

Attachment 6: Draft Zoning By-law Amendment – Bylaw 438-86

CITY OF TORONTO

BY-LAW No. _____-2015

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally as 661, 663, 669 and 677 Queen Street East and 77, 79, and 79A East Don Roadway.

Whereas authority is given to the Council of the City of Toronto pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law with respect to lands known municipally in the year 2015 as 661, 663, 669 and 677 Queen Street East and 77, 79, and 79A East Don Roadway; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and/or 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, 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; and

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

Whereas the Council of the *City* has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by this By-law; and

Whereas the Council of the *City* has determined to amend Zoning By-law No. 438-86, as amended, of the former City of Toronto;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the lands comprising *Parcel A* and on the lands comprising *Parcel B*, are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements between the *City* and the *owner* of the *lot* on title to the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 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 as a precondition to the issuance of a *building permit*, such building may not be erected or used until the *owner* of the *lot* 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) entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. District Map 52G - 321 contained in Appendix 'A' of *By-law No. 438-86*, being "a By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures in various areas of the City of Toronto", as amended, is further amended by re-designating the land outlined by heavy lines on Map 2 attached to and forming part of this By-law to MCR T2.5 C2.0 R0.0 and G.
5. Height and Minimum Lot Frontage Map 52G – 321 contained in Appendix 'B' of *By-law No. 438-86*, as amended, is further amended in accordance with Map 3 forming part of this By-law.
6. Except as otherwise provided herein, the provisions of *By-law No. 438-86* shall continue to apply to the *lot*.

Site Specific Permitted Uses, Heights and Density Subject to Section 37 Planning Act

7. None of the provisions of Sections 4(2) (a), 4(3)(a) and (b), 4(6)(b) and (c), 4(12), 4(13)(a) and (c), 4(14), 8(1), 8(2), 8(3) Part I 1, 2, and 3(a), 8(3) Part II 1(b) and 8(3) Part II 4 of *By-law No. 438-86*, shall apply to prevent the erection and use of one or more mixed use buildings containing residential and non-residential uses on the lands shown on Map 1 attached hereto, including uses *accessory* thereto, provided:
 - (a) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed **85,600.0** square metres, of which ;
 - (i) the total *residential gross floor area* erected or used on the *lot* shall not exceed **65,700.0** square metres; and the total *non-residential gross floor area* erected or used on the *lot* shall not exceed **19,900.0** square metres;

- (ii) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on *Parcel A* shall not exceed **64,200.0** square metres, of which the total *residential gross floor area* erected or used on *Parcel A* shall not exceed **48,200.0** square metres and the total *non-residential gross floor area* erected or used on *Parcel A* shall not exceed **16,000.0** square metres; and
 - (iii) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on *Parcel B* shall not exceed **21,400.0** square metres, of which the total *residential gross floor area* erected or used on *Parcel B* shall not exceed **17,500.0** square metres and the total *non-residential gross floor area* erected or used on *Parcel B* shall not exceed **3,900.0** square metres;
- (b) a minimum of three (3) non-residential *units* shall have frontage on Queen Street East and be directly accessible from Queen Street East.
 - (c) no portion of any *dwelling* unit erected or used on the *lot* shall be located below *grade* or on or within the ground floor of any building;
 - (d) in addition to the uses permitted in Section 8(1)(f)(a) and Section 8(1)(f)(b) of *By-law No. 438-86, car-share* and *car-share parking space*, as defined by this By-law, are permitted uses on the *lot* provided the number of *car-share parking spaces* located on the *lot* does not exceed 15;
 - (f) *automobile service and repair shop* or an *a motor vehicle repair shop – class A*, or a *public garage* and *sales or hire garage* are permitted on *Parcel A*.

Height

- (g) no portion of any building or structure erected or used above grade or above finished ground, on the *lot* shall be located other than wholly within the areas delineated by heavy lines on the attached Map 4, with the exception of the following:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend to a maximum of 1.0 metre beyond the heavy lines shown on Map 4; and
 - (ii) balconies not exceeding a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 4;
- (h) no part of any building or structure erected or used on the *lot*, including mechanical and elevator/stair overrun, shall exceed the *heights* in metres or

storeys specified by the numbers following the symbol "H", shown on the attached Map 4, with the exception of the following:

- (i) the maximum *height* for parapets, terrace guards and dividers, planters, railings, decorative screens, and window washing equipment shall be the sum of 1.0 metres and the applicable *height* limit shown on Map 4;
- (i) the ground floor of any building or structure erected or used on all or part of *Parcel A* shall be setback a minimum of 0.815 metres from any property line along East Don Roadway.

