

Authority: Planning and Growth Management Committee Item PG31.2, as adopted by City of Toronto Council on July 23, 24 and 25, 2018

CITY OF TORONTO

Bill

BY-LAW xxx-2018

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in 2018 as 721 Eastern Avenue.

Whereas Council of the City of Toronto has the authority pursuant to 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*; and

Whereas authority is given to Council by Section 34 and Section 36 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law; 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 and 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 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; and

Whereas pursuant to Section 39 of the *Planning Act*, the Council of a Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with 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 A hereof, the provisions of which shall be secured by an agreement or agreement's pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix A hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement 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. The lands subject to this By-law are outlined by heavy black lines on Map 1 attached to 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*.
6. District Map 52G-324 contained in Appendix "A" of *By-law 438-86* shall be amended by rezoning the *site* from "I2 D5" to "(H-1)(H-2)I2 D5" and "I2 D5" as shown on Map 1 appended to this By-law.
7. None of the provisions of Section 2(1) with respect to the definition of the term "*average grade*", "*bicycle parking space*", "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*height*", "*non-residential gross floor area*", "*parking garage*", "*showroom*" and Sections 4(4), 4(6), 4(13), 4(17)a, 9(1) to (3) and 12(2)270, of Zoning By-law 438-86 of the former City of Toronto, 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 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 development of the lands know municipally in the year 2017 as 721 Eastern Avenue and depicted on Map 1, on the *lot* provided that:

1. **HEIGHT AND SETBACKS**

- a) No portion of any building or structure shall be constructed outside of the building envelopes depicted by the solid heavy lines on Map 3;

- b) No portion of any building or structure erected above *average grade* shall have a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on Map 3, except for the following:
- (i) structures on any roof used for green roof purposes, vestibules providing access to outdoor amenity space, cooling towers, parapets, mechanical and architectural screens, chimneys, vents, flues, stacks, mechanical fans, elevators and related structural elements, window washing equipment, structures and elements related to drainage, structures and elements associated with green energy and renewable energy facilities provided such projections are limited to a maximum vertical projection of 2.0 metres above the permitted building heights shown on Map 3; and
 - (ii) mechanical penthouse may project a maximum of 5.0 metres above the permitted building heights shown on Map 3.
- (c) No portion of any building erected or used above finished ground level may be located other than wholly within the heavy lines outlining the buildings, as shown on Map 3 of this By-law, with the exception of the following:
- (i) eaves, cornices, lighting fixtures, fences and safety railings, fins, trellises, balustrades, chimneys, vents, wheelchair ramps, retaining walls, landscape features, privacy screens, ornamental structures, frames, underground garage ramps, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, stair landings, decks, planters, window washing equipment and public art features; and
 - (ii) canopies which may encroach a maximum of 2.5 metres beyond the heavy lines and building envelopes specified on Map 3, which may not encroach beyond any property line.

2. DENSITY

- a) The total *non-residential gross floor area* on the *lot* depicted on Map 1 shall not exceed 76,100 square metres of which;
- (i) the total *gross floor area* for Block A as depicted on Map 2, shall not exceed 18,800 square metres of *non-residential gross floor area*;
 - (ii) the total *gross floor area* for Block B as depicted on Map 2, shall not exceed 30,900 square metres of *non-residential gross floor area*; and

- (iii) the total gross floor area for Block C as depicted on Map 2, shall not exceed 26,400 square metres of *non-residential gross floor area*.

3. PERMITTED USES

- a) Despite the uses permitted by Section 9(1)(f)(b) of By-law 438-86, only the following uses are permitted on Block A and Block B:

- (1) Primary employment uses:

- (i) *artist's or photographer's studio;*
- (ii) *brewery;*
- (iii) *carpenter's shop;*
- (iv) *ceramics factory;*
- (v) *communications and broadcasting establishment;*
- (vi) *custom workshop;*
- (vii) *data processing establishment;*
- (viii) *designer's studio;*
- (ix) *electronics equipment factory;*
- (x) *industrial computer service;*
- (xi) *laboratory, class A;*
- (xii) *performing arts studio;*
- (xiii) *post office;*
- (xiv) *production studio;*
- (xv) *publisher;*
- (xvi) *office;*
- (xvii) *sales or hire garage;*
- (xviii) *software, design and development establishment;*

- (2) The following additional uses are permitted and may not collectively exceed 20 percent of the permitted *gross floor area* on each Block:

- (i) *bakery;*
- (ii) *brew-on premises establishment;*
- (iii) *caterer's shop;*
- (iv) *dry-cleaner's distribution station;*
- (v) *dry-cleaning shop;*
- (vi) *duplicating shop;*
- (vii) *industrial trade and technical school;*
- (viii) *newsstand;*
- (ix) *personal grooming establishment;*
- (x) *personal service shop;*
- (xi) *private art gallery;*
- (xii) *restaurant;*
- (xiii) *retail store;*
- (xiv) *service, rental or repair shop;*

