

CITY OF TORONTO

BY-LAW No. 588-2002(OMB)

To amend By-law No. 438-86 of the former City of Toronto with respect to lands known as Nos. 852-860 and 876 Yonge Street, 11 and 21 Scollard Street.

WHEREAS the Ontario Municipal Board pursuant to its Order No. 2058 issued December 18, 2001, upon hearing the appeal of Wittington Properties Limited under section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, deems it advisable to amend By-law No. 438-86 of the former City of Toronto;

THEREFORE By-law No. 438-86 of the former City of Toronto is amended by the Ontario Municipal Board as follows:

1. None of the provisions of Section 2(1) with respect to the definitions of *grade*, *lot*, *owner*, *public park*, *street-related retail and service uses*, and Sections 4(2)(a), 4(5), 4(12), 8(3) Part I, 8(3) Part II 1., 8(3) Part III, 12(2)260 of Zoning By-law No. 438-86, 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 or use of one or more of a *mixed-use building*, a *non-residential building*, a *residential building*, *dwelling units* and uses *accessory* thereto, and a *public park* on the lands delineated by heavy lines on Plan 1, provided that:
 - (a) the combined *residential gross floor area* and *non-residential gross floor area* of all the buildings erected on all of the *lots* shall not exceed 33,200 square metres, of which the *non-residential gross floor area* shall not exceed 1,300 square metres and the *residential gross floor area* shall not exceed 32,510 square metres, provided that:
 - (i) the *residential gross floor area* of the buildings erected on *Parcel A* shall not exceed 25,515 square metres;
 - (ii) the *residential gross floor area* of the buildings erected on *Parcels B* and *C* shall not exceed 8,190 square metres;
 - (iii) the *residential gross floor area* and *non-residential gross floor area* on *Parcel D* shall not exceed 680 square metres;
 - (b) a minimum of 60% of the *frontage* of each of *Parcel D* and *Parcel A* shall be devoted to *street-related retail and service uses*;
 - (c) a maximum of 390 *dwelling units* shall be permitted on *Parcels A, B, C* and *D*;
 - (d) a minimum of 25 percent of the *dwelling units* shall be *low-end-of-market dwelling units*;

- (e) a minimum of 1.7 square metres of indoor *residential amenity space* for each *dwelling unit* on *Parcels A, B* and *C* shall be provided in a multi-purpose room or rooms, provided that:
 - (i) the *residential amenity space* required for the development of *Parcel A* shall be provided on *Parcel A* and at least one multi-purpose room shall contain a kitchen and a washroom; and,
 - (ii) the *residential amenity space* required for the development of *Parcels B* and *C* shall be provided on *Parcel B* and at least one multi-purpose room shall contain a kitchen and a washroom;
- (f) *parking spaces* shall be provided and maintained for *Parcel A* on *Parcel A* and for *Parcels B* and *C* on *Parcel B* in accordance with the following:
 - (i) 0.3 *parking spaces* for each bachelor *dwelling unit*;
 - (ii) 0.70 *parking spaces* for each one-bedroom *dwelling unit*;
 - (iii) 1.00 *parking spaces* for each two-bedroom *dwelling unit*;
 - (iv) 1.2 *parking spaces* for each three-bedroom *dwelling unit*;
 - (v) 0.06 *parking spaces* for every *dwelling unit* contained therein for visitors;
- (g) loading spaces shall be provided and maintained as follows:
 - (i) one *loading space-type G* for the development of *Parcel A*; and
 - (ii) one *loading space-type G* for the development of *Parcels B* and *C*;
- (h) despite the definition of *parking space* contained in Section 2(1) of By-law No. 438-86, as amended, a maximum of 15 of the *parking spaces* required for the development of *Parcels B* and *C* may have an unobstructed area of at least 5.2 metres in length and 2.6 metres in width, and a maximum of 36 of the *parking spaces* required for the development of *Parcel A* may have an unobstructed area of at least 5.6 metres in length and 2.6 metres in width;
- (i) no part of any building or structure to be erected or used on *Parcels A, B, C, D* above *grade*, is located otherwise than wholly within the areas delineated by the heavy lines on Plan 2, subject to the following:
 - (i) eaves, cornices, balustrades, canopies, ornamental elements, bay windows, balconies, parapets, railings, vents, fences, wheelchair ramps, monuments, arbours and decorative landscape features shall be permitted outside the heavy lines shown on Plan 2;

- (ii) the main front wall of the building on *Parcel B* shall not occupy more than 50% of the Setback Area adjacent to Scollard Street shown on Plan 2;
- (iii) an enclosed building connection between the buildings located on *Parcels B* and *C* shall be permitted to extend over the lane adjacent to Scollard Street, provided that a minimum vertical clearance of 4.3 metres is maintained above the finished ground level of the lane;
- (j) no setbacks shall be required below the finished ground level;
- (k) no person shall erect or use a building or structure on *Parcels A, B, C, or D*, having a greater *height* in metres than the *height* limit specified by the numbers following the symbol “H” as shown on Plan 2, subject to the provisions of Sections 4(2)(a)(i) and (ii) of By-law No. 438-86, as amended, except that:
 - (i) the maximum height of the elements or enclosures referred to in Section 4(2) (a)(i)A. of By-law No. 438-86, as amended, may exceed such *height* limit by 7.5 metres on *Parcels A* and *B*;
 - (ii) the aggregate horizontal area of such elements or enclosures may occupy not more than 50% of the area of the roof of the building on *Parcel A*; and
 - (iii) the provisions of Section 4(2)(a)(i)C. shall not apply to *Parcel A*;
- (l) at or above finished ground level, *Parcel E*, shall only be used for the purposes of *public park* and *accessory* uses, subject to the following provisions:
 - (i) air vents and an exit stair which are *accessory* to an underground *parking garage* are permitted, up to a maximum height limit of 3.5 metres above the finished ground level;
 - (ii) a stair enclosure shall be permitted to a maximum height of 5.0 metres above the finished ground level;
 - (iii) below finished ground level, *Parcel E* may be used for an underground *parking garage* and *accessory* uses including air vents and an exit stair, in connection with the development of *Parcel A* or *Parcels A* and *D* and for access to an underground *parking garage* associated with any or all of *Parcels B, C* and *D*;
- (m) *Parcel F* shall only be used for the purposes of a public lane at and above finished ground level subject to the following provision:
 - (i) below finished ground level, *Parcel F* may be used for an underground *parking garage* and *accessory* uses in connection with the development of any or all of *Parcels A, B, C* and *D*;

- (n) the Owner of the *lots* enters into one or more agreements, pursuant to Section 37 of the *Planning Act*, to secure the following facilities, services and matters to be provided at the substantial completion of the project:
- (i) the conveyance of strata lands for a *public park* shown as *Parcel E* on the attached Plan 1, having a minimum strata depth of 1.5 m;
 - (ii) the conveyance of strata lands for public lane purposes shown as *Parcel F* on the attached Plan 1;
 - (iii) the conveyance of a surface pedestrian easement with a minimum clear width of 1.5 metres and a vertical clearance of 3.0 metres in proximity to the lane which abuts Scollard Street;
 - (iv) the provision of a financial contribution totalling \$750,000 to be used by the *Owner* for the purpose of designing and developing the *public park*;
 - (v) the financial contribution mentioned in subsection d) above, shall include the *Owner's* contribution for public art and compensation to the City for a "limiting distance agreement" to secure a minimum 6.03 m building setback on the abutting City owned land to the south of *Parcel B*;
 - (vi) the *Owner* will design the public park in consultation with a Working Committee to the satisfaction of appropriate City officials;
 - (vii) the *Owner* will provide a historical plaque to commemorate the historic Village of Yorkville in consultation with Heritage Toronto on *Parcel A*;
 - (viii) the *Owner* agrees to locate a historical monument, if and when provided by the Bloor-Yorkville Business Improvement Association, on *Parcel A*, the design of the monument shall be mutually agreeable to the Owner and the Bloor-Yorkville Business Improvement Association;
 - (ix) a one-time contribution in the amount of \$25,000.00 to be used by the City for maintenance of the *public park* to be established on *Parcel E*.

