

Authority: Toronto South Community Council Report No. 4, Clause No. 16,
as adopted by City of Toronto Council on May 18, 19 and 20, 2004
Enacted by Council: May 20, 2004

CITY OF TORONTO

Bill No. 453

BY-LAW No. 454-2004

To amend General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as No. 326 and 358 King Street West.

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law in return for the provision of such facilities, services and 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 any 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 lands hereinafter referred to has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the height of development permitted hereunder, 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 (hereinafter referred to as the "City");

The Council of the City of Toronto HEREBY ENACTS as follows:

1. None of the provisions of Section 2(1) with respect to the definitions of *grade* and *height* and Sections 4(2)(a), 4(5)(h), 4(5)(i)(ii), 4(10)(a), 4(14)(a), 7(3)PART II 1., 8(2)8., 12(2)246(a),(c),(e) and (f) of By-law No. 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 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* incorporating one or more *non-profit cultural or institutional uses* and uses *accessory* thereto on the lands delineated by heavy lines on Plan 1, provided that:
 - (a) the *lot* consists of at least the lands delineated by heavy lines on the attached Plan 1;
 - (b) the total combined *residential gross floor area* and *non-residential gross floor area* of the building erected on the *lot* shall not exceed 54,950 square metres provided that:
 - (i) the *residential gross floor area* erected and used on the *lot* shall not exceed 39,700 square metres; and

- (ii) the *non-residential gross floor area* erected and used on the *lot* shall not exceed 15,250 square metres;
- (c) notwithstanding section 1(b) of this By-law, the *non-residential gross floor area* and the total combined *residential gross floor area* and *non-residential gross floor area* may be exceeded by not more than 750 square metres of *non-residential gross floor area*, provided such additional *non-residential gross floor area* is used only for the purpose of filling in atria space on levels three, four and five of the portion of the building occupied by the *non-profit cultural or institutional uses*;
- (d) *parking spaces* shall be provided and maintained for *dwelling units* in accordance with the following:
 - (i) 0.3 *parking spaces* for each *bachelor dwelling unit*;
 - (ii) 0.50 *parking spaces* for each *one-bedroom dwelling unit*;
 - (iii) 0.75 *parking spaces* for each *two-bedroom dwelling unit*; and
 - (iv) 1.2 *parking spaces* for each *three or more bedroom dwelling unit*;
- (e) *parking spaces* shall be provided and maintained for non-residential uses and residential visitors in accordance with the following:
 - (i) a minimum of 1 *parking space* for every 12 theatre seats, or 1 *parking space* for every 175 square metres of *total floor area* used for non-residential purposes, whichever is greater, plus 0.06 *parking spaces* for every *dwelling unit* contained in the building; and,
 - (ii) a maximum of 1 *parking space* for each 75 square metres of *total floor area* used for non-residential purposes;
- (f) one *loading space-type G*, one *loading space-type B* and one *loading space-Type C* shall be provided on the *lot* and notwithstanding the provisions of By-law No. 438-86, as amended, access to the *loading space-type B* and *loading space-type C* may be temporarily obstructed when the *loading space-type G* is occupied;
- (g) ingress and egress for the parking facilities required by this by-law shall be provided by unobstructed driveways or passageways providing access to a *street* and having a minimum width of 3.5 metres for one-way operation and a minimum width of 5.5 metres for two-way operation;

- (h) no person shall construct or use driveways or passageways intended for motor vehicles where a portion of the surface of the driveways or passageways within a distance of six metres of a *street* line is at an elevation higher than 0.30 metres above, or at an elevation lower than 0.30 metres below, the average elevation of the portion of the *street* abutting the driveways or passageways;
- (i) no part of any building or structure above *grade* is located outside the heavy lines shown on Plan 2 attached to and forming part of this By-law, with the exception of the permitted projections listed in Section 7(3)PART II 7., and the following permitted projections:
 - (i) a canopy on the King Street West elevation of the building within Area B shown on Plan 2; and,
 - (ii) a canopy on the John Street elevation of the building within Area C shown on Plan 2;
- (j) none of the provisions of this By-law shall apply to prevent the erection and use of an above *grade* portion of the building within Area A shown on Plan 2, provided:
 - (i) the vertical clearance beneath such above *grade* portion is not less than 6.1 metres; and
 - (ii) the maximum *height* of such above *grade* portion does not exceed 27.5 metres above *grade*;
- (k) no setbacks shall be required for any building or structure below the finished ground level on the *lot*;
- (l) no person shall erect or use a building or structure on the *lot*, having a greater *height* in metres than the *height* limits specified by the numbers following the symbol “H” as shown on Plan 2;
- (m) none of the provisions of the By-law shall apply to prevent the erection and use of:
 - (i) a structure on the roof of the building used for outside or open air recreation, safety or wind protection purposes, including landscape garden amenities and public art purposes, provided:
 - A. the maximum height of the top of the structure is no higher than the sum of three metres above the *height* limit specified by the numbers following the symbol H as shown on Plan 2, except that a structure used for wind protection and/or movie projection purposes with a maximum height of six metres may be erected on the podium portion of the building within Area D shown on Plan 2; and,

- B. the structure does not enclose space so as to constitute a form of penthouse; and,
 - (ii) a structure on the roof of the tower portion of the building used for ornamental or public art purposes, provided:
 - A. the maximum *height* of the top of the structure does not exceed a *height* of 157 metres; and,
 - B. the horizontal area occupied by such structure does not exceed 35% of the area of the roof of the tower portion of the building;
 - (n) the Owner of the *lot*, at their expense and in accordance with and subject to the agreements referred to in paragraph 1(o) herein:
 - (i) constructs, provides and conveys at a price less than the fair market value of the land component and the construction cost to a value of not less than \$1 million dollars, the first five floors of the building to be erected pursuant to this By-law save for those portions of the building to be used for vehicular ramps, loading and servicing facilities for the building, as well as entrances, lobbies and elevators for the residential component of the building and up to 1,050 square metres for other non-residential uses that may not be associated with the *non-profit cultural or institutional uses* and comprising not less than 13,000 square metres of *non-residential gross floor area* (the TIFF Portion), to the Toronto International Film Festival Inc. (TIFF) for the purposes of establishing a home for such entity, or to one or more *non-profit institutions* acceptable to the City to be used by any such *non-profit institutions* for the purposes of one or more *non-profit cultural or institutional uses* and uses *accessory* thereto;
 - (ii) provides and maintains works of public art pursuant to a public programme on publicly accessible or prominently visible portions of the *lot* of a value not less than one percent of the gross construction costs of all buildings and structures to be erected on the *lot*, excluding the gross construction costs solely attributable to the construction of the non-profit premises required in (i) above;
 - (iii) incorporates in the construction of the building:
 - A. exterior materials; and,
 - B. the design of:
 - (a) any rooftop ornamental/public art feature; and,
 - (b) any wind protection/movie projection screen or structure
- to the satisfaction of the Commissioner of Urban Development Services;

- (iv) pays to the City of Toronto the amount of \$300,000.00 to create a fund to facilitate the use of space within the TIFFF Portion of the building, for the purposes of *non-profit cultural or institutional uses* including non-profit film festivals to the satisfaction of the Commissioner of Economic Development, Culture and Tourism, subject to availability of such space and the approval of the owner of the TIFFF Portion;
- (v) pays to the City of Toronto a collateral sum of \$30,000.00 towards a planning study within the *King-Spadina* area;
- (vi) agrees that no underground parking facility will be operated on the *lot* prior to first occupancy of the residential tower; and,
- (vii) agrees that no building permit for any residential above-*grade* portion of the building to be erected pursuant to this By-law shall be issued prior to:
 - A. the issuance of the building permits required for the completion of:
 - I. the structure and enclosing walls to the roof;
 - II. the rough-ins necessary to operate the building including the rough-ins for heating and ventilation, air conditioning, electrical, plumbing and fire protection and elevator equipment; and
 - III. on-site service corridor/connections providing access to on-site loading and servicing areas;of the TIFFF Portion of the building; and,
 - B. the City receiving satisfactory confirmation that an agreement of purchase and sale and for construction of the TIFFF Portion of the building to the extent of at least the completion of the structure and enclosing wall to the roof and the rough-ins necessary to operate the TIFFF Portion of the building including the rough-ins for heating and ventilation, air conditioning, electrical, plumbing and fire protection and elevator equipment has been entered into between the Owner and TIFFF or one or more other *non-profit institutions* acceptable to the City as required in paragraph (i) herein;