- (xv) *showroom;*
 - (xvi) *tailoring shop;*
 - (xvii) *take-out restaurant;*
- (3) *parking garage, private commercial garage, or private garage* provided that it is not the only use on the lot and is ancillary to the primary employment uses permitted in subsection 3(a)(1) of this By-law and is constructed within a building, provided that such use does not have frontage on Eastern Avenue.
- b) Notwithstanding the uses permitted by Section 9(1)(f)(b) of By-law 438-86, only the following uses are permitted on Block C:
- (1) Primary employment uses
 - (i) *automobile service and repair shop;*
 - (ii) *car washing establishment;*
 - (iii) *laboratory;*
 - (iv) *laboratory - class A;*
 - (v) *motor vehicle repair shop —class A;*
 - (vi) *motor vehicle repair shop -class B;*
 - (vii) *office;*
 - (viii) *sales and hire garage;*
 - (ix) *showroom;*
 - (x) *software, development and processing;*
 - (2) The following uses collectively may not exceed a maximum of 10 percent of the permitted *non-residential gross floor area* of Block C:
 - (i) *industrial and technical trade school;*
 - (ii) *personal service shop;*
 - (iii) *retail store;*
 - (iv) *restaurant;*
 - (3) *Vehicle dealership* to a maximum of 4,500 square metres of the total permitted *non-residential gross floor area* of Block C; and
 - (4) Outdoor display, limited to a maximum of four (4) areas measuring a maximum 2.5 metres by 6 metres, located exclusively along the north and east building frontages, for (1) vehicle in each area, and/or technologies associated with other uses permitted on the *lot*.
- c) Notwithstanding the uses permitted by Section 9(1)(f)(b) of By-law 438-86, only the following uses are permitted on Block D:
- (i) below grade *parking garage;*

- (ii) *open space or POPS* (privately owned publicly accessible open space); and
 - (iii) outdoor *patio* related to a *restaurant, take-out restaurant* or a kiosk are permitted in areas outside of the area shown as a *POPS* as identified on Map 3.
- d) No building on Block A or Block B may be erected or used unless a minimum of 70 percent of the total non-residential interior ground floor area along the Eastern Avenue frontage at the first storey above grade is occupied by: accessible and programmable office and other lobbies and pedestrian access, *artist studios, eating establishments, personal service shops, technical and industrial trade schools, retail stores, and take-out eating establishments.*

4. **MAXIMUM RETAIL AREA**

- a) On Block A and Block B only one retail store or retail service commercial unit per Block may have a maximum of interior *gross floor area* of 2,500 square metres, all other retail stores and retail services must be less than 500 square metres of interior *gross floor area*.
- b) On Block C, the maximum interior *gross floor area* of any retail store or retail service commercial unit is no greater than 500 square metres.
- c) No retail use or any other use permitted in subsection 3(a)(2) or 3(b)(2) of this By-law shall be permitted on Block A or Block B unless a minimum of 50 percent of the total permitted *non-residential gross floor area* for the Block is developed for office uses within the same building.
- d) No building erected or used within the *lot* may contain only those uses, solely or in combination, listed:
 - (i) in subsection in 3(a)2 or 3(b)2 of this By-law; or
 - (ii) *parking garage or private commercial parking garage.*

5. **VEHICULAR PARKING**

- a) Parking spaces shall be provided in accordance with the following for Block C:
 - (i) a minimum of 276 *parking spaces* shall be provide on the Block;
 - (ii) one obstructed parking space on one side may have a width of 2.6 metres; and

- (iii) two obstructed parking spaces on two sides may have a width of 2.9 metres.
- b) Parking spaces shall be provided in accordance with the following for Block A and Block B:
 - (i) a minimum ratio of 1.5 *vehicle parking spaces* shall be provided per 100 square metres of *non-residential gross floor area*.
- c) The following shared parking occupancy factors shall apply to the *parking spaces* required by this By-law:
 - (i) a 100 percent occupancy rate during the morning, a 60 percent occupancy rate during the afternoon, and a 0 percent occupancy rate during the evening for office uses;
 - (ii) a 100 percent occupancy rate during the morning, a 100 percent occupancy rate during the afternoon, and 100 percent occupancy rate during the evening for vehicle dealership uses; and
 - (iii) a 20 percent occupancy rate during the morning, a 100 percent occupancy rate during the afternoon, and a 100 percent occupancy rate during the evening for retail store uses.
- d) Despite subsection 5(a)(ii) of this By-law, *parking spaces* are not required for Building A within Block A as identified on Map 3, up to a maximum of what would be required for up to 1,500 square metres of *non-residential gross floor area*.

6. **LOADING**

- a) On Block A and Block B, the minimum number of loading spaces for *retail store, restaurant, take-out restaurant, financial institution, bake-shop, artist and photographer studio and artist studio* uses shall be as follows:
 - (i) 0 to 499 square metres - none required;
 - (ii) 500 to 1, 999 square metres - 1 *loading space – type B*;
 - (iii) 2,000 to 4,999 square metres of non-residential gross floor area - 2 *loading space – type B*; and
 - (iv) 5,000 to 9,999 square metres of non-residential gross floor area - 3 *loading space – type B*;

- b) On Block A and Block B, the minimum number of loading spaces for office uses shall be as follows:
- (i) 0 to 499 square metres - none required;
 - (ii) 500 to 999 square metres - 1 *loading space – type B*;
 - (iii) 1,000 to 1,999 square metres of non-residential gross floor area - 1 *loading space – type B* and 1 *loading space – type C*;
 - (iv) 2,000 to 3,999 square metres of non-residential gross floor area - 1 *loading space – type B* and 2 *loading space – type C*;
 - (v) 4,000 to 27,999 square metres of non-residential gross floor area - 2 *loading space – type B* and 2 *loading space – type C*; and
 - (vi) 28,000 to 51,999 square metres of non-residential gross floor area - 2 *loading space – type B* and 3 *loading space – type C*;
- c) On Block A and Block B, existing buildings that were constructed prior to the passing of this By-law and are renovated shall be permitted to provide the required loading spaces anywhere on Block A or Block B in either a shared configuration with a new building constructed after the passing of this By-law, or within a specially designated area on that portion of the lands shown as Block A or Block B on Map 3.
- d) On Block C, the minimum number of loading spaces for all uses shall be as follows:
- (i) 1 *loading space – type B*;
 - (ii) 1 *loading space – type C*; and
 - (iii) 1 over-sized loading space with a minimum length of at least 25 metres and a minimum width of 3.0 metres.

