

CITY OF TORONTO

BY-LAW No. 1-2005(OMB)

To amend By-law No. 1996-0238 of the former City of Toronto, amending By lawNo. 438-86, respecting lands known as 340 Front Street West.

WHEREAS the Ontario Municipal Board pursuant to its Order No. 1763, dated November 9, 2004, upon hearing the appeal of Milkin Holdings Limited, under Section 34(19) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, deems it advisable to amend the former City of Toronto Zoning By-law No. 1996-0238, which amends By-law No. 438-86, as amended, of the former City of Toronto; and

WHEREAS the Owner has brought forward a plan proposing additional height and density beyond that which was in the aforesaid settlement and beyond that which is currently permitted on the Site; and

WHEREAS subsection 37(1) of the *Planning Act* provides that Council of the City may, in a by-law enacted under section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the by-law; and

WHEREAS Council of the City, at its meeting held on June 24, 25 and 26, 2003, by the adoption of Clause No. 16 of Toronto East York Community Council Report No. 6, has agreed to use its powers under section 37 of the *Planning Act* in respect of the Site; 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 density or height 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 lands hereinafter referred to has elected to provide the facilities services and matters as hereinafter set forth; and

WHEREAS the increases in density or height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 1996-0238 and By-law No. 438-86, as amended, are to be permitted in return for the provision of 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 lands and the City of Toronto (the "City"); and

WHEREAS the City has required the Owner to enter into an Agreement to secure the provision of certain facilities, services and matters in return for certain increases in the height and density of development on the Site;

THEREFORE By-law No. 1996-0238, of the former City of Toronto, amending By-law No. 438-86 of the former City of Toronto, is further amended by the Ontario Municipal Board as follows:

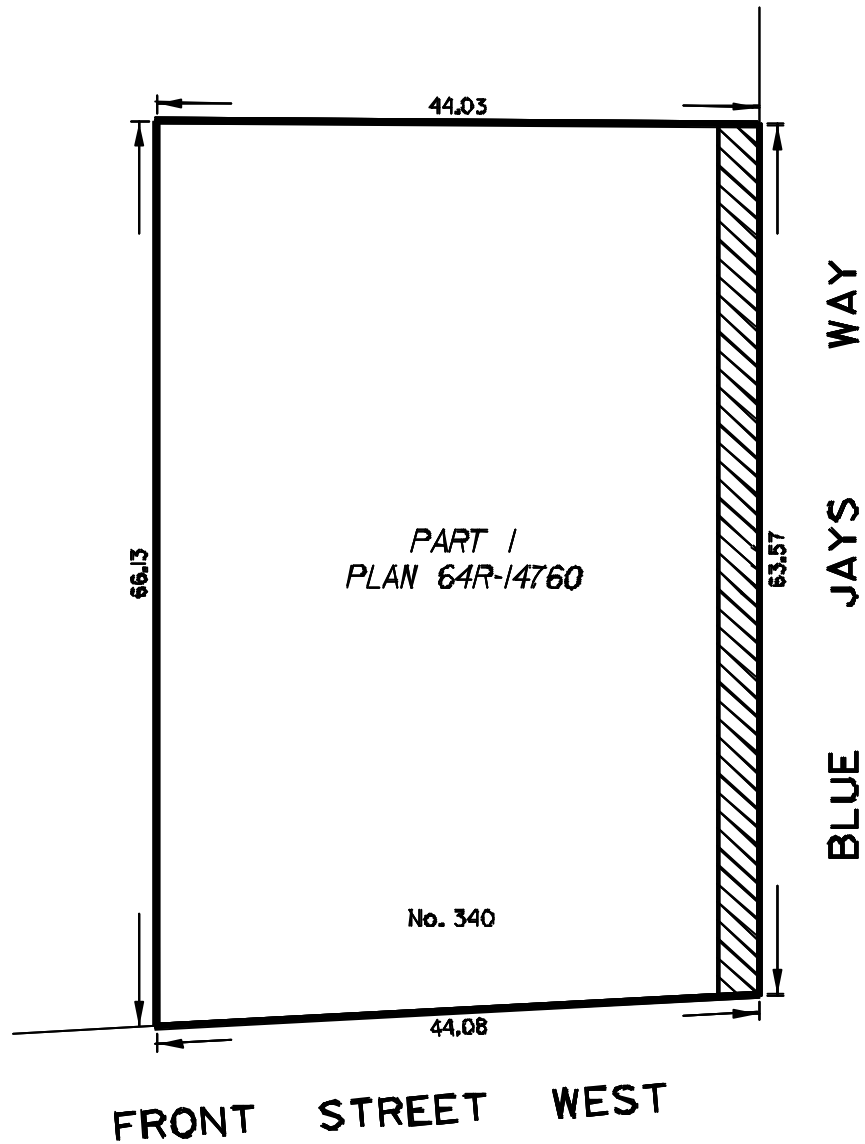
1. None of the provisions of the definition of *grade* in Section 2 and none of the provisions of Section 4(2), Section 4(12), Section 12(2) 246(a) and Section 12(2) 246(c) of By-law No. 438-86, as amended, being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection and use of a *mixed-use building* on the *lot*, provided:
 - (1) the *lot* comprises the lands outlined by heavy lines on Plan 1 attached to and forming part of this By-law;
 - (2) no portion of the mixed-use building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines and within the *height* limits shown on Plan 2 attached to and forming part of this By-law, but does not prevent the erection or use of:
 - (i) a structure on the roof of the building, used for outside or open air recreation, safety or wind protection purposes, provided that:
 - (a) the maximum height of the top of the structure is no higher than the sum of three metres and the *height* limit applicable to the portion of the *lot* as delineated by the heavy lines shown on Plan 2;
 - (b) no part of the structure is less than two metres from an adjacent outside wall or a vertical projection of the wall; and
 - (c) the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;
 - (ii) roof parapets and railings which do not exceed 1.80 m above the *height* limits applicable to the portion of the *lot* as delineated by heavy lines shown on Plan 2; and
 - (iii) cornices, balconies, bay windows, ornamental elements and vents which do not exceed 0.90 m above the *height* limits applicable to the portion of the *lot* as delineated by heavy lines shown on Plan 2; and
 - (3) the development shall have a minimum of 500 square metres of outdoor amenity space and shall have a minimum of 700 square metres of indoor amenity space.

