

Authority: Toronto and East York Community Council Item ## as adopted by City of Toronto Council on ~, 2018

CITY OF TORONTO

Bill No. ~

BY-LAW No. XXXX-2018

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known in the year 2017 as 88 Queen Street East, 10 Mutual Street and parts of 30-50 Mutual Street.

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 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 No. 438-86 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. None of the provisions of Sections 2(1) with respect to the definitions of *grade*, *height*, *lot*, *non-residential gross floor area*, and *residential gross floor area*, and Sections 4(2)(a), 4(5), 4(5) Schedule 1, 4(8), 4(12), 4(13), 4(16), 8(3) Part I 1, 8(3) Part I 2, 8(3) Part I 3(A), 8(3) Part II 1, 8(3) Part III 1, 8(3) Part XI 2, 12(2)132, 12(2)216, 12(1)333, 12(2)259, and 12(2)380 of By-law 438-86 of the former City of Toronto, as amended, 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 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", and none of the provisions of By-law 180-2005 shall apply to prevent the erection and use of a *mixed-use building* which contains *dwelling units* and non-

residential uses, including uses *accessory* thereto, and a *commercial parking garage* on the *lot* provided that the following provisions are complied with:

- a. The lands subject to this By-law and comprising the *lot* include at least the lands delineated by heavy lines on Map 1 attached to this By-law;
- b. The total *gross floor area* of all buildings and structures on the *lot* shall not exceed a maximum of 97,500 square metres, of which:
 - i. the *gross floor area* for residential uses shall not exceed 86,250 square metres; and
 - ii. the *gross floor area* for non-residential uses shall not exceed 11,750 square metres;
- c. No portion of any building or structure erected above finished ground level shall be located other than wholly within the areas delineated by heavy lines on Map 2 attached to this By-law, with the exception of the following:
 - i. canopies and awnings may project beyond the heavy lines to a maximum horizontal projection of 1.5 metres;
 - ii. eaves, window sills, and ornamental or architectural elements may project beyond the heavy lines to a maximum horizontal projection of 0.6 metres;
 - iii. stairs, wheelchair ramps, guardrails, underground garage ramps including associated enclosures and structures, patios, terraces, landscape elements, wind mitigation, covered walkways, and public art may project beyond the heavy lines; and
 - iv. balconies located only within the areas delineated and labeled "Area of Balcony Projection" on Map 2 to a maximum horizontal projection of 1.5 metres;
- d. No portion of any building or structure erected on the *lot*, including any mechanical penthouse containing equipment and structures used for the functional operation of the building and elevator/stair overruns, shall have a *height* in metres greater than the *height* limits specified by the numbers following the letter "H" on Map 2 attached to this By-law, with the exception of the following:
 - i. landscape elements, elements of a green roof, wind mitigation features, parapets, and guardrails may extend above the *height* limits shown on Map 2, provided that all building elements are located to ensure that there is no impact on Obstacle Limitation Surfaces as cited in Ontario Regulation 114/16 and City of Toronto By-law 1432-2017;
- e. Despite (c) above, no portion of any building or structure shall be located between

finished ground level and 5.0 metres above finished ground level within the areas delineated and labeled "Area of Privately Owned Publicly Accessible Pedestrian Walkway" on Map 3 attached to this By-law, with the exception of the following:

- i. canopies and awnings may project up to 1.5 metres into the walkway area;
- f. Despite (c) and (d) above, a maximum of two (2) bridges between buildings may be permitted within the location shown in hatching on Map 2 attached to this By-law, subject to the following:
- i. the maximum height of each bridge shall be one *storey*;
 - ii. bridges must be unenclosed such that they do not contain *gross floor area*; however, they may contain unenclosed structures providing safety or wind protection to outdoor *residential amenity space*; and
 - iii. bridges must be located above a height of 25.0 metres and below a height of 43.6 metres, measured between the Canadian Geodetic Datum elevation of 86.4 metres and the highest point of the bridge;
- g. No portion of any building or structure erected on the *lot*, either above or below finished ground level, shall be located within the area delineated and labeled "Parkland Dedication" on Map 3 attached to this By-law;
- h. The total number of *dwelling units* shall not exceed 1,140;
- i. A minimum of 40% of the total number of *dwelling units* must contain two bedrooms, and a minimum of 9% of the total number of *dwelling units* must contain three or more bedrooms;
- j. *Residential amenity space* shall be provided in accordance with the following:
- i. a minimum of 1.5 square metres of indoor *residential amenity space* shall be provided per *dwelling unit*; and
 - ii. a minimum of 1.0 square metres of outdoor *residential amenity space* shall be provided per *dwelling unit*.
- k. *Parking spaces* shall be provided on the *lot* in accordance with the following minimum requirements:
- i. a minimum of 0.35 *parking spaces* for each *dwelling unit* for use by residents;
 - ii. a minimum of 0.06 *parking spaces* for every *dwelling unit* for use by visitors, and such *parking spaces* may be designated as shared commercial/residential visitor *parking spaces* and may be provided within

