

Authority: Ontario Municipal Board Decision issued on November 30, 2017 and Order issued January 5, 2018 in Board File PL170588

CITY OF TORONTO

BY-LAW 453-2018(OMB)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally as 75 The Esplanade.

Whereas the Ontario Municipal Board pursuant to its Order dated January 5, 2018 in Board File PL170588, upon hearing the appeal of Carhar 3-Esplanade GP Inc., under Section 34(11) of the Planning Act, R.S.O. c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being former City of Toronto By-law 438-86;

The Ontario Municipal Board Orders:

Former City of Toronto Zoning By-law 438-86, as amended, is amended as follows:

1. Pursuant to section 37 of the Planning Act, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Appendix A 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 provisions of the facilities, services, and matters set out in Appendix A, 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. On the lands shown on Map 1 of this by-law, no buildings or structures are permitted above or below grade within 3.8 metres of the Church Street property line, from where the property line was located in 2017. For clarity, the permitted densities shown on District Map 51G 321 contained in Appendix "A" of By-law 438-86 shall be calculated based on the property dimensions in 2017, prior to any widening of Church Street.
4. The lands shown on Map 1 of this by-law shall be rezoned from CR T4.0 C4.0 R2.5 and R3 Z2.5 to CR T4.0 C4.0 R2.5.
5. On 75 The Esplanade, if the requirements of By-law 453-2018(OMB) are complied with, none of the provisions of Sections 2(1) *grade, lot*, 2(1) *grade, lot, storeys* 4(5)(a), 4(5)(b), 4(5)(c), 4(5)(d), 4(5)(e), 4(5)(f), 4(5)(h), 4(5)(k), Schedule "1" thereto, 4(8)(b), 4(8)(c), 4(8)(d), 4(8)(e), 4(8)(f), 4(8)(g), 4(13)(a), 4(13)(c), 4(13)(d), 4(17), 8 Part II (1), 8 Part III (1), 12(1)232, 12(2)132, 12(2)208, 13(145-83), 13(198-79), 13(24-77), 13(373-79), 13(478-78), 13(513-90), 13(514-86), 13(576-76), 13(61-80), 13(615-79), 13(677-76), 13(812-78), 13(848-79), 13(879-80), 13(889-78), 13(92-85), By-law 515-76, By-law 576-76, By-law 677-76, By-law 24-77, By-law 478-78, By-law 664-78, By-law 879-80, By-law 61-81, By-law 116-82, By-law 145-83, By-law 92-85, By-law 333-2002 of Zoning By-law 438-86 apply to prevent the erection and use of a 29 storey *mixed use building* containing 308 *dwelling units* and having a building *height* of 92 metres plus mechanical penthouse on the lands delineated by a heavy line on Map 1 attached, provided:

- (a) The *lot* is comprised of those lands outlined by heavy lines on Map 1 of By-law 453-2018(OMB) and for the purposes of this by-law shall include the lands shown as conveyances;
- (b) Despite 8(3)Part I(3), the *residential gross floor area* does not exceed 22,000 square metres;
- (c) Despite 8(3)Part I(2), the *non-residential gross floor area* must:
- (i) be no less than 1,000 square metres; and
 - (ii) not exceed 1,300 square metres;
- (d) Despite 8(3)Part I(1), the combined *residential gross floor area* and *non-residential gross floor area* does not exceed 23,500 square metres;
- (e) Despite Section 4(2)(a), the *height* of the building located must not exceed the *height* in metres as indicated by the numbers following the letter "H" as shown on Map 2 and must not exceed 29 *storeys*;
- (f) Despite Section 4(2)(a), the following may exceed the *height* indicated by the numbers following the letter "H" symbol as shown on Map 2 and may extend beyond the heavy lines shown on Map 2:

Structures and elements projecting beyond the heavy lines on Map 2	Maximum Horizontal Projection	Maximum Vertical Projection
lightning rods, vents, satellite dishes, window washing equipment, antennae, flag poles within the area shown as MECH PENT on Map 2	0.6 metres	4 metres
Satellite dishes, eaves, screens, landscape and ornamental features, trellises, cabanas, lightning rods, window washing equipment, light fixtures, antennae, flag poles, provided none of these elements are within the area shown as EDGE on Map 2	None	4 metres
Terrace and balcony dividers, satellite dishes, wind mitigation, vents, roof access, window washing equipment, solar panels, mechanical exhausts, flues, fans, chimneys	None	2 metres
Guardrails, railings, retaining walls, wheelchair ramps, roofing assembly and drainage, elements of green roof, parapets, cornices, balustrades, bollards, architectural, landscape and ornamental features	None	1.5 metres
Canopies, awnings, screens, landscape and ornamental elements	3 metres	None
Balconies or platforms	2 metres	None

Cornices, lighting features, trellises, eaves, window sills, guardrails, balustrades, railings, vents, ornamental and landscape features	1.5 metres	None
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- (g) Despite Section 4(12) of By-law 438-86, a minimum of:
- (i) 2.07 square metres per *dwelling unit of residential amenity space* shall be provided indoors and can be provided in a series of separate rooms that are not contiguous, provided:
 - i. at least one of such rooms contains a kitchen;
 - ii. at least one of such rooms contains a washroom; and
 - iii. at least 150 square metres of the required indoor *residential amenity space* is located on the same floor;
 - (ii) 1.63 square metres per *dwelling unit of residential amenity space* shall be provided outdoors and at least 300 square metres of the required outdoor *residential amenity space* must be contiguous with at least one of the rooms used as indoor *residential amenity space*;
- (h) Automobile *parking spaces* shall be provided in accordance with the following:
- (i) a minimum of the greater of 114 resident *parking spaces* or 0.37 resident *parking spaces per dwelling unit*;
 - (ii) a maximum of 5 *car share parking spaces* intended for the use of *car share motor vehicles*;
 - (iii) no *parking spaces* are required for residential visitors or the non-residential use; and
 - (iv) a minimum of 4 *parking spaces* intended for the use of accessible parking must have a minimum width of 3.9 metres and a minimum depth of 5.6 metres;
- (i) Maximum slope of drive aisles which have direct access to a parking space shall be 5.0 percent;
- (j) Maximum slope of the access ramp leading to the underground garage shall be 15 percent, with transition areas at the top and bottom which have maximum slopes of 7.5 percent over a minimum distance of 3.5 metres;
- (k) A *parking space* must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 2.6 metres;

- (iii) vertical clearance of 2.0 metres; and
 - (iv) the minimum width in (ii) must be increased by 0.3 metres for each side of the *parking space* that is obstructed according to (n) below;
- (l) For a *parking space* accessed by a drive aisle with a width of less than 6.0 metres, whether it is a one-way or two-way drive aisle, the minimum dimensions of a *parking space* are:
- (i) length - 5.6 metres;
 - (ii) width - 2.9 metres;
 - (iii) vertical clearance - 2.0 metres; and
 - (iv) the minimum width in (ii) must be increased by 0.3 metres if one or both sides of the *parking space* is obstructed according to (n) below;
- (m) The minimum dimensions of a *parking space* that is adjacent and parallel to a drive aisle from which vehicle access is provided are:
- (i) length - 6.7 metres;
 - (ii) width - 2.6 metres;
 - (iii) vertical clearance - 2.0 metres; and
 - (iv) the minimum width in (ii) must be increased by 0.3 metres for each side of the *parking space* that is obstructed according to (n) below;
- (n) The side of a *parking space* is obstructed if any part of a fixed object such as a wall, column, bollard, fence or pipe is situated:
- (i) within 0.3 metres of the side of the *parking space*, measured at right angles; and
 - (ii) more than 1.0 metre from the front or rear of the *parking space*;
- (o) *Vertical Clearance of a Parking Space*: The minimum vertical clearance for a parking space extends over the entire length and width of the *parking space*, excluding a wheel stop with a height of less than 18.0 centimetres;
- (p) *Tandem Parking Spaces*: A required *parking space* may not be a *tandem parking space*, except when it is required for a secondary suite, group home or duplex building;
- (q) *Tandem Parking Space Minimum Dimensions*: A *tandem parking space* must have the following minimum dimensions:
- (i) length of 5.6 metres;

