowing the Agreement of Purchase and Sale to be extended as applicable and be assignable by the City as determined

by the Executive Director, Economic Development and Culture Division, in consultation with the Chief Planner and Executive Director of City Planning; and

- e. Prior to registration of a plan of condominium for any building or structure within the proposed development, the owner shall post a letter of credit in a form satisfactory to the City Treasurer in the amount of \$1,150,000.00 to secure the conveyance of the non-residential gross floor area or the alternative cash contribution as contemplated in Recommendation 3 a.
4. City Council authorize the City to be a party to the Agreement of Purchase and Sale referred to in Recommendation 3c. with rights to direct assignment of the Agreement of Purchase and Sale to another non-profit arts and culture organization acceptable to the Executive Director Economic Development and Culture Division, if required, in order to ensure the benefit of the gross floor area to be conveyed is secured for the intended purpose as set out in the report from the Director, Community Planning, Toronto and East York District (dated September 21 2012), headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application – Final Report".
5. City Council authorize and direct the appropriate City Officials to take the necessary action to give effect to the foregoing, including the specific actions set out in "Council Authorities to implement Matters Pursuant to the Section 37 Agreement" as Attachment 2 to the report from the Director, Community Planning, Toronto and East York District (October 5, 2012) headed "345, 347 and 349 Carlaw Avenue - Zoning Amendment Application – Supplementary Report".
3. Attachment 4, of the report from the Director, Community Planning, Toronto and East York District (September 21, 2012), headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application – Final Report" entitled "Attachment 4: Council Authority to Implement Matters Pursuant to the Section 37 Agreement", be replaced with Attachment 2, of the report from the Director, Community Planning, Toronto and East York District (October 5, 2012) headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application - Supplementary Report" entitled "Attachment 2: Council Authority to Implement Matters Pursuant to the Section 37 Agreement".
4. City Council request that the General Manager, Transportation Services examine and report back to Toronto and East York Community Council in the first half of 2013 regarding the realignment of permit parking area 8C, and the exclusion of the subject site from the permit parking area.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

A final report dated September 21, 2012 was submitted for the October 10, 2012 Community Council agenda. The report indicated that the draft Zoning By-law Amendment would be submitted prior to the October 10, 2012 meeting of the Community Council. This supplementary report includes a draft Zoning By-law Amendment as well as revised recommendations to change the timing for posting of financial securities and other modifications to clarify the intended community benefit objectives.

COMMENTS

Draft Zoning By-law Amendment

The submission of the draft Zoning By-law Amendment was delayed to finalize details primarily with respect to the Section 37 provisions and structure of the proposed conveyance of space to a non-profit arts and culture organization and alternative cash contribution. The draft amendment is attached as Attachment 1.

Section 37

Recommendation 3.d. in the report from the Director, Community Planning, Toronto and East York District, dated September 21, 2012 requires that the letter of credit be posted prior to issuance of the first above-grade building permit. The applicant requested that this requirement be changed to require that the letter of credit be posted prior to condominium registration. Staff have consulted with City Legal and have no objections to this request.

After further consultation with City Legal, minor revisions have been made to the Recommendations 3, 4, 5, and "Attachment 4 – Council Authority to Implement Matters Pursuant to the Section 37 Agreement" in the September 21, 2012 report with respect to the Section 37 agreement.

Parking Permit Area

Further to discussions with the community, the area Councillor and the applicant, a recommendation 4 has been added requesting that Transportation Services examine and report back to the Toronto and East York Community Council in the first half of 2013 regarding the realignment of permit parking area 8C, and the exclusion of the subject site from the permit parking area. The applicant has agreed to this request.

CONTACT

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SIGNATURE

Gregg Lintern MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment
Attachment 2: Council Authority to Implement Matters Pursuant to the Section 37
Agreement

Attachment 1: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of
Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To amend the Zoning By-law No. 438-86 of the former City of Toronto, as amended,
With respect to the lands municipally known as,
345, 347 and 349 Carlaw Ave**

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*;

WHEREAS an increase in density and height has been requested; 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*, the Council of a municipality may in a by-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matter as are set 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 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 lands has elected to provide the facilities, services and matters hereinafter set out; and

WHEREAS the increases in density or height permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such land and the City of Toronto; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the

increase in height and density in connection with the aforesaid lands as permitted in this By-law; and

THEREFORE By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended is further amended as follows:

1. None of the provisions of Sections 2(1) *grade, height*, 4(2)(a), 4(4)(b), 4(11) (b), 4(12), 9(1)(a) and (f) and 9(3) Part I 2 and 9(3) Part II 2(a) of By-law No. 438-86, as amended, shall apply to prevent the erection and use of a *mixed-use building* on the *lot* containing *dwelling units* and non-residential uses, provided;
 - (a) the *lot* is comprised of at least those lands shown outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the *lot* contains not more than 21,502 square metres of *residential gross floor area* and not less than 4,200 square metres of *non-residential gross floor area*;
 - (c) the *lot* contains a maximum of 313 *dwelling units*;
 - (d) the following residential uses are permitted in Building A and Building B:
 - (i) *apartment building*;
 - (ii) *dwelling units* in a building – one or more;
 - (iii) *rowplex*;
 - (iv) *live-work unit*.
 - (e) the following non-residential uses are permitted in Building A and Building C,:
 - (i) *artist's or photographer's studio*;
 - (ii) *bake shop*;
 - (iii) *caterer's shop*;
 - (iv) *clinic*;
 - (v) *communications and broadcasting establishment*;
 - (vi) *community or social agency*;
 - (vii) *courier service*;
 - (viii) *cultural and arts facilities*;

- (ix) *custom workshop;*
 - (x) *data processing establishment;*
 - (xi) *designer's studio;*
 - (xii) *duplicating shop*
 - (xiii) *newsstand;*
 - (xiv) *office;*
 - (xv) *performing arts studio;*
 - (xvi) *place of assembly*
 - (xvii) *personal grooming establishment;*
 - (xviii) *premises of a charitable institution or non-profit institution;*
 - (xix) *private art gallery;*
 - (xx) *public art gallery;*
 - (xxi) *publisher;*
 - (xxii) *showroom;*
 - (xxiii) *software design and development establishment;*
 - (xxiv) *tailoring shop;*
 - (xxv) *theatre for live entertainment.*
- (f) The following non-residential uses are permitted in Building A and Building C as accessory uses:
- (i) *Restaurant and take-out restaurant;*
 - (ii) *Retail store.*
- (g) no portion of the *buildings* above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, with the exception of the following:
- (i) *cornices, light fixtures, awnings, canopies, window washing equipment, ornamental elements, parapets, landscape features, trellises, eaves, window sills, vents, guardrails, balustrades,*

railings, stairs, stair enclosures, doors, wheel chair ramps and underground garage ramps and associated structures, and

- (ii) balconies provided they are within the *lot* and do not extend more than 1.6 metres beyond the areas delineated by heavy lines on Map 2;
- (h) the maximum height above grade of any building or structure used or erected on the *lot* shall not exceed the *heights* above *grade* identified with the letter "H" in the areas delineated by heavy lines as shown on Map 2, except for:
 - (i) a structure used for outside or open air recreation, safety or wind protection purposes, elements of a green roof, a chimney stack, vent or flue, window washing equipment, ornamental elements, canopies, landscaping elements, privacy walls, trellises, parapets, stairs, stair enclosures, guardrails, railings, and heating, cooling, electrical and ventilating equipment, provided it extends no more than 2.1 metres *above* the *height* limits;
 - (ii) balconies provided they are within the *lot* and extend no more than 1.6 metres beyond the areas delineated by heavy lines on Map 2; and
 - (iii) any building or structure within the area identified as Building C shown on Map 2 shall be limited to a height of three storeys;
- (i) not less than 250 *parking spaces* are provided and maintained on the *lot*, of which at least 194 *parking spaces* are for the exclusive use of residents of the *dwelling units* and at least 56 *parking spaces* are for the shared use of the non-residential uses in the building and visitors to the *dwelling units*, such parking to comply with the following minimum parking ratios:
 - (i) Resident parking (including live work studios) be provided at a rate of 1 space per 102 square metres of *residential gross floor area*, less an allowable deduction of up to 11 resident *parking spaces*;
 - (ii) Residential visitor parking be provided at a rate of 0.15 spaces per residential dwelling unit or live-work unit;
 - (iii) That parking for the non-residential component of the project be provided at a rate of 1 space per 93 square metres of *net floor area*;

