

Authority: Toronto and East York Community Council Item 9.6,
as adopted by City of Toronto Council on September 21 and 22, 2011
Enacted by Council: October 25, 2011

CITY OF TORONTO

BY-LAW No. 1239-2011

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 68 Merton Street.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality 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 and height permitted hereunder, beyond those otherwise permitted in 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 by 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;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. None of the provisions of Section 2 with respect to '*height*', '*grade*', and '*sales office*' and 4(2)(a), 4(4)(b), 4(12), 4(13)(a), 4(13)(c), 4(16), 8(3) Part I 1, and 8(3) Part I 3(a), 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 an apartment building, including uses accessory thereto, on the *lot* provided that:

- (a) the *lot* consists of those lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) the total residential gross floor area erected or used on the *lot* does not exceed 10,885.5 square metres;
- (c) the total combined non-residential and residential gross floor area erected or used on the *lot* does not exceed 10,885.5 square metres;
- (d) no part of any building or structure erected or used above grade is located otherwise than wholly within the areas delineated by the heavy lines on Map 2;
- (e) except where a heavy line shown on Map 2 is contiguous with the boundary of a *lot*, nothing in Section 1(d) hereof shall prevent the following elements from projecting beyond the heavy lines shown on Map 2:
 - (i) eaves, cornices, lighting fixtures, fences and safety railings, trellises, balustrades, chimneys, vents, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, stair landings, decks, planters, and public art features;
 - (ii) balconies to a maximum horizontal projection of not more than 1.7 metres; and
 - (iii) canopies to a maximum horizontal projection of not more than 2.5 metres.
- (f) no part of any building or structure to be erected on the *lot* shall exceed the *height* limits in metres specified by the numbers following the symbol "H" as shown on Map 2;
- (g) nothing in Section 1(e) of this By-law shall prevent the erection or use of the building elements or structures identified in Section 4(2) (a) (i) of By-law No. 438-86, as amended, subject to the limitations contained therein;
- (h) the minimum required number of parking spaces that shall be provided and maintained on the *lot* to serve the residents and their visitors of the project shall be in accordance with the following ratios:

<i>1-bedroom units</i>	0.7 space per dwelling unit
<i>2-bedroom units</i>	1.0 spaces per dwelling unit
<i>Visitors</i>	0.1 space per dwelling unit
- (i) not less than 226 square metres of outdoor residential amenity space shall be provided and maintained on the *lot*;

- (j) not less than 286 square metres of indoor residential amenity space shall be provided and maintained on the lot;
- (k) the minimum required number of bicycle parking spaces that shall be provided and maintained on the *lot* to serve the residents and visitors of the project shall be in accordance with the following ratios:

resident bicycle parking 0.8 space per dwelling unit

visitor bicycle parking 0.2 space per dwelling unit

visitor bicycle parking may be provided using a stacked bicycle rack located at grade;

- 2. Pursuant to Section 37 of the *Planning Act* the *heights* and *density* of development permitted in the By-law are permitted subject to compliance with all of the conditions set out in this By-law including the provision by the *owner* of the lot of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.
- 3. Upon execution and registration of an agreement or agreements with the owner of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services or matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter or the payment of any monetary contribution as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the owner has satisfied the said requirements.
- 4. None of the provisions of By-law No. 438-86 shall apply to prevent a *sales office* on the lot as of the date of the passing of this By-law.
- 5. Definitions

For the purpose of this By-law, 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 except that the following definitions shall apply:

- (i) *Sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;

