

Authority: Ontario Land Tribunal Decision issued on September 20, 2023 and Order issued on December 4, 2023 in Case OLT-22-004433

CITY OF TORONTO

BY-LAW 1333-2023(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 212 and 218 Dundas Street East and 279 ½ George Street.

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; 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 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 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 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal enacts:

- 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 by the owner of the lot of the following facilities, services and matters set out in Appendix 1, 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 lot pursuant to Section 37 of the Planning Act securing the provision of the facilities, services and matters set out in Appendix 1, 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. This by-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
4. Except as otherwise provided herein, the provisions of By-law 438-86 shall continue to apply.
5. None of the provisions of Section 2 with respect to the definition of the terms *lot*, *grade* and *height*, and Sections 4(2)(a), 4(3), 4(5)(b), 4(6), 4(8), 4(11)(b-c), 4(12), 4(13), 4(16), 4(17), 8(3) PART I, 8(3) PART II, 8(3) Part III, 8(3)PART XI, and 12(2)380 of By-law 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 lands 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 or use of a *mixed use building* and retention of an existing residential building on the lands municipally known as 212 and 218 Dundas Street East and 279 ½ George Street in the year 2021 (hereafter referred to as the *lot*), provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;
 - (b) for the purposes of this By-law the front lot line shall be Dundas Street East;
 - (c) the height of any *building* or *structure* is the distance between the Canadian Geodetic Datum elevation of 89.60 metres and the highest point of the building or structure;
 - (d) The maximum permitted height of a *building* or *structure* must not exceed the maximum height in metres specified by the numbers following the symbol "HT" as shown on Map 2;
 - (e) Notwithstanding (d) above, the following building elements, structures and projections are permitted to exceed the maximum heights as delineated by the letter "HT" as shown on Map 2, attached hereto:
 - (i) a **structure** on the roof of the **building** used for outside or open air recreation, roof top stair enclosure, roof top mechanical equipment that includes a chimney stack or other heating, cooling or ventilating equipment, window washing equipment on the roof of a **building**, elevator overrun, antennae, staircases or enclosures, privacy screens, mechanical and architectural screens, balcony and terrace guards and dividers, railings, access hatches, airshafts, landscaping, planters and other landscaping structures, elements of a **green roof**, heritage signage, and marquee signage by no more than 5.5 metres;
 - (f) The minimum height of the first storey is 3.0 metres;
 - (g) The total gross floor area shall not exceed 34,000 square metres, and provided as follows:

- (i) the maximum residential gross floor area shall be 32,000 square metres; and
 - (ii) the minimum non-residential gross floor area shall be 850 square metres;
- (h) The gross *floor area* of the *mixed use building* also excludes areas used for;
- (i) All open to below areas;
 - (ii) Hallways and elevator vestibules below ground; and
 - (iii) Electrical, utility, mechanical and ventilation rooms on any level of the building above or below ground;
- (i) *Amenity space* must be provided in accordance with the following:
- (i) A minimum of 2.5 square metres of indoor amenity space for each dwelling unit; and
 - (ii) A minimum of 1.0 square metres of outdoor amenity space for each dwelling unit;
- (j) Notwithstanding (i) above relating to indoor *amenity space*, a maximum of 70 percent of the required indoor *amenity space*, may be provided above ground within a *fitness club*, provided:
- (i) the balance of the indoor *amenity space* otherwise required by this by-law and not located within the fitness club; and
 - (ii) is provided elsewhere within the building for the exclusive use of its residents, and is not required to be contiguous to the fitness club;
- (k) The required minimum building setbacks are shown on Map 2 of this By-law;
- (l) Notwithstanding (k) above, the following building elements, structures and projections are permitted to encroach into the required minimum building setbacks as shown on Map 2 attached hereto:
- (i) cornices, lighting fixtures, awnings, canopies, architectural features, balconies and guards, balcony roof or canopies, trellises, privacy screens, mechanical and architectural screens, window sills, chimneys, vents, stacks, mechanical fans, stairs, stair landings, covered stairs and/or stair enclosures associated with an entrance or exit from an underground parking garage, retaining walls and curbs, monitor wells, bicycle parking areas, fences and safety railings, terraces, planters, balustrades, bollards, wheelchair ramps, underground garage ramps and their associated **structures**, and landscape and public art features, marquee signage, by no more than 5.0 metres;