- (ii) width of 2.6 metres; and
 - (iii) vertical clearance of 2.0 metres;
- (r) Drive Aisle Width: The following are the minimum drive aisle widths:
- (i) if the centreline of a *parking space* is at an interior angle of 70 to 90 degrees to the centreline of the drive aisle providing vehicle access, the minimum width for that one or two lane drive aisle is 6.0 metres;
 - (ii) if the centreline of a *parking space* is at an interior angle from 50 to less than 70 degrees to the centreline of the drive aisle providing vehicle access, the minimum width for that drive aisle is 5.5 metres for each aisle;
 - (iii) if the centreline of a *parking space* is at an interior angle of less than 50 degrees from the centreline of the drive aisle providing vehicle access, the minimum width for that drive aisle is 4.0 metres for each aisle;
- (s) A minimum of 0.90 *bicycle parking spaces – occupant per dwelling unit* and a total of 0.14 *bicycle parking spaces – visitor per dwelling unit* will be provided;
- (i) despite 2(1) of By-law 438-86, the *bicycle parking spaces – visitor* may be located in a secured room; and
 - (ii) a minimum of 50 percent of the required *bicycle parking spaces – occupant* shall be parked in horizontal positions;
- (t) One *Loading Space - Type G* and one *Loading Space – Type C* shall be required;
- (u) For the purpose of this Exception:
- (i) *grade* means 76.97 metres Canadian Geodetic Datum;
 - (ii) *car share motor vehicle* shall mean a motor vehicle available for short-term rental, including an option for hourly rental, for the use of at least the occupants of the building erected on the lot;
 - (iii) *car share parking space* shall mean a parking space used exclusively for the parking of a *car-share motor vehicle*;
 - (iv) *lot* means the lands delineated by heavy lines on Map 1 attached hereto, which shall be deemed to be one lot notwithstanding any future partition division, or conveyance of the lands; and
 - (v) *storey* means the portion of a building that is between the top of a floor and the top of the floor next above it, and if there is no floor above it, the portion between the top of the floor and the ceiling above it; and for the purpose of this by-law a mezzanine does not constitute a *storey*;

- (v) By-law 92-85 shall not apply to prevent the erection or use of a building provided it complies the requirements of this By-law; and
 - (w) The requirements of this By-law shall prevail over the requirements of former City of Toronto By-law 438-86.
6. Within the lands shown on Map 1 attached to this By-law, 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 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 thereto, have been installed and are operational.
7. Pay for and construct any improvements to the municipal infrastructure in connection with the accepted Functional Servicing Report, to be submitted for review and acceptance by the Executive Director, Engineering and Construction Services, should it be determined that improvements to such infrastructure is required to support this development.

Ontario Municipal Board Decision/Order issued on November 30, 2017 and January 5, 2018 in Board File PL170588

