

**197, 197R, 199 and 201 Yonge Street, 15 Shuter Street,
178 to 180 Victoria Street - Official Plan Amendment and
Zoning Amendment Applications – Final Report**

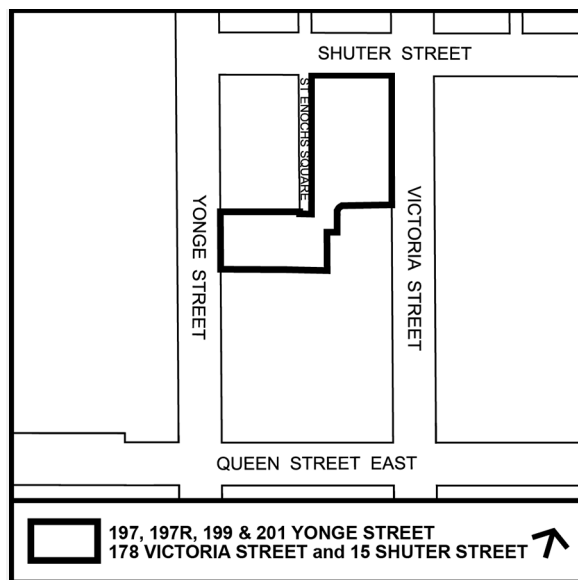
Date:	April 29, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	12 133580 STE 27 OZ

SUMMARY

This report responds to the City Council decision at their meeting of March 21, 2013 that the Chief Planner report on the form of Official Plan Amendment and Zoning By-law to permit the proposed 60-storey mixed residential building.

This application proposes to re-develop the lands at 197 Yonge Street and adjoining properties for the purposes of a mixed use building and to retain the front portion of the existing heritage structure. Included in the proposal is a 60-storey (207 metre) residential tower to the rear of the heritage building. The heritage property is designated under Part IV of the Ontario Heritage Act and is protected by a Heritage Easement Agreement.

The proposed base is 9 storeys and contains the lobby within the heritage building, above grade parking, amenity uses and retail uses. The proposal also includes a demolition and addition to 178 Victoria Street and 15 Shuter Street (Massey Hall). The demolition is proposed at the rear part of Massey Hall (the Albert building) with an addition on the Albert building lands



and lands immediately adjacent to the Albert building that will be conveyed to Massey Hall as part of the Section 37 contribution of 197 to 201 Yonge Street.

RECOMMENDATIONS

If City Council adopts the recommendations of the Toronto and East York Community Council to approve Application 12 133580 STE 27 OZ for 197, 197R, 199 and 201 Yonge Street, then:

1. City Council authorize an amendment to the Official Plan, for the lands at 197, 197R, 199 and 201 Yonge Street substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 1 to report (April 29, 2013) from the Director, Community Planning, Toronto and East York District.
2. City Council authorize an amendment to Zoning By-law 438-86 for the former City of Toronto, for the lands at 197, 197R, 199 and 201 Yonge Street substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 2 to report (April 29, 2013) from the Director, Community Planning, Toronto and East York District.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and draft Zoning By-law Amendment as may be required.
4. Before introducing the necessary Bills to City Council for enactment, City Council require the owner of the lands at 197, 197R, 199 and 201 Yonge Street to address all such issues and if required by the Executive Director of Engineering and Construction Services that the owner has entered into a secured Agreement with the City to ensure the provision of (a) the Functional Servicing Report, to the satisfaction of the Executive Director of Engineering and Construction Services; and (b) the Transportation Study, to the satisfaction of the General Manager of Transportation Services, should it be determined that improvements to such infrastructure are required to support this development.
5. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into one or more Agreement(s) pursuant to Section 37 of the Planning Act to secure the following at the owner's sole expense to the satisfaction of the City Solicitor, the Chief Planner and the Manager, Heritage Preservation Services:
 - i. \$1,000,000.00 payment by the owner to the City of an indexed cash contribution towards streetscape improvements for St. Enoch's Lane, Shuter Street and Victoria Street prior to introduction of the bills;

- ii. provide prior to the issuance of the first above grade permit, a public art contribution to be used on the site of the greater of \$1,300,000.00 or the value of not less than one percent of the gross construction cost, of all buildings and structures on the lands in accordance with the Percent for Public Art Program to be paid at time of first building permit;
- iii. the owner of the site at their cost, convey the rear approximately 449.6 sq.m. portion of the Site directly adjacent to Massey Hall known as 15 Shuter Street at nominal cost to the owner of Massey Hall being The Corporation of Massey Hall and Roy Thomson Hall ("Massey"), a not-for-profit charitable organization, upon bills being introduced to Council such conveyance to be consolidated with the Massey Hall lands located at 15 Shuter Street, 178 and 180 Victoria Street to include the freehold conveyance of such portion of the Site, together with appropriate easements over portions of the Site for construction, access, and future operations, together with rights to Massey to construct in a timely fashion and in accordance with a Construction Phasing Plan, and thereafter to maintain such addition. The conveyed lands are to be used for the sole purpose of expansion to Massey Hall known as 15 Shuter Street in order to implement a maximum 6-storey addition to the existing designated building on the Massey Hall lands, such addition to be constructed to the rear of the existing Massey Hall auditorium and to include a two level basement and two level mechanical penthouse connected to the existing Massey Hall auditorium, and to be for the purpose of Massey Hall providing a larger, modern and needed space for performers, multiple elevators, new back-of-house space, new at grade loading facilities, new patron facilities including washrooms and lounge areas, administrative office space and performance space, substantially in accordance with site plan application 12-256738 STE 27 SA all to the satisfaction of the Chief Planner and the Manager, Heritage Preservation Services. Such easement(s) to provide access to such addition over the Site, on a permanent basis and during construction and completion of such addition;
- vi. that the owner of the Site enter into and register a Three Party Agreement on title to the Site and the Massey Hall, with the City and the owner of the Massey Hall, to secure amongst other matters, the conveyance and easement(s) to Massey Hall, to ensure the limited purpose of the conveyance and easements required in iii.; a Construction Phasing Plan which provides for the construction of the owner's Development and the Massey Hall Development, as well as the operation of Massey Hall during construction and the necessary rights in order that Massey is reasonably able to construct in a timely manner the completion of the Massey Hall Development; to address the timing of any removal of all or any portion of the structure related to the Albert building and to require a Heritage

Easement Agreement be entered into by the owner of Massey Hall with the City; and

- vii. that amongst other matters, the removal of all or any portion of the structure related to the Albert building shall not occur until the City is satisfied that the Development will proceed immediately following, provided if the owner does not proceed and thereafter continue with construction of the Development within one year of providing notice of commencement of removal of all or any portion of the structure related to the Albert building, Massey may proceed to construct the Massey Hall Development, in phases or as one phase.
6. City Council require prior to the issuance of Final Site Plan Approval for all or any portion of the site through the Site Plan Approval process under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act that shall include such matters as:
 - i. provide a detailed Conservation Plan substantially in accordance with the conservation work described in the HIA to the satisfaction of the Manager Preservation Services;
 - ii. that the owner of the Site submit an Interpretation Plan that interprets the cultural heritage values of the heritage property on the Site and implement such Plan, to the satisfaction of the Manager, Heritage Preservation Services; and
 - iii. that the owner of the Site submit, implement and maintain a Lighting Plan for the sensitive illumination of the Yonge Street elevation of the heritage property on the Site to enhance the building's heritage character, to the satisfaction of the Manager, Heritage Preservation Services.
 7. City Council direct that if, for whatever reason, the development at 197, 197R, 199 and 201 Yonge Street does not proceed within 5 years from the passage of the bills by City Council, that the obligations as required through recommendation 5.iii. shall still be required but that the site specific Official Plan and Zoning Amendments shall be null and void and the plans and drawings must be resubmitted to the City of Toronto for approval.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At their meeting of March 21, 2013 City Council considered a Refusal Report regarding an Official Plan Amendment and Zoning By-law Amendment application to permit a mixed use building and to retain the front portion of the existing heritage structure.

Included in the proposal is a 60-storey (207 metre) residential tower to the rear of the heritage building. The heritage property is designated under Part IV of the Ontario Heritage Act and is protected by a Heritage Easement Agreement. The proposed base is 9 storeys and contains the lobby within the heritage building, above grade parking, amenity uses and retail uses. That report reviewed and recommended refusal of the application. The refusal recommendation was based on a number of factors: the proposed building does not provide separation to the adjacent structure to the south creating an unsupportable adjacency issue; the site is deficient in vehicular and bicycle parking; and the massing precedent for the City.

The following is the decision on agenda item TE22.6 as rendered by City Council:

1. City Council authorize the City Clerk to provide notice of a statutory public meeting for the property known as 197 to 201 Yonge Street (the Site) as well as the property municipally known as 15 Shuter Street, 178 and 180 Victoria Street (the Existing Massey Hall Lands) to be scheduled for the May 14, 2013 meeting of the Toronto and East York Community Council as per the requirements of the Planning Act.
2. City Council direct the Chief Planner and Executive Director, City Planning to submit to the May 14, 2013 meeting of the Toronto and East York Community Council a further report for the Site and the Existing Massey Hall Lands which includes draft implementing Official Plan and Zoning By-law Amendments in a form which provides for:
 - a. the development of the Site (the Development) substantially as proposed by the Owner based on the most recent site plan submitted dated November 8, 2012, on file with the City Planning Division; and
 - b. the development substantially as proposed by Massey Hall known as 15 Shuter Street based on its site plan application filed with the City on October 2, 2013 (the "Massey Hall Development"), which requires amendments to the Zoning By-law to accommodate relief for matters including but not limited to density, parking, setbacks and loading;

together with appropriate recommendations, and including the owner of the Site to enter into and register a Section 37 Agreement to the satisfaction of the City Solicitor, the Chief Planner and the Manager, Heritage Preservation Services the details of which shall be confirmed by the owner prior to the issuance of the statutory public notice and including but not limited to the following:
 - i. an indexed payment to the City for streetscape improvements for St. Enoch's Lane, Shuter Street and Victoria Street;

- ii. provide, prior to the issuance of the first above grade building permit, a public art contributions in accordance with the Percent for Public Art Program for a value not less than one percent of the gross construction cost, of all buildings and structures on the lands to be paid at time of first building permit;
 - iii. that the owner of the Site, at their cost, convey the rear approximately 449.6 sq.m. portion of the Site directly adjacent to Massey Hall known as 15 Shuter Street at nominal cost to the owner of Massey Hall being The Corporation of Massey Hall and Roy Thomson Hall ("Massey"), a not-for-profit charitable organization, together with appropriate easements and rights to build in a timely fashion to Massey Hall;
 - iv. securing of appropriate related heritage matters to the satisfaction of the Manager, Heritage Preservation Services;
 - v. that the owner of the Site enter into and register a Three Party Agreement on title to the Site and the Massey Hall known as 15 Shuter Street lands, with the City and the owner of the Massey Hall lands, to secure amongst other matters, the conveyance and easement(s) to Massey Hall; to ensure the limited purpose of such conveyance and easements; a Construction Phasing Plan which provides for the construction of the owner's Development and the Massey Hall Development and to require a Heritage Easement Agreement be entered into by the owner of Massey Hall with the City;
 - vi. appropriate Letters of Credit to secure matters; and
 - vii. such other matters as may be recommended in the further report requested.
3. City Council direct that a minimum of 131 parking spaces be provided and maintained on the site for residents and no spaces be provided for visitors at the property municipally known as 197 to 201 Yonge Street.
 4. City Council direct that a minimum of 308 bicycle parking spaces for use by occupants shall be provided and maintained on the lot for the use of residents of the lot.

COMMENTS

As directed, Planning staff have consulted with the City Solicitor, Strategic Initiatives, Policy and Research and Buildings staff to prepare a site-specific Official Plan Amendment and Zoning By-law to implement the proposed development. A draft of the

Zoning By-law is appended as Attachment 2 and a Section 37 Agreement is being drafted to address the recommendations of Council.

Massey Hall

Massey Hall is an important heritage structure in the City of Toronto and within the Theatre Block. The building was home to the Toronto Symphony until they relocated to the new Roy Thompson Hall in 1982. Massey Hall is a designated heritage building and included on the City of Toronto Heritage Inventory and is also designated a National Historic site since 1981.

The Planning Rationale Report noted that as part of the application for 197-201 Yonge Street a portion (450 sq.m.) of the rear of the site fronting onto Victoria Street and immediately adjacent to Massey Hall is to be conveyed to Massey Hall . This is discussed in the applicant's report as being a key element of the development proposal.

A site plan application for redevelopment of those lands has been submitted by Massey Hall (file no. 12-256738 STE 27 SA). The site plan proposal is to demolish the existing Albert building at the rear of Massey Hall and to construct a 10,830 sq.m. (6-storey) addition to the rear of the existing Massey Hall on the Albert building site and conveyed lands. The proposal includes renovations to the existing Massey Hall to conserve the historic building while the addition would provide new space for performers, new patron facilities, administrative offices as well as new back-of-house space. Passarelles which are elevated glass walkways are proposed on the east and west facades to link the front gallery area to the new patron facilities in the addition at the rear of the building. The passarelles will be accessed by patrons internally from the second and third floor of the auditorium, and will also provide enhanced access to the elevators in the new addition for disabled patrons. The addition would permit loading and unloading for events to be done at the rear of the building.

Transportation Services has received an application from The Corporation of Massey Hall and Roy Thompson Hall to allow various encroachments over the road allowance to accommodate: the passarelles; a weather protection canopy is proposed for the front of Massey Hall projecting over Shuter Street. The existing ground level fire escapes exiting onto Victoria Street and St. Enoch's Square will be retained. The proposed encroachments will not negatively impact on the public right of way and comply with the conditions of approval listed in Municipal Code Chapter 743. The encroachments will be formalized through an encroachment agreement that is currently being processed by Transportation Services.

Although the site plan application is not part of this report, the draft zoning by-law for the subject site at 197-201 Yonge Street includes the lands for Massey Hall. Through the review of the site plan application some minor by-law deficiencies were identified on the Massey Hall lands primarily because the existing heritage building pre-dates current zoning standards. The draft by-law attached was considered the most appropriate planning tool to use to address both sites in a comprehensive and efficient manner.

Section 37

Section 37 benefits have been discussed between the applicant and the Ward Councillor in consultation with legal, planning and heritage staff. Staff recommend the following:

- i. \$1,000,000.00 payment by the owner to the City of an indexed cash contribution towards streetscape improvements for St. Enoch's Lane, Shuter Street and Victoria Street prior to introduction of the bills. The improvements shall be in accordance with the City of Toronto Streetscape Manual and the Downtown Yonge BIA streetscape initiatives in the area;
- ii. Provide prior to the issuance of the first above grade permit, a public art contribution to be used on the site of the greater of \$1,300,000.00 or the value of not less than one percent of the gross construction cost, of all buildings and structures on the lands in accordance with the Percent for Public Art Program to be paid at time of first building permit;
- iii. the owner of the site at their cost, convey the rear approximately 449.6 sq.m. portion of the Site directly adjacent to Massey Hall known as 15 Shuter Street at nominal cost to the owner of Massey Hall being The Corporation of Massey Hall and Roy Thomson Hall ("Massey"), a not-for-profit charitable organization, upon bills being introduced to Council such conveyance to be consolidated with the Massey Hall lands located at 15 Shuter Street, 178 and 180 Victoria Street, to include the freehold conveyance of such portion of the Site, together with appropriate easements over portions of the Site for construction, access, and future operations, together with rights to Massey to construct in a timely fashion and in accordance with a Construction Phasing Plan, and thereafter to maintain such addition. The conveyed lands are to be used for the sole purpose of expansion to Massey Hall in order to implement a maximum 6-storey addition to the existing designated building on the Massey Hall lands, such addition to be constructed to the rear of the existing Massey Hall auditorium and to include a two level basement and two level mechanical penthouse connected to the existing Massey Hall auditorium, and to be for the purpose of Massey Hall providing a larger, modern and needed space for performers, multiple elevators, new back-of-house space, new at grade loading facilities, new patron facilities including washrooms and lounge areas, administrative office space and performance space, substantially in accordance with site plan application 12-256738 STE 27 SA all to the satisfaction of the Chief Planner and the Manager, Heritage Preservation Services. Such easement(s) to provide access to such addition over the Site, on a permanent basis and during construction and completion of such addition;

- vi. that the owner of the Site enter into and register a Three Party Agreement on title to the Site and the Massey Hall lands, with the City and the owner of the Massey Hall lands, to secure amongst other matters, the conveyance and easement(s) to Massey Hall, to ensure the limited purpose of the conveyance and easements required in iii.; a Construction Phasing Plan which provides for the construction of the owner's Development and the Massey Hall Development, as well as the operation of Massey Hall during construction and the necessary rights in order that Massey is reasonably able to construct in a timely manner the completion of the Massey Hall Development; to address the timing of any removal of all or any portion of the structure related to the Albert building and to require a Heritage Easement Agreement be entered into by the owner of Massey Hall with the City; and
 - vii. that amongst other matters, the removal of all or any portion of the structure related to the Albert building shall not occur until the City is satisfied that the Development will proceed immediately following, provided if the owner does not proceed and thereafter continue with construction of the Development within one year of providing notice of commencement of removal of all or any portion of the structure related to the Albert building, Massey may proceed to construct the Massey Hall Development, in phases or as one phase.
6. City Council require prior to the issuance of Final Site Plan Approval for all or any portion of the site through the Site Plan Approval process under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act that shall include such matters as:
- i. provide a detailed Conservation Plan substantially in accordance with the conservation work described in the HIA to the satisfaction of the Manager Preservation Services;
 - ii. that the owner of the Site submit an Interpretation Plan that interprets the cultural heritage values of the heritage property on the Site and implement such Plan, to the satisfaction of the Manager, Heritage Preservation Services; and
 - ii. that the owner of the Site submit, implement and maintain a Lighting Plan for the sensitive illumination of the Yonge Street elevation of the heritage property on the Site to enhance the building's heritage character, to the satisfaction of the Manager, Heritage Preservation Services.

7. City Council direct that if, for whatever reason, the development at 197, 197R, 199 and 201 Yonge Street does not proceed within 5 years from the passage of the bills by City Council, that the obligations as required through recommendation 5.iii. shall still be required but that the site specific Official Plan and Zoning Amendments shall be null and void and the plans and drawings must be resubmitted to the City of Toronto for approval.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Official Plan Amendment
Attachment 2: Draft Zoning By-law Amendment

Attachment 1: Draft Official Plan Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To adopt an amendment to the Official Plan
for the City of Toronto
respecting the lands known municipally in the year 20~, as
197, 197R, 199 and 201 Yonge Street**

WHEREAS authority is given to Council under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

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*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The attached Amendment No. 219 to the Official Plan is hereby adopted pursuant to the *Planning Act*, as amended.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

AMENDMENT NO. 219 TO THE OFFICIAL PLAN
LANDS MUNICIPALLY KNOWN IN THE YEAR 20~ AS
197, 197R, 199 and 201 YONGE STREET

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by amending Site and Area Specific Policy No. 174 for area described as Yonge Street Between Queen Street and North of Gerrard Street to add the following policy to address the lands known municipally in 2012 as 197, 197R, 199 and 201 Yonge Street, as follows:

- 174.** d) In addition to the policies found in this Site and Area Specific Policy No. 174, the following policies shall apply to any zoning by-law amendment for the redevelopment of all or any part of 197, 197R, 199 and 201 Yonge Street (the "*site*") in the event that any such redevelopment requires increases in height or density beyond that permitted on the *site* in the year 2012.
 - i) The existing heritage building located on the lands and known in the year 2012 as 197 Yonge Street (the "*heritage building*") is retained in situ in any new development in accordance with an agreement, or any amending agreement registered on the 197 Yonge Street lands and entered into by the *owner* of such lands with the City, to the City's satisfaction, pursuant to s.37 of the Ontario Heritage Act (the "*heritage easement agreement*").
 - ii) New buildings and additions to buildings on all or any portion of the *site* will be designed to integrate with Massey Hall known as 15 Shuter Street, particularly below grade. Shared access and loading is also to be co-ordinated between the *site* and Massey Hall and with adjacent lands including those with rear access onto St. Enoch's Square. Redevelopment along St. Enoch's Square shall address access, loading and garbage location to maximize the width of the laneway and create a shared pedestrian vehicular area also in keeping with CPTED principles.

