

Authority: Ontario Municipal Board Decision issued on February 16, 2011 in File MM090008 and Ontario Land Tribunal Order effective on July 20, 2022 in File OLT-22-004132

## CITY OF TORONTO

### BY-LAW 1272-2022(OLT)

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2021 as 10 and 14 Prince Arthur Avenue.**

Whereas the *owner* of the lands appealed a proposed zoning by-law amendment to the former Ontario Municipal Board pursuant to subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the former Ontario Municipal Board, by its Decision issued on February 16, 2011 in File MM090008 and the Ontario Land Tribunal Order effective on July 20, 2022 in File OLT-22-004132 determined to amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known municipally known as 10 and 14 Prince Arthur Avenue; and

Whereas the Official Plan for the City of Toronto contains 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 and 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 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 and matters in return for an increase in the height or density of development, the 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 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 Land Tribunal Orders:

1. Upon execution and registration of an agreement or agreements between the *owner* of the *lot* and the City of Toronto, to the satisfaction of the City Solicitor, pursuant to Section 37(3) of the Planning Act and 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 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.

2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
3. None of the provisions of Section 2(1) with respect to the definitions of *lot*, *grade* and *height*, and Sections 4(2)(a)(i) and (ii)B., 4(5)(b), 4(12), 4(16), 8(3) PART I, 8(3) PART II.1.(a)(ii), 8(3) Part XI 2.(ii) and 12(2)219(d), of Zoning By-law 438-86 as amended, 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" shall apply to prevent the erection or use of a *mixed-use building* and uses *accessory* thereto on the *lot*, provided that:
  - (1) the *lot* comprises at least the lands outlined by heavy lines on the attached Map 1;
  - (2) the total *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 7,400 square metres, of which the total *non-residential gross floor area* shall not exceed 560 square metres;
  - (3) the maximum number of *dwelling units* erected or used on the *lot* shall not exceed 26;
  - (4) no portion of the building or structures erected or used above the finished ground level is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 2, with the exception of:
    - (i) cornices, sills, light fixtures, eaves, guardrails, parapets, window washing equipment, landscape features, planters, retaining walls, hand and safety railings, decorative walls, privacy screens and fences located at finished ground level, a maximum of two vents, and wheel chair ramps, which may extend beyond the heavy lines shown on Map 2;
    - (ii) entrance canopies which may extend to a maximum horizontal projection of 1.5 metres beyond the heavy lines shown on Map 2, provided that:
      - (a) one canopy at the main entrance to the residential portion of the building may extend to a maximum horizontal projection of 4.5 metres beyond the heavy lines on Map 2; and
      - (b) no canopies are permitted for the *existing heritage building*.
    - (iii) balconies, including any associated planters, may extend beyond the heavy lines shown on Map 2 in the locations and to the extent shown on Map 2;

- (5) the *height* of any building or structure, or portions thereof, including a mechanical penthouse, shall not exceed those *heights*, in metres following the symbol "H" shown on Map 2, provided that this does not prevent:
- (i) the erection or use of the structures, elements and enclosures permitted by Section 3.(4) of this By-law subject to the following additional requirements.
    - (a) parapets to a maximum vertical projection of 0.8 metres above the *height* limits shown on Map 2, with the exception that parapets located on that portion of the building subject to a *height* limit of 24.97 metres and located to the east of the mechanical penthouse as shown on Map 2 may have a maximum vertical projection of 1.8 metres above the *height* limits shown on Map 2;
    - (b) railings extending to a maximum vertical projection of 1.5 metres above the *height* limits shown on Map 2;
    - (c) privacy screens on the building to a maximum vertical projection of 2.5 metres above the finished level of the applicable roof terrace or balcony;
    - (d) decorative walls shall be limited to a maximum vertical projection of 1.0 metre above the finished level of the ground; none of which are permitted on the *existing heritage building*.
  - (ii) roofing materials, including roofing insulation and sloping of the roof for drainage purposes, provided the maximum vertical projection of such elements is no higher than 0.5 metres above the *height* limits shown on Map 2 and such permitted projections are only applicable to the portions of the building subject to a *height* limit of 24.97 metres and 27.3 metres as shown on Map 2;
  - (iii) roof top stacks and roof top vents to a maximum vertical projection of 3.0 metres above the *height* limits shown on Map 2;
  - (iv) elements on the roof of the building or structure used for green roof technology or alternative roofing system, provided the maximum vertical projection of such elements is no higher than 0.5 metres above the *height* limits shown on Map 2; and
  - (v) a roof hatch provided the maximum vertical projection of such element is no higher than 0.5 metres above the *height* limits shown on Map 2.
- (6) the building shall be limited to a maximum of 7 *storeys*;

