

**426 University Ave
Zoning By-law Application
Final Report**

Date:	September 18, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	08 163452 STE 20 OZ

SUMMARY

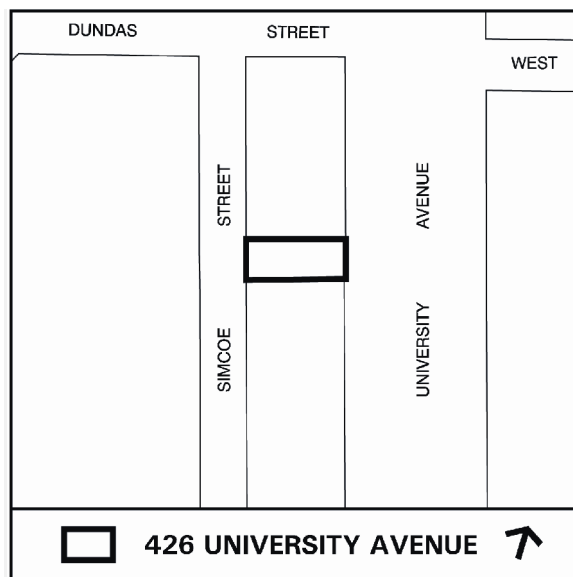
This report responds to the request of the Toronto and East York Community Council that the Chief Planner report, in consultation with the City Solicitor, on the form of Zoning By-law to permit the proposed 42 storey mixed use building.

The application proposes to replace the existing Royal Canadian Military Institute (RCMI), which is a private members club, with a 6 and ½ -storey club and a 35 and ½ -storey condominium resulting in a 42-storey mixed use building at 426 University Ave. Although no parking was initially proposed, a revised application includes the provision of 9 parking spaces, 8 of which are proposed to be in parking stackers.

RECOMMENDATIONS

If City Council adopts the recommendations of the Toronto and East York Community Council to approve Application 08 163452 STE 20 OZ for 426 University Avenue, then Council should:

1. Authorize an amendment to Zoning By-law 438-86 for the former City



of Toronto substantially in accordance with the draft Zoning By-law attached as Attachment No.1.

2. Authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the necessary Bills for enactment, authorize the appropriate City officials and require the owner to execute one or more agreements pursuant to Section 37 of the Planning Act satisfactory to the Chief Planner and Executive Director, City Planning, and City Solicitor. The agreement(s) are to be registered on title to the lands in a manner satisfactory to the City Solicitor and to secure the following facilities, services and matters from the owner at its expense:
 - a. Prior to Site Plan Approval for the subject property, the owner shall provide a Conservation Plan including an estimate of the costs associated with its execution, for the reconstruction and restoration of the façade and library of 426 University Avenue to the satisfaction of the Manager of Heritage Preservation Services;
 - b. Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall supply a Letter of Credit equal to the approved amount contained within the Conservation Plan;
 - c. Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall provide a documentation report for the subject property including a history of the Royal Canadian Military Institute activities at the site since its construction, original plans and drawings for the building and subsequent alteration drawings, where available, and complete interior and exterior photo-documentation of all rooms, corridors and elevations (in both digital and black and white SLR formats) including a key plan indicating the location of each photograph, to the satisfaction of the Manager, Heritage Preservation Services;
 - d. Prior to the release of the Letter of Credit, the owner shall complete all conservation work to the satisfaction of the Manager, Heritage Preservation Services;
 - e. A cash contribution in the amount of \$1,000,000.00, indexed as per the Non-Residential Construction Price Index from the date of the execution of the Section 37 Agreement, for facilities, services or matters, which may include affordable housing projects in Ward 20, local park improvements, and streetscape improvements to Dundas Street West, shall be paid, consisting of an initial payment of \$100,000 payable upon the coming into force and effect of the amending by-law, with the balance payable prior to the release of any above grade building permit;

The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

- f. 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;
- g. 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;
- h. The owner shall make reasonable commercial efforts to achieve LEED certification and shall provide the City with project documentation on LEED certification;
- i. 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 June 10, 2008;
- j. The owner shall provide knock-out panels to accommodate a potential future connection to the PATH system, satisfactory to the Chief Planner and Executive Director, City Planning Division, and the General Manager of Economic Development, and to be detailed in an agreement pursuant to Section 41 of the Planning Act;
- k. Prior to the issuance of any demolition or building permit, the owner shall complete a Toronto Transit Commission (TTC) Technical Review of the proposed development as applicable to the particular permit under application and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC;
- l. The owner shall insert warning clauses regarding the TTC right-of-way in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential unit within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development and that the TTC accepts no responsibility for such effects;

- m. Prior to Site Plan Approval, the owner shall submit an application to Transportation Services for any encroachments within the City right-of-way;
 - n. Require the owner to 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;
 - o. The owner shall make appropriate arrangements to secure a limiting distance agreement with the owner immediately to the south at 400 University Avenue to the satisfaction of the Chief Building Official, such limiting agreement to be executed prior to final site plan approval; and
 - p. The owner shall provide knock out panels between a sufficient number of units to permit the combining of units to create a minimum of 10% of the total unit count as three bedroom units.
4. Prior to the introducing the necessary Bills for enactment, the owner is required to submit to the Executive Director, Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate.

Financial Impact

There are no financial implications resulting from the adoption of this report.

BACKGROUND

On September 15, 2009, the Toronto and East York Community Council considered a Refusal Report regarding a Zoning By-law amendment application to permit a 42-storey mixed use building to replace the existing Royal Canadian Military Institute (RCMI), which is a private members club, with a 6 and ½ -storey club and a 35 and ½ -storey condominium. Although no parking was initially proposed, a revised application includes the provision of 9 parking spaces, 8 of which were proposed to be in parking stackers. This report reviewed and recommended refusal of the application. The refusal recommendation was based on a number of factors: the omission of parking spaces (with the exception of nine spaces); the inadequate supply of indoor amenity space; the potential impacts on the adjacent areas; and the precedent for the City.

Toronto and East York Community Council has recommended that City Council approve the Zoning By-law Amendment application and directed that the Chief Planner, in consultation with the City Solicitor, report to Toronto and East York Community Council at its next meeting on October 13, 2009 on:

- a) a Zoning By-law to permit the proposed development at 426 University Avenue, substantially as set out in the applicant's drawings date stamped January 16, 2009, on file with the City Planning Division; and
- b) the services, facilities and matters to be secured pursuant to Section 37 of the Planning Act as a condition of the additional height and density.

COMMENTS

Planning staff have consulted with the City Solicitor and Buildings staff to prepare a site-specific Zoning By-law to implement the proposed development. A draft of the Zoning By-law is appended as Attachment 1 and a Section 37 Agreement is being drafted to address the recommendations of Community Council.

Section 37

Section 37 benefits have been determined by the Ward Councillor and include:

- a. Prior to Site Plan Approval for the subject property, the owner shall provide a Conservation Plan including an estimate of the costs associated with its execution, for the reconstruction and restoration of the façade and library of 426 University Avenue to the satisfaction of the Manager of Heritage Preservation Services;
- b. Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall supply a Letter of Credit equal to the approved amount contained within the Conservation Plan;
- c. Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall provide a documentation report for the subject property including a history of the Royal Canadian Military Institute activities at the site since its construction, original plans and drawings for the building and subsequent alteration drawings, where available, and complete interior and exterior photo-documentation of all rooms, corridors and elevations (in both digital and black and white SLR formats) including a key plan indicating the location of each photograph, to the satisfaction of the Manager, Heritage Preservation Services;
- d. Prior to the release of the Letter of Credit, the owner shall complete all conservation work to the satisfaction of the Manager, Heritage Preservation Services;
- e. A cash contribution in the amount of \$1,000,000.00, indexed as per the Non-Residential Construction Price Index from the date of the execution of the Section 37 Agreement, for facilities, services or matters, which may include affordable housing projects in Ward 20, local park improvements, and streetscape improvements to Dundas Street West, shall be paid, consisting of an initial payment of \$100,000 payable upon the coming into

force and effect of the amending by-law, with the balance payable prior to the release of any above grade building permit;

The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

- f. 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;
- g. 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;
- h. The owner shall make reasonable commercial efforts to achieve LEED certification and shall provide the City with project documentation on LEED certification;
- i. 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 June 10, 2008;
- j. The owner shall provide knock-out panels to accommodate a potential future connection to the PATH system, satisfactory to the Chief Planner and Executive Director, City Planning Division, and the General Manager of Economic Development, and to be detailed in an agreement pursuant to Section 41 of the Planning Act;
- k. Prior to the issuance of any demolition or building permit, the owner shall complete a Toronto Transit Commission (TTC) Technical Review of the proposed development as applicable to the particular permit under application and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC;
- l. The owner shall insert warning clauses regarding the TTC right-of-way in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential unit within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development and that the TTC accepts no responsibility for such effects;

- m. Prior to Site Plan Approval, the owner shall submit an application to Transportation Services for any encroachments within the City right-of-way;
- n. Require the owner to 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;
- o. The owner shall make appropriate arrangements to secure a limiting distance agreement with the owner immediately to the south at 400 University Avenue to the satisfaction of the Chief Building Official, such limiting agreement to be executed prior to final site plan approval; and
- p. The owner shall provide knock out panels between a sufficient number of units to permit the combining of units to create a minimum of 10% of the total unit count as three bedroom units.

CONTACT

Helen Coombs, Senior Planner

Tel. No. (416) 392-7613

Fax No. (416) 392-1330

E-mail: hcoombs@toronto.ca

Christopher Dunn, Planner

Tel. (416) 397-4077

Fax No. (416) 392-1330

E-mail: cdunn@toronto.ca

SIGNATURE

Raymond David, Director

Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Zoning By-law

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Authority: Toronto and East York Community Council – Item xxxxxx, as amended, as adopted by City of Toronto Council on xxxxxxxxxxxx, 2009

Enacted by Council: xx, 2009

CITY OF TORONTO

Bill No.

Draft BY-LAW No. xxx-2009

To amend the General Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to lands municipally known as 426 University Avenue.

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 under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set 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 an increase in height and 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 and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (the “City”); and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with 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. None of the provisions of Section 2 with respect to the definitions of *bicycle parking space- occupant*, *bicycle parking space- visitor*, *club*, *lot*, *parking space*, *parking stacker* and *loading space - type B*, and Sections 4(2), 4(5), 4(8), 4(10)(d), 4(12), 4(13), 4(16), 4(17), 8(1)(f)(b)(vii), 8(3) Part I, 8(3)Part II 1.(a)(ii), 8(3) Part III 1. and 8(3) Part XI 2.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 building containing a mixed-use building and *accessory* uses on the *lot* provided:
 - (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1 attached to and forming part of this by-law;
 - (b) in addition to those uses permitted in Section 8(1)(f)(b)(vii), a *parking stacker* and a car share use are permitted uses on the *lot*;
 - (c) the maximum combined *residential gross floor area* and *non-residential gross floor area* of all buildings and structures erected within the *lot* shall not exceed 25,500 square metres, of which the maximum *non-residential gross floor area* shall not exceed 3,500 square metres and the maximum *residential gross floor area* shall not exceed 22,000 square metres;
 - (d) no portion of any building above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 except for the following:
 - (i) cornices, canopies, awnings, parapets, trellises, eaves, window sills, ornamental and architectural elements, guardrails, balustrades, railings, stairs, stair enclosures, stair landings, terraces, platforms, wheel chair ramps, vents, cannons, flag poles, underground garage ramps and their associated structures, privacy screens and walls, fences, retaining walls and landscape features;
 - (ii) notwithstanding the provision of 438-86, as amended, and the provisions of subsection (i) above, balconies, canopies, ornamental and architectural elements extending beyond the heavy line with a dimension of 38.213 shown on Map 1, shall be limited to a maximum horizontal projection of 2.0 metres beyond such line;
 - (e) no person shall erect or use a building or structure on the *lot* having a greater *height* in meters than the *height* limits specified by the numbers following the symbol H on the attached Map 2 except for the following:
 - (i) a structure on the roof of a building used for outside or open air recreation, green roof, privacy, safety or wind protection may

exceed the *height* limits shown on the attached Map 2 by no more than 3.0 metres provided such structure does not enclose space so as to constitute a form of penthouse or other room or rooms;

- (ii) notwithstanding the provisions of By-law 438-86, as amended, ornamental and architectural elements, which are permitted on the *lot* and beyond the *lot* in accordance with Section 1.(d) above, may exceed the *height* limits shown on the attached Map 2 by no more than 11.0 metres;
 - (iii) a stair tower, elevator shaft, chimney stack or other heating, cooling or ventilating equipment or window washing equipment on the roof of the building, or a fence, wall, decorative feature or structure enclosing such elements shall be permitted provided the maximum height of the top of such elements or enclosure is no higher than 11.0 metres above the *height* limits and within the mechanical penthouse outline shown on Map 2;
 - (iv) the structures and elements identified in Section 1.(d) above, subject to the limitations contained in Section 1.(d) and this subsection (e); and
- (f) a minimum of 9 *parking spaces* shall be provided and maintained on the *lot*, of which a maximum of 8 *parking spaces* may be contained within *parking stackers*;
 - (g) a minimum of one *loading space - type B* shall be provided and maintained on the *lot*;
 - (h) a motor vehicle entrance into or exit from the building or structure that leads to a parking facility containing two or more *parking spaces*, or to loading facilities, shall have a minimum width of 3.0 metres where the entrance or exit leads to a parking space and a minimum width of 4.7 metres where the entrance or exit leads to loading facilities;
 - (i) a minimum of one *bicycle parking space* shall be provided per *dwelling unit*, of which 40 *bicycle parking spaces* shall be provided as *bicycle parking spaces – visitor*;
 - (j) *amenity space* shall be provided in accordance with the following requirements:
 - (i) a minimum of 130 square metres of indoor *amenity space* shall be provided in a multipurpose room or rooms, whether or not such rooms are contiguous and at least one of which shall contain a washroom; and

- (ii) a minimum of 20 square metres of outdoor *amenity space* shall be provided;
- 2. the owners of the *lot* are required to enter into one or more agreements pursuant to Section 37 of the *Planning Act* satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement(s) shall be registered against title to the *lot* as outlined in heavy lines on Map 1 to secure the following facilities, services or matters:
 - (a) Prior to Site Plan Approval for the subject property, the owner shall provide a Conservation Plan including an estimate of the costs associated with its execution, for the reconstruction and restoration of the façade and library of 426 University Avenue to the satisfaction of the Manager of Heritage Preservation Services;
 - (b) Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall supply a Letter of Credit equal to the approved amount contained within the Conservation Plan;
 - (c) Prior to the release of a building permit, including for demolition, shoring, foundation or above grade, the owner shall provide a documentation report for the subject property including a history of the Royal Canadian Military Institute activities at the site since its construction, original plans and drawings for the building and subsequent alteration drawings, where available, and complete interior and exterior photo-documentation of all rooms, corridors and elevations (in both digital and black and white SLR formats) including a key plan indicating the location of each photograph, to the satisfaction of the Manager, Heritage Preservation Services;
 - (d) Prior to the release of the Letter of Credit, the owner shall complete all conservation work to the satisfaction of the Manager, Heritage Preservation Services;
 - (e) A cash contribution in the amount of \$1,000,000.00, indexed as per the Non-Residential Construction Price Index from the date of the execution of the Section 37 Agreement, for facilities, services or matters, which may include affordable housing projects in Ward 20, local park improvements, and streetscape improvements to Dundas Street West, shall be paid, consisting of an initial payment of \$100,000 payable upon the coming into force and effect of this By-law, with the balance payable prior to the release of any above grade building permit;
 - (f) 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;

- (g) 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;
- (h) The owner shall make reasonable commercial efforts to achieve LEED certification and shall provide the City with the project documentation on LEED certification;
- (i) The owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the the Chief Planner and Executive Director, City Planning Division, date stamped June 10, 2008;
- (j) The owner shall provide knock-out panels to accommodate a potential future connection to the PATH system, satisfactory to the Chief Planner and Executive Director, and the General Manager of Economic Development, and to be detailed in an agreement pursuant to Section 41 of the Planning Act;
- (k) Prior to the issuance of any demolition or building permit, the owner shall complete a Toronto Transit Commission (TTC) Technical Review of the proposed development as applicable to the particular permit under application and obtain the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review. As part of the review process, the owner shall provide the requisite information, and pay the associated review fee to the TTC;
- (l) The owner shall insert warning clauses regarding the TTC right-of-way in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration document(s) for each affected residential unit within the proposed development. Such warning clauses shall advise of the potential for noise, vibration, smoke, particulate matter, electromagnetic interference and stray current impacts on the proposed development and that the TTC accepts no responsibility for such effects;
- (m) Prior to Site Plan Approval, the owner shall submit an application to Transportation Services for any encroachments within the City right-of-way;
- (n) 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;
- (o) The owner shall make appropriate arrangements to secure a limiting distance agreement with the owner immediately to the south at 400

University Avenue to the satisfaction of the Chief Building Official, such limiting distance agreement to be executed prior to final site plan approval; and,

- (p) The owner shall provide knock out panels between a sufficient number of *dwelling units* to permit the combining of *dwelling units* to create a minimum of 10% of the total unit count as three *bedroom* units.

3. Definitions:

- (a) For the purpose of this By-law, the terms set forth in italics, subject to Section 3 (b) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86 of the former City of Toronto, as amended;
- (b) for the purpose of this By-law, the following definitions shall apply:
 - (i) “*amenity space*” means a common area or areas within the *lot* which are provided for recreational or social purposes;
 - (ii) “*bicycle parking space – occupant*” means an area that is equipped with a bicycle rack, locker or stacker for the purpose of providing parking and securing of bicycles
 - (iii) “*bicycle parking space-visitor*” means an area that is equipped with a bicycle rack or stacker for the purpose of parking and securing bicycles, which may be located outdoors or indoors, including within a secured room, enclosure or bicycle locker, and:
 - A. where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - B. where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (iv) “*club*” means the premises of an association of persons which supports and sponsors activities for and on behalf of its members, whether for athletic, social, cultural or recreational purposes, as well as *accessory* uses, including suites equipped with sleeping and bathroom facilities;
 - (v) “*loading space – type B*” means a loading space with a length of at least 11.0 metres, a width of at least 3.5 metres and a vertical clearance of at least 4.0 metres;

- (vi) “*lot*” means those lands outlined in heavy lines on Map 1 attached hereto;
 - (vii) “*parking space*” shall mean an unobstructed area with the following minimum dimensions:
 - A. 5.6 metres in length and 2.6 metres in width; or
 - B. 6.2 metres in length and 2.6 metres in width for a parallel parking space; or
 - C. a parking space within a *parking stacker*;
 - (viii) “*parking stacker*” means a mechanical motor vehicle parking facility with *parking spaces* which are positioned above each other and which spaces may not be readily accessible at all times without manoeuvring another vehicle or a device;
4. None of the provisions of By-law No. 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the *lot* of a temporary sales showroom.
 5. Notwithstanding any existing or future severances, 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.

