

CITY OF TORONTO

BY-LAW No. 9-2005(OMB)

To amend By-law No. 937-2002(OMB), being a By-law “To amend By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended, with respect to the lands known as a portion of 640 Fleet Street as well as 640R, 642 and 650 Fleet Street, being block 1/2A, as well as By-law No. 1995-0466 and By-law No. 1996-0247”, with respect to the lands known as a portion of 640 Fleet Street as well as 640R, 642 and 650 Fleet Street, being Parcel 2 of Block 1/2A.

WHEREAS this by-law is passed in implementation of the City of Toronto Bathurst/Strachan Area Part II Official Plan (OPA No. 7), as amended, for *Parcel 2 of block 1/2A*; and

WHEREAS the owner of *Parcel 2 of block 1/2A* applied for an Official Plan Amendment and rezoning for the development of *Parcel 2 of block 1/2A* and appealed that application to the Ontario Municipal Board; and

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 height or density of development beyond that otherwise permitted by the by-law that will be permitted in return for provision of such facilities, services and matters as are set out in the by-law; and

WHEREAS the owner of *Parcel 2 of block 1/2A* has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by 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, is to be permitted in return for the provision of facilities, services and matters set out in the By-law that are to be secured by one or more agreements between the owner of *Parcel 2 of block 1/2A* and the City of Toronto (hereinafter referred to as the “City”); and

WHEREAS the Council of the *City* 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; and

WHEREAS, pursuant to Section 36 of the *Planning Act*, the Council of the *City* may, in a by-law passed under Section 34 of the *Planning Act*, by the use of a holding symbol “H” (or “h”) in conjunction with a use designation, set out the use to which the lands, buildings or structures may be put prior to and following the removal of the holding symbol “H” (or “h”); and

THEREFORE, the Ontario Municipal Board, having held a public hearing respecting the owner’s appeal, enacts the following:

1. By-law No. 937-2002(OMB) is amended by:

(a) replacing Plans 2, 3B and 4 with the Plans in Appendix “A” attached hereto;

- (b) replacing Section 1 with the following new Section 1:

“Upon execution and registration of the agreement to be entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of section 5 herein, District Map 49G-313 contained in Appendix “A” of By-law No. 438-86, as amended, is further amended by redesignating *Parcel 1 of block 1/2A* to “R4” and redesignating *Parcel 2 of block 1/2A* to “R4(h)”, as shown on Plan 2 attached hereto.”

- (c) replacing Section 2(2) with the following new Section 2(2):

“Notwithstanding sections 2(1) and 4(13)(i) to (vii) herein, which set out the maximum *height* for buildings and structures, the Fleet Street podium buildings, the Fort York Boulevard podium building and the Parcel 2 North podium building, as shown on Plans 3A and 3B, shall be constructed to a minimum *height* of 20.0 metres.”

- (d) deleting the phrase “Parcel 1 of” wherever it appears in Section 4, but only where it follows the phrase “shall apply to”;

- (e) replacing the number “300” in Section 4(2)(ii) with the number “1,200”;

- (f) replacing Section 4(7) with the following new Section 4(7):

“The phases of development on *Parcel 1 of block 1/2A*, as shown on Plan 5, shall be commenced in the following order: the construction of *Phase 1A* may be commenced concurrently with a portion of *Phase 1B* and then the construction of the remaining portion of *Phase 1B* shall be commenced concurrently with *Phase 1C* and *Phase 1D*. Thereafter, the development on the *Phase 2* portion of *Parcel 1 of block 1/2A* may be commenced.”

- (g) replacing the number “42” in Section 4(11)(ii) with the number “53”;

- (h) adding the phrase “and (vii)” in Section 4(13)(iv) following the phrase “Sections 4(13)(iii)”;

- (i) adding the phrase “and none of the elements, fences, walls or enclosures permitted by Section 4(13)(vii) herein on the buildings or structures located within the Parcel 2 North podium building area identified on Plan 3B, shall be closer than 6.0 metres from the northerly adjacent outside wall or vertical projection of that wall fronting on Fort York Boulevard” in Section 4(13)(iv) following the word “building”;

- (j) replacing the word “recreation” in Section 4(13)(vi) and adding the phrase “recreation, safety or wind protection”;

- (k) adding a new Section 4(13)(vii) as follows:

“(vii) notwithstanding Section 4(13)(iii) herein, the provisions of Section 4(2)(a)(i) of By-law No. 438-86, as amended, shall apply to the buildings and structures located within the area identified with a 45 metre *height* limit and the Parcel 2 North podium building as shown on Plan 3B, provided that