Amenity Space

- (j) *residential amenity space* shall be provided and maintained on the *lot* for the use of all residents of the *lot* in accordance with the following:
 - (i) a minimum of **1.55** square metres of indoor *residential amenity space* for each *dwelling unit* erected on the *lot*, shall be provided in a multi-purpose room or rooms [do they have to be contiguous or should we be adding which rooms may or may not be contiguous], at least one of which shall contain both a kitchen and washroom; and
 - (ii) a minimum of **1.35** square metres of outdoor *residential amenity space* for each *dwelling unit* erected on the *lot* shall be provided, of which at least **40** square metres shall be provided in a location adjoining or directly accessible to indoor *residential amenity space*;

Parking and Loading

- (k) parking and loading shall be provided and maintained on the *lot* in accordance with the following requirements:
 - (i) for *dwelling units* erected or used on the *lot*, the minimum number of *parking spaces* required are as follows:
 - A. for residents 0.52 *parking spaces* per *dwelling unit*;
 - B. for residential visitors 0.15 *parking spaces* per *dwelling unit*
 - (ii) for *retail store* and *automobile service and repair shop, motor vehicle repair shop – class A* and *sales or hire garage* uses erected or used on the *lot*, the minimum number of *parking spaces* required are as follows:
 - A. *retail store* - 1 space per 100 square metres of *non-residential gross floor area*
 - B. *automobile service and repair shop, motor vehicle repair shop – class A*

and sales or hire garage - 1 parking space per 100 square metres of non-residential gross floor area;

- (iii) Sharing of *parking spaces* required under (i) B. and (ii) above shall be permitted in accordance with the following minimum occupancy rates:

Use	Minimum Parking Occupancy		
	Morning	Afternoon	Evening
Residential Visitor	0	35	100
Retail	20	100	100
<i>automobile service and repair shop, motor vehicle repair shop – class A and sales or hire garage</i>	20	100	100

- (iv) where the calculation of the required number of *parking spaces* results in a number containing a fraction, the number is rounded down to the nearest whole number, but there may not be less than a requirement of one *parking space*.
- (v) a minimum of 5 *car-share parking spaces* in a publicly-accessible location on the *lot*.
- (vi) *car-share parking spaces* may replace the *parking spaces* otherwise required for residential occupants, up to a maximum of 15 *car-share parking spaces* at a rate of 1 *car-share space* per 4 required *parking spaces*
- (vii) on *Parcel A*, loading spaces shall be provided and maintained at least as follows for the use of buildings and structures erected on the *lot*:
- A. Two (2) *loading spaces*- type "B";
 - B. One (1) *loading space*- type "C";
 - C. One (1) *loading space*- type "G" ; and
 - D. One (1) lay-by for a car-carrier vehicle; and
- (viii) on *Parcel B*, loading spaces shall be provided and maintained at least as follows for the use of buildings and structures erected on *Parcel B*:
- A. Two (2) Type "B" loading spaces

Bicycle Parking Spaces

- (1) bicycle parking shall be provided and maintained on the *lot* in accordance with the following requirements:
 - (i) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - A. for residents of the *lot*, not less than 0.9 long-term *bicycle parking spaces-occupant* for each *dwelling unit* erected or used on the *lot*;
 - B. for residential visitors to the *lot*, not less than 0.1 short-term *bicycle parking spaces-visitor* for each *dwelling unit* erected or used on the *lot* ;
 - C. for retail occupants/employees of *retail stores* erected or used on *Parcel A*, not less than 5 long-term *bicycle parking spaces - visitor* for the use of such occupants/employees;
 - D. for retail occupants/employees of *retail stores* erected or used on *Parcel B*, not less than 10 long-term *bicycle parking spaces* for the use of such retail occupants/employees;
 - E. for visitors to *retail stores* erected or used on *Parcel A*, not less than 9 short-term *bicycle parking spaces* for the use of such retail visitors;
 - F. for visitors to retail stores erected or used on *Parcel B*, not less than 16 short-term *bicycle parking spaces* for the use of such retail visitors; and
 - G. for automobile dealership occupants and visitors erected or used on the *lot*, not less than 20 short-term *bicycle parking spaces* for such occupants and visitors.
 - (ii) The location of the required *bicycle parking spaces* in (i) shall comply with the following:
 - A. long-term *bicycle parking spaces* shall be located in a weather protected location either at *grade* or one level below *grade*; and
 - B. short-term *bicycle parking spaces* must be located at *grade*.
8. Within the *lot*, 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) all 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.

9. 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.

Definitions

10. Notwithstanding the definitions provided in Section 2(1) of *By-law No. 438-86*, as amended, for the purposes of this By-law the following definitions will apply to the *lot* unless indicated otherwise in this By-law. Where italicized terms referred to in this By-law are not defined in this By-law, the definitions provided in Section 2(1) of *By-law No. 438-86*, will apply.
- (a) "*above-grade permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building and for clarity does not include a *foundation permit*;
 - (b) "*building envelope*" means a building envelope as delineated by heavy lines on Map 2 attached to and forming part of this By-law;
 - (c) "*building permit*" means a permit issued under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended or re-enacted from time to time, including a permit for excavation and shoring but it does not include any permit to construct a temporary *sales office* or a portion thereof of for usual and minor works, repairs and maintenance of any building existing on the *lot* on the date of this By-law;
 - (d) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto;
 - (e) *car-share* means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization, such *car-share* motor vehicles to be made available for short term rental, including hourly rental, and where such organization 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* organization, including the payment of a membership fee that may or may not be refundable.
 - (f) "*car-share parking space*" means a *parking space* that is signed, reserved and actively and exclusively used only for a motor vehicle for *car-share* purposes and such *car-share* is for the use of at least the occupants of any building erected or used on the *lot*.
 - (g) "Chief Planner" means the Chief Planner and Executive Director, City Planning;
 - (h) "*City*" means the City of Toronto;

- (i) "*grade*" means 81.0 metres Canadian Geodetic Datum;
- (j) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- (k) "*lot*" means the lands outlined by heavy lines on Map 1 attached to and forming part of this By-law and shall be comprised of at least the lands delineated and identified as *Parcel A* and *Parcel B* on such Map 1;
- (l) "*Parcel A*" means the lands identified as Parcel A on Map 1 attached to and forming part of this By-law;
- (m) "*Parcel B*" means the lands identified as Parcel B on Map 1 attached to and forming part of this By-law;
- (n) "*sales office*" means a building, structure, facility or trailer used on the *lot* exclusively for the initial sale and/or initial leasing of *dwelling units* and/or *non-residential gross floor area* to be erected on the *lot*;

Enacted and passed on _____, 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

