

Authority: Toronto and East York Community Council Report No. 8, Clause No. 5a,  
adopted as amended, by City of Toronto Council on November 24, 2005  
Enacted by Council: December 16, 2005

## **CITY OF TORONTO**

### **BY-LAW No. 1091-2005**

#### **To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 109 Bernard Avenue, 100 Spadina Road and 97 Walmer Road.**

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 pursuant to Section 37 of the *Planning Act* the Council of a municipality may in a By-law passed pursuant to Section 34 of the *Planning Act*, authorize increases in height or density of development beyond those otherwise permitted by the By-law in return for the provision of such facilities, services and 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 an increase in height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality in respect of the facilities, services or matters; 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 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 density and height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 438-86, are to be permitted in return for the provision of 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 the Council of the City has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density 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 the terms *lot*, *grade* and *height*, Sections 4(2)(a)(i) and (ii), 4(5)(a),(b), (c) and (d), 4(11)(b) and (c), 4(12), 4(13), 4(16), 6(1), 6(3)PART I 1, 6(3) PART II 2, 6(3) PART II 3, 6(3) PART II 4, 6(3) PART II 5, 6(3) PART II 6, 6(3) PART III , 6(3) PART IV 2 and 12(2)280 of By-law No 438-86, 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 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 and use of *residential buildings* containing *dwelling units* and *accessory* uses thereto,

including an underground *parking garage*, together with the retention of the *Existing Buildings* on the lands municipally known in the year 2005 as 109 Bernard Avenue, 100 Spadina Road and 97 Walmer Road (hereafter referred to as the "*lot*") provided:

- (1) the *lot* consists of the lands delineated by heavy lines on the attached Map 1;
- (2) the *residential gross floor area* erected and used on the *lot* does not exceed:
  - (a) 7,200 square metres within *Building A*;
  - (b) an aggregate of 1,710 square metres within *Building D* and *Building E*; and
  - (c) within the *Existing Buildings*, the amount of *residential gross floor area* located within each such building on May 1, 2005, together with any additional *residential gross floor area* resulting from internal modifications to such buildings permitted by this By-law or By-law No. 438-86;
- (3) no portion of any building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines on the attached Maps 2A, 2B and 2C with the exception of the permitted projections described in Section 6(3) PART II 8 of By-law No. 438-86;
- (4) no person shall erect or use a building or structure on the *lot* having a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on the attached Maps 2A, 2B and 2C, inclusive of the elements permitted in Section 4(2)(a)(i) and (ii) of By-law No. 438-86, and except for the following:
  - (a) railings extending to a maximum vertical projection of 1.5 metres;
  - (b) chimney stacks and vents may exceed the *height* limits on the attached Maps 2A, 2B and 2C by no more than 2.0 metres;
  - (c) fences, decorative walls and screens extending to a maximum vertical projection of 2.0 metres above *grade* and, for fences, decorative walls and screens located on a roof terrace, a maximum of 2.0 metres above the finished level of the applicable roof terrace; and
  - (d) *Existing Buildings*, for which the *height* shall not exceed the *height* of such buildings as they existed on the *lot* in the year 2005;

- (5) *parking spaces* for the residents of, and visitors to the buildings are provided and maintained on the *lot* in accordance with the following:
- (a) for *Building A, Building D and Building E*:
    - (i) a minimum of 0.3 *parking spaces* per bachelor *dwelling unit* for residents;
    - (ii) a minimum of 0.5 *parking spaces* per one *bedroom dwelling unit* for residents;
    - (iii) a minimum of 0.75 *parking spaces* per two *bedroom dwelling unit* for residents;
    - (iv) a minimum of 1.2 *parking spaces* per three or more *bedroom dwelling unit* for residents; and
    - (v) a minimum of 0.06 *parking spaces* per *dwelling unit* for visitors to each such building;
  - (b) for *Building B*, a minimum of 89 *parking spaces* consisting of not less than 75 *parking spaces* for residents and not less than 13 *parking spaces* for visitors;
  - (c) for *Building C*, a minimum of 1 *parking space*; and
  - (d) despite clauses (a), (b) and (c) herein, up to a total of 16 *parking spaces* may comprise *substandard parking spaces*;
- (6) for the use of *Building A* and *Building B* at least one *loading space – type G* is provided and maintained on the *lot*;
- (7) not less than 81 *bicycle parking spaces-occupant* and not less than 20 *bicycle parking spaces - visitor* shall be provided on the *lot* for use without charge by the residents and visitors to *Building A* and *Building B*;
- (8) no *residential gross floor area* other than within the *Existing Buildings* shall be erected and used on the *lot* unless *residential amenity space* is provided and maintained on the *lot* and without charge, as follows:
- (a) within *Building A*, at least 160 square metres of indoor *residential amenity space* is provided and maintained for the use of residents of both *Building A* and *Building B* in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom;

