

Authority: Toronto and East York Community Council Report 7, Clause 15,
as adopted by City of Toronto Council on September 25, 26 and 27, 2006
Enacted by Council: March 6, 2007

CITY OF TORONTO

BY-LAW No. 226-2007

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 13-21 Balmuto Street.

WHEREAS authority is given to the Council of the City of Toronto by Sections 34 and 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to enact this By-law; and

WHEREAS the Council of the City of Toronto has provided adequate information to the public and has conducted at least one public meeting in accordance with the *Planning Act* regarding the proposed Zoning By-law amendments; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the Municipality may, in a by-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted in return for the provision of such facilities, services and matters as are set out in the by-law; and

WHEREAS Section 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, a municipality may require the owner to enter into one or more agreements with the municipality securing the facilities, services and matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide, the facilities, services and matters set out in this By-law in return for the increase in height and density beyond that otherwise permitted on the subject lands by By-law No. 438-86, as amended; and

WHEREAS the Council for the City of Toronto has required the owner of the subject lands to enter into one or more agreements with respect to the facilities, services and matters set out in this By-law in return for the increase in height and density proposed;

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 words “*lot*”, “*grade*” and “*height*”, and none of the provisions of Sections 4(2)(a), 4(12), 8(3) Part I (1), 8(3) Part 1 3(a), 8(3) Part II (1)(a)(ii), and 8(3) Part XI 2(ii) of Zoning 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 a building containing residential and non-residential uses, a below-*grade parking garage* and uses *accessory* thereto on the *lot*, provided that the provisions of Section 2 herein and the following provisions are complied with:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached hereto and forming part of this By-law;

- (b) the total combined *non-residential gross floor area* and *residential gross floor area* on the *lot* shall not exceed 12,445 square metres;
- (c) the *residential gross floor area* on the *lot* shall not exceed 12,405 square metres;
- (d) a minimum of 40 square metres to a maximum of 100 square metres of *non-residential gross floor area* shall be provided on the *lot* and on the ground floor fronting onto Balmuto Street;
- (e) Section 8 (3) Part II (1) (a) (ii) shall apply with the exception that any window of a *dwelling unit* on the third and fourth *storey* on the south side of a building or structure shall be set back a minimum of 3.0 metres;
- (f) no portion of a building or structure erected above *grade* is located otherwise than wholly within the area delineