

CITY OF TORONTO

BY-LAW No. 189-2001(OMB)

To amend the Zoning By-law for the former City of Toronto No. 438-86, with respect to 85 Bloor Street East and 44 Hayden Street.

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the municipality may in a By-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the By-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the By-law; and

WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or 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 *lot* has elected to provide the facilities, services or matters as are set out in this by-law; and

WHEREAS the increase in height and residential density of development permitted under this By-law beyond that otherwise permitted on the aforesaid *lot* by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities services and matters set out in this By-law and to be secured by one or more agreements between the owner of the *lot* and the City of Toronto; and

WHEREAS the Council of the City of Toronto has required the owner of the *lot* to enter into one or more agreements dealing with certain facilities, services and matters in return for the increase in permitted height and density in connection with the *lot*; and

WHEREAS the owner of the *lot* has appealed to the Ontario Municipal Board with respect to an application to amend the Official Plan for the former City of Toronto and to amend the Zoning By-law of the former City of Toronto; and

WHEREAS the Ontario Municipal Board in considering the appeals (Board file Nos. O980120 and Z980076) held a hearing; and

WHEREAS the Ontario Municipal Board has accepted the request of the Council of the City of Toronto and has required the owner of the *lot* to enter into one or more agreements with the City of Toronto dealing with certain facilities, services and matters in return for the increase in permitted height and density in connection with the *lot*;

THEREFORE the Ontario Municipal Board orders as follows:

1. None of the provisions of Section 4(2)(a), 4(16), 8(3) Part I(1), 8(3) Part I(3)(a) and 12(2)(259)(ii) of By-law No. 438-86, 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 or use on the *lot* shown on Plan 1 attached to and forming part of

this by-law of a *mixed use building* containing more *residential gross floor area* than otherwise permitted by By-law No. 438-86 and *non residential gross floor area* used for no purpose other than *street related retail and service uses* provided;

- (1) the *lot* on which such building is located comprises at least those lands delineated by heavy lines on Plan 1 attached to and forming part of this by-law;
- (2) no portion of any building or structure located above *grade*, except balconies, canopies and decorative elements, is located otherwise than wholly within the areas delineated by heavy lines on Plan 2 attached hereto;
- (3) no portion of any building or structure erected or used on the *lot*, except balconies, canopies and decorative elements, is located above the *height* limits shown on Plan 2 attached hereto exclusive of parapets and a flag pole and of rooftop structures and elements permitted by and complying with Section 4(2)(a)(i) or (ii) of the aforesaid By-law No. 438-86;
- (4) not more than 17,078 square metres *non residential gross floor area* is erected or used on the *lot*;
- (5) not more than 330 square metres *non residential gross floor area* is erected or used on the *lot*;
- (6) not more than a total of 17,398 square metres of *residential gross floor area* and *non residential gross floor area* is erected or used on the *lot*;
- (7) the building or structure erected and used on the *lot* contains not more than 252 *dwelling units*;
- (8) not less than 156 *parking spaces* are provided and maintained in an underground parking structure on the *lot* of which not more than 8 may have an unobstructed area of not less than 4.5 metres in length and not less than 2.5 metres in width;
- (9) at least 50% of the aggregate length of the portion of the *frontage* of the *lot* abutting Bloor Street East is used for the purposes of *street related retail and services uses* but is otherwise in compliance with all other provisions of section 12(2)259 of the aforesaid By-law No. 438-86;
- (10) the *owner* of the *lot*, at their expense and in accordance with and subject to the agreement referred to in section 1(11) herein;
 - (a) pays to the City of Toronto \$50,000.00 in cash or provides security for that amount by letter of credit for park improvements;
 - (b) provides a generally rectangular easement of indefinite term, in favour of the City of Toronto, at the southeast corner of the site, extending 13 metres in length from the south property line and 2.5 metres in width from the east property line, for the purposes of the construction, provision

and maintenance of a public walkway across the site, connecting the existing exterior public walkway on the abutting lands to the east, known as 121 Bloor Street East and 117 Bloor Street East, with a future public walkway on the lands to the south, known as 52 Hayden Street, to provide in total a continuous public walkway from Bloor Street East to Hayden Street, with such walkway over the easement to be implemented if the City secures the necessary portion of the public walkway from the south end of the easement to Hayden Street, to be secured to the satisfaction of the City Solicitor;