- (m) No landscaping shall be required to be provided on the *lot*;
- (n) For the purposes of this By-law *vehicle* access may be from Dundas Street East;
- (o) Notwithstanding Section 4(5) of Zoning By-law 438-86 *parking spaces* must be provided and maintained on the *lot* in accordance with the following:
 - (i) A minimum of 0.1 *parking spaces* per *dwelling unit* must be provided for residents;
 - (ii) A maximum of 28 *parking spaces* must be provided for non-residential/commercial uses; and
 - (iii) a total of ten (10) *parking spaces* can be obstructed on one side without the requirement to increase the minimum width on each obstructed side by 0.3 metres;
- (p) Notwithstanding Section 4(5) of Zoning By-law 438-86 the required minimum width of a one-way drive aisle is 4.5 metres;
- (q) a minimum of 1 shared type "G" and Type "B" *loading space* and 1 type "C" *loading space* must be provided, and may be accessible from Dundas Street East;
- (r) Notwithstanding Section 4(13) *bicycle parking spaces* must be provided as follows:
 - (i) a minimum of 0.9 *bicycle parking spaces – occupant* and 0.1 *bicycle parking spaces – visitor* for each *dwelling unit*;
- (s) Notwithstanding *bicycle parking spaces* must be provided and maintained in accordance with the following:
 - (i) Both *bicycle parking spaces – occupant and bicycle parking spaces – visitor* may be provided above or below ground and in a stacked bicycle parking space;
 - (ii) *bicycle parking spaces – occupant and bicycle parking spaces – visitor* may be located outdoors or indoors including within a secured room or enclosure or unenclosed space, or bike locker or combination thereof; and
 - (iii) for *stacked bicycle parking space*, the required minimum dimensions of a *bicycle parking space* is:
 - a) minimum width of 0.35 metres;
 - b) minimum length of 2.0 metres; and
 - c) minimum vertical clearance of 1.3 metres;

- (iv) the minimum width of a *bicycle parking space* is:
 - a) 0.45 metres;
- (t) For the purposes of this By-law, the maximum tower floor plate is 780 square metres;
- (u) Notwithstanding By-law 1681-2019 the first *storey* of a mixed-use building must provide a minimum of 50 percent of the *lot frontage* abutting the priority retail street for one or more of the following uses:
 - (i) *Art Gallery*
 - (ii) *Artist Studio*
 - (iii) *Automated Banking Machine*
 - (iv) *Clinic*
 - (v) *Club*
 - (vi) *Community Centre*
 - (vii) *Custom Workshop*
 - (viii) *Day Nursery*
 - (ix) *Eating Establishment*
 - (x) *Education Use*
 - (xi) *Entertainment Place of Assembly*
 - (xii) *Financial Institution*
 - (xiii) *Library*
 - (xiv) *Massage therapy*
 - (xv) *Medical Office*
 - (xvi) *Office*
 - (xvii) *Performing Arts Studio*
 - (xviii) *Personal Service Shop*
 - (xix) *Pet Services*

- (xx) *Place of Assembly*
 - (xxi) *Place of Worship*
 - (xxii) *Private School*
 - (xxiii) *Production Studio*
 - (xxiv) *Recreation Use*
 - (xxv) *Retail Service*
 - (xxvi) *Retail Store*
 - (xxvii) *Service Shop*
 - (xxviii) *Sports Place of Assembly*
 - (xxix) *Take-out Eating Establishment*
 - (xxx) *Veterinary Hospital*
 - (xxxi) *Wellness centre*
- (v) For each use provided in (u) above, a minimum of 50 percent of the surface area of the first **storey** facing the priority retail street must be windows or doors; and
- (w) Regulation (v) above, exempts the portion of the building that is a heritage site.
- 6.** Notwithstanding any of the foregoing provisions, none of the provisions of the by-law shall apply to prevent, on the lands municipally known as 279 ½ George Street in the year 2021, the retention and use of the existing building as a residential building, provided that those uses in the existing building:
- (a) Are those uses in the building that existed on July 1, 2023, or
 - (b) Are residential use(s) permitted by this by-law.
- 7.** Despite any future severance, conveyance, partition or division of the **lot**, the provisions of this By-law shall continue to apply to the whole of the **lot** as if no severance, conveyance, partition or division has occurred.
- 8.** None of the provisions of By-law 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the *lot* of a *temporary sales office*.

