

Authority: Ontario Municipal Board Decision/Order issued December 11, 2015 in Board File PL150654, PL141134 and PL140860

## CITY OF TORONTO

### BY-LAW 1117-2017(OMB)

**To amend former City of Toronto Zoning By-law 438-86, as amended, respecting the lands known municipally as 740 Dupont Street.**

Whereas the Ontario Municipal Board pursuant to its Decision/Order issued on December 11, 2015 in relation to Board File PL150654, PL141134 and PL140860 determined to amend By-law 438-86 of the former City of Toronto; and

Whereas the Official Plan for the former City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act* may authorize 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 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, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

By-law 438-86, of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board:

1. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the lot contemplated herein is permitted in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Schedule 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* in a form, and registered on title to the lot, to the satisfaction of the City Solicitor.
2. Where Schedule 1 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.

3. 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 1 are satisfied.
4. None of provisions of Zoning By-law 1011-2014 shall apply to the lands delineated by heavy dashed lines on Map 1 attached to and forming part of this By-law.
5. Except as otherwise provided herein the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
6. Map 49J-312 is amended to rezone the lands shown on Map 2 of this By-law from IC D2 N1 to MCR and IC D2.
7. None of the provisions of sections 4(2)(a), 4(3)(a) and (b), 4(4), 4(7), 4(12), 4(13), 8(3) Part I 1 and 3, 9(1)(a) and (f), 9(3) Part I (2), and 12(2)270 of By-law 438-86, being "A by-law to regulate the use of land and the erection, use, bulk, height, spacing of land 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 of a *mixed-use building* within the *lot* which may contain *dwelling units* and non-residential uses and *accessory* uses thereto including a *private parking garage* and a *commercial parking garage* provided that:
  - (a) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* shall not exceed 18,750 square metres;
  - (b) the total *residential gross floor area* of buildings and structures shall not exceed 9,850 square metres;
  - (c) the total *non-residential gross floor area* of buildings and structures shall not exceed 9,250 square metres;
  - (d) the maximum *gross floor area* of any one retail or service use on any single floor shall not exceed 5,000 square metres excluding:
    - (i) galleria uses, and any room or enclosed area, including its enclosing walls, within the building or structure above grade used for washrooms, lunch rooms, change rooms, offices, storage, heating, cooling, ventilating, electrical, or mechanical uses;
    - (ii) stock rooms up to a maximum of 1000 square metres; and
    - (iii) mezzanines up to a maximum of 500 square metres.
  - (e) the maximum number of *dwelling units* shall be 127;

- (f) any new building or structure containing *dwelling units* shall be constructed to include a minimum of 10 percent 3-bedroom *dwelling units*, and a minimum of 20 percent 2-bedroom *dwelling units*;
- (g) no portion of any building or structure erected or used on the lot, shall exceed the heights in metres specified by the numbers following the symbol "H" on the attached Map 3, or be erected closer to a lot line than the heavy lines indicated on Map 3, with the exception of the following structures and elements:
  - (i) awnings, lighting fixtures, ornamental elements, trellises, balconies window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features;
  - (ii) elevator overruns, window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents and ventilating equipment , landscape and green roof elements, outdoor recreation and amenity area elements, partitions dividing outdoor recreation and amenity areas, wind mitigation, noise mitigation, chimney stack, exhaust flues, garbage chute overruns, train derailment mitigation measures and public art elements; and
  - (iii) mechanical penthouse uses shall be the only use permitted within the height areas identified specifically on Map 3 as MPH H21.0 and MPH H35.5;
  - (iv) for the sake of clarity, and subject to the exceptions set out in Section 4(g)(i) and (ii) above where either no height limit or a height limit of "H 0" is specified, no buildings or structures are permitted above the finished grade;
- (h) notwithstanding (g)(i) above, balconies shall project a maximum of 1.6 metres from the wall from which they are attached;
- (i) residential balconies and terraces shall be permitted within the IC zone lands delineated on Map 2, attached to and forming part of this By-law;
- (j) no portion of any building or structure erected or used on the lot, shall exceed the number of *storeys* specified by the numbers following the symbol "S" on the attached Map 3;
- (k) *residential amenity space* shall be provided in accordance with the following:
  - (i) a minimum of 244 square metres of indoor *residential amenity space* shall be provided; and
  - (ii) a minimum of 244 square metres of outdoor *residential amenity space* shall be provided;

- (iii) the indoor *residential amenity space* shall include a kitchenette and a washroom;
- (iv) a minimum of 50 square metres of indoor *residential amenity space* will be located immediately adjacent to the outdoor *residential amenity space*; and
- (v) all *residential amenity space* shall be located above grade;
- (l) a minimum number of *parking spaces* shall be provided and maintained below grade on the *lot* in accordance with the following:
  - (i) 0.7 *parking spaces* for each bachelor *dwelling unit*;
  - (ii) 0.8 *parking spaces* for each 1-bedroom *dwelling unit*;
  - (iii) 0.9 *parking spaces* for each 2-bedroom *dwelling unit*;
  - (iv) 1.1 *parking spaces* for each 3-bedroom *dwelling unit*;
  - (v) 0.15 visitor *parking spaces* for each *dwelling unit*;
  - (vi) 1.5 *parking spaces* per 100 square metres of *non-residential gross floor area*;
  - (vii) non-residential visitor *parking spaces* and residential visitor *parking spaces* may be shared;
  - (viii) notwithstanding (vii) above, 50 percent of the required residential visitor *parking spaces* must be provided for the sole use by residential visitors, and not shared with the non-residential visitor *parking spaces*;
  - (ix) for each on-site *car-share parking space* provided on the lot, the minimum resident parking required shall be reduced by 4 *parking spaces*, up to a maximum of 1 *car-share parking space* per 60 dwelling units; and
  - (x) for the purposes of *parking space* calculations, if the calculation of the number of required *parking spaces* 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*;
- (m) two *loading spaces - Type "A"*, one *loading space - Type "B"*, and one *loading space - Type "G"* shall be provided and maintained on the *lot*;
- (n) a minimum of 167 *bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:

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- (i) for residential uses, a minimum of 1.0 *bicycle parking spaces* for each *dwelling unit*, comprised of 0.9 long-term *bicycle parking spaces* and 0.1 short-term *bicycle parking spaces*;
  - (ii) for *non-residential* uses a minimum of 0.2 long-term *bicycle parking spaces* per 100 square meters of *interior floor area* and 3 *bicycle parking spaces* plus 0.3 short-term *bicycle parking spaces* per 100 square meters of *interior gross floor area*;
  - (iii) for the purposes of *bicycle parking space* calculations, if the calculation of the minimum *bicycle parking spaces* for all uses results in a fraction of a *bicycle parking space* being required, the number of required *bicycle parking spaces* must be rounded up to the next whole number;
  - (iv) a *bicycle parking space* may be provided in a horizontal or vertical position, and/or in a bicycle stacker; and
  - (v) despite the definition of *bicycle parking space – visitor* in Section 2(1)(iii) of Zoning By-law 438-86, as amended, a *bicycle parking space* for visitors and non-residential uses may be provided within a secure room.
- (o) None of the provisions of By-law 438-86 shall apply to prevent a *sales office* on the *lot*; and
  - (p) The building existing on the lot on the day of the passage of this By-law shall be exempt from the requirements of this by-law to provide motor vehicle parking facilities in respect of the use of the building for non-residential purposes, as permitted in an I1 zone in By-law 438-86, as amended, provided that the non-residential gross floor area of the building does not exceed the non-residential gross floor area of the building on the date of the passage of this By-law.
8. For the purpose of this By-law, all italicized words and expression have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (a) *car-share* means the practice where a number of people share the use of one or more motor vehicles. Such car-share motor vehicles shall be made available for short term rental, including hourly rental. Car-share operators 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 operator, including the payment of a membership fee that may or may not be refundable;
  - (b) *car-share parking space* shall mean a *parking space* that is reserved and use for the *car-share* purpose;
  - (c) *grade* means 120.9 metres Canadian Geodetic Datum;
  - (d) *height* means the height above *grade* as shown on Map 3;

- (e) *storey* means the number of storeys above grade as shown on Map 3 as marked with a "S" and does not include a mezzanine;
  - (f) *lot* shall mean the parcel of land outlined by delineated by heavy dashed lines on Map 1 attached to and forming part of this By-law and known municipally as 740 Dupont Street in the year 2015; and
  - (g) *sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* and non-residential units to be erected on the *lot*.
9. Despite any existing or future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