Provided further that parking for the residential visitors and non-residential component of the project may be provided on a shared basis provided that the minimum number of *parking spaces* is the greatest of the aggregate gross minimum numbers of *parking*

spaces for the morning, afternoon and evening periods, calculated based on the following parking occupancy rates:

- (A) for each of the morning, afternoon and evening parking periods, the minimum number of parking spaces required for residential visitors and for each non-residential use, is calculated using the applicable parking space rate and parking occupancy rate in the chart below;
- (B) the minimum number of parking spaces required for each parking period is the total of the parking spaces required for all uses during that parking period; and
- (C) the minimum number of parking spaces required for the lot is equal to the largest number of parking spaces required for any parking period for the shared non-residential/residential visitor shared parking facility plus the minimum number of resident parking spaces, calculated per clause (i)(i) above.

Type of Use	Parking Occupancy Rate		
	Morning (6 am – noon)	Afternoon (noon – 6 pm)	Evening (6 pm – 6 am)
Residential Visitor Parking	0%	35%	100%
<i>artist's or photographer's studio, live-work unit;</i>	20%	100%	100%
<i>bake-shop;</i>	20%	100%	100%
<i>caterer's shop;</i>	20%	100%	100%
<i>clinic;</i>	100%	100%	50%
<i>communications and broadcasting establishment;</i>	100%	100%	0%
community or social agency;	100%	100%	100%
<i>courier service;</i>	100%	100%	100%
<i>cultural and arts facilities</i>	25%	100%	100%
<i>custom workshop;</i>	20%	100%	100%
<i>data processing establishment;</i>	100%	100%	100%

Type of Use	Parking Occupancy Rate		
	Morning (6 am – noon)	Afternoon (noon – 6 pm)	Evening (6 pm – 6 am)
<i>designer's studio;</i>	20%	100%	100%
<i>duplicating shop;</i>	20%	100%	100%
<i>newsstand;</i>	20%	100%	100%
<i>office;</i>	100%	60%	0%
<i>performing arts studio;</i>	20%	100%	100%
<i>premises of a charitable institution or non-profit institution;</i>	100%	60%	0%
<i>private art gallery;</i>	25%	100%	100%
<i>public art gallery;</i>	25%	100%	100%
<i>publisher;</i>	100%	60%	0%
<i>showroom;</i>	100%	100%	0%
<i>software design and development establishment;</i>	100%	100%	100%
<i>tailoring shop;</i>	20%	100%	100%

Parking Space Rates - Multiple Uses on a Lot

If there are multiple uses on a lot, the applicable parking space rate applies to each use on the lot and the total number of parking spaces required is the cumulative total of all uses.

- (j) not less than 315 square metres of indoor *residential amenity space* and not less than 285 square metres of outdoor *residential amenity space* shall be provided and maintained on the *lot*;
2. Pursuant to Section 37 of the *Planning Act* and subject to compliance with the provisions of this By-law, the increase in height and density of development on the *lot* is permitted in return for the provision by the *owner* of the following facilities, services and matters to the City at the *owner's* sole expense:
 - (a) prior to issuance of an above-grade building permit and not later than October 13, 2013, the *owner* shall:

- (i) enter into an Agreement of Purchase and Sale for the conveyance, at no cost, of not less than 450 square metres of non-residential gross floor area, to a non-profit arts and culture organization acceptable to the Executive Director Economic Development and Culture Division, which agreement includes the City as a party to the satisfaction of the City Solicitor and is subject to applicable terms and conditions set out in subsection 2(b) below.
- (b) the *owner* shall enter into and comply with one or more agreements with the City pursuant to Section 37 of the *Planning Act* which are registered on title to the lot to the satisfaction of the City Solicitor to secure the following:
 - (i) the matters provided for in Section 2(a)(i) above;
 - (ii) the conveyance, at no cost, of not less than 450 square metres of non-residential gross floor area to a non-profit arts and culture organization acceptable to the Executive Director Economic Development or, where the conveyance to a non-profit arts and culture organization is not able to be completed as contemplated and in the alternative, the payment of a cash contribution in the amount of \$1,150,000.00 to the City to be applied at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, toward any one or more of community services and facilities, parkland/open space and streetscape improvements in the Dundas Street and Carlaw Avenue community within Ward 30;
 - (iii) the non-residential gross floor area referred to in subsection 2(b)(ii) shall be separately conveyable and finished to a reasonable shell base standard for the intended use to the satisfaction of the Chief Planner and Executive Director, City Planning and including available connection to functioning electrical, plumbing and HVAC systems;
 - (iv) provisions allowing the Agreement of Purchase and Sale referred to in subsection 2(a)(i) to be extended as applicable and assignable by the City as determined by the Executive Director, Economic Development and Culture Division in consultation with the Chief Planner and Executive Director, City Planning; and
 - (v) prior to registration of a plan of condominium for any building or structure within the proposed development, the owner shall post a letter of credit in a form satisfactory to the City Treasurer in the amount of \$1,150,000.00 to secure the conveyance of the non-

residential gross floor area or the alternative cash contribution as contemplated in subsection 2(b)(ii).

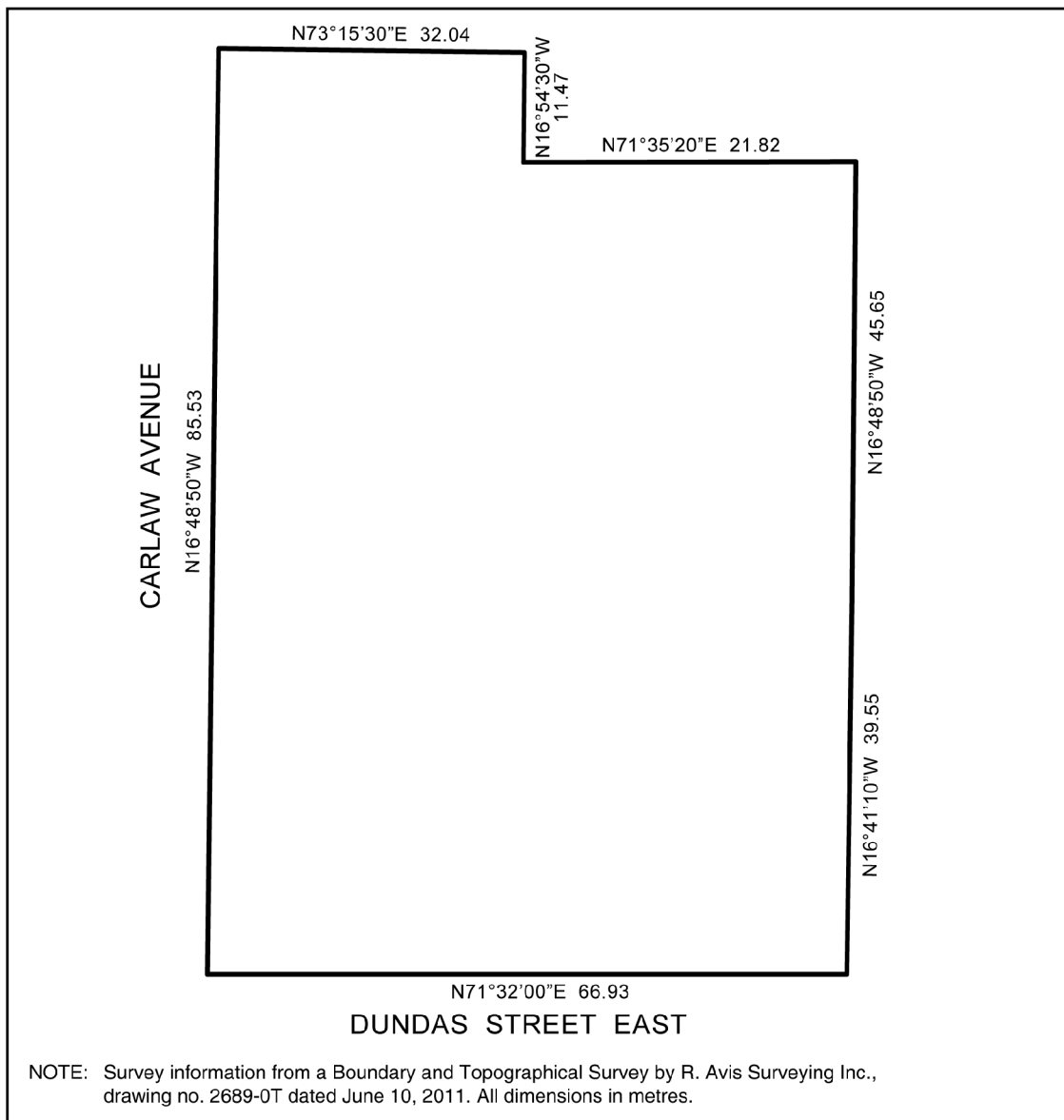
3. For the purposes of this By-law:
 - (a) “*grade*” shall mean 83.12 metres Canadian Geodetic Datum;
 - (b) “*height*” shall mean the vertical distance between *grade* and the highest point of the building or structure on the *lot*;
 - (c) “*dwelling unit*” shall mean a *dwelling unit* as defined in By-law 438-86, as amended, except that it may also be used for work purposes by the residents of the unit and by persons not residing in the unit;
 - (d) “*live-work unit*” shall mean a dwelling unit which may be used for work purposes by persons not residing in the unit; and
 - (e) Each other word or expression that is italicized shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended.
4. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
5. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot* as well as the buildings and structures on the *lot*.
6. Within the lands shown outlined by heavy lines on Map 1 attached to this By-law, 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:
 - (i) All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
7. By-law No. 1059-2010 is hereby repealed.

