

Authority: Toronto and East York Community Council Report 4, Clause 7, adopted as amended, by City of Toronto Council on May 23, 24 and 25, 2006
Enacted by Council: May 25, 2006

CITY OF TORONTO

BY-LAW No. 460-2006

To amend Zoning By-law No. 998-88 (as amended by By-law No. 74-93 and by By-law No. 1994-0605) of the former City of Toronto, being a By-law to amend Zoning By-law No. 438-86 of the former City of Toronto, as amended, with respect to lands bounded by Yonge Street, Queen Street West, Bay Street and Adelaide Street West.

WHEREAS the Council for 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 the lands bounded by Yonge Street, Queen Street West, Bay Street and Adelaide Street West; and

WHEREAS the Toronto and East York Community Council conducted a public meeting on May 9, 2006 under Section 34 of the *Planning Act* regarding the Zoning Amendment; and

WHEREAS the Council of the City of Toronto, at its meeting held May 23, 24 and 25, 2006, determined to amend By-law No. 998-88, as amended;

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

1. Pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, the heights and density of development permitted by this amendment to *By-law No. 998-88* are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the owner of the *Bay Adelaide Lands* of the facilities, services and matters set out in Section 4(5) and Appendix "1" of *By-law No. 998-88*, as amended by this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended.
2. Upon execution and registration of an agreement or agreements with the owner of the *Bay Adelaide Lands*, pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, securing the provision of the said facilities, services and matters, the *Bay Adelaide Lands* are 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 requirement.
3. Except as otherwise provided herein and in *By-law No. 998-88*, the provisions 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 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", shall continue to apply to the *Bay Adelaide Lands*.

4. For the purposes of this By-law,
- (a) “*By-law No. 998-88*” means By-law No. 998-88 (as amended by By-law No. 74-93 and by By-law No. 1994-0605) of the former City of Toronto, being a By-law to amend Zoning By-law No. 438-86 of the former City of Toronto, as amended, with respect to the lands bounded by Yonge Street, Queen Street West, Bay Street and Adelaide Street West,
 - (b) “*Bay Adelaide Lands*” means the lands comprising Parcel A, Parcel B and Parcel C, delineated by the Heavy Lines on Map A attached to and forming part of this By-law,
 - (c) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in *By-law No. 998-88*.
5. *By-law No. 998-88*, is hereby further amended by deleting Section 4 and substituting therefore the following:
- “4. Notwithstanding the provisions of Sections 4(2)(a), 4(8)(b), 4(10)(a), 8(3) Part I 1, 8(3) Part I 2 and 12(2)276 of the aforesaid By-law No. 438-86, the erection and use of one or more buildings on the Bay-Adelaide Lands containing *non-residential gross floor area* only, or in the alternative, containing a combination of *non-residential gross floor area* and *residential gross floor area*, is permitted, provided:
- (1) the aggregate amount of *non-residential gross floor area* and *residential gross floor area* to be erected and used on the Bay-Adelaide Lands, exclusive of *public pedestrian walkways*, does not exceed 277,096 square metres, of which:
 - (a) no additional *non-residential gross floor area* or *residential gross floor area* is erected or used on the lands comprising the aforesaid Parcel A than existed thereon on the date of enactment of this By-law;
 - (b) not more than 47,030 square metres of combined *non-residential gross floor area* and *residential gross floor area* is erected or used on the lands, comprising the aforesaid Parcel B;
 - (c) not more than 193,366 square metres of combined *non-residential gross floor area* and *residential gross floor area* is erected or used on the lands, comprising the aforesaid Parcel C;
 - (d) notwithstanding the provisions of paragraphs (b) and (c) of this subsection, not more than 59,366 square metres of *residential gross floor area*, is erected or used on the lands comprising the aforesaid Parcel B and Parcel C;

- (e) notwithstanding the provisions of paragraphs (b) and (c) of this subsection, the total amount of *non-residential gross floor area*, in the aggregate, erected or used on the lands, comprising the aforesaid Parcel B and Parcel C does not exceed 236,539 square metres;
 - (f) notwithstanding the provisions of paragraphs (b) and (c) of this subsection, the total amount of combined *non-residential gross floor area* and *residential gross floor area*, in the aggregate, erected or used on the lands, comprising the aforesaid Parcel B and Parcel C does not exceed 240,396 square metres;
- (2) (deleted and not used);
 - (3) the *height* above *grade* of any building or structure erected or used on the Bay-Adelaide Lands does not exceed the *heights* above *grade* shown on Map B attached to and forming part of this By-law;
 - (4) the buildings erected or used on the Bay-Adelaide Lands contain *street related retail and service uses* facing a minimum aggregate length of:
 - (a) 95 metres of *frontage* on Temperance Street;
 - (b) 20 metres of *frontage* on the south side of Richmond Street West;
 - (c) 90 metres of *frontage* on the north side of Richmond Street West;
 - (d) 90 metres of *frontage* on the south side of Queen Street West; and
 - (e) 90 metres of *frontage* on Yonge Street;
 - (5) the owners of the Bay-Adelaide Lands, at their sole expense shall provide those matters set out in this paragraph (5) and those matters set out in Appendix “1” to this By-law, in accordance with and subject to the agreements referred to in paragraph (6) of this subsection and the said Appendix “1”:
 - (a) maintain, restore and conserve the buildings located on the lands comprising the aforesaid Parcel A;
 - (b) maintain, restore and conserve the *façade* of the building located on the lands comprising the aforesaid Parcel C and municipally known in the year 1988 as 17 Temperance Street, which *façade* may be relocated on the south side of Temperance Street;
 - (c) maintain, restore and conserve the *façade* of the building located on the lands comprising the aforesaid Parcel C and municipally known in the year 2006 as 347 Bay Street;

- (d) provide not less than 5,200 square metres, in the aggregate, of *common outdoor space* and *public park* on the Bay-Adelaide Lands, including:
- (i) convey to the City, for a nominal consideration, in fee simple, for the purpose of a *public park*, an area not less than 2,183 square metres, located within the portion of the lands comprising Parcel B and marked “Area 1” on the aforesaid Map A, to be permanently improved by the owners, including any temporary improvements thereto which may be required, in accordance with the agreements referred to in paragraph (6) of this Subsection;
 - (ii) *common outdoor space*, not less than 1,072 square metres in area, on the lands comprising the aforesaid Parcel C;
- (e) convey to the City, for social housing purposes and for a nominal consideration, on or before January 31, 1989, the lands known municipally in the year 1988 as 108 Mutual Street (the “Sears Warehouse Building”);
- (f) in the event the conveyance referred to in paragraph (e) of this subsection is not completed on or before January 31, 1989, and upon the election of the Council of the City, pay to the City the amount of \$32,835,000 for *social housing* purposes;
- (g) provide and maintain one or more works of art in the publicly accessible portions of the Bay-Adelaide Lands, of a value of not less than 1% of the gross construction cost, indexed annually, of all buildings and structures erected on such lands after the date of passing of this by-law, to be paid or the *art* plan approved at time of first above grade building permit, provided that all such costs related to:
- (i) the restoration of buildings described in Paragraphs (a), (b) and (c) of this subsection;
 - (ii) the *public pedestrian walkways* and the publicly accessible open space required by Appendix “1” of this By-law on such lands;
- shall not be included in such valuation;
- (h) provide and maintain, in accordance with the agreement or agreements referred to in Section 4(6) hereof:
- (a) direct access to public transportation, by means of a north/south *public pedestrian walkway*, located below

grade, from the Queen Street West subway station to the building municipally known in the year 1988 as 40 King Street West;

- (b) direct access to public transportation, by means of an east/west *public pedestrian walkway*, located below *grade*, from the Queen Street West subway station, through the building known municipally in the year 1988 as 176 Yonge Street, to the west side of Bay Street;
- (c) direct access to public transportation, by means of a east/west *public pedestrian walkway*, located below *grade*, and with a minimum width of six metres from the north/south *public pedestrian walkway* between Temperance Street and Adelaide Street West, to the west wall of the building municipally known in the year 2006 as 335 Bay Street;
- (d) located below *grade* within the lands comprising Temperance Street and the aforesaid Parcel B and Parcel C, and not within the lands comprising the aforesaid Parcel A, not less than 5 *loading spaces – Type A* and either: 15 *loading spaces – Type B*, or 14 *loading spaces – Type B* and 1 *Loading space – Type G* in the event the Bay-Adelaide Lands contain 30 or more *dwelling units*; and
- (e) in addition to the *parking spaces* required to be provided and maintained on the Bay-Adelaide Lands pursuant to Section 4(5) of the aforesaid By-law No. 438-86, and paragraph (f) hereof, not less than 9 courier *parking spaces*; and
- (f) unless a lower standard is accepted by the City, in addition to the *parking spaces* to be provided in accordance with Section 4(5) of By-law No. 438-86, as amended, the *owner* shall provide additional *parking spaces* (a maximum of two of such additional spaces may have dimensions of 2.4 metres by 5.9 metres) as necessary to meet the following minimum parking standards:

Dwelling unit – one 0.7 *parking spaces/dwelling unit bedroom*

Dwelling unit – two 1.0 *parking spaces/dwelling unit bedroom*

- (6) the *owner* of the Bay-Adelaide Lands enter into one or more agreements with the City pursuant to Section 36 of the *Planning Act*, 1983 (or its successor being the *Planning Act*, R.S.O. 1990, c.P. 13,) and pursuant to

Section 37 of the *Ontario Heritage Act*, to secure the facilities, services and matters referred to in Section 4(5) hereof and in Appendix “1” hereof and consent to such agreements being registered on title to the Bay-Adelaide Lands;

- (7) the buildings and parts of buildings referred to in Sections 4(5)(a), 4(5)(b) and 4(5)(c) of this By-law continue to be erected; and
- (8) for the purposes of Sections 4(5)(a), 4(5)(b), 4(5)(c) and Section 4(7) hereof, in the event that any substantial portion of any building referred to therein is destroyed or irreparably damaged by any cause not attributable to the deliberate act or omission of the owners of the Bay-Adelaide Lands, it shall be nevertheless deemed to be continued to be maintained, restored, conserved and erected for the purposes of this by-law, provided the owners of the Bay-Adelaide Lands:
 - (a) rebuild such buildings or the *facades* of such buildings in accordance with and subject to the agreements referred to in Section 4(6) of this By-law; and
 - (b) pay to the City the following sums, in accordance with and subject to the provisions of the aforesaid agreement pursuant to Section 36 of the *Planning Act*, 1983, for the purposes of preserving heritage buildings in the City of Toronto:
 - (i) in the case of the building referred to in Section 4(5)(a) hereof – \$8,125,000; and
 - (ii) in the case of the building referred to in Section 4(5)(b) hereof – \$1,525,000.”

6. *By-law No. 998-88*, is hereby further amended by deleting the definition of the term *height* in Section 6(2) and substituting therefore the following:

“for the lands delineated as PARCEL B on Map A, *height* has the same meaning as such term has for the purposes of the aforesaid By-law No. 438-86, but any antennae, flag poles, lighting rods or unenclosed supporting structures shall be excluded from such calculation,

and

for the lands delineated as PARCEL C on Map A, *height* has the same meaning as such term has for the purposes of the aforesaid By-law No. 438-86, except that any rooftop facilities permitted to be excluded from the calculation of *height* pursuant to Section 4(2)(a) shall be included in such calculation, but any antennae, flag poles, lighting rods or unenclosed supporting structures shall be excluded from such calculation.”