- iii) The owner of the site shall, convey the rear approximately 449.6 sq.m. portion of the *site* directly adjacent to Massey Hall to the owner of Massey Hall being The Corporation of Massey Hall and Roy Thomson Hall ("Massey"), a not-for-profit charitable organization, such conveyance to be consolidated with the Massey Hall lands located at 15 Shuter Street, to include the freehold conveyance of such portion of the Site, together with appropriate easements over portions of the Site for construction, access, and future operations, together with rights to Massey to construct in a timely fashion and in accordance with a Construction Phasing Plan, and thereafter to maintain such addition. The conveyed lands are to be used for the sole purpose of expansion to Massey Hall in order to implement a maximum 6-storey addition to the existing designated building on the Massey Hall lands, such addition to be constructed to the rear of the existing Massey Hall auditorium.
- iv) A Section 37 Agreement to the satisfaction of the City shall be entered into and registered on title to the lands which includes amongst other matters, a requirement that the owner enter into and register against title to the *site* and the Massey Hall lands, a Three Party Agreement between the City, the owner and The Corporation of Massey Hall and Roy Thomson Hall, to secure such conveyance and easement(s) to Massey Hall, to ensure the limited purposes of such conveyance and easement(s), the timing of such conveyance and easement(s) and related matters, to secure the Construction Phasing Plan, and to require a Heritage Easement Agreement be entered into by the owner of Massey Hall to the satisfaction of the City (the "Three Party Agreement").
- v) the maximum *gross floor area* permitted on the site shall not exceed of 50,000 square metres, the maximum building height shall not exceed 208 metres (inclusive of all mechanical penthouse and architectural elements), the maximum density of the *site* shall not exceed 26.7 times the area of the *site* and maximum number of residential units shall not exceed 699.
- vi) the *heritage building* shall be restored in keeping with the provisions of the Heritage Easement Agreement registered

on title to the site and in accordance with a conservation plan satisfactory to the City;

- a. Any new development on the *site* shall be required to maintain a setback of a minimum 12.5 metres to the property line to the north and south and a minimum of 20 metres setback to the westerly property line;
 - b. New residential development on the *site* shall only permit dwelling units facing east and west and no mid-building dwelling units shall be permitted that face only south or north;
 - c. Balconies of residential units shall only be permitted on the east and west facing elevations of any new building or portion of a building;
 - d. Despite clause c. a building substantially in accordance with application number 12 133580 STE 27 OZ may be permitted.
- vii) Prior to the issuance of any heritage permit for all or any portion of the *site* pursuant to the Ontario Heritage Act the owner of the *site* shall:
- i. Submit final building permit plans and drawings for the alterations and new construction, to the satisfaction of the Manager, Heritage Preservation Services.
 - ii. Amend the existing Heritage Easement Agreement for the heritage property at 197 Yonge Street in accordance with the above referenced plans and drawings to the satisfaction of the Manager, Heritage Preservation Services.

Attachment 2: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 197, 197R, 199 and 201 Yonge Street and 178 Victoria Street and 15 Shuter Street

WHEREAS the Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to lands known municipally in the year 2012 as 197, 197R, 199 and 201 Yonge Street and 178 Victoria Street (the "*Block A Lands*") and lands known municipally in the year 2012 as 15 Shuter Street (the "*Block B Lands*"); and

WHEREAS the Council of the City of Toronto conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed Zoning By-law amendment; and

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

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *Block A Lands* as shown on Map 1 forming part of 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 such lands (the "*Block A Owner*") of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *Block A Owner* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *Block A Lands* are subject to the provisions of this By-law applicable to the *Block A Lands*, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, such building may not be erected or used on the *Block A Lands* until the *Block A Owner* has satisfied the said requirement.
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. Except as otherwise provided herein, the provisions of *By-law No. 438-86* as amended shall continue to apply to the *Block A Lands* and to the *Block B Lands* as shown on Map 1 forming part of this By-law.

Block A Lands:

5. None of the provisions of Section 2(1) with respect to the definitions of *lot*, *grade*, *height*, *bicycle parking space – occupant* and *bicycle parking space – visitor*, and Sections 4(2)(a); 4(5)(a), (b), (c), (d), (e) and (h); 4(8); 4(12); 4(13); 4(17); 8(3) PART I 1, 2 and 3(a); 8(3) PART II 1(a)(i)(ii); 8(3) PART XI 2(2); 12(2)259; and 12(2)260 of *By-law No. 438-86*, shall apply to prevent the erection or use of a *mixed-use building* within on the *Block A Lands*, which building may contain *dwelling units* and non-residential uses and *accessory* uses thereto, including a *parking garage* as well as uses *accessory* to a *concert hall* operating on the *Block B Lands* as shown on Map 1, provided that all of the provisions of this By-law are complied with:
 - (a) The *lot* on which the uses are located shall comprise the *Block A Lands* as shown on Map 1.
 - (b) The total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *Block A Lands* shall not exceed 50,000 square metres.
 - (c) The total *residential gross floor area* erected or used on the *Block A Lands* shall not exceed 49,000 square metres and the total number of *dwelling units* erected or used on the *Block A Lands* shall not exceed 699.
 - (d) The total *non-residential gross floor area* erected or used on the *Block A Lands* shall be a minimum of 800 square metres.
 - (e) A minimum of 50 *dwelling units* erected or used on the *Block A Lands* shall have three or more bedrooms.
 - (f) No part of any building or structure erected within the *Block A Lands* shall be located above *grade* otherwise than wholly within the *Block A building envelope* shown on Map 2, except for the type of structures listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” and “OTHER APPLICABLE QUALIFICATIONS” are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. light fixtures, cornices, sills, eaves, bay windows, mullions, ornamental or architectural elements	1.0 metres	Provided the <i>height</i> of the "STRUCTURE" is no higher than that portion of the building to which it is attached
B. parapets	1.0 metre	Provided the <i>height</i> of such "STRUCTURE" is not greater than 1.0 metre above the height limits established in this By-law
C. fences, safety railings and guardrails	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not exceed 3.0 metres above finished ground level
D. stairs, stair enclosures, ramps, wheel chair ramps and/or stairs (and associated structures), underground garage ramps and their associated structures, garbage and servicing areas and their associated structures, retaining walls, air shafts, transformer vaults and elements required for the functional operation of the building	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not exceed 2.0 metres above finished ground level