APPENDIX 1
Section 37 Provisions

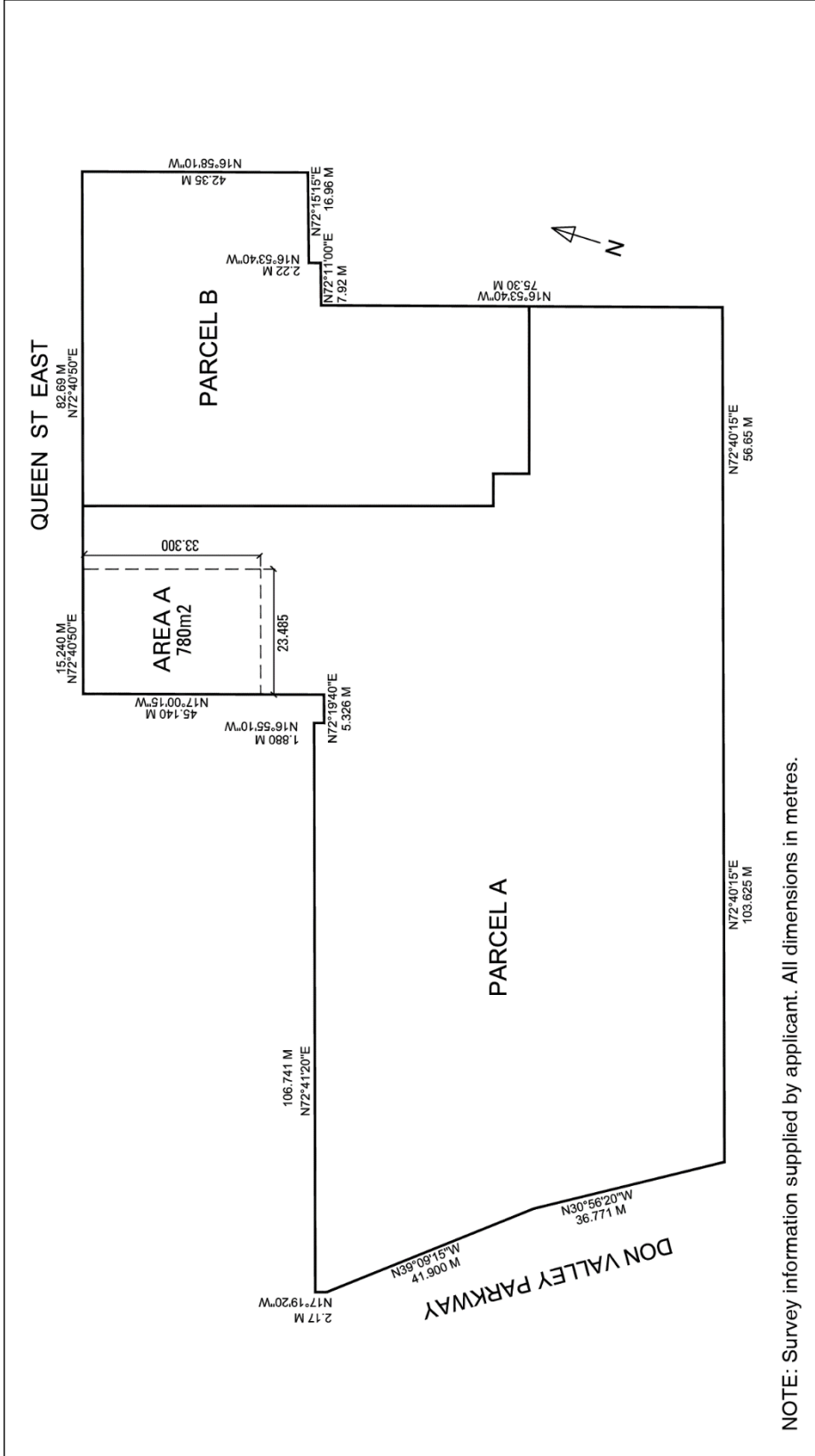
The facilities, services and matters set out herein are required to be provided by the *owner* of the *lot* at its expense to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of the financial contributions and letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. a. Prior to the issuance of the first above-grade permit for all or any part of the lot, the owner of the lot shall pay to the City by certified cheque the sum of THREE MILLION FIVE HUNDRED THOUSANDS DOLLARS (\$3,500,000.00) to be used towards the provision of affordable rental housing on the lot, adjacent to the lot, and/or within the local Ward 30 area, to be allocated at the discretion of the Chief Planner in consultation with the local Ward councillor
 - b. Prior to the earlier of the issuance of the first *foundation permit* for all or any part of *Parcel B* and the issuance of the first *foundation permit* for a total *gross floor area* on the *lot* exceeding 48,000.0 square metres of *residential gross floor area*, the owner of the *lot* shall pay to the City by certified cheque the sum of ONE MILLION FIVE HUNDRED THOUSANDS DOLLARS (\$1,500,000.00) to be used towards the provision of affordable rental housing on the *lot*, adjacent to the *lot*, and/or within the local Ward 30 area, to be allocated at the discretion of the *Chief Planner* in consultation with the local Ward councillor.
 - c. The payment amounts in clauses 1 a. and b. of this Appendix 1 to be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of execution of the Section 37 Agreement required in this Appendix to the date of each such payment to the City;
 - d. Prior to the issuance of any *building permit* for all or part of *Parcel B* the owner of the *lot* shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the Chief Planner in the amount of ONE MILLION FIVE HUNDRED THOUSANDS DOLLARS (\$1,500,000.00), to secure the payment required in clause 1 b. of this Appendix 1;
2. In order to support development on the *lot*:
 - a. Prior to the earlier of any residential or any retail use of all or any part of the *lot* and prior to any condominium registration of any part of the *lot*, the owner of the *lot* shall construct, provide and thereafter maintain to the satisfaction of the *Chief Planner*, an open space having a minimum area of at least 650 square metres, at the southern terminus of the existing north-south private lane on the *lot*, including completing the conveyance of with all necessary easements to the City, free and clear of encumbrances and obstructions, all to the satisfaction of the *Chief Planner* and the City Solicitor, for the purpose of

providing privately owned, publicly accessible open space for use by the general public.