7. *By-law No. 998-88*, is hereby further amended by deleting Map A and Map B attached thereto and substituting therefore Map A and Map B attached hereto and forming part of this By-law and by applying the term “Bay-Adelaide Lands” to have the same meaning as the term *Bay Adelaide Lands* in this By-law, namely the lands comprising “Parcel A”, “Parcel B” and “Parcel C” delineated by the Heavy Lines on Map A attached to and forming part of this By-law.

8. *By-law No. 998-88*, is hereby further amended by adding the following provision to Section 6(2),

“For clarity, the term “Bay-Adelaide Lands” means the lands comprising “Parcel A”, “Parcel B” and “Parcel C” delineated by the Heavy Lines on Map A attached to and forming part of this By-law.

9. *By-law No. 998-88*, is hereby further amended by adding as Appendix “1” thereto Appendix “1” attached hereto and forming part of this By-law.

ENACTED AND PASSED this 25th day of May, A.D. 2006.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

APPENDIX “1”

SECTION 37 PROVISIONS

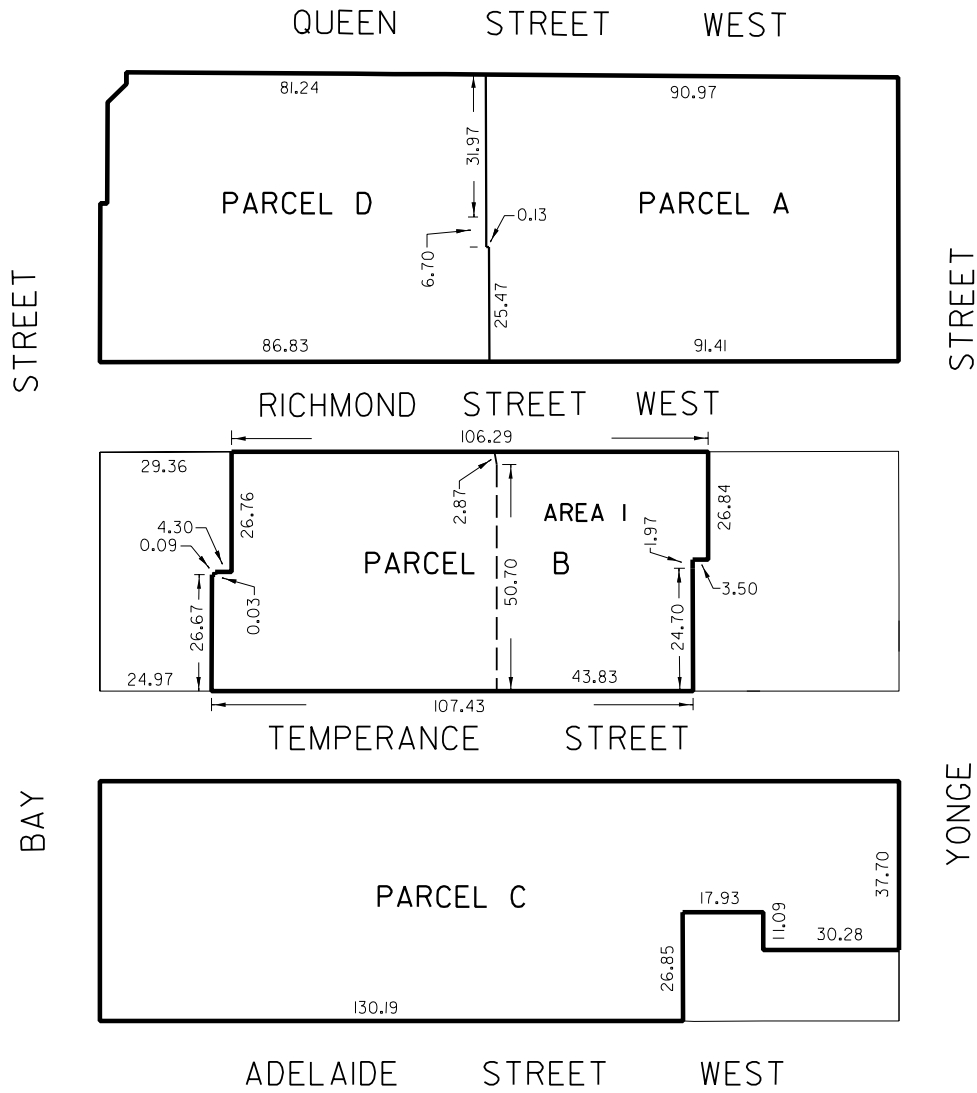
The owner of the *Bay Adelaide Lands* is required to enter into an agreement(s) with the City pursuant to Section 37 of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexed escalation of financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement, to secure, in addition to those matters set out in Section 4(5) of *By-law No. 998-88*, as amended by this By-law, the provision of the following facilities, services and matters, [unless released therefrom by the City (including the appropriate City Officials)]:

- a. The owner is to ensure that the phased development of the *Bay Adelaide Lands* complies with conditions to ensure the orderly development of the phasing of the lands;
- b. The owner shall provide space within the development for the construction of any required transformer vaults, Hydro, Bell maintenance and sewer maintenance holes;
- c. The owner shall provide a Conservation Plan for the reconstruction and restoration of 347 Bay Street (National Building), satisfactory to the Manager of Heritage Preservation Services or her designate;
- d. The owner shall provide and maintain within Parcel C a publicly accessible open space that provides a pedestrian connection from Temperance Street to Adelaide Street West; and, for buildings constructed after June 1, 2006, continuous weather protection, with a minimum clear width of three metres, subject to such encroachments for support columns as are acceptable to the Chief Planner, acting reasonably, on street frontages for Parcel B and C, and the publicly accessible open space located on Parcel C, with the exception of 347 Bay Street;
- e. The owner shall provide, satisfactory to the Chief Planner and Executive Director, City Planning Division: exterior materials for the podium along Bay Street, Adelaide Street West, Temperance Street and Richmond Street West; and landscaping materials;
- f. The owner shall provide and maintain an irrigation system for any proposed trees within the public road allowance if required by and satisfactory to the Executive Director, Technical Services and General Manager, Parks, Forestry and Recreation;
- g. The owner shall provide and maintain matters to permit the installation and mature growth of all proposed plant material;
- h. The owner shall agree that no vehicular lay-by drop-off / pick-up facility will be provided along the Temperance Street frontage for the development project;
- i. The owner shall provide revisions, if any, to the development to address the recommendations of a Pedestrian Level Wind Study;

- j. The owner shall provide revisions to the development, or a Letter of Credit, in accordance with the recommendations of a Street Lighting Assessment;
- k. The owner shall agree to the provision of knock-out panels within a new building on 335 Bay Street to accommodate a potential future connection to the PATH system on the west side of Bay Street and enter into and make all necessary improvements to the PATH system as required in the City's Wayfinding Agreement;
- l. The owner shall provide the City with documentation as to LEED certification of the development and the marketing materials that will include information on LEED certification;
- m. The owner shall, if required by the Chief Planner, prior to the issuance of a final building permit, complete a Toronto Transit Commission (TTC) Technical Review of the proposed development as applicable to the particular permit under application, and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall, if required by the Chief Planner, provide the required Bay Adelaide Lands information, and pay the associated review fee to the TTC and insert warning clauses regarding the TTC right-of-way in all sale documentation;
- n. The owner shall provide all driveways and passageways providing access to and egress from the loading spaces as required by the Director, Technical Services;
- o. The owner shall submit, for the review and approval of the General Manager of Transportation Services, documentation identifying the peak utilization of the 1,120 space parking facility currently located on the Bay Adelaide Lands;
- p. The owner shall pay or provide, prior to or as a condition of site plan approval, for any improvements to the municipal infrastructure should it be determined that upgrades to the infrastructure are required to support this development, according to the site servicing assessment accepted by the Executive Director of Technical Services;
- q. The owner shall submit a Transportation Demand Management Plan for approval by Director, Technical Services, prior to site plan approval.

