

Authority: Toronto and East York Community Council Item 28.2, as adopted by City of Toronto Council on October 26 and 27, 2009 and Motion MM51.20, moved by Councillor Vaughan, seconded by Councillor Jenkins, adopted by City of Toronto Council on July 6, 7 and 8, 2010
Enacted by Council: July 8, 2010

CITY OF TORONTO

BY-LAW No. 849-2010

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 56 Blue Jays Way.

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 56 Blue Jays Way; and

WHEREAS the Council of the City of Toronto has provided adequate information to the public and conducted at least one public meeting in accordance with Section 34 of the *Planning Act*; 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 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 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;

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

1. The *owner* of the *lot* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *lot* 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.
2. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
3. None of the provisions of Sections 4(2)(a), 4(12), 4(14), 7(3) Part I 1, 7(3)Part II 1(i), 7(3) Part II 3, and 12(2)246(a) of Zoning By-law No. 438-86, of the former City of Toronto, as amended, 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 *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 aggregate *non-residential gross floor area* erected or used on the *lot* shall not exceed 11,600 square metres;
- (c) despite Section 12(2)270 of By-law No. 438-86, as amended, no single non-residential use permitted in sections 8(1)(f)(b)(iv) or 9(1)(f)(b)(iv) and (xi) of Zoning By-law No. 438-86, as amended, shall exceed a *non-residential gross floor area* of 1,800 square metres;
- (d) in the event that not less than 9,000 square metres of *non-residential gross floor area* is erected and used on the *lot*, then *residential gross floor area* not exceeding 24,600 square metres may be erected and used on the *lot* within a *mixed use building*;
- (e) the total of the *residential gross floor area* and the *non-residential gross floor area* erected or used on the *lot* shall not exceed 36,100 square metres;
- (f) for clarity, no *residential gross floor area* shall be permitted on the *lot* unless not less than 9,000 square metres of *non-residential gross floor area* is erected and used on the *lot*;
- (g) for certainty, no person shall use the lot or erect or use a building within the *lot* for the purpose of an *entertainment facility – nightclub*;
- (h) a minimum of 2 square metres of indoor *residential amenity space* per residential unit, and a minimum of 470 square metres of outdoor *residential amenity space* shall be provided on the lot, and subject to the following:
 - (i) Indoor and outdoor *residential amenity space* may be shared between the hotel and the condominium, with a minimum of 200 square metres of indoor *residential amenity space*, including a kitchen and washroom, reserved for the exclusive use of the condominium; and
 - (ii) In the event that the hotel use ceases or changes, 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 non-residential use.
- (i) a taxi stand for hotel use located wholly on private property shall be provided on the *lot*;
- (j) despite Section 12(2)246(e) of By-law No. 438-86, as amended, at least one *loading space - type "G"*, one *loading space - type "B"* and two *loading spaces - Type "C"* are provided on the lot;
- (k) no portion of the building or structure erected 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) 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; and
 - (ii) despite section 7(3) PART II 7 E of Zoning By-law No. 438-86, as amended, balconies shall not be permitted to project beyond the heavy lines shown on Map 2, except for within the area shown in hatching on Map 2 on the west face of the building, where balconies and architectural features may extend to a maximum of 2.0 metres beyond the heavy lines shown on Map 2.
- (l) the *height* of any building or structure, or portion thereof, including mechanical and elevator/stair overrun, does not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 2, subject to the following:
 - (i) the maximum height for parapets, terrace guards and dividers, planters, railings, decorative screens, and window washing equipment shall be the sum of 1.8 metres and the applicable height limit shown on Map 2, and provided that these projections will not extend beyond the highest *height* of the building; and
 - (ii) despite section (i), decorative windscreens may extend up to 5.5 metres beyond the *height* of 129 metres.
- 4. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provisions by the owner of the *lot*, of the facilities, services and matters set out in Section 6 of this By-law, the provisions of which shall be secured in an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
- 5. 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 facilities, services and matters set out in Section 6 of this By-law, the *lot* is subject to the provisions of this By-law, provided that in the event 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.
- 6. The facilities, services and 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 indexing of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of the agreement:
 - a. An indexed cash contribution of \$1,350,000 prior to the issuance of any above-grade building permit of which \$150,000 will be allocated to affordable housing in Ward 20, and the remainder for the provision of one of more of the following:

- i) capital improvements to non-profit arts, community and cultural facilities in Ward 20;
 - ii) streetscape improvements to John Street and/or Mercer Street; and
 - iii) Heritage Conservation District Studies in the King Spadina East Precinct subject to the appropriate Official Plan Amendment coming into force and effect, and design development supporting the John Street streetscape project.
- b. \$300,000 of the cash contribution is to be provided prior to the enactment of Bills, for the purpose of contributing to one or more Heritage Conservation District studies within the East Precinct of King-Spadina, subject to the appropriate Official Plan Amendment coming into force and effect, or design development for the John Street and/or Mercer Street streetscapes;
- c. A public art contribution of one percent of the gross construction cost;
- d. Prior to Site Plan Approval for the subject property, the owner shall:
 - i) submit additional information based on the proposed Conservation Strategy, to include documentation substantially in accordance with that outlined within Section 6.0 of the Implementation and Monitoring Plan of the Heritage Impact Statement, prepared by Rasseech Eckler Associates LTD, date stamped as received October 10, 2008 including an estimate of the costs associated with its execution, for the reconstruction and restoration of 56 Blue Jays Way façade to the satisfaction of the Manager of Heritage Preservation Services;
 - ii) amend the existing Heritage Easement Agreement registered on the *lot* to address the proposed construction and permitted alterations; and
 - iii) submit a Conservation Plan to include, but not necessarily be limited to revised drawings, to the satisfaction of the Manager of Heritage Preservation Services that provide: elevations and sections at 1:50 scale at the following locations for the applicable proposed elements: entry at the heritage façade elevation; return walls with detailing; new canopy; signage program at heritage façade if applicable; parapet and/or cornice details; and window specifications for the entire heritage façade elevation.
- e. In accordance with the Conservation Plan, the owner shall restore the heritage façade and in the event of a lesser expenditure than identified in the Conservation Strategy, the difference shall be re-directed to the provision of heritage studies of the King-Spadina East Precinct;
- f. Prior to the release of a building permit, including for demolition, excavation, shoring, foundation or above grade, the owner shall:
 - i) supply a Letter of Credit equal to the approved amount contained within the Conservation Plan; and

- ii) provide final plans satisfactory to the Manager, Heritage Preservation Services.
- g. 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 approved Conservation Plan, satisfactory to the Manager, Heritage Preservation Services;
- h. The owner shall enter into an agreement with the City of Toronto to provide one floor and not less than 7 units of rental housing within the development, for a minimum of 20 years and at rents that do not exceed the average market rent by unit type (for the City of Toronto) as reported in the most recent CMHC rental market report;
- i. A minimum of ten percent (10%) of the residential and rental units in the building have at least three bedrooms, or be designed in a manner to effectively accommodate a future three bedroom unit provided that a pair of adjacent dwelling units shall be counted as one dwelling unit containing three or more bedrooms where:
 - i) each of the adjacent *dwelling units* contain less than three bedrooms, and
 - ii) the two *dwelling units* are separated by knock-out panel(s) that would allow the two adjacent *dwelling units* to be combined into one *dwelling unit* containing three or more bedrooms.
- j. Should the owner decide to design rental units with three or more bedrooms, such units shall be counted towards the ten percent (10%) outlined in paragraph "i" above;
- k. Architectural plans, elevations and landscaping including 1:50 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 for the five storey podium;
- l. The owner shall incorporate in the construction of the building, and thereafter, maintain exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- m. The owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director, City Planning Division, date-stamped October 7, 2009;
- n. Prior to enactment of Bills, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a Functional Servicing Report to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;

- o. The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support the development;
 - p. The owner shall implement wind mitigation measures required by the applicant's wind study, revised to reflect the proposal as permitted in this by-law, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval; and
 - q. The owner shall provide and maintain in good order and operation 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.
7. For the purposes of this By-law, all italicized words and expressions shall have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following terms.

The following definitions replace the definitions in By-law No. 438-86, as amended:

"*entertainment facility – nightclub*" shall mean premises such as but not limited to a dancehall or discotheque, used in whole or in part to provide dance facilities for patrons, and where seating is not provided for the majority of patrons.

"*grade*" means 85.3 metres Canadian Geodetic Datum; and

"*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 this By-law.

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

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)