7. BICYCLE PARKING

- a) On Block A and Block B, a minimum ratio of 1 *bicycle parking spaces* per 1,250 square metres of *non-residential gross floor area* of which a minimum of 80 percent shall be for *Long-Term Bicycle Parking spaces* and a minimum of 20 percent shall be for *Short-Term Bicycle Parking spaces*.
- b) On Block C, a minimum of 16 short term *bicycle parking spaces* and 10 *long term bicycle parking spaces* shall be provided.

- c) A *bicycle parking space* shall have the following minimum dimensions:
- (i) Where the bicycles are to be parked in a horizontal position, and except in the case of a bicycle stacker, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a minimum vertical clearance from the ground of 1.9 metres; and
 - (ii) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres.

8. **HOLDING SYMBOL**

- a) For such time as the *lot* or any part of the *lot* is subject to holding symbols (H-1) and (H-2) as shown on Map 1 appended to this By-law, the *lot* or that part of the *lot* shall be used for only the following:
- (i) any of the uses permitted on the *lot* by this By-law; and
 - (ii) Despite section 8(a)(i) above, *communications and broadcasting establishment, data processing establishment, office, or software, design and development establishment*, are only permitted up to a maximum of 1,500 square metres of *non-residential gross floor area* on Block A and up to a maximum of 1,000 square metres of *non-residential gross floor area* on Block B as shown on Map 1.
- b) After the removal of the holding symbol (H-1) for that portion of the *lot*, the *lot* may be used for the following uses:
- (i) all of the uses permitted in this By-law.
- c) An amending By-law to remove the (H-1) symbol from the *lot* shall be enacted by City Council when the following conditions have been fulfilled to the satisfaction of City Council:
- (i) Provision of a revised functional servicing and stormwater management report has been provided to the City in respect of the portion of the *lot* that will no longer be subject to the (H-1) symbol to the satisfaction of the Chief Engineer & Executive Director, Engineering & Construction Services.
- d) After the removal of the holding symbol (H-2) that portion of the *lot* may have one retail store or service commercial unit on each of Block A and Block B with a maximum interior *gross floor area* of up to 3,500 square metres, and all other retail stores and retail service commercial units must be less than 500 square metres of interior *gross floor area*.

- e) An amending By-law to remove the (H-2) symbol from the *lot* shall be enacted by City Council when the following conditions have been fulfilled to the satisfaction of City Council:
 - (i) Provision of a Retail Impact Assessment to assess the impact on existing pedestrian shopping areas in the vicinity of the subject site to support an increase in the maximum retail unit size from 2,500 square metres up to 3,500 square metres to the satisfaction of the Chief Planner and Executive Director, City Planning.

9. **DEFINITIONS**

- a) "*above-grade building permit*" means a building permit for all or any part of the lot which permits the construction of a building or structure, or portion thereof, above-grade, but does not include the construction of a temporary sale/rental centre, a foundation permit, a demolition permit or a heritage permit;
- b) "*average grade*" means:
 - (i) 77.20 Canadian Geodetic Datum Elevation for that portion of the Lands shown as Block C on Map 2;
 - (ii) 76.85 Canadian Geodetic Datum Elevation for that portion of the Lands shown as Block A on Map 2;
 - (iii) 76.81 Canadian Geodetic Datum Elevation for that portion of the Lands shown as Block B on Map 2;
- c) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle stacker or locker for the purpose of parking and securing bicycles, and
 - (i) where the bicycles are to be parked in a horizontal position, and except in the case of a bicycle stacker, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres.
- d) "*building permit*" means a permit, for all or any part of the lot, issued pursuant to the *Building Code Act*, 1992, and includes conditional permits and any permit for excavation or shoring, but does not include a permit for repairs, maintenance and usual and minor works acceptable to the Senior Manager, Heritage Preservation Services, or a permit for interior alterations that do not affect the exterior building features of heritage

buildings or a permit for the construction of a temporary sales/rental office on the lot;

- e) "*By-law 438-86*" means By-law 438-86, as amended, of the former City of Toronto being, "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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";
- f) "*film and media training facility*" means premises used for training and education related to the production of digital media, broadcasts, motion pictures, or audio or video recordings or transmissions;
- g) "*height*" means the vertical distance between *average grade* and the highest point of the building or structure on the Lands;
- h) "*industrial trade and technical school*" means a school other than a *commercial school* teaches subjects related to industrial trades such as technical design skills, mechanical design or drafting, carpentry, or electrical skills and may include an ancillary space for employment counselling and placement;
- i) "*laboratory*" - means premises used for scientific or technical research, analysis, experimentation or development;
- j) "*long-term bicycle parking*" means *bicycle parking spaces* for use by the occupants or tenants of a building;
- k) "*non-residential gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - (i) parking, loading and bicycle parking above or below *grade*;
 - (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) voids at the level of each floor with a manufacturing use;
 - (v) shower and change facilities required by this By-law for required bicycle parking spaces;
 - (vi) elevator shafts, ventilation duct, utility shafts;

- (vii) utility areas, catwalks, service platforms and a mechanical penthouse; and
- (viii) exit stairwells and escalators in the building.
- l) "*parking garage*" means a building or portion of a building, other than a *private garage*, that is used for the temporary parking of motor vehicles;
- m) "*privately owned publicly accessible open space*" (*POPS*) means an unencumbered and open space that is open to the general public at all times of the day and free from barriers and may allow for a uses as permitted in this By-law;
- n) "*production studio*" means premises used for producing live broadcasts, motion pictures, or audio or video recordings or transmissions. The mass reproduction of film or recordings is not a production studio;
- o) "*short-term bicycle parking*" means *bicycle parking spaces* for use by visitors to a building;
- p) "*site*" means those lands outlined by heavy lines on Map 1 attached hereto;
- q) "*software development and processing*" means premises used for software development and testing, or for the collection, analysis, processing, storage or distribution of electronic data;
- r) "*vehicle dealership*" means a portion of a building used for the sale of vehicles and is ancillary to the primary uses of office, vehicle repair and service, warehousing and storage in conjunction with all other uses allowed on Block C.

10. **TEMPORARY USE**

- a) For Block B on the lands outline in Diagram Map 2 attached to this By-law, temporary at-grade **parking spaces** may be provided as a use of land to support construction, for a period of three years from the date this By-law comes into full force and effect, provided:
 - (i) A minimum of 15 percent of the area of Block B is provided for hard and soft landscaping.

11. **SECTION 37 PROVISIONS**

- a) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 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 and which are

secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.

- b) Where Schedules A and B of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedules A and B are satisfied.

Enacted and passed on (), 2018.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the owner at their expense to the City in accordance with one or more agreements pursuant to section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement in return for the increase in height and density of the proposed development on the lands as shown on Map 1 of this By-law and as secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

1. Enter into a lease agreement for a 99-year term with the City of Toronto on the terms and conditions as set out in Schedule B of this By-law, and on such other terms and conditions satisfactory to the Deputy City Manager, Internal Corporate Services, in consultation with the General Manager, Economic Development and Culture, for a for a minimum of 1,280 square metres (13,778 square feet) of space on two floors commencing at grade level in the Existing Building 'A', as identified on Map 4, for a nominal rent. The space will be designated for creative industries and entrepreneurship use and may include design, fashion incubators, technology start-up space, music and sound recording, and other appropriate creative industry uses. The City agrees that the owner of Block A, as identified on Map 2, may have access to Eastern Avenue through Building 'A' and may use Building 'A' prior to the City taking occupancy of the space.
2. Prior to Site Plan Approval for development on any Block as identified on Map 2, the owner will provide cash contributions for the following:
 - i. \$800,000 in the form of a certified cheque to the City of Toronto to be applied to the fit out costs for the space described in 1 above.
 - ii. \$100,000 in the form of a certified cheque to the City of Toronto towards landscape improvements for the Bruce Public School yard.
3. The owner will make commercially reasonable efforts to allow the future tenants of Building 'A' to continue operations during construction and redevelopment of the site. If this is not possible, the owner has a one-time option to relocate the future tenants to another space of a similar size and quality for a temporary duration and in a location and on reasonable terms and conditions, in light of the community space tenancy program, the subtenant mix, the relationship of the City Space to the street and the branding of the City Space at such time, to the satisfactory to the Deputy City Manager, Internal Corporate Services, in consultation with the General Manager, Economic Development and Culture until such time as Building 'A' is available for occupancy. The owner shall be responsible for any and all costs associated with relocating future tenants as a result of the redevelopment of the site.
4. The Owner shall have a one-time option (but not the obligation), in the event of bona fide substantial renovations to, or the bona fide redevelopment of the Development, to relocate the future tenants at the Owner's sole cost and expense to a similar location on

the Site for the remainder of the Term, or similar premises in the vicinity of the Site, with the size, location, materials and design of the relocated Leased Premises City space (as well as any temporary facility, if applicable) and terms of the move to be to the satisfaction of the Chief Planner, in consultation with the General Manager, Economic Development Tourism and Culture. For greater certainty, such relocation shall be at no cost to the City.

5. In the event the cash contribution referred to in 2 above has not been used for the intended purpose within five (5) years of this By-law coming into full force and effect, the contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands.
6. The payments required in 2 above, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
7. The design, construction and maintenance of landscape and public realm improvements on the City-owned open space area adjacent to Lake Shore Boulevard East, according to the approved plans, the timing of and design of which shall be to the satisfaction of the Chief Planner and Executive Director, City Planning.
8. The following matters be secured in the Section 37 Agreement as a legal convenience to support development, at the owner's expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor:
 - a) Prior to Site Plan Approval for development on any Block as identified on Map 2, the owner shall:
 - i. enter into a Heritage Easement Agreement for Building A at 721 Eastern Avenue, as identified on Map 4, and shall not object to the designation of 721 Eastern Avenue (Building A) under Part IV of the Ontario Heritage Act.
 - ii. provide a Conservation Plan for Building A at 721 Eastern Avenue, prepared by a qualified heritage consultant, to the satisfaction of the Senior Manager, Heritage Preservation Services.
 - b) Prior to Site Plan Approval for development on Block A as identified on Map 2, the owner shall:

