

Authority: Ontario Municipal Board Order issued on May 3, 2013 and May 29, 2013 in Board File No. PL121438

## **CITY OF TORONTO**

### **BY-LAW No. 494-2014(OMB)**

#### **To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 103-111 Bathurst Street.**

Whereas the Ontario Municipal Board, by its Orders issued on May 3, 2013 and May 29, 2013 in Board File No. PL121438, determined to amend Zoning By-law No. 438-86, as amended, with respect to the lands known municipally as 103-111 Bathurst Street (the "*Lands*"); 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 pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matter 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 and 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 aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

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

The Ontario Municipal Board orders:

#### **EXCEPTIONS FROM ZONING BY-LAW NO. 438-86, AS AMENDED**

1. None of the provisions of Section 2(1) with respect to "*grade*", "*height*" and "*lot*", and Sections 4 (2)(a), 4(5)(h), 4 (12), 7(3) Part II 1(i), 7(3) Part II 8(ii), 7(3) Part III 2, 12(2)132 (12(2) 246(e) and (f) and 12(2) 260 of 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 and use of a *mixed-use* building on the *lot*, provided that:

- (a) the *lot* consists of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;

- (b) the total number of dwelling units on the *lot* does not exceed 255;
- (c) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* does not exceed 20,200 square metres, provided:
  - (i) the *residential gross floor area* does not exceed 17,770 square metres; and
  - (ii) the *non-residential gross floor area* does not exceed 2,350 square metres, of which 1,398 metres is limited to office uses only;
- (d) the *mixed-use building*, including all mechanical equipment, stair enclosures and elevator overruns, is located wholly within the areas delineated by heavy lines and the *height* limits specified by the numbers following the symbol "H" as shown on Map 2, attached and forming part of this By-law, with the following exceptions:
  - (i) balconies provided they extend no more than 1.8 metres from the walls to which they are attached; and
  - (ii) canopies, stairs, fences, landscape features, trellises, guard-rails, retaining walls, wheel chair ramps, terrace and balcony railings and dividers, lightning rods, elements of a green roof, window washing equipment, solar panels, solar hot water heaters, exhaust flues, makeup air units, emergency generator, garbage chute overrun, parapets, cornices, balustrades, mullions, light fixtures, awnings, parapets, ornamental elements and eaves which may project above or beyond such areas and *heights* as shown on Map 2 to a maximum of 2 metres;
- (e) a minimum of 169 square metres of indoor residential amenity space shall be provided in a multi-purpose room or rooms, and which may include one guest suite;
- (f) a minimum of 150 square metres of outdoor *residential amenity space* shall be provided at least 40 square metres of which shall be provided in a location adjoining or directly accessible from the indoor *residential amenity space*;
- (g) *parking spaces* for the use of residents shall be provided on the *lot* at the following minimum rates:
  - (i) 0.3 *parking spaces* for each bachelor *dwelling unit*;
  - (ii) 0.5 *parking spaces* for each one bedroom *dwelling unit*;
  - (iii) 0.75 *parking spaces* for each two bedroom *dwelling unit*; and
  - (iv) 1.2 *parking spaces* for each three or more bedroom *dwelling unit*;

- (h) a minimum of 39 *parking spaces* shall be provided on the *lot* in a *commercial parking garage* for the shared use of residential visitors and non-residential uses of the *mixed use building* and the public on a non-exclusive basis;
- (i) two *car share parking spaces* shall be provided on the *lot*, that can be used to reduce the parking for residents by up to a maximum 8 parking spaces that would otherwise be required by the provisions of 4(7) of this By-law;
- (j) one *loading space type G* and one *loading space type B* shall be provided on the *lot*.

## DEFINITIONS

- 2. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, with the exception of the following terms:
  - (a) "*car share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a *car-sharing* vehicle, a person must meet the membership requirements of the *car-sharing* organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven;
  - (b) "*car share parking space*" means a *parking space* exclusively for a car used only for *car sharing* purposes;
  - (c) "*grade*" shall mean 88.7 metres Canadian Geodetic Datum;
  - (d) "*height*" shall mean, the vertical distance between *grade* and the highest point of the structure, except for those elements otherwise expressly prescribed in this By-law; and
  - (e) Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.

## SECTION 37 OF THE PLANNING ACT

- 3. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *Lands* is permitted in return for the Owner's election to provide, at the Owner's expense, the facilities, services and matters set out in Schedule "A" hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form satisfactory to the City Solicitor and registered on title to the *Lands*.
- 4. Where Schedule "A" of this By-law requires the Owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.

