

# CITY OF TORONTO

## BY-LAW No. 1349-2007(OMB)

### **To amend the General Zoning By-law No. 438-86 of the former City of Toronto as amended, with respect to lands municipally known as 430 King Street West.**

WHEREAS the Ontario Municipal Board pursuant to its Order No. 2126, dated July 27, 2007, deems it advisable to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to certain lands municipally known in the year 2006 as 430 King Street West; 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 passed 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 City Council at its meeting of June 14, 15 and 16, 2005, by the adoption of Clause 8 of Toronto and East York Community Council Report 5, and at its meeting of September 28, 29 and 30, 2005, by the adoption of Clause 7 of Toronto and East York Community Council Report 7, has agreed to use its powers under Section 37 of the *Planning Act* in respect of the subject lands; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters as hereinafter set out; 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 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 the Official Plan of the former City of Toronto contains provisions relating to the authorization of the height and density of development; and

WHEREAS the City has required the owner to enter into one or more agreements to secure the provision of certain facilities, services and matters in return for certain increases in height and density in connection with the subject lands as permitted in this By-law;

NOW THEREFORE pursuant to Order No. 2126 of the Ontario Municipal Board issued on July 27, 2007, in Board File No. PL041111, 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 *grade* and *height* and Sections 4(2)(a)(i) and (ii), 4(12), 4(14), 7(3) Part II 1, 3 and 8, Part III 2, Part IV 5, and 12(2) 246 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, including an *accessory parking garage* and uses *accessory* thereto on the *lot*, provided that:
  - (a) the *lot* comprises at least the lands outlined by heavy lines on the attached Plan 1;

- (b) the combined *residential gross floor area* and *non-residential gross floor area* of the *mixed-use building* on the *lot* shall not exceed 26,990 square metres;
- (c) the *residential gross floor area* of the *mixed-use building* shall not exceed 26,280 square metres;
- (d) no portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Plan 2 with the exception of cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, balconies, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, underground garage ramps and their associated structures and landscape features, all of which may extend beyond the heavy lines on the attached Plan 2;
- (e) 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 the attached Plan 2, except for the following:
  - (i) a structure on the roof of the building used for outside or open air recreation, safety or wind protection purposes may exceed the *height* limit on Plan 2 by no more than 3.0 metres;
  - (ii) a stair tower, elevator shaft and associated equipment, chimney stack or other heating, cooling or ventilating equipment, window washing equipment, cornices, canopies, ornamental elements, parapets, railings, stairs, stair enclosures, and public art features may exceed the maximum *height* limits as shown on Plan 2 by no more than 1.5 metres; and
  - (iii) parapets to a maximum *height* of 1.5 metres above the *height* limits as shown on Plan 2;
- (f) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in a below *grade parking garage* in accordance with the following:
  - (i) 0.50 *parking spaces* for each *bachelor dwelling unit* and *one bedroom dwelling unit*;
  - (ii) 0.75 *parking spaces* for each *two bedroom dwelling unit* and *three bedroom dwelling unit*; and
  - (iii) 0.06 *parking spaces* for every *dwelling unit* for visitors use;
- (g) at least *one loading space - type G* shall be provided and maintained on the *lot*;

- (h) no building or structure shall be erected on the *lot* unless *residential amenity space* is provided as follows:
    - (i) 2.0 square metres of indoor *residential amenity space* for each *dwelling unit*, and such space shall be provided in a multi-purpose room or rooms, with a kitchen and a washroom located on the same floor as the multi-purpose room or rooms; and
    - (ii) at least 310.0 square metres of outdoor *residential amenity space* of which at least 40.0 square metres is to be provided in a location adjoining or directly accessible from the indoor *residential amenity space*;
  - (i) the ramps within the *parking garage* shall have a maximum slope of 5% when used to provide direct access to a *parking space*;
  - (j) a minimum inside and outside turning radius of 4.5 metres and 12.0 metres respectively, shall be provided and maintained at the base of the access ramp to the below *grade parking garage*;
2. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted by Section 1 of 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 following facilities, services and matters to the City at the owner's sole expense and in accordance with and subject to the agreement referred to in section 2(h) hereof:
- (a) make a contribution in the amount of \$210,000 payable to the City of Toronto within 30 days after the Zoning By-law Amendment becomes final and binding and a further contribution of \$210,000 upon the issuance of the first above grade building permit for the development on the *lot*, both amounts stated herein to be used for public realm and park improvements in the surrounding area in the following order of priority:
    - (i) along Charlotte Street and Oxley Street;
    - (ii) along King Street West and Adelaide Street West; and
    - (iii) Clarence Square Park.
  - (b) 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 gross construction costs of all buildings and structures to be erected on the *lot*;
  - (c) pay, prior to the issuance of the first above-grade building permit, for any improvements to the municipal infrastructure should it be determined that upgrades to the infrastructure are required to support this development, according to the site servicing review and street lighting assessment accepted by the Executive Director of Technical Services;

- (d) the incorporation in the construction of the building of exterior materials to the satisfaction of the Chief Planner and Executive Director;
- (e) the incorporation of upgraded STC Classification (STC-36) on all windows on the lower four floors along the Charlotte Street frontage of the *lot* and the lower five floors along the King Street West frontage of the *lot* to provide for improved noise mitigation in the podium of the development;
- (f) prior to registration of a plan of condominium on the *lot*, convey to the City at nominal cost a 0.52 metre wide strip of land abutting the south limit of the east-west public lane, such lands to be free and clear of all encumbrances, save and except for utility poles, and subject to a right-of-way in favour of the Grantor until such time as said lands have been laid out and dedicated for public highway purposes; and
- (g) the owner enters into an agreement with the City, satisfactory to the City Solicitor, pursuant to Section 37 of the *Planning Act* to secure all the facilities, services and matters required by section 2 of this By-law, as well as those matters deemed appropriate for the orderly development of the lands, and such agreements shall be registered against title to the *lot*.

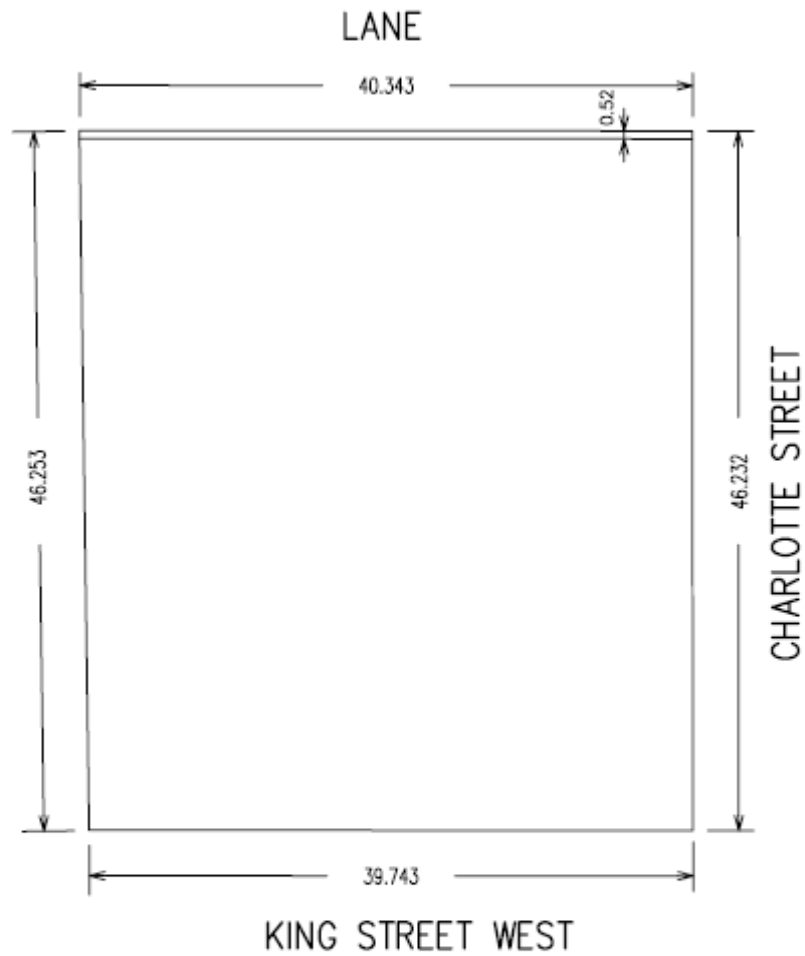
**3. Definitions:**

- (a) For the purposes of this By-law and subject to Section 3(b) below, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended; and
- (b) the following definitions shall apply:
  - (i) “*grade*” means 86.66 metres Canadian Geodetic Datum; and
  - (ii) “*height*” means the vertical distance measured between *grade* and the highest point of the roof.

**4. 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 ORDER/DECISION NO. 2126 OF THE ONTARIO MUNICIPAL BOARD,  
ISSUED ON JULY 27, 2007 UNDER BOARD CASE FILE NO. PL041111.

## PLAN 1



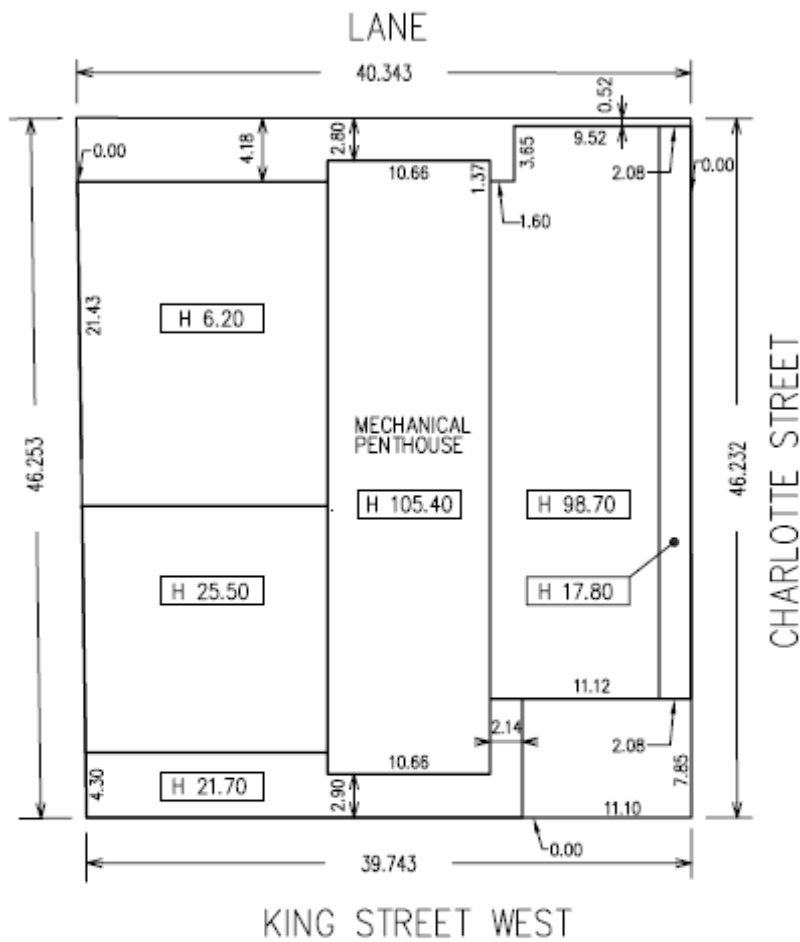
LANDS REFERRED TO AS THE LOT  
PIN 21412-0157 (LT)  
No. 430



5 0 5 10 metres

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND  
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

## PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



LANDS REFERRED TO AS THE LOT  
PIN 21412-0157 (LT)  
No. 430



5 0 5 10 metres

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.