- iii. provide a Heritage Interpretation Plan for the subject property to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
 - iv. provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its character, and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
 - v. provide a detailed Landscape Plan for the subject property to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
- c) Prior to the issuance of any above grade building permit on any Block as identified on Map 2, the owner shall provide a memorandum, prepared by a qualified heritage consultant, detailing the careful removal of existing building components and protection of Building A, and Building G, as identified on Map 4 if it is to be retained in association with the POPS, during construction to the satisfaction of the Senior Manager, Heritage Preservation Services and the Director, Urban Design.
- d) Prior to the issuance of any above grade building permit for Block C, the owner shall convey to the City for nominal consideration, a Publicly-Accessible Privately Owned Space (POPS) surface easement with a minimum width of 10 metres as identified on approved plans to provide public access for use by the general public, which surface easements shall include provisions for rights of support if necessary, and insurance and indemnification of the City by the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor. The surface easement POPS is to be conveyed to the City free and clear of all physical and title encumbrances unless otherwise agreed to by the Chief Planner and Executive Director, City Planning, and the City Solicitor. The owner shall own, operate, maintain and repair the POPS. The owner shall install and maintain a centralized sign on the proposed POPS, at its own expense, generally in accordance with the City of Toronto POPS Urban Design Guidelines. Members of the public shall be entitled to use the POPS and the east-west link connecting the southern end of the POPS 365 days a year, subject to temporary closures on terms and conditions being satisfactory to the Chief Planner and Executive Director, City Planning. The owner shall explore the retention, reuse, and potential relocation of Building G's industrial framing and clerestory in the design and relationship to the POPS.
- e) Prior to the earlier of the first above building permit for Block C, or the registration of the Plan of Subdivision, the owner shall secure and construct all transportation, streetscape, intersection and public realm improvements linked to the development proposal, including letters of credit to secure works, which letters of credit shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication 62-007-XPB, or its successor,

calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.

- f) Prior to the earlier of any first above grade building permit for any Block as identified on Map 2, or the registration of the Plan of Subdivision, the owner shall secure, pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support this development to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- g) Prior to the first above grade building permit for any Block as identified on Map 2, the owner shall satisfy the Parkland dedication for that Block in accordance with Section 42 of the *Planning Act* through cash-in-lieu, to the satisfaction of the General Manager, Parks, Forestry and Recreation (PFR), and the City Solicitor.
- h) Prior to final Site Plan Approval of any development beyond the adaptive reuse and/or fitting out and renovation of Existing Building 'A', the owner shall submit a plan detailing improvements to the public realm for the subject site to be implemented in support of the development, which will include but not be limited to, details regarding hard and soft landscaping, paving and curb details, lighting, sidewalk treatment, outdoor seating, planting, cycling facilities, and Toronto Transit bus shelters.
- i) Prior to the issuance of the first above grade building permit for any Block as identified on Map 2, the owner shall provide a letter of credit in the amount of the cost of all associated public realm works as described in Recommendation 8(g) above, such letter of credit shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
- j) Prior to the issuance of the first above grade building permit for Block C, not including a building permit related to site preparation, excavation, demolition, or alteration of existing buildings or construction of roads, the owner shall build and convey a public street between Lakeshore Boulevard East and Eastern Avenue, according to approved plans, including intersection improvements and any identified new signals and pedestrian/cycling infrastructure to the City's applicable standards for public roads, the precise location and specifications of which are to be secured in conjunction with site plan approval for the development of Block C or plan of subdivision to the satisfaction of the General Manager, Transportation Services.

- k) Upon the registration of the Plan of Subdivision or prior to the issuance of the first above grade building permit for Block C, the owner shall convey the required road widening along Eastern Avenue to the City free of all physical and title encumbrances except as otherwise agreed to by the City Solicitor, and all to the satisfaction of the City Solicitor.
- l) Upon the registration of the Plan of Subdivision or prior to the issuance of the first above grade building permit for Block C, the owner shall dedicate all roads, road widening and corner roundings as shown on the submitted plans to the satisfaction of the Chief Engineer & Executive Director of Engineering and Construction Services free of all physical and title encumbrances except as otherwise acceptable to by the City Solicitor, and all to the satisfaction of the City Solicitor.
- m) Prior to the earlier of the registration of the Plan of Subdivision or the issuance of the first above grade building permit for Block C, the owner shall secure and pay for all costs associated with the design, installation and future maintenance of traffic control signals, stop signs, and other streetscape infrastructure at the intersection of Rushbrooke Avenue and Eastern Avenue and the intersection of Rushbrooke Avenue and Lake Shore Boulevard East to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- n) Prior to the issuance of a building permit related to any excavation and shoring work for any Block as identified on Map 2, the owner will submit a Construction Management Plan and Construction Traffic Mitigation Strategy, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official and Executive Director, Toronto Building, 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, and may be expanded, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, and the Ward Councillor:
- i. details regarding size and location of construction staging areas;
 - ii. dates and significant concrete pouring activities;
 - iii. parking strategies that deal with providing on-or off-site parking for existing uses;
 - iv. mitigation strategies to reduce the impact on adjacent residents including negative effects of safety lighting, air debris from demolition works, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary; and
 - v. communication strategy with the surrounding community.

- o) The owner shall submit any applications required to remove or injure trees (both City and private) to the satisfaction of the General Manager, Parks, Forestry and Recreation prior to Site Plan Approval.
- p) 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 to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- q) Prior to Site Plan Approval for development on any Block as identified on Map 2, the owner agrees to withdraw all appeals to By-law 569-2013 as well as any objections to OPA 231 respecting 721 Eastern Avenue.
- r) Prior to Site Plan Approval for development on any Block as identified on Map 2, the owner shall submit a revised Hydrological Review Summary Form and Servicing Report Groundwater Summary Form to the satisfaction of the Chief Engineer & Executive Director, Engineering & Construction Services.