- A. the limitation of 30 per cent of the area of the roof of the building in Section 4(2)(a)(i)B of By-law No. 438-86, as amended, shall be read as 40 per cent; and
- B. Section 4(2)(a)(i) of By-law No. 438-86, as amended, shall not prevent the erection or use of the elements set out in Section 4(13)(v) herein”;

- (l) adding a new Section 4(13)(viii) as follows:

“Notwithstanding any other provision of this By-law, in the event that no *legal commitment to remove the Gardiner Expressway* has been made at the time of a site plan application pursuant to Section 41 of the *Planning Act* for a new building on the Parcel 2 North podium building area shown on Plan 3B hereto, the minimum *façade height* for any building or portion of a building or structure, including parapets, on the Parcel 2 North podium building area shall be 7.0 metres. In the event that a *legal commitment to remove the Gardiner Expressway* has been made at the time of site plan application pursuant to Section 41 of the *Planning Act* for a new building on the Parcel 2 North podium building area, the minimum *height* for any building or portion of a building or structure, including parapets, on the Parcel 2 North podium building area shall be 20.0 metres.”

- (m) adding a new Section 4(13)(ix) as follows:

“For the purposes of this subsection, the term ‘*legal commitment to remove the Gardiner Expressway*’ shall mean a resolution by Council of the City of Toronto that legally binds the City to remove the Gardiner Expressway within a period of two years.”

- (n) replacing Section 4(14) with the following new Section 4(14):

“In no case shall a building or structure located within the area identified as Tower A, as shown on Plan 3A, and Tower C, as shown on Plan 3B, contain a floor above the eighth floor which exceeds 850 square metres of *residential gross floor area*.”

- (o) adding the phrase “of By-law No. 438-86, as amended,” in Section 4(15) following the phrase “Section 6(3)Part III 1(b)”;

- (p) deleting the phrase “*Parcel 1 of*” in Section 4(16);
- (q) replacing the Chart in Section 4(16) with the following new Chart:

CHART

PHASE	NUMBER OF <i>bicycle parking spaces – occupant</i>	NUMBER OF <i>bicycle parking spaces – visitor</i>
Phase 1A	74	20
<i>Phase 1B</i>	0	0
<i>Phase 1C</i>	74	20
<i>Phase 1D</i>	12	0
<i>Phase 2</i>	160	40
Totals	320	80

- (r) deleting the word “and” at the end of Section 5(18)(iv);
- (s) replacing the “.” at the end of Section 5(19) with a “;”;
- (t) adding a new Section 5(20) as follows:

“the *owner* shall provide and maintain a break in the street wall or portal at the grade related levels of the podium building located on the west side of *Street B*, to continue the visual and pedestrian corridor along the alignment of *Street F* between the interior of *block 1/2A* and Bathurst Street and such break in the street wall or portal shall be shown on the drawings submitted to the City for site plan approval pursuant to section 41 of the *Planning Act*.”

- (u) deleting the phrase “Parcel 1 of” in Section 7(vii);
- (v) replacing Section 11(2) with the following new Section 11(2):

“By-law No. 1996-0244 is repealed upon the coming into force of this By-law;”

- (w) replacing Section 12 with the following new Section 12:

“Portions of the *lot* zoned “R4 (h)” shall not be used for any purpose prior to the enactment of a zoning by-law to lift the holding symbol “H” (or “h”) in whole or in part, except for:

- (i) below-*grade*, at-*grade* or above-*grade* non-habitable buildings, structures or improvements that are accessory to or an integral part of the development on *Parcel 1 of block 1/2A* in accordance with this By-law, including below-*grade parking spaces* and associated structures;
- (ii) a temporary sales showroom for the purposes of selling the residential dwellings set out in this By-law; and
- (iii) temporary surface *parking spaces* in accordance with Section 4(12).”