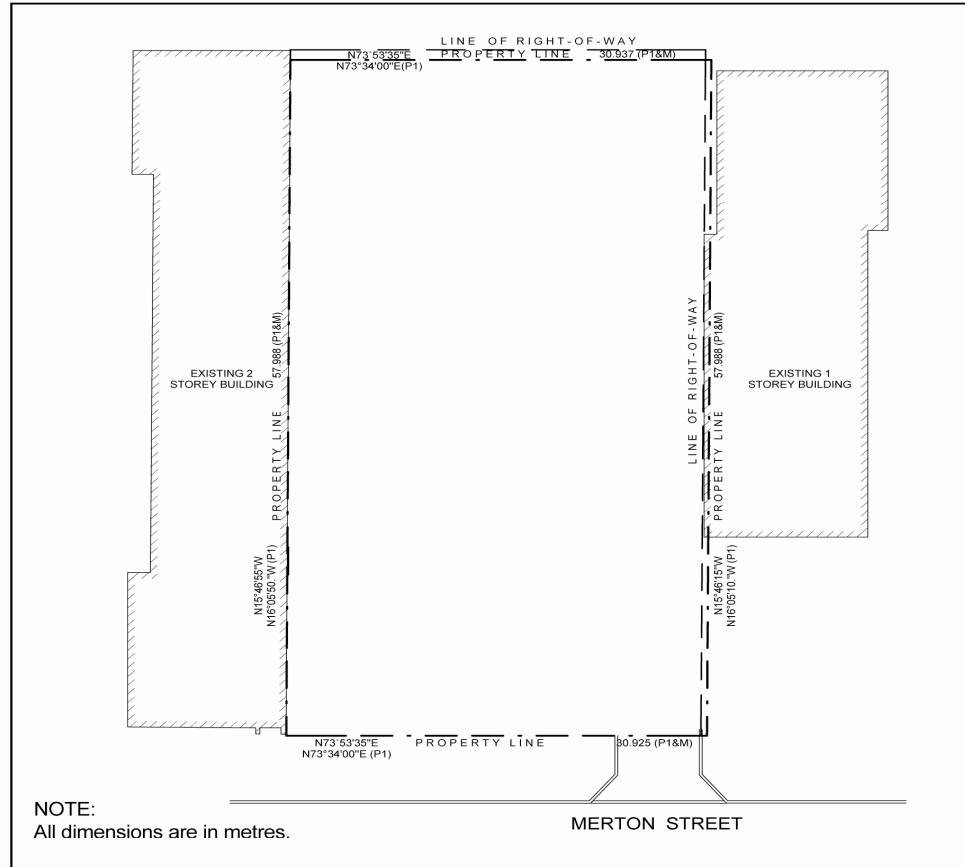
- (ii) *Height* means the vertical distance between *grade* and the highest point of the roof, building or structure, as shown on Map 2, exclusive of any elements described in 1(e)(i), (ii) and (iii) herein up to a maximum of 5.5 metres to the top of the mechanical penthouse roof slab; and
- (iii) *Grade* means 153.5 metres Canadian Geodetic Datum.

ENACTED AND PASSED this 25th day of October, A.D. 2011.

FRANCES NUNZIATA,
Speaker

ULLI S. WATKISS,
City Clerk

(Corporate Seal)



