

Authority: North York Community Council Report No. 7, Clause No. 47b,
adopted as amended, by City of Toronto Council on November 30, December 1
and 2, 2004
Enacted by Council: December 2, 2004

CITY OF TORONTO

BY-LAW No. 1109-2004

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto with
respect to lands municipally known as 82, 86 and 90 Broadway Avenue.**

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law passed under Section 34 of the *Planning Act*, authorize increases in height or density of development beyond those otherwise permitted by the By-law 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 height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality in respect of the facilities, services or matters; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increases in density or height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 438-86, are to be permitted in return for the provision of facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the "City"); and

WHEREAS the Council of the City has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted in this By-law;

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

1. None of the provisions of Sections 4(2)(a), 4(4)(b), 4(16), 6(3) PART I 1, 6(3) PART II 2 (iii), 6(3) PART II 3. A(II), and 6(3) PART II 5, 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 in various areas of the City of Toronto", as amended, shall apply to prevent the erection and use of an *apartment building* on the *lot*, provided:
 - (a) the *lot* comprises the lands outlined by heavy lines on Plan 1 attached to and forming part of this By-law;

- (b) no portion of the building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines and within the height limits shown on Plan 2 attached to and forming part of this By-law, excepting only that cornices, canopies, ornamental elements, vents, fences, parapets, retaining walls, ramps to underground garages, railings, chimneys, mechanical penthouse, stair towers, heating, cooling or ventilating equipment, and structures on the roof used for outside recreation, safety or wind protection purposes may extend beyond areas delineated by heavy lines and height limits shown on Plan 2;
 - (c) the height of the building does not exceed 67 metres, including mechanical penthouse, and a maximum of 20 storeys;
 - (d) the total *residential gross floor area* does not exceed 22,161 square metres;
 - (e) there are not more than 274 *dwelling units* within the building;
 - (f) outdoor residential amenity space is not required to be provided in a location adjoining or directly accessible from the indoor residential amenity space;
 - (g) a minimum of 300 parking spaces shall be provided on the lot of which 223 parking spaces be allocated for condominium dwelling units, 44 parking spaces be allocated for the rental dwelling units, and a total of 33 visitor parking spaces allocated for visitors within the complex;
 - (h) no more than 270 square metres of the existing building known municipally as 90 Broadway Avenue shall be used for the purpose of selling residential units proposed to be constructed on the lands; and
 - (i) the owner of the lot enters into an agreement with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters described in Section 2 of this By-law, and that such agreement is registered on title to the lot.
2. The owner of the lands shall enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to secure the facilities, services and matters referred to below, which agreement or agreements shall be registered against the title of the lands to which this By-law applies in the manner and to the extent specified in such agreements. The owner of the subject lands, at the owner's expense and in accordance with, and subject to the agreements referred to above, shall provide at its expense the following facilities, services and/or matters on terms satisfactory to the City, in order to permit the increase in *gross floor area* and *height* authorized under Section 1 of this By-law:
- (i) provides and maintains not less than 60 new affordable replacement rental dwelling units and 12 new rental dwelling units with mid-range rents on the lot, at the north end of the site, subject to the following:
 - (a) the designated rental units shall be maintained as conventional rental units for at least 20 years, beginning with the date that each unit is occupied or

until the owner obtains approval for an Official Plan Amendment and zoning by-law amendment removing the requirement for the designated units to be maintained as rental units. If the tax rate were to increase such that the owner is paying more tax than they would if the rental replacement units were registered as a condominium, the owner will have the right to apply for an Official Plan Amendment and zoning by-law amendment removing the requirement for the designated rental units to be maintained as rental units prior to the expiry of this 20 year period, provided the 72 designated rental units remain as rental dwelling units until the owner obtains approval for an Official Plan Amendment and zoning by-law amendment removing the requirement that the owner provide and maintain the designated dwelling units as rental dwelling units;

