

Authority: Toronto and East York Community Council Report 3, Clause 2,
as adopted by City of Toronto Council on April 25, 26 and 27, 2006
Enacted by Council: April 27, 2006

CITY OF TORONTO

BY-LAW No. 331-2006

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 36, 38-48 Yorkville Avenue, 1263 Bay Street and 55 Scollard Street.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS pursuant to Section 37 of the *Planning Act* the Council of a municipality may in a By-law passed pursuant to 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 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 an increase in height or 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 and 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 Section 2 with respect to the definitions of the terms *lot*, *grade*, *height*, *hotel* and *street related retail and service uses*, Sections 4(2)(a), 4(5), 4(8), 4(12), 8(3)PART I 2, 8(3)PART I 3, 8(3) PART II 1(a)(ii), 8(3)PART III 1(a), 8(3)PART XI 2, and 12(2)259 of 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 and use of a *mixed use building* and *accessory* uses thereto, including a *parking garage*, on the *lot* provided:

- (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1;
- (b) the maximum combined *non-residential gross floor area* and *residential gross floor area* of all buildings or structures erected on the *lot* shall not exceed 74,000 square metres, of which the maximum *residential gross floor area* shall not exceed 43,000 square metres and the maximum *non-residential gross floor area* shall not exceed 33,000 square metres, provided that:
 - (i) the *non-residential gross floor area* shall, in addition to the uses permitted in a CR zone, comprise a *hotel* of at least 230 guest rooms;
 - (ii) the *residential gross floor area* of each *storey* in *Building A* above a *height* of 72 metres shall not exceed 825 square metres; and
 - (iii) the *residential gross floor area* of each *storey* in *Building B* above a *height* of 17 metres shall not exceed 650 square metres;
- (c) no portion of any building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2;
- (d) section 1(c) hereof does not apply to the type of structure listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
Parapets	Maximum 1.0 metre projection, provided the height of such “STRUCTURE” is not greater than 1.0 metres above the height limits established in Section 1(e) of this By-law
eaves, cornices, ornamental or architectural elements, balustrades, mullions, window sills	Maximum 1.0 metre projection, provided the height of the “STRUCTURE” is no higher than that portion of the building to which it is attached
fences, safety railings and guardrails	No restriction on the extent of the projection provided the height of such “STRUCTURE” does not exceed 2.0 metres
Canopies	Maximum 5.0 metre projection, provided the height of the canopy is no higher than that portion of the building to which it is attached
ramps, wheelchair ramps and/or stairs (and associated structures) servicing an underground <i>parking garage</i>	No restriction, provided the height of such “STRUCTURES” does not exceed 2.0 metres above finished ground level

STRUCTURE	MAXIMUM PERMITTED PROJECTION
Balconies	No restriction, provided such “STRUCTURE” is located within the hatched areas identified on Map 2 attached hereto
building connection between <i>Building B</i> and <i>Building C</i>	No restriction, provided the height of such “STRUCTURE” does not exceed 35.0 metres, the width of such “STRUCTURE” does not exceed 3.5 metres and a vertical clearance of 24.0 metres is provided to finished ground level
stairs, stair enclosures, landings and associated railings	No restriction, provided the height of such “STRUCTURE” does not exceed 3.0 metres
public art features, light standards and landscape features	No restriction in extent of projection or height of “STRUCTURE”

- (e) 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 on the attached Map 2, except for the following:
- (i) the structural projections identified in Section 1(d), including structural projections permitted outside of the heavy lines on the attached Map 2, subject to the limitations contained therein; and
 - (ii) the structures and elements identified in Section 4(2)(a)(i) and Section 4(2)(a)(ii) of By-law No. 438-86 and any parapets or screens enclosing such structures and elements, provided:
 - A. the maximum *height* of the top of such elements or enclosure is no higher than the sum of five metres and the applicable *height* limit; and
 - B. the aggregate horizontal area of such elements or enclosure does not exceed 65 percent of the area of the roof of the building;
- (f) notwithstanding section 1(e) hereof, *Building A* shall not exceed 46 *storeys* in height and *Building B* shall not exceed 30 *storeys* in height;
- (g) *parking spaces* for the residents of, and visitors to the building are provided and maintained on the *lot* in accordance with the following:
- (i) a minimum of 0.3 *parking spaces* per *bachelor dwelling unit* for residents;
 - (ii) a minimum of 0.5 *parking spaces* per *one-bedroom dwelling unit* for residents;
 - (iii) a minimum of 0.75 *parking spaces* per *two-bedroom dwelling unit* for residents;

- (iv) a minimum of 1.2 *parking spaces* per three or more *bedroom dwelling unit* for residents; and
- (v) a minimum of 0.06 *parking spaces* per *dwelling unit* for visitors to the building;
- (h) *parking spaces* for non-residential uses within the building are provided in accordance with the provisions of section 4(5)(b) of Zoning By-law No. 438-86, provided that none of the provisions of Zoning By-law No. 438-86, as amended require the minimum number of motor vehicle parking facilities in respect of any use set out in the column of Schedule 1 of section 4(5) of Zoning By-law No. 438-86 entitled “Type of Use” commencing with a *retail store* to and including an *undertaker’s establishment* if the use is in a building having a *non-residential gross floor area*, exclusive of *hotel* uses, not exceeding 1.0 times the area of the *lot*;
- (i) at least one *loading space – type “G”* and two *loading spaces – type “B”* and four *loading spaces – type “C”* are provided and maintained on the *lot*;
- (j) *indoor amenity space* shall be provided and maintained within a building at a rate of 3 square metres per *dwelling unit* of which not less than 153 square metres shall:
 - (i) be located in *Building A*, *Building B* or *Building C*;
 - (ii) if located in *Building A* or *Building C*, be connected by an indoor above *grade* building connection between *Building B* and *Building C* , in the location shown on Map 2 and subject to the limitations in section 1(d) of this by-law; and
 - (iii) be for the exclusive use of the residents of *Building A* and *Building B* and shall contain a kitchen and a washroom;
- (k) no person shall erect or use a building or any portion of a building on the *lot* for any commercial purpose unless the portion of the main floor level of the building containing such commercial uses has a depth of not less than 5.0 metres measured from the main front wall of the building;
- (l) no person shall erect or use a building or structure for any purpose unless *street related retail and service uses* are provided in *Building A*; and
 - (i) at least 15 percent of the aggregate length of the portion of the *frontage* adjacent to Yorkville Avenue is used for that purpose;
 - (ii) at least 45 percent of the aggregate length of the portion of the *frontage* adjacent to Bay Street is used for that purpose; and

- (iii) at least one public entrance to a *street related retail and service use* is provided in the exterior wall of *Building A* facing Bay Street not more than 2.5 metres from the setback line to Yorkville Avenue as established on Map 2;
- (m) not less than 1,250 square metres of the *lot* consists of *publicly accessible landscaped open space area* as shown on Map 3 and the provisions of section 1(d) of this by-law shall not apply to such *publicly accessible landscaped open space area* except that public art features, light standards and landscape features are permitted with no restriction on the extent of the projection or height of structure;
- (n) the owner of the *lot*, at its expense, provides and maintains the following facilities, services and matters, subject to and in accordance with the agreement pursuant to Section 37 of the *Planning Act* required in paragraph (o) herein,
 - (i) a contribution in the amount of \$5,000,00.00 prior to the issuance of an above *grade* building permit on the *lot*, to be allocated as follows:
 - A. \$1,500,000.00 to the Toronto Reference Library;
 - B. \$1,500,000.00 towards the Firehall Wall, local streetscape improvements and new publicly accessible landscaping in the area; and
 - C. \$2,000,000.00 for the Jessie Ketchum School playgrounds redesign and construction;
 - (ii) public art;
 - (iii) building materials to be secured by one or more agreements having due regard to the context and level of quality suitable to the residential condominium and *hotel*;
 - (iv) satisfactory evidence that the *hotel* shall be operated as a five-star *hotel* prior to the first occupancy of the development;
 - (v) provision of a below level knock out panel in a location within the Development in the southeast quadrant of the *lot*, which final location shall be determined by the owner in consultation with the City, for a potential “Pathway” connection entrance to the underground pedestrian mall system that connects to the Bloor-Danforth subway, which potential “Pathway” connection will be provided and maintained by the City at the City’s sole discretion and at no cost to the owner;
 - (vi) provision and maintenance of a *publicly accessible landscaped open space area* consisting of a minimum of 1,250 square metres;

- (o) the owner of the *lot* enters into and registers on title to the *lot* an agreement with the City pursuant to Section 37 of the *Planning Act*, as a first charge to secure the facilities, services and matters set forth in paragraph (n) of this By-law.
2. 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.
3. For the purposes of this By-law:
- (a) “*Building A*”, “*Building B*” and “*Building C*” means Building A, Building B and Building C as shown on Map 2 attached hereto;
- (b) “*grade*” means 116.6 metres Canadian Geodetic Datum;
- (c) “*height*” means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in this By-law;
- (d) “*hotel*” means a building or part thereof comprising *non-residential gross floor area* used within the meaning of the *Hotel Registration of Guests Act*, R.S.O. 1990, Chapter H17, but does not include a *hostel*, a *rooming house*, or a *tourist or guest home*, or a mechanical or electronic game machine for gambling purposes, and shall include a lobby and guest registration area, hotel administration offices, guest service facilities, recreational facilities, at least one meeting, conference or ballroom, at least one *restaurant*, valet parking facilities, and other *accessory* uses;
- (e) “*indoor amenity space*” means a common area or areas on the *lot* which may include, but is not limited to, recreational and/or spa facilities, meeting rooms, ballrooms, group dining facilities and kitchen facilities related thereto for the use of the *hotel* and the residents of the *dwelling units* for recreational or social purposes;
- (f) “*publicly accessible landscaped open space area*” means an unenclosed, paved, sodded or landscaped exterior area or areas on a *lot* which adjoins and is directly accessible from a *street* which may include landscaping such as grass, shrubs, trees and flowers, refuse receptacles/recycling bins, outdoor seating restaurant patios, public art, lighting fixtures and water features;
- (g) “*residential gross floor area*” and “*non-residential gross floor area*” shall have the same meaning as they have for the purpose of By-law No. 438-86 except that *indoor amenity space* required by Section 1(j) of this by-law shall also be excluded;
- (h) “*storey*” shall have the same meaning as it has for the purpose of By-law No. 438-86, except that mezzanines and portions of the building that are used solely for mechanical purposes do not constitute a *storey*;

- (i) “*street related retail and service uses*” shall have the same meaning as they have for the purpose of By-law No. 438-86, and shall also include those portions of a *hotel* containing a lobby, lounge, bar, retail uses and *restaurants* that are *accessory* to a *hotel*;
- (j) all words, terms and phrases appearing in italics shall have the same meaning as they have for the purpose of the aforesaid By-law No. 438-86, except as herein provided.

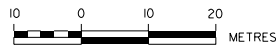
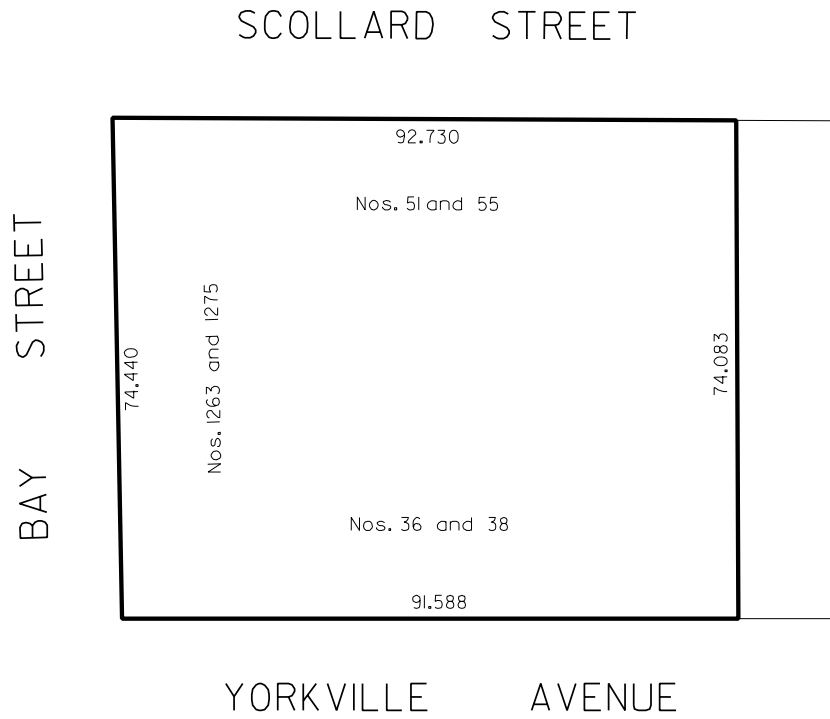
ENACTED AND PASSED this 27th day of April, A.D. 2006.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

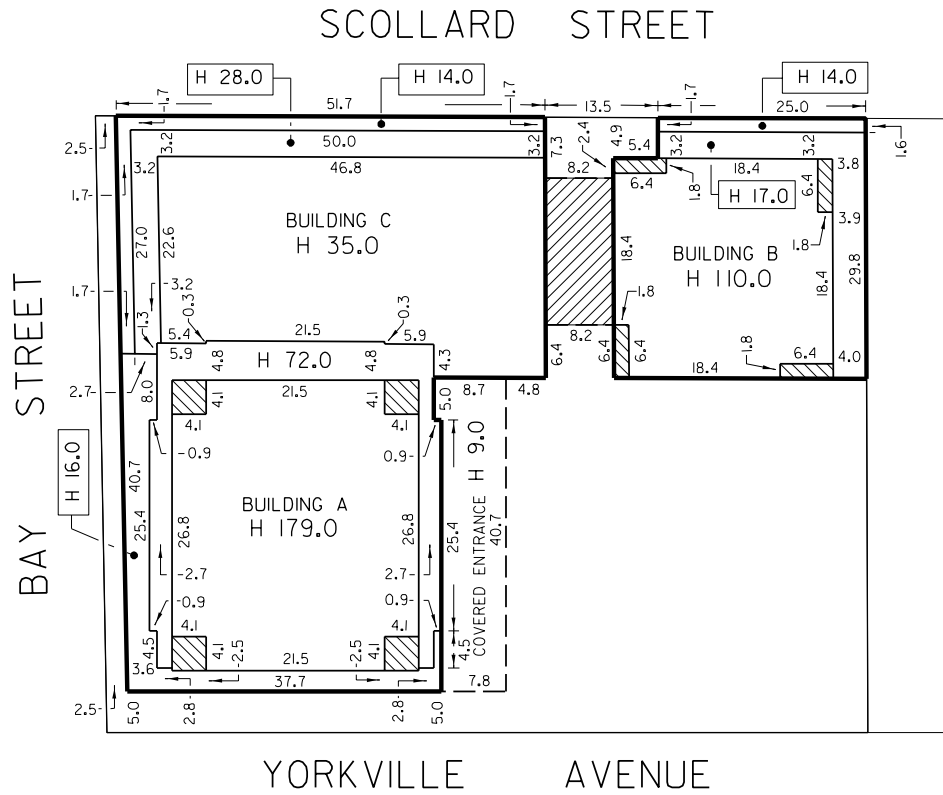
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
MAP I



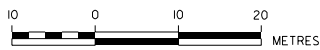
SURVEY AND MAPPING SERVICES
TORONTO MARCH 2006
BL06/1263BAY1.DGN
FILE: Y6-Z20
MAP No. 50J-313 DRAWN: VG