- b. Prior to the earlier of any residential or any retail use of all or any part of the *lot* and prior to any condominium registration of any part of the *lot*, the owner of the *lot* shall convey to the City free and clear of encumbrances and obstructions, an easement for public access over the north-south and east-west private lane/woonerf, all to the satisfaction of the *Chief Planner* and the City Solicitor.
- c. Prior to the issuance of the first *above-grade permit* for any part of *Parcel B*, the owner of the *lot* shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the General Manager, Transportation Services in the amount of TWO HUNDRED AND THIRTY THOUSAND DOLLARS (\$230,000) for a possible installation and maintenance of future signalization of new traffic control signals at the intersection of Queen Street East and Munro Street. Such letter of credit to be returned to the owner of the *lot* if such traffic control signal is not justified and/or required for safety reasons within five (5) years of full occupancy of *Parcel B*, all as determined at the discretion of the General Manager, Transportation Services;
- d. In the event that the traffic signal referred to in clause 2 c. of this Appendix 1 is installed, the owner of the *lot* is required to provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the General Manager, Transportation Services in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000) for a possible future removal of the pedestrian cross-over located at Carroll Street. Such letter of credit to be returned to the owner of the *lot* if such signal control at the pedestrian crossover is not justified to be relocated within five (5) years of full occupancy of Phase 2 of this development, all as determined at the discretion of the General Manager, Transportation Services;
- e. Prior to the issuance of any *building permit* for any part of the *lot*, the owner shall pay to the City the sum determined by the Executive Director, Engineering & Construction Services for construction of any improvements to the existing municipal infrastructure required to service the *lot*, as determined by and to the satisfaction of the Executive Director, Engineering & Construction Services;
- f. The owner of the *lot* shall convey to the City an on-site parkland dedication of a minimum size of at least 780 square metres, to be conveyed to the City in partial fulfilment of the owner's required parkland dedication pursuant to section 42 of the *Planning Act*, and to be secured in the Section 37 Agreement required in this Appendix 1, all to the satisfaction of the Chief Planner, the General Manager, Parks Forestry and Recreation and the City Solicitor in accordance with the following terms and conditions:

- (1) The owner shall in conjunction with the Development, shall design, construct and provide to the City approved base and above-base park improvements, having a value no greater than the remaining cash-in-lieu of parkland contribution owing pursuant to section 42 of the *Planning Act* and the City's Municipal Code, based on cost estimates supporting an approved park submission to the satisfaction of the General Manager, Parks, Forestry and Recreation;
 - (2) Prior to the issuance of the first *above-grade permit* for any portion of the *lot*, the owner of the *lot* shall provide a letter of credit to the City, to include provision for upwards indexing, in a form and from a bank satisfactory to the City, in the amount of the remaining parkland dedication requirement, as determined by the City's Appraisal Services staff, which will be held as security by the City for the satisfactory completion by the owner of the *lot* of the construction of the required above-base park improvements;
 - (3) Prior to the earlier of any residential or any retail use of all or any part of the *lot*, issuance of any *building permit* for *Parcel B* and any condominium registration of any part of the *lot*, the owner of the *lot* shall convey to the City the on-site parkland dedication lands for parkland in base park condition;
 - (4) Prior to conveyance of the land for parkland required in (3) , the owner of the *lot* shall be responsible for completing an environmental assessment of the parkland and shall pay any associated costs or remediation works required as a result of that assessment, all to the satisfaction of the City together with the filing of Record of Site Condition (RSC) in accordance with all applicable Ministry of Environment and Climate Change requirements including completion of a satisfactory peer review by an environmental expert retained by the City, at the owner's expense;
 - (5) The land to be conveyed to the City for parkland herein shall be conveyed by way of freehold title and shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements; and
 - (6) The owner of the *lot* shall pay all costs associated with the conveyance to the City of the land for parkland herein, including all applicable taxes and fees, the cost of preparing all necessary plans, registering all relevant documents, and providing a title opinion demonstrating that the lands are being conveyed free and clear of all encumbrances, all to the satisfaction of the City Solicitor; and
- g. The owners of the *lot* shall enter into and register on title to the lot one or more agreements with the *City* pursuant to section 37 of the *Planning Act*, to the satisfaction of the City Solicitor in consultation with the *Chief Planner*, to secure the facilities, services and matters set forth in this Appendix 1.