- (o) the Owner of the *lot* enters into:
- (i) a three party agreement with the City of Toronto and TIFF or one or more *non-profit institutions* acceptable to the City to ensure that in the event of the sale of the TIFF Portion of the building within the first 20 years of the occupation of such space, not less than \$1.0 million from such sale shall be used for the purposes of TIFF or one or more *non-profit institutions* approved by the City; and,
 - (ii) one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required in paragraph 1.(n) herein; and

such agreements are registered on title to the *lot*, and such agreements and registration to be satisfactory to the City.

2. Definitions:

For the purposes of this By-law,

- (i) 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 86.5 metres Canadian Geodetic Datum;
 - B. “*height*” means the vertical distance between *grade* and the highest point of the roof or structures; and,
 - C. “*non-profit cultural or institutional uses*” means facilities and services provided for the use of the public or a particular segment of the public on a non-profit basis including:
 - I. activities related to the arts, history, literature, music, film, theatre, sports or athletics, the sciences;
 - II. displays, exhibits, lectures, public meeting facilities, archives, museums, libraries; and,
 - III. *community centres, municipal community centres or day nurseries.*

3. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

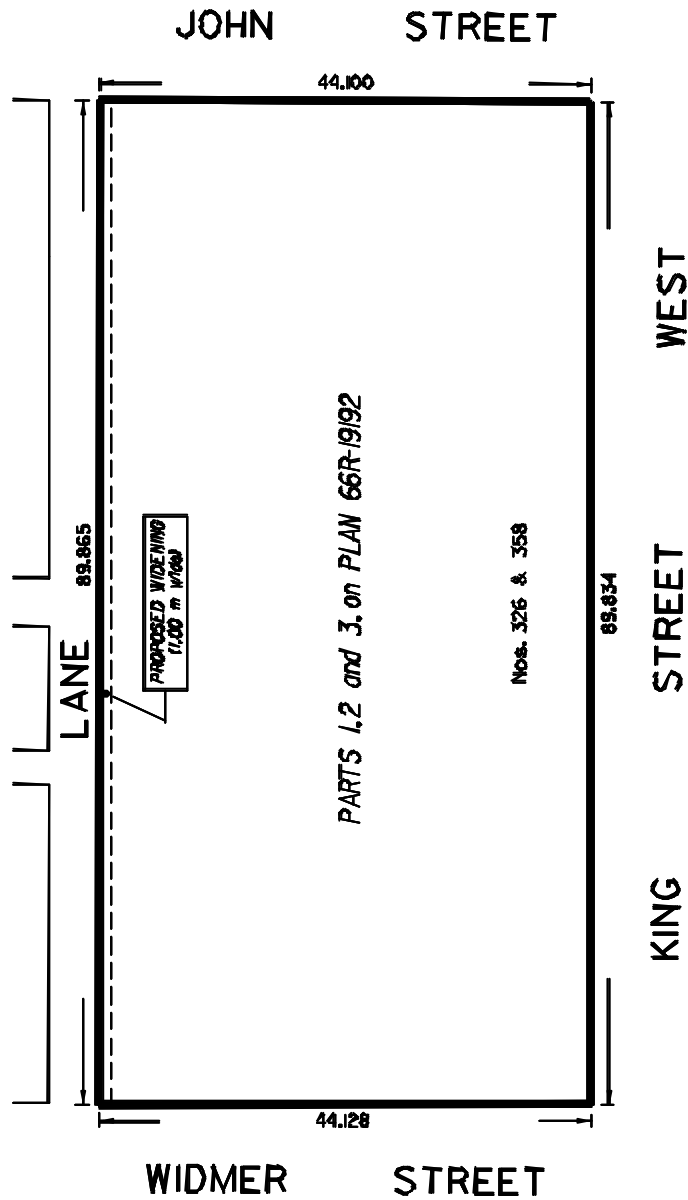
ENACTED AND PASSED this 20th day of May, A.D. 2004.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

