

CITY OF TORONTO

BY-LAW No. 354-2014(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, respecting the lands municipally known as 2376 and 2388 Dundas Street West.

Whereas the owner of the lands known municipally in the year 2013 as 2376 and 2388 Dundas Street West appealed a proposed zoning by-law amendment to the Ontario Municipal Board; and

Whereas the Ontario Municipal Board, by its Decision/Order issued on March 19, 2014 in Board File No. PL121287, approved amendments to the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to those lands;

Therefore pursuant to the Order of the Ontario Municipal Board, former City of Toronto By-law No. 438-86 is amended 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 the conditions set out in this By-law and in return for the provision by the *owner* of the *site* of the facilities, services and matters set out in Appendix 1 of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *site*, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 of this By-law, the *site* 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 requirement.
3. 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*, 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.
4. Except as otherwise provided herein:
 - (a) the provisions of *By-law No. 438-86* shall continue to apply to the *site*; and
 - (b) *By-law No. 1994-0799*, of the former City of Toronto, as amended and approved by Order of the Ontario Municipal Board issued on February 2, 1998 (Board File No. PL956072) shall no longer apply to the *site*.
5. None of the provisions of Section 2(1) with respect to the definition of "*grade*" and none of the provisions of Sections 4(2)(a), 8(3) Part I 1 and 3(a), and 12(2)347 1(c)(d), 4 and 8(a), of *By-law No. 438-86*, shall apply to prevent the erection and use of a *mixed-use*

building on the *site*, provided that:

- (a) the *lot* on which the building is located comprises at least the *site*;
- (b) the total combined *non-residential gross floor area* and *residential gross floor area* on the *site* shall not exceed 25,211.5 square metres, of which:
 - i. the total *residential gross floor area* shall not exceed 24,663.2 square metres; and
 - ii. the total *non-residential gross floor area* shall not exceed 584.3 square metres;
- (c) no part of any building or structure erected within the *site* shall be located above *grade* other than within a *building envelope*, with the exception of the following:
 - i. canopies, eaves, awnings and building cornices;
 - ii. light fixtures, ornamental and architectural elements, parapets, ventilation pipes, railing and fences, planters, trellises, window sills, underground garage ramps, landscape and public art features; and
 - iii. balconies, provided they extend no more than 1.7 metres beyond the associated *building envelope*;
- (d) the *height* of each portion of a building or structure erected above *grade* within the *site*, in respect of each *building envelope* area, has a maximum *height* in metres as shown following the symbol "H" on Map 2 for the corresponding *building envelope* area, except for:
 - i. the structural projections permitted in Section 5(c) of this By-law; and
 - ii. within the *building envelope* areas delineated on Map 2 as "H 16m", "H 21m", "H 28m", and "H 72m":
 - A. parapets are permitted with a maximum height of 0.9 metres above those height limits;
 - B. terrace and balcony railings, dividers, guard rails and balustrades, are permitted with a maximum height of 2.0 metres above those height limits;
 - C. wind screens are permitted with a maximum height of 3.4 metres above those height limits; and
 - D. within the *building envelope* area delineated on Map 2 as "Mechanical Penthouse H 78m", guard rails are permitted with a maximum height of 2.0 metres above that height limit;

- (e) the components of the building located within the *building envelope* area delineated on Map 2, as "Mechanical Penthouse H 78m", shall be used only as a mechanical penthouse and associated stair enclosures at any point between a height of 72 metres to 78 metres above *grade*; and
 - (f) the components of the building located within the *building envelope* areas delineated on Map 2 as either "H72" or "Mechanical Penthouse H 78m" shall have a maximum floor plate size of 750 square metres between a height of 28 metres to 72 metres above *grade*.
6. For clarity, all Appendices and Maps attached to this By-law are incorporated into this By-law and are deemed to be a part of this By-law.
7. A temporary *sales office* shall be permitted on the *site*.
8. Despite any existing or future severance, partition, or division of the *site*, the provisions of this By-law shall apply to the whole of the *site* as if no severance, partition or division occurred.
9. For the purpose of this By-law, the following expressions shall have the following meaning:
- (a) "*building envelope*" means a building envelope for each height area within the *site* as shown by an "H", and as delineated by the lines on Map 2 attached hereto;
 - (b) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto being, "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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";
 - (c) "*City*" means the City of Toronto;
 - (d) "*grade*" means 113.44 metres above Canadian Geodetic Datum;
 - (e) "*owner*" means the registered owner of the *site* or any part thereof;
 - (f) "*sales office*" means an office used exclusively for the initial sale and/or initial leasing of *dwelling units* or *non-residential* uses to be erected on the *site*;
 - (g) "*site*" means those lands outlined by heavy lines on Map 1 attached hereto; and
 - (h) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON MARCH 19, 2014 IN BOARD FILE NO. PL121287.

APPENDIX 1

SECTION 37 PROVISIONS

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* to the *City* in accordance with an agreement or agreements pursuant to Section 37(1) of the *Planning Act*:

Provisions for transit improvements and transit-related matters including the owner agreeing to:

1. Convey, prior to issuance of an above grade building permit, an easement or fee simple conveyance to the City, Metrolinx and the TTC, at their election, for at-grade public usage of a 3.0 metre wide strip of land along the southern property line of the *site* for the purposes of providing a public pedestrian connection between the Metrolinx/GO Station and Dundas Avenue West, as shown on Drawing SPA 101, at no cost to the City, the TTC or Metrolinx.
2. Convey, prior to issuance of an above grade building permit, an easement or fee simple conveyance to the City, Metrolinx and the TTC, at their election, for the provision of lands for the creation of a Passenger Pick-Up and Drop-off Facility along the eastern portion of the *site*, as shown on Drawing SPA 101 at no cost to the City, the TTC or Metrolinx.
3. Convey, prior to issuance of an above grade building permit, an easement or fee simple conveyance to the City, Metrolinx and the TTC, at their election, for the provision of an area at the southeast corner of the *site* for the future construction of a TTC second exit and/or entrance facility from Dundas West subway station. This area includes approximately 160 square metres at the P1 level as shown on Drawing SPA 202, and approximately 280 square metres at the ground floor level, as shown on Drawing SPA 101.
4. The *owner* shall enter into an agreement with the *City* pursuant to Section 37 of the *Planning Act*, to secure the provision of the said facilities, services and matters, in a form satisfactory to the *City's* Solicitor with conditions providing for indexed escalation of financial contributions, no credit for development charges, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement.