- (g) A continuous pedestrian weather protection shall be provided on the *site* as shown on Map 2 and shall have a minimum depth of 3 metres and a maximum height of 7.0 metres along the frontages shown on Map 2.
- (h) Subject to subsection 5(i) herein of this by-law, the *height* of each portion of a building or structure erected above *grade* within the *Block A Lands*, shall in respect of each *building envelope* area, have a maximum *height* in metres as shown following the symbol H on the attached Map 2 for the corresponding *building envelope* area.
- (i) The preceding section of this By-law does not apply to prevent the erection or use of the following structures above the *height* limits of a building or structure erected within the *Block A Lands*:

- a) parapets, fences, railings, balcony and terrace guards and dividers, decorative screens, privacy screens, wind screens, planters, balustrades, open air recreation, safety or wind protection purposes and window washing equipment, for unenclosed heating, ventilation, or cooling equipment such as chimneys, stacks, and flues, extending no more than 2.0 metres above the applicable *height* limit of the podium portion of the building as shown on Map 2; and
 - b) the structures listed in subparagraphs 4(2)(a)(i) and (ii) of By-law 438-86.
- (j) A minimum of 1,031 square metres or 1.47 square metres for each *dwelling unit*, whichever is greater, of indoor *residential amenity space* shall be provided in a multi-purpose room or rooms (whether or not such rooms are contiguous), within the building erected within the *Block A Lands* at least one of which contains a kitchen and a washroom.
- (k) A minimum of 489 square metres or 0.7 square metres for each *dwelling unit*, whichever is greater, of outdoor *residential amenity space* shall be provided on the *Block A Lands*, of which at least 40 square metres shall be provided in a location adjoining or directly accessible to indoor *residential amenity space*.
- (l) A minimum of 131 *parking spaces* shall be provided and maintained on the *Block A Lands* for use by residents of the *Block A Lands*, which parking may be provided using a *parking stacker* and no parking spaces for visitors are required to be provided.
- (m) A minimum of 308 *bicycle parking spaces- occupant* shall be provided and maintained on the *site*.
- (n) *Bicycle parking space – occupant* means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles for use by residents of the *Block A Lands*, and:
- a. where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 meters;
 - b. where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 0.9 metres and a vertical dimension of at least 1.9 metres; and
 - c. in the case of a bicycle rack, may either be located in a secured room or area or a unsecured room or area.
- (o) None of the provisions of this By-law shall apply to prevent the temporary *sales office* located on the date of this By-law within the existing heritage building located on the *Block A Lands*.

- (p) Despite any other provision of this By-law, the only permitted uses on the *Block A Lands* which are *accessory* to a *concert hall* operating on the *Block B Lands* shall be limited to garbage storage and loading facilities.

Block B Lands:

6. None of the provisions of Sections 2(1) with respect to the definition of *grade, height, lot, 4(5)(b), 4(14), 8(3) Part I 2 and Part III of By-law No. 438-86*, as amended shall apply to prevent the erection or use of a *concert hall* including *accessory* uses thereto on the *Block B Lands*, subject to the following:
- (a) The *lot* on which the uses are located shall comprise the *Block B Lands* as shown on Map 1.
 - (b) The *non-residential floor gross floor area* of the *concert hall* including *accessory* uses or portion thereto, located within that portion of the *Block B Lands* excluding the heritage building as shown on Map 3, shall not exceed 5,650 square metres;
 - (c) No part of any building or structure erected within the *Block B Lands* shall be located above finished ground level otherwise than wholly within the *building envelope* as shown on Map 3, except for the type of structures listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” and “OTHER APPLICABLE QUALIFICATIONS” are complied with and as may be permitted pursuant to a Heritage Easement Agreement or amending agreement entered into by the *Building A Owner* with the City pursuant to Section 37 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended (the "*Heritage Easement Agreement*") and any permit required pursuant to the Ontario Heritage Act:

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. light fixtures, cornices, sills, eaves, bay windows, mullions, ornamental or architectural elements	1.0 metres	Provided the <i>height</i> of the “STRUCTURE” is no higher than that portion of the building to which it is attached
B. canopies	3.0 metre	Provided the <i>height</i> of such “STRUCTURE” is no higher than that portion of the building to which it is attached
C. stairs, stair landings, ramps, wheelchair ramps,	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not

garbage and servicing areas and their associated structures, retaining walls, air shafts, transformer vaults and elements required for the functional operation of the building		exceed 2.0 metres above finished ground level
D. fences, safety railings, guardrails	No restriction	Provided the <i>height</i> of such "STRUCTURE" does not exceed 3.0 metres above finished ground level
E. parapets	1.0 metre	Provided the <i>height</i> of such "STRUCTURE" is not greater than 1.0 metre above the <i>height</i> limits established in this By-law
F. passarellles	3.2 metres beyond the wall to which it is attached	Provided a minimum vertical clearance of 6.0 metres above finished ground level is maintained beneath such "STRUCTURE" and the height of such "STRUCTURE" does not exceed 16.5 metres above finished ground level.
G. Structures and Elements as may be permitted in 6.(e) and 6.(f) of this by-law pursuant to a Heritage Easement Agreement or amending agreement entered into by the <i>Building B Owner</i> with the City pursuant to Section 37 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended (the " <i>Heritage Easement Agreement</i> ") and any permit required pursuant to the Ontario Heritage Act	No restriction	No restriction

(d) The *height* of each portion of a building or structure erected above *grade* within the *Block B Lands*, shall in respect of each *building envelope* area, have a maximum

- height* in metres as shown following the symbol H on the attached Map 3 for the corresponding *building envelope* area.
- (e) The *height* of the *heritage building* shall not exceed its height as it existed on the date of this By-law with the exception of the following elements and structures as may be permitted pursuant to a Heritage Easement Agreement or amending agreement entered into by the *Building B Owner* with the City pursuant to Section 37 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended (the "*Heritage Easement Agreement*") and any permit required pursuant to the Ontario Heritage Act;
- i. heating, cooling and ventilation equipment, including vents and stacks, as well as a fence, wall or structure enclosing such elements;
 - ii. parapets; roofing material and elements required for the functional operation of the building.
- (f) The preceding section of this By-law does not apply to prevent the erection or use of the following structures above the *height* limits of the building with a height of 38.5 metres and 51.5 metres as illustrated on Map 3:
- parapets, fences, railings, balcony and terrace guards and dividers, decorative screens, privacy screens, wind screens, planters, balustrades, open air recreation, safety or wind protection purposes and window washing equipment, heating, ventilation, or cooling equipment such as chimneys, stacks, and flues.
- (g) Structures and uses *accessory* to a *mixed use-building* on the *Block A Lands* which may be located on the *Block B Lands* shall be limited to the following:
- i. a driveway for vehicular and pedestrian uses;
 - ii. garbage loading facilities; and
 - iii. services located below finished ground level as necessary for the functional operation of a *mixed-use building* on Block A.

Block A Lands and Block B Lands:

7. Loading spaces shall be provided as follows:

- (h) a minimum of one (1) *loading space - Type G* shall be provided on either the *Block A Lands* or the *Block B Lands*, for the shared use of the *mixed use building* permitted by this by-law on the *Block A Lands* and the *concert hall* permitted by this by-law on the *Block B Lands*; and
- (i) a minimum of one (1) *loading space - Type A* shall be provided on the *Block B Lands* for the exclusive use of a *concert hall* operating on the *Block B Lands*.

8. Notwithstanding any existing or future severances, partition, or division of the *Block A Lands* or the *Block B Lands*, the provisions of this By-law shall apply to each of the whole of the *Block A Lands* and the *Block B Lands* as if no severance, partition or division had occurred.
9. For the purpose of this By-law, the following words and terms shall have the following meaning:
- (a) "*Block A Lands*" means the lands shown as Block A on Map 1 provided that upon the completion of the conveyance to the Block B Owner of the lands required pursuant to Appendix 1 to this By-law, the *Block A Lands* shall exclude such conveyed lands;
 - (b) "*Block B Lands*" means the lands shown as Block B on Map 1 provided that upon the completion of the conveyance to the Block B Owner of the lands required pursuant to Appendix 1 to this By-law, the *Block B Lands* shall additionally include such conveyed lands;
 - (c) "*building envelope*" means a building envelope for each height area as shown by an "H", and as delineated by the heavy lines on Maps 2 and 3 as well as the area delineated as the Heritage Building on Map 3 attached hereto which reflects the location of the historic Massey Hall (known as 15 Shuter Street) building as it existed in 2012;
 - (d) "*By-law No. 438-86*" means By-law No. 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;"
 - (e) "*City*" means the City of Toronto;
 - (f) "*grade*" means the Canadian Geodetic elevation of 89.60 metres;
 - (g) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
 - (h) "*heritage building*" means the historic Massey Hall known as 15 Shuter Street building as it existed in 2012 known municipally in the year 2012 as 15 Shuter Street, a designated heritage building in accordance with the *Heritage Act* and National Historic Site identified with hatching and labelled as the Heritage Building on Map 3 subject to alterations permitted by this By-law and the Heritage Easement Agreement, as well as a permit required pursuant to the Ontario Heritage Act;
 - (i) "*owner*" means the fee simple owner(s) of the *site*;

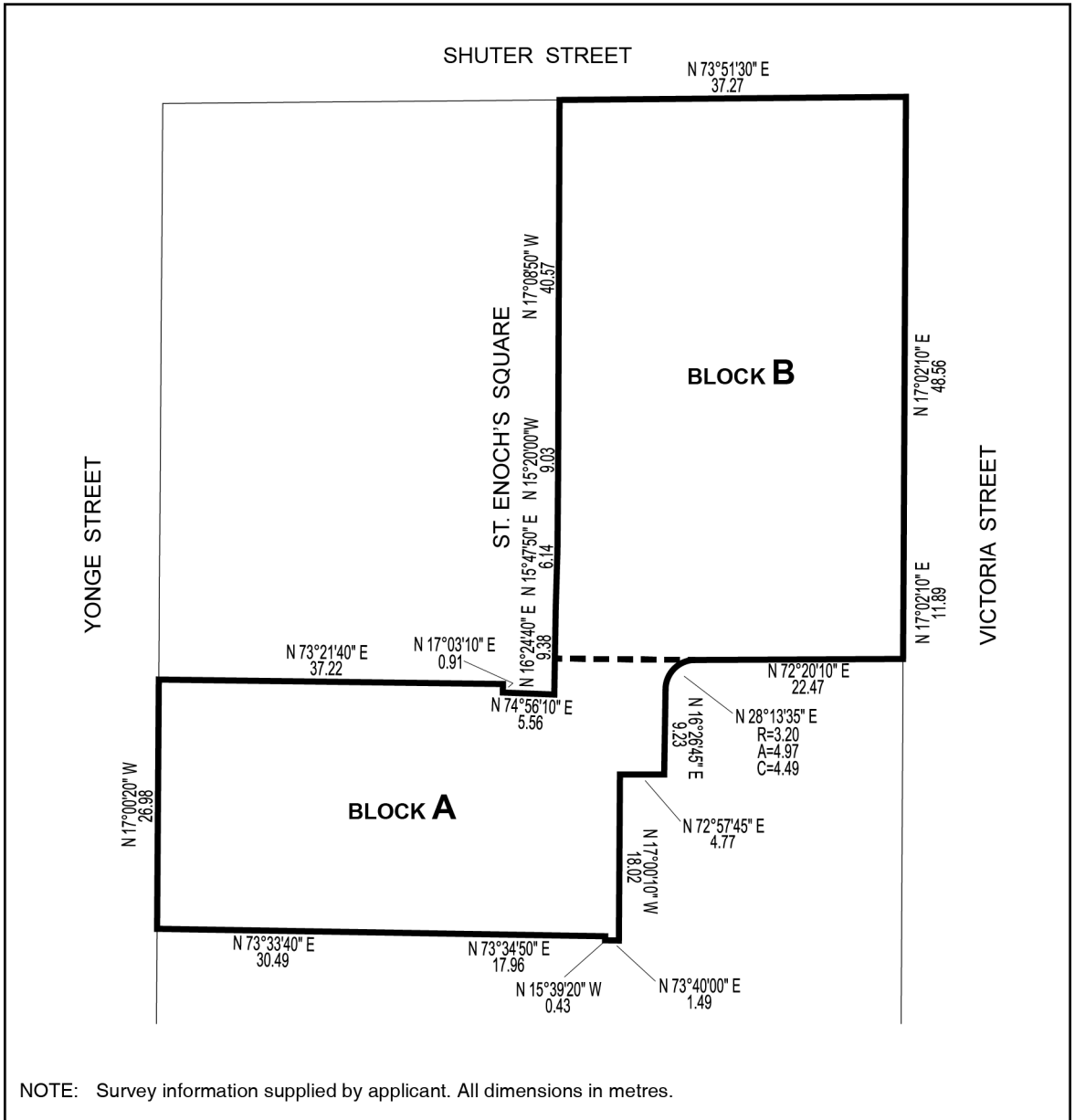
- (j) "*parking garage*" means a building or portion of a building, other than a *private garage*, that is used for the temporary parking of motor vehicles;
 - (k) "*passerelles*" means that portion of a building elevated above finished ground level providing a suspended walkway along the exterior of the building;
 - (l) "*sales office*" means an office, or sales trailer, used exclusively for the initial sale and/or initial leasing of *dwelling units* or the non-residential uses to be erected on the *site*;
 - (m) each other word or expression, which is italicized in this by-law shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.
10. 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 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.