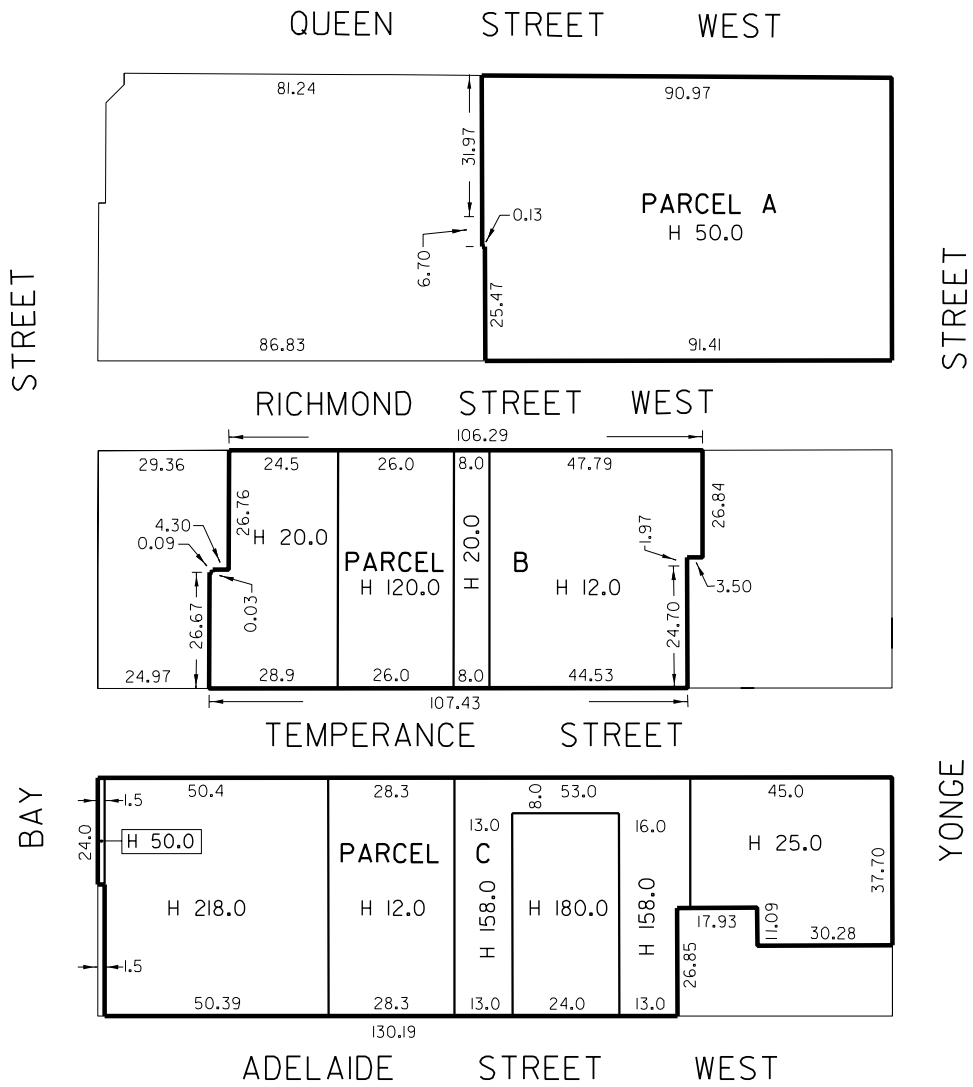
Notwithstanding the foregoing, the owner and the City may modify or amend the said agreement(s), from time to time and upon the consent of the City and the owner, without further amendment to those provisions of this zoning by-law which identify the facilities, services and matters to be secured.

MAP A



SURVEY AND MAPPING SERVICES
MAY 2006 DRAWN: VG
BL06/40ADELA1.DGN
FILE: A2-Z20
MAP No. 50G-323

MAP B



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



SURVEY AND MAPPING SERVICES
 MAY 18, 2006 DRAWN: VG
 BLO6/40ADELA2.DGN
 FILE: A2-Z20
 MAP No. 50G-323