

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

Authority: Toronto and East York Community Council Item TE12.5, as adopted by City of Toronto Council on xxx, 2020

Enacted by Council: on

CITY OF TORONTO

**Bill No.**

**BY-LAW No. -2020**

**To amend former City of Toronto By-law No. 438-86, as amended, with respect to the lands municipally known in the year 2020 as 250 Dundas Street West.**

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 the 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 such 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 increase 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 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; and  
The Council of the City of Toronto enacts:

The Council of the City of Toronto enacts:

1. This By-law applies to the lands delineated by heavy black lines and identified as 250 Dundas Street West, as shown on Map 1 attached to and forming part of the By-law.
2. None of the provisions of Section 2 with respect to definitions of amenity space, bicycle parking space – occupant, bicycle parking space – visitor, height, lot and grade and Sections 4(2)(a), 4(5)(b), (c), (d) and (h), 4(8)(b) and (d), 4(12), 4(13), 8(3) Part I 1, 2 and 3(a), 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 8(3) Part XI(2), 12(2)132 and 12(2)208 of By-law No. 438-86, as amended and By-Law 64-83, shall apply to prevent the erection and use of a mixed-use building on the lot provided that:
  - (a) the lot comprises of the lands delineated by heavy lines on the attached Map 1;
  - (b) the total combined residential gross floor area and non-residential gross floor area on the lot shall not exceed 44,700 square metres;
    - i. the total residential gross floor area shall not exceed 29,600 square metres; and
    - i. the total non-residential gross floor area shall not exceed 15,100 square metres, of which a minimum of 14,000 square metres shall be used for office purposes.
  - (c) a minimum of 10 percent 3-bedroom dwelling units shall be provided;
  - (d) a minimum of 27 percent 2-bedroom dwelling units shall be provided;
  - (e) a minimum of 2 square metres of indoor residential amenity space per dwelling units shall be provided and maintained on the lot in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom;
  - (f) a minimum of 1.74 square metres of outdoor residential amenity space per dwelling unit shall be provided;
  - (g) no portion any building or structure erected on the lot above grade shall be located otherwise than wholly within the heavy lines identified on Map 2 attached to and forming part of this By-law with the exception of the following:
    - i. the ground floor of the building shall be set back a minimum of 3 metres from the property line along Dundas Street West;
    - ii. eaves, cornices, lighting fixtures, fences and safety railings, 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, pool, decking public art features, and architecture features, railings, screens;
- iii. canopies which may encroach a maximum of 3 metres beyond the building envelopes; and
  - iv. structures, elements and enclosures permitted by sub-Section (h) below;
- (h) no part of any building or structure to be erected on the site shall exceed the height limits in metres specified by the numbers following the symbol "H" as shown on Map 2, except that;
- i. structures, elements and enclosures permitted by sub-Section (g) above;
  - ii. structures on any roof used for outdoor amenity space or open air recreation, maintenance, safety or wind protection purposes provided such projections are limited to a maximum vertical projection of 3.5 metres above the permitted building heights shown on Map 2;
  - iii. 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, stacks, mechanical fans, guardrails, decking, pavers, landscape elements and features, telecommunication equipment, antennas, exit stairs, elevators and related structural elements, flues, window washing equipment, elements or structures related to drainage, and structures and elements associated with green energy and renewable energy facilities provided such projections are limited to a maximum vertical projection of 3.5 above the permitted building heights shown on Map 2; and
  - iv. portions of an underground parking garage and associated structures situated below finished ground level provided no portion of such structures is more than 1.0 metre above Canadian Geodetic Datum elevation of 95.1 metres;
- (i) a minimum number of 54 residential parking spaces shall be provided on the site;
  - (j) a minimum number of 31 parking spaces for non-residential uses and visitors shall be provided on the site, which may be provided on a non-exclusive basis;
  - (k) a minimum of 3 of the required parking spaces must be located in the first level of underground parking exclusively reserved and signed for short-term usage;
  - (l) a minimum number of 499 bicycle parking spaces – occupant shall be provided;
  - (m) a minimum number of 90 bicycle parking spaces – visitor shall be provided;

