

Authority: Toronto and East York Community Council Item 29.8, as adopted by
City of Toronto Council on November 30, December 1, 2, 4 and 7, 2009

Enacted by Council: December 4, 2009

CITY OF TORONTO

BY-LAW No. 1201-2009

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 5 and 9 St. Joseph Street, 606-618 Yonge Street and 11, 19 and 25 St. Nicholas Street.

WHEREAS the Council of the City of Toronto has been requested to amend its By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, with respect to lands municipally known in the year 2009 as 606-618 Yonge Street, 5 and 9 St. Joseph Street and 11, 19 and 25 St. Nicholas Street; and

WHEREAS the Council of the City of Toronto conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed zoning by-law amendment; and

WHEREAS Subsection 37(3) of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increase in the height or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, in return for the provision of such facilities, services and matters as are set out in the By-law; and

WHEREAS the *owner* of the land that is the subject of this By-law has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the density or height permitted hereunder, beyond that otherwise permitted on the land by By-law No. 438-86, as amended, are 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 such land and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Official Plan of the former City of Toronto contains provisions relating to the authorization of the height and density of development; and

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

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

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the following facilities, services and matters set out in Appendix 1 hereof, to the City as the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 4(1) of this By-law.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is 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 requirements.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, shall continue to apply to the *lot*.
4. None of the provisions of By-law No. 469-98 and Sections 4(2)(a), 4(5)(i)(iii), 4(8), 4(12), 4(17), 8(3) Part I 1, 8(3) Part I 3(a), 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 8(3) Part XI 2(i), 8(3) Part XI 2(iii), 12(2) 260(ii), 12(2)260(iii) 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 land 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 on the lands municipally known as 606-618 Yonge Street, 5 and 9 St. Joseph Street and 11, 19 and 25 St. Nicholas Street (hereinafter referred to as the *lot*), provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the *residential gross floor area* shall not exceed 37,100 square metres;
 - (c) the *residential gross floor area* and *non-residential gross floor area* shall not exceed 39,000 square metres;
 - (d) no portion of the building or structure erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 subject to the following:
 - (i) canopies, eaves, awnings and building cornices are permitted outside the heavy line shown on Map 2; and
 - (ii) balconies, lighting fixtures, ornamental or architectural elements, parapets, landings and associated railings, trellises, window sills, bay windows, guardrails, balustrades, mullions, railings, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features which may extend beyond the heavy lines shown on the attached Map 2.
 - (e) the *height* of any building or structure, or portion thereof, does not exceed those *heights* as indicated on the attached Map 2;
 - (f) a minimum of 1.6 square metres per unit of outdoor *amenity space* is provided;

- (g) notwithstanding Section 6(1)(f) and Section 8(1)(f) of By-law No. 438-86, the *mixed use building* may be used for uses permitted in Section 8(1)(f) in the chart for CR uses;
 - (h) maximum *non-residential gross floor area* permitted is 2800 square metres;
 - (i) a minimum of 239 *bicycle parking spaces* only shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
 - (i) for residents, not less than 191 *bicycle parking spaces – occupant*, to be provided on the first floor and on P1 to P4 (on P2, P3 and P4 a maximum of 20 *bicycle parking spaces* per floor are to be provided);
 - (ii) for visitors, not less than 48 *bicycle parking spaces – visitor* are provided and maintained only at *grade* and on the ground floor of a building containing *residential gross floor area*; and
 - (iii) *bicycle parking spaces* shall be common element and not combined with storage lockers for *dwelling units*.
 - (j) at least one *loading space – type G* shall be provided and maintained on the *lot*;
 - (k) at least one *loading space-type B* shall be provided and maintained on the *lot*;
 - (l) the *owner* of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the *Planning Act*, to secure the facilities, services and matters referred to in Appendix 1 attached to this By-law and that such an agreement be registered on title to the *lot*.
 - (m) the owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms, or be convertible to three more bedrooms;
5. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the lot.
6. For the purposes of this By-law,
- (a) *temporary sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;
 - (b) *grade* means 110.0 metres above Canadian Geodetic Datum; and
 - (c) each word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended.

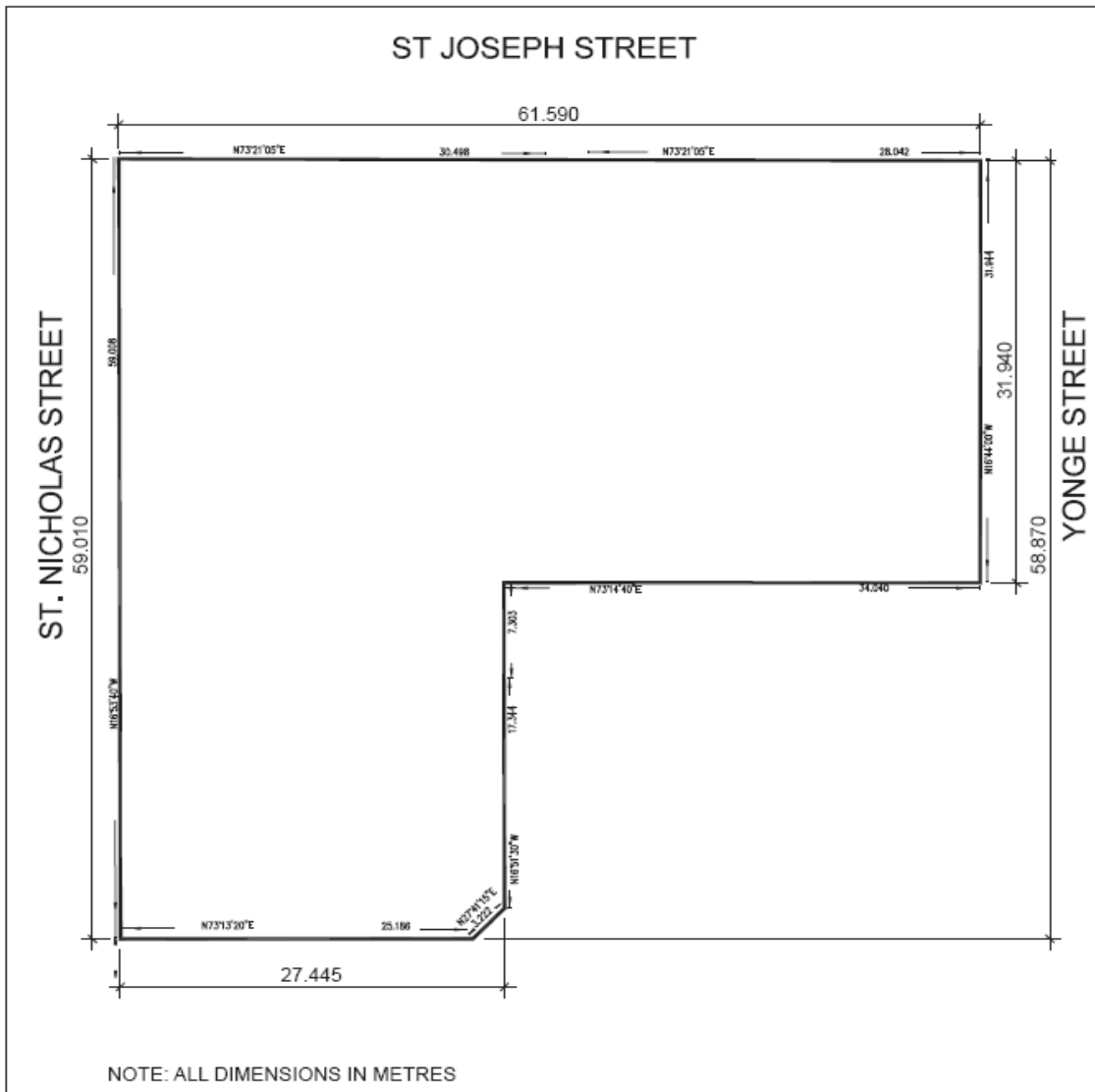
7. Building permit issuance with respect to the lands to which this By-law applies shall be dependant upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.

