

CITY OF TORONTO

BY-LAW No. 466-2005(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 764 Yonge Street and 35 Balmuto Street.

WHEREAS the Ontario Municipal Board in a Decision issued April 8, 2004, approved a Zoning By-law Amendment as a result of a zoning by-law appeal with respect to certain lands known municipally as 764 Yonge Street and 35 Balmuto Street; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality and the Ontario Municipal Board on appeal may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law 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 height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or 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 the density or height permitted hereunder, beyond those 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 lands 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 increases in height and density in connection with the aforesaid lands as permitted in this By-law;

NOW THEREFORE pursuant to Order No. 0811 of the Ontario Municipal Board issued on April 5, 2005, in Board File No. PL030483, By-law No. 438-86, as amended, of the former City of Toronto, is amended as follows:

1. None of the provisions of Section 2(1) with respect to the definitions of *bicycle parking space – visitor*, *grade*, *height* and *lot* and Sections 4(2), 4(5)(b)-(d), 4(12), 4(16), 8(3) Part I and 8(3) Part III 1. of Zoning 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 of a building or buildings containing residential and non-residential uses, and an above-grade and below-grade *parking garage* and uses *accessory* thereto on the *lot*, provided that:
 - (a) the *lot* comprises at least those lands delineated by a heavy line on Plan 1 attached hereto;

- (b) the total combined *non-residential gross floor area* and *residential gross floor area* on the *lot* shall not exceed 33,000 square metres;
- (c) the *residential gross floor area* on the *lot* shall not exceed 32,500 square metres provided that the *residential gross floor area* of:
 - (i) *storeys* seven to twenty-one, inclusive, shall not exceed 12,750 square metres;
 - (ii) *storeys* twenty-two to twenty-six, inclusive, shall not exceed 3,875 square metres;
 - (iii) *storeys* twenty-seven to thirty, inclusive, shall not exceed 2,480 square metres;
 - (iv) *storeys* thirty-one to thirty-six, inclusive, shall not exceed 3,420 square metres;
 - (v) *storeys* thirty-seven to forty-one, inclusive shall not exceed 2,475 square metres; and
 - (vi) *storeys* forty-two to forty-eight, inclusive, shall not exceed 3,290 square metres;
- (d) the *non-residential gross floor area* on the *lot* shall not exceed 500 square metres provided that the *non-residential gross floor area* is located at 764 Yonge Street as shown on Plan 2B;
- (e) no portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines as shown on Plans 2A and 2B;
- (f) the *height* of any building or structure shall not exceed those *heights*, in metres above *grade*, following the symbol “H” shown on Plans 2A and 2B, but this paragraph does not prevent the erection or use of:
 - (i) the structure identified in Section 4(2)(a)(ii) of By-law No. 438-86 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 not higher than the sum of 3.0 metres and the *height* limits for the “Roof of Podium” shown on Plans 2A and 2B; and
 - B. the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;

- (g) the following building elements and structures are permitted beyond the heavy lines and above the *height* limits shown on Plans 2A and 2B;
 - (i) cornices, lighting fixtures, canopies, ornamental elements, ornamental architectural elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, landscape and public art features;
 - (ii) balconies:
 - A. extending to a maximum horizontal northerly or southerly projection from a north or south exterior building wall, respectively, of 1.6 metres beyond the heavy lines shown on Plans 2A and 2B; and
 - B. extending to a maximum horizontal easterly or westerly projection from an east or west exterior building wall, respectively, beyond the outer edge of the “Roof of Podium” as shown as Plans 2A and 2B;
- (h) the minimum required number of *parking spaces* shall be provided and maintained on the *lot* in the above-grade and below-grade *parking garage* in accordance with the following:
 - (i) 0.71 *parking spaces* per *dwelling unit*; and
 - (ii) 0.06 *parking spaces* per *dwelling unit* for visitors;
- (i) a minimum of 273 square metres of outdoor *residential amenity space* shall be provided in a location adjoining or directly accessible from indoor *residential amenity space*;
- (j) a minimum of 632 square metres of indoor *residential amenity space* shall be provided in a multi-purpose room or a number of rooms located on the same *storey*, which *storey* contains a kitchen and a washroom; and
- (k) the owner of the *lot* is required to enter into one or more agreements pursuant to Section 37 of the *Planning Act* satisfactory to the Commissioner of Urban Development Services and the City Solicitor and that such agreement(s) be registered against the title to the *lot* as outlined by heavy lines on Plan 1 to secure the following facilities, services or matters:
 - (i) a cash contribution in the amount of \$1,000,000.00 towards the Bloor Street Transformation Project prior to issuance of any above *grade* building permit for the building to be erected on the *lot*;
 - (ii) a public art contribution in accordance with the City of Toronto’s public art program of a value not less than one percent of the construction costs of all buildings and structures to be erected on the *lot*;

- (iii) the provision of quality building materials for the podium (storeys 1 through 6, inclusive) and tower (storeys 7 and above) façades of the proposed building as follows:
 - A. the masonry components of the west façade of the entire podium will be of limestone and/or granite;
 - B. the masonry components of a portion of the north and south façades of the podium will be of limestone and/or granite to the extent that those elevations are viewed or exposed to Balmuto Street; and
 - C. the masonry components of the remainder of the building, excluding the balance of the podium not referred to in 1.(k)(iii)A. and 1.(k)(iii)B., will be of two tones of premium pre-cast concrete;
- (iv) conveyance to the City prior to occupancy of the building to be erected on the *lot*, at nominal cost and free and clear of encumbrances, save and except for easements required for air intake and exhaust associated with a below grade parking garage on the *lot*, and to the satisfaction of the City Solicitor, the following widenings of the “Existing Public Lane” identified on Plan 1:
 - A. a 2.95 metre wide strip of land to the full extent of that portion of the *lot* abutting the north limit of the existing east-west public lane as shown on Plan 1 to a depth of 0.5 metres from the finished grade;
 - B. a 2.35 metre wide strip of land to the full extent of that portion of the *lot* abutting the west limit of the existing north-south public lane as shown on Plan 1 to a depth of 0.5 metres from the finished grade; and
 - C. a 4.0 metre by 4.0 metre triangular corner splay at the intersection of the existing east-west and north-south public lanes (measured in accordance with the limits of the public lanes, as widened) as shown on Plan 1 to a depth of 0.5 metres from the finished grade;
- (v) provision of assurances satisfactory to the Commissioner of Works and Emergency Services, that the owner of the *lot* either is the registered owner of the lands shown in hatching and identified as “Proposed Access” on Plan 1 or has existing rights in perpetuity in the nature of an easement for access purposes over such lands, which lands are intended as part of the proposed access for the *lot* and have a width of 6.0 metres;

- (vi) conveyance to the City for public lane purposes to the satisfaction of the City Solicitor, at nominal cost and prior to the occupancy of the building to be erected on the *lot*, those lands, or any part thereof, shown in hatching and identified as the “Proposed Access” on Plan 1 and having a depth of 0.5 metres, that are owned by the owner and that the owner can convey:
 - A. free and clear of all encumbrances, save and except for easements required for air intake and exhaust associated with a below grade parking garage on the *lot*;
 - B. to a width of 6.0 metres; and
 - C. to a depth of 0.5 metres from finished grade.

Where the owner is unable to convey all or part of the lands identified as the “Proposed Access” on Plan 1 as aforementioned, the owner shall, prior to the occupancy of the building to be erected on the *lot*, grant an option to the City to purchase any of the remaining lands held in fee simple by the owner and identified as the “Proposed Access ” on Plan 1, for public lane purposes, which option shall be granted to the City at nominal costs and shall be satisfactory to the Commissioner of Works and Emergency Services in consultation with the City Solicitor; and

- (vii) landscaping of the public boulevard immediately abutting the *lot* on the east side of Balmuto Street to the satisfaction of the Commissioner of Urban Development Services and in a manner that is consistent with the landscaping approved for the *lot* in the development site plan approval process pursuant to s.41 of the *Planning Act*.

2. Definitions:

- (i) For the purposes of this By-law, the terms set forth in italics, subject to Section 2.(i) and (ii) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended; and
- (ii) the following definitions shall apply:

“bicycle *parking space – visitor*” means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:

- (a) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (b) where bicycles are to be parked in a vertical position, has horizontal dimension of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;

(c) may be located outdoors or indoors in a secure room or area;

“*grade*” means 115.40 metres Canadian Geodetic Datum;

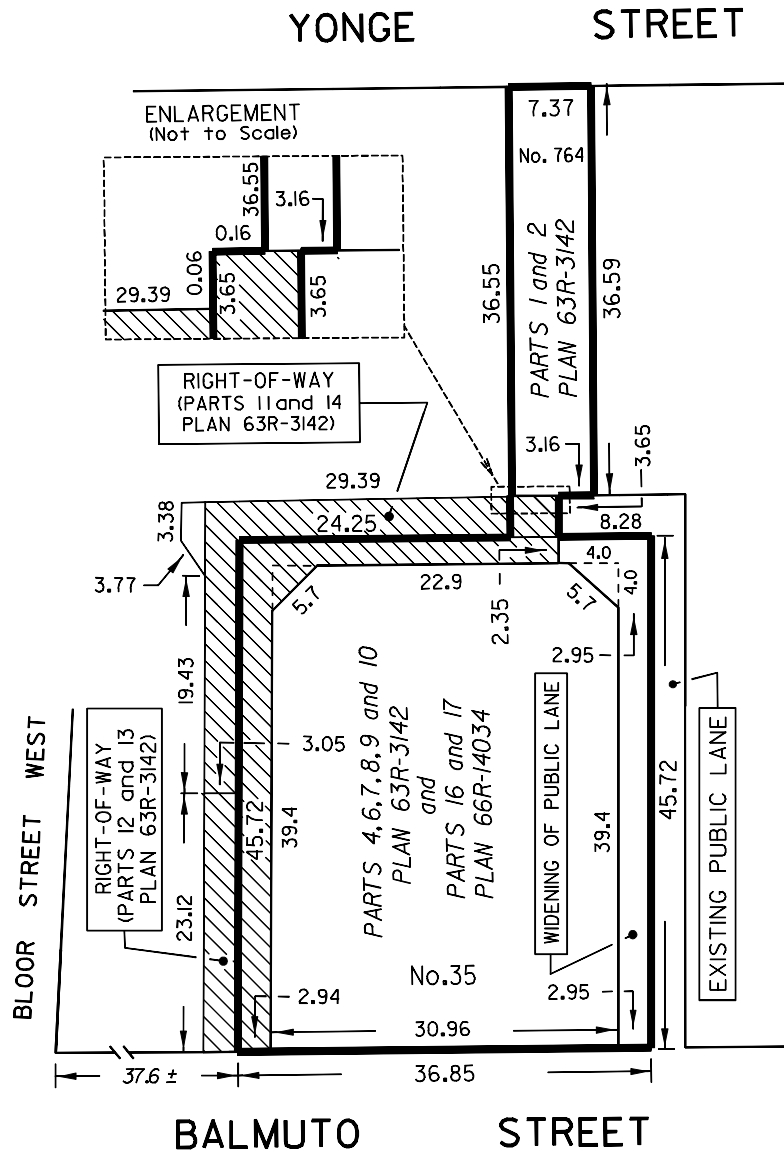
“*height*” means the vertical distance measured between the finished level of the ground and the highest point of the roof; and

“*lot*” means those lands outlined by heavy lines on Plan 1 attached hereto.

3. None of the provisions of By-law No. 438-86, as amended, or of this By-law shall apply to prevent the erection or use within the *lot* of a temporary sales showroom.
4. None of the provisions of By-law No. 438-86, as amended, or of this By-law shall apply to prevent the erection or use within the *lot* of a temporary sales showroom.
5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

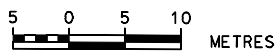
PURSUANT TO THE DECISION/ORDER NO. 0811 OF THE ONTARIO MUNICIPAL BOARD
ISSUED ON APRIL 5, 2005 IN BOARD FILE NO. PL030483.