- (b) all of the designated rental replacement units shall be ready and available for occupancy no later than the date by which 60% of the other dwelling units erected on the lot after the date of enactment of this amendment are available and ready for occupancy;
- (c) the owner shall provide and maintain affordable rents charged to the tenants who rent each of the 60 affordable replacement dwelling units during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the January, 2003 Canada Mortgage and Housing Corporation Rental Market Survey average rent for the City of Toronto by unit type plus annual Provincial rent guideline increases, plus a one-time allowance of 4% and upon turn-over, the rent charged to any new tenant shall not exceed the most recently reported Canada Mortgage and Housing Corporation Rental Market Survey average rent for the City of Toronto by unit type and over the course of the 10 year period, annual increases shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases;
- (d) the owner shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the 12 mid-range replacement dwelling units during the first 5 years of its occupancy, such that the initial rent shall not exceed an amount equal to 1.5 times the January, 2003 Canada Mortgage and Housing Corporation Rental Market Survey average rent for the City of Toronto by unit type plus annual Provincial rent guideline increases, plus a one-time allowance of 4% and upon turn-over, the rent charged to any new tenant shall not exceed the most recently reported Canada Mortgage and Housing Corporation Rental Market Survey average rent for the City of Toronto by unit type and over the course of the 5 year period, annual increases shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases;

- (e) rents charged to tenants occupying an affordable replacement dwelling unit at the end of the 10 year period set forth in (c) or a mid-range replacement dwelling unit at the end of the 5 year period set forth in (d) shall be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their dwelling unit; and
 - (f) rents charged to tenants newly occupying an affordable replacement dwelling unit after the completion of the 10 year period set forth in (c) or the 5 year period for a mid-range replacement dwelling unit set forth in (d) will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement;
- (ii) shall provide additional assistance to the tenants of the lot over and above the minimum levels required under the *Tenant Protection Act*, as follows:
- (a) the owner shall give eligible tenants residing in a rental unit existing on the lot at least six (6) months prior notice of the termination of their tenancy for demolition;
 - (b) all eligible tenants residing on the lot on the date of the application, January 16, 2003, and who receive the six (6) months notice of termination set forth in (a) (“eligible tenants”) shall have a right of first refusal based on seniority to occupy a designated affordable replacement rental unit at an initial rent not exceeding the amount of their rent as of January, 2003 plus the amount permitted by the Provincial rent increase guidelines between that date and the date of their first occupancy as adjusted by the anniversary date of each lease and a one-time allowance of 4%;
 - (c) all eligible tenants as set forth in (b) shall receive financial assistance in an amount at least as the amount specified in the Section 37 Agreement in addition to compensation required under the *Tenant Protection Act*;
 - (d) any prospective (new) tenant of an existing rental unit on the lot after January 16, 2003, shall be advised prior to entering into any legal agreement to rent a unit of the development applications and the potential demolition, and they shall also be advised that they will not receive the extra assistance set forth in (c) being offered to tenants residing on the site on January 16, 2003 who are eligible tenants;
 - (e) any new tenant in an existing rental unit after January 16, 2003 shall receive the following assistance over and above the minimum requirements of the *Tenant Protection Act*: at least six months notice of the termination of their tenancy for demolition, and the right of first refusal to occupy a designated affordable rental replacement unit at an initial rent not exceeding the January, 2003 amount of the average rent for the City of Toronto by unit type as reported in the Canada Mortgage and

Housing Corporation Rental Market Survey plus a one-time allowance of 4% plus annual Provincial rent guideline increases until the date of first occupancy;

- (iii) prior to the issuance of the building permit for the full building, the owner shall pay, to the City of Toronto, \$140,000 (\$20,000 per unit), being a public subsidy cost, which represents the fee to be earmarked for the Capital Revolving Fund for Affordable Housing for the 7 units that will not be replaced as designated rental units within the building.
3. For the purpose of the By-law,
- (a) each other word or expression shall have the same meaning as each word or expression as defined in By-law No. 438-86.
4. In cases where there is a conflict between this By-law and the provisions of By-law No. 438-86, as amended, this By-law shall apply.

