

Authority: Toronto and East York Community Council Item 31.3,
as adopted by City of Toronto Council on February 22 and 23, 2010
Enacted by Council: May 12, 2010

CITY OF TORONTO

BY-LAW No. 517-2010

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto
with respect to lands municipally known as 295 Adelaide Street West and
100 to 104 John 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 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 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 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 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 any increase in the *height* of 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 hereinafter set forth; and

WHEREAS the increases in the density or *height* permitted hereunder, beyond those otherwise permitted on the lands by By-law No. 438-86, as amended, are to be permitted subject to 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; and

WHEREAS the Official Plan of the 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 to secure certain facilities, services and matters in return for the increases in *height* and density in connection with the aforesaid lands as permitted in this By-law;

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

1. This By-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
2. 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 including the provision by the *owner* of the *site* of the facilities,

services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 3 of this By-law.

3. Upon execution and registration of an agreement or agreements with the *owner* of the *site* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services or matters set out in Appendix 1 hereof, the *site* 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.
4. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
5. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *site*.
6. None of the provisions of Sections 4(2)(a), 7(3) PART II 1(i) and 3, 12(2)246(a) and 12(2)246(c) 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 or use of a *mixed-use building* on the *site* provided that:
 - (a) the *lot* on which the building is located comprises at least the *site*;
 - (b) the aggregate of the *residential gross floor area* and *non-residential gross floor area* erected and used on the *site* shall not exceed 43,400 square metres, subject to the following:
 - (i) the *residential gross floor area* shall not exceed 42,300 square metres;
 - (ii) up to an aggregate *non-residential gross floor area* of 1,100 square metres, comprising only the non-residential uses listed in the chart set forth in Section 7(2)(f)(b) (iv) and (vi) of By-law No. 438-86, as amended, shall be permitted;
 - (iii) despite subsection (ii) herein, the aggregate *non-residential gross floor area* erected and used on the *site* may exceed 1,100 square metres, provided such additional *non-residential gross floor area*,
 - a. is used only for the purposes of a *hotel* or suite hotel, and
 - b. the total aggregate *non-residential gross floor area* erected and used on the *site* shall not exceed 6,700 square metres;

- (c) for certainty, no person shall use the *site* or erect or use a building or portion of a building within the *site* for the purpose of an *entertainment facility – nightclub*;
- (d) no portion of the building or structure erected or used above *grade* on the *site* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, except for the following:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend to a maximum of 1.5 metres beyond the heavy lines shown on Map 2;
 - (ii) despite section 7(3) PART II 7 E of Zoning By-law No. 438-86, as amended, balconies may extend to a maximum of 2.0 metres beyond the heavy lines shown on Map 2 as measured perpendicular to the exterior walls of the building;
- (e) no portion of the building or any structure erected on the *site* shall have a greater *height* in metres that the *heights* in metres specified by the numbers following the symbol H on the attached Map 2, with the exception of the following:
 - (i) any parapets, terrace guards and dividers, planters, railings, decorative screens, chimney stack or other heating, cooling or ventilating equipment or window washing equipment, provided that the maximum *height* of the top of any such element is no higher than the sum of 1.8 metres and the applicable *height* limit shown on Map 2, and provided any such projection shall not exceed a *height* of 127.0 metres;
 - (ii) nothing shall prevent the erection or use of a structure on the roof of the building used for noise attenuation, outside or open air recreation, safety or wind protection purposes, provided that:
 - a. the maximum *height* of the top of the structure is no higher than the sum of 3.0 metres and the applicable *height* limit shown on Map 2, and provided the structure does not exceed a *height* of 128.0 metres;
 - b. no part of the structure, with the exception of terrace guards and dividers, planters, railings and decorative screens, is less than 2.0 metres from an adjacent outside wall or a vertical projection of the wall; and
 - c. the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;