2. Definitions:

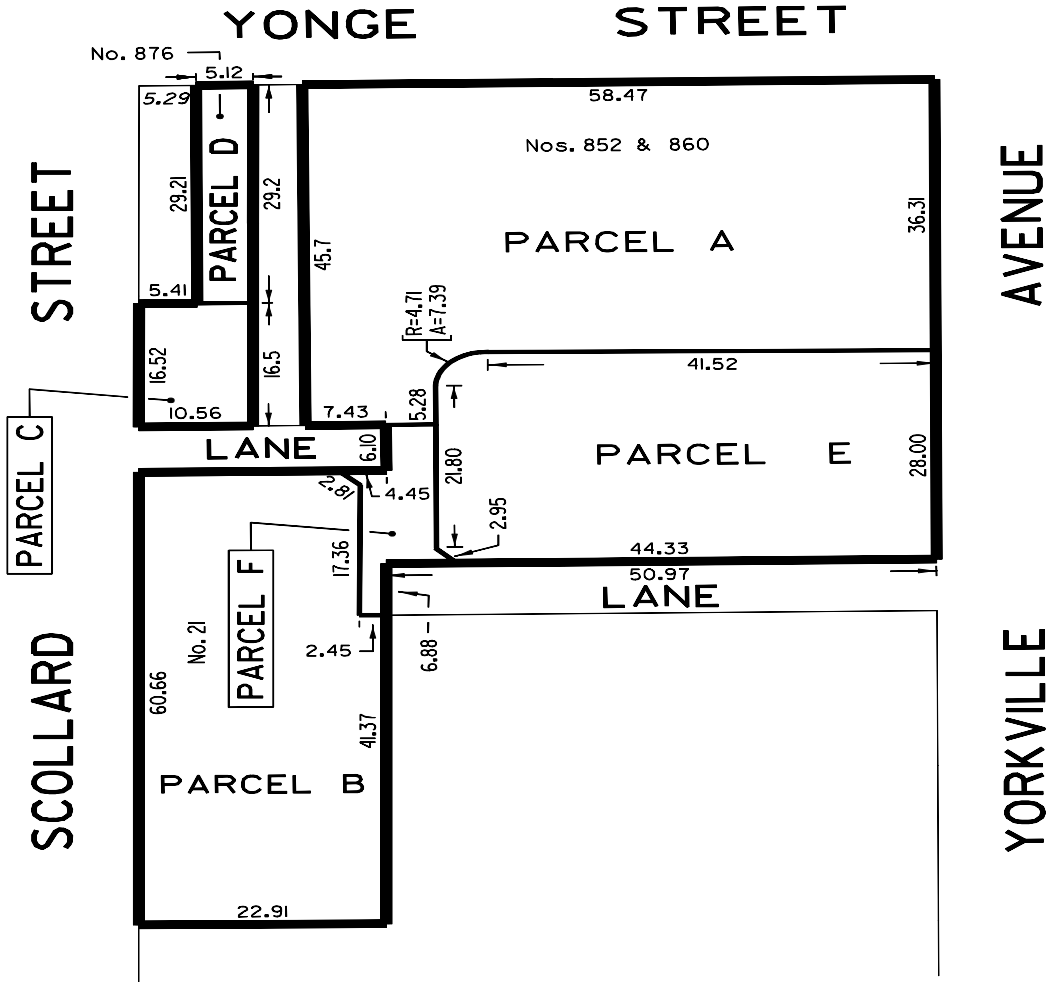
- (i) For the purposes of this By-law, the terms set forth in italics, subject to Section 2.(ii) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended;

- (ii) the following definitions shall apply:
- A. “*grade*” means the elevation of *Parcels A, B, C and D*, measured from the following Canadian Geodetic Elevations:
- (a) *Parcel A* 116.67 metres
 - (b) *Parcel B* 116.52 metres
 - (c) *Parcel C* 116.38 metres
 - (d) *Parcel D* 116.28 metres;
- B. “*Owner*” means the registered owner or owners of the *lots*;
- C. “*lot*” means:
- (a) *Parcel A*
 - (b) *Parcels B and C*; and
 - (c) *Parcel D*;
- however, nothing shall prevent any *Parcel* from being developed in conjunction with another *Parcel*;
- D. “*low-end-of-market dwelling units*” means *dwelling units* which are subject to the following size restrictions;
- (a) the *residential gross floor area* of a studio, bachelor or one-bedroom *dwelling unit* shall not exceed 62 square metres;
 - (b) the *residential gross floor area* of a two-bedroom *dwelling unit* shall not exceed 82 square metres;
 - (c) the *residential gross floor area* of a three-bedroom *dwelling unit* shall not exceed 98 square metres;
- E. “*Parcel A, B, C, D, E*” and “*F*” mean the areas identified as “*Parcel A, B, C, D, E*” and “*F*” on Plan 1;
- F. “*public park*” means land that is used for passive public recreation and that is owned by the government or a government authority or agency, and may include therein one or more greenhouses, benches, landscape features, fences, botanical gardens, water features, *ornamental structures*, fences, vents, a stair and a stair enclosure associated with an underground garage;

- G. “*street-related retail and service uses*” has the same meaning as provided in Section 2(1) of By-law No. 438-86, as amended, and shall also include offices;
 - H. Despite anything contained in this by-law, nothing shall prevent the development of the Parcels shown on Plan 1 to occur in phases, which may occur in any order, subject to the specific requirements applicable to the Parcels contained within each phase.
3. Despite any existing or future severance, partition, or division of any *lot*, the provisions of this By-law shall apply to the whole of a *lot* as if no severance, partition or division occurred.