SCHEDULE B
Section 37 Details: Term Sheet, Services and Facilities

Leased Premises:	A minimum of approximately 1,280 square metres (approximately 13,778 square feet) of space on two floors commencing at grade level in Building "A", municipally known as 721 Eastern Avenue, Toronto (the "City Space")
Landlord:	The registered owner of Block A from time to time.
Tenant:	City of Toronto
Subtenant:	<p>Non-profit organizations chosen by the City.</p> <p>If a Subtenant is in default, the City has option to: (i) assign sublease to another non-profit organization chosen by the City, (ii) sublease the City Space to another non-profit organization chosen by the City, or (iii) terminate the sublease.</p>
Term and Commencement Date:	Ninety-nine (99) years, commencing on or about two (2) years after the issuance of an Above-Grade Building Permit for Block C. The parties shall confirm the Commencement Date in writing.
Extension Option:	None
Basic Rent:	Basic Rent of One Dollar (\$1.00) for each year of the Term.
Additional Rent, Operating Costs:	<p>The Tenant is responsible for operating costs, taxes, maintenance and insurance for the Leased Premises. The Landlord is responsible during the first 25 years of the Term for repairs and replacements to:</p> <ul style="list-style-type: none">(i) the foundation, bearing walls, structural columns and beams and other structural components;(ii) the outside of all exterior walls;(iii) any part of the roof;(iv) the loading dock; and(iv) the plumbing, mechanical, electrical, heating and air conditioning systems; <p>following the end of such 25-year period, the Tenant shall be responsible for same.</p>
Registration of Lease:	To protect the 99 year term, the lease shall be registered on title at the landlord's sole expense. The landlord shall provide all required postponements of registered title encumbrance (other than with

respect to the restrictive covenants registered on title to the Site as Instrument No. AT4195198) and pay registration costs as well as land transfer tax based on fair market value (based on an appraisal acceptable to the City), and provide a Title Opinion from its solicitor, in the form required by the City Solicitor. The landlord shall also provide an indemnity to the Tenant, with respect to land transfer tax liability.

Substantial Damage:

In the event of substantial damage to the extent that in the reasonable opinion of: (i) the General Manager, Economic Development ("GM") and Culture and/or the Deputy City Manager, Internal Corporate Services (DCM – ICS"), that the Tenant or Subtenant cannot conduct its usual operations in the Leased Premises; and (ii) an independent qualified architect given within sixty (60) days after the date of such damage, that the damage is incapable of being repaired within 180 days; if requested by the GM and/or DCM - ICS, the Landlord shall relocate the Leased Premises, for the remainder of the Term, to other premises of similar size within the vicinity reasonably adequate for the Permitted Uses by such relocated Tenant and/or Subtenants (as well as any temporary facility, if applicable) and on such terms and conditions which are reasonable, in light of the community space tenancy program, the subtenant mix, the relationship of the Leased Premises to the street and the branding of the Leased Premises at such time, to the satisfaction of the GM and/or DCM - ICS (the "Alternate Premises"). For greater certainty, the Landlord shall be responsible for any and all reasonable out-of-pocket costs incurred by such relocated Tenant and/or Subtenants. This Lease shall be amended to substitute the Alternate Premises for the Leased Premises and the lease of such Alternate Premises shall continue for the remainder of the Term. The provisions of this Lease, including construction and completion of the Leased Premises, shall apply in all respects to the Alternate Premises.

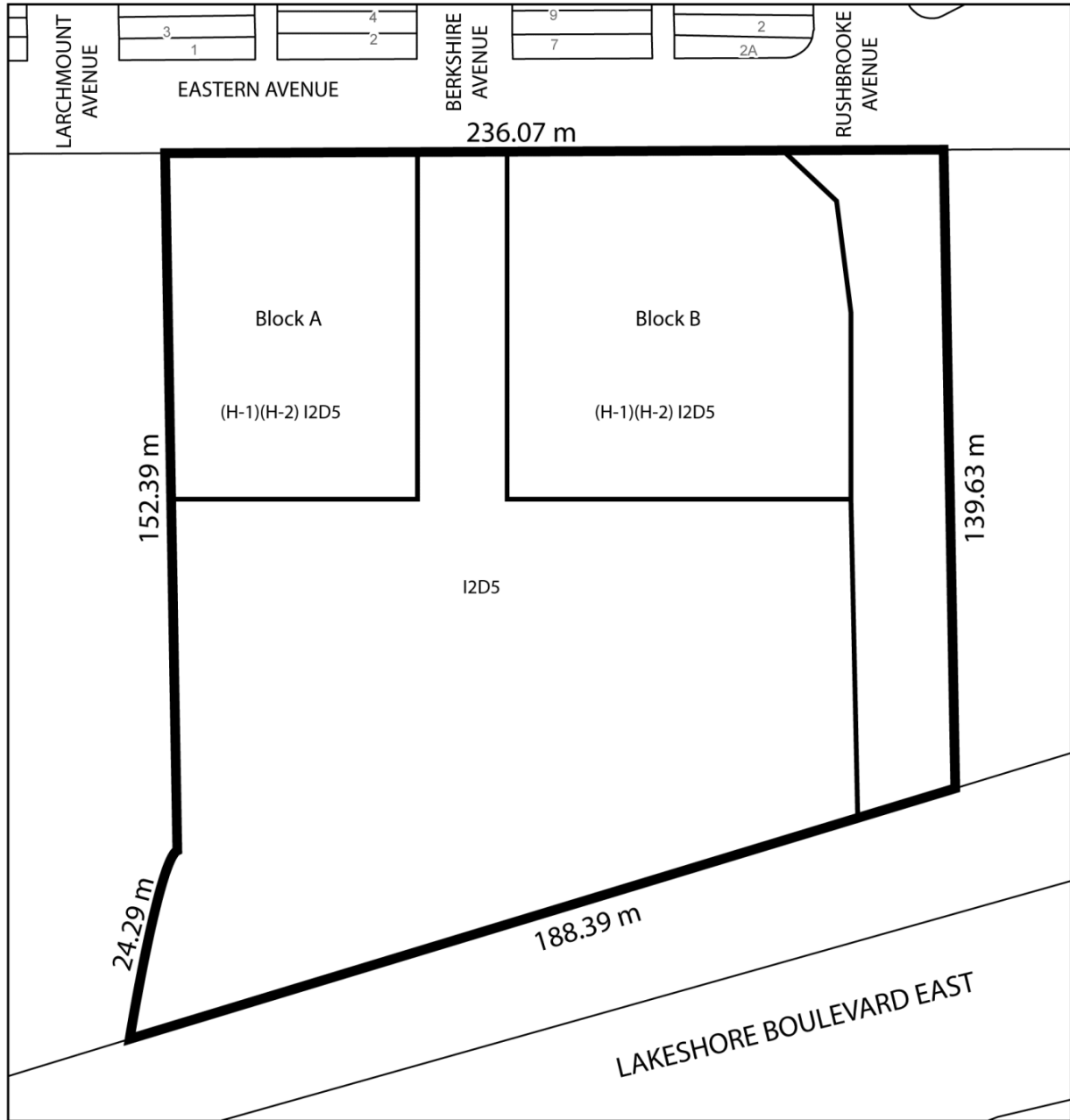
Landlord's Relocation Option:

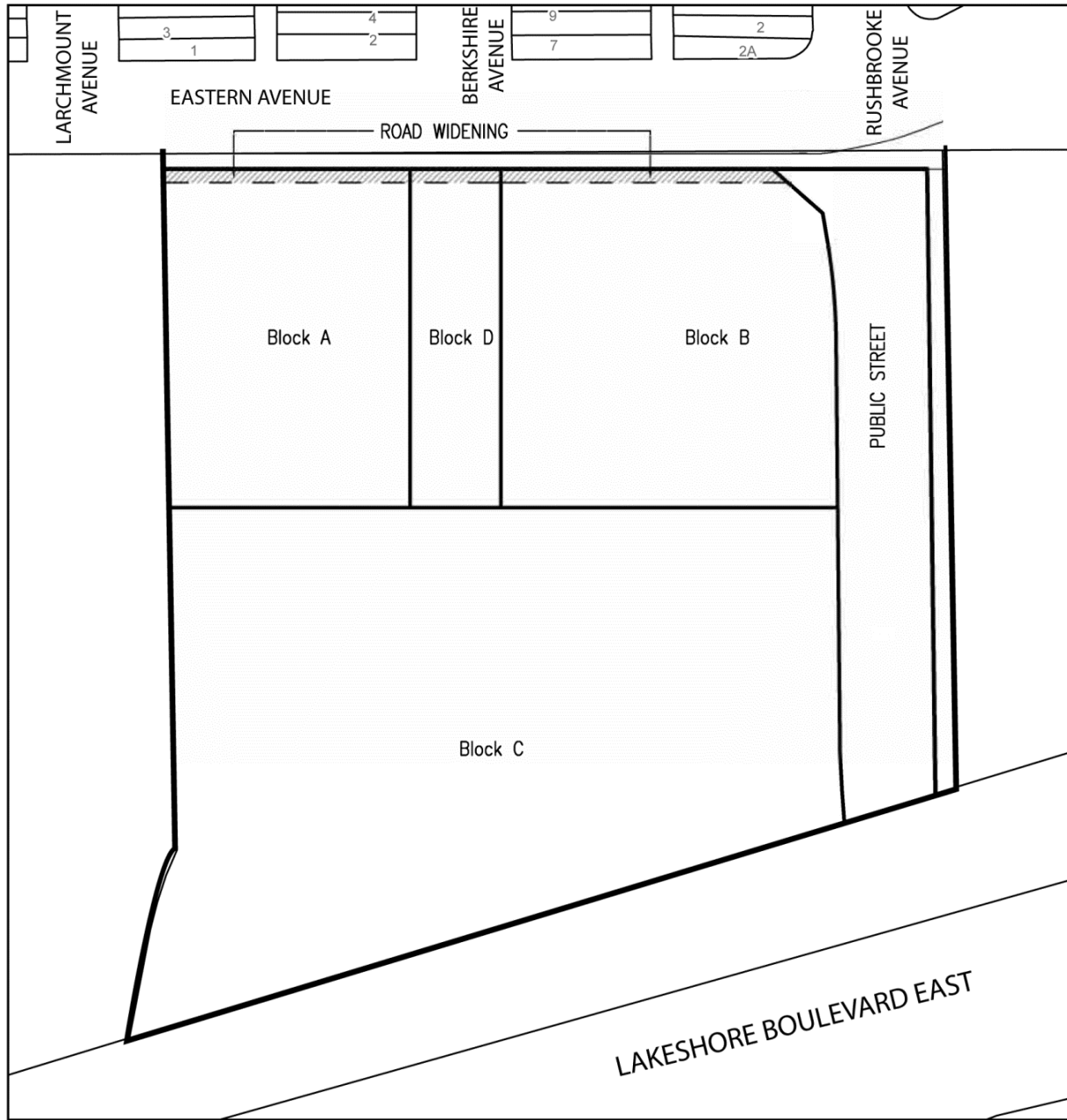
The Landlord shall have a one-time option (but not the obligation), in the event of bona fide substantial renovations to, or the bona fide redevelopment of the property, to relocate the Leased Premises at the Landlord's sole cost and expense to a similar location on the Lands for the remainder of the Term, or similar premises in the vicinity of the Leased Premises, with the size, location, materials and design of the relocated Leased Premises (as well as any temporary facility, if applicable) and terms of the move to be to the satisfaction of the Chief Planner, in consultation with the General Manager, Economic Development and Culture (the "**Relocated Premises**"). For greater certainty, such relocation shall be at no cost to the City. The provisions of this Lease, including construction and completion of the Leased Premises, shall apply in all respects to the Relocated Premises. This Lease shall be amended to substitute the