- (iii) the sloping *roof-top architectural feature* shall have a downward south to north slope and shall not exceed a maximum *height* of 127.5 m at its northerly terminus and 135.3 m *height* at its southerly terminus as shown on Map 2;
- (iv) a mechanical penthouse shall be permitted only within the area outlined in the dashed line as shown on Map 2, and shall not exceed 5.5 m metres above the permitted 125.0 m *height*, provided that in all locations the mechanical penthouse remains below the sloped *height* of the *roof-top architectural feature*; and
- (v) a stairwell leading to an outdoor terrace on the roof of the podium shall be permitted only within the area having a *height* limit of 35.7 metres as shown on Map 2, and its maximum *height* shall be no more than the sum of 3.0 metres and the applicable *height* limit of 35.7 metres;
- (f) *parking spaces* for residential visitors shall be reserved and signed for the exclusive use of visitors to the residential portion of the building;
- (g) despite section 4(8) and 12(2)246(e)-(i) of Zoning By-law No. 438-86, as amended, at least one combined *loading space – type "G"* and *loading space – type "B"* shall be provided and maintained on the *site* if the non-residential gross floor area is less than or equal to 1,100 square metres, and at least one combined *loading space – type "G"* and *loading space – type "B"*, and one *loading space – type "B"* shall be provided and maintained on the *site* if the non-residential gross floor area, including a *hotel*, or a suite hotel, is greater than 1,100 square metres;
- (h) despite section 4(12) of Zoning By-law No. 438-86, as amended, a minimum of 800 square meters of *residential amenity space – outdoor* shall be provided on the *site*, of which at least 40 square metres shall be provided in a location adjoining or directly accessible from the indoor *residential amenity space*;
- (i) despite section 4(12) of Zoning By-law No. 438-86, as amended, a minimum of 2 square metres of indoor *residential amenity space* shall be provided for each *dwelling unit* located in a multi-purpose room or rooms in the building, at least one of which contains a kitchen and a washroom and is not less than 200 square metres in area;
- (j) indoor and outdoor *residential amenity space* may be shared between the *hotel* or suite hotel and the residential portion of the building, subject to the following:
 - (i) in the event that a *hotel* or suite hotel operates on the *site*, a minimum of 200 square metres of indoor *residential amenity space*, in a room or contiguous rooms, at least one of which contains both a kitchen and washroom, shall be reserved for the exclusive use of the residential portion of the building; and

- (ii) in the event that the *hotel* or suite hotel use ceases or changes to residential, all of the indoor and outdoor *residential amenity space* provided shall continue to be accessible to the condominium residents and may continue to be shared with another use contained within the building;
 - (k) a taxi stand for *hotel* or suite hotel use located wholly on private property shall be provided on the *site* if a *hotel* or suite hotel operates on the *site*; and
 - (l) *bicycle parking spaces – visitor* may be located at the exterior of the building in a bicycle rack or ring, and those exterior *bicycle parking spaces – visitor* will not be required to comply with the minimum dimensions as set out in section 2(1) Definitions and Interpretation of Zoning By-law No. 438-86, as amended, for a *bicycle parking space – visitor*;
7. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the *site*.
 8. The *owner* of the *site* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *site* have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below *grade* building permit which for clarity shall not include any permit for demolition, excavation or shoring.
 9. Despite any existing or future consent, severance, partition, or division of the *site*, the provisions of this By-law shall apply to the whole of the *site* as if no consent, severance, partition or division occurred.
 10. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions of this 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.
 11. For the sake of clarity nothing herein shall be interpreted as preventing the issuance of building permits required to repair or maintain the buildings existing on the *site* in 2009.
 12. For the purposes of this By-law, all italicized words and expressions have the same meanings as described in By-law No. 438-86, as amended, with the exception that the following expressions shall have the following meanings:

"*City*" means the City of Toronto;

"*Conservation Plan*" means the Conservation Plan prepared by Goldsmith Borgal & Company Ltd. Architects, dated June 17, 2009, together with the (Extended) Conservation Plan prepared by Goldsmith Borgal & Company Ltd. Architects, dated March 2010, and on file with the Manager, Heritage Preservation Services;