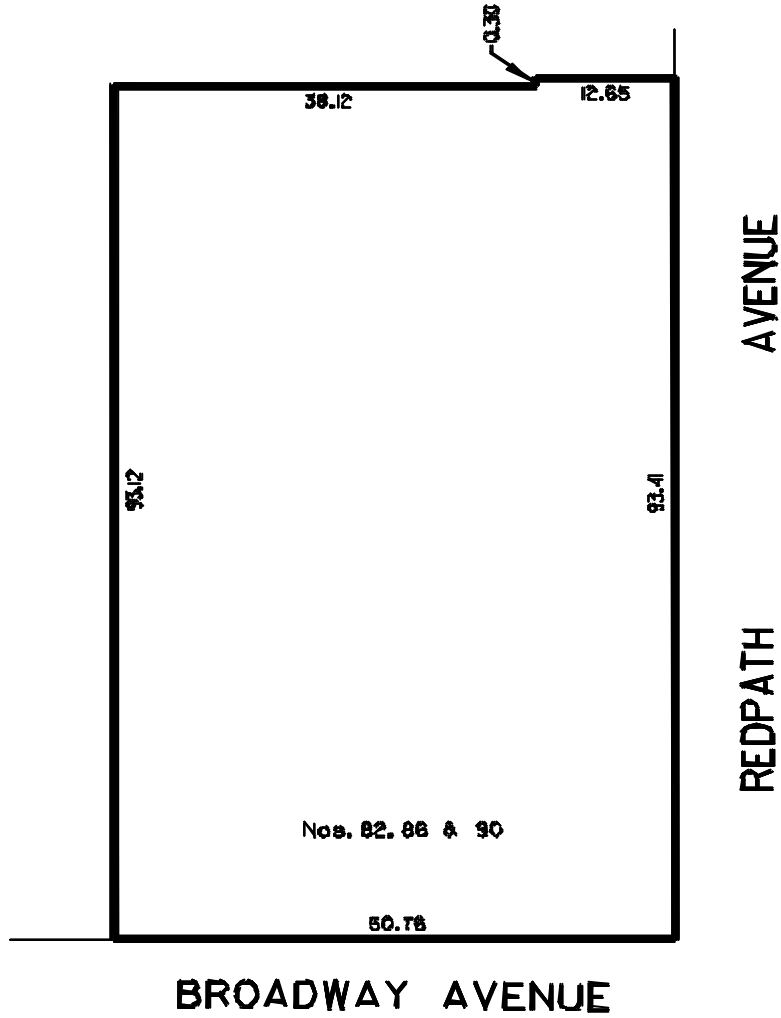
ENACTED AND PASSED this 2nd day of December, A.D. 2004.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

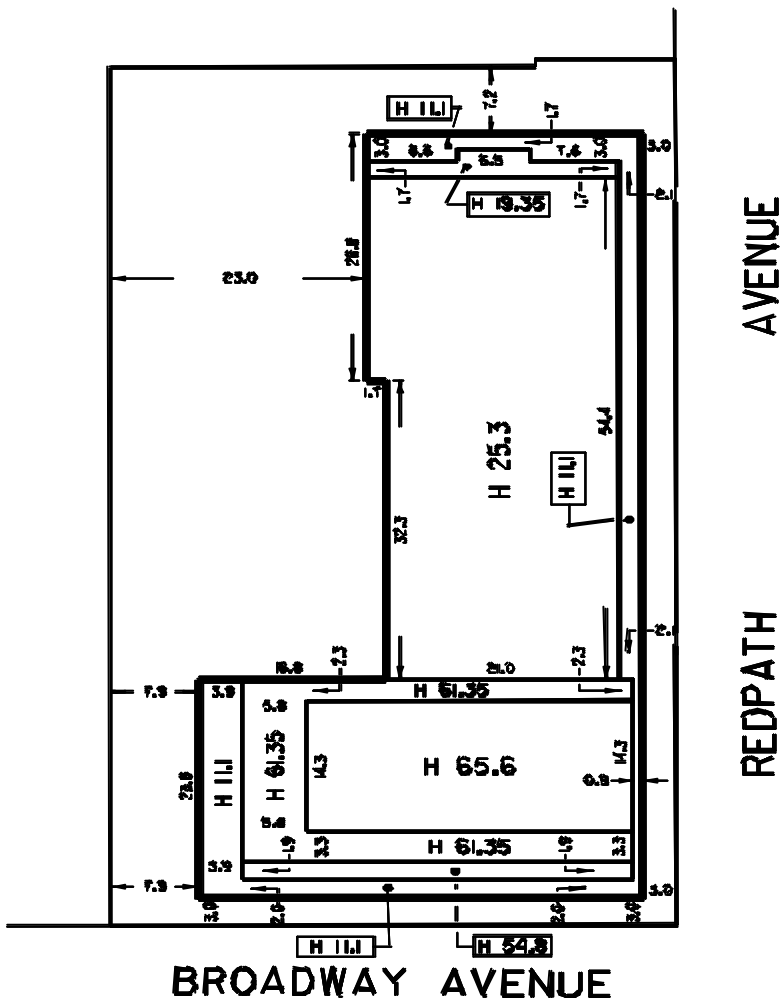
(Corporate Seal)

PLAN I



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO SEPTEMBER, 2004
M.D. WERPOD/ABCH
FILE# 032-23
MAP No. 54L-11 dm4Wnk W/04

PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO OCTOBER 18, 2004
 BLDG/REDPATH.DGN
 FILE: B32-CS
 MAP No. 51L-11 DRAWN: DR/VG