- (n) a minimum of 1 shower and change facilities shall be provided for each gender; and
  - (o) One loading space – type G, one loading space – type B and one loading space – type C shall be provided and maintained on the site.
3. Despite any existing or future severance, partition or division of the site, the provisions of this by-law shall apply to the whole site as if no severance, partition or division occurred.
  4. None of the provisions of this By-law shall apply to prevent a temporary sales office on the site.
  5. Except as otherwise provided herein, the provisions of By-law No. 438-86 shall continue to apply to the site.
  6. Pursuant of Section 37 of the Planning Act, the heights and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision at the owner's sole expense and in accordance with and subject to the agreement referred to in Appendix 1 of this By-law.
  7. 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 provisions 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, the owner may not erect or use such building until the owner has satisfied the said requirements.
  8. For the purposes of the By-law, all italicized words and expressions have the same meaning as defined in By-law 438-86, as amended, with the exception of the following:
    - (a) “amenity space” means indoor or outdoor space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities. Indoor residential amenity space is excluded from the calculation of residential gross floor area;
    - (b) “bicycle parking space” means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purposes of parking and securing bicycles, and:
      - i. where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.46 metres by 1.93 metres and a vertical dimension of at least 1.22 metres, and;
      - ii. where 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;

- (c) "bicycle stacker" means a device where a bicycle parking space is positioned above or below another bicycle parking space and can be accessed by means of an elevating device.
  - (d) "grade" shall mean, 95.1 metres above sea level based on Geodetic Survey of Canada 1929 mean sea level vertical datum (1978 Southern Ontario Adjustment);
  - (e) "height" shall mean the vertical distance between grade and the highest point of a building or structure on the lot, except for those elements prescribed by this By-law;
  - (f) "temporary sales office" means a building, structure, facility or trailer on the site used for the purpose of leasing of dwelling units or non-residential gross floor area to be erected on the site; and
  - (g) "lot" means the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law
9. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure on the lot 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.

Enacted and passed on (clerk to insert the date), 2020.

Frances Nunziata, Ulli S. Watkiss,  
Speaker 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 lot 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:

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 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. Prior to the issuance of the first above-grade building permit, the owner shall submit a letter of credit in a value no less than \$500,000.00 in the City's standard form to secure for public art on the lands to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
2. Prior issuance of the first above-grade building permit, the owner shall submit a public art plan detailing the design and construction of a public art installation, in accordance with the City's Percent for Public Art Guidelines to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor; and details of the public art process to the satisfaction of City Council.
3. Prior to the issuance of the first above-grade building permit, the owner shall pay to the City the sum of \$100,000.00 to be allocated towards local streetscape improvements located within Ward 11 and within the vicinity of the subject lands, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Neighbourhood Improvements Unit within the Design and Project Management Section, Transportation Services Division, the Ward Councillor, the General Manager, PF&R and the General Manager, Transportation Services.
4. The financial contribution identified in Section 3 above shall be paid by certified cheque to the City, and the amount set out in Section 1 and 2 herein shall 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 the Section 37 Agreement to the date the payment is made to the City.
5. In the event that the cash contributions referred to in Section 2 and 3 above has not been used for the intended purposes within three (3) years of the By-laws coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with

the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in Ward 11.