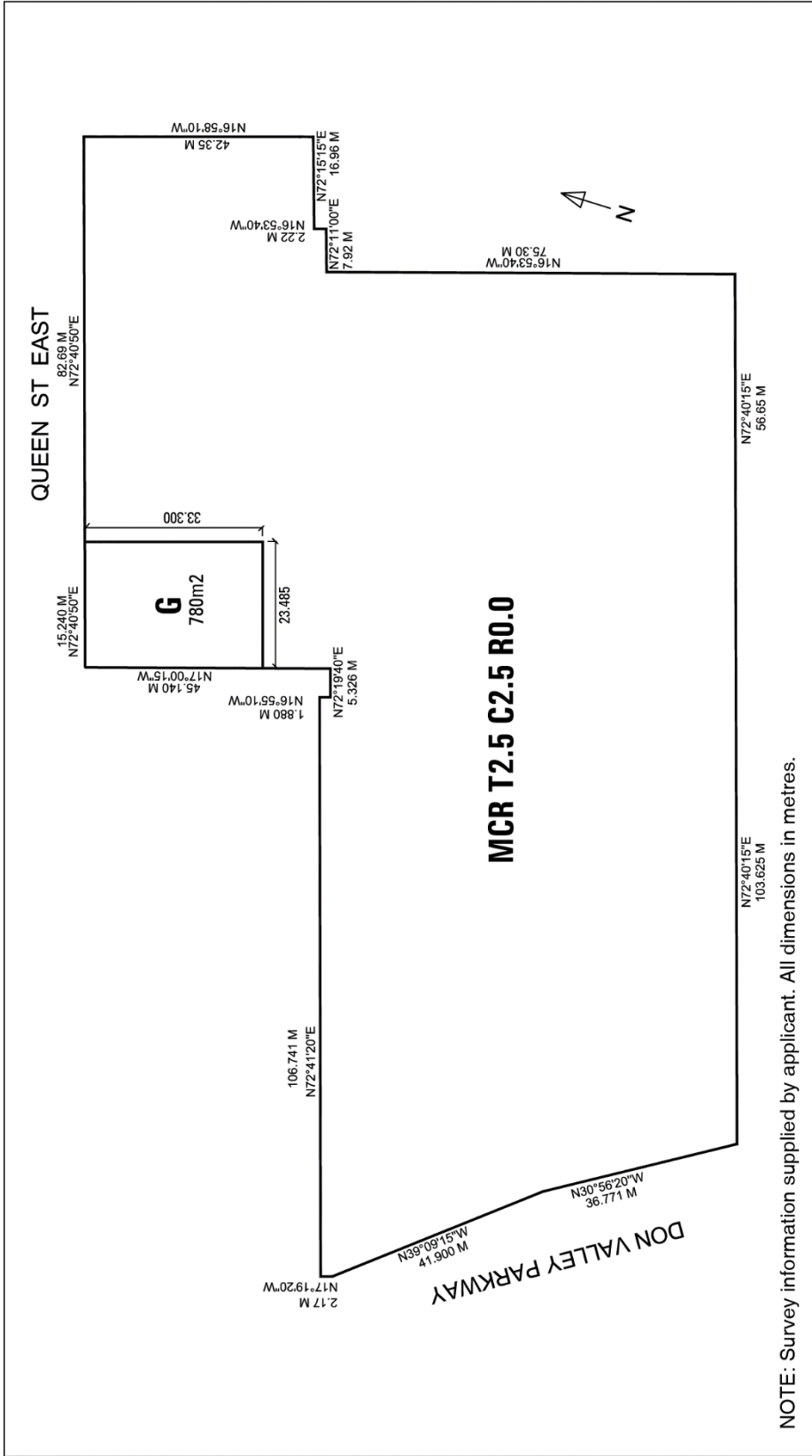
77-79 East Don Roadway and 661-677 Queen Street East

Map 1

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ



Not to Scale
10/20/2015



NOTE: Survey information supplied by applicant. All dimensions in metres.

