

Attachment 9: Draft Zoning By-law Amendment (By-law 438-86)

Authority: Local Planning Appeal Tribunal Decision issued on [XXXX] and Order issued on [XXXX] in Tribunal File No. PL171101

CITY OF TORONTO

BY-LAW NO. XXXX - 2020

To amend Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known in the year 2020 as 1071 King Street West

Whereas the Ontario Municipal Board pursuant to its decision issued on July 31, 2019 and Order issued on [XXXX] in respect of Board File PL171101 after hearing the appeal under Section 34(11) of the *Planning Act*, R.S.O. c. P.13, as amended, deems it advisable to amend the Zoning By-law for the former City of Toronto Zoning By-law 438-86; 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; 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, are to be 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;

Now therefore pursuant to the Order of the Local Planning Appeal Tribunal, By-law No. 438-86 is further amended as follows:

1. Maps 1 and 2 attached, form part of this By-law.
2. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
3. For the purpose of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.

4. None of the provisions of Section 2(1) with respect to the definition of the terms “*lot*”, “*grade*”, and “*height*” and Sections 4(2), 4(4), 4(6), 4(7), 4(13)(a),(c) and (d), 4(17), 8(2) 5, 8(3) Part I, 8(3) Part II, 12(2)270, of By-law No. 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 erection and use of a *mixed-use* building on the *lot*, provided that:
- (a) in addition to those uses permitted pursuant to Section 8(1) of By-law 438-86, permitted uses on the *lot* shall also include *car-share parking spaces*;
 - (b) the total aggregate *residential gross floor area* and *non-residential gross floor area* on the *lot* does not exceed 18,800 square metres, provided:
 - (i) the *residential gross floor area* does not exceed 18,100 square metres; and
 - (ii) the *non-residential gross floor area* does not exceed 700 square metres;
 - (c) a minimum of ten percent of the total number of dwelling units constructed on the *lot* must contain three bedrooms or more;
 - (d) In addition to the number of three bedroom dwelling units required in (c) above, a minimum of twenty percent of the total number of dwelling units constructed on the *lot* must contain two bedrooms or more;
 - (e) no portion of any *building* or *structure* on the *lot* shall have a *height* greater than the *height* in metres specified by the number following the “H” symbol as shown on Map 2 attached to and forming part of this By-law, with the exception of the following:
 - (i) wind screens, elevator overruns, parapets, overruns, awnings, fences, guard rails, railings and dividers, pergolas, trellises, balustrades, eaves, screens, stairs, stair enclosures, roof drainage, window sills, window washing equipment, chimneys, vents, terraces, lightning rods, light fixtures, architectural features, landscaping, and elements of a green roof, which may project above the *height* limits shown on Map 2 by a maximum of 6.0 metres;
 - (f) no portion of a *building* or *structure* located above ground shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law, with the exception of the following:

- (i) architectural elements, cornices, light fixtures, ornamental elements, parapets, art and landscape features, patios, decks, pillars, trellises, balconies, terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, and underground garage ramps and associated structures, which may extend beyond the heavy lines shown on Map 2 of this By-law by a maximum of 2.0 metres;
- (g) notwithstanding 4(4), *parking spaces* for the *mixed-use building* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.19 *parking spaces* per *dwelling* unit for the use of residents of the building;
 - (ii) a minimum of 0.1 *parking spaces* per *dwelling unit* for visitors to residents of the building;
 - (iii) no *parking spaces* are required for non-residential uses;
- (h) for each *car-share parking space* provided on the *lot*, the minimum number of required residential *parking spaces* shall be reduced by four (4) *parking spaces*, up to a maximum reduction as calculated by the following formula: $4 \times (\text{the total number of } \textit{dwelling units} \text{ on the lands divided by } 60)$, rounded down to the nearest whole number;
- (i) if the calculation of the number of required *parking spaces* by (1)(f)(i) and (ii) results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than one *parking space*
- (j) a minimum of 3 accessible *parking spaces* shall be provided and maintained on the *lot*;
- (k) an accessible *parking space* shall have the following minimum dimensions:
 - (i) Length of 5.6 metres;
 - (ii) Width of 3.4 metres;
 - (iii) Vertical clearance of 2.1 metres;
 - (iv) The entire length of an accessible *parking space* must be adjacent to a 1.5-metre-wide accessible barrier free aisle or path;
- (l) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:

