

CITY OF TORONTO

BY-LAW No. 148-2011(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto, as amended, with respect to lands municipally as 34 and 38 Hazelton Avenue.

WHEREAS the Ontario Municipal Board, pursuant to an order issued on December 7, 2010, following an appeal pursuant to section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, the General Zoning By-law, in respect of lands municipally known as 34 and 38 Hazelton Avenue; and

WHEREAS the Official Plan for the City of Toronto, contains such provisions relating to the authorization of increases in height and density of development; 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, or the OMB on appeal, may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the owners of the lands have elected to provide the facilities, services and matters hereinafter set out; and

WHEREAS the increases in density or height permitted beyond that 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 land and the City of Toronto; and

WHEREAS the Ontario Municipal Board has required the owner of the aforesaid lands to enter into one or more agreements with the City of Toronto dealing with certain facilities, services and matters in return for the increase in height and density in connection with the aforesaid lands as permitted in this By-law;

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

1. None of the provisions of Sections 4(2)(a), 4(5)(b), 4(5)(i)(ii), 4(8)(b), 4(12), 4(13), 4(16), 6(3)(PART I), 6(3)(PART II), 6(3)(PART III)(1) and 12(2)322 of Zoning By-law No. 438-86, as amended, being By-law No. 438-86 of the former City of Toronto, 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 or use of a building containing any R3 use on the lands municipally known as 34 to 38 Hazelton Avenue (hereinafter referred to as the *lot*), provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;

- (b) the *total residential gross floor area* of any building or structure erected on the *lot* shall not exceed 5,700 square metres and shall not comprise more than 30 *dwelling units*;
- (c) no portion of the building or structure erected or used above *grade* on the *lot* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
 - (i) canopies, awnings, building cornices, lighting fixtures, ornamental elements, parapets, trellises, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend up to 2 metres beyond the heavy lines shown on Map 2;
 - (ii) balconies may only be located within the areas shown in hatching on Map 2 and may extend up to 2.7 metres beyond the heavy lines shown on Map 2;
- (d) the *height* of any building or structure, or portion thereof, on the *lot* shall not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
 - (i) the maximum height for parapets, terrace guards and dividers, planters, railings, decorative screens, window washing equipment, and ornamental architectural features shall be the sum of 1.8 metres and the applicable height limit shown on Map 2; and,
 - (ii) the maximum height for chimney stacks and elevator mechanical equipment shall be the sum of 3.9 metres and the applicable height limit shown on Map 2;
- (e) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) 0.3 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) 0.7 *parking spaces* for each one bedroom *dwelling unit*;
 - (iii) 1.0 *parking spaces* for each two bedroom *dwelling unit*;
 - (iv) 1.2 *parking spaces* for each three bedroom *dwelling unit*; and
 - (v) 0.06 parking spaces for each *dwelling unit* shall be provided for visitors.

- (f) a minimum of 23 *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:
 - (i) for residents, not less than 18 *bicycle parking spaces – occupant*; and,
 - (ii) for visitors, not less than 5 *bicycle parking spaces-visitor*.
 - (g) no less than of 10% of the area of the *lot* shall be *landscaped open space*;
 - (h) ingress and egress to and from the building shall be provided by means of a driveway or passageway providing access to a public highway and having a minimum width of 2.5 metres for two-way operation.
2. Pursuant to Section 39 of the *Planning Act*, an *office* is a permitted temporary use, but only within the building existing on the *lot* on November 1, 2009, subject to the following:
- (a) an *office* use shall be permitted for a period not exceeding three years from the date that the Ontario Municipal Board finally approves this By-law, or until such time as the building existing on the *lot* as of November 1, 2009 is demolished, whichever occurs first; and
 - (b) the *office* use shall be limited to the accommodation of an office or offices for a professional person such as a barrister, accountant, engineer, architect, or Ontario Land Surveyor, the administrative office or offices of a non-profit organization or organizations of a religious, educational, recreational, fraternal or philanthropic nature, a business administrative office or the office of a town or regional planning consultant, but shall not include a medical or dental office.
3. Pursuant to Section 37 of the *Planning Act*, the height and density of development permitted on the *lot* by this By-law, are permitted in return for the provision by the owner of the following facilities, services and matters to the City at the owner's sole expense:

Agreement

- (a) the owner enters into one or more agreements with the City pursuant to Section 37 of the *Planning Act* which shall be registered on title to the *lot* by the City to secure the facilities, services and matters required to be provided by this Section 3 and consents to the registration of such agreement or agreements against title to the *lot*;

Building Permits

- (b) prior to issuance of the first above-grade permit, the owner shall provide items 1(a) and (b) as outlined in Appendix 1 of this By-law; and

- (c) prior to issuance of any permit, including a permit for the demolition, excavation and/or shoring of the *lot* the owner shall provide items 2(a) – (m) as outlined in Appendix 1 of this By-law.
4. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of Section 2 (a) hereof, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
5. Notwithstanding any of the foregoing provisions, where the provisions of this By-law or an agreement entered into with the City pursuant to Section 37 of the *Planning Act*, require the provision of facilities, services and matters prior to issuance of a building permit for the proposed development of the *lot*, the owner may not erect or use any building or structure on the *lot* until the *owner* has satisfied the said requirements and building permit issuance shall be dependent on the same.
6. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
7. Despite any future severance, partition or division of the *lot*, the provisions of this By-law shall apply as if no severance, partition or division occurred.
8. For the purposes of this by-law all words, terms and phrases appearing in italics shall have the same meaning as they have for the purpose of the aforesaid By-law No. 438-86, as amended, except as limited or re-defined by this By-law. The following definitions shall apply:

"*grade*" means 116.83 metres Canadian Geodetic Datum; and

"*height*" means the vertical distance between *grade* and the highest point of the building or structure.

PURSUANT TO DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON DECEMBER 7, 2010 IN BOARD FILE NO. PL090575.



