

Authority: Toronto and East York Community Council Report 4, Clause 6,  
as adopted by City of Toronto Council on May 23, 24 and 25, 2006  
Enacted by Council: May 12, 2010

## **CITY OF TORONTO**

### **BY-LAW No. 490-2010**

#### **To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 46-62 Spadina Avenue and 378 Wellington Street West.**

WHEREAS the Council of 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 lands known municipally in the year 2010 as 46-62 Spadina Avenue and 378 Wellington Street West; 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 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 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"); 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 in connection with the aforesaid land as 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 definition of *grade*, Sections 4(2)(a), 4(12), 4(16), 7(3) Part II 1, 7(3) Part II 7, 2(246)(a) and (c), 12(260) 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 building or buildings containing residential and/or non-residential uses on the *lot* and uses *accessory* thereto, provided:

- (a) The *lot* consists of the lands delineated by heavy lines on Map 1 attached to and forming part of this by-law;
- (b) The total combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 26,560 square metres, of which the *residential gross floor area* shall not exceed 26,020 square metres and the *non-residential gross floor area* shall not exceed 540 square metres;
- (c) No portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines, on the attached Map 2 except for the following:
  - (i) The projections identified in Section 7(3) Part II 7 of By-law No. 438-86, as amended, shall be permitted outside the heavy lines shown on Map 2 subject to the limitations contained therein; and
  - (ii) Section 1(c)(i) 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:

DRAFT ZONING BY-LAW	
STRUCTURE	MAXIMUM PERMITTED PROJECTION
Parapets	maximum 1.0 metre projection provided the height of such "STRUCTURE" is not greater than 1.5 metres above the height limits established in Section 1(e) of this By-law
eaves, cornices, ornamental or architectural elements, balustrades, mullions, window sills, bay windows	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
mullions, window sills, bay windows	"STRUCTURE" is no higher than that portion of the building to which it is attached
canopies and roof-top architectural feature	maximum 4.0 metre projection from the wall where it is attached, provided the height of such "STRUCTURE" is no higher than

	the portion of the building to which it is attached
stairs, stair enclosures, landings and associated railings	no restriction, provided the height of such "STRUCTURE" does not exceed 3.0 metres
Light standards and landscape features	no restriction in intent of projection or height of structure

- (d) No person shall erect or use a building or structure, on the *lot* having a greater *height* than the lesser of the *height* in metres specified by the numbers following the symbol H or the number of *storeys* specified by the numbers within brackets on the attached Map 2, except for the following:
- (i) A structure on the roof of the building used for outside open air recreation, safety or wind protection purposes may exceed the height limits shown on the attached Map 2 by no more than 3.0 metre, provided no part of the structure is less than 2.0 metres from an adjacent outside wall or a vertical projection of the wall and that such structure does not enclose space so as to constitute a form of penthouse or other room or rooms; and
  - (ii) the structural projections identified in section 1(c) of this By-law, subject to the limitations contained therein;
- (e) notwithstanding section 1(d) hereof, no person shall erect a building or structure having a *height* greater than;
- (i) 38.3 metres unless above such a *height*, a 3.0 metre setback is provided from the exterior wall facing the Spadina Avenue *lot* line. For the purposes of this section, exterior wall includes a main building wall or any other wall facing the Spadina Avenue *lot* line; and
  - (ii) 50.3 metres unless above such a *height*, a 4.5 metre setback is provided from the exterior wall facing the Spadina Avenue *lot* line;
- (f) a minimum of 465 square metres of indoor *residential amenity space* shall be provided on the *lot* in a multi-purpose room or contiguous multi-purpose rooms and at least one room in each of *building A* and *building B* shall contain a kitchen and a washroom. Such *residential amenity space* to be allocated as follows:
- (i) no less than 223 square metres shall be provided in *building A*; and
  - (ii) no less than 242 square metres shall be provided in *building B*;
- (g) a minimum of 448 square metres of outdoor *residential amenity space* shall be provided on the *lot* of which at least 40 square metres is to be provided in a location adjoining or directly accessible from an indoor *residential amenity space*;

- (h) Section 12(270) does not apply to the Wellington Street frontage;
2. Pursuant to Section 37 of the *Planning Act*, the heights of the development contemplated by 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*, the following facilities, services and matters to the City at the Owner's sole expense and in accordance with and subject to the agreement referred to in Section 2 hereof:
- (a) the amount of \$200,000 payable to the City of Toronto prior to the issuance of the first building permit for the development on the lot, the amount to be used for improvements to Clarence Square Park;
  - (b) a public art contribution in accordance with the City of Toronto's public art program of a value not less than one percent of the gross construction costs of all buildings and structures to be erected on the lot;
  - (c) the introduction of measures to improve sound quality within residential units, if required as recommended by an acoustic consultant to be engaged by the applicant. The sound mitigation measures shall be subject to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the project architect;
  - (d) building materials to be secured in an agreement pursuant to section 41 of the *Planning Act*, such Agreement to include 1:50 scale drawings for a portion of the podium along Spadina Avenue with building materials labelled and the drawings having a sufficient level of detail to illustrate how the building will be perceived by a pedestrian;
  - (e) prior to the issuance of site plan approval, the preparation of a comprehensive landscape plan for the site to the satisfaction of the Chief Planner and Executive Director, City Planning Division, such plan to integrate and maximize outdoor amenity opportunities on the *lot* through hard and soft materials, lighting and programming and shall include the 448 square metre outdoor *residential amenity space* referred to in Section 1(g) above, the hard surface area between the two buildings required for service vehicle turn movements, the perimeter landscape areas around the west building and the pedestrian walkway to Wellington Street West;
  - (f) submission of a Pedestrian Level Wind Study be secured in an Agreement pursuant to section 41 of the *Planning Act*, such Agreement to specify that any required wind mitigation measures shall be subject to the satisfaction of the Chief Planner, City Planning Division;
  - (g) the owner agrees to make revisions to the development or submit a Letter of Credit, if required, in accordance with the recommendations of a street lighting assessment;

- (h) the contributions contemplated in subsections 2(a) and 2b) shall be indexed to the Consumer Price Index from the date of execution of the first agreement under Section 37 of the *Planning Act*;
  - (i) the owner enters into an agreement with the City, satisfactory to the City Solicitor, pursuant to Section 37 of the *Planning Act* to secure all the facilities, services and matters required by this By-law, and such agreements shall be registered against title to the *lot*.
- 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.
- 4. None of the provisions of By-law No. 438-86 shall apply to prevent a sales office on the *lot* as of the date of the passing of this By-law or for a sales office in a sales trailer on the *lot*.
- 5. For the purposes of this By-law:
  - (a) Subject to section 5(b) below, 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;
  - (b) "*grade*" means 85.3 metres Canadian Geodetic Datum;
  - (c) "*building A*" and "*building B*" means Building A and Building B as shown on Map 2 attached hereto.

ENACTED AND PASSED this 12th day of May, A.D. 2010.

GLORIA LINDSAY LUBY,  
Deputy Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)



