

CITY OF TORONTO

BY-LAW No. 68-2014(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 102 Shuter Street.

Whereas the Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to lands municipally known in the year 2011 as 102 Shuter Street and authorized the acceptance of a settlement proposal from the owner of such lands at its meeting of May 11 and 12, 2011 thereby determining to support the coming into force of this By-law; and

Whereas pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law that will be permitted 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 the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the lands known at the date of this By-law as 102 Shuter Street (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law; and

Whereas the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto; and

Whereas the Ontario Municipal Board, by its Order No. PL090478 issued November 14, 2011, determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally as 102 Shuter Street;

The Ontario Municipal Board orders as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law are permitted subject to compliance with all 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 Section 6 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement with the City referred to in Sections 2 and 6 of this By-law.
2. 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 and matters set out in Section 6 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 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.

3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. For the purpose of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
5. None of the provisions of Sections 4(2)(a), 4(5)(i)(ii), 4(16), 6(3)Part I(1), 6(3)Part II(1)-(5), 6(3)Part II (8) and 6(3) Part III(1)(b), shall apply to prevent the erection and use of an *apartment building* on the *lot*, including uses accessory thereto, provided:
 - (a) The maximum *residential gross floor area* erected or used on the *lot* does not exceed 6,349 square metres;
 - (b) The maximum number of *dwelling units* erected or used on the *lot* does not exceed 50;
 - (c) No part of any building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by the heavy lines on Map 2 attached to and forming part of this By-law, with the exception of balconies which may project a maximum of 1.5 metres from the main wall of the building, eaves, cornices, fences and safety railings;
 - (d) No part of any building or structure erected on the *lot* shall be located above the building *heights* shown in metres and/or storeys, whichever is the lesser, specified by the number(s) following the symbol "H" on Map 2 provided:
 - (i) The area identified on Map 2 as "Mechanical Penthouse" and having a *height* limit of 47.5 metres shall only be used as an enclosed rooftop mechanical penthouse;
 - (ii) An unenclosed architectural canopy structure no higher than 4.0 metres may be located above the areas identified on Map 2 as having *height* limits of 34.6 metres and 12 storeys and 39.6 metres and 14 storeys, respectively;
 - (iii) The area identified on Map 2 as "Staircase" and having a *height* limit of 42.3 metres shall only be used as a staircase;
 - (iv) Tthe shaded areas identified on Map 2 as "Canopy" and having *height* limits respectively of 38.6 metres and 43.6 metres shall only be used for canopies; and

- (v) Within the area identified on Map 2 as having a *height* limit of 6.8 metres/1 storey, landscape elements and features may exceed such *height*;
- (e) Parking shall be provided in accordance with Section 4(5) of By-law No. 438-86, as amended, except despite subsection 4(5)(a), there shall be a minimum of 42 *parking spaces* provided and maintained for the use of residents on the *lot*, and no visitor parking shall be required to be provided and maintained on the *lot*;
- (f) Despite subsection 4(5)(i)(ii), ingress and egress to the parking facilities may be by way of a car elevator, operated by valet service on behalf of residents of the *apartment building*;
- (g) Despite Section 4(12) of By-law No. 438-86, as amended, the required indoor *residential amenity space* shall not be required to be located in contiguous multi-purpose rooms provided at least one multi-purpose room containing a kitchen and washrooms comprises an area of not less than 48 square metres;
- (h) Despite Section 4(12) of By-law No. 438-86, as amended, the required outdoor *residential amenity space* shall be a minimum of 100 square metres;
- (i) Despite Section 4(16) of By-law No. 438-86, as amended, access to the *apartment building* on the *lot* may be from a public lane on a hard surfaced driveway that serves an entrance to the building and does not allow a car to enter and exit in a continuous forward motion; and
- (j) Building permit issuance with respect to the *lot* shall be dependent upon satisfaction of the provisions in this By-law and in the Section 37 Agreement required in Sections 2 and 6 of this By-law relating to building permit issuance, including the provision of monetary payments and financial securities.

6. SECTION 37 - INCREASED HEIGHT/DENSITY

The following facilities, services and matters are the matters required to be provided by the *owner* of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for no credit for development charges, indexing escalation of any financial contributions and any letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

- (a) The *owner* shall construct and maintain the development in accordance with the Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Planning and Growth Committee Item 32.3;
- (b) The former historic Walnut Hall shall be commemorated through the provision and maintenance of a plaque and special heritage features, to the satisfaction of the City's Manager, Heritage Preservation Services, including the incorporation

into the development and re-use of salvaged materials from Walnut Hall on the *lot*;

- (c) The *owner* shall provide to the City a letter of credit to the satisfaction of the City's Manager, Heritage Preservation Services, to secure the implementation and completion of the work required to commemorate historic Walnut Hall, such letter of credit to be provided prior to the issuance of any Site Plan Approval and in any event prior to the issuance of any building permit for the *lot*, including any permit for excavation or shoring;
- (d) The *owner* shall prepare to the satisfaction of the Executive Director Technical Services in consultation with the Chief Planner and Executive Director City Planning (the Chief Planner) a Construction Management Plan and Neighbourhood Communication Strategy, prior to the issuance of any building permit for the *lot*, including any permit for excavation or shoring. The Plan shall include the following matters:
 - (i) Dust/mud control on and offsite;
 - (ii) Location of truck loading points, trailer parking;
 - (iii) Location of temporary material storage areas;
 - (iv) Access/truck routing;
 - (v) Provision of hoarding, temporary fencing and covered walkways;
 - (vi) Location and extent of aerial crane operations;
 - (vii) Parking for construction trades;
 - (viii) Construction office telephone number/contact information;
 - (ix) Assign a community liason/contact person; and
 - (x) Construction schedule with community updates as agreed upon with local community representative/contact; and
- (e) The *owner* shall submit a report from an acoustical engineer to the satisfaction of the Chief Planner, prior to the issuance of the final building permit for the *lot*, recommending and confirming that all parking garage mechanical air intake and exhaust equipment have been acoustically treated to control noise transmission and vibration and thereafter the *owner* shall maintain such acoustical treatments as recommended by the acoustical engineer in such report.

7. Within the *lot*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- (a) All new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) All water mains and sanitary sewers and appropriate appurtenances have been installed and are operational.
8. Despite any existing or future consent, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no consent, partition or division had occurred.
9. None of the provisions of By-law No. 438-86, as amended, shall apply to prevent the erection and use of a *temporary sales office* on the *lot*.

10. DEFINITIONS

For the purposes of this By-law:

- (a) "*temporary sales office*" means a temporary building, structure, facility or trailer used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*.
- (b) all other 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 herein provided.

PURSUANT TO ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED ON NOVEMBER 14, 2011 UNDER OMB FILE NO. PL090478.