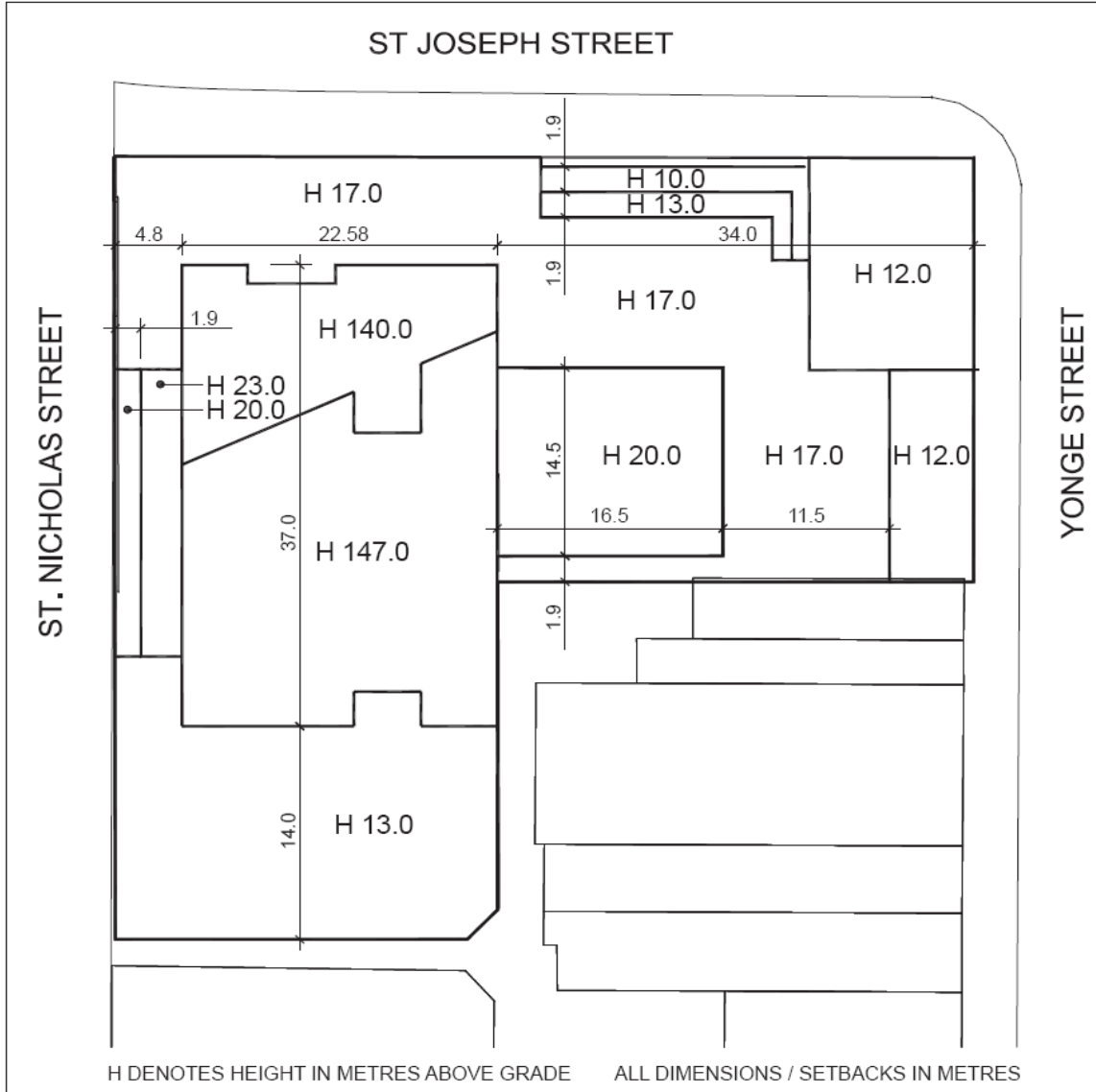
ENACTED AND PASSED this 4th day of December, A.D. 2009.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)





APPENDIX 1**Section 37 Provisions**

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* of the *lot* to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexed escalation of all financial contributions, no credit for development charges, termination and unwinding, and registration and priority of agreement:

The community benefits recommended to be secured in the Section 37 agreement are as follows:

- (a) Prior to the issuance of the first building permit, the owner shall file with the City irrevocable standby letters of credit in the form and from a financial institution acceptable to the City Solicitor to guarantee the satisfactory performance and completion of all works and obligations required pursuant to such agreements as the owner may be required to enter into and the said letters of credit shall be kept in full force and effect until all works and obligations have been fulfilled and satisfied.

