

BY-LAW No. 1432-2011(OMB)

To amend the General Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 66 to 76 Kippendavie Avenue.

WHEREAS the Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, with respect to lands municipally known in the year 2011 as 66 to 76 Kippendavie Avenue (the "Lands"); and

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law 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 or 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 Lands has elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto; and

WHEREAS the Ontario Municipal Board, by its Decision issued August 12, 2011, and by its Order issued on December 6, 2011 in Board File No. PL100895, determined to amend Zoning By-law No. 438-86, as amended, with respect to the Lands;

THEREFORE pursuant to the Order of the Ontario Municipal Board issued on December 6, 2011 in Board File No. PL100895 the Ontario Municipal Board orders 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 all the conditions set out in this By-law including the provision by the owner of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, at the owner's sole expense and in accordance with and subject to the agreement with the City referred to in Section 2 and Appendix 1 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 provision of the facilities, services and 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.

3. None of the provisions of Section 4(2), 4(4)(b), 4(6), 4(12), 4(16), 6(3)1, 6(3) Part II, 6(3) Part III 1, and 6(3) Part IV 2 of By-law No. 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 and to prohibit certain buildings and structures in various areas of the City of Toronto", shall apply to prevent the erection and use of an *apartment building* on the *lot* provided:
- (1) the *lot* consists of those lands delineated by the heavy lines on Map 1 attached to and forming part of this By-law;
 - (2) no portion of any building or structure to be erected or used on the *lot* shall extend beyond the lines delineated by the heavy lines on Map 2 attached to and forming part of this By-law;
 - (3) despite subsection (2) herein, eaves, cornices and other minor architectural projections shall be permitted to project no more than 0.45 metres, balconies are permitted to project not more than 1.5 metres and the entrance canopy is permitted to project not more than 2.5 metres beyond the heavy lines on Map 2;
 - (4) the *height* of the building on the *lot* shall not exceed the maximum *height* permitted as indicated by the letter "H" as shown on Map 2 attached to and forming part of this By-law;
 - (5) despite subsection (4) herein, fences, safety railings, or privacy screens shall be permitted to project beyond the *height* permitted provided the *height* of the fence, safety railing or privacy fence does not exceed 2.0 metres beyond the height stipulated on Map 2;
 - (6) a maximum of 60 dwelling units shall be permitted on the *lot*;
 - (7) the maximum *residential gross floor area* of the building on the *lot* shall not exceed 5,050 square metres;
 - (8) there shall only be 7 private rooftop access points above the height shown as 13.15 metres, as indicated by the letter "H" as shown on Map 2 attached to and forming part of this By-law, with each rooftop access having a maximum gross floor area of 16.31 m²;
 - (9) there shall be no habitable indoor living space connected to a dwelling unit, including without limitation *habitable rooms*, kitchens, bathrooms, toilet rooms or sunrooms, located above the height shown as 13.15 metres, as indicated by the letter "H" as shown on Map 2 attached to and forming part of this By-law;
 - (10) for greater certainty, the 7 private rooftop access points referred to in subsection (8) herein shall be used exclusively to permit access to the private rooftop amenity space, and shall not be used for any other purpose;

- (11) a minimum of 68 *parking spaces* shall be provided, including 58 *parking spaces* for unit owners and 10 *parking spaces* for visitors;
 - (12) a minimum of 945 square metres of *landscaped open space* shall be provided;
 - (13) one *loading space type B* shall be provided;
 - (14) a minimum of 48 square metres of indoor *residential amenity space* shall be provided;
 - (15) a minimum of 130 square metres and a maximum of 274 square metres of outdoor *residential amenity space* and shall be provided, with any outdoor *residential amenity space* on the roof to be bordered on the south, east and north sides by non-accessible green space having a minimum setback of 1.2 metres from the building edge; and
 - (16) no cell towers or cellular telephone antennas shall be located on the rooftop of the building.
4. For the purposes of this By-law, all words, terms and phrases appearing in italics shall have the same meaning as they have for the purposes of the aforesaid By-law No. 438-86, as amended, except as herein provided.
 5. Within the lands shown on Map A attached to 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:
 - (1) 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
 - (2) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD
ISSUED ON DECEMBER 6, 2011 IN BOARD FILE NO. PL100895.

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 of the *lot* to the *City* in accordance with an agreement or agreement(s) pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of letters of credit, indemnity, insurance, GST, termination and unwinding and registration and priority of agreement:

1. Prior to approval of draft plan of condominium, the owner shall pay to the City the sum of twenty-five thousand dollars (\$25,000.00) for the purposes of contributing to the implementation of the recommendations of the Basement Flooding Environmental Assessment for Study Area 32.
2. Prior to any building permit, the owner shall satisfy all conditions to site plan approval that may be imposed by the City including, but not limited to, conditions related to water, geohydrotechnical, stormwater, sanitary and other infrastructure issues.
3. The owner shall obtain and maintain a commercial general liability or wrap up liability insurance policy with minimum limits in the amount of \$25-million to provide coverage for damage to certain properties identified within a defined zone of influence all in accordance with the Minutes of Settlement dated May 3, 2011 between Worsley Beach Limited, the Kew Beach Neighbourhood Association, the Toronto District School Board and the City.
4. The owner shall at its sole cost and expense pay the costs of engaging a third party engineering firm to complete and report to the City on the results of: (a) a pre- and post- construction assessments of properties within the zone of influence referred to in No. 3 above; (b) monitoring of these properties during construction; and, (c) a hydro-geotechnical assessment following a storm event pre- and post- construction.