6. Prior to the issuance of any building permit, including permits for excavation and shoring, and subject to the project qualifying for Open Doors, the owner shall enter into a municipal capital facility agreement ("Contribution Agreement") with the City to design, construct, provide, maintain and contribute to the provision and maintenance of twenty-two (22) new affordable rental housing dwelling units on the lot at a value of at least \$8,000,000 from the owner, with terms in accordance with such contribution agreement, including that the average monthly rents of such twenty-two (22) units shall be at or below 80 percent of the CMHC rents for a period of twenty-five (25) years inclusive of a 5 year phase-out period from first occupancy of each such unit as affordable rental housing in accordance with such contribution agreement, all to the satisfaction of the Director, Affordable Housing Office, the Chief Planner and Executive Director, City Planning and the City Solicitor. And the owner shall thereafter provide such affordable rental housing dwelling units in accordance with the contribution agreement entered into with the City.
7. The affordable rental housing dwelling units will be comprised of the following:
  - (a) at least 17 one-bedroom units having a minimum size of at least 39 square metres;
  - (b) at least 5 two-bedroom units having a minimum size of at least 59 square metres; and
  - (c) average unit sizes will be higher than the minimum sizes.
8. The following general provisions for the affordable rental housing dwelling units will be:
  - (a) tenants of the affordable rental housing shall have access to the indoor and outdoor amenity spaces associated with the building on the same basis as other units within the development with no separate or additional charges;
  - (b) all affordable rental housing units will have laundry facilities on the same basis as other units within the development, with no extra charges for appliances;
  - (c) the tenants of the affordable rental housing will have access to permanent and visitor bicycle parking/bicycle lockers in accordance with the zoning by-law and on the same basis as other units within the development;
  - (d) parking will be provided consistent with the by-law requirements on the same basis as other units within the development and is not included as a part of rent. The maximum monthly parking charge to the tenants in the 1st year of the building's occupancy will be agreed to at the time of site plan application to the satisfaction of the Chief Planner and Executive Director, City Planning, and annual increases thereafter will be limited to the same percentage for annual rent increases as the Guideline increase permitted under provincial legislation;