5. The Owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule "A" are satisfied.

**OTHER**

6. Within the lands shown on Map 1 attached to and forming part of this By-law, no person shall use any land or erect or use any building or structure unless the following municipal service 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.
7. Despite any future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply as if no severance, partition or division occurred.

PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD  
ISSUED MAY 3, 2013 AND MAY 29, 2013 IN BOARD FILE NO. PL121438.

**SCHEDULE "A"**  
Section 37 Provisions

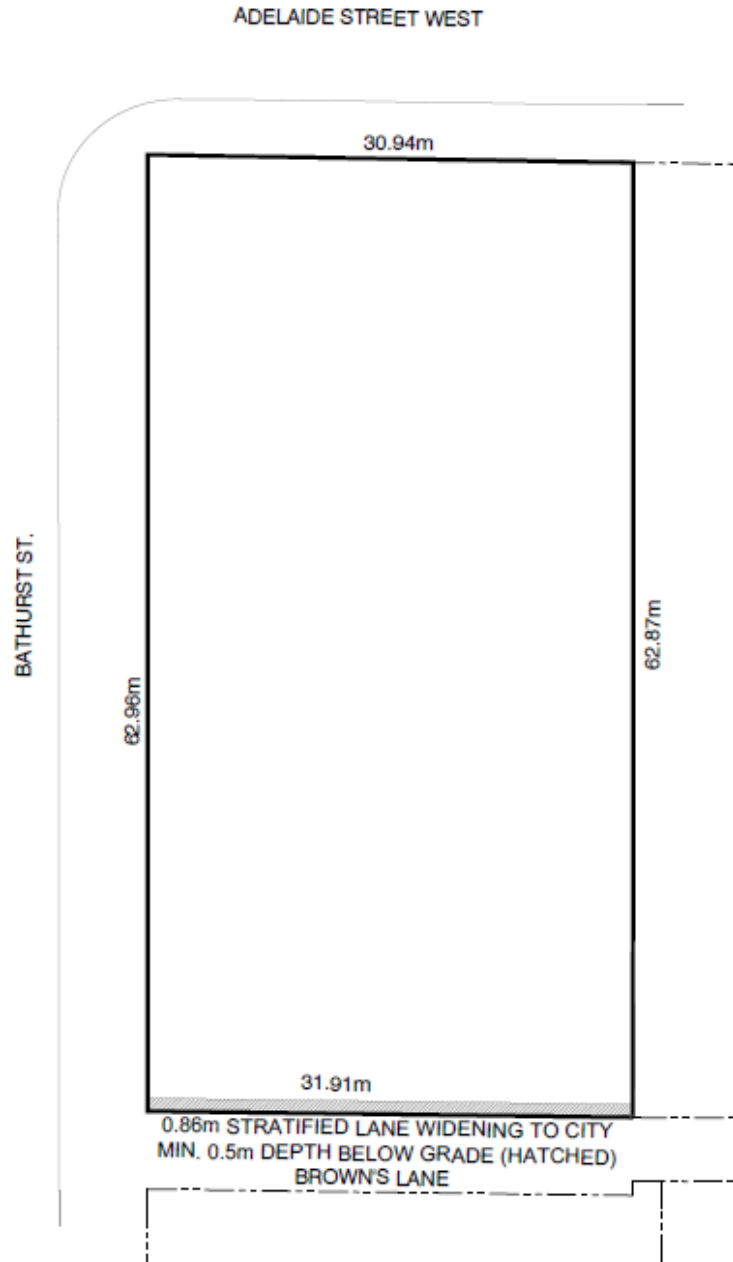
The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the *Lands* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *Owner* agrees as follows:

1. The Owner shall pay to the City the sum of SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$625 000), for one or more of the capital facilities set out below within the vicinity of the site:
  - (a) Prior to issuance of any Order of the Ontario Municipal Board in this matter, the Owner shall pay to the City:
    - i) SIXTY TWO THOUSAND FIVE HUNDRED DOLLARS (\$62 500) for capital improvements to Affordable Housing in Ward 20.
    - ii) FIFTY THOUSAND DOLLARS (\$50 000) for capital improvements for the Factory Theatre in Ward 20.
  - (b) Prior to issuance of an above-grade building permit other than building permit for a temporary sales office/pavilion the Owner shall pay to the City the sum of FIVE HUNDRED TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$512 500), indexed upwardly as of March 21, 2013, in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto to be used to any of the following:
    - i) Streetscape improvements in the area;
    - ii) The acquisition of affordable housing in Alexandra Park; and/or
    - iii) Capital improvements to arts, culture, community amenities in Ward 20 (including but not limited to 505 Richmond Street West).