- i. length of 5.6 metres;
 - ii. width of 3.9 metres; and
 - iii. vertical clearance of 2.1 metres;
- b. "*bicycle parking space*" means an area used for storing bicycles having the following minimum dimensions:
 - i. where the bicycles are to be parked in a horizontal position, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension of at least 1.9 metres;
 - ii. where the bicycles are to be parked in a vertical position, has a minimum length or horizontal dimension of 1.2 metres, a minimum width of 0.6 metres and a minimum vertical dimension of at least 1.9 metres;
 - iii. where the bicycles are to be parked in a stacked position, where one *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device, has a minimum length of 1.8 metres, a minimum width of 0.375 metres, and a minimum vertical dimension of at least 1.2 metres;
- c. "*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 carsharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental; and
- d. "*car-share parking space*" means a *parking space* exclusively reserved and signed for a car used only for *car-share* purposes.
- e. "*grade*" means 86.4 metres Canadian Geodetic Datum;
- f. "*gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - i. parking spaces and loading spaces below *grade*;
 - ii. required loading spaces at the ground level;
 - iii. storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - iv. facilities for bicycle parking, including but not limited to the area occupied by bicycle parking spaces and required shower and change facilities;
 - v. residential amenity space required by this By-law;
 - vi. elevator shafts, garbage shafts;
 - vii. mechanical penthouses; and
 - viii. exit stairwells in the building or structure;

- g. "*height*" means the vertical distance between *grade* and the highest point of the roof of the building on the *lot*, except for those elements prescribed by this By-law;
 - h. "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
 - i. "*Phase 1*" means the development proposed within Parcel A as described in By-law 180-2005 and may include phasing within the lands for construction purposes to facilitate the shared access as well as the future public park shown on Map 3;
 - j. "*Phase 2*" means the development proposed within the *lot*;
3. 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 had occurred.
 4. None of the provisions of this By-law shall apply to prevent the construction of a temporary sales office on the *lot* for the sale of units located within the *lot*.
 5. Except as otherwise provided herein, the provisions of former City of Toronto By-law 438-86, as amended, shall continue to apply to the *lot* and the buildings and structures thereon.
 6. None of the provisions of City of Toronto By-law 180-2005 shall apply to the *lot*, including the Section 37 obligations which are now incorporated into Schedule "A" of this By-law as determined applicable and shall be the responsibility of the owner of the *lot*;
 7. Within the lands shown on Map 1, 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.
 8. Section 37 Provisions:
 - ii. 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 Appendix 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;

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

Enacted and passed on **month ##, 2018.**

Name,

Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- a. prior to issuance of the first above-grade building permit, the owner shall pay by certified cheque payable to the Treasurer – City of Toronto, a financial contribution in the amount of \$3.3 million dollars to be applied in the vicinity of the site and allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor as follows: \$1.1 million to park or streetscape improvements; \$1.1 million to community, recreation and/or cultural space improvements and \$1.1 million for purpose built rental housing with mid-range or affordable rents and/or land for affordable housing and/or affordable ownership housing;
- b. the cash contribution set out in item a. shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the day the payment is made;
- c. prior to issuance of the first above-grade building permit, the owner shall pay by cash or certified cheque payable to the Treasurer – City of Toronto, a financial contribution in the amount of \$600,000 dollars to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor toward one or more of the following: the establishment and/or the improvement of a community facility at 261 Jarvis Street; off-site streetscape improvements within the Shuter Street right-of-way; and/or other local community facilities;
- d. the cash contribution set out in item c., originally secured pursuant to By-law 108-2005, shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from March 16, 2005 to the day the payment is made;
- e. in the event the cash contributions set out in items a. and c. as indexed have not been used for the intended purpose within three (3) years of the by-law coming into full force and effect, the cash contributions may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the lands;
- f. a Public Art contribution in the amount of \$1.5 million will be secured as part of the development;
- g. the following matters will be secured in the Section 37 Agreement in support of the development:

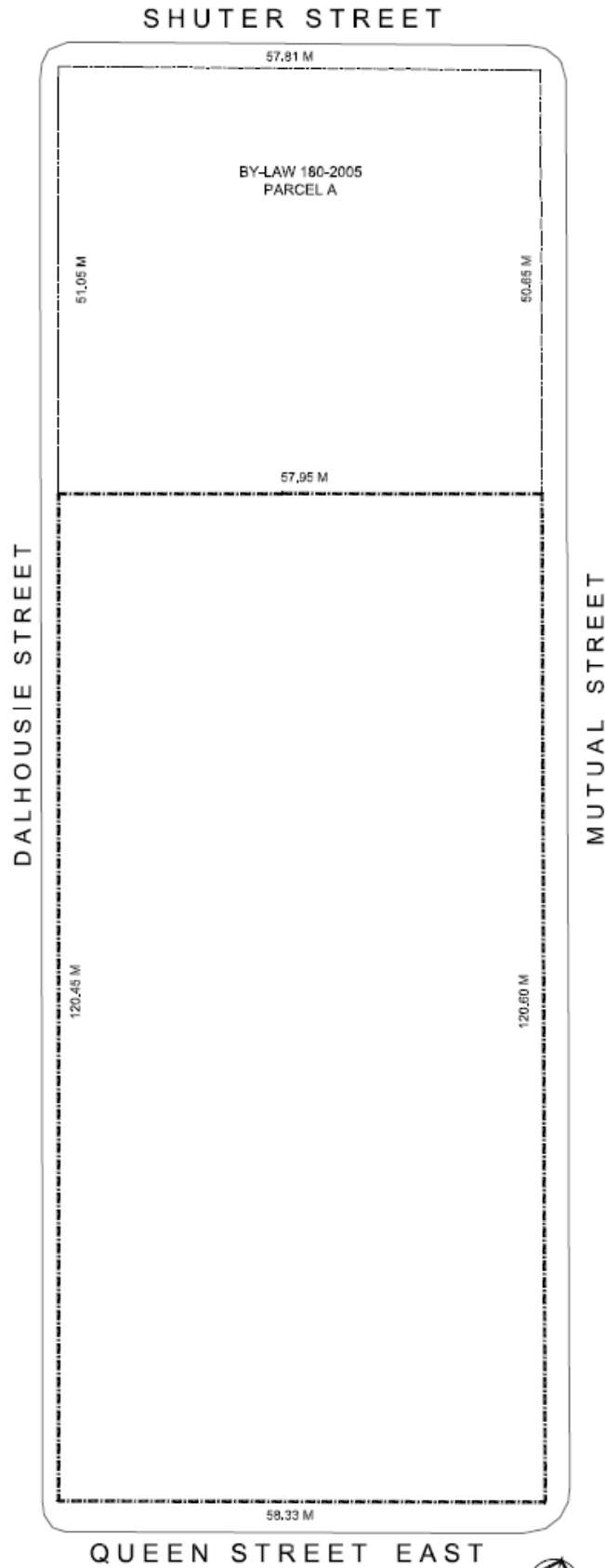
- i. the owner shall pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support the development, to the satisfaction of the Chief Engineer and Executive Director Engineering & Construction Services;
- ii. prior to the issuance of the first building permit on the *lot*, the owner shall post securities and make satisfactory arrangements to guarantee completion of the construction of any municipal infrastructure required to service the *lot* in accordance with the accepted servicing and storm water management reports and associated municipal servicing plan, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- iii. prior to the issuance of the first building permit on the *lot*, the owner shall grant to the City, for the use of the TTC, a 3 m buffer along the south property line in fee simple and negative support and access easements, if required, with the detailed requirements determined through a TTC Technical Review, to the satisfaction of the Toronto Transit Commission;
- iv. prior to the issuance of the first building permit on the *lot*, the owner shall provide confirmation from St Michael's Hospital, or their representative, that any temporary (including construction cranes) and permanent structures are below or outside the protected flight path to the satisfaction of the Chief Planner and Executive Director, City Planning;
- v. provision that neither of the two midblock buildings proposed to be linked will include units that have principal rooms with principal windows directly facing the adjacent linked building to the satisfaction of the Chief Planner and Executive Director, City Planning;
- vi. the owner shall construct and maintain to the satisfaction of the Chief Planner and Executive Director, City Planning, an area of not less than 847 square meters at grade for use by the general public as publicly accessible, privately-owned open space (POPS), along the east side of the *lot* and in the southeast corner in a location generally identified on Map 3 attached to this By-law, with the location configuration and design of the POPS to be determined in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor and secured in a site plan agreement with the City;
- vii. the owner shall construct and maintain, to the satisfaction of the Chief Planner and Executive Director, City Planning, at grade publicly accessible pedestrian walkways having a minimum 7.5 m width for the west-east mid block connection and a minimum 8.3 m width for the north-south pedestrian mews connection in a location generally identified on Map 3 attached to this By-law, with the details of the location, configuration and design of the POPS to be determined in the context of site plan

- approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division and secured in a site plan agreement with the City;
- viii. prior to the earlier of any non-residential or residential use or occupancy and registration of the first condominium on the *lot*, the owner shall have completed construction of the POP'S and pedestrian walkways referred to in g(vi) and g(vii) above and shall prepare all documents and convey to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, free and clear of encumbrances and for nominal consideration, a public access easement in perpetuity in favour of the City over the privately-owned open space (POPS) and the pedestrian walkways, including rights of support as applicable, on such terms and conditions as are set out in the section 37 agreement, including provision for insurance and indemnification associated with public access easements;
- ix. prior to the issuance of the first building permit on the *lot*, the owner agrees to convey to the City, at nominal cost and free and clear of encumbrances, a 0.6 m wide road widening to the full extent of the westerly limit of the *lot* for the widening of Dalhousie Street to the satisfaction of the Chief Engineer and Executive Director Engineering & Construction Services on terms and conditions as are set out in the section 37 agreement, including environmental requirements in accordance with City Council policies respecting environmental conditions of lands being conveyed to the City;
- h. in addition to the matters set out in item g. the section 37 Agreement will also secure the owner's obligations to convey a public park respecting parkland contributions for both *Phase 1* and *Phase 2* in the location shown on Map 3 attached to this By-law having a minimum size of 962 square meters (the "Proposed Park") and to design and construct base and above-base park improvements, on terms and conditions set out in the section 37 Agreement to the satisfaction of the General Manager Parks Forestry and Recreation, including the following:
- i. prior to the issuance of the first above-grade building permit for all or any part of *Phase 1*, excluding a permit for demolition or a rental/sales centre, the owner shall register a Section 118 restriction on title to the Proposed Park, in form and priority to the satisfaction of the City Solicitor, to secure the conveyance to the City;
- ii. the owner shall prepare all documents and convey the Proposed Park to the City to the satisfaction of the General Manager, Parks Forestry and Recreation prior to the earlier of any residential or non-residential use of all or any part of *Phase 1*, including first or interim occupancy, and registration of the first condominium pursuant to the Condominium Act, 1998, on all or any part of *Phase 1* and the remaining 22m² of parkland dedication be made by cash in lieu payment prior to issuance of the first building permit for all or part of *Phase 2*;
- iii. prior to conveyance of the Proposed Park to the City, the owner shall complete all required environmental assessment and remediation of the lands in order to meet applicable laws, regulations and guidelines respecting sites to be used for public park

purposes, including City Council policies respecting remediation of lands being conveyed to the City, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services;