- (i) a minimum of 0.9 bicycle parking spaces – occupant for each dwelling unit the use of residents of the building shall be provided;
 - (ii) a minimum of 0.1 *bicycle parking spaces – visitor* for each *dwelling unit* for visitors to the building shall be provided;
 - (iii) a minimum of 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* used for a *retail store*;
 - (iv) a minimum of 3 plus 0.3 *bicycle parking spaces* for each 100 square metres of *interior floor area* used for a *retail store*;
 - (m) notwithstanding the definition of *bicycle parking space – visitor* in Section 2(1) of Zoning By-law No. 438-86, as amended, *bicycle parking space – visitor* may be provided within a secured room; and
 - (n) notwithstanding the definition of *bicycle parking space – visitor* and *bicycle parking space – occupant* in Section 2(1) of Zoning By-law No. 438-86, as amended, a *bicycle parking space* may be provided in a stacked *bicycle parking space* having a minimum vertical clearance of 1.2 metres, a minimum width of 0.27 metres, and a minimum length of 1.8 metres.
 - (o) one *loading space - Type "G"* shall be provided and maintained on the *lot*;
5. Despite any future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply as if no severance, partition or division occurred.
6. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, with the exception of the following terms:
- (i) “*bicycle parking space*” means an area used for storing bicycles having the following minimum dimensions:
 - a. Where the bicycles are to be parked on a horizontal surface, the bicycle parking space shall have a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
 - b. Where the bicycles are to be parked in a vertical position, the bicycle parking space shall have a minimum length or vertical clearance from the wall of 1.1 metres, a minimum

width of 0.46 metres and a vertical dimension of at least 1.83 metres;

- c. Where the bicycles are to be parked in bicycle stacker, each bicycle parking space shall have a minimum vertical clearance of 1.2 metres;
- (ii) “*car-share*” means the practice whereby a number of people share the use of one or more motor vehicles that are owned and operated by a profit or non-profit car-sharing organization, and such car-share vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
- (iii) “*car-share parking space*” shall mean a *parking space* exclusively reserved and signed for a car used only for *car-share* purposes;
- (iv) “*grade*” means the Canadian Geodetic Datum elevation of 86.74 metres;
- (v) “*gross floor area*” shall mean 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. The gross floor area of the *mixed-use building* is reduced by the area in the building used for:
- i. Parking, loading and bicycle parking below *grade*;
 - ii. *Loading spaces* at the ground level and *bicycle parking spaces* at or above *grade*;
 - iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - iv. Shower and change facilities required by this By-law for required bicycle parking spaces;
 - v. *Residential amenity space* required by this By-law;
 - vi. Elevator shafts;
 - vii. Garbage shafts;
 - viii. Mechanical penthouse; and
 - ix. Exit stairwells in the building.
 - x. *Community space* provided to the city in accordance with the section 37 agreement.
- (vi) “*height*” shall mean the vertical distance between *grade* and the highest point of the structure, except for those elements otherwise expressly permitted in this By-law;
- (vii) “*interior floor area*” shall mean the floor area of any part of a *building*, measured to:

- i. the interior side of a *main wall*;
- ii. the centreline of an interior wall; or
- iii. a line delineating the part being measured

(viii) “*sales office*” shall mean a building, structure, facility or trailer on the *lot* used exclusively for the sales, leasing, marketing, display and promotion of *dwelling units* or *non-residential gross floor area* proposed on the *lot*;

7. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.

8. Section 37 Provisions

- (p) 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 Diagram 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.
- (q) Where Schedule 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.
- (r) 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 Schedule A are satisfied.

ENACTED AND PASSED this _____ day of _____, 2020.

