

Authority: Ontario Municipal Board Order issued May 7, 2012, in Board File No. PL090501

CITY OF TORONTO

BY-LAW No. 765-2012(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands known as 251-255 King Street East and 37 Sherbourne Street.

WHEREAS the Ontario Municipal Board, by way of Order dated May 7, 2012 in respect of Board File No. PL090501, following an appeal pursuant to section 34(11) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, the General Zoning By-law, in respect of lands municipally known as 251-255 King Street East and 37 Sherbourne Street; and

WHEREAS subsection 37(2) of the *Planning Act* requires that a by-law under subsection 37(1) may not be enacted unless the Municipality has an Official Plan that contains provisions relating to the authorization of increase in height and density of development; 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 subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, service and matters in return for an increase in the density or height of development, the municipality, or the OMB on appeal, may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the owners of the lands have elected to provide the facilities, services and matters hereinafter set out; and

WHEREAS the increases in density or height permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 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 and are to be secured by one or more agreements between the owner of such land and the City of Toronto; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increase in height and density in connection with the aforesaid lands as permitted in this By-law;

THEREFORE By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board as follows:

1. None of the provisions of Section 2(1) with respect to "*bicycle parking space – visitor*", "*grade*", and Sections 4(2)(a), 4(12), 4(17)(a), 4(17)(b), 7(3) Part I 1, 7(3) Part II 1(ii), 7(3) Part II 4, 7(3) Part II 5, 12(2)246(a), 12(2)246(e) and 12(2)(260) 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 and use on the lot of one *mixed-use building* containing *dwelling units* and non-residential uses, including uses *accessory* thereto, provided that:

- (a) the *lot* is comprised of at least those lands outlined by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* does not exceed 9,990 square metres, of which:
 - (i) the *residential gross floor area* does not exceed 9,707 square metres and shall not comprise more than 132 dwelling units; and
 - (ii) the *non-residential gross floor area* does not exceed 350 square metres.
- (c) no portion of the *mixed-use building above grade* is 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) cornices, light fixtures, awnings, ornamental elements, parapets, landscape features, eaves, window sills, ventilation shafts, insulation and roof surface materials on the roof or terrace levels, elements of a green roof, guardrails, balustrades, railings, architectural features, stairs, stair enclosures, doors, wheel chair ramps and underground garage ramps and associated structures may extend beyond the heavy lines shown on the attached Map 2;
 - (ii) balconies provided they are located within the areas shown in shading on Map 2;
 - (iii) canopies provided they are located within the areas shown in hatching on Map 2.
- (d) no person shall erect or use a building or structure on the lot having a greater height in metres than the height limits specified by the numbers following the symbol H on Map 2 attached to and forming part of this By-law, with the exception of the following:
 - (i) a structure used for safety or wind protection purposes, elements of a green roof, insulation and roof surface materials on the roof or terrace levels, a chimney stack or other heating, cooling or ventilating equipment, mechanical hoods, vents or flues, window washing equipment, ornamental elements, landscaping elements, privacy walls, parapets, cornices, balustrades, light fixtures, architectural features, stairs, stair enclosures, guardrails, railings and associated structures which shall not exceed the sum of 1.5 metres and the applicable height limit shown on Map 2.
- (e) Not less than 209 square metres of indoor *residential amenity space* shall be provided in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom, and one of which may include up to one *dwelling room* used as a guest suite. No outdoor *residential amenity space* shall be required on the *lot*.

- (f) Notwithstanding the definition of *bicycle parking space – visitor*, the required 20 *bicycle parking spaces – visitor* may be provided outdoors on the *lot* and/or in the *parking garage* at the first parking level below *grade* within a secured room or area;
- (g) Not less than 74 *parking spaces* shall be provided and maintained on the *lot*, of which:
 - (i) at least 5 *parking spaces* are for the exclusive use of residential visitors;
 - (ii) at least 68 *parking spaces* are for the exclusive use of residents;
 - (iii) 1 *car-share parking space* shall be provided;
 - (iv) 3 *parking spaces* which are obstructed on one side may have minimum dimensions of 2.6 metres in width by 5.6 metres in length; and
 - (v) 4 *parking spaces* having dimensions of 3.2 metres in width by 5.6 metres in length may be accessed by a drive aisle having a width of less than 6.0 metres.
- (h) Two motor vehicle elevators, each having minimum dimensions of 3 metres in width by 6.4 metres in length are permitted in the building for the use of residents; and
- (i) The owner of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the *Planning Act*, to secure the facilities, services and matters referred to in Appendix 1 attached to this By-law and that such an agreement be registered on title to the *lot*.