PLAN I



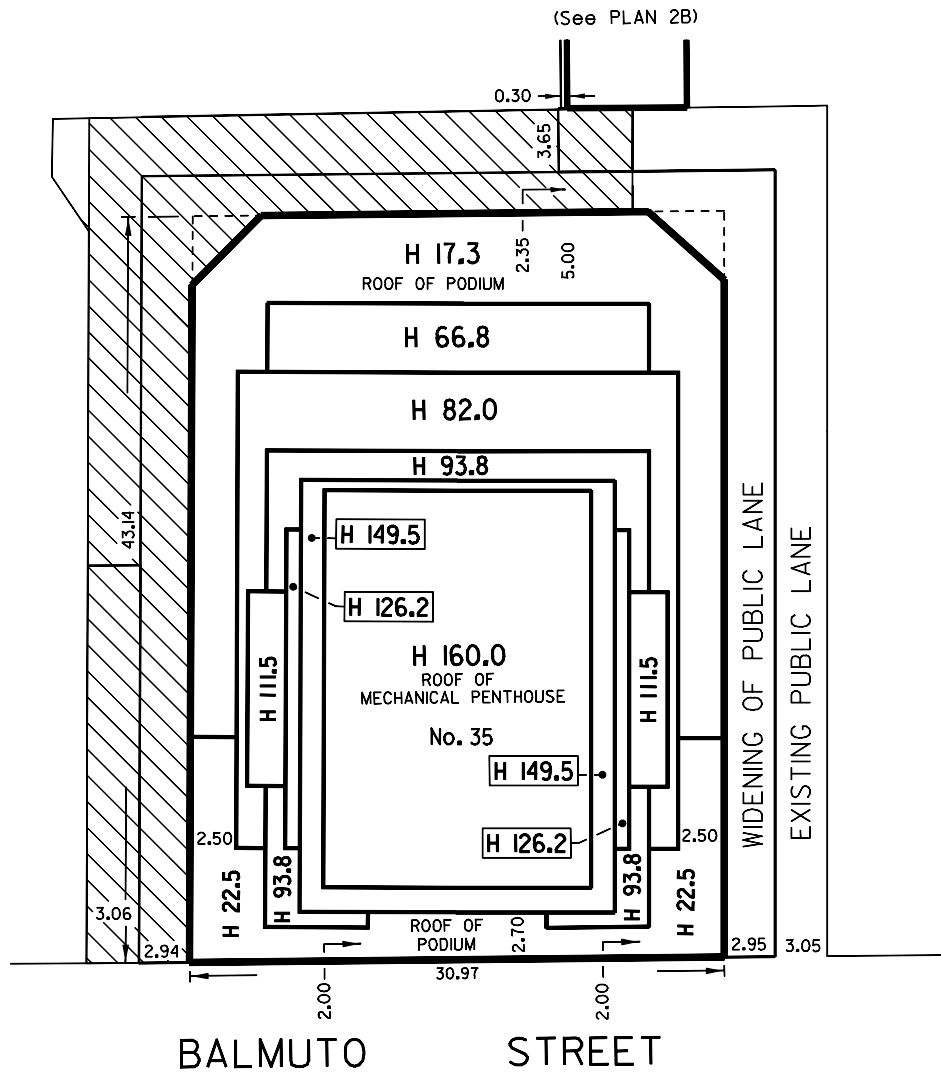
PROPOSED ACCESS

(6.0m wide with a 4.0m x 4.0m triangular splay)



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO JUNE, 2004
BL04/T64YDN1.DGN
FILE: Y1-Z185
MAP No. 50H-323 DRAWN: DR/VG

PLAN 2A



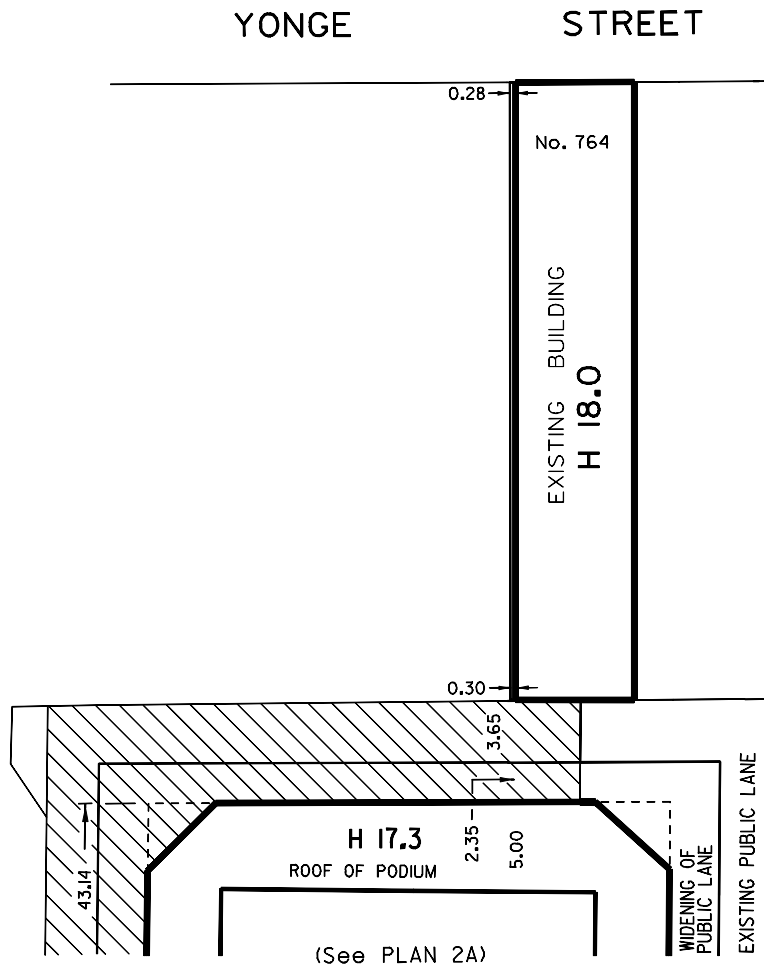
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 PROPOSED ACCESS (6.0m wide)



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO OCTOBER, 2004
BL04/764YON2A.DGN
FILE: Y1-Z185
MAP No. 50H-323 DRAWN: D.R

PLAN 2B



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



PROPOSED ACCESS (6.0 m wide)



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO SEPTEMBER, 2004
BL04/764YON2B.DGN
FILE: Y1-Z185
MAP No. 50H-323 DRAWN: D.R