- (b) adjacent to *Building A*, at least 2 square metres per *dwelling unit* located within *Building A*, of outdoor *residential amenity space* is provided and maintained for the use of residents of both *Building A* and *Building B* of which at least 30 contiguous square metres is provided in a location adjoining or directly accessible from indoor *residential amenity space* located within *Building A*; and
  - (c) within *Building B*, at least 210 square metres of indoor *residential amenity space* is provided and maintained for the use of residents of both *Building A* and *Building B* in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom;
- (9) not less than 43 percent of the *lot* area shall comprise *landscaped open space*;
- (10) the owner of the *lot*, at its expense, provides and maintains the following facilities, services and matters, subject to and in accordance with the agreement pursuant to Section 37 of the *Planning Act* required in paragraph (11) herein:
  - (i) provides and maintains the existing 216 rental *dwelling units* located within *Building B* and *Building C* as rental for a minimum period of at least 20 years from the date *Building A* is first occupied as a rental building, with no application to convert *Building B* and *Building C* to condominium or to demolish such buildings or rental *dwelling units*, during that time period;
  - (ii) makes improvements to the *lot*, the *Existing Buildings*, *residential amenity space*, *bicycle parking*, *parking spaces* and in any other way related to the construction of the development permitted by this By-law, the costs of which the owner shall not pass through in any form to residents of the *Existing Buildings*;
  - (iii) the owner shall not apply to any tribunal or otherwise including under the *Tenant Protection Act*, or any successor legislation, for the purpose of obtaining any increase in rent above the Guidelines established under that Act or any successor Act in relation to the *Existing Buildings* and the residents of the *Existing Buildings*, arising from the cost of the improvements required in paragraph (ii) herein;
  - (iv) provides and maintains the new *dwelling units* in *Building A*, and maintains them as rental units for at least 20 years commencing from the date of initial occupancy of each such unit with no application to convert such buildings to condominium or to demolish such buildings or rental units, during that time period;

- (v) provides to the City prior to the issuance of the first building permit and carries out in accordance with, a Construction Mitigation Plan and Tenant Communication Strategy, for tenants of the *Existing Buildings* and the Walmer Road and 74 Spadina Road neighbouring property owners abutting the *lot* satisfactory to the City;
- (vi) pays to the City for local park improvements the total sum of \$350,000.00, as follows:
  - A. \$250,000.00 prior to the issuance of the first building permit; and
  - B. \$100,000.00 after the Official Plan Amendment and this By-law come into full force and effect and prior to the issuance of the first building permit;

of which 90 percent is to be allocated to Jean Sibelius Park and 10 percent is to be allocated to Walmer Road Circle Park;
- (vii) constructs *Building D* and *Building E* using brick cladding to the satisfaction of the City's Director of Urban Design;
- (viii) enters into a Heritage Easement Agreement respecting *Building B* with the City to the satisfaction of the City's Manager of Heritage Preservation Services, prior to the enactment of this By-law;
- (ix) provides the City with a Condition Assessment for *Building B* to the satisfaction of the City's Manager of Heritage Preservation Services prior to the earlier of, the issuance of any site plan approval or building permit connected with this By-law, and remedies any deficiencies identified in the Condition Assessment to the City's satisfaction;
- (x) for *Building A*, translucent glass or other material which provides at least the same level of privacy for the lower portions of any French balcony and for at least one of the panes of glass for each bedroom window on the first three floors facing west and facing south, including the second floor connecting section;
- (xi) completes a Toronto Transit Commission (TTC) Technical Review of the proposed development as applicable to the particular permit under application, provides the requisite information and pays the associated review fee, and obtains the TTC's written acknowledgement that the owner has satisfied all of the conditions arising out of the review prior to starting any demolition or construction, or the issuance of the first or any building permit;
- (xii) provides the TTC with three sets of the approved building permit drawings at the completion of the permitting process;

- (xiii) agrees that warning clauses regarding the TTC right-of-way shall be inserted in all offers to purchase, agreements of purchase and sale, agreements to lease, and condominium declaration document(s) for each affected residential unit, lot, and/or lot and/or block within the proposed development, such warning clauses advising of the potential for noise, vibration or electrical magnetic interference and stray current impacts on the proposed development, and that the TTC accepts no responsibility for such effects; and
    - (xiv) installs and maintains satisfactory security equipment and personnel on the *lot* to provide security to persons using the underground *parking garage*; and
  - (11) enters into and registers on title to the *lot* an agreement with the City pursuant to Section 37 of the *Planning Act*, as a first charge to secure the facilities, services and matters set forth in paragraph (10) of this By-law.
2. None of the provisions of the Zoning By-law shall apply to prevent the provision and maintenance for gain of a total of 4 *parking spaces* or *substandard parking spaces* on the *lot* for the exclusive use of the residents of the lands municipally known in the year 2005 as 81 Madison Avenue.
3. For the purposes of this By-law:
- (a) “*Building A*”, “*Building B*”, “*Building C*”, “*Building D*”, “*Building E*” means Building A, Building B, Building C, Building D and Building E as shown on the attached Maps 2A, 2B and 2C;
  - (b) “*Elevator Enclosure*” means an area on the *lot* as shown on the attached Map 2A containing a service elevator and associated enclosure and screen fence;
  - (c) “*Existing Buildings*” means the buildings located on the *lot* in the year 2005, as shown on Maps 2A and 2C, subject to any internal modifications permitted by this By-law and By-law No. 438-86;
  - (d) “*grade*” means 118.01 metres Canadian Geodetic Datum;
  - (e) “*height*” means the vertical distance between *grade*; and
    - (i) in the case of a pitched roof building, the mean height level between the eaves and the ridge of the roof; and
    - (ii) in the case of another kind of roof, the highest point of the roof excluding those elements permitted in subsections 1(4)(a), (b) and (c) of this By-law;
  - (f) “*substandard parking space*” means a parking space having dimensions of not less than 5.0 metres in length and not less than 2.6 metres in width;

- (g) all other words, terms and phrases appearing in italics shall have the same meaning as they have for the purpose of the aforesaid By-law No. 438-86, except as herein provided.

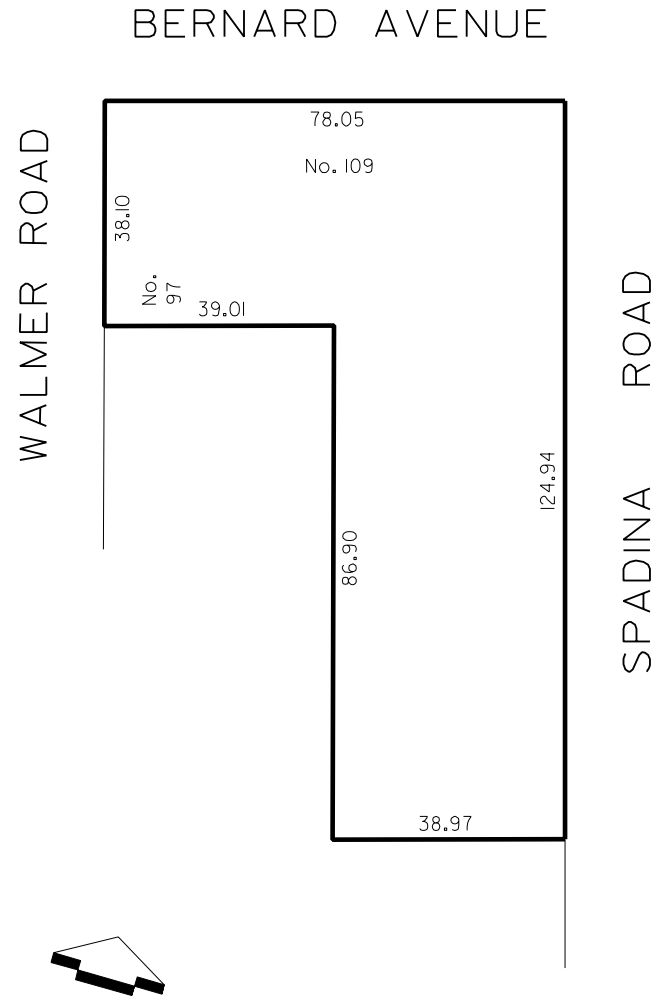
ENACTED AND PASSED this 16th day of December, A.D. 2005.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS  
City Clerk

(Corporate Seal)

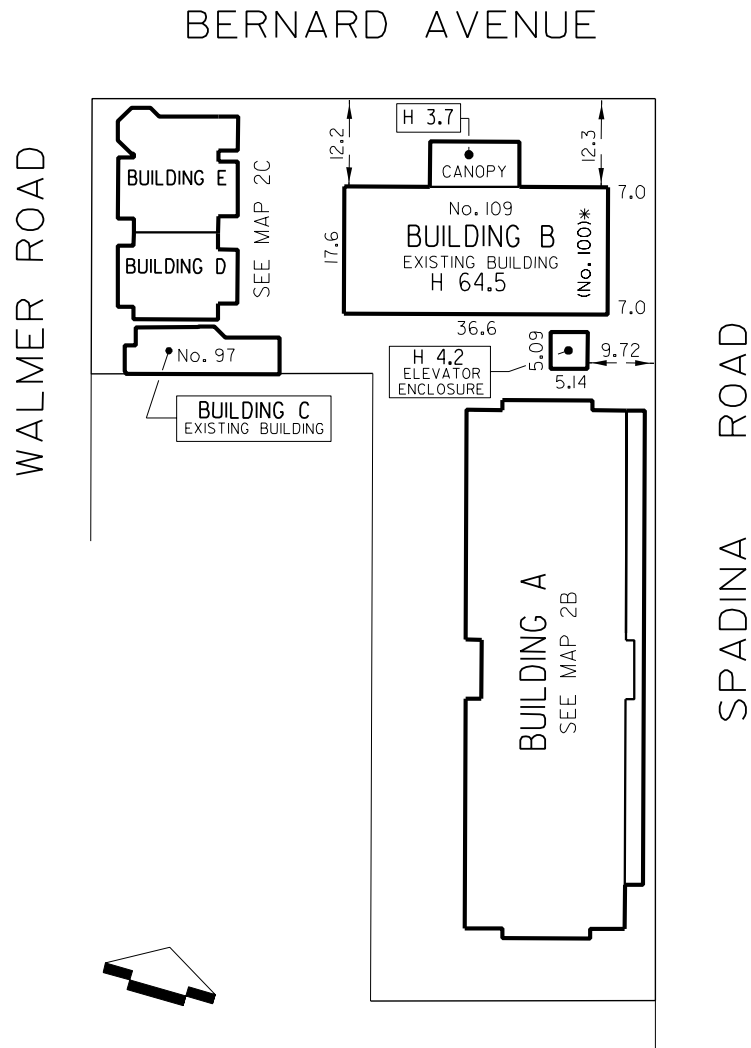
## MAP I



SURVEY AND MAPPING SERVICES  
TORONTO MAY 2005  
BL05/100SPADINA1.DGN  
FILE: W6-Z14  
MAP No. 50J-311 DRAWN: VG



## MAP 2A

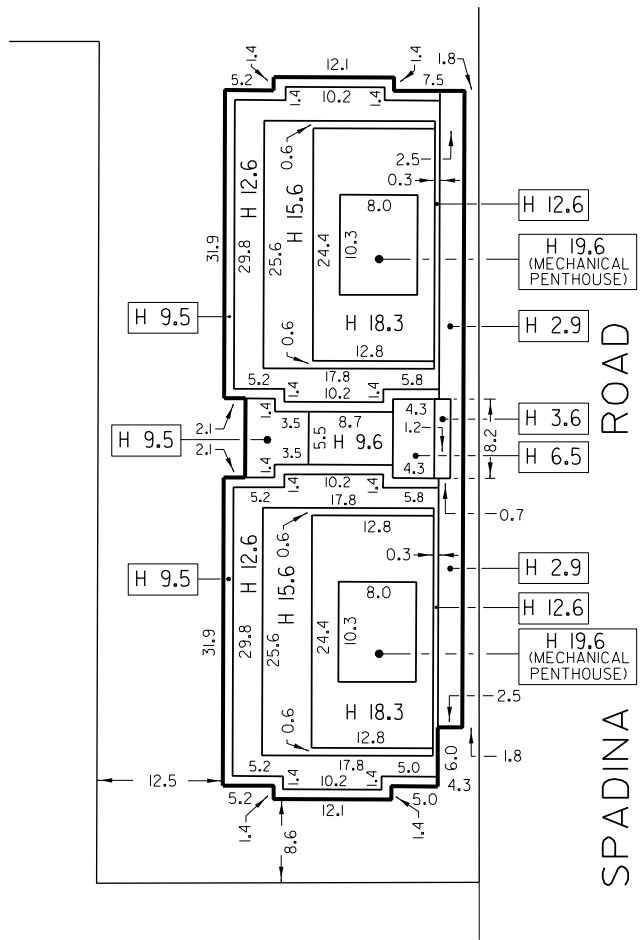


\* ENTRANCE ADDRESS FOR 109 BERNARD AVENUE  
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

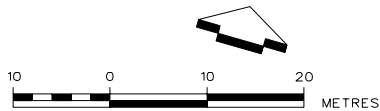


SURVEY AND MAPPING SERVICES  
TORONTO DECEMBER 6, 2005  
BL05/100SPAD2A.DGN  
FILE: W6-Z14  
MAP No. 50J-311 DRAWN: VG