"*grade*" means 87.28 metres Canadian Geodetic Datum;

"*height*" means the vertical distance between *grade* as defined in this By-law and the highest point of the roof except for those elements prescribed in section 6(e) of this By-law;

"*owner*" has the same meaning as in Zoning By-law No. 438-86, as amended, except it shall not include the City;

"*roof-top architectural feature*" means a decorative, structural element located on the roof of the tower running parallel to John Street and sloping down from south to north;

"*site*" means the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;

"*temporary sales office*" means a temporary building, structure, facility or trailer on the *site* used for the purpose of the sale of the *dwelling units* to be erected on the *site*.

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

GLORIA LINDSAY LUBY,
Deputy Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)

Appendix "1"
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *site* at its expense 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 indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of the agreement:

1. Payment of the following by the *owner* to the *City*:
 - a. prior to the introduction of the bill to Council for this By-law, the sum of \$100,000.00 of which ten percent (10%) is to be used for affordable housing in Ward 20, and the remainder to be used for design development for the John Street streetscape and/or for one or more Heritage Conservation District studies within the East Precinct of the King-Spadina Secondary Plan Area;
 - b. prior to the issuance of an above *grade* building permit for the *site* or any portion thereof, the sum of \$500,000.00 of which ten percent (10%) is to be used for affordable housing in Ward 20, and the remainder of which is to be used for the provision of one or more of the following: streetscape improvements to John Street, design development supporting the John Street streetscape improvement initiative, and/or one or more Heritage Conservation District studies within the East Precinct of the King-Spadina Secondary Plan Area; and
 - c. prior to condominium registration for the *site* or any portion thereof, the sum of \$700,000.00 of which ten percent (10%) is to be used for affordable housing in Ward 20, and the remainder of which is to be used for the provision of one or more of the following: streetscape improvements to John Street, design development supporting the John Street streetscape improvement initiative, and/or one or more Heritage Conservation District studies within the East Precinct of the King-Spadina Secondary Plan Area.

Such cash amounts to be indexed upwardly 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 payment of the sum by the *owner* to the *City*.

2. Relocation and restoration of the existing heritage building at 104 John Street by and at the sole expense of the *owner*, including any expenses associated with any amendment or re-designation resulting from the relocation, in substantial accordance with the *Conservation Plan*, to be completed prior to the earliest of 5 years from the issuance of the first demolition or alteration permit required under the *Ontario Heritage Act* for the *site*, or condominium registration for the *site* or any portion thereof, to the satisfaction of the *City's* Manager of Heritage Preservation Services. In the event of a lesser expenditure for the restoration work than identified in the *Conservation Plan*, the difference shall be

re-directed to Heritage Conservation District Studies within the King-Spadina East Precinct.

3. Provision by the *owner*, prior to the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006, or to the issuance of any building permit for the *site* or any portion thereof, including for demolition, excavation, shoring, foundation or above *grade*, of additional information based on the proposed *Conservation Plan* drawings to include documentation substantially in accordance with that outlined in Section 3.2.1 Option A (page 12) of the *Conservation Plan*, specifically:
 - (i) a detailed plan to outline mitigation measures that address construction impacts relative to the on-site heritage structures;
 - (ii) plans for interpretive panels or other interpretive materials to communicate the development history of the property including the research content, design and location of the interpretive materials. The interpretation plan shall include panels or materials at both the existing location of the heritage building and the proposed location within the *site*. All above components of the plan shall be to the satisfaction of the *City's* Manager of Heritage Preservation Services; and
 - (iii) a landscape plan for the *site*, to the satisfaction of the *City's* Manager of Heritage Preservation Services.
4. Provision by the *owner*, prior to the issuance of any site plan approval for the *site* or any portion thereof pursuant to Section 114 of the *City of Toronto Act*, 2006, of a program of commemoration/interpretation of archaeological findings within the context of the *site's* development to the satisfaction of the *City's* Manager, Heritage Preservation Services.
5. Provision by the *owner*, prior to the issuance of any building permit for the *site* or any portion thereof, including for demolition, excavation, shoring, foundation or above *grade*, of final plans satisfactory to the *City's* Manager of Heritage Preservation Services.
6. Provision by the *owner* to the *City* of a letter of credit in a form satisfactory to the *City* Solicitor and in an amount satisfactory to the *City's* Manager, Heritage Preservation Services, to be indexed as set out in Section 1, in order to secure all work included in the *Conservation Plan*, prior to the issuance of any building permit for the *site* or any portion thereof, including for demolition, excavation, shoring, foundation or above *grade*.

Prior to the release of the letter of credit, the *owner* shall provide evidence and documentation that the project scheme has been implemented, per the *Conservation Plan*, to the satisfaction of the *City's* Manager, Heritage Preservation Services.
7. Confirmation from the *owner* prior to the issuance of any below *grade* permits, including excavation and shoring for the *site* or any portion thereof, to the satisfaction of the *City's* Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) that all archaeological licensing and technical review requirements have been completed.

8. Provision and maintenance of works of public art in publicly accessible portions of the *site*, or on lands owned by the *City* in the vicinity, of a value not less than one percent of the gross construction costs of the development, in accordance with the *City's* Percent for Public Art Program.
9. Construction, provision and maintenance of a publicly accessible landscaped open space on the John Street frontage of the *site*, with a minimum size of 335 square metres, generally as shown in Map 2 of this By-law, to the satisfaction of the *City's* Chief Planner, construction to be completed prior to the earliest of 6 months from first occupancy or condominium registration, to be secured by means of an easement in favour of the *City* over the 335 square metres of publicly accessible landscaped open space, such easement to be granted prior to the earliest of 6 months from first occupancy or condominium registration for any portion of the *site*, to the satisfaction of the *City* Solicitor.
10. Provision of a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms, or being readily convertible to having three or more bedrooms.
11. Provision by the *owner* of architectural plans, elevations and landscape drawings to the satisfaction of the Chief Planner and Executive Director, *City* Planning Division, including submission by the *owner* of 1:50 scale elevation drawings for the podium illustrating materials and finishes to the satisfaction of the Chief Planner and Executive Director, *City* Planning Division prior to any site plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006 for the *site* or any portion thereof.
12. Incorporation in the construction of the building by the *owner*, and thereafter, maintenance of the exterior building and landscape materials by the *owner* to the satisfaction of the *City's* Chief Planner and Executive Director.
13. The *owner* building in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director of *City* Planning Division, received May 4, 2009 and providing documentation respecting its implementation to the *City's* Chief Planner prior to condominium registration for the *site* or any portion thereof.
14. Payment for and construction of any improvements to the municipal infrastructure required to support the development, as set out in the functional servicing report submitted by the applicant and reviewed and accepted by the *City's* Executive Director of Technical Services, details to be determined and secured in the course of the site plan approval process and in a site plan agreement prior to any site plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006 for the *site* or any portion thereof.
15. Submission of a wind study to the satisfaction of the Chief Planner and Executive Director, *City* Planning Division, and provision and implementation of any wind mitigation measures required therein, to the satisfaction of the Chief Planner and Executive Director, *City* Planning Division, prior to the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act*, 2006 for the *site* or any portion thereof.

16. Provision and maintenance of an irrigation system, at the applicant's expense, for proposed trees within the public road allowances including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the *City's* Executive Director, Technical Services Division, and requirement to maintain in good order and operation.
17. Prior to the issuance of any below *grade* building permits for the *site* or any portion thereof, including for excavation and shoring, the *owner* shall have obtained strata title up to a maximum height of 125.0 metres above *grade* of the land shown on Maps 1 and 2 and labelled "Lane".
18. The *owner* of the *site* entering into and registering on title to the *site* one or more agreements with the *City* pursuant to Section 37 of the *Planning Act*, to the satisfaction of the *City* Solicitor, in consultation with the Chief Planner and Executive Director, *City* Planning Division, to secure the facilities, services and matters set forth in this Appendix 1.