Appendix A

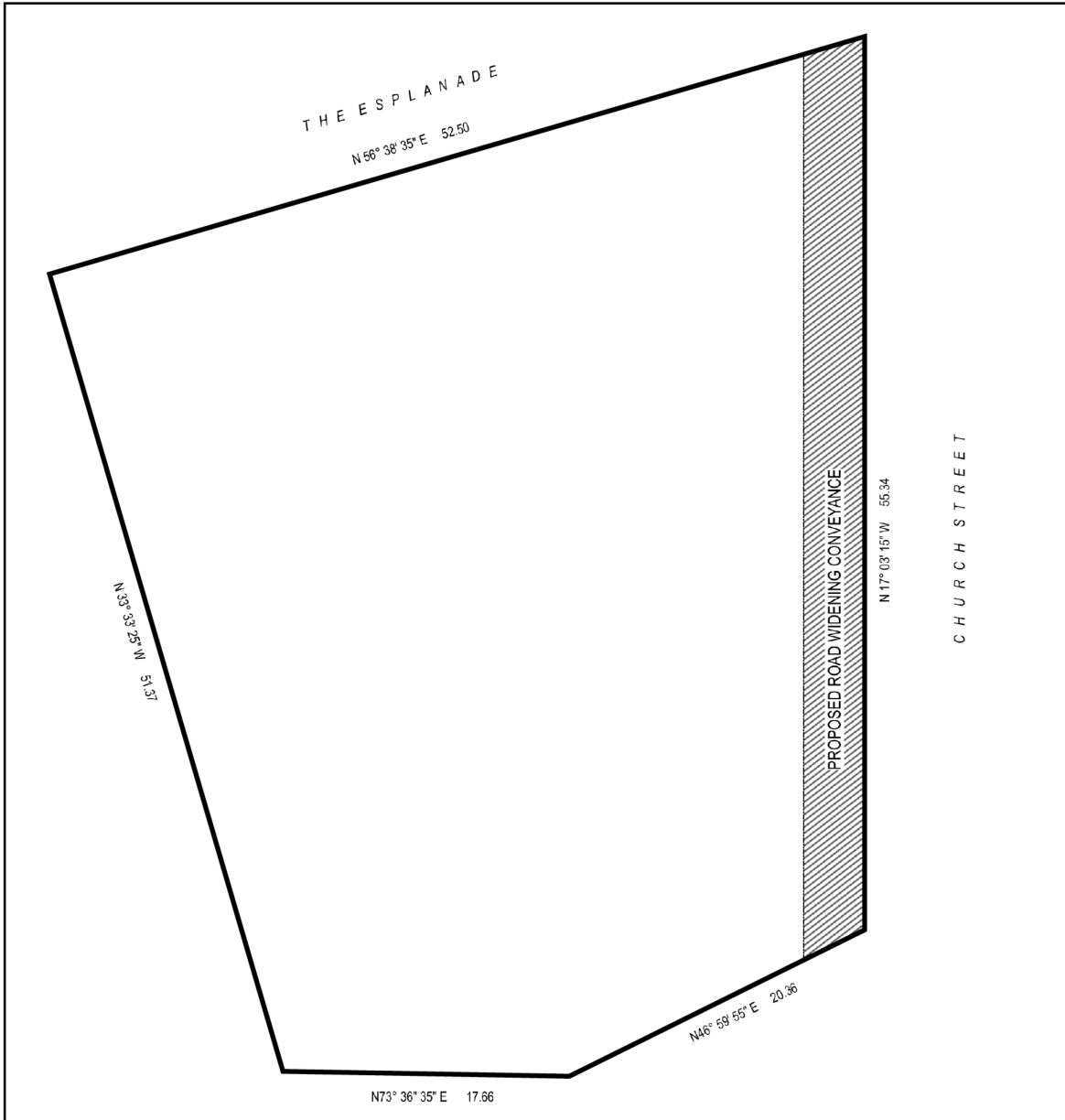
Section 37 Provisions

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 an agreement or agreements, pursuant to subsection 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, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit, the owner shall pay to the City the sum of \$2,180,000 to be used for the following:
 - (a) \$160,000 towards at-grade exterior improvements to the Toronto Parking Authority/Toronto Community Housing building at 55 The Esplanade, which may include lands at 45 The Esplanade over which easements exist in favour of Toronto Community Housing and the City, in consultation with the Ward Councillor and Toronto Community Housing; and
 - (b) \$2,020,000 for any combination of the following:
 - (i) The development of a park located between Market Street, Wilton Street, The Esplanade and Parliament Street;
 - (ii) Implementation of the Heritage Interpretation Master Plan for Old Town Toronto and/or the Heritage Lighting Master Plan for Old Town Toronto;
 - (iii) North St. Lawrence Market redevelopment; and/or
 - (iv) Local streetscape improvements.
2. The payment amounts identified in 1. above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the owner to the City.
3. In the event the cash contribution referred to in Section 1. above has not been used for the purposes set out in 1. above within three (3) years of the Zoning By-law Amendments coming into full force and effect, the cash contribution may be redirected for another purpose at the discretion of the Chief Planner in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community within the vicinity of the Site.

The following matters are to be secured in the Section 37 Agreement as a legal convenience to support development, all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with the appropriate civic officials and the Ward Councillor:


1. At least 10 percent of the total number of dwelling units to be constructed on the *lot* shall contain family-sized units with three or more bedrooms in compliance with the provisions of the Ontario Building Code.
2. Prior to condominium registration or first residential use of the site, the owner shall convey to the City a 3.8 metre road widening along the Church Street frontage, free and clear of all encumbrances and in environmental condition satisfactory to Engineering and Construction Services in consultation with City Legal.
3. Prior to site plan approval, the owner will provide a pedestrian clearway easement of which 2.2 metres will be in an easement in favour of the public over an at-grade setback along the Church Street frontage, in addition to the road widening described in 2. above.
4. Prior to site plan approval, require the owner to secure the design of the pedestrian weather protection along the Church Street and The Esplanade frontages as part of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division and will agree to construct it as a condition of site plan approval.
5. Prior to site plan approval, the owner shall provide a revised wind study to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
6. Prior to issuance of any above grade building permit, the owner be required to pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the Executive Director, Engineering and Construction Services should such Director determine that improvements to such infrastructure are required to support the development all to the satisfaction of the Executive Director, Engineering and Construction Services.
7. Prior to any site plan approval, the owner shall submit a revised noise and vibration study and pay all costs relating to peer review of same, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and any mitigation measures identified in the accepted noise and vibration study will be secured as a condition of site plan approval.
8. As a condition of site plan approval, the owner shall convey to the City at no cost a widening approximately 0.75 metres in width along the Esplanade frontage, the precise size and configuration to be determined at the time of site plan approval, free and clear of all encumbrances and in environmental condition satisfactory to Engineering and Construction Services in consultation with City Legal.

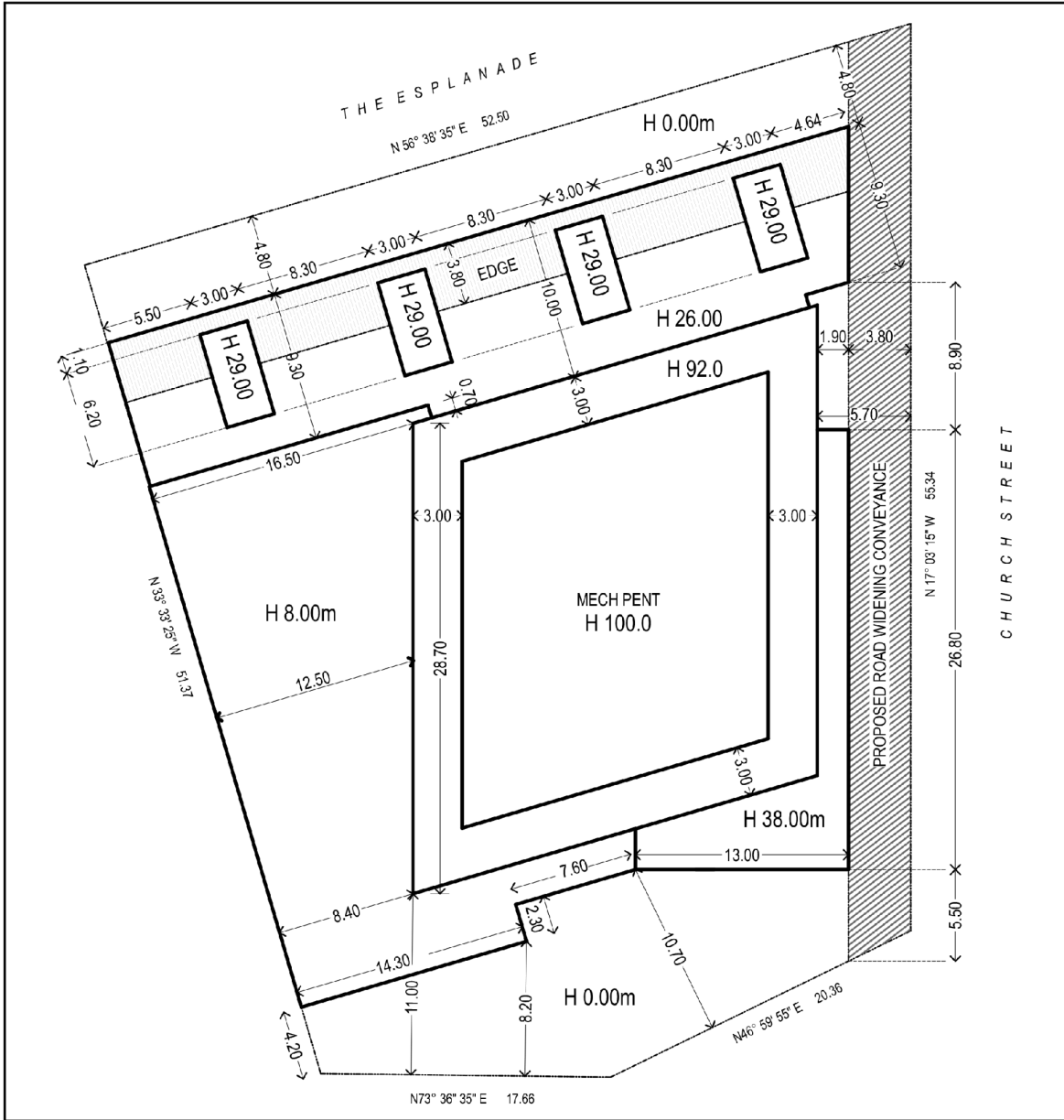


 **TORONTO**
Map 1

75 The Esplanade

File # 15 120727 STE 28 OZ


City of Toronto By-Law 438-86
Not to Scale
09/05/2017



75 The Esplanade

File # 15 120727 STE 28 OZ

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Not to Scale
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