MAP 2B  
(BUILDING A)



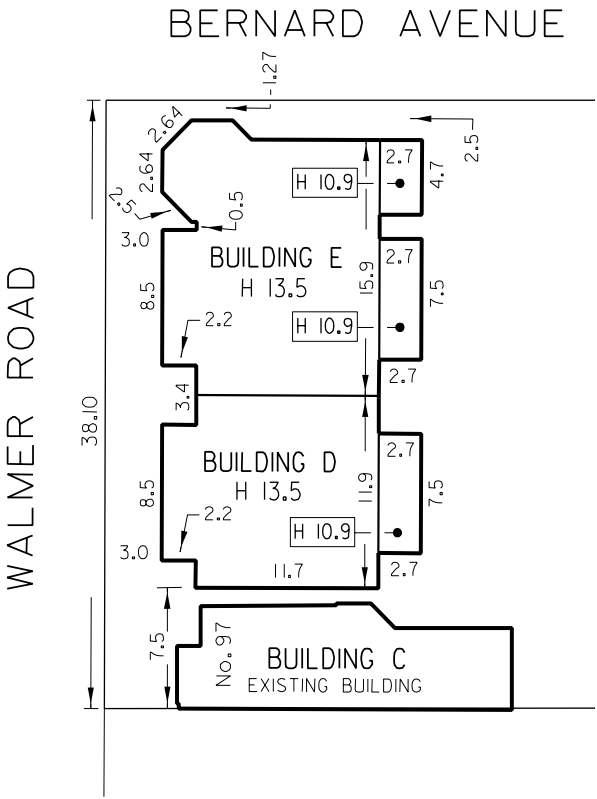
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



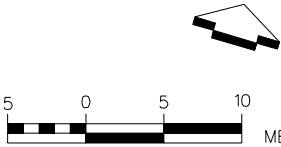
SURVEY AND MAPPING SERVICES  
TORONTO DECEMBER 6, 2005  
BL05/100SPAD2B.DGN  
FILE: W6-Z14  
MAP No. 50J-311 DRAWN: VG

# MAP 2C

(BUILDING C, BUILDING D and BUILDING E)



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



SURVEY AND MAPPING SERVICES  
TORONTO DECEMBER 8, 2005  
BL05/100SPAD2C.DGN  
FILE: W6-Z14  
MAP No. 50J-311 DRAWN: VG