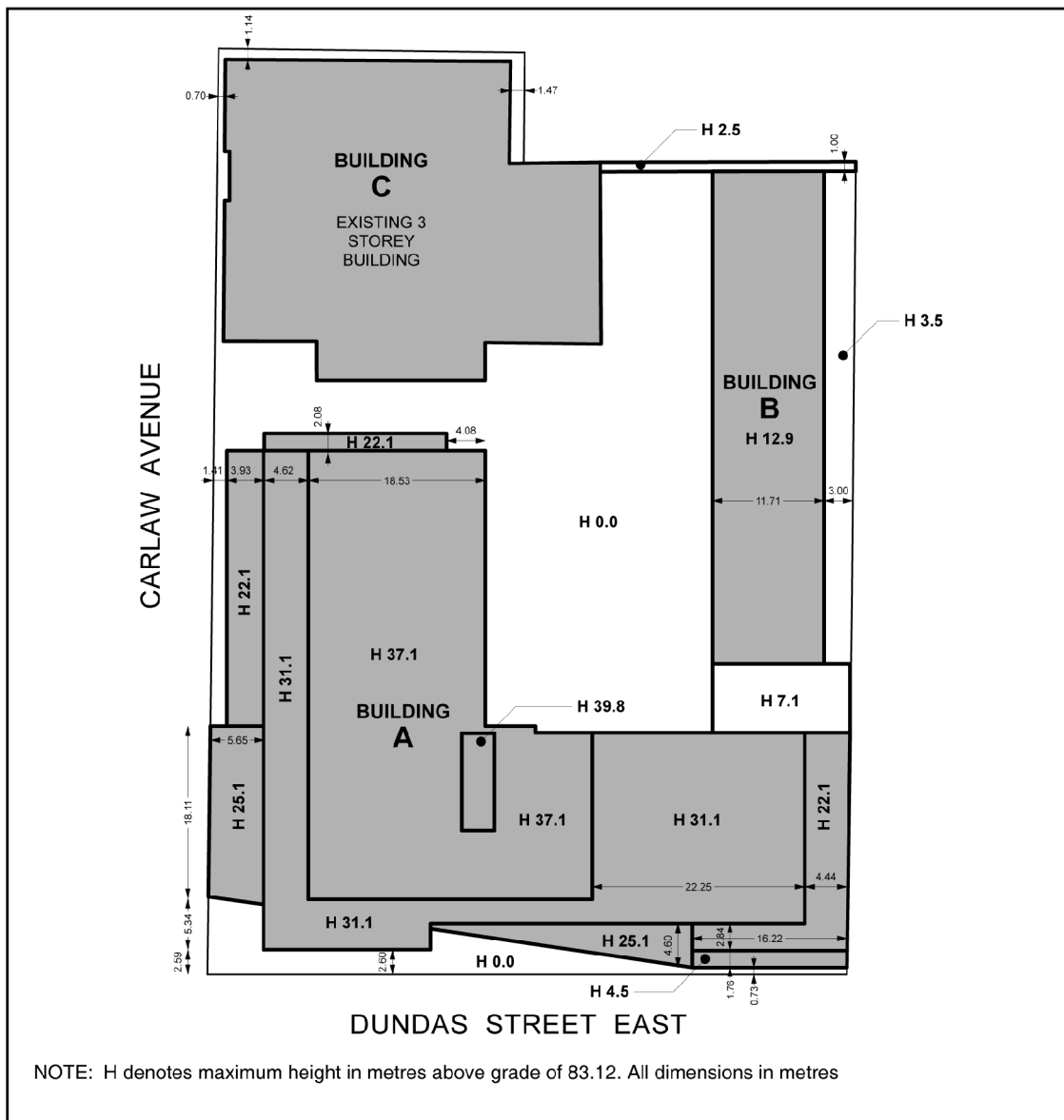
ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)