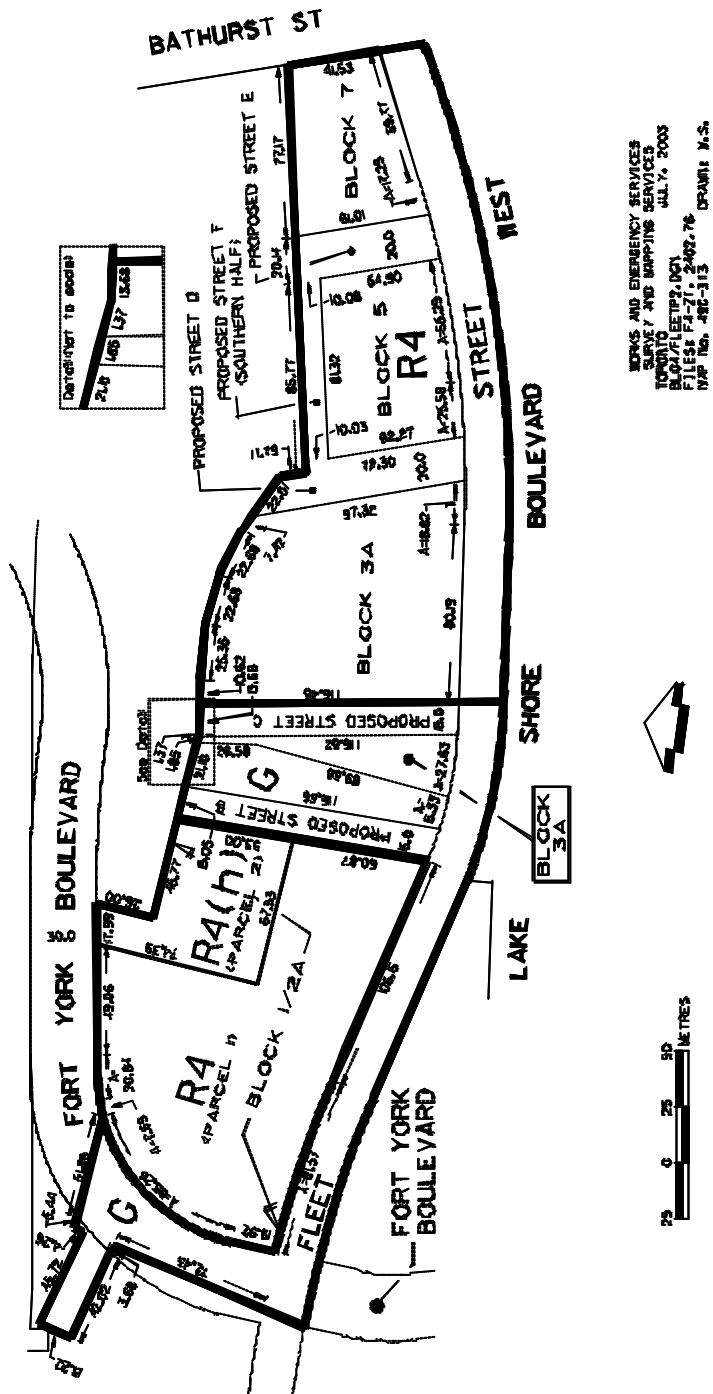
- (x) deleting the phrase “Parcel 1 of” in Section 15.

PURSUANT TO ORDER NO. 0052 OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JANUARY 12, 2005, IN BOARD CASE NO. PL001302.

APPENDIX "A"