Ontario Municipal Board Decision/Order issued December 11, 2015 in Board File PL150654, PL141134 and PL140860

**SCHEDULE 1**  
**Section 37 Provisions**

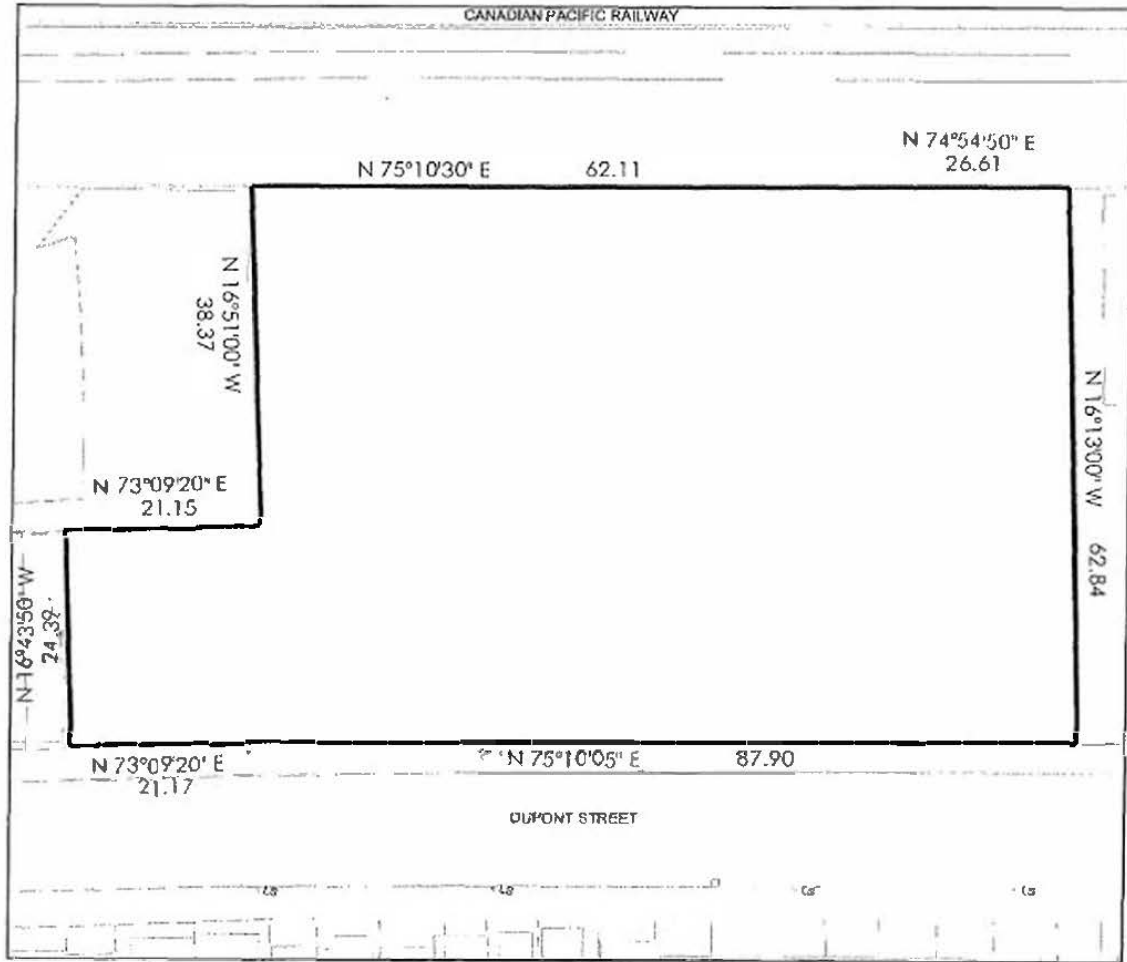
The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lot and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner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

1. Prior to the issuance of an above-grade building permit for the proposed development on the lot, other than a building permit for a temporary sales office/pavilion, the Owner shall:
  - (a) Pay to the City the sum of Two Hundred and Seventy Thousand Dollars (\$270,000) to be used by the City towards streetscape improvements along Dupont Street in the vicinity of the property municipally known as 740 Dupont Street (the "Property"); and
  - (b) Pay to the City the sum of Thirty Thousand Dollars (\$30,000) to be used by the City towards capital improvements to Toronto Community Housing Corporation ("TCHC") buildings in the vicinity of the Property;

with such amounts to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.