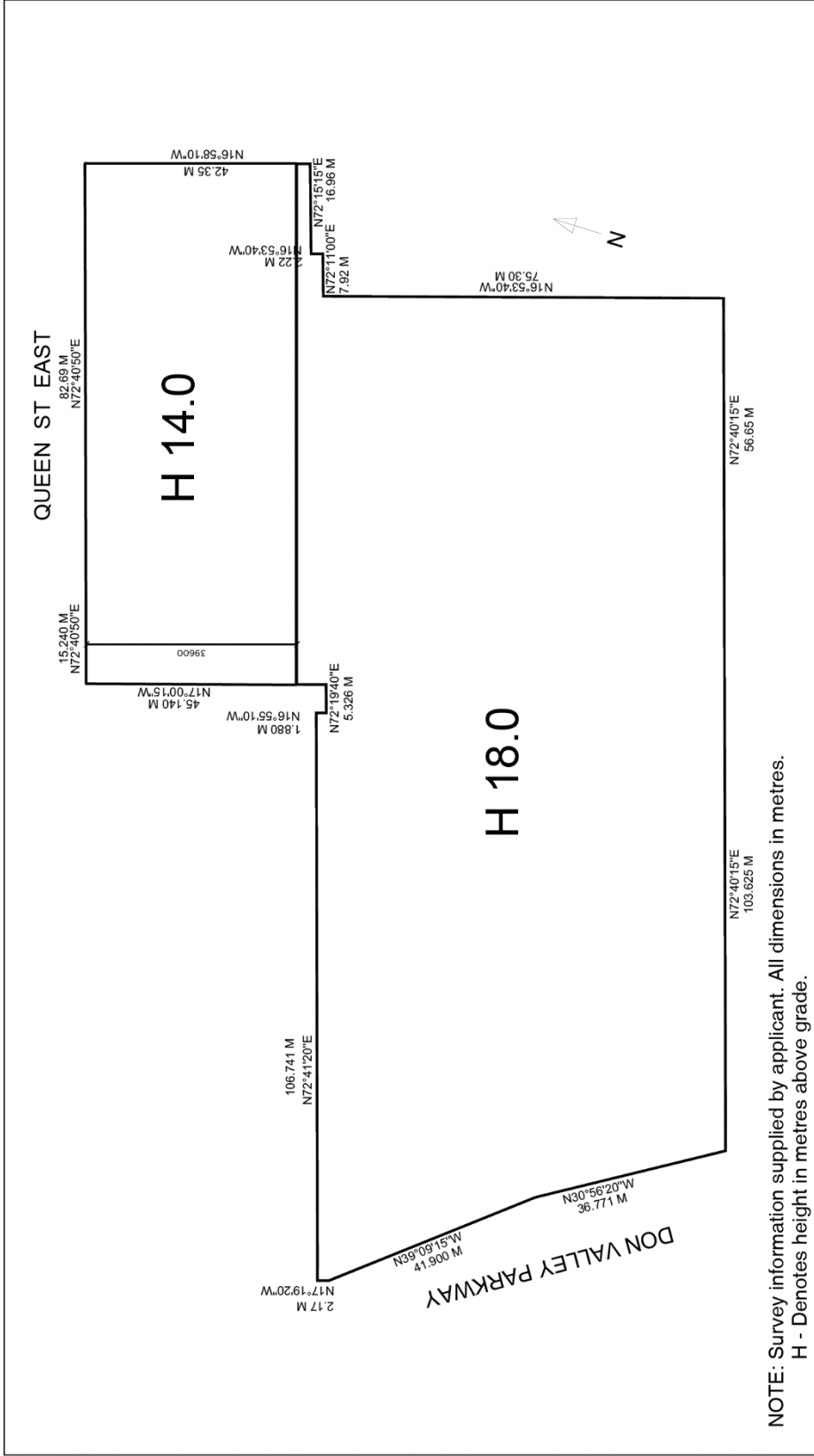


77-79 East Don Roadway and 661-677 Queen Street East

Map 2

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ

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Not to Scale
10/20/2015



NOTE: Survey information supplied by applicant. All dimensions in metres.
 H - Denotes height in metres above grade.



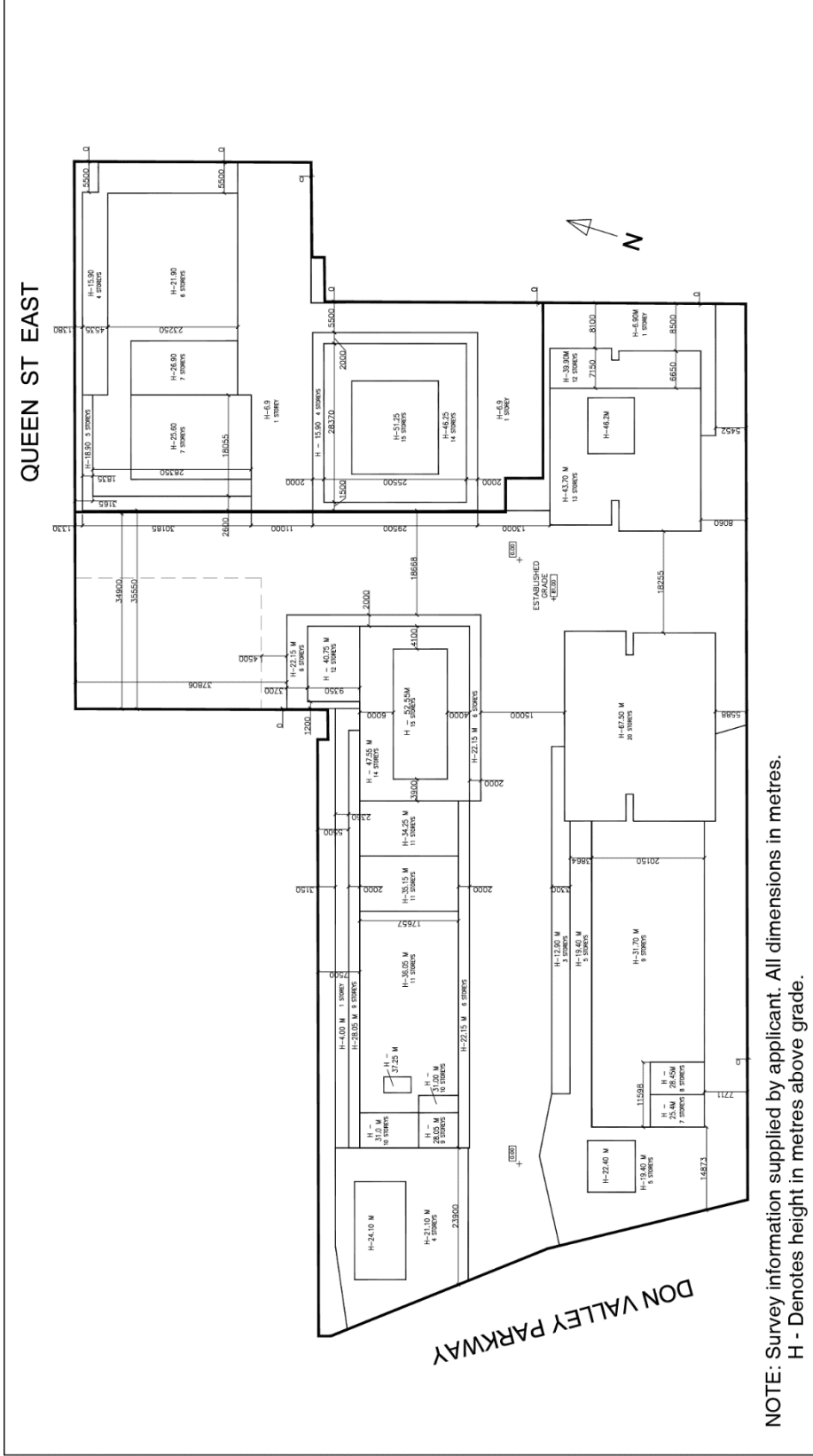
77-79 East Don Roadway and 661-677 Queen Street East

Map 3

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ



Not to Scale
 10/20/2015



NOTE: Survey information supplied by applicant. All dimensions in metres.
 H - Denotes height in metres above grade.



77-79 East Don Roadway and 661-677 Queen Street East

Map 4

File # 14_176221 STE 30 OZ and 14_176212 STE 30 OZ

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 Not to Scale
 10/20/2015