The letters of credit shall be as follows:

- \$1,165,000 for the reconstruction and/or restoration of the heritage components of the building;
 - \$200,000 for local streetscape improvements to Yonge Street, St. Joseph Street and/or St. Nicholas Street (which may include street lighting improvements pursuant to (c) below). Any excess funds are to be directed to improvements to Queen's Park; and
 - \$135,000 for an art contribution for upgrades to the building exterior and/or streetscape and shall be designed by an artist retained by the owner.
- (b) Require that the amounts identified in (a) above shall be indexed annually in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the letters of credit by the owner to the City;
 - (c) Undertake a Street Lighting Study and pay for replacement lighting around the street frontage of the subject property to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

- (d) Architectural plans, elevations and landscaping including 1:50 scale elevations, will be secured to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the owner will be required to, in conjunction with each Site Plan Application submit 1:50 scale drawings in conformity with this requirement;
- (e) Provide and pay for any municipal service upgrades required to support the development as determined by the Executive Director of Technical Services as part of the required Site Servicing Review;
- (f) Provide continuous weather protection with a minimum clear depth of three metres on St. Joseph Street in accordance with the Conservation Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (g) The Owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director, date stamped August 13, 2009; and
- (h) Prior to final site plan approval, the owner will:
 - 1. Retain a consultant archaeologist, licensed by the Ministry of Culture under provisions of the *Ontario Heritage Act* (R.S.O 1990 as amended) to carry out a Stage 1 archaeological assessment of the entire development property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The assessment is to be completed in accordance with the Final Draft – Standards and guidelines for Consulting Archaeologists, September 2006, Ministry of Culture;
 - 2. Should the archaeological assessment process continue beyond a Stage 1 assessment, any recommendations for Stages 2-4 mitigation strategies must be reviewed and approved by Heritage Preservation Services prior to commencement of the site mitigation;
 - 3. No demolition, construction, grading or other soil disturbances shall take place on the subject property prior to the City's Heritage Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) confirming in writing that all archaeological licensing and technical review requirements have been satisfied;
 - 4. Enter into a Heritage Easement Agreement for the properties at 606-618 Yonge Street;

5. Submit a Conservation Plan to include drawings, to the satisfaction of the Manager of Heritage Preservation Services, that provide elevations and sections of all heritage building facades at 1:50 scale including, but not limited, to the following: (1) storefront design; (2) window specifications for all heritage façade elevations; (3) reconstruction plan for roof dormer/parapet/cornice details and (4) return side wall details;
6. Additional information shall be submitted, based on the proposed Conservation Strategy, to include documentation substantially in accordance with that outlined within Section 8.0 of the submitted Heritage Impact Statement. Specifically, a detailed plan shall also be submitted to outline mitigations measures that address construction impacts relative to the on-site heritage structures;
7. Amend the existing Heritage Easement Agreement registered on the site, Instrument No. E171218 dated June 1, 1998, at 5 St. Joseph Street and 9-15 St. Nicholas Streets, to address the proposed construction and permitted alterations;
8. As an existing north /south public lane is required to form part of the lot, pursuant to Section 114 of the *City of Toronto Act, 2006*, the owner shall obtain City Council's approval of the closure and sale of the public lane and shall complete such sale of such lane;
9. Submit to the Executive Director of Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;
10. Submit an Engineering Report to the satisfaction of the Manager of Heritage Services that advises on the project's constructability without displacing identified heritage resources; and
11. Submit a stormwater management report, a site servicing plan and site grading, drainage and landscape plans.