MAP 2



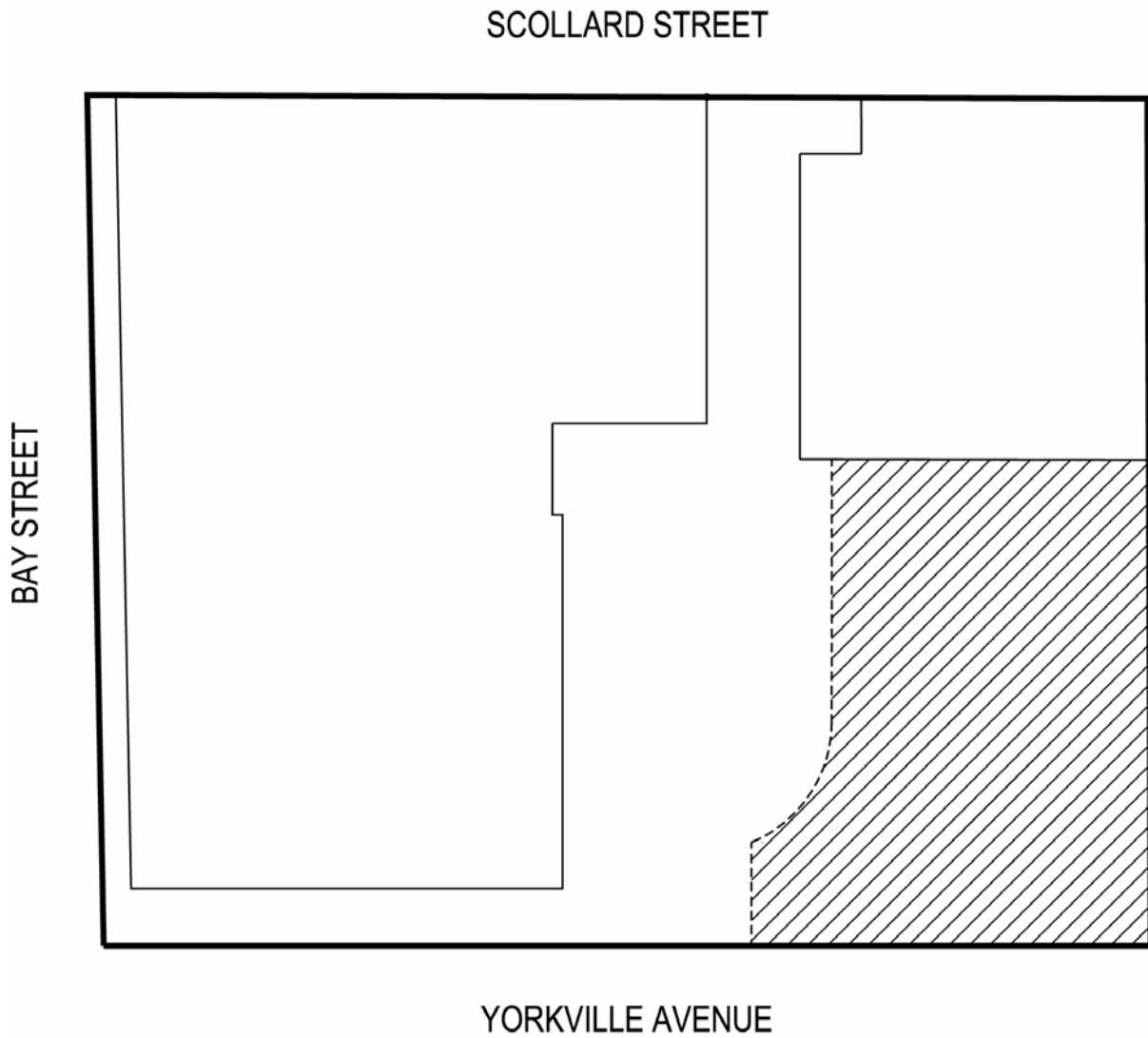
-  Location of one-storey bridge enclosure
3.5m maximum width
24.0m minimum vertical clearance
-  Balconies


H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



SURVEY AND MAPPING SERVICES
 TORONTO APRIL 2006
 BLO6/1263BAY2.DGN
 FILE: Y6-Z20
 MAP No. 50J-313 DRAWN: VG

Publicly Accessible Landscaped Open Space



 PUBLICLY ACCESSIBLE LANDSCAPED OPEN SPACE
(MINIMUM OF 1250 SQUARE METRES)