

Authority: Toronto and East York Community Council Item 12.12 as adopted by City of
Toronto Council on February 6 and 7, 2012
Enacted by Council:

CITY OF TORONTO

Bill No. 386

BY-LAW No. -2012

To amend By-law No. 438-86, as amended, of the former City of Toronto with respect to lands known municipally in the year 2011 as 66 Isabella Street.

WHEREAS the Council of the City of Toronto has been requested to amend Zoning By-law 438-86 pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to lands known municipally in the year 2011 as 66 Isabella Street; and

WHEREAS the Council of the City of Toronto conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed zoning by-law amendment; and

WHEREAS Subsection 37(3) of the *Planning Act*, the Council of the Municipality may, in a bylaw passed under Section 34 of the *Planning Act*, authorize increase in the height or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, in return for the provision of such facilities, services and matters as are set out in the By-law; and

WHEREAS the *owner* of the land that is the subject of this By-law has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the density or height permitted hereunder, beyond that otherwise permitted on the land by By-law No. 438-86, as amended, are to be permitted in return for 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 such land and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Official Plan of the former 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 dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid land as permitted in this By-law;

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

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the following 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 or agreements pursuant to Section 37 (3) of the *Planning Act*.
2. 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 requirements.

3. Except as otherwise provided herein, the provisions of By-law No. 438-86, shall continue to apply to the *lot*.
4. None of the provisions of Section 2 with respect to the definition of the terms *lot*, *grade* and *height*, and Sections 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 4(17), 6(1)(a), 6(3)PART I, 6(3)PART II, 6(3)PART III, 12(2)260, 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 land 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 lands municipally known as 66 Isabella Street in the year 2011(hereinafter referred to as the *lot*), provided that:
 - (a) the *lot* consists of at least the lands delineated by heavy lines on the attached Map 1 attached to and forming part of this by-law;
 - (b) the *mixed-use building* on the *lot* shall be comprised of the *Existing Building* and the *Building Addition*;
 - (c) the amount of *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed the following:
 - (i) the *residential gross floor area* of the *Existing Building* as existing in the year 2011, plus up to 210 square metres of additional *residential gross floor area* which may result from the enclosure of balconies on the easterly elevation of the *Existing Building*;
 - (ii) the *residential gross floor area* of the *Building Addition* shall not exceed 15,100 square metres and the *non-residential gross floor area* shall not exceed 500 square metres;
 - (d) a maximum of 411 *dwelling units* shall be permitted on the *lot*, subject to the following:
 - (i) the number of *dwelling units* in the *Existing Building* shall be 200; and,
 - (ii) the number of *dwelling units* permitted in the *Building Addition* shall be not less than 190 and not more than 211 of which not less than 12 of the rental *dwelling units* required shall be 3 bedroom *dwelling units*;
 - (e) non-residential uses shall be limited to those uses listed in Section 8(1)(f)(b)(iv) and (vi) of By-law 438-86, as amended;
 - (f) no part of the *Building Addition* or any structure erected or used above finished ground level on the *lot* shall exceed the *height* limits above *grade* in meters specified by the numbers following the symbol “H” as shown on Map 2;

- (g) no portion of the *Building Addition* located above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2;
- (h) nothing in Sections 4(f) and 1(g) of this By-law shall prevent the following elements from projecting beyond the heavy lines and above the *height* shown on Map 2;
 - (i) subject to (ii), bollards, eaves, cornices, lighting fixtures, awnings, canopies, fences and safety railings, architectural features, parapets, trellises, balustrades, window sills, window washing equipment, privacy screens, mechanical and architectural screens, guardrails, chimneys, vents, stacks, mechanical fans, terraces, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, underground garage ramps and their associated structures, stair landings, planters and elements or structures on the roof of the building used for outside or open air recreation, green roof, safety or wind protection purposes;
 - (ii) no part of any building including the elements permitted in (i) herein shall be located within the hatched area shown on Map 2 from finished ground level to 4.0 metres above *grade* other than canopies, signage, lighting, columns and structural support elements;
- (i) nothing in sections 4(f) and 4(g) of this By-law shall prevent balconies, to a maximum horizontal projection of not more than 2.5 metres from the main wall of the *Existing Building* and *Building Addition* from projecting beyond the heavy lines and above the *height* shown on the attached Map 2;
- (j) the height of the *Existing Building* shall not exceed the height of such building as it existed on the *lot* in the year 2011;
- (k) *residential amenity space* shall be provided as follows:
 - (i) a minimum of 700 square metres of indoor *residential amenity space* shall be provided on the *lot* of which at least 100 square metres shall be in the *Existing Building* in a multipurpose room with direct access to the outdoor *residential amenity space* and at least 600 square metres shall be in the *Building Addition* in a room or rooms, of which at least one shall be a multipurpose room which shall contain a kitchen and a washroom with direct access to the outdoor *residential amenity space* on the roof terrace of the *Building Addition*; and,
 - (ii) a minimum of 937 square metres of outdoor *residential amenity space* shall be provided on the *lot*, of which at least 525 square metres is to be provided in a location that is adjoining or directly accessible from indoor *residential amenity space*;

- (l) a minimum of 250 *bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
 - (i) for residents, a minimum of 218 *bicycle parking spaces – occupant*, shall be provided on the following floors:

Ground Floor – 118 *bicycle parking space*
P1 – 68 *bicycle parking spaces*
P2 – 32 *bicycle parking spaces*
 - (ii) residential *bicycle parking spaces – occupant* shall not be combined with storage lockers for *dwelling units*;
 - (iii) for visitors, not less than 32 *bicycle parking spaces – visitor*, shall be provided at finished ground level;
 - (m) a minimum of 166 *parking spaces* shall be provided and maintained on the *lot*, of which a minimum of 153 shall be for the exclusive use of residents and 13 *parking spaces* shall be provided for the exclusive use of residential visitors;
 - (n) *parking spaces* shall comply with the dimensional requirements of 4(17) of By-law 438-86, as amended; with the exception that *parking spaces* and drive aisles existing on the *lot* in the year 2011 may be maintained;
 - (o) a minimum of one *loading space - type G* shall be provided and maintained on the *lot*;
 - (p) a minimum of 700 square metres of *landscaped open space* shall be provided and maintained on the *lot*;
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. No person shall use any land or erect or use any building or structure on 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 base curb and base asphalt and are connected to an existing public highway;
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
7. Definitions:
- (a) For the purpose of this By-law, the terms set forth in italics, subject to Section 3 (ii) 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) the following definitions shall apply:

- (i) “*Existing Building*” means the existing *apartment building* and *accessory* structures, including an underground *parking garage* and enclosed garage entry ramp located on the *lot* in the year 2011 as shown on Map 2, subject to alterations, additions and internal modifications which do not result in any additional *residential gross floor area*, exclusive of additional *residential gross floor area* that shall be permitted as a result of alterations to enclose the balconies on the easterly elevation of the existing *apartment building* in accordance with Section 4.(c)(i) of this By-law;
- (ii) “*Building Addition*” means any building or structures, other than the existing building, within the heavy lines shown on Map 2 above finished ground, as well as buildings or structures below finished ground associated with building or structures above finished ground;
- (iii) “*grade*” means the Canadian Geodetic elevation of 112.61 metres;
- (iv) “*height*” means the highest point of the roof above *grade* except for those elements prescribed in this By-law;
- (v) “*lot*” means those lands outlined in heavy lines on Map 1 attached hereto;

8. By-law No. 242-68 is hereby repealed as it applies to the *lot*.

9. 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 office.

ENACTED AND PASSED this th day of March, 2012.

FRANCES NUNZIATA,
Speaker

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*, or portion thereof 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 agreement:

1. Prior to the issuance of the first above-grade building permit for the development, pay to the City the sum of \$450,000.00 to be used towards local streetscape and park improvements, as determined by the Chief Planner and Executive Director, City Planning (the "Chief Planner") in consultation with the Ward Councillor, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date of payment;
2. At least 190 *dwelling units* be provided and maintained within the *Building Addition – Rental* (the "New Rental Dwelling Units") which together with all associated common areas, shall comprise the "Building Addition – Rental" of which not less than 100 New Rental Dwelling Units, shall be provided as mid-range rental *dwelling units*, as such terms are defined in the agreement, and consistent with the City's Official Plan definition of such terms, subject to the following:
 - (a) the *Building Addition -Rental*, including the New Rental Dwelling Units shall be maintained as rental housing for at least 20 years, beginning with the later of the date that such units are:
 - (i) available for occupancy; or,
 - (ii) the initial commencement date in a signed offer to lease for each New Rental *Dwelling Unit* (the "Commencement Date").
 - (b) No portion of the *Building Addition - Rental*, including the New Rental *Dwelling Units* shall be registered as condominium or any other form of ownership such as life lease or co-ownerships which provide a right to exclusive possession of a unit, and no application for conversion for non-rental housing purposes, or application to demolish any portion of the of the *Building Addition - Rental*, including the New Rental *Dwelling Units* can be made for at least 20 years from the latest of the Commencement Dates for each New Rental *Dwelling Unit*;
 - (c) the *owner* of the *lot* shall identify in writing to the City 100 of the New Rental *Dwelling Units* as mid-range rental units prior to any Commencement Date (the "100 Mid-Range Rental Units") and thereafter shall provide and maintain mid-range rents charged to the tenants who rent the 100 Mid-Range Rental Units during the first five years of occupancy, such that the initial rent for such units shall not exceed an amount equal to 1.5 times the average rent by unit type for the

City of Toronto as reported by the most recent Canada Mortgage and Housing Corporation annual Rental Market Report in effect on the Commencement Date;

- (d) the 100 Mid-Range Rental Units are to be comprised of 90 one-bedroom *dwelling units* and 10 two-bedroom *dwelling units*;
 - (e) increases to the initial rents charged to tenants occupying any of the 100 Mid-Range Rental Units after the first year of occupancy shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, and upon turnover, rents charged to new tenants of such units during the first five years of occupancy shall not exceed the greater of the most recently charged rent or an amount not exceeding 1.5 times the average market rent by unit type as reported by the most recent Canada Mortgage and Housing Corporation annual Rental Market Report;
 - (f) rents charged to tenants occupying any of the 100 Mid-Range Rental Units at the end of the first five years of occupancy 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 rental *dwelling unit*, until the tenth anniversary of their tenancy at which time there shall be a phase-in-period of at least 3 years for rent increases to unrestricted market rent; and
 - (g) rents charged to tenants newly occupying one of the 100 Mid-Range Rental Units after the first five years of such unit's occupancy will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.
3. The *owner* of the *lot* shall prior to the issuance of any building permit for all or any part of the *lot*, including for excavation or shoring but excluding any permits required for maintenance or repairs to the *Existing Building*, provide a Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner which requires the *owner* to provide relocation assistance for eligible tenants who occupy the 50 rental *dwelling units* located in the *Existing Building* that require renovations in order to construct the *Building Addition*, including at least the following:
- (a) the right to return to their renovated *dwelling unit* at the same rent as if their occupancy had not been interrupted;
 - (b) five months notice of the date they are required to vacate for the renovations;
 - (c) financial assistance beyond that required by the *Residential Tenancies Act*, including opportunities for relocation within the *Existing Building* or other buildings controlled by the *owner* of the *lot* and with extra provisions for special needs tenants.
4. The *owner* of the *lot* shall make improvements to the *lot*, the *Existing Building*, and the *Building Addition* to benefit the residents of the *Existing Building* and the residents of the *Building Addition*, to the satisfaction of the Chief Planner, including but not limited to, creating new indoor *residential amenity space*, improving existing and adding new outdoor *residential amenity space*, adding *bicycle parking spaces* for the *Existing*

Building, renovating existing and adding new storage lockers, creating a new laundry room in the *Existing Building*, renovating the existing lobby, and the costs of any such improvements as well as the costs of the development shall not be passed on in any form, including increases to the rents, to tenants of the *Existing Building*.

5. The *owner* of the *lot* shall maintain the 200 rental *dwelling units* and associated spaces located within the *Existing Building* on the date of enactment of this By-law (the "Existing Rental Units") as rental housing for a minimum period of 20 years from the date this By-law comes into force and effect. None of the Existing Rental Units or associated spaces shall be registered as condominium or any other form of ownership such as life lease or co-ownerships which provide a right to exclusive possession of a unit, and no application for conversion for non-rental housing purposes, or application to demolish the Existing Rental Units or associated spaces can be made during such 20 year period.
6. Prior to the issuance of the first building permit for the development the *owner* shall provide at its expense to the satisfaction of the Chief Planner, a construction management plan and tenant communication strategy for the development.
7. None of the provisions of this By-law shall apply to prevent the *owner* of the *lot* from registering as a condominium a maximum of 12 dwelling units located in the *Building Addition* together with providing for appropriate rights of access to such units on the *lot*, including but not limited to, access to and use of parking, bicycle parking, shared laundry facilities, shared garbage storage, shared loading and shared indoor and outdoor residential amenity space, to the satisfaction of the Chief Planner. The owners of such 12 condominium registered dwelling units shall not be subject to the obligations set forth in Sections 2-6 of this Appendix 1 pursuant to Section 37 of the *Planning Act*.