JOHN TORY,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

SCHEDULE A

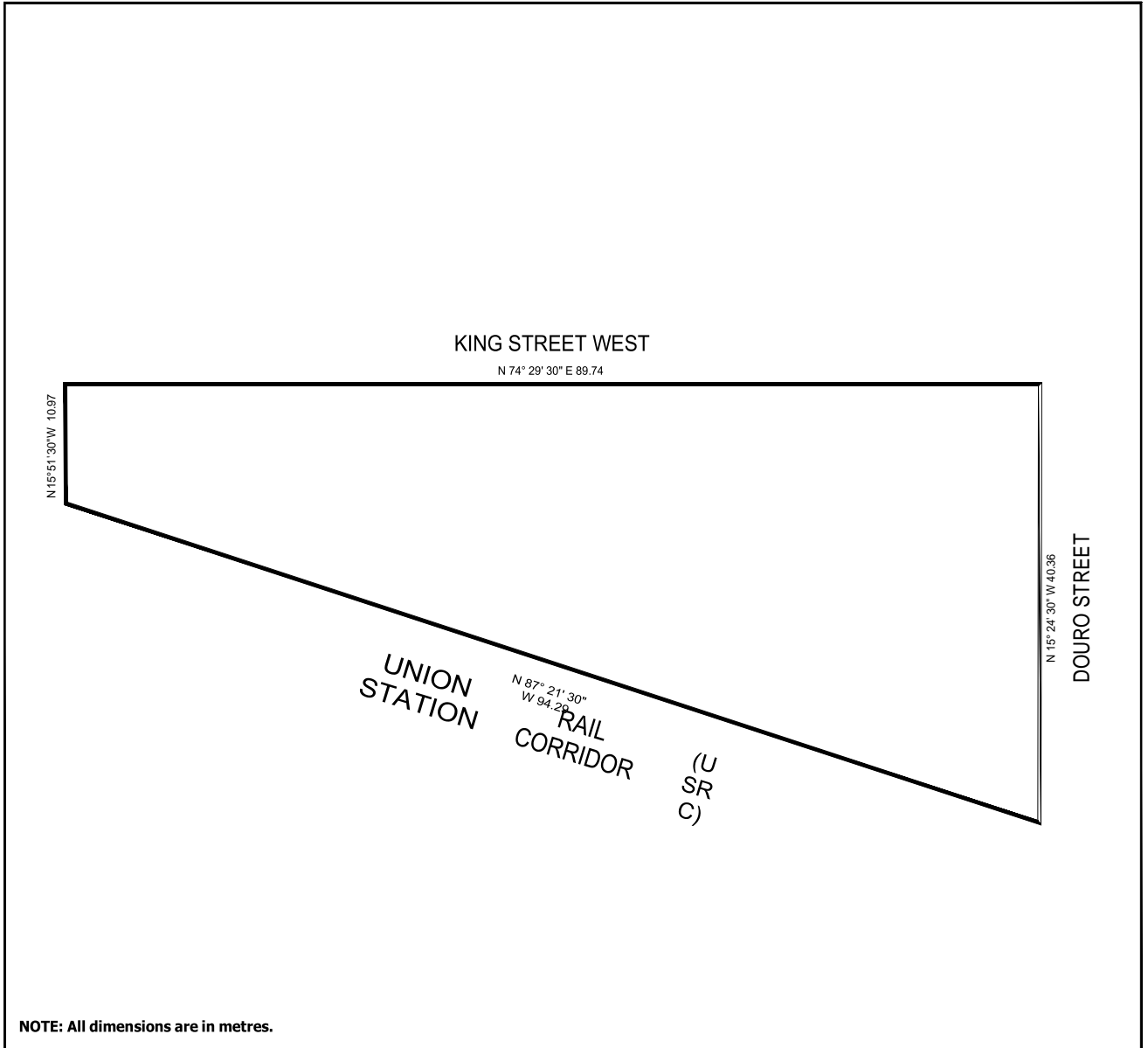
Section 37 Provisions

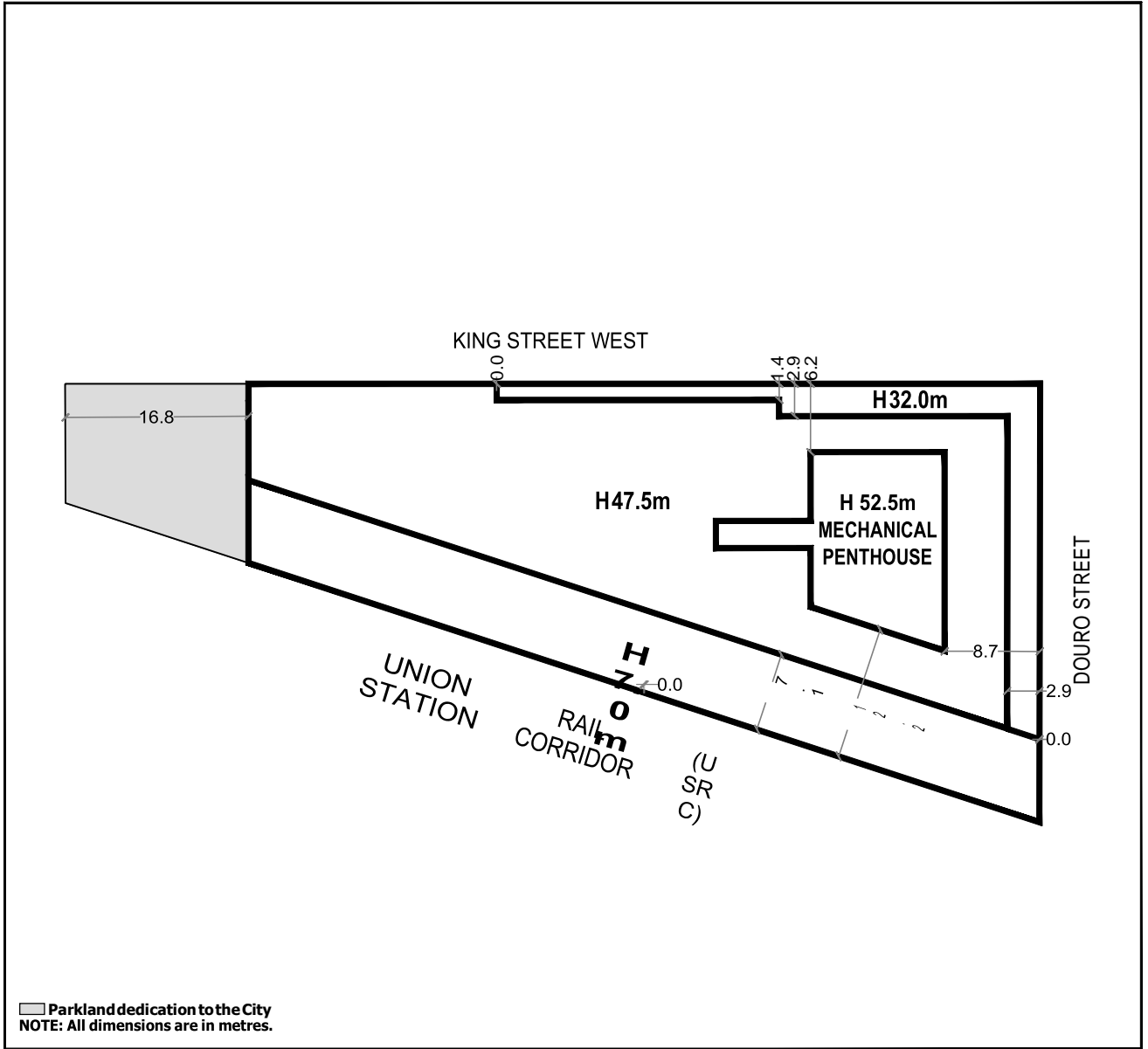
The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lot and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner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

1. Prior to the issuance of the First Above Grade Building Permit, the Owner shall make a financial contribution of three million five hundred thousand dollars (\$800,000.00 CAN) to the City to be allocated towards the provision of affordable housing in the community in the vicinity of the subject site, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor
2. The financial contribution set out above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto and calculated from the date of this Agreement to the date of payment by the Owner to the City.
3. In the event the cash contribution above has not been used for the intended purpose within three (3) years of the by-law coming into full force and effect, the cash contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning Division, 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.
4. The owner agrees to design and construct the cycling and pedestrian path extension on the south side of the subject site, at a minimum value of \$500,000.00, to be secured through a Site Plan Control Application, all to the satisfaction of the General Manager, Transportation Services, in consultation with the Chief Planner and Executive Director, City Planning and the Ward Councillor.
5. The owner will convey to the City, for nominal consideration, a public easement over the cycling and pedestrian path extension referred to in Recommendation 3.(a)(iv), at such time as the cycling and pedestrian path is needed by the City to be incorporated into the West Toronto Rail Path network, to provide public access for use by the general public, with no time of access limitations, which easements shall include provisions for rights of support, maintenance, insurance, and indemnification of the City by the owner, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor;
6. The owner shall provide residential units on the site in accordance with the following: a minimum of 20 percent of the residential units will be provided as two-bedroom units, and a minimum of 10 percent of the residential units will be three-bedroom units;
7. The owner shall maintain all dwelling units within the development as rental dwelling units for a minimum of twenty-five (25) years;
8. Prior to the commencement of any shoring and/or excavation work on the subject site, the owner shall submit, and thereafter implement, a construction management plan to address such matters as noise, dust, street closures, parking and access; such plan shall be to the

satisfaction of the General Manager, Transportation Services and the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;

9. Prior to the issuance of the first above-grade building permit for the subject site, the owner shall submit a wind study, including a wind tunnel analysis, to the satisfaction of the Chief Planner and Executive Director, City Planning, and design, construct and maintain any measures that may be required to mitigate the negative impact of any wind conditions identified in the wind study, all to the satisfaction of the Chief Planner and Executive Director, City Planning;
10. Prior to the issuance of Final Site Plan Approval for the Site Plan Control application, the owner shall incorporate all mitigation measures from the accepted Rail Safety Report into the drawings submitted for Site Plan Approval, to the satisfaction of the Chief Planner and Executive Director, City Planning, and prior to Site Plan Approval, and shall construct all mitigation measures and maintain them at its sole cost and expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning; and,
11. The owner agrees to pay for and construct any improvements to the municipal infrastructure in connection with the site Functional Servicing Report, as accepted by the Chief Engineer & Executive Director, Engineering & Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.
12. The owner shall convey an on-site parkland dedication that is a minimum of 230 square metres in area pursuant to section 42 of the Planning Act and Chapter 415, Article III, of the Toronto Municipal Code to the City prior to the issuance of the first above-grade building permit for the building on the subject site, or at an alternate time to be specified in the Section 37 agreement, to the satisfaction of the General Manager, PFR, in consultation with the City Solicitor;





█ Parkland dedication to the City
NOTE: All dimensions are in metres.

Not to Scale