9. Definitions:

- (a) For the purposes of this By-law, the terms set forth in italics, subject to Section 9(b) of this By-law, have the same meaning as such terms have for the purposes of By-law 438-86 of the former City of Toronto, as amended; and
- (b) The following definitions shall apply:
 - (i) "*Grade*" means 89.60 metres Canadian Geodetic Datum;
 - (ii) "*height*" means the highest point of the roof above *grade*, subject to permitted projections;
 - (iii) "*Lot*" means the lands outlined by heavy lines on Map 1 attached to this By-law; and
 - (iv) "*Temporary Sale Office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*.

10. Section 37 Provisions

- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 of this By-law, in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Appendix 1 hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands to the satisfaction of the City Solicitor.
- (b) Where Appendix 1 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.
- (c) The owner must 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 the provisions of Appendix 1 of such By-law are satisfied.
- (d) The owner shall enter into an agreement 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 came into force to secure the community benefits above.

Pursuant to Ontario Land Tribunal Decision issued on September 20, 2023 and Order issued on December 4, 2023 in Case OLT-22-004433.

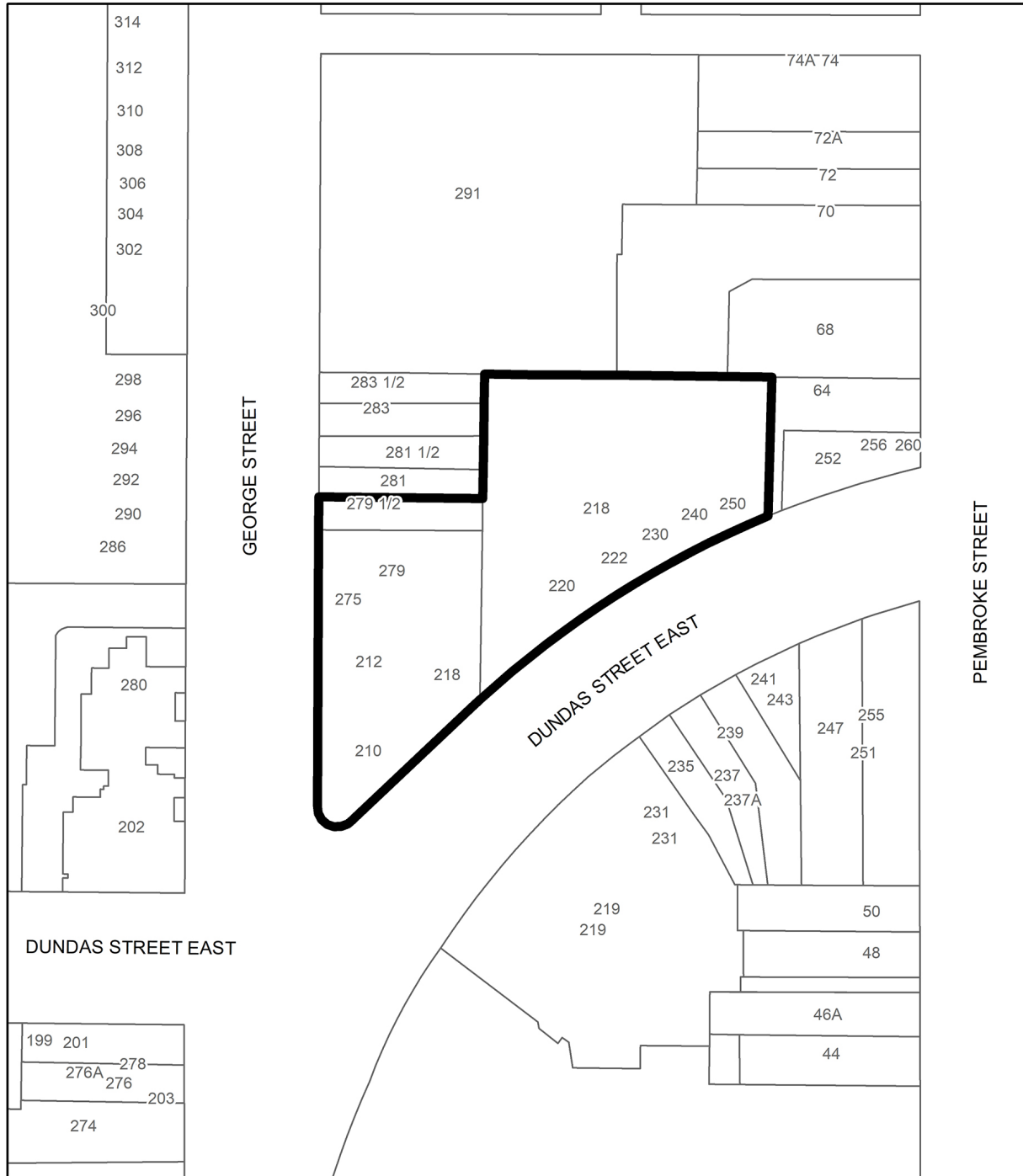
APPENDIX 1**Section 37 Provisions**

1. Prior to the issuance of any building permit, the owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits below.
2. 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 shown as 212-218 Dundas Street East and 279 1/2 George Street on Map 2 of this By-law, and secured in an agreement or agreements pursuant to Section 37(3) of the Planning Act, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, whereby the owner agrees as follows:
 - a. Prior to the issuance of the first above-grade building permit for the Development, other than for a Temporary Sales Pavilion, the Owner shall make a cash payment to the City in the sum of \$4,250,000.00 (four million, two hundred and fifty thousand dollars) to be used in a manner determined by the Ward Councillor and the Chief Planner and Executive Director, City Planning, provided the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands;
 - b. The owner shall continue to provide and maintain the ten (10) existing rental dwelling rooms on the lands at 279 1/2 George Street as rental housing, together with the associated facilities and amenities of the existing residential rental property, for a period of at least 20 years commencing from the date that the Zoning By-laws come into force and effect, and with no applications for demolition or conversion from residential rental use during such 20 year period, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;
 - c. The owner shall undertake improvements to the existing rental apartment building, taking into account tenant responses to the required Tenant Survey related to programming of amenity space, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or their designate, the following:
 - i. Prior to the first above-grade building permit for any part of the development or after such permit if the improvements are secured by letter of credit;
 - ii. Improvements to the existing waste management facilities including storage of garbage, recycling and composting;

- iii. Accessibility improvements within the existing residential rental building, including push button automatic door openers for all common doors, where possible, and an accessible clothes folding table within the laundry room;
 - iv. Improvements to the laundry room within the existing residential rental building;
 - v. Short-term bicycle parking near the front entrance of the existing residential rental building;
 - vi. Improvements and repairs to the existing ten (10) rental rooms, with repairs and improvements to be determined through the site plan application review process and secured in a Site Plan Agreement; and
 - vii. Improvements to the existing outdoor amenity areas, to be shared between residents of the existing rental building, with programming of a similar nature to be determined through the site plan application review process and secured in a Site Plan Agreement;
- d. The costs of all improvements to the existing residential rental building and associated spaces, both within and outside the building, as described above, shall not be passed on to tenants of the existing building in any form, including by way of an application to the Ontario Landlord Tenant Board or to any successor tribunal with jurisdiction to hear applications made under the legislation governing residential tenancies in Ontario, for the purpose of obtaining an increase in residential rent above the applicable guideline;
 - e. Prior to Site Plan Approval for the development the owner agrees to develop a Construction Mitigation and Tenant Communication Plan to mitigate the impacts of construction on existing tenants, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - f. The owner shall provide a minimum of 10-percent of all new units in the proposed building as 3-bedroom units;
 - g. The owner shall provide a minimum of 15-percent of all new units in the proposed building as 2-bedroom units;
 - h. The owner shall provide a minimum of 15 percent of all new units in the proposed building as 2 and/or 3-bedroom units, or units that can be converted to 2 or 3-bedroom units through the use of accessible or adaptable design measures;
 - i. As part of a site plan application for the lands, the owner shall, at its sole expense, submit detailed landscape plans, sections, and details with sufficient information to assure Urban Forestry that the required City tree plantings and associated soil volumes and soil infrastructure is feasible; and

- j. Prior to final Site Plan Approval for any part of the site, the Owner shall submit a construction management plan for the development addressing such matters as noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the General Manager, Transportation Services, in consultation with the Ward Councillor.

Map 1



212-218 Dundas Street East
and 279½ George Street

File # 20 151363 STE 13 0Z

Map 2