2. The *heights* of the development permitted by Section 1 are permitted subject to compliance with the conditions set out therein and in return for the provision by the *owner* of the *lot* of the following facilities, services or matters to the City of Toronto, namely that the *owner* pay to the City before the issuance of the building permit in respect of the *lot* the sums of:
1. \$ 100,000 for Public Art in the surrounding area;
 2. the conveyance of a 3.0 m strip of land along the easterly boundary of the lot abutting the west side of Blue Jays Way; and
 3. \$ 350,000 toward the improvement of local parks in the immediate area, of which \$ 200,000 shall be payable to the City no later than 30 days after the Board's Order approving the settlement and the remaining \$ 150,000 payable upon issuance of the first building permit, and

enters into one or more agreements pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by this Section and the agreement or agreements have been appropriately registered against the title of the *lot*.

PURSUANT TO ORDER NO. 1763 OF THE ONTARIO MUNICIPAL BOARD, ISSUED ON NOVEMBER 9, 2004, UNDER BOARD CASE NO. PL968194.

PLAN 1

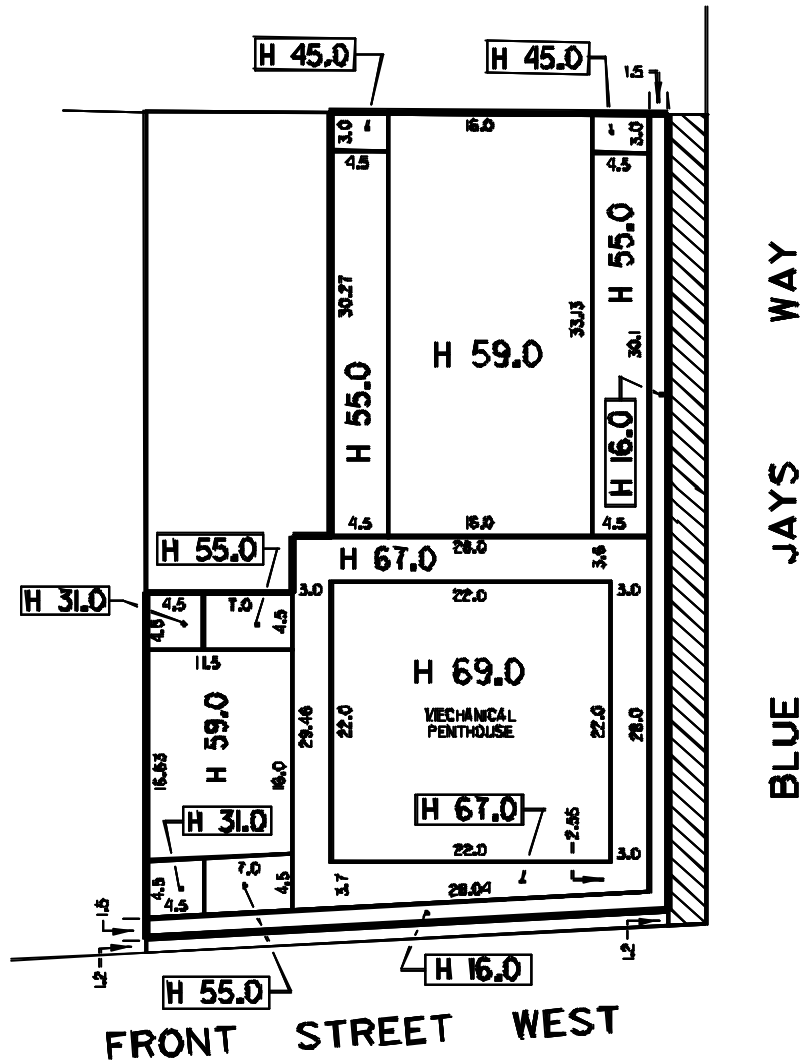


PROPOSED 3.0 METRE WIDENING




WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO MARCH, 2004
 BLO4/340FRW1.DGN
 FILE# F11-Z10
 WAP No. 50C-322 DRAWN: D-R

PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 PROPOSED 3.0 METRE WIDENING

 BUILDING ENVELOPE

 METRES



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO
BLO4/340FR02.DGN
FILE: F11-210
MAP No. 506-322
JUNE, 2004
DRAWN: D.R.