**Other matter to support the development of the lot:**

2. As a condition of Site Plan Approval, the owner will provide, to the satisfaction of the City's Chief Planner and Executive Director of City Planning, detailed drawings which illustrate the proposed rail mitigation measures for the proposed development on the lot.



 **Toronto**  
City of Toronto  
Division

**740 Dupont Street, Toronto**

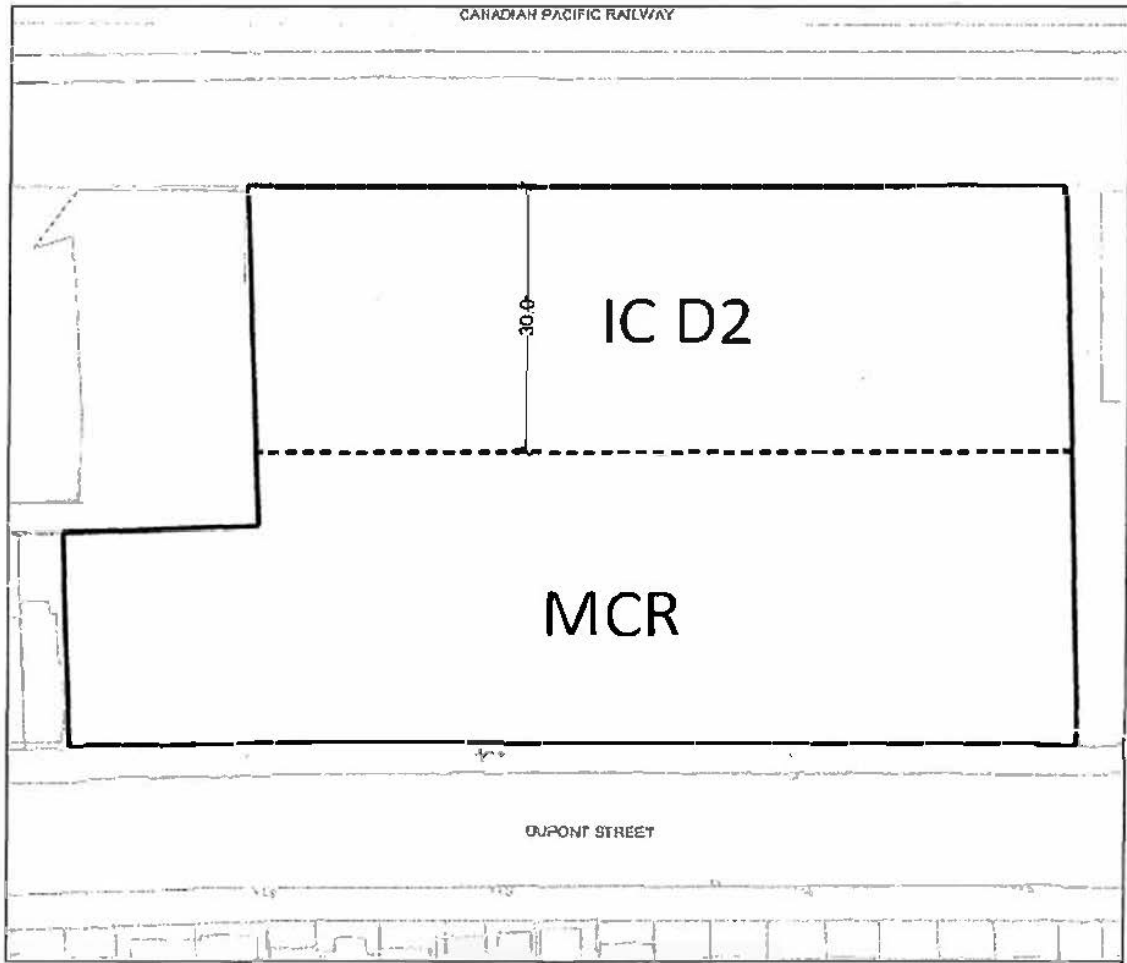
**Map 1**

File #10



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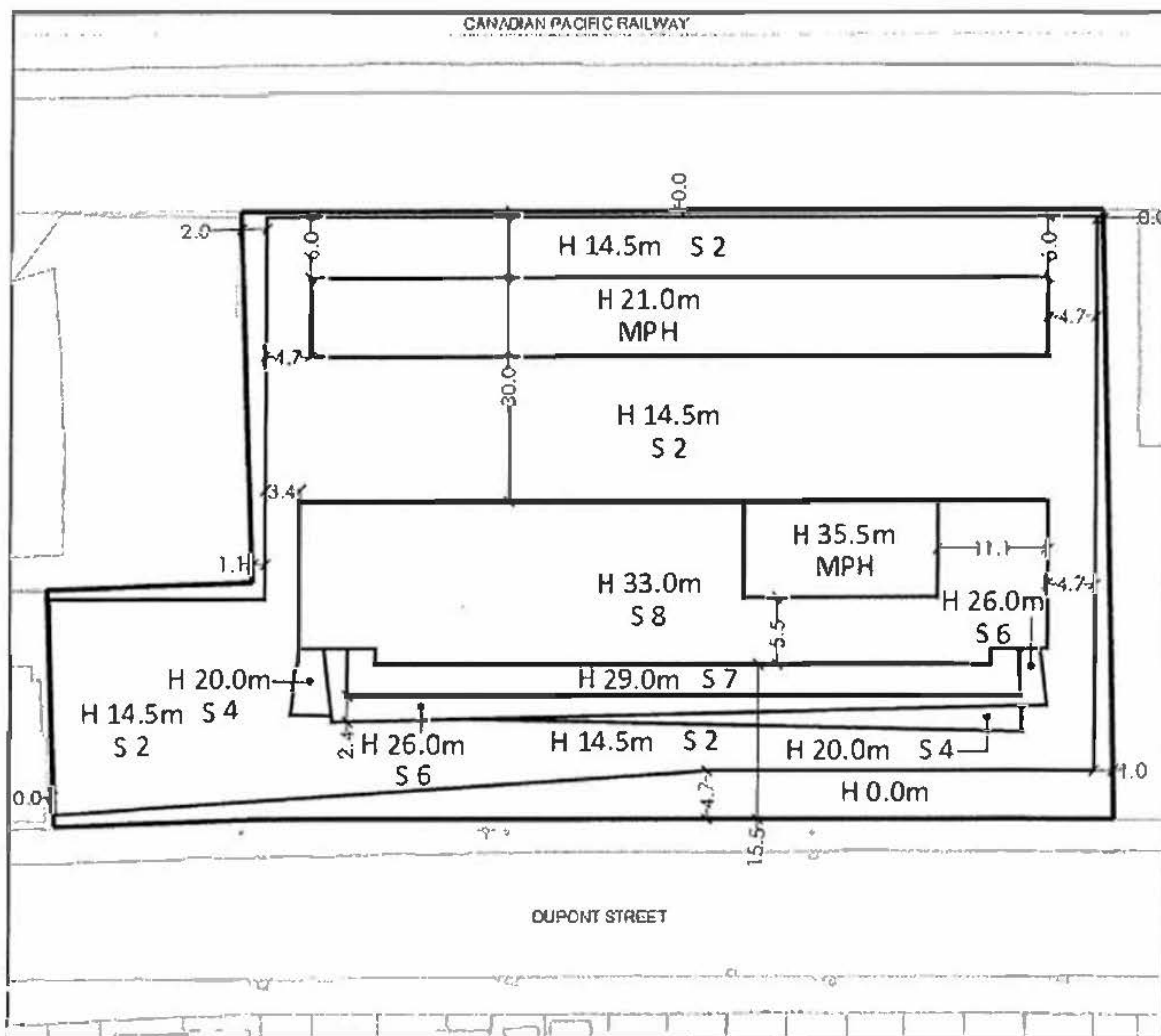
740 Dupont Street, Toronto

Map 2

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740 Dupont Street, Toronto

Map 3

File #10



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