

Authority: Toronto and East York Community Council Item TE27.6, as adopted by City of Toronto Council on November 5, 6 and 7, 2017

## CITY OF TORONTO

### BY-LAW 1472-2017

#### **To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2017 as 475 Yonge Street.**

Whereas Council of the City of Toronto has the authority pursuant to 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in *height* and density of development; 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 438-86 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;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in the *heights* and density of development is permitted beyond what is otherwise permitted on the lands as shown on Map 1 attached to and forming part of this By-law in return for the provision by the *owner*, at the *owner's* expense of the following facilities, services and matters set out in Appendix 1 of this By-law 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.
2. Where Appendix 1 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. The *owner* shall not use, or permit the use of a

building on a structure erected with an increased *height* and density pursuant to this By-law unless all provisions of Appendix 1 of this By-law are satisfied.

3. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.
4. None of the provisions of Section 4(2)(a), 4(5)(b), 4(5)(h), 4(8), 4(13), 8(2)7, 8(3) Part I 1, 2 and 3, 8(3) Part II 1(a), 8(3) Part III 1(a), 12(1)9, 12(2)11, 12(2)132 and 12(2)380 of By-law 438-86 of the former City of Toronto, as amended shall apply to prevent the erection or use of a *mixed-use building* which may contain *dwelling units* and non-residential uses including, but not limited to, *hotel* uses, a below *grade parking garage* and a below *grade commercial parking garage* on the *lot* provided that:
  - a. the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
  - b. the combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 99,850 square metres;
  - c. despite Section 8(1)(f) of Bylaw 438-86, a *commercial parking garage* shall be a permitted use on the *lot* and any floor area below-*grade* dedicated to the *commercial parking garage* shall not be included in the calculation of *non-residential gross floor area*;
  - d. The *height* of any building or structure above *grade* shall not exceed those *heights* in metres following the letter H on Map 2 attached to and forming part of this By-law with the exception of the following:
    - i. lighting fixtures, patios, cabanas, planters, balustrades, bollards, fences, trellises, roofing assembly, roofs, window washing equipment, parapets, privacy screens, safety railings, guardrails, chimneys, vents, flues, stacks and exhaust stacks, ornamental or architectural features may extend a maximum of 2.0 metres above the *heights* shown on Map 2;
    - ii. lightning rods;
    - iii. building elements or structures used for green roof technology or alternative roofing system may extend a maximum of 0.6 metres above the *heights* shown on Map 2; and
    - iv. mechanical equipment such as, but not limited to, elevator and associated overrun, heating or cooling towers/heating or cooling stacks, air units, emergency generator, lighting fixtures, ornamental elements, trellises, wind mitigation features and walls may extend a maximum of 3.0 metres above the *heights* shown on Map 2;
  - e. the maximum floorplate sizes of the tower measured from the exterior of the building shall be:

- i. storeys above *grade* 12-58: 816 square metres (northerly tower); and
  - ii. storeys above *grade* 10-48: 900 square metres (southerly tower);
- f. no portion of any building or structure erected or used above finished ground shall be located outside the areas on the *lot* delineated by heavy lines on Map 2, with the exception of:
- i. privacy screens, cornices, sills, eaves, canopies, stairs, covered stairs or stair enclosures, awnings, underground garage ramps and ancillary structures, retaining walls, wheelchair ramps, ornamental or architectural features may extend a maximum of 1.0 metres beyond the heavy lines shown on Map 2;
  - ii. balconies may project no more than 2.0 metres beyond the heavy lines shown on Map 2; and
  - iii. structures and elements related to outdoor patios at *grade*;
- g. a minimum of two *loading spaces – Type B*, one *loading space – Type C* and one *loading space – Type G* shall be provided on the *lot* for the *mixed-use building*;
- h. *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- i. *parking spaces* shall be provided and maintained for occupants of *dwelling units* at a minimum rate of 0.21 *parking spaces* per *dwelling unit*;
  - ii. *parking spaces* shall be provided and maintained for visitors to *dwelling units* at a minimum rate of 0.067 *parking spaces* per *dwelling unit*;
  - iii. *parking spaces* shall be provided and maintained for non-residential uses in accordance with parking requirements set out in Section 4(5)(b) of By-law 438-86, with the exception that *parking spaces* required for the *hotel* use shall be provided at a minimum rate of 0.14 *parking spaces* per 100 square metres of *non-residential gross floor area* and no *parking spaces* shall be required for any use falling within the sections identified as *street-related retail and services uses*; and
  - iv. the *parking spaces* required under ii and iii above may be provided in a shared below-*grade, parking garage* or *commercial parking garage*;
- i. despite Section 4(17) of By-law 438-86, a maximum of 28 *parking spaces* which are obstructed on one side are permitted to have a minimum width of 2.60 metres;
- j. *bicycle parking spaces* shall be provided and maintained within the *lot* in accordance with the following minimum requirements:

- i. for *dwelling units*, a minimum of 1.0 *bicycle parking space* per *dwelling unit* provided in the following proportion:
      - A. 90 percent as *bicycle parking spaces – occupant*; and
      - B. 10 percent as *bicycle parking spaces – visitor*;
    - ii. notwithstanding Section 2 "*Bicycle parking spaces – visitor*" of By-law 438-86, *bicycle parking spaces – visitor* may be located in a secured room; and
    - iii. despite Section 4(13) and the definition in Section 2 "*Bicycle parking spaces – occupant*" of By-law 438-86, *bicycle parking spaces – occupant* may be provided in any combination of stacked, vertical, or horizontal positions, provided that any stacked *bicycle parking space*, being a *bicycle parking space* located directly above or below another *bicycle parking space*, shall each have a minimum vertical dimension of 1.20 metres;
  - k. Despite Section 4(12) of By-law 438-86:
    - i. indoor *residential amenity space* may be provided in non-contiguous rooms located on different levels; and
    - ii. at least 40.0 square metres of *outdoor residential amenity space* must be provided in a location adjoining or directly accessible to at least one of the areas used as indoor *residential amenity space*;
  - l. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
    - i. "*grade*" means an elevation of 103.64 metres Canadian Geodetic Datum;
    - ii. "*height*" means the vertical distance between *grade* and the highest point of any building or structure erected on the *lot*, subject to the exceptions permitted by this By-law; and
    - iii. "*lot*" means lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
5. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
6. None of the provisions of this By-law shall apply to prevent the construction or use of a temporary sales office on the *lot*, for a maximum of 3 years from the dated of enactment of this By-law.

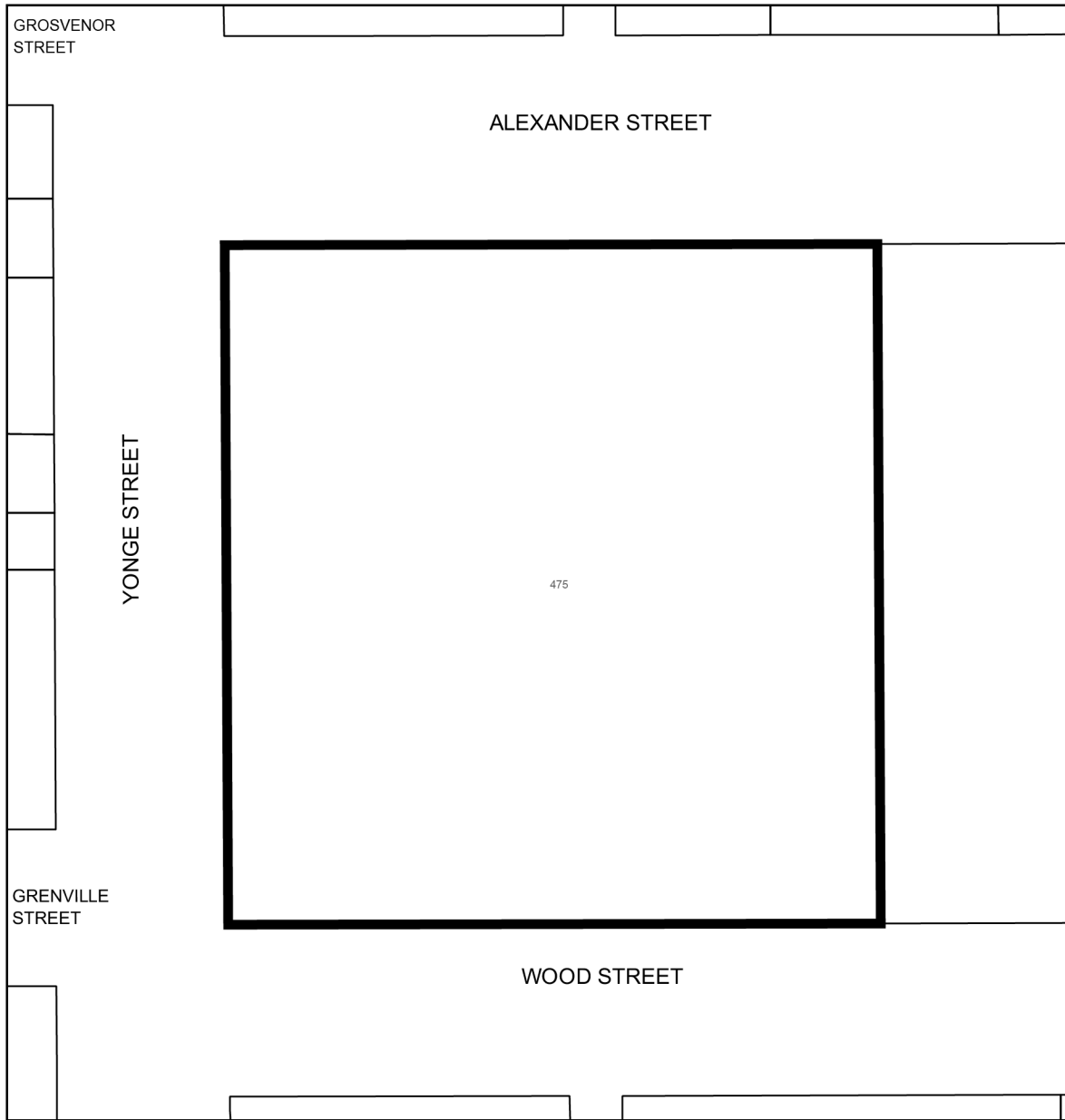
7. Within the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law, no person shall use any land or erect or use any building or structure on the *lot* unless unless the following municipal services are provided to the lot line and the following provisions are complied 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.

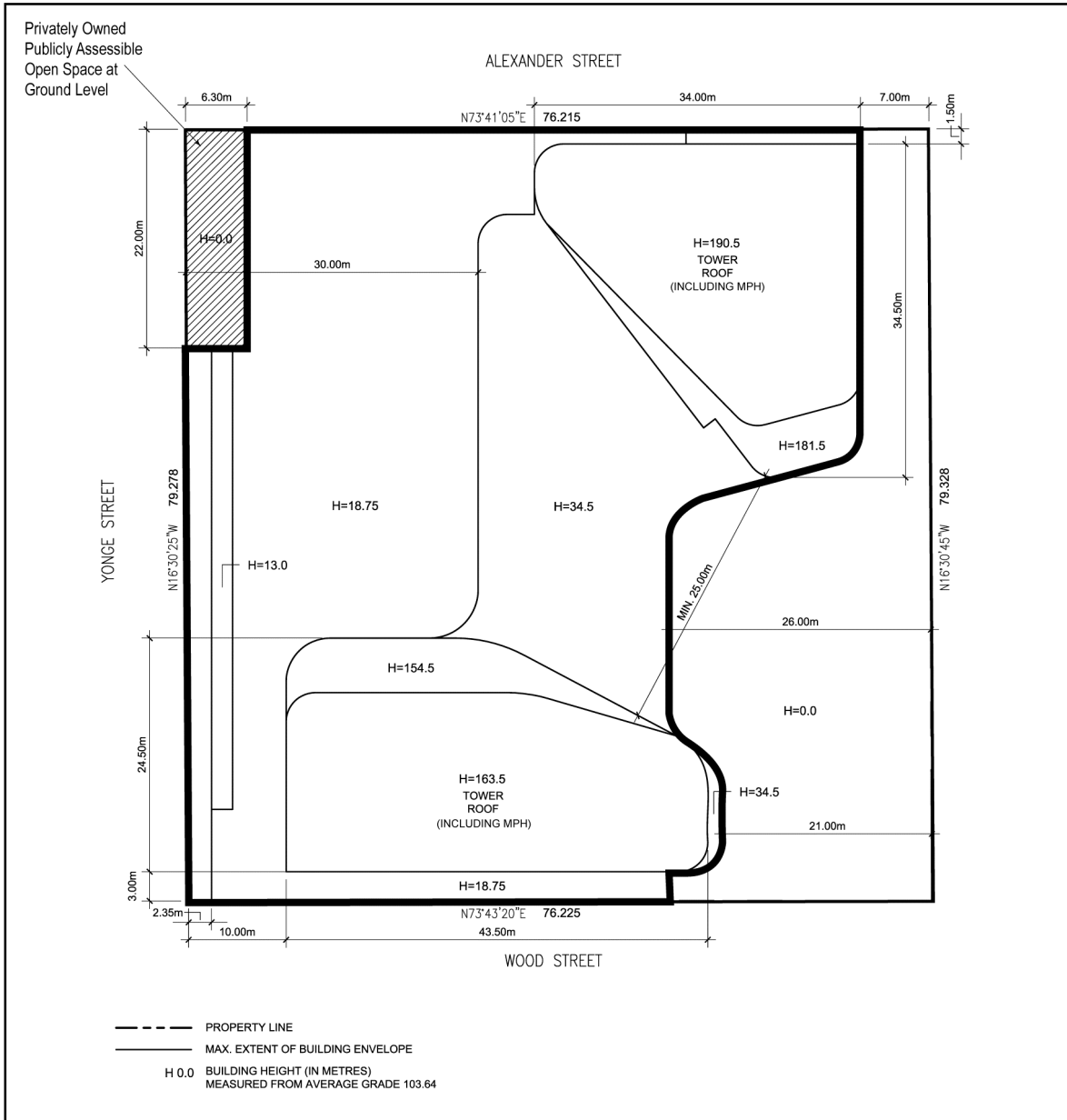
Enacted and passed on December 8, 2017.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)





475 Yonge Street

File # 16 125715 STE 27 OZ

## Appendix 1 Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in *height* and density of the proposed development on the *lot* as shown in Map 1 in this By-law and secured in an agreement or agreements under 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, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement.

- (1) a. Prior to issuance of the first above *grade* building permit, the *owner* shall make an indexed cash contribution to the City in the amount of eleven million four hundred thousand dollars (\$11,400,000) payable by certified cheque to the City of Toronto and to be allocated toward capital improvements at the discretion of the Chief Planner and Executive Director, City Planning, as follows:
- i. \$9,120,000 to be allocated towards local area park or streetscape improvements, in consultation with the Ward Councillor;
  - ii. \$1,140,000 to be allocated towards existing community, recreation and/or cultural space improvements in the ward, in consultation with the Ward Councillor; and
  - iii. \$1,140,000 to be allocated towards new or existing Toronto Community Housing and/or affordable housing.

Such amount to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the execution of the Section 37 Agreement to the date the payment of the funds by the *owner* to the City; and

- b. In the event the cash contribution(s) referred to in Section (1) has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purposes, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
- (2) In support of the development on the *lot*:
- a. the *owner* of the *lot* shall convey to the City an on-site stratified parkland dedication with a minimum size comprising an area of not less than nine hundred and eight (908) square metres with a lower limit extending at least 1.5 metres below the finished *grade* and with no upper limit, to be conveyed to the City in partial fulfilment of the *owner's* required parkland dedication pursuant to section 42 of the *Planning Act*, and to be secured in the Section 37 Agreement required in this Appendix 1, all to the satisfaction of the Chief Planner and



Executive Director, City Planning, the General Manager, Parks Forestry and Recreation.

- b. the *owner* shall complete the conveyance of the parkland to the City to the satisfaction of the General Manager, Parks Forestry and Recreation and the City Solicitor prior to the earlier of the following:
- (i) prior to any residential use of all or any part of the *lot*;
  - (ii) prior to the date that is two years after the issuance of the first above *grade* building permit for all or any part of the *lot*; and
  - (iii) prior to any condominium registration of all or any part of the *lot*;
- c. the construction of the base park improvements shall be completed within the earlier of: (a) three years after the issuance of the first above *grade* building permit for all or any part of the *lot*, and (b) one year after the first condominium registration of all or any part of the *lot*, to the satisfaction of the General Manager, Parks, Forestry and Recreation, subject to extensions for timing at the sole discretion of the General Manager, Parks, Forestry and Recreation;
- d. the construction of the above base park improvements shall be completed by the owner at its expense within the earlier of: (a) three years after the issuance of the first above *grade* building permit for all or any part of the *lot*, and (b) one year after the condominium registration of all or any part of the *lot*, all to the satisfaction of the General Manager, Parks, Forestry and Recreation. No building permits shall be issued after the three year period in subsection (a) above unless the construction of the above base park improvements have been completed to the satisfaction of the General Manager, Parks, Forestry and Recreation, provided that unforeseen delays (e.g. weather) resulting in the late delivery of the park improvements may be taken into consideration and the date for completion may be extended;
- e. prior to the issuance of the first above *grade* permit, excluding a permit for demolition or for a rental/sales centre, the *owner* of the *lot* shall:
- i. register a Section 118 Restriction pursuant to the *Land Titles Act*, on the 908 square metre area of the *lot* which is to comprise the parkland, to the satisfaction of the City Solicitor in consultation with the General Manager, Parks, Forestry and Recreation substantially as follows:  
  
" \_\_\_\_\_, the registered owner of the lands described herein, hereby requests that the Land Registrar for the Land Registry Office of the Land Titles Division of Toronto (No. 66) attach a restriction on the lands described herein, prohibiting the transfer or charge of such lands without the consent of the General Manager, Parks, Forestry and Recreation, City of Toronto, or his or her designate.";

- ii. pay to the City by certified cheque the sum of money that is equal to the difference between the value of the stratified conveyance of the 908 square metres of land required to be conveyed to the City in subsection a. above and the value of an on-site fee simple conveyance of 530 square metres of the *lot*;
  - iii. submit a cost estimate and any necessary plans for the base park improvements, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
  - iv. post an irrevocable Letter of Credit in the amount of 120 percent of the value of the base park improvements for the parkland to the satisfaction of the General Manager, Parks, Forestry and Recreation;
  - v. submit a design and cost estimate for above base park improvements to be approved by the General Manager, Parks, Forestry and Recreation, and a Letter of Credit equal to 120 percent of the Parks and Recreation Development Charges payable for the development, all to the satisfaction of the General Manager, Parks, Forestry and Recreation; and
  - vi. submit working drawings, specification and landscape plans showing the scope and detail of the work for the above base park improvements for review and approval by the General Manager, Parks, Forestry and Recreation.
- (3) Prior to the earlier of any residential use or occupancy, including interim occupancy pursuant to the *Condominium Act, 1998* and any registration of any condominium on all or part of the *lot*, the *owner* shall, at its own expense:
- a. provide and thereafter maintain an *at-grade* exterior Privately-Owned Publicly Accessible Space (POPS) having the total area of not less than 125 square metres at the northwest corner of the *lot* (Yonge Street and Alexander Street) in the location as illustrated on Map 2 of this By-law to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor in consultation with the Ward Councillor with the specific configuration and design to be determined in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning; and
  - b. Prepare all documents and convey, in perpetuity for nominal consideration and at no cost to the City in accordance with the terms of the section 37 Agreement, a public access easement to the City, together with support rights as applicable, for use by the City and the general public for purposes intended, including but not limited to passive recreational uses consistent with use as public open space, in a form and substance satisfactory to the City Solicitor.
- (4) The *owner* shall provide and maintain a minimum of 10 percent of the total number of *dwelling units* erected within the development as at least three *bedroom dwelling units* to the satisfaction of the Chief Planner and Executive Director, City Planning.

- (5) The *owner* shall withdraw their site specific appeal to the Ontario Municipal Board of Official Plan Amendment No. 183, the North Downtown Area Specific Policy 382 (for Phases I and II of the appeals) upon the coming into force of the site specific Zoning By-law Amendments for the *lot*.