- (7) despite any other provision of this By-law, the 12.0 metres *height* limit of the *existing heritage building* on the *lot* as shown on Map .2, shall be measured to the highest point of the roof, which shall be a peaked roof;
- (8) parking for residential and non-residential uses shall be provided below the first *storey* of the building in accordance with the following standards, provided the total number of *parking spaces* provided on the *lot* for both residential and non-residential uses shall not exceed 85:

#### Residential Parking

- (i) bachelor *dwelling unit* a minimum of 0.3 *parking spaces* per *dwelling unit*;
- (ii) one bedroom *dwelling unit* a minimum of 0.7 *parking spaces* per *dwelling unit*;
- (iii) two bedroom *dwelling unit* a minimum of 1.0 *parking spaces* per *dwelling unit*;
- (iv) 3 or more bedroom *dwelling unit* a minimum of 1.2 *parking spaces* per *dwelling unit*;
- (v) A minimum of 0.06 *parking spaces* per *dwelling unit*, up to a maximum of 12 *parking spaces*, shall be provided for the exclusive use of visitors to the *lot*; and
- (vi) The total number of *parking spaces* provided on the *lot* for residential uses shall not exceed 64.

#### Non-residential Parking

- (vii) The minimum number of *parking spaces* provided on the *lot* for non-residential uses located on the *lot* shall be provided in accordance Section 4(5) of By-law 438-86, as amended;
- (viii) Up to 6 non-residential *parking spaces* provided on the *lot* may be used by the occupants of or visitors to the property municipally known in the year 2010 as 8 Prince Arthur Avenue provided no parking is provided on such property, and if used for such purposes such *parking spaces* shall not constitute a *commercial parking garage* for the purposes of this By-law; and
- (ix) The total number of *parking spaces* provided on the *lot* for non-residential uses located on the *lot* and including any *parking spaces* provided for non-residential uses in accordance with subsection (8)(viii) above, shall not exceed 21.

- (9) *Bicycle parking spaces* shall be provided on the *lot* in accordance with the following:
- (i) a minimum of 0.9 *bicycle parking spaces* per *dwelling unit* for residents; and
  - (ii) a minimum of 0.25 *bicycle parking spaces* per *dwelling unit* for visitors.
- (10) Residential amenity space shall be provided in accordance with the following:
- (i) a minimum of 2.0 square metres of indoor *residential amenity space* per *dwelling unit* be provided; and
  - (ii) a minimum of 2.0 square metres of outdoor *residential amenity space* per *dwelling unit* be provided.
- (11) drive aisle widths shall be a minimum of 6.0 metres;
- (12) the provisions of Section 4(12) of By-law 438-86, as amended, shall continue to apply to the *lot* except that the 40 square metres of outdoor *residential amenity space* required to be directly accessible from the indoor *residential amenity space*, may also be provided in a location that is accessible to the indoor *residential amenity space* by a hallway connection;
- (13) a portion of the ground floor of the building shall be used for commercial purposes and shall have a depth of not less than 7.5 metres measured from the main front wall of the building and a total width equal to or greater than 55 percent of the width of the building facing the *street*;
- (14) none of the provisions of By-law 438-86, as amended, shall apply to prevent the erection and use of a *temporary sales office* on the *lot*;
- (15) the provisions of Section 12(2)219(d) of By-law 438-86, as amended, continue to apply to the *lot*, with the exception that the following uses are permitted on the *lot*: a *bake-shop*, a *dressmaking shop*, a *tailoring shop*, a *personal grooming establishment*, a *real estate sales office*, a *clinic* and a *photographer's shop*; and
- (16) the *owner* of the *lot*, at its expense, provides and maintains the facilities, services and matters set out in Appendix 1 of this By-law, subject to and in accordance with the agreement pursuant to Section 37(3) of the Planning Act required in Section 1 of this By-law.

#### 4. Definitions:

- (1) for the purpose of this By-law and subject to Section 4(2) below, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law 438-86, as amended; and

- (2) the following definitions shall apply:
- (i) "*existing heritage building*" means the building existing on the portion of the *lot* known municipally as 10 Prince Arthur Avenue in the year 2010, as may be relocated and incorporated into the new development as shown on Map 2;
  - (ii) "*grade*" means an elevation of 114.620 metres Canadian Geodetic Datum;
  - (iii) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
  - (iv) "*storey*" means a level of the building or structure located between a floor and a floor, ceiling or roof immediately above, excluding the mechanical penthouse shown on Map 2, and the first storey will be that level of the building which contains the main entrance to the residential portion of the building.
  - (v) "*temporary sales office*" means a building, structure, facility or trailer used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*;
5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law and By-law 438-86, as amended, shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
6. 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 relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.
7. No person shall use any land or erect or use any building or structure on the *lot* 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 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.

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**Appendix 1**  
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. The *owner* shall enter into an agreement with the City, on such terms and conditions, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the *Planning Act*, as it read on the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, C.18, as amended, came into force, (the "Section 37 Agreement") to secure the community benefits and matters required to support the development below, whereby the *owner* agrees as follows:

1. Prior to the issuance of the first above-grade building permit for the development on any portion of the lands, the *owner* agrees to pay to the City, by certified cheque, the sum of \$62,000.00, that is indexed according the Section 37 Agreement, of which \$12,000.00 is to be allocated towards Jean Sibelius Square Park and \$50,000.00 is to be used toward a future bike share station, satisfactory to the Chief Planner, in consultation with the Ward Councillor
2. The amounts referred to in paragraph 1 above, shall be indexed upwards in accordance with the applicable construction price index, calculated from the date of this Agreement to the date of payment by the *owner* of the cash contribution is made to the City
3. In the event the contributions referred to in Paragraph 1 above have not been used for its intended purpose within three (3) years of this By-law comes into full force and effect, the contributions referred to in Paragraph 1 above may be redirected for another purpose, at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purposes are identified in the City's Official Plan and will benefit the local community.
4. The *owner* acknowledges and agrees that:
  - a. when the development contemplated by this By-law is completed, that City Council may be advised to recommend the property at 10 Prince Arthur Avenue for designation under Part IV, Section 29 of the *Ontario Heritage Act*; and
  - b. should City Council state a Notice of Intention to Designate under Part IV, Section 29 of the *Ontario Heritage Act* for the property at 10 Prince Arthur Avenue, the *owner* will not object to the Notice of Intention to Designate or appeal the Designation By-law for 10 Prince Arthur Avenue.
5. The *owner* shall ensure that the garage door material for the new portion of the Development will be sectioned glass.
6. The *owner* shall provide and maintain the top of the elevator/stair overrun and a substantial portion of the 7th floor roof of the Building with the green roof treatment to the City's standards, to the satisfaction of the Chief Planner.

7. Prior to Site Plan Approval, the *owner* shall provide 1:50 scale drawings detailing and labelling the exterior materials to be used in the construction of the Building satisfactory to the Chief Planner and Executive Director, City Planning and Senior Manager, Heritage Planning.
8. The *owner* acknowledges and agrees that the exterior materials for the Heritage Property will be further detailed to the satisfaction of the Senior Manager, Heritage Planning and shall include amongst other materials, a metal shingle roof and rough cast stucco for the walls.
9. The *owner* acknowledges and agrees that the exterior materials for the new portion of the Development will be further detailed to satisfaction of the Senior Manager, Heritage Planning and shall include amongst other materials, two different types of stone.
10. Once such drawings provided as part of Site Plan Approval are approved satisfactory to the Chief Planner and Executive Director, City Planning and Senior Manager, Heritage Planning, the *owner* agrees that no changes to the exterior materials on the Development will be made, unless written consent is obtained from the Senior Manager, Heritage Planning.
11. Prior to Site Plan Approval for the Lands, the *owner* shall:
  - a. provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Planning;
    - i. provide a detailed stabilization plan, describing the immediate stabilization of the Heritage Property, taking into account any Conservation Plan approved by the Senior Manager, Heritage Planning, to the satisfaction of the Senior Manager, Heritage Planning (the "**Stabilization Plan**");
    - ii. provide a detailed heritage relocation plan, detailing the methodology and measures to be taken to protect the Heritage Property during any movement of the existing building on Heritage Property;
    - iii. have obtained final approval for the necessary Zoning By-law Amendment required for the Lands and the Final Confirmation Date has passed and the Zoning By-law Amendment has come into full force and effect;
    - iv. provide a heritage lighting plan that describes how the exterior of the Designated Heritage Property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning (the "**Lighting Plan**"), and afterward shall implement Lighting Plan to the satisfaction of the Senior Manager, Heritage Planning;
    - v. submit a landscape plan to the satisfaction of the Senior Manager, Heritage Planning; and
    - vi. submit a signage plan to the satisfaction of the Senior Manager, Heritage Planning.

