

Authority: Ontario Municipal Board Decision/Order issued September 4, 2015, March 22, 2016 and April 10, 2017 in Board File PL150428

## CITY OF TORONTO

### BY-LAW 549-2017(OMB)

#### **To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2016 as 700 Bay Street and 77 Gerrard Street West.**

Whereas the *owner* of the lands known municipally in the year 2016 as 700 Bay Street and 77 Gerrard Street West appealed a proposed zoning by-law amendment to the Ontario Municipal Board; and

Whereas the Ontario Municipal Board, by its Decisions/Orders issued September 4, 2015, March 22, 2016 and April 10, 2017 in Board File PL150428, approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted 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 and matters in return for an 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 aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas pursuant to Section 39 of the *Planning Act*, the council of a Municipality may, in a bylaw passed under section 34 of the *Planning Act*, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Ontario Municipal Board, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR(x96), as shown on Diagram 1 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by amending the Policy Areas Overlay Map in Section 995.10.1 for the lands subject to this By-law, to remove the applicability of PA 1 to the lands shown on Diagram 1 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by amending the Height Overlay Map in Section 995.20.1 for the lands subject to this By-law, to remove the applicability of any height labels for the lands shown on Diagram 1 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by deleting 12(2)111, 12(2)132, and 12(2)260 of By-law 438-86 from 900.11.10 Exception No. 1317 that apply to the lands shown on Diagram 1.
7. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 96 so that it reads:

**Exception CR 96**

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions.

Site Specific Provisions:

- (A) On 700 Bay Street and 77 Gerrard Street West, if the requirements of Section 8 and Schedule A of By-law 549-2017(OMB) are complied with, none of the provisions of 4.5.40.10(1), 40.5.40.10(5)(A), 40.5.40.10(5)(B), 40.5.40.10(6), 40.5.40.10(7), 40.5.40.60(1), 40.10.40.10(1), 40.10.40.50(1), 40.10.40.50(2), 40.10.40.60(1), 40.10.40.60(2), 40.10.40.60(5), 40.10.40.70, 40.10.90.1, 40.10.90.40(3), 40.10.100.10(1), 200.5.1(3), 200.5.1.10(2), 200.5.1.10(12), Table 200.5.10.1, 200.15.1(1), 200.15.10, 220.5.1.10(8), 220.5.10.1, 220.5.20.1, 230.5.1.10(7), 230.5.1.10(9), Table 230.5.10.1(1), 230.5.10.1(2), 230.5.10.1(5), 230.40.1.20, 600.10.10, 995.10.1 and 995.20.1 apply to prevent the erection or use of a **building**, **structure**, addition or enlargement permitted by regulations (B) to (Q) below;
- (B) The **lot** is comprised of those lands outlined by heavy lines on Diagram 1 of By-law 549-2017(OMB);
- (C) No portion of any **building** or **structure** to be erected or used on the **lot** may extend beyond the heavy line lines delineated on Diagram 2 of By-law 549-2017(OMB);
- (D) Despite (C), Canopies, awnings, building cornices, balconies, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, service corridors, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements, wind mitigation and public art features may extend beyond the heavy lines shown on Diagram 2 of By-law 549-2017(OMB);

- (E) The height of any **building** or **structure** on the **lot** must not exceed the maximum height permitted as indicated by the letter H as shown on Diagram 2 of By-law 549-2017(OMB), measured from the Canadian Geodetic Datum elevation of 97.08 metres;
- (F) Despite subsection (E), and notwithstanding any provisions of By-law 569-2013, mechanical equipment such as, but not limited to, heating or cooling towers/heating or cooling tower stacks, stair enclosure, service corridors, window washing equipment, chimney stacks, makeup air units, emergency generator, garbage chute or elevator overruns, parapets, lightning rods, exhaust stacks or a fence, wall or structure enclosing such elements, lighting fixtures, ornamental elements, trellises, landscape elements and elements of a green roof, partitions dividing outdoor recreation areas, wind mitigation features and walls or **structures** enclosing mechanical equipment may extend above the *heights* indicated on Diagram 2 of By-law 549-2017(OMB);
- (G) Despite any of the provisions of By-law 569-2013, for the purposes of the **building** on the **lot**, the **gross floor area** for non-residential uses is calculated in accordance with the definition of non-residential **gross floor area** in By-law 438-86 of the former City of Toronto and the maximum amount permitted is as prescribed in By-law 548-2017(OMB);
- (H) Despite any of the provisions of By-law 569-2013, for the purposes of the **building** on the **lot**, the **gross floor area** for residential uses shall be calculated in accordance with the definition of **residential gross floor area** in By-law 438-86 of the former City of Toronto and the maximum amount permitted shall be as prescribed in By-law 548-2017(OMB);
- (I) **Parking spaces** must be provided on the **lot** in accordance with the following:
- i. 190 **parking spaces** for residents of the building;
  - ii. No exclusive **parking spaces** are required for visitors of the **dwelling units**;
  - iii. 68 **parking spaces** for **public parking** must be provided and maintained, and despite the definition of **gross floor area**, the floor area of the public **parking** facility and uses **ancillary** to **public parking** are excluded from the calculation of **gross floor area**; **and**
  - iv. **Drive aisles** must have a minimum width of 5.39 metres except where a **drive** aisle is designated to operate one-way and does not provide direct access to an adjacent **parking space** it may have a minimum width of 3.35 metres;
  - v. **Parking spaces** may have a minimum length of 5.5 metres and a minimum width of 2.6 metres;

- vi. A maximum of 3 of the car-share **parking spaces** may be used to reduce the minimum resident **parking space** requirement by four (4) **parking spaces** for each car-share **parking space**; and
  - vii. **Parking spaces** and **drive aisles** existing as of the date of enactment of this bylaw are deemed to comply with the minimum size requirements of By-law 569-2013;
- (J) 40.10.20.100(7) and 40.10.20.100(10) does not apply to the **public parking**;
- (K) **Bicycle parking spaces** must be provided and maintained in accordance with the following minimum requirements:
- i. 300 long-term **bicycle parking spaces** must be provided for the **dwelling units**;
  - ii. 20 short-term **bicycle parking spaces** must be provided for visitors of the dwelling **units**;
  - iii. 30 **bicycle parking spaces** must be provided for the non-residential use; and
  - iv. **Bicycle parking spaces** may be provided in horizontal, stacked or vertical positions;
- (L) **Amenity** space must be provided in accordance with the following:
- i. A minimum of 1,136 square metres of indoor residential **amenity space** must be provided in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom; and
  - ii. A minimum of 405 square metres of outdoor residential **amenity space** must be provided;
- (M) 22 three-bedroom dwelling units must be secured as replacement rental **dwelling units** on the **lot**, where the "replacement rental dwellings" means units to be secured pursuant to Schedule A to By-law 549-2017(OMB), of at least 89.0 metres squared, and all of which must have bedrooms with an exterior window;
- (N) None of the provisions of this By-law or By-law 569-2013 apply to prevent a temporary sales office on the **lot**;
- (O) One Type "G" **loading space** and one Type "B" **loading space** must be provided;
- (P) For the purposes of this By-law, all bolded words and expressions have the same meanings as defined in By-law 569-2013, as amended, with the exception of the following:

- i. "temporary sales office" means a **building, structure**, facility or trailer on the **lot** used for the purpose of the sale or lease of **dwelling units** or non-residential use to be erected on the **lot**; and
  - ii. "car-share **parking space**" means a **parking space** exclusively reserved and signed for a car used only for car-share purposes and such car-share is for the use of at least the occupants of the **building**; and
- (Q) Except as otherwise provided herein, the provisions of By-law 569-2013, as amended, continue to apply to the **lot**;

**8. Section 37 Provisions**

- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

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**Schedule A**  
**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* and the owner 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 agreement:

1. The Owner agrees to provide a contribution to the City in the amount of THREE MILLION DOLLARS (\$3,000,000.00) which shall be used in accordance with Official Plan policy 5.1.1 for park improvements, streetscape improvements and new affordable housing with the final allocation to be determined in consultation with the Ward Councillor and to the satisfaction of the Owner and the Chief Planner.
2. The Owner agrees to pay to the City the contribution set out in item 1 by certified cheque at or before the issuance of the first above-grade Building Permit for Development on the Site together with any increases to reflect increases in the Construction Price Index from the date of execution of this Agreement until the payment of the said monies.

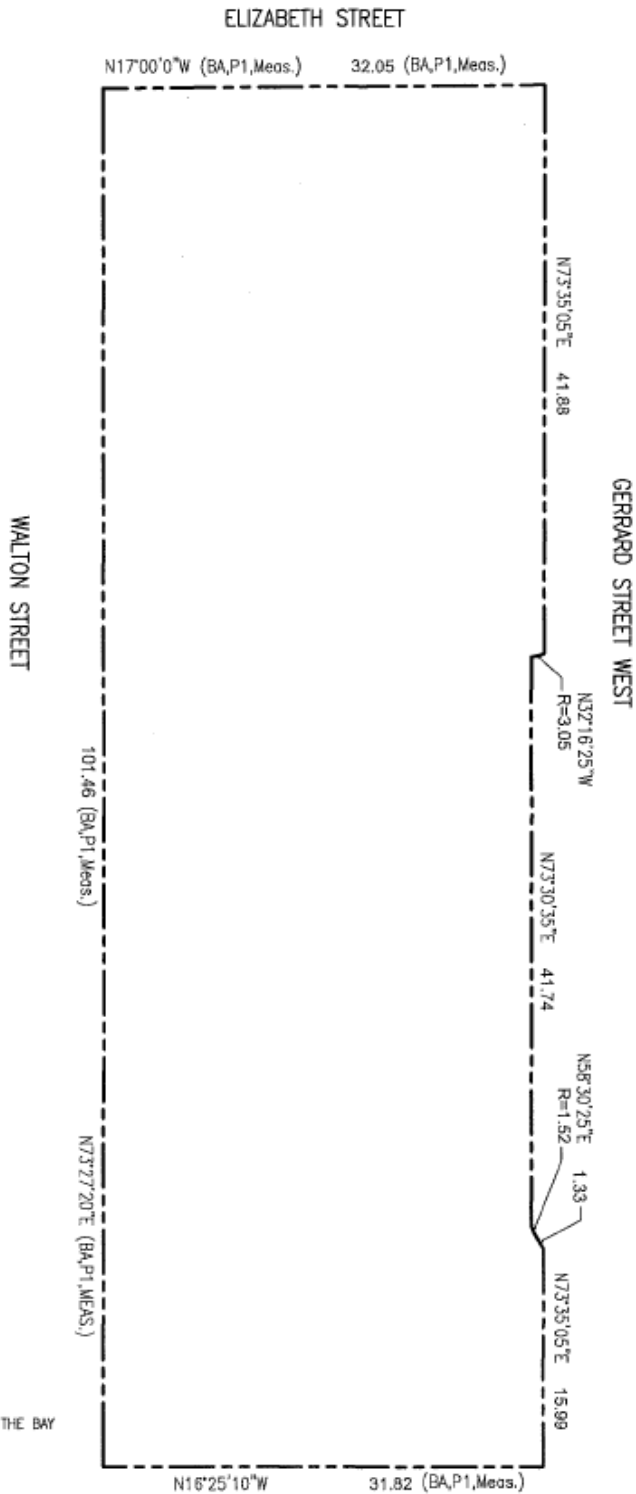
The following matters will be secured in the Section 37 agreement for legal convenience:

3. Securing the rental tenure of the *dwelling units* on the *lot* for a period of at least 20 years from the date the By-law comes into force and effect.
4. The *owner* shall replace the 22 existing three-bedroom rental apartment units to be converted to two-bedroom units to the satisfaction of City Council, in accordance with standard practice and policies, as required. The terms regarding replacement will be secured in the Section 111 permit/agreement, zoning by-law amendment, Section 37 agreement(s), as required.
5. The *owner* shall provide and maintain not less than 22 *replacement rental dwelling units* on the *lot* of which a minimum of 12 *dwelling units* shall be provided as mid-range replacement *dwelling units* and a minimum of 10 *dwelling units* shall have no rent stipulations in the Agreement(s):
  - a. The 22 *replacement rental dwelling units* shall be provided entirely on the *lot*; and shall all be three-bedroom units, all bedrooms of which have exterior windows;
  - b. The *replacement rental dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that that each unit is occupied and until the owner obtains approval for a zoning by-law amendment removing the requirement for the *replacement rental dwelling units* to be maintained as rental units. No application may be submitted for condominium or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period;

- c. All of the *replacement rental dwelling units* shall be ready and available for occupancy no later than the date by which 80% of the other new *dwelling units* erected on the *lot* after the date of enactment of this amendment are available and ready for occupancy;
  - d. The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the 12 mid-range *replacement rental dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent times 1.5 for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial Rent Guideline, and any above-Guideline increase, if applicable;
  - e. The owner is entitled to charge an unrestricted rent for the remaining 10 three bedroom units, unless to a returning tenant;
  - f. Rents charged to tenants occupying a mid-range *replacement rental dwelling unit* at the end of the 10 year period set forth in subsections (d) and (e) shall be subject only to annual increases which do not exceed the Provincial Rent Guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their *dwelling unit* or until the expiry of the rental tenure period set forth in subsection (b) with a phase-in period of at least three years for rent increases; and
  - g. Rents charged to tenants newly occupying a *replacement rental dwelling unit* after the completion of the 10 year period set forth in subsections (d) and (e) will not be subject to restrictions by the City of Toronto under the terms of subsections (d) and (e).
6. The *owner* shall provide tenant relocation assistance to the tenants of the existing units directly affected by the demolition, in accordance with the more detailed Tenant Relocation and Assistance Plan to be included in the agreement or agreements, to the satisfaction of the Chief Planner. The assistance shall include at least:
    - a. an extended notice period before having to vacate for demolition;
    - b. the right to return to a rental replacement unit; and
    - c. all affected tenants shall receive financial assistance to assist with relocation beyond the amounts required by provincial legislation, with extra provisions for tenants with special needs.
  7. The owner shall provide a Construction Mitigation and Tenant Communication Plan to the satisfaction of the Chief Planner Executive Director to be secured and finalized through the site plan approval process.

8. Streetscape improvements around the entirety of the development site to be secured through the Site Plan approval process:
  - a. Façade improvements around the entirety of the development site to be secured through the Site Plan approval process.



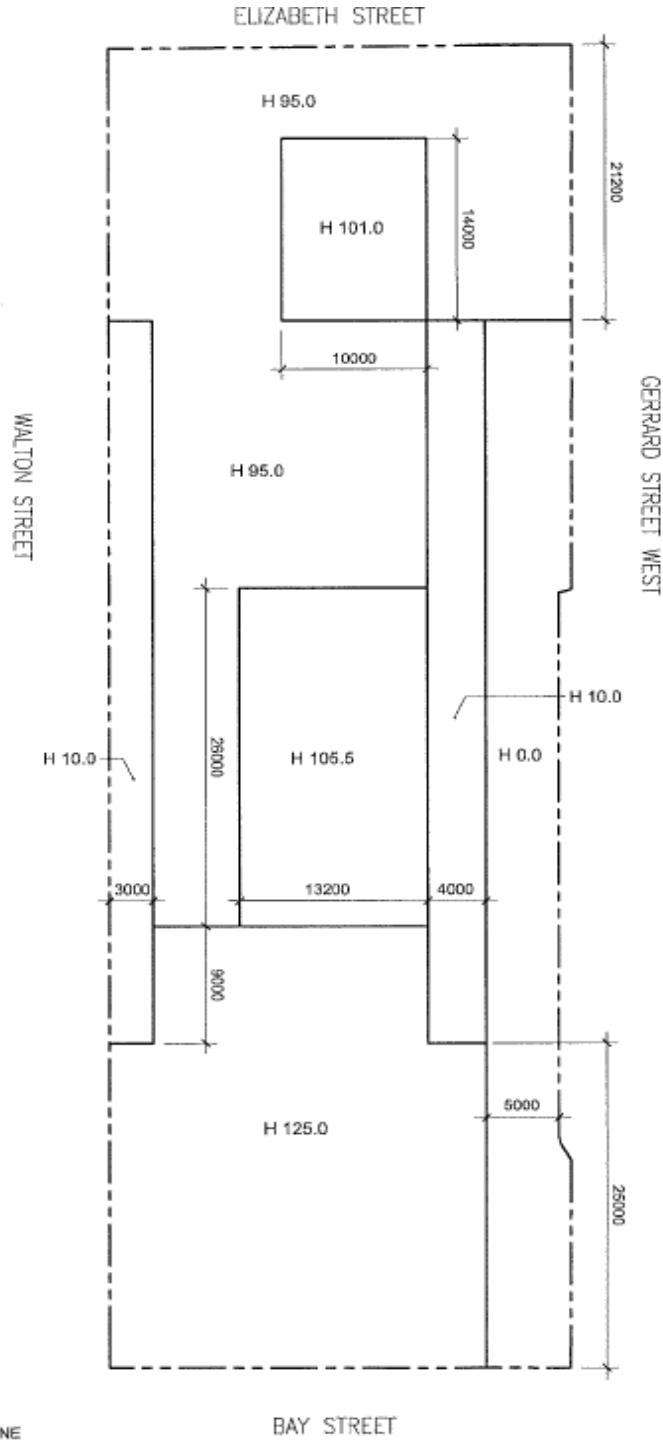


TOPOGRAPHIC PLAN OF SURVEY OF ALL OF PART OF PARK LOT 10, CONCESSION 1, FROM THE BAY AND ALL OF LOTS 30 TO 39 BOTH INCLUSIVE REGISTERED PLAN D-4 R. AHS SURVEYING INC. ONTARIO LAND SURVEYORS 2014

BEARINGS SHOWN HEREIN ARE GRID BEARINGS AND ARE DERIVED FROM HORIZONTAL CONTROL MONUMENTS NO. 02219740430 AND NO. 02219740433 AND ARE REFERRED TO THE 3 DEGREE MODIFIED TRANSVERSE MERCATOR GRID PROJECTION, ZONE 10, CENTRAL MERIDIAN 79°30' WEST LONGITUDE

DIAGRAM 1





--- PROPERTY LINE  
— MAX. EXTENT OF BUILDING ENVELOPE  
H 0.0 BUILDING HEIGHT (IN METRES)  
MEASURED ABOVE GRADE 97.06

DIAGRAM 2