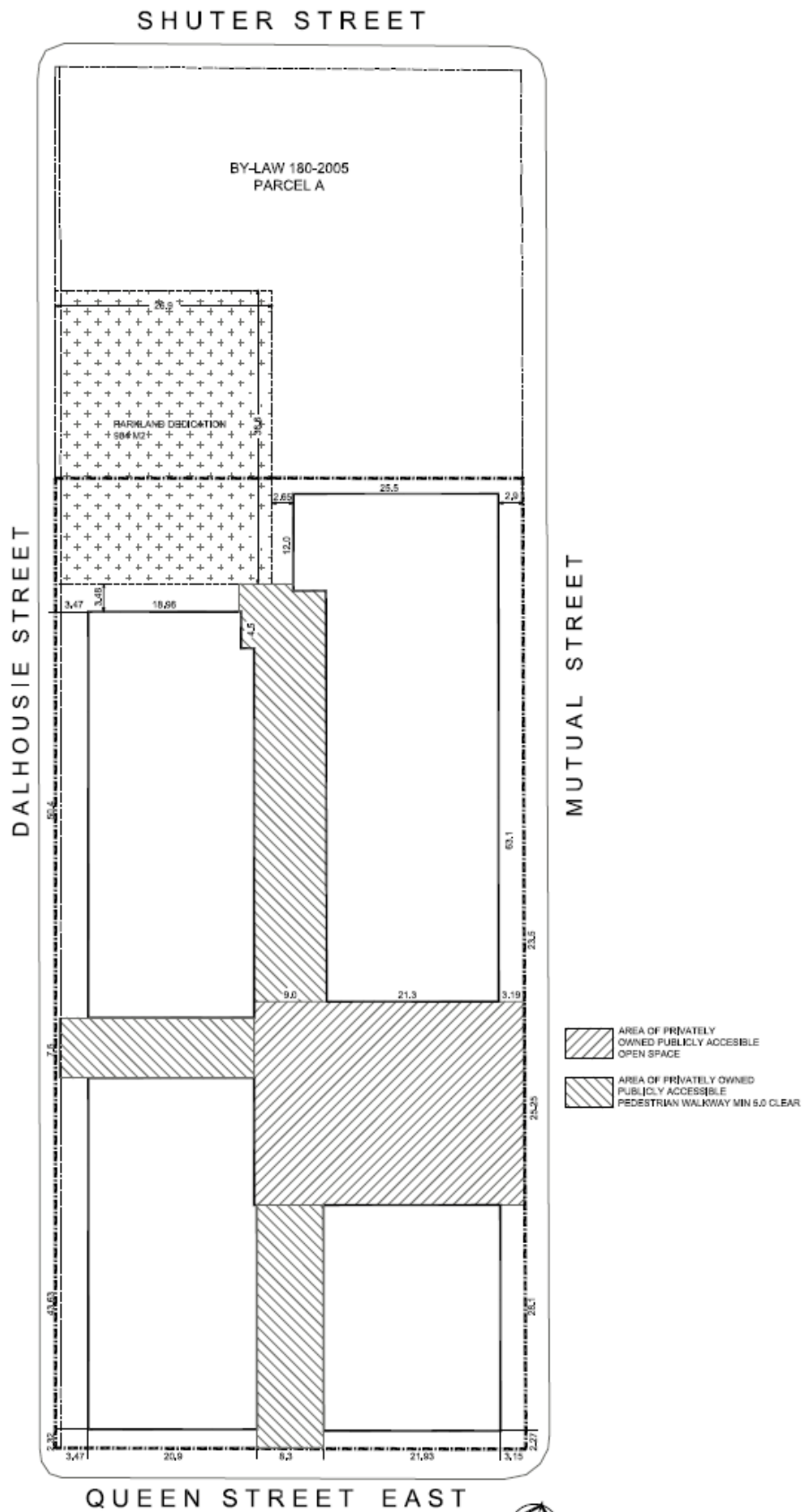
- iv. prior to issuance of the first above grade building permit for all or any part of *Phase 1*, the owner shall submit all necessary plans and drawings and financial security equal to 120% of the estimated cost of base park improvements to the satisfaction of the General Manager, Parks Forestry and Recreation;
 - v. prior to issuance of the first above grade building permit for all or any part of *Phase 1*, the owner shall submit a design and cost estimate for the above base park improvements together with financial security in the amount of 120% of the Parks and Recreation Development Charges payable for development within such *Phase 1* to the satisfaction of the General Manager, Parks Forestry and Recreation and, prior to issuance of the first above grade building permit for all or any part of the respective subsequent phase, the owner shall submit financial security in the amount of 120% of the Parks and Recreation Development Charges payable for the development within the subsequent phase, as required to the satisfaction of the General Manager Parks, Forestry and Recreation;
 - vi. within four months after issuance of the first above-grade building permit for all or any part of *Phase 1*, the owner shall submit detailed working drawings, specifications and landscape plans showing the scope of work for the above base park improvements for review and approval of the General Manager, Parks Forestry and Recreation;
 - vii. the owner shall install and maintain at its own expense, temporary perimeter fencing around the Proposed Park until completion of park construction;
 - viii. the owner shall complete construction of the base park improvements and above base park improvements not more than six months after the conveyance of the Proposed Park to the City, to the satisfaction of the General Manager, Parks, Forestry and Recreation, subject to extensions for seasonality at the discretion of the General Manager, Parks, Forestry and Recreation;
 - ix. following completion of the base park improvements and the above base park improvements to the satisfaction of the General Manager, Parks Forestry and Recreation, the owner shall provide as built drawings together with certification from a landscape architect certifying that the work has been completed in accordance with the approved drawings and, further, the owner shall be required to guarantee all work and associated materials for a two year period; and
 - x. in the event that *Phase 2* proceeds to first building permit in advance of *Phase 1*, all obligations set out in item h) i. to viii. shall apply to *Phase 2*, read with the necessary modification.
- i. all conveyances to the City, including easements, shall be for nominal consideration, free

and clear of encumbrances and at no cost to the City on terms set out in the Section 37 Agreement to the satisfaction of the City Solicitor and the owner shall be responsible to prepare, submit to the City for approval and deposit all required reference plans to describe the lands being conveyed.



MAP 1





MAP 3