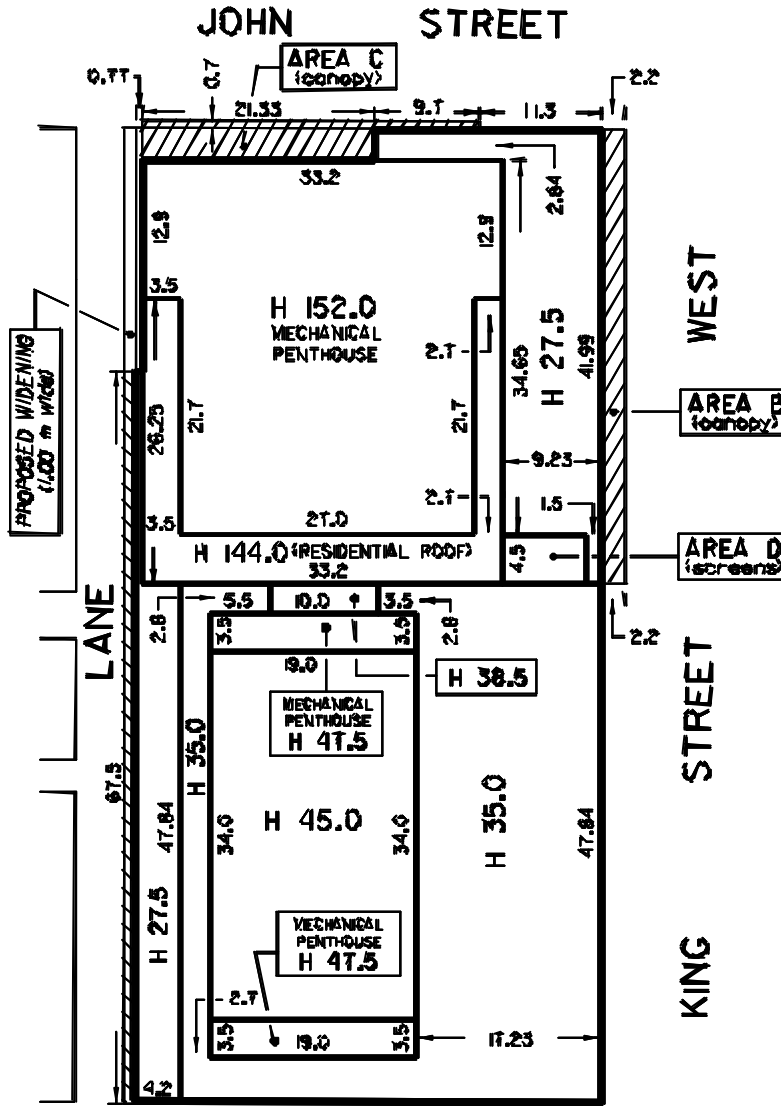
(Corporate Seal)

PLAN 1



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO MARCH, 2004
BLO4/326K (N1.DGN)
FILE: K2-ZT
MAP No. 50G-322 DRAWN: D.R

PLAN 2



WIDMER STREET

H_s DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 AREA A (1.00 m wide)



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO MAY 18, 2004
 B104/326K INCR-BGN
 FILE# K2-27
 MAP No. 806-522 DRAWNS D.R