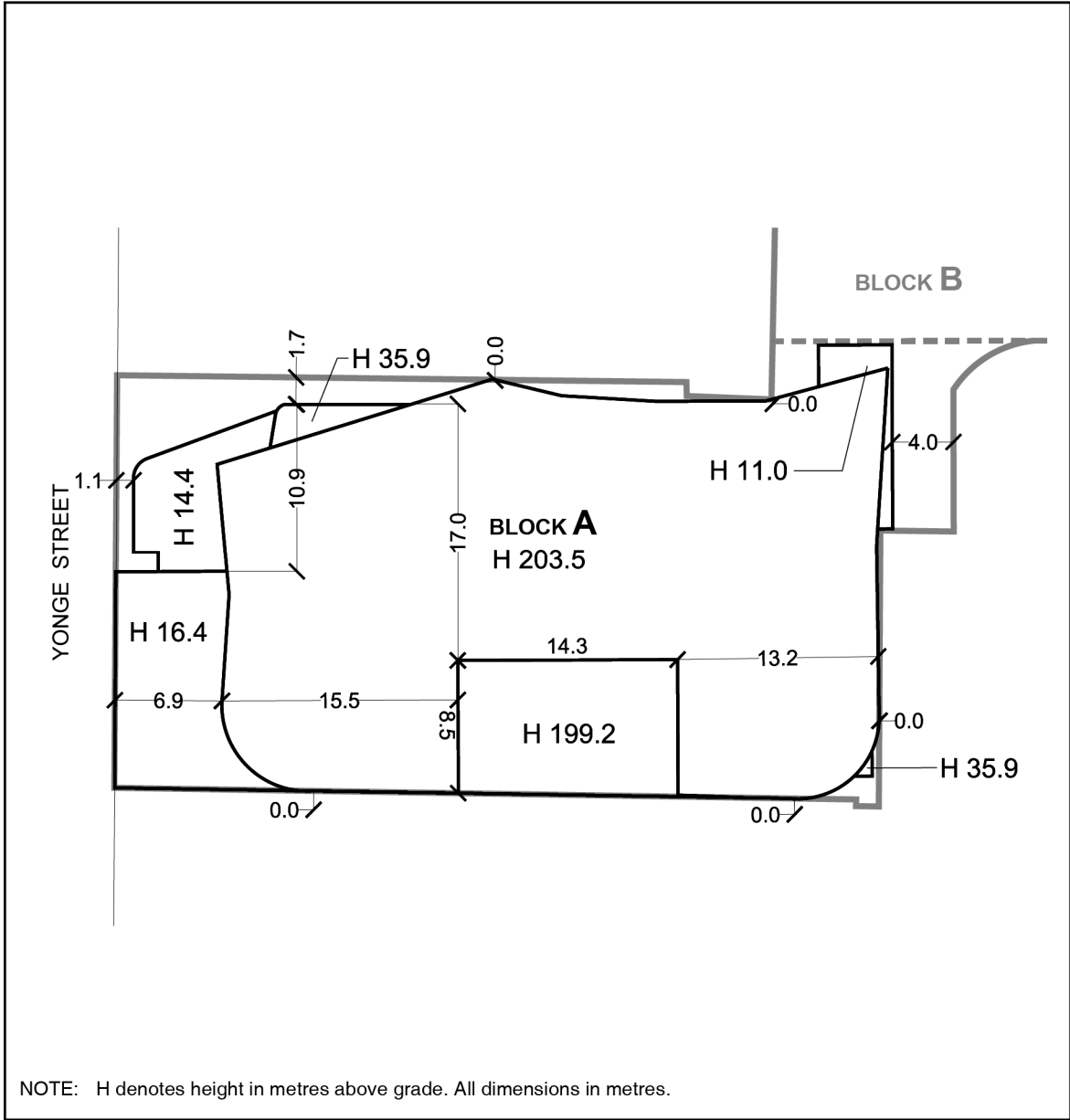
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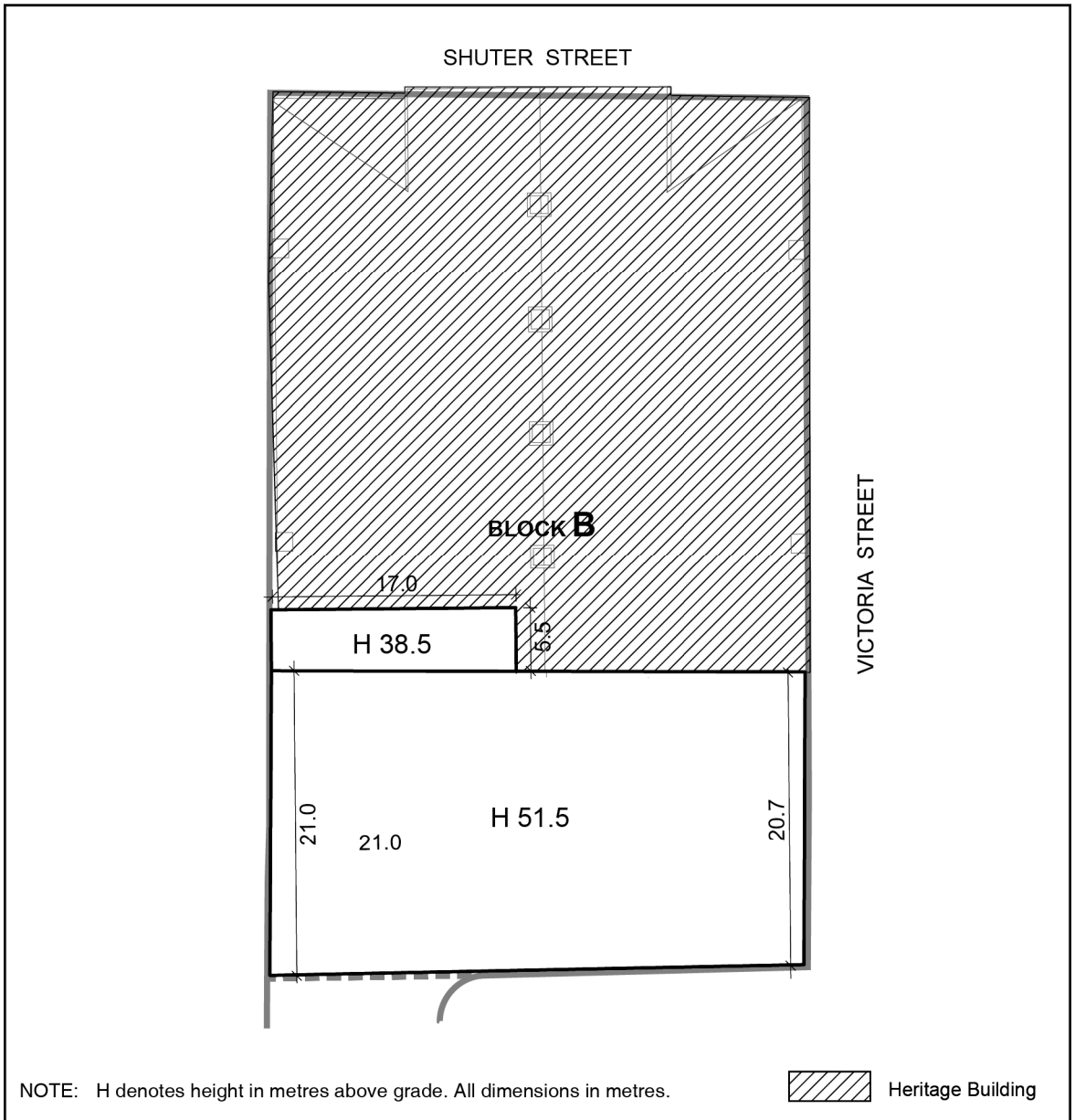
ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)







Appendix 1

Section 37 Provisions

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

Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into one or more Agreement(s) pursuant to Section 37 of the Planning Act to secure the following at the owner's sole expense to the satisfaction of the City Solicitor, the Chief Planner and the Manager, Heritage Preservation Services:

1. The owner shall \$1,000,000.00 payment by the owner to the City of an indexed cash contribution towards streetscape improvements for St. Enoch's Lane, Shuter Street and Victoria Street prior to introduction of the bills;
2. Provide prior to the issuance of the first above grade permit, a public art contribution to be used on the site of the greater of \$1,300,000.00 or the value of not less than one percent of the gross construction cost, of all buildings and structures on the lands in accordance with the Percent for Public Art Program to be paid at time of first building permit;
3. The owner of the site at their cost, convey the rear approximately 449.6 sq.m. portion of the Site directly adjacent to Massey Hall at nominal cost to the owner of Massey Hall being The Corporation of Massey Hall and Roy Thomson Hall ("Massey"), a not-for-profit charitable organization, upon bills being introduced to Council such conveyance to be consolidated with the Massey Hall lands located at 15 Shuter Street, to include the freehold conveyance of such portion of the Site, together with appropriate easements over portions of the Site for construction, access, and future operations, together with rights to Massey to construct in a timely fashion and in accordance with a Construction Phasing Plan, and thereafter to maintain such addition. The conveyed lands are to be used for the sole purpose of expansion to Massey Hall in order to implement a maximum 6-storey addition to the existing designated building on the Massey Hall lands, such addition to be constructed to the rear of the existing Massey Hall auditorium and to include a two level basement and two level mechanical penthouse connected to the existing Massey Hall auditorium, and to be for the purpose of Massey Hall providing a larger, modern and needed space for performers, multiple elevators, new back-of-house space, new at grade loading facilities, new patron facilities including washrooms and lounge areas, administrative office space and performance space, substantially in accordance with site plan application 12-256738 STE 27 SA all to the satisfaction of the Chief Planner and

- the Manager, Heritage Preservation Services. Such easement(s) to provide access to such addition over the Site, on a permanent basis and during construction and completion of such addition;
4. The owner of the Site shall enter into and register a Three Party Agreement on title to the Site and the Massey Hall lands, with the City and the owner of the Massey Hall lands, to secure amongst other matters, the conveyance and easement(s) to Massey Hall, to ensure the limited purpose of the conveyance and easements required in 3.; a Construction Phasing Plan which provides for the construction of the owner's Development and the Massey Hall Development, as well as the operation of Massey Hall during construction and the necessary rights in order that Massey is reasonably able to construct in a timely manner the completion of the Massey Hall Development; to address the timing of any removal of all or any portion of the structure related to the Albert building and to require a Heritage Easement Agreement be entered into by the owner of Massey Hall with the City; and
 5. That amongst other matters, the removal of all or any portion of the structure related to the Albert building shall not occur until the City is satisfied that the Development will proceed immediately following, provided if the owner does not proceed and thereafter continue with construction of the Development within one year of providing notice of commencement of removal of all or any portion of the structure related to the Albert building, Massey may proceed to construct the Massey Hall Development, in phases or as one phase.
 6. City Council require prior to the issuance of Final Site Plan Approval for all or any portion of the site through the Site Plan Approval process under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act that shall include such matters as:
 - i. provide a detailed Conservation Plan substantially in accordance with the conservation work described in the HIA to the satisfaction of the Manager Preservation Services;
 - ii. that the owner of the Site submit an Interpretation Plan that interprets the cultural heritage values of the heritage property on the Site and implement such Plan, to the satisfaction of the Manager, Heritage Preservation Services; and
 - ii. that the owner of the Site submit, implement and maintain a Lighting Plan for the sensitive illumination of the Yonge Street elevation of the heritage property on the Site to enhance the building's heritage character, to the satisfaction of the Manager, Heritage Preservation Services.

7. City Council direct that if, for whatever reason, the development at 197, 197R, 199 and 201 Yonge Street does not proceed within 5 years from the passage of the bills by City Council, that the obligations as required through recommendation 5.iii. shall still be required but that the site specific Official Plan and Zoning Amendments shall be null and void and the plans and drawings must be resubmitted to the City of Toronto for approval.