

Authority: Etobicoke York Community Council Item 39.4, adopted as amended,
by City of Toronto Council on August 25, 26 and 27, 2010
Enacted by Council: August 27, 2010

CITY OF TORONTO

BY-LAW No. 1163-2010

To amend the General Zoning By-law No. 438-86 of the former City of Toronto and By-law No. 1-83 of the former City of York with respect to lands forming part of lands municipally known as 2464, 2474 and 2490 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, 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 City of Toronto By-law No. 438-86, as amended, and City of York Zoning By-law No. 1-83, 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 City of Toronto By-law No. 438-86, as amended, and City of York Zoning By-law No. 1-83, as amended, and 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 Schedule 'A' 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 by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for 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 referred to 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 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 requirement.
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 provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
6. None of the provisions of Section 2 with respect to the definitions of *grade* and *lot*, and Sections 4(2)(a); 4(4)(b); 4(6)(b); 4(6)(c); 4(10)(a); 4(12); 8(3) PART I, 1 and 3(a); and 8(3) PART II, 1(a)(i) of former City of Toronto By-law No. 438-86, as amended, titled "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", and none of the provisions of the former City of York Zoning By-law No. 1-83, as amended, titled "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 use of lands and the erection and use of certain buildings and structures in various areas of the City of York", shall apply to prevent the erection or use of a *mixed-use building* on the *lot*, provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Schedule 'A', attached to and forming part of this By-law;
 - (b) no above *grade* portion of a building or structure on the *lot* shall be located other than wholly within the areas delineated by heavy lines on the attached Schedule 'B', attached to and forming part of this By-law, except for the following:
 - (i) cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, wheel chair ramps, stairs, stair enclosures, vents, underground garage ramps and their associated structures, fences, screens, landscape and public art features; and,

- (ii) balconies on the north elevation only may extend to a maximum horizontal projection from an exterior building wall by a maximum of 2.0 metres beyond the heavy lines shown on Schedule 'B', with the exception that balconies are not permitted to project into the area on the *lot* shown as Area A on Schedule 'B';
- (c) the *height* of any building or structure, or portion thereof, including mechanical and elevator/stair overrun, shall not exceed the *heights* indicated by the numbers following the symbol H on the attached Schedule 'B', with the exception of the following elements:
 - (i) structures on any roof used for outside or open air recreation, maintenance, safety, or wind protection purposes, including landscape garden amenities, green roofs, parapets, terrace guards/landscape planters and window washing equipment, provided:
 - (1) the maximum height of the top of such structures is no higher than the sum of 3.0 metres and the *height* limits specified on Schedule 'B'; and
 - (2) the structures do not enclose space;
 - (ii) structures for renewable energy purposes, provided:
 - (1) the maximum height of the top of such structures is no higher than the sum of 4.0 metres and the *height* limits specified on Schedule 'B'; and
 - (2) the structures do not enclose space; and
 - (iii) balconies that project from an exterior building wall that comply with Section 6(b)(ii) of this By-law;
- (d) the total of the *residential gross floor area* and the *non-residential gross floor area* shall not exceed 27,700 square metres;
- (e) the maximum *residential gross floor area* shall not exceed 26,750 square metres;
- (f) the maximum *non-residential gross floor area* shall not exceed 1,000 square metres;
- (g) the minimum number of non-residential units shall be 3 and no one non-residential unit shall exceed 500 square metres of *non-residential gross floor area*;
- (h) no *dwelling unit* or portion thereof shall be located below *grade* or above an elevation of 39.95 metres above *grade*;

- (i) The maximum number of *storeys* above *grade* of any building on the *lot* shall be 12 and, for the purposes of this section of the By-law, up to 2 *storeys* located from *grade* to within 6 metres from *grade* shall count as only one *storey*, provided that if there are 2 *storeys* located within 6 metres from *grade*, one of those *storeys* shall have no more than 1,300 square metres of *gross floor area*;
- (j) *residential amenity space* for each *dwelling unit* shall be provided as follows:
 - (i) 2 square metres of indoor *residential amenity space* for each *dwelling unit*; and
 - (ii) 2 square metres of outdoor *residential amenity space* for each *dwelling unit*.
- (k) no window of a *dwelling unit* (other than a window of a kitchen or bathroom) shall be closer than 11 metres to a window of another *dwelling unit* (other than a window of a kitchen or bathroom) on walls which form an angle of less than 90 degrees to each other on a horizontal plane on the *lot*, , except within the area shown as Area B on Schedule 'B', where the minimum distance between a window of a *dwelling unit* (other than a window of a kitchen or bathroom) and a window of another *dwelling unit* (other than a window of a kitchen or bathroom) on walls which form an angle of less than 90 degrees to each other on a horizontal plane, shall be 7 metres;
- (l) the minimum number of *parking spaces* shall be:

Resident parking shall be provided at the following minimum ratios:

 - 0.60 stalls per dwelling unit for bachelor units;
 - 0.70 stalls per dwelling unit for apartments providing one bedroom;
 - 0.90 stalls per dwelling unit for apartments providing two bedrooms; and,
 - 1.00 stall per dwelling unit for apartments providing three or more bedrooms.

An additional 0.10 stalls per dwelling unit shall be provided for the use of visitors, which may be shared with the commercial components of the proposed building.

Parking for the physically disabled shall be provided at a minimum ratio of one parking stall for every 100 parking stalls required, or portion thereof.; and
- (m) one shared *loading space - type B* and *loading space type G* shall be provided and maintained on the *lot*.

- 7. Despite any existing or future consent, severance, partition or division of the *lot*, the provisions of this By-law shall apply to the *lot* as if no consent, severance, partition or division occurred.
- 8. 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.

- 9.** For the purposes of this By-law, the terms set forth in italics, subject to Section 9(a) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended;
- (a) The following definitions shall apply:
- (i) "*grade*" means 104.35 metres Canadian Geodetic Datum;
 - (ii) "*lot*" means the lands outlined by heavy lines on Schedule 'A' attached to this By-law;
 - (iii) "*owner*" has the same meaning as in Zoning By-law 438-86, as amended, except it shall not include the City; and,
 - (iv) "*temporary sales office*" means a building, structure, facility or trailer used for the purpose of the sale of *dwelling units* to be erected on the *lot*.
- 10.** None of the provisions of former City of Toronto By-law No. 438-86, as amended, or of former City of York By-law No. 1-83, as amended, shall apply to prevent the erection and use of a *temporary sales office* on the *lot*.
- 11.** No person shall use any land or erect or use any building or structure within the *lot* unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
- 12.** None of the provisions of Section 9 of this By-law shall apply to prevent the use of the land or the erection of a building or structure within the *lot* prior to the completion of any realignment and reconstruction of Old Mill Drive or Riverview Gardens and all associated water mains and sanitary sewers, and appropriate appurtenances in such local road.

ENACTED AND PASSED this 27th day of August, A.D. 2010.

DAVID R. MILLER,
Mayor

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 *lot* 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:

- A. An indexed cash contribution of \$1,340,000 to be paid to the City prior to the issuance of the first above grade building permit, to be allocated generally as follows:
- i. \$ 145,000 for Bloor Street Streetscape improvements;
 - ii. \$ 145,000 for Jane Street/Baby Point streetscape improvements;
 - iii. \$ 250,000 for Traymore Park capital improvements;
 - iv. \$ 50,000 for Baby Point HCD study;
 - v. \$ 100,000 for Swansea Town Hall Capital Improvements;
 - vi. \$ 650,000 for *day nursery* capital funds in the local area.

Such cash amount 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.

- B. A public art contribution in accordance with the Toronto Official Plan policies.
- C. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act*, the *owner* shall provide 1:50 scale architectural elevation drawings for representative portions of the buildings with building materials, colours and finishes illustrated and labeled to the satisfaction of the Chief Planner and Executive Director ("Approved Exterior Development Details").
- D. The *owner* shall incorporate in the construction of the building and there after maintain the Approved Exterior Development Details to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- E. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act*, the owner shall provide a Construction Management Plan at its expense to the satisfaction of the Director, Technical Services.
- F. A portion of Old Mill Drive is required to form part of the *lot*.
- a. Prior to site plan approval pursuant to Section 114 of the *City of Toronto Act*:
 - i. the *owner* shall obtain the City's approval of the closure and disposal of portions of Old Mill Road and of the land exchange of the closed portions

of Old Mill Road for the portion of the *owner's* lands abutting Riverview Gardens and shall enter into an agreement in respect of this land exchange to the satisfaction of the City Solicitor;

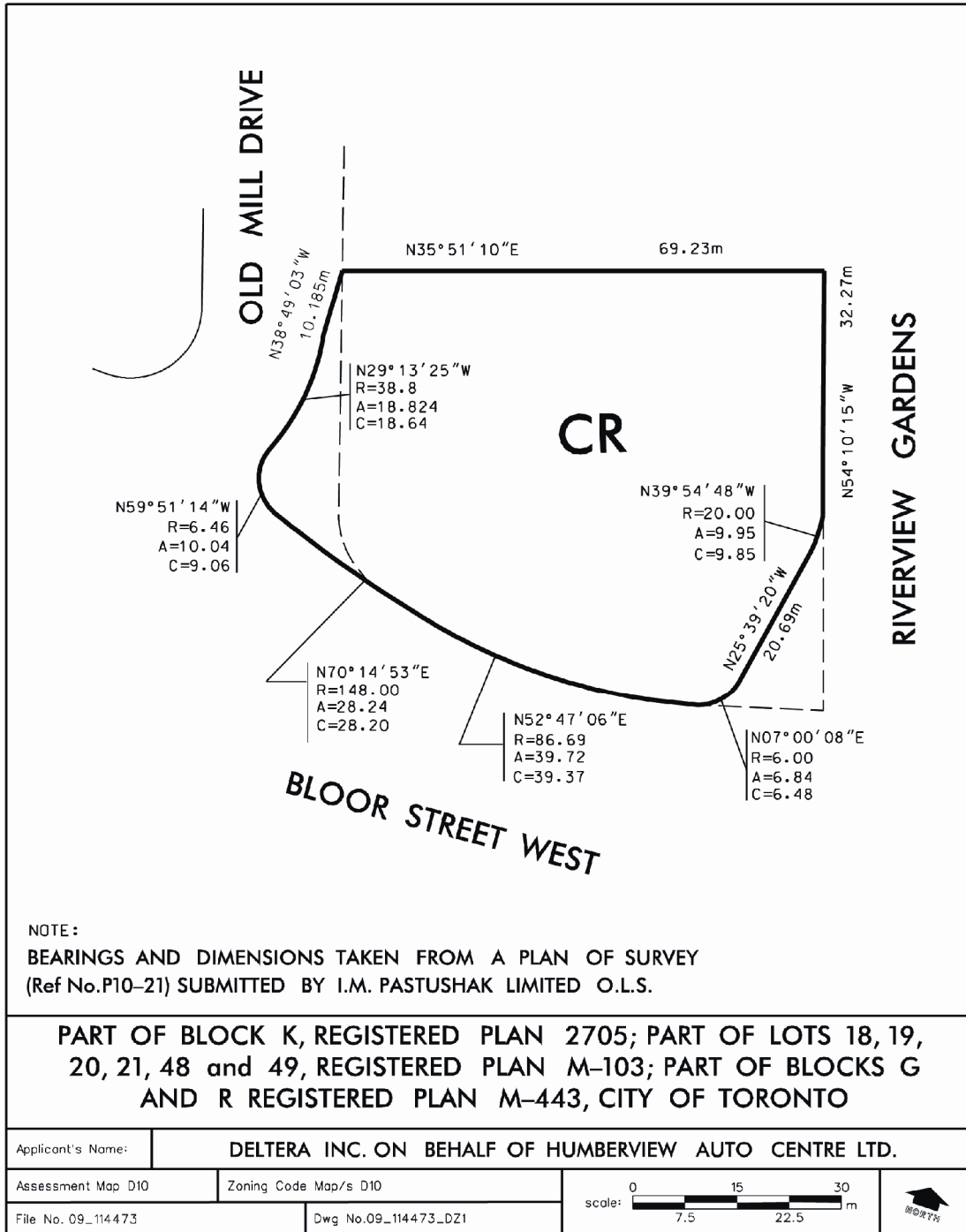
- ii. the *owner* shall enter into a Municipal Infrastructure Agreement to the satisfaction of the Director Technical Services and General Manager Transportation Services City which agreement shall include a requirement for, among other things, provision for a Construction Management Plan, infrastructure relocation, functional road and intersection design plans, traffic management measures, road realignment and reconstruction and associated financial securities;
 - iii. the *owner* shall remediate where necessary the lands on Riverview Gardens needed for the local road realignment to an environmental status that is to the satisfaction of the Director Technical Services, including the completion of a Peer Review by the City at the expense of the *owner*;
 - b. Prior to the issuance of the first above-grade building permit, the *owner* shall complete the realignment of Old Mill (including the relocation of services and utilities) to the satisfaction of the City in accordance with the approved Municipal Infrastructure Agreement and the Construction Management Plan;
 - c. Within 18 months from the issuance of the first above grade building permit and prior to the first occupancy of the development, the *owner* shall complete the realignment of Riverview Gardens to the satisfaction of the City in accordance with the approved Municipal Infrastructure Agreement and the Construction Management Plan.
- G. The *owner* shall enter into a site plan agreement to the satisfaction of the Chief Planner and Executive director City Planning Division under Section 114 of the *City of Toronto Act*, 2006 which agreement shall incorporate plans of the proposed realignment of the local roads.
- H. The *owner* shall complete a post-development Traffic and Road Safety Audit and provide a financial security of \$100,000 to the satisfaction of the General Manager Transportation Services to ensure completion of the audit.
- I. The *owner* shall satisfy the requirements of the Toronto Catholic District school Board and the Toronto District School Board regarding warning clauses and signage.
- J. The *owner* shall undertake a technical review of the proposed development and satisfy the requirements of the Toronto Transit Commission ("TTC").
- K. The *owner* shall agree to provisions regarding environmental sustainability, wind mitigation, municipal services and street tree irrigation.

- L. The *owner* shall enter into and register on title to the *lot* 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.

Notwithstanding the foregoing, the *owner* and the City may modify or amend the said agreement(s), from time to time and upon the consent of the City and the *owner*, without further amendment to those provisions of this zoning by-law which identify the facilities, services and matters to be secured.



Schedule 'A' BY-LAW





Schedule 'B' BY-LAW