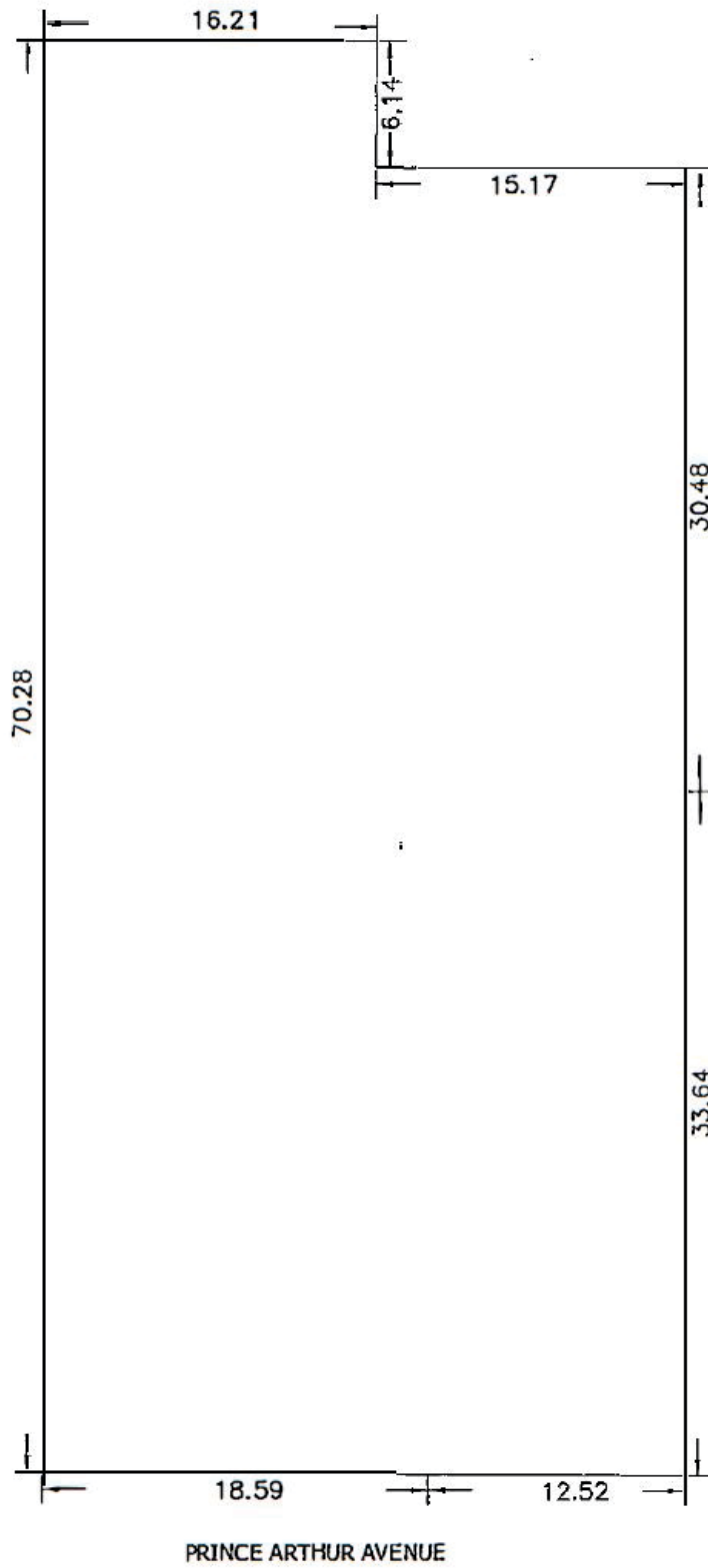


- b. The *owner* shall implement the approved Stabilization Plan as contemplated in Section 37 Agreement within six (6) months of the Final Confirmation Date as defined in the Section 37 Agreement.
  - c. Prior to the issuance of any permit for all or any part of the Lands, including a Building Permit or Heritage Permit, the *owner* shall:
    - i. provide Building Permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning; and
    - ii. provide a Letter of Credit, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning, to secure all work included in the approved Conservation Plan, and as may be required for the Stabilization Plan, all in accordance with the Heritage Easement Agreement, which such Letter of Credit shall be increased in the Construction Price Index from the date of execution of the Heritage Easement Agreement to be entered into between the Parties.
12. The *owner* shall construct and maintain the Development in accordance with Tier 1, Toronto Green Standard, and the *owner* will be encouraged to achieve Tier 2, Toronto Green Standard or higher, where appropriate.
13. As condition of Site Plan Approval, the *owner* shall at its sole cost and expense, shall:
- a. secure the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure and/or new municipal infrastructure identified in the accepted engineering reports to support the development should it be determine that improvements or upgrades and/or new infrastructure are required to support the development satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and City Solicitor; and
  - b. make satisfactory arrangements with Chief Engineer for the construction of new infrastructure or any improvements to the existing municipal infrastructure, should it be determined that new infrastructure and/or upgrades/improvements are required to the existing infrastructure, to support the Development, and that the *owner* has entered into a financially secured agreement to pay for and construct any necessary municipal infrastructure.
14. Prior to Site Plan Approval, the *owner* shall, at its sole cost and expense, retain a qualified expert to carry out a sub-soil investigation, including drilling and preparation of a report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services or the Chief Planner and Executive Director, City Planning, to determine the possible existence of any underground watercourse that may impact on the Development or neighbouring properties, and if determined required by Chief Engineer and Executive Director, Engineering and Construction Services or the Chief Planner and

Executive Director, City Planning, the *owner* shall, at its sole cost and expense, pay for a peer review of such submitted report and thereafter implement any measures recommended by the City's peer reviewer, all to the satisfaction of the Chief Planner and Executive Director, City Planning.

15. Prior to any Site Plan Approval, the *owner* shall provide a noise and vibration study prepared by a qualified acoustic engineer, addressing any electrical and mechanical space proposed to be located at or below grade and addressing any impact it may have on residents to the north of the Lands, and if required by the Chief Planner and Executive Director, City Planning, the *owner* shall, at its sole cost and expense, have such Study peer reviewed, and thereafter implement any mitigation measures recommended by the City's peer reviewer, all to the satisfaction of the Chief Planner and Executive Director, City Planning.

**MAP 1**



MAP 2