2. For the purposes of this By-law:

- (a) "*car-share*" shall mean the practice where a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization, such *car-share* motor vehicles to be made available for short term rental, including hourly rental. *Car-share* organizations may require that the *car-share* motor vehicles be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the *car-sharing* organization, including the payment of a membership fee that may or may not be refundable;
- (b) "*car-share parking space*" shall mean a parking space exclusively reserved and signed for a car used only for *car-share* purposes;
- (c) "*grade*" shall mean 81.58 metres Canadian Geodetic Datum;
- (d) each other word or expression that is italicized shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended.

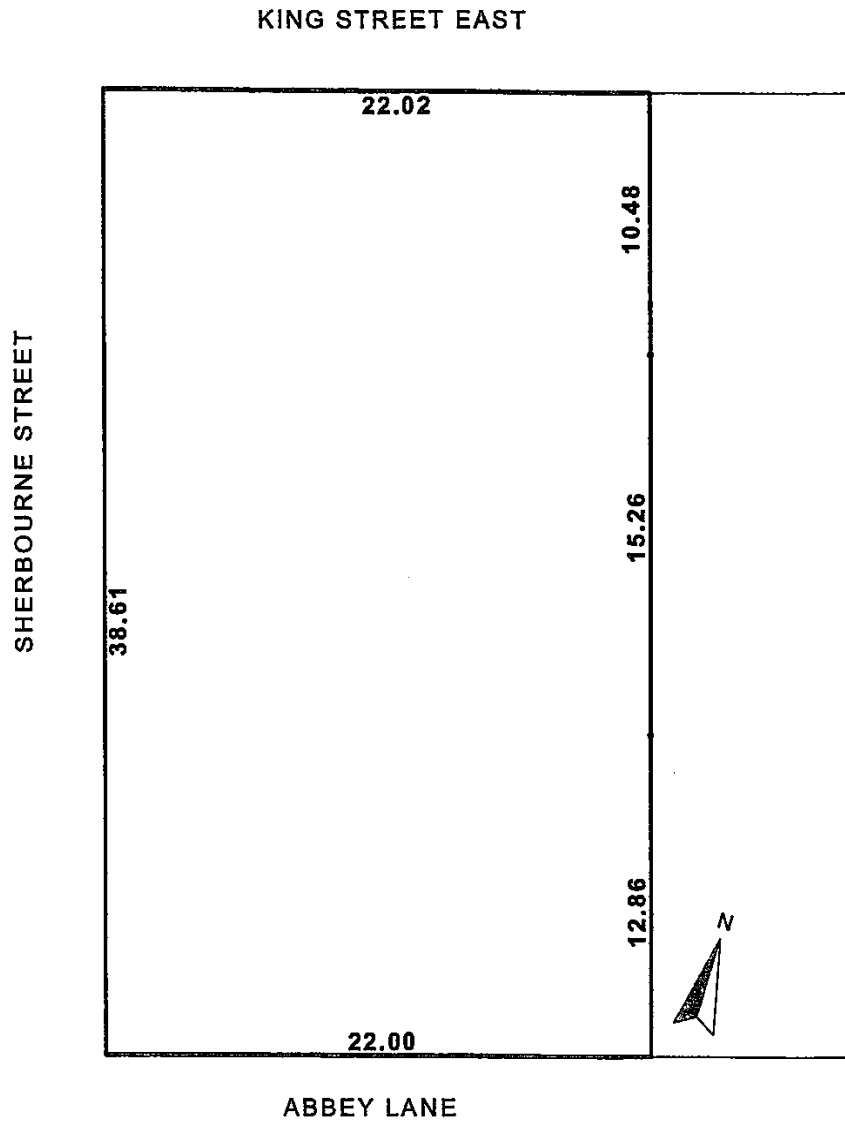
3. Despite any existing or future severance, partition or division of the *lot*, the provisions of this by-law shall apply to the whole *lot* as if no severance, partition or division occurred.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. Pursuant to 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 by the owner of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the owner's sole expense and in accordance with and subject to the agreement referred to in Section 1(i) of the By-law.
6. 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 provision 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.
7. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of financial securities.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED MAY 7, 2012 IN BOARD FILE NO. PL090501.

APPENDIX 1**SECTION 37 PROVISIONS**

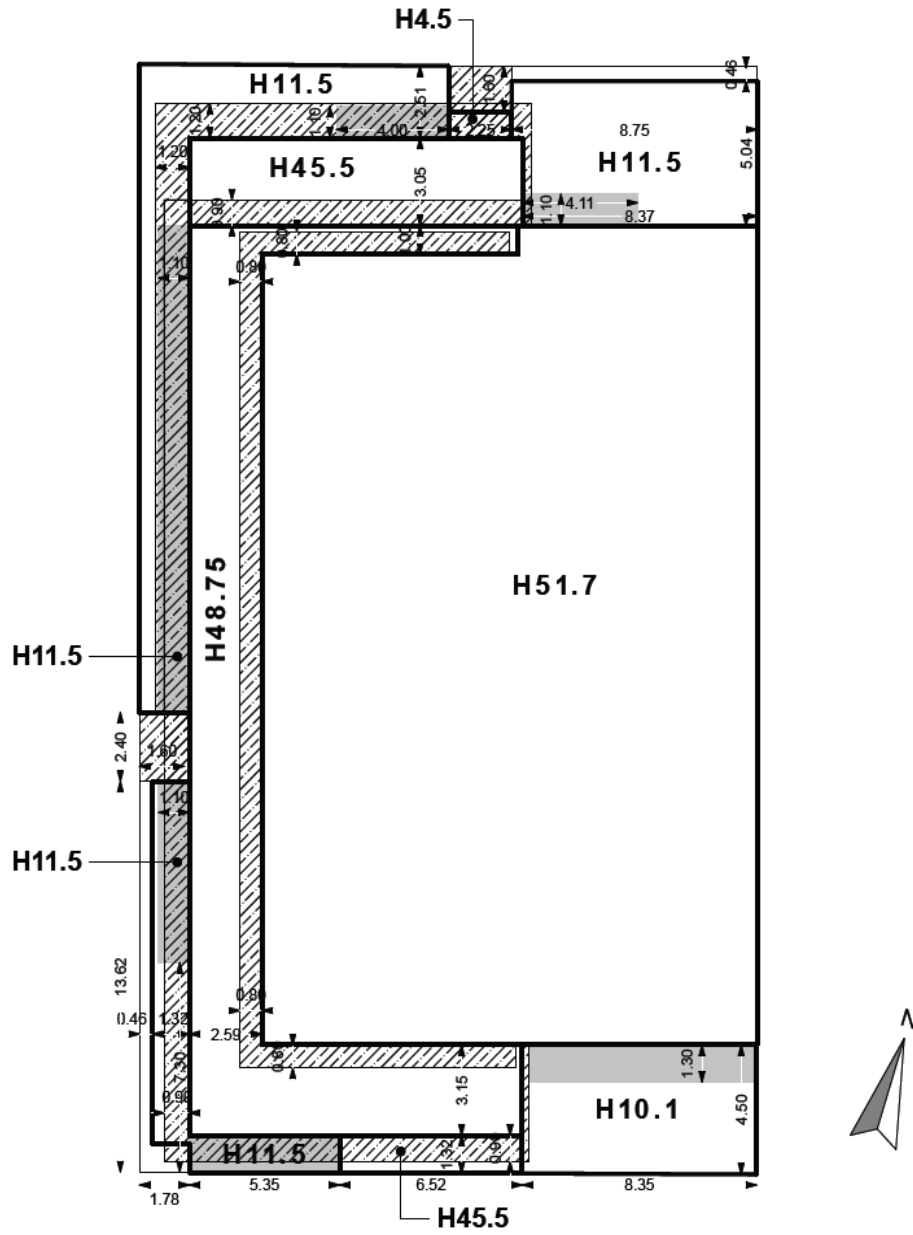
The following matters shall be provided and secured through a Section 37 Agreement registered on title to the *lot*:

- (a) The owner shall comply with the recommendations of the Detailed Conservation Plan prepared by ERA Architects Inc. dated March, 2010, revised September, 2011.
- (b) Prior to the issuance of any building permit for any building on the *lot*, including a permit for demolition of the existing buildings, excavation and/or shoring of the subject property, the owner shall:
 - (i) provide a letter of credit in the amount of \$495,700.00 in a form satisfactory to the Chief Planner and Executive Director, City Planning Division, to secure the work identified in Recommendation (a) above; and
 - (ii) provide building permit drawings including construction specifications for the proposed conservation work prepared by the owner's heritage architect satisfactory to the Manager, Heritage Preservation Services.
- (c) Prior to the release of the letter of credit the owner shall:
 - (i) complete the conservation work satisfactory to the Manager, Heritage Preservation Services; and
 - (ii) provide a notice of substantial completion prepared by the owner's heritage architect, satisfactory to the Manager, Heritage Preservation Services.



MAP 1

284-286 KING STREET EAST
DATE: 05/2010



MAP 2

'H' DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE