

Authority: Toronto and East York Community Council Item 31.4,
as adopted by City of Toronto Council on February 22 and 23, 2010
Enacted by Council: July 8, 2010

CITY OF TORONTO

BY-LAW No. 787-2010

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 2 Bloor Street West.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended (the "*Planning Act*"), 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 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 By-law No. 438-86, as amended (the "Zoning By-law"), 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 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 or matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services or matters as are hereinafter set forth; and

WHEREAS the increase in the height and density permitted hereunder, beyond those otherwise permitted on the lands by the Zoning By-law, as amended, are to be permitted subject to the provision of the facilities, services or 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 City 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 or matters in connection with the aforesaid lands set forth in this By-law in return for the increases in height and density set forth in this By-law;

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

1. This By-law applies to the lot comprising *Parcel A* and *Parcel B* shown outlined by heavy dashed 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 *lot* 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 referenced in Section 3 of this By-law.
3. 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 or 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.
4. Except as otherwise provided herein, the provisions of the Zoning By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of Section 2 with respect to the definitions of *grade*, *lot* and *owner*, and Sections 4(2)(a), 4(5)(b) and (h), 4(8), 4(12), 4(13), 4(14)(a), 8(3) PART I 1, 2 and 3(a), 8(3) Part III 1(a), 12(2)259 and 12(2)260, 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 and other matters relating to buildings and structures and to prohibit certain uses of land 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* containing *dwelling units*, uses permitted in Section 8(b)(iv) and (vi) and above-grade parking facilities for such dwelling units, on the lands comprising *Parcel A* on Map 1, together with the use of the building in existence on January 1, 2010 the lands comprising *Parcel B* on Map 1 on January 1, 2010 for uses permitted in Section 8(b)(iv) and (vi) of the Zoning By-law, are permitted, provided:
 - (1) the *lot* consists of at least the lands identified as *Parcel A* and *Parcel B* on the attached Map 1;
 - (2) the aggregate amount of the *residential gross floor area* and the *non-residential gross floor area* erected and used on *Parcel A* does not exceed 79,650 square metres, of which:
 - (a) not more than an aggregate of 17,900 square metres of *residential gross floor area*, excluding parking, is erected or used on that portion of Parcel identified on the attached Map 3 as the *Yonge Residential Tower* (the "Yonge Residential Tower");
 - (b) not more than an aggregate of 34,750 square metres of *residential gross floor area*, excluding parking, is erected or used on that portion of Parcel A identified on Map 3 as the *Cumberland Residential Tower* (the "Cumberland Residential Tower");

- (c) not more than an aggregate of 3,400 square metres of *residential gross floor area*, excluding parking, is erected or used on that portion of Parcel A identified on the attached Map 3 the *Elevated Villas*("the Elevated Villas");
 - (d) not more than an aggregate of 13,100 square metres of *residential gross floor area* is erected or used for above-grade parking purposes; and
 - (e) the *non-residential gross floor area* erected is used only for *street-related retail and service uses* and/or publicly accessible pedestrian connections and does not exceed an aggregate of 10,500 square metres.
- (3) no above *grade* portion of any building or structure is located otherwise than wholly within the areas delineated by heavy dashed lines as shown on the attached Map 2 attached with the exception of the following:
- (a) canopies and awnings projecting not more than 5 metres;
 - (b) foliage and any devices used to attach such foliage to any living green wall, parapets, trellises, window sills, bay windows and window projections, signage, railings, eaves, building cornices, ornamental or architectural elements, balustrades, mullions and window sills projecting not more than 1 metre and which are no higher than that portion of the building to which they are attached;
 - (c) guardrails no higher than 3 metres above finished ground level and lighting fixtures projecting not more than 2 metres;
 - (d) stairs, stair enclosures, uncovered platforms and wheelchair ramps provided the height of such structures does not exceed 2 metres above finished ground level;
 - (e) *public art* features provided they are approved by the City; and
 - (f) a display space measuring a maximum of 8.3 metres in width and 6.8 metres in height, which does not contain occupiable *residential gross floor area* or *non-residential gross floor area* and projecting not more than 3.4 metres from the main wall of the building at the second and third storeys, provided it is constructed a minimum of 9.5 metres above grade on the west face of any building constructed on the *Parcel A* pursuant to this By-law, as identified on Map 2.
- (4) no person shall erect or use a building or structure on the *lot* having a greater *height* than the *height* limits specified by the numbers in metres as shown on Map 2 exclusive of the rooftop structures and equipment permitted by Sections 5.c, 5.e and 5.f of this By-law;

- (5) stair towers, elevator shafts, chimney stacks, communication equipment, generators or other power, heating, cooling, or ventilating equipment or window washing equipment on the roof of any building or fences, walls or structures enclosing such elements, are permitted on *Parcel A*, except on the Elevated Villas, provided the maximum *height* of the top of such elements or enclosures is no higher than:
 - (a) the sum of 10.6 metres and the *height* limit specified on Map 2 for the *Cumberland Residential Tower*; and
 - (b) the sum of 6.3 metres and the height limit specified on Map 2 for the *Yonge Residential Tower*.
- (6) structures on the roof of any portion of a building used which are used for outside or open air recreation, safety, or wind protection purposes, including landscape garden amenities and green roofs are permitted, provided:
 - (a) the maximum *height* of the top of such structures is no higher than the sum of 3.0 metres and the *height* limit specified on Map 2;
 - (b) no part of the structure is less than two metres from an adjacent outside wall or a vertical projection of the wall; and
 - (c) the structures do not enclose space so as to constitute a form of penthouse or other room or rooms.
- (7) at least 50% of the Cumberland Street frontage of any portion of the building located on the Elevated Villas portion of Parcel A above the podium is set back a minimum of 2.5 metres from the north lot line;
- (8) subject to Section 5(9) below, the minimum number of *parking spaces* provided and maintained on *Parcel A* for the exclusive use of the residents of such parcel shall be in accordance with the following:
 - (a) 0.285 spaces for each bachelor *dwelling unit*;
 - (b) 0.475 spaces for each one-bedroom *dwelling unit*;
 - (c) 0.725 spaces for each two-bedroom *dwelling unit*; and
 - (d) 1.2 spaces for each three or more bedroom *dwelling unit*.
- (9) for each car-share parking space provided on the *Parcel A*, the minimum required resident parking required shall be reduced by 4 *parking spaces*, such reduction not to exceed 24 resident parking spaces irrespective of the number of car-share parking spaces provided;

- (10) a minimum of 376 *bicycle parking spaces* shall be provided and maintained on the *Parcel A*, to serve *dwelling units* on such lands, in accordance with the following:
 - (a) a minimum of 301 *bicycle parking space - occupant*;
 - (b) a minimum of 75 *bicycle parking space - visitor*; and
 - (c) a maximum of 188 *bicycle parking spaces* shall require bicycles to be parked in a vertical position.
- (11) a minimum of 8 *bicycle parking spaces* shall be provided and maintained on *Parcel A*, to serve non-residential uses on such lands, in accordance with the following:
 - (a) a minimum of 6 *bicycle parking space - occupant*;
 - (b) a minimum of 2 *bicycle parking space - visitor*; and
 - (c) a maximum of 3 *bicycle parking spaces* shall require bicycles to be parked in a vertical position.
- (12) no *change rooms* for bicycle parking shall be required in any building or structure erected on *Parcel A*;
- (13) *parking spaces* provided pursuant to this By-law shall comply with the parking space dimensional requirements noted in Section 4(17) of By-law No. 438-86, as amended, with the exception that parking spaces provided in excess of the quantity required in subsection h. above, which may include tandem or small car spaces, will not be subject to Section 4(17);
- (14) a minimum of 8 *handicap parking spaces* shall be provided and maintained on *Parcel A* in an *above-grade parking garage*, with all such spaces for the exclusive use of residents;
- (15) *handicap parking spaces* provided pursuant to this By-law shall not be less than 3.66 metres in width and 5.6 metres in length;
- (16) no *parking spaces* shall be required to be provided on the *lot* or off-site for any *existing buildings* or any portion thereof remaining on the *lot* after the date of enactment of this by-law or to service any of the non-residential uses occurring on the *lot*;
- (17) no person shall erect or use a building or structure on the *Parcel A lot* unless *street related retail and service uses* are provided on the *lot* with at least 65 percent of the aggregate length of the portion of the *frontage* adjacent to Cumberland Street used for that purpose;

- (18) loading spaces shall be provided and maintained on *Parcel A* in accordance with the following:
 - (a) 3 *loading space – type B*;
 - (b) 3 *loading space – type C*; and
 - (c) 1 *loading space – type G*.
 - (19) the *owner* of the *lot* enters into and registers on title to the *lot* one or more agreements with the City pursuant to Section 37(3) of the *Planning Act*, to the City Solicitor's satisfaction, to secure the facilities, services and matters in Appendix 1.
6. None of the provisions of By-law No. 438-86, as amended, shall apply to prevent a *temporary sales office* on the *lot*.
7. Definitions:

For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in the said By-law No. 438-86, as amended, except for the following:

- (1) "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (2) "*car-share parking space*" means a parking space that is reserved and actively used for car-sharing;
- (3) "*Cumberland Tower*" means the residential tower to be constructed in the location more particularly identified on Map 3 to this By-law;
- (4) "*elevated villas*" means the residential dwellings to be constructed on the roof of a *mixed-use building* as more particularly identified on Map 3 to this By-law;
- (5) "*existing buildings*" means buildings or structures existing on the *lot* in the year 2009, as shown on Parcel B on Map 2;
- (6) "*grade*" means 116.00 metres Canadian Geodetic Datum;
- (7) "*lot*" means the lands outlined by heavy dashed lines comprising Parcel A and Parcel B on Map 1 attached to this Bylaw;

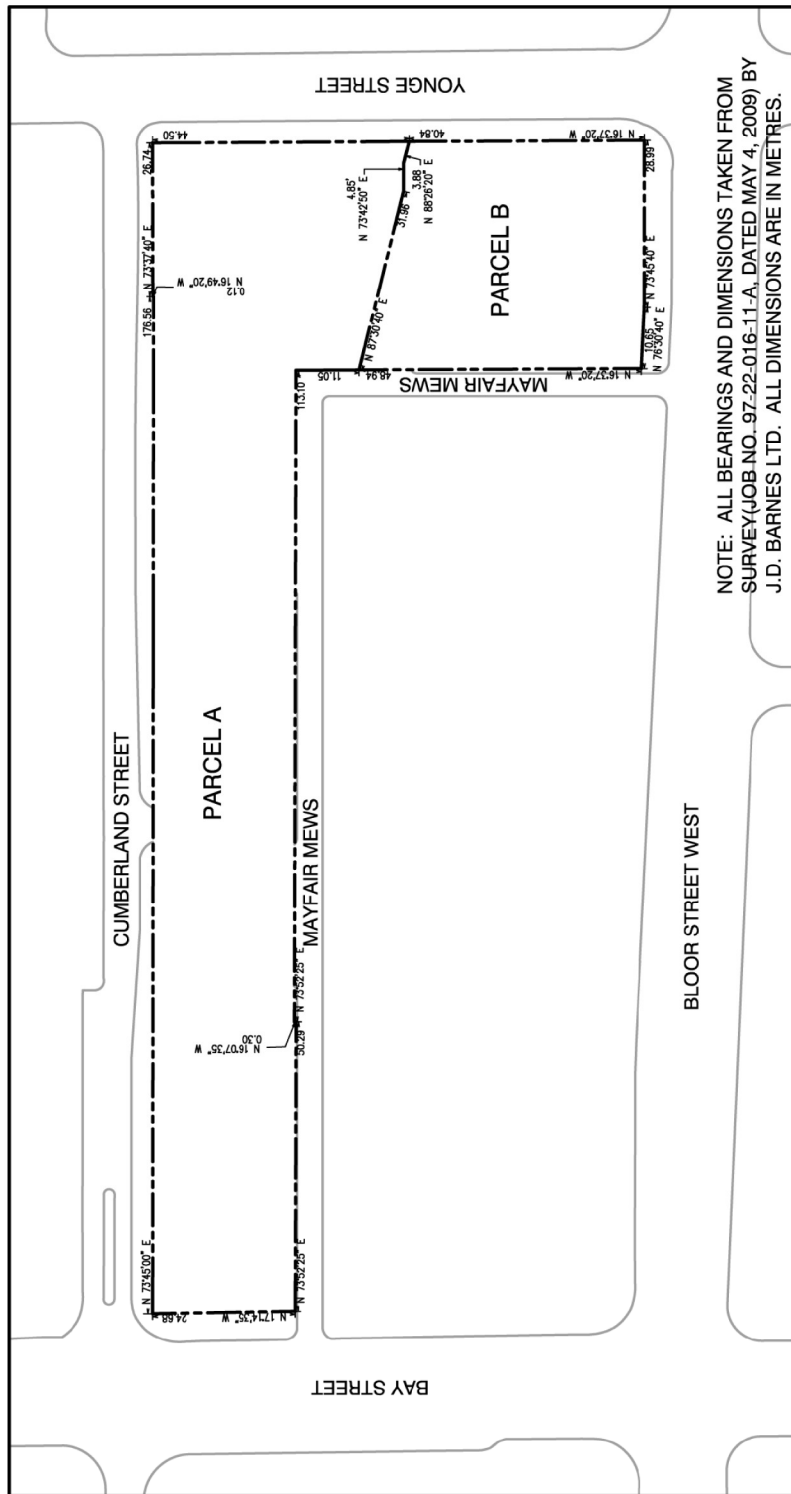
- (8) "*owner*" has the same meaning as in Zoning By-law No. 438-86, as amended, except it shall include a tenant of any part of the *lot* who leases any part of the *lot* directly from the City but shall not include the City;
 - (9) "*Parcel A*" means the lands more particularly identified as such on Map 1 to this By-law;
 - (10) "*Parcel B*" means the lands more particularly identified as such on Map 1 to this By-law;
 - (11) "*public art*" means works of sculptured art, works of visual and graphic art, sculptured landscaping, fountains, and artistic treatment of publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), clearly visible at all times from publicly accessible areas, including but not limited to flooring, structure, lighting and street furnishings, provided such elements of work have been designed by or in collaboration with artists and selected by a process and are in accordance with a program recommended by the Toronto Public Art Commission through the Chief Planner and approved by City Council;
 - (12) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of sale of dwelling units to be erected on *Parcel A*; and
 - (13) "*Yonge Tower*" means the residential tower to be constructed in the location more particularly identified on Map 3 to this By-law.
8. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall continue to apply to the whole of the *lot* as if no severance, partition or division occurred.
9. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in the Bylaw and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.
10. By-law No. 85-2001 is repealed.

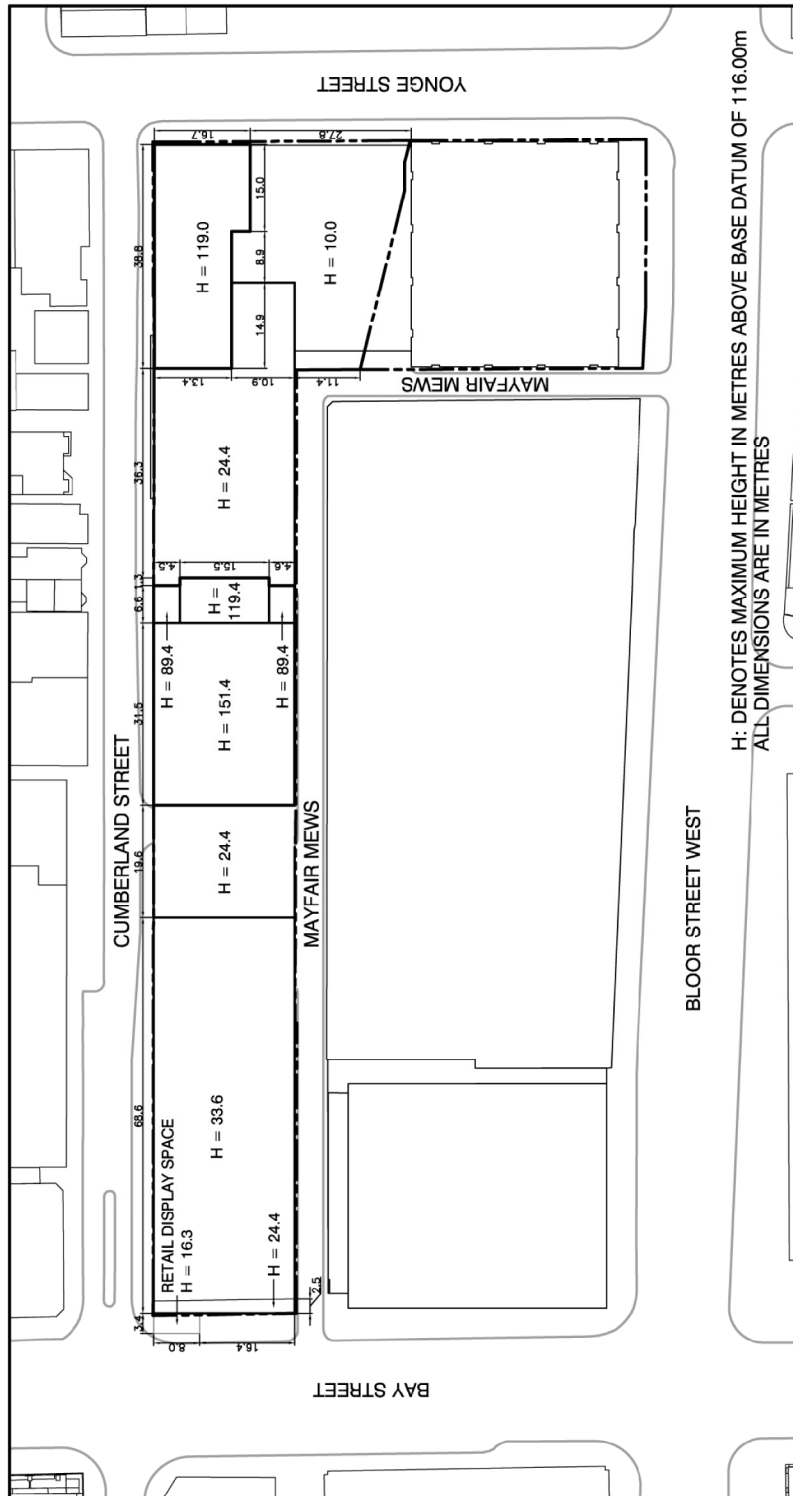
ENACTED AND PASSED this 8th day of July, A.D. 2010.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)





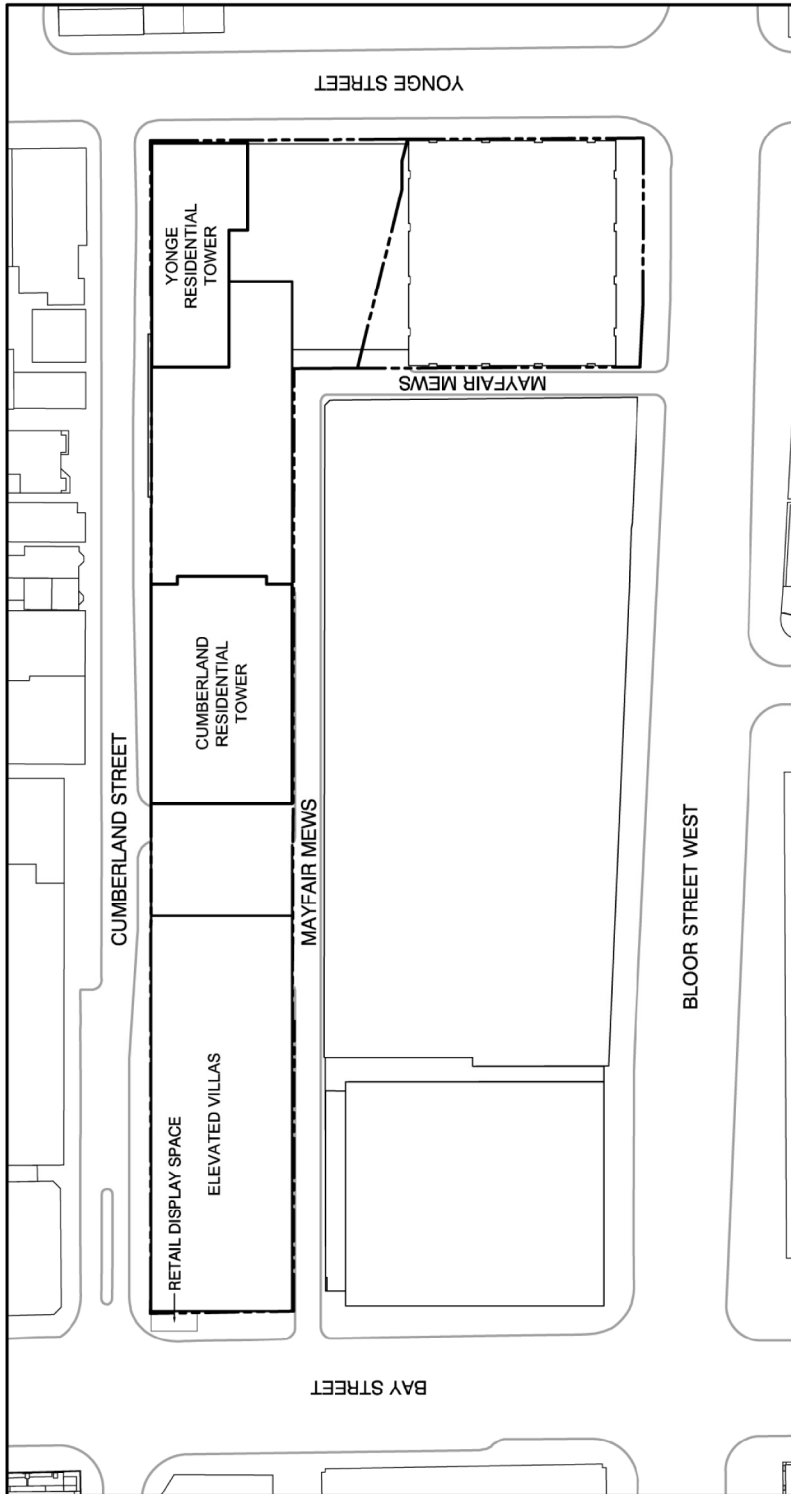
Toronto City Planning
Map 2

2 Bloor Street West

File # 08_176116



Not to Scale
01/22/2010



Appendix "1"

Section 37 Provisions

The facilities, services or matters set out herein are the 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, *inter alia*, indexing escalating of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- (a) a payment of \$500,000.00, to be used for the provision of streetscape and landscaping improvements to Bloor Street West and Bloor Street East in the vicinity of the *lot* described in this By-law, to be paid to the City within ten days of this by-law coming into full force and effect, with no site plan approval pursuant to s. 114 of the *City of Toronto Act, 2006* and no building permit for any portion of Parcel A to issue, including any demolition permit, until such payment is made. The payment shall be increased to reflect any increases in the non-residential Construction Price Index for Toronto, for the period from the coming into force of the By-law to the date of payment. 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 *lot* in 2009;
- (b) provision and maintenance of works of public art in publicly accessible portions of the *lot*, 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;
- (c) at the sole discretion of the City's Chief Planner and Executive Director, City Planning Division in consultation with the City's Executive Director, Technical Services for which the *owner* shall obtain approval in writing from the Chief Planner prior to the issuance of any site plan approval for any portion of the *lot* pursuant to Section 114 of the *City of Toronto Act, 2006*, either:
 - (i) maintenance of the existing below *grade*, publicly accessible pedestrian connection beneath Cumberland Street to the concourse level of the building permitted by this By-law together with the construction, provision and maintenance of a publicly accessible concourse-level corridor between such connection and the "Bay" Toronto Transit Commission subway station; or
 - (ii) construction, provision and maintenance of a new north-south corridor commencing at the concourse-level connection to the "Bay" Toronto Transit Commission subway station within the building permitted by this By-law and terminating at or near the north-west corner of the *lot*, together with the construction at the end of the terminus of such corridor of a "knock-out" panel allowing for a simplified connection to a future underground tunnel that may be constructed to connect other lands located further north on Bay Street; or

- (iii) such other alternative connection as the *owner* and the Chief Planner may agree upon in writing, with any such required corridors, connections and "knock-out panel" to be completed prior to the first occupancy of any building erected on the *lot* subsequent to the enactment of this by-law. For the sake of clarity, in the event the *owner* and the Chief Planner cannot agree on an alternative option as provided in clause (iii) herein, the *owner* shall provide either the option in paragraph (i) or (ii) as determined in the sole discretion of the Chief Planner. The *owner* shall provide a letter of credit to the City prior to the issuance of the first above *grade* building permit for any portion of the *lot* in an amount sufficient to secure these requirements, to the satisfaction of the Chief Planner in consultation with the Chief Building Official.
- (d) provision and maintenance of a continuous publicly accessible pedestrian connection from Bay Street, at grade, to the concourse level of the proposed building and connecting to the TTC subway station entrance access below Bay Street;
- (e) construction, provision and maintenance of a continuous publicly accessible pedestrian connection from Cumberland Street, at *grade*, to the concourse level of the *existing building* on *Parcel B* and connecting to the below-*grade* pedestrian connection located below Yonge Street leading to the "Bloor" Toronto Transit Commission subway station;
- (f) provision and maintenance of streetscape improvements adjacent to the *lot*;
- (g) approval of architectural plans, elevations and landscape drawings to the satisfaction of the Chief Planner and Executive Director, City Planning Division in conjunction with the Site Plan Application, and submission of 1:50 scale elevation drawings for the podium illustrating materials and finishes to be approved pursuant to Section 114 of the *City of Toronto Act, 2006*;
- (h) 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 Executive Director, Technical Services Division, and requirement to maintain in good order and operation;
- (i) the provision and maintenance of required wind mitigation measures, as identified in a wind tunnel analysis report submitted by the *owner* to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the incorporation of such measures into the plans and drawings to be approved pursuant to Section 114 of the *City of Toronto Act, 2006*;
- (j) preparation of a Construction Management Plan and Neighbourhood Communication Strategy to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Executive Director, Technical Services prior to the issuance of site plan approval;

- (k) payment of costs associated with the proposed conversion of Cumberland Street to two-way operation, from Bay Street up to the site access driveway, including all costs associated with the functional pavement marking and signing plan as may be approved by the City through site plan approval;
- (l) if prior to the issuance of site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, for the *lot* or any portion of thereof, City Council does not authorize the conversion of the portion of Cumberland Street adjacent to the vehicular access driveway proposed on *Parcel A* from one-way to two-way operation, the *owner* shall, prior to the issuance of site plan approval and prior to any building permit issuing for any portion of the *lot*, seek approval for the reconfiguration of the ground floor plan and parking garage of the proposed development so as to relocate the vehicular ingress/egress, or for the implementation of another suitable alternative access scheme, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Executive Director, Technical Services; and
- (m) Cumberland agrees that warning clauses shall be inserted in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration documents for each south-facing unit within the Cumberland Residential Tower and the Elevated Villas, to advise of the legal possibility that office or residential buildings may be erected on the lands south of the public lane which runs along the south property line of the Site, with undetermined height and massing.