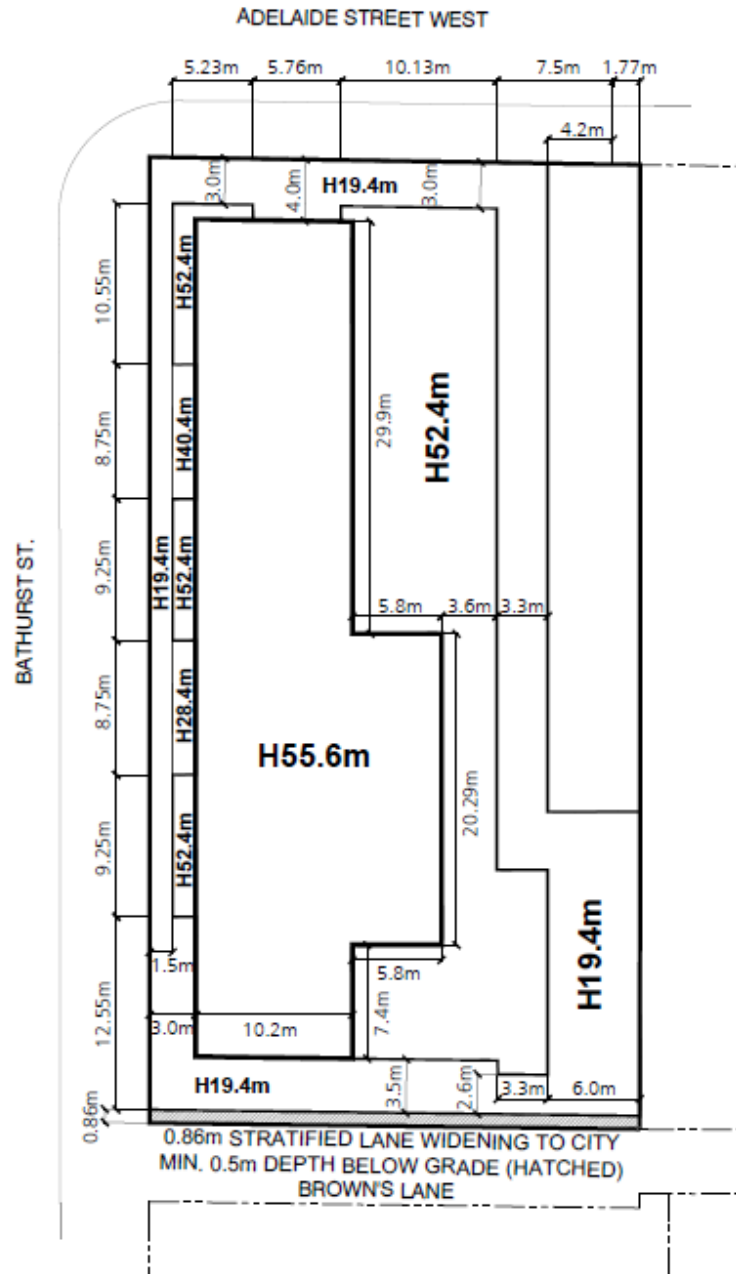
Such allocation to be determined by the City's Chief Planner in consultation with the Ward Councillor.

2. The Owner shall provide and maintain the following:
  - (a) A minimum of 10 percent of the dwelling units erected and used on the *lot* shall be 3 bedroom or larger dwelling units;
  - (b) The Owner shall incorporate knock-out panels, where structurally feasible, to enable the conversion of units with fewer bedrooms to 3-bedroom units and include appropriate provision(s) in any condominium documents to enable any such conversions in the future;

- (c) The Owner shall construct and maintain the development in accordance with 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 item PG32.3 of the Planning and Growth Committee;
- (d) The Owner shall provide, at its sole expense, an irrigation system for all trees to be planted within the public road allowances pursuant to the Site Plan Approval for the Development as determined by the Chief Planner, including an automatic timer, to be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer. The Owner agrees that the irrigation system shall be to the satisfaction of the City's Executive Director, Technical Services, and the Owner shall maintain the irrigation system in good working order and operation. The details for the installation of the irrigation system shall be secured in the Site Plan Agreement for the Development;
- (e) As part of any Site Plan Application for the development or any portion thereof, the Owner shall submit 1:50 scale elevation drawings for the five storey podium of the Development. The drawings shall clearly describe the building material to be used and shall have a sufficient level of detail to illustrate how the building will be perceived by the pedestrian. The materials and finishes illustrated on the 1:50 scale elevations shall be to the satisfaction of the Chief Planner;
- (f) The applicant be required to enter into a construction management agreement to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.

**Map 1**

## Map 2



H denotes height in metres above grade  
Grade = 88.70m