Toronto City Planning
Map 1

68 Merton Street

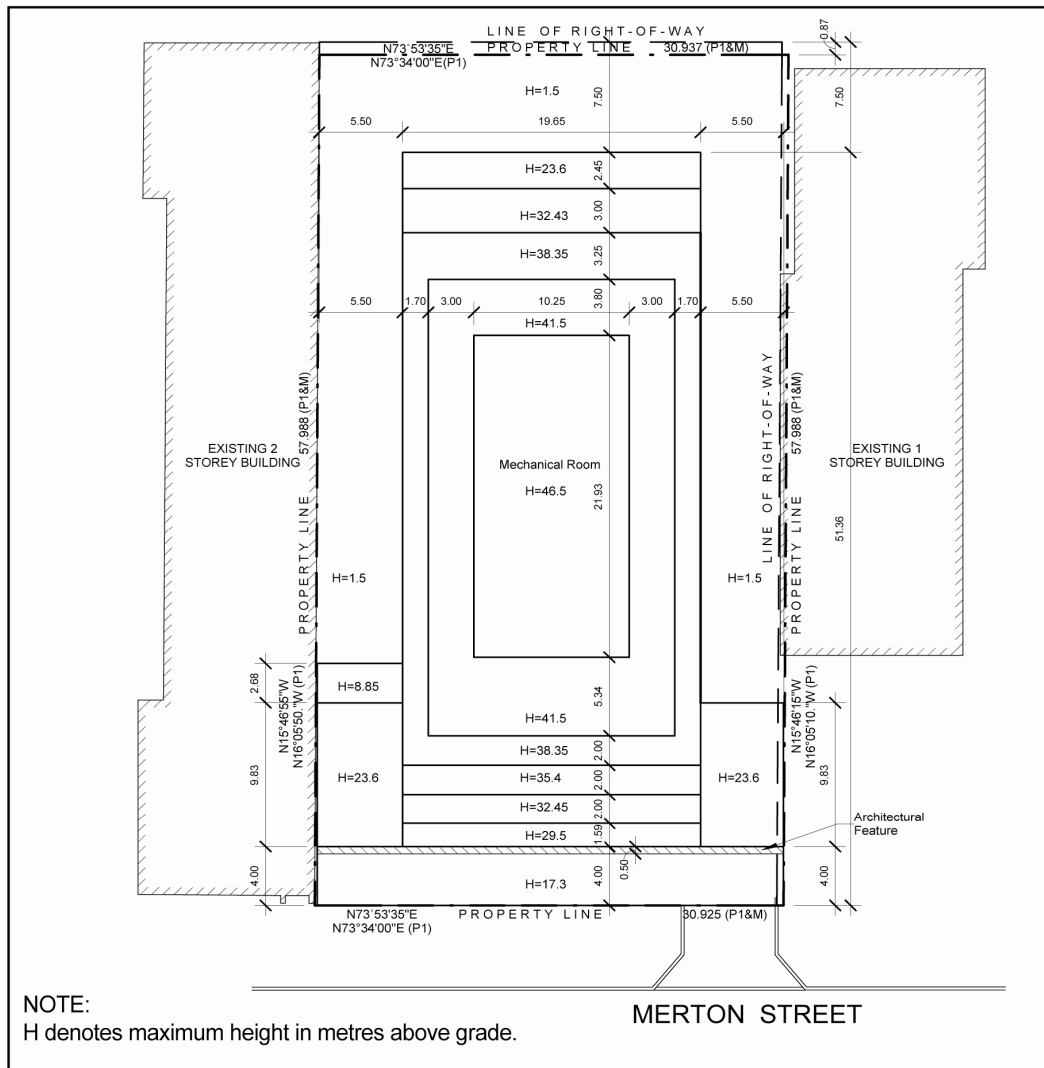
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Not to Scale
08/01/2011

TOPOGRAPHICAL SURVEY OF PART OF LOT 14 AND 16 REGISTERED
PLAN M-5 CITY OF TORONTO AS PREPARED BY R. AVIS SURVEYING INC.

BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM
HORIZONTAL CONTROL MONUMENTS No. 02219741612 AND No. 02219740377, ARE
REFERRED TO THE ONTARIO CO-ORDINATE SYSTEM MTM ZONE 10, CENTRAL
MERIDIAN 79°30' WEST LONGITUDE.



Appendix "1"
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the *City* in accordance with this Zoning By-law and an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* and the owner with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. The *owner* shall pay to the City a payment of \$400,000.00 prior to the first above grade building permit. Such payment shall be indexed to the non-residential Construction Price Index for Toronto for the period from the date of Council enactment of this by-law to the date of payment. Such payment will be deposited to the *Planning Act* Reserve Fund to be used for the construction and associated costs of improvements to the Kay Gardiner Belt Line Park and improvements to Oriole Park and/or other local area park improvements.
2. The *owner* shall construct and pay for any improvements to the municipal infrastructure in connection with the Functional Servicing Report has accepted by the Executive Director of Technical Services should it be determined that improvements to such infrastructure is required to support this development.

The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2011 as 68 Merton Street, one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.