PURSUANT TO ORDER NOS. 1199 AND 2058 OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JULY 26, 2001 AND DECEMBER 18, 2001 IN BOARD FILE NO. PL000950.

PLAN 1

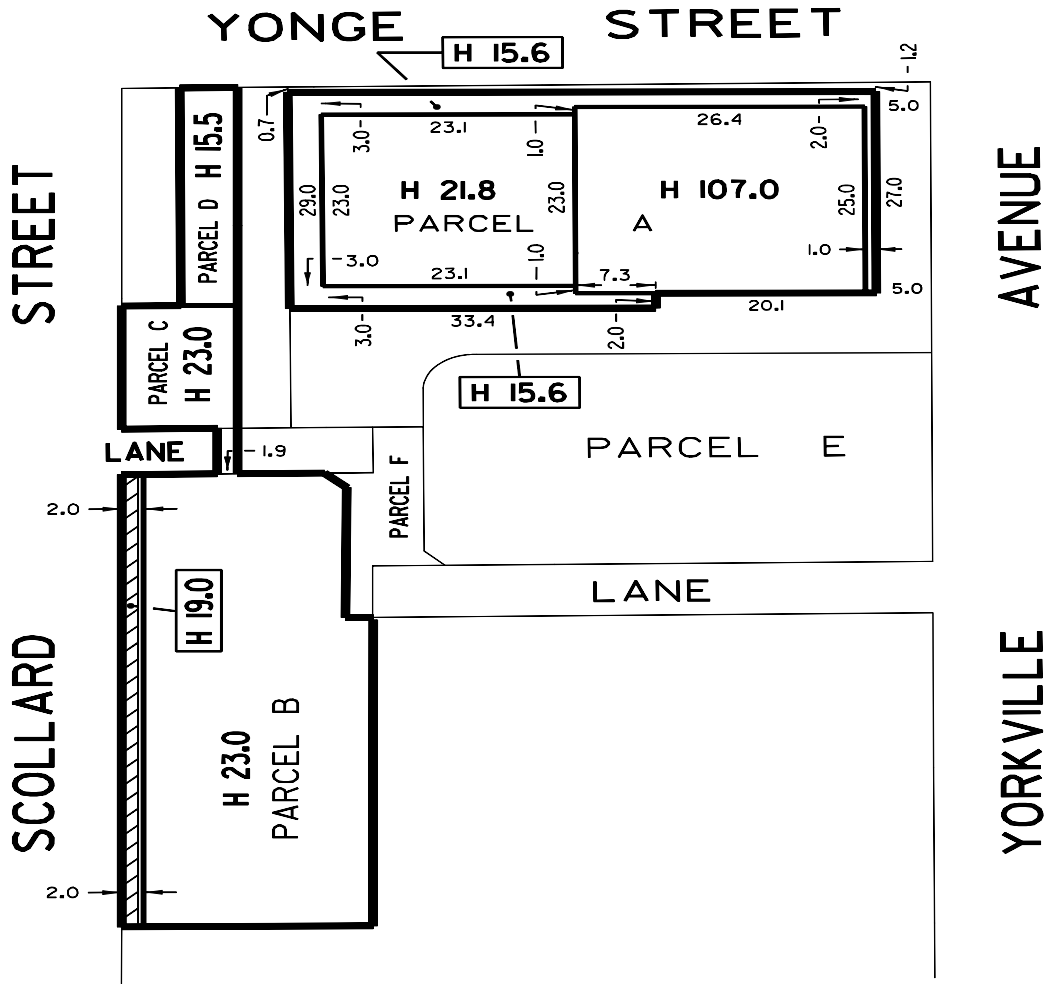


PARCEL E - PROPOSED PUBLIC PARK
 PARCEL F - PROPOSED PUBLIC LANE



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO DECEMBER, 2001
 BLO1/ 852YON1.DGN
 FILE: Y1-Z177
 MAP No. 50J-313 DRAWN: D.R.

PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE
 // SETBACK AREA (1.5 metres wide)



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO DECEMBER, 2001
 BLO1/ 852YON2.DGN
 FILE: Y1-2177
 MAP No. 50J-313 DRAWN: D.R.