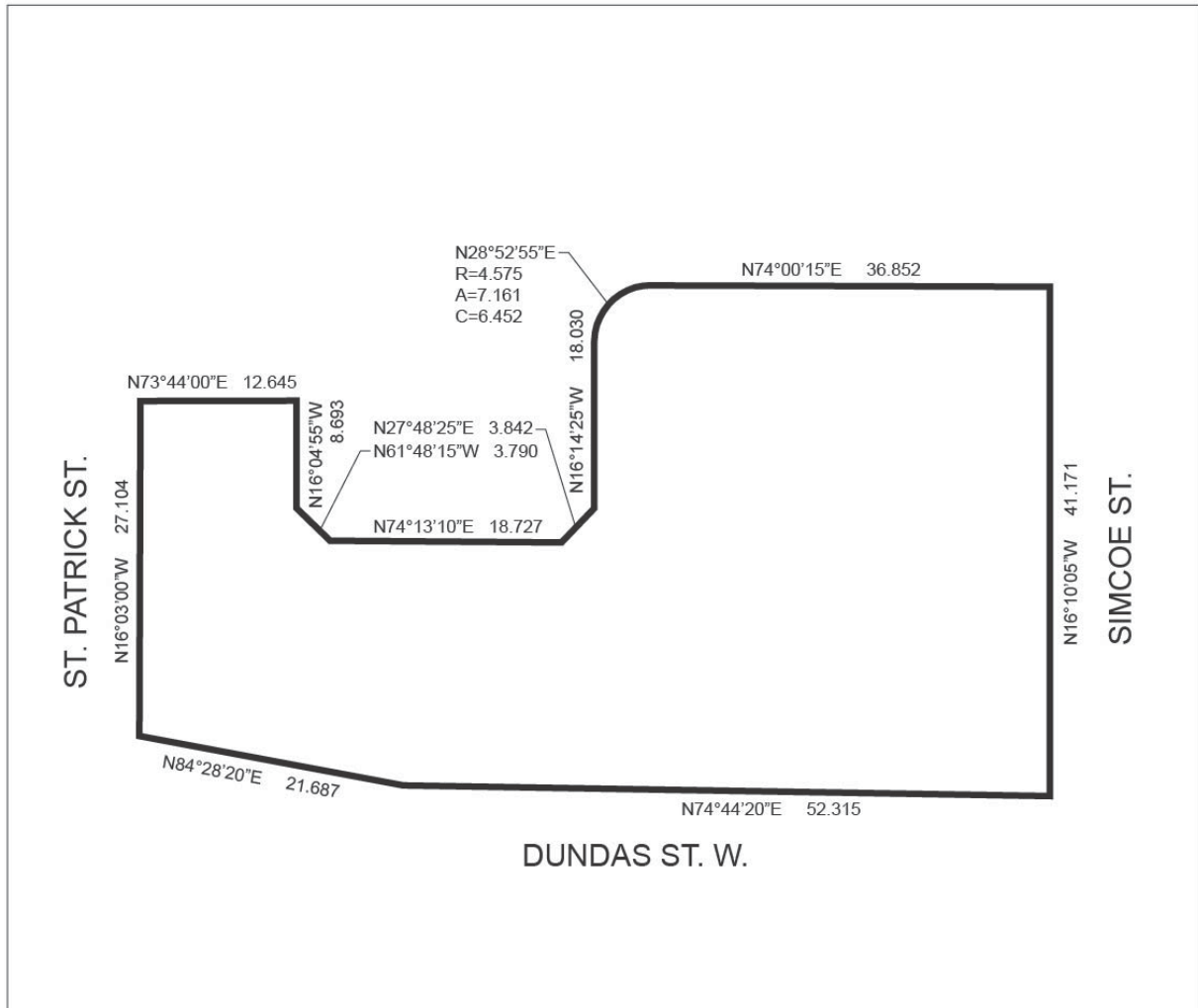
- (e) storage lockers will be made available to rent at the same residential unit to storage locker ratio as the entire building;
  - (f) rents will be set at affordable rents, where the total monthly shelter cost (including heat, hydro and hot water, excluding parking and internet/cable charges) is at or below 80% of the Average Market Rent for the City of Toronto, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation in the Fall Market Report;
  - (g) if utilities are not included in the rent and are to be paid by the tenant, a utility allowance will be delivered by way of setting off the amount of the utility allowance against the monthly rental payment, for each separately metered utility, as determined and updated annually by the City, or to the satisfaction of the Chief Planner and the Director of Housing Stability Services in writing; and
  - (h) When entering into a tenancy agreement for an affordable unit, household income cannot exceed four times the annual equivalent of the rent for the unit.
9. Prior to site plan approval for all or any part of the lot, the owner shall provide to the satisfaction of the Chief Planner and to the Director, Affordable Housing Office, the proposed unit layouts and floor plans for any areas of buildings that provide or relate to the provision of the new affordable rental dwelling units required in clauses 3 and 4 above.
10. The owner will submit an Open Door Affordable Rental Housing Program application for approval by the Executive Director, Housing Secretariat, to be eligible for the City's Open Door Program incentives as described in the Recommendations of this report. Subject to approval under the program, during the affordability period:
- (a) affordable rents must be provided for a minimum of 30 years from initial occupancy, inclusive of a 5-year phase-out period during which rents can be set at market levels when a tenant vacates a unit. Thereafter rents may be charged in accordance with the Residential Tenancies Act or successor legislation;
  - (b) the owner will provide an affordable housing access plan and first occupancy report satisfactory to the Director of Housing Stability Services or designate, no later than six months before first occupancy to report on rents at occupancy; and
  - (c) the owner will provide to the Director of Housing Stability Services an annual occupancy report at the end of each calendar year to report on rents during the year and information on the household incomes of units rented to new tenants during the year.
11. In the event the project does not qualify for Open Doors, as required in clause 6 of this Schedule, the owner shall in any event provide and maintain on the lot at least 22 new affordable rental housing dwelling units distributed throughout the lot with rents that remain at 100% AMR for at least 26 years. The affordable rental units will be comprised of the following:



- (a) at least 17 one-bedroom units having a minimum size of at least 39 square metres;
  - (b) at least 5 two-bedroom units having a minimum size of at least 59 square metres;  
and
  - (c) average unit sizes will be higher than the minimum sizes.
12. The affordable rental units of the building shall be maintained as rental housing for at least a 49-year period and the owner shall not apply to convert any of the units to any non-rental housing purposes, nor to demolish the rental housing without replacement as rental housing on the site, during this period. The owner shall also not apply for approval of a Description with respect to any portion of the rental housing, nor register any of the rental housing under the Condominium Act or for any other form of ownership tenure, such as but not limited to, life lease or co-ownership as defined in c.667 of the Toronto Municipal Code that provide a right to exclusive possession of a unit.
13. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support the development:
- (a) prior to issuance of any building permit, including permits for excavation and shoring, the owner shall enter into a municipal capital facility agreement ("Contribution Agreement") to provide Open Door Affordable Housing Program incentives for up to 22 affordable rental housing dwelling units to be developed on the lands at 250 Dundas Street West, subject to the approval of an Open Door Application by the Executive Director, Housing Secretariat. The owner shall provide such affordable rental housing dwelling units in accordance with such agreement(s) to be entered into with the City, all to the satisfaction of the Executive Director, Housing Secretariat, the Chief Planner and Executive Director, City Planning and the City Solicitor.
  - (b) prior to the issuance of Final Site Plan Approval, the owner shall have addressed the requirements for the removal of private and City trees on the site and adjacent property as required by the City of Toronto Tree Bylaw as outlined in the memorandum from Urban Forestry Services staff dated October 31, 2019.
  - (c) Prior to the issuance of the first above grade building permit, the owner shall submit a revised Pedestrian Level Wind Study, satisfactory to the Chief Planner and Executive Director, City Planning, including wind tunnel analysis, which identifies recommendations for the pedestrian realm and any outdoor amenity space on the site and to mitigate wind impacts year-round, and the owner shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
  - (d) Prior to the commencement of any excavation and shoring work, the owner shall submit a Construction Management Plan to the satisfaction of the Chief Planner

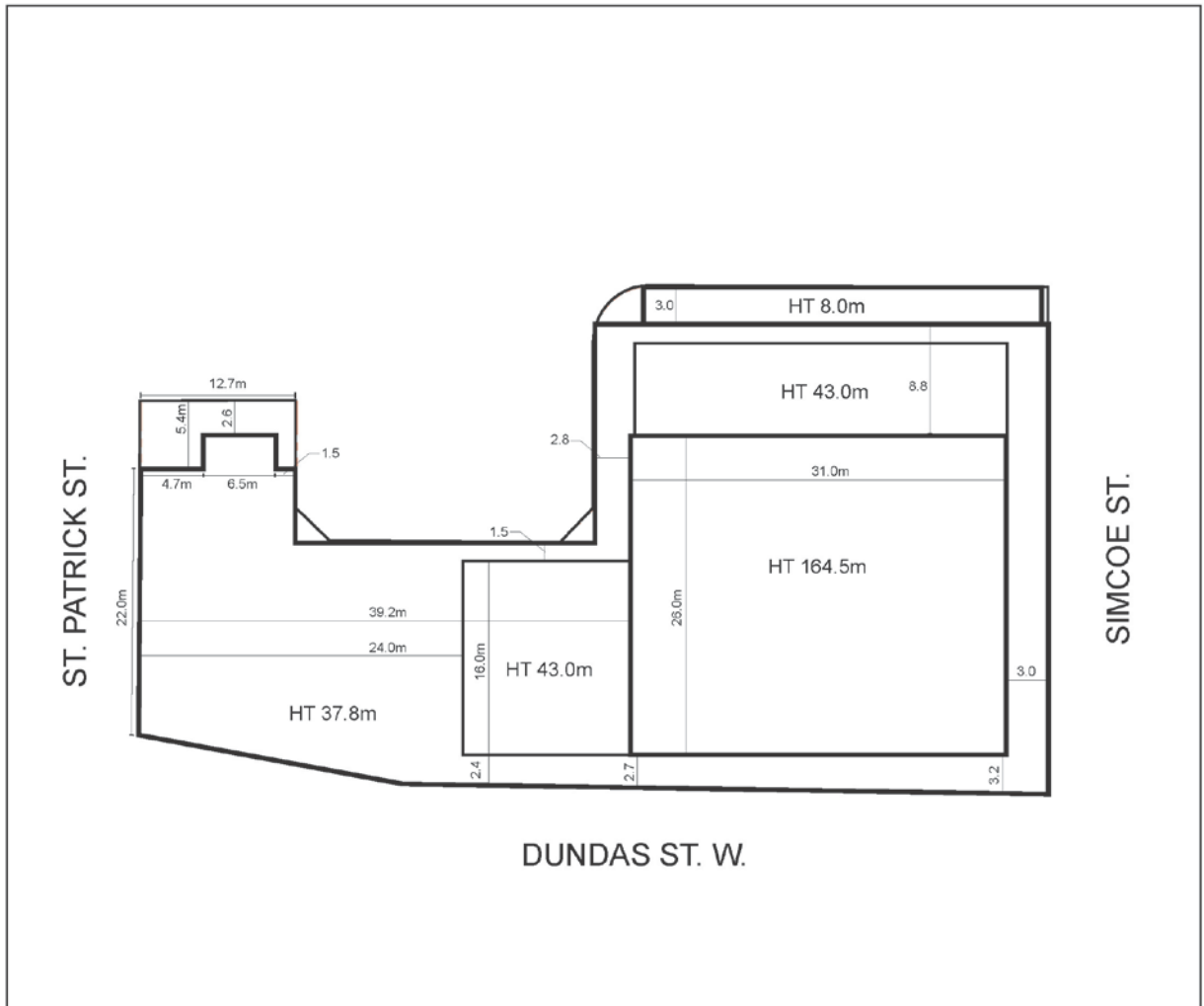
and Executive Director, City Planning Division, the General Manager of Transportation Services, the Chief Building Official, in consultation with the Ward Councillor, in consultation with the local community, and thereafter shall implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to the following construction-related details: noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the General Manager, Transportation Services, in consultation with the Ward Councillor.

- (e) As per Toronto Municipal Code Chapter 415-28, prior to the issuance of the first above grade building permit, the owner will be required to convey an off-site parkland dedication equal to the value of the parkland on-site dedication. The subject parkland conveyance is to be free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry & Recreation.
- (f) In the event that the off-site parkland dedication is substantially less than the value of the on-site parkland dedication, then the owner will be responsible for the shortfall of parkland dedication requirement through a payment of cash-in-lieu, to be paid for prior to the issuance of the first above grade building permit.
- (g) In the event that the owner is unable to acquire a suitable off-site parkland dedication, after reasonable commercial efforts, the owner will be required to satisfy the parkland dedication requirement through cash-in-lieu. The value of the cash-in-lieu of parkland dedication will be appraised through Real Estate Services. The appraisal will be conducted based upon the submission to Toronto Building prior to the first above ground building permit and is valid for six months. Payment will be required prior to the issuance of said permit.
- (h) The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of item PG32.3 of the Planning and Growth Committee, and as updated by Toronto City Council at its meeting held on December 5, 6 and 7, 2017 through the adoption of item PG23.9 of the Planning and Growth Committee, and as may be further amended by City Council from time to time.



250 Dundas Street West, Toronto





250 Dundas Street West, Toronto

Map 2

File #18 150969 STE 20 OZ