Attachment 2: Council Authority to Implement Matters Pursuant to the Section 37 Agreement

1. City Council authorize and direct the Executive Director, Economic Development and Culture Division to execute an Agreement of Purchase and Sale with respect to the conveyance to Crow's Theatre Circus (operating as Crow's Theatre), and to complete any assignment of or any document relating thereto that may occur as a result of entering into that agreement on behalf of the City, amending the closing, due diligence and other dates and amending and waiving terms and conditions on such terms as are considered reasonable and to give effect to the intended purpose as set out in the report from the Director, Community Planning Toronto and East York District (dated September 21, 2012), headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application – Final Report".
2. In the event that the Agreement of Purchase and Sale with Crow's Theatre Circus (operating as Crow's Theatre) is not able to be completed, City Council authorize the Executive Director, Economic Development and Culture Division in consultation with the Chief Planner and Executive Director of City Planning, to direct that the Agreement of Purchase and Sale be assigned to the Toronto Cultural Advisory Corporation (operating as Toronto Arts Council) or another acceptable non-profit arts and culture organization in order to give effect to the intended purpose as set out in the report from the Director, Community Planning, Toronto and East York District (dated September 21, 2012), headed "345, 347 and 349 Carlaw Avenue – Zoning Amendment Application - Final Report", on terms and conditions as are determined appropriate and in a form satisfactory to the City Solicitor, prior to the closing date with the Owner, with the intention that there are no financial consequences of the City having been a party to the Agreement of Purchase and Sale.
3. City Council authorize and direct the Executive Director, Economic Development and Culture Division to enter into an operating agreement to govern the ownership of the non – residential gross floor area to ensure the intended arts affiliated use of the space, to require annual reporting on the use and to secure such other terms and conditions as are deemed advisable, such agreement to be in a form satisfactory to the City Solicitor and to be entered into with the proposed owner at the time of execution of Agreement of Purchase and Sale, or assignment thereof, referred to in Recommendation 3c. to the report from the Director, Community Planning, Toronto and East York District (dated October 5, 2012) headed "345, 347 and 349 Carlaw Avenue – Supplementary Report"
4. City Council authorize the Chief Planner and Executive Director of City Planning Division to execute in her sole discretion, consents pursuant to the restriction to be registered on title to the lands conveyed under Section 118 of the *Land Titles Act*.