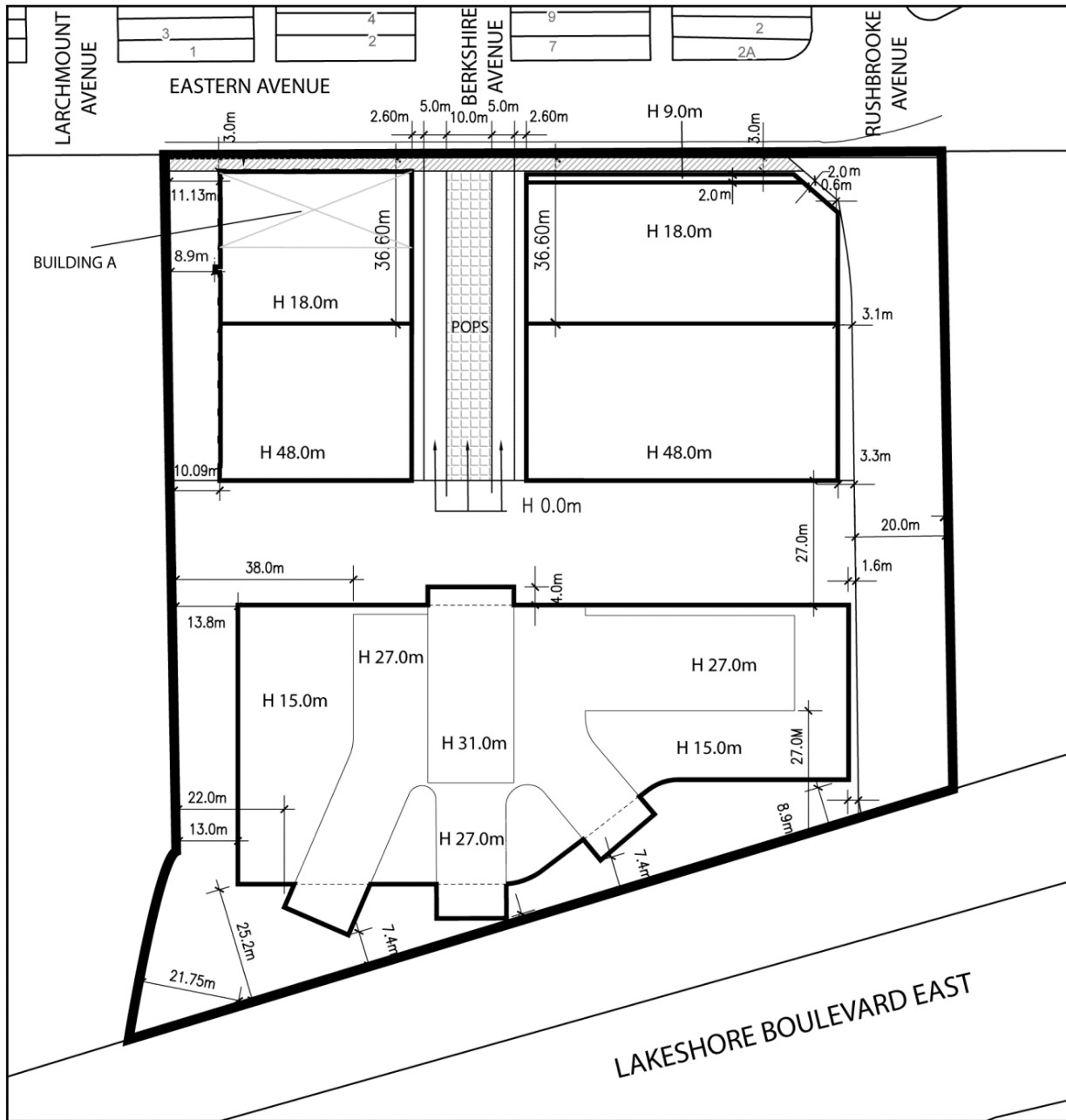
Relocated Premises for the Leased Premises and the lease of the Relocated Premises shall continue for the remainder of the Term. If the relocation option is exercised, the Tenant's requirement to pay for the capital costs listed in the Additional Rent, Operating Cost section above after the end of the 25 year period, no longer applies and the Landlord shall pay such costs for the balance of the Term.

Early Termination:

Notwithstanding anything contained herein, the City has the right to terminate the lease at any time, upon 60 days prior written notice to the Landlord.








TORONTO
 Map 3

721 Eastern Avenue

File # 17 137240 STE 30 0Z

 EXISTING BUILDING


 City of Toronto By-Law 438-86
 Not to Scale
 6/22/2018