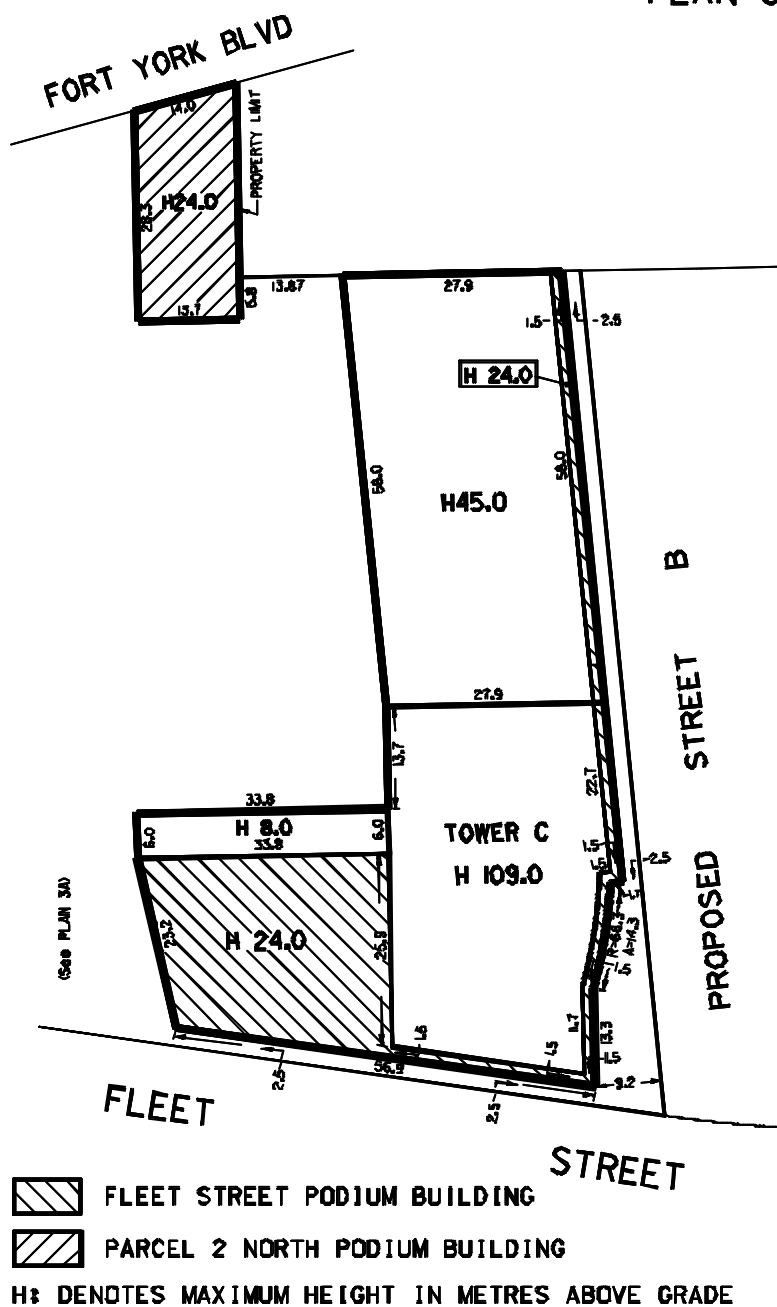
PLAN 2

ZONING AMENDMENT MAP



APPENDIX "A"

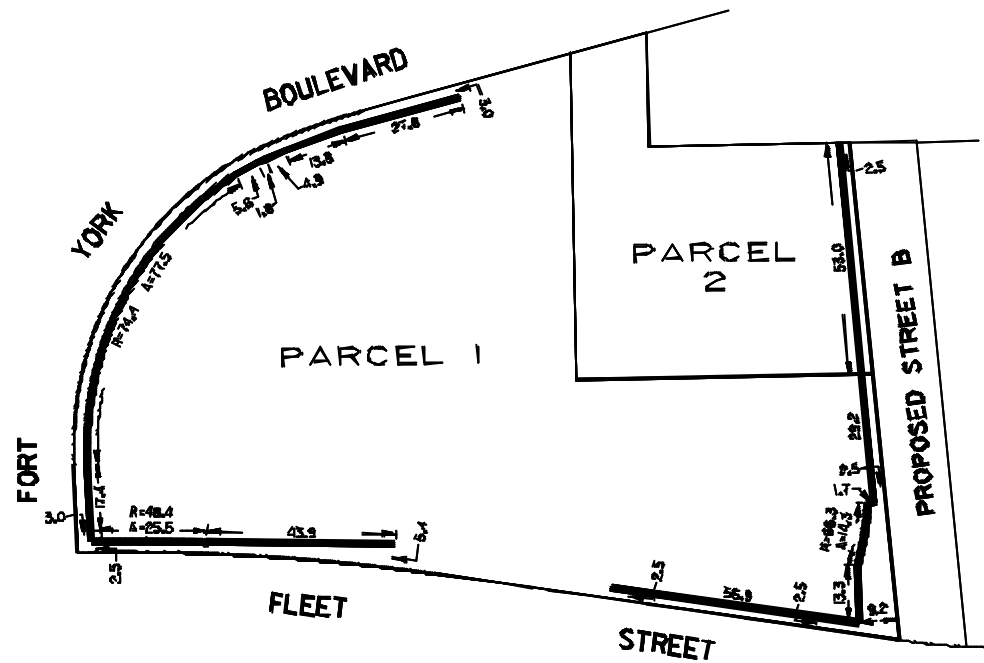
PLAN 3B



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO MARCH, 2004
BLO4/FLE12A3B.DGN
FILES: F4-Z1, 2402.76 & 2402.78
MAP No. 49G-313 DRAWN: W.S.

APPENDIX "A"

PLAN 4



SETBACKS REFERRED TO IN SECTION 4(5)



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO AUGUST, 2004
BLO4/FLE12&4-DGN
FILES: F4-Z1, 2402-76 & 2402-78
MAP No. 49G-313 DRAWN: V.S.