- (c) conveys by the owner to the City, at nominal cost, of a 1.5 metre wide strip of land to the full extent of the site abutting the north limit of Hayden Street, such lands to be free and clear of all encumbrances, save and except for utility poles and subject to a right-of-way for access purposes in favour of the Grantor until such time as said lands have been laid out and dedicated for public highway purposes;
- (d) carries out street scape improvements on the public sidewalk/boulevard for Bloor Street East across the frontage of the site, generally as stipulated on approved Plans, to the satisfaction of the Commissioner of Works and Emergency Services, or at the request of the Commissioner of Works and Emergency Services makes a cash contribution to the City equal to the value of the improvements for the Commissioner to undertake the improvements as part of a comprehensive program;
- (e) provides, maintains and operates the measures, facilities and strategies stipulated in the Noise Impact Statement approved by the Commissioner of Works and Emergency Services;
- (f) erects and maintains the building not less than 2.7 and not more than 2.8 metres from the Bloor Street East property line on the easterly part of the *lot*, with the building face aligned generally parallel to the centre line on Bloor Street East as shown on Plan 2 attached hereto;
- (g) provides a written certificate from a qualified Architect/Acoustical Consultant to the Commissioner of Works and Emergency Services that the development has been designed and constructed in accordance with the Noise Impact Statement approved by the Commissioner of Works and Emergency Services;
- (h) provides for space within the development for the construction of any transformer vaults, Hydro and Bell maintenance holes and sewer maintenance holes required in connection with the development;

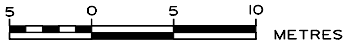
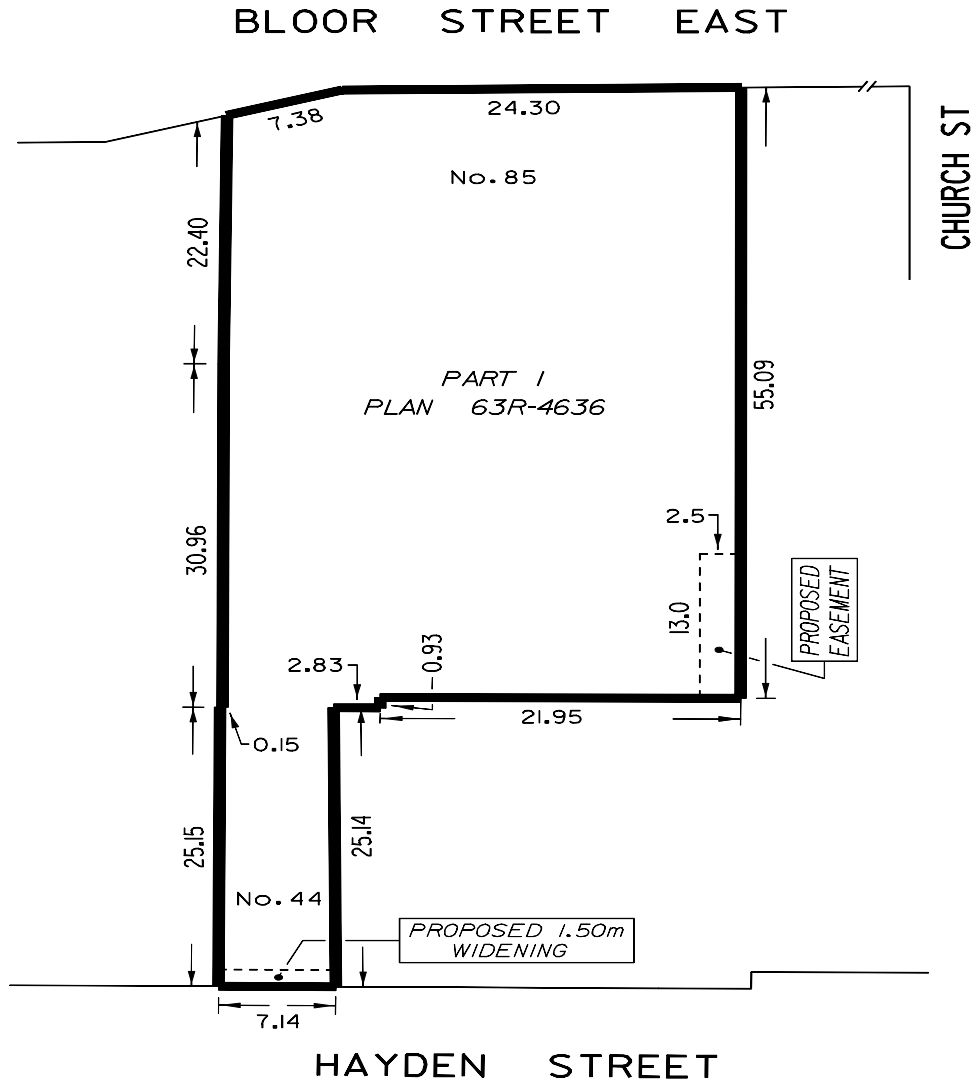
- (i) provides for the construction and maintenance within the *lot* of a pedestrian walkway over the easement referred to in clause (b) above, and that such pedestrian walkway shall:
 - (1) remain open and accessible to the public at all times during the hours of operation of the Toronto Transit Commission subway system and such access may be refused, or a person may be required to leave the pedestrian walkway, in the case of a person who:
 - (i) unreasonably interferes with the ability of other members of the public or lawful occupants to use the pedestrian walkway;
 - (ii) carries on an unlawful activity;
 - (iii) acts in a manner unreasonably inconsistent with the intended use of the premises;
 - (iv) injures or attempts to injure any person, property or property rights;
 - (v) obstructs or injures any lawful business or occupation carried on by the building owner or person in lawful possession of the premises; or
 - (vi) commits any criminal or quasi-criminal offence;
 - (2) be illuminated to a minimum average intensity of 10 lux on the pedestrian walkway surface; and
 - (3) be maintained clear of snow and ice at all times;

and that access for construction of the walkway be provided when the City secures the necessary portion of the through-block pedestrian walkway from the south end of the easement on the *lot* to Hayden Street;
 - (j) implements the facilities, services and matters set forth in sections 1(10)(a) to (i) herein within the time frames provided for each such facility, service or matter in the agreement referred to in section 1(11) herein; and
- (11) the *owners* of the *lot* enter into an agreement with the City pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters referred to in section 1(10) herein, and consent to such agreement being registered on title to the *lot* as a first charge against the *lot*.

2. For the purpose of this by-law each word or expression which is italicized in this by-law shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.
3. Section 12(1) 346 of the aforesaid By-law No. 438-86, as amended, is repealed upon the coming into force of the balance of this by-law.

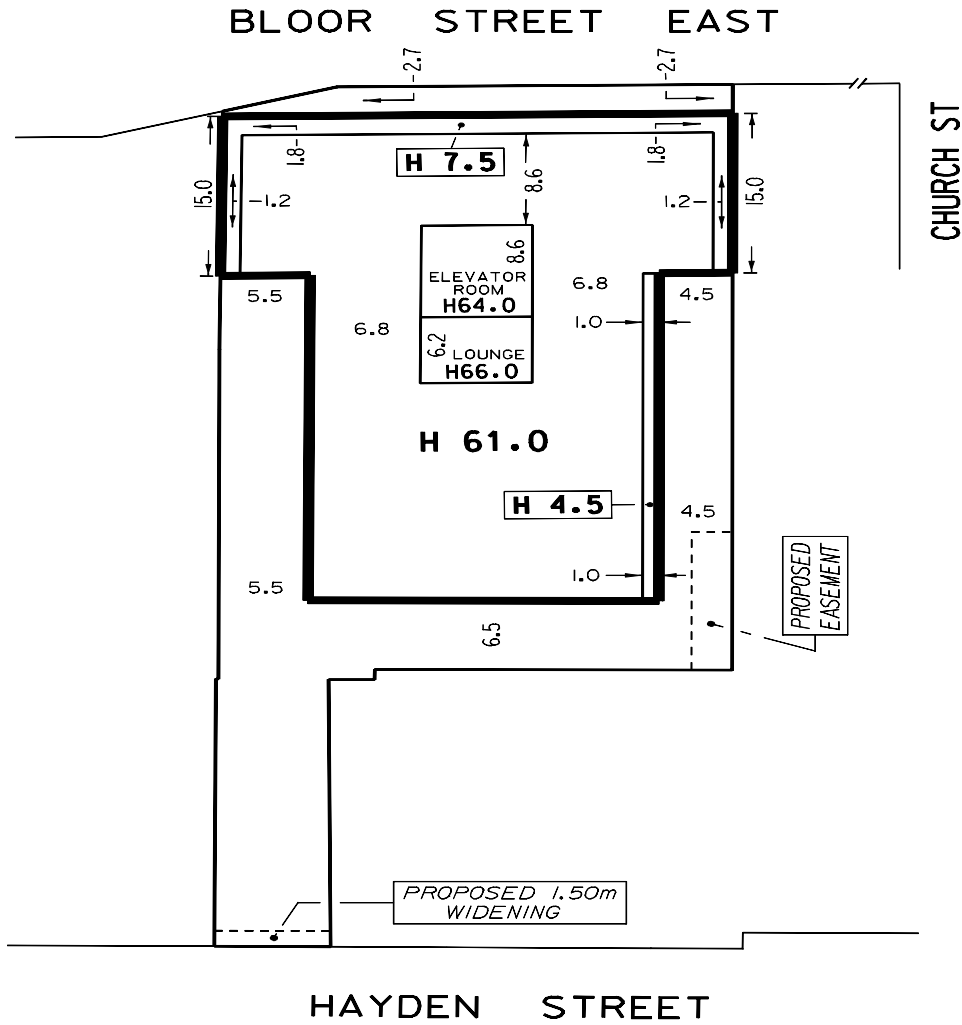
PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON NOVEMBER 29, 2000 IN BOARD FILE NO. PL980473.

PLAN 1



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO NOVEMBER, 1998
BL2/85BLOOR1.DGN
FILE: B21-79
MAP No. 51H-321 DRAWN: PG

PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SECTION
 TORONTO NOVEMBER, 1998
 BL2/85BL00R2.DGN
 FILE: B21-Z9
 MAP No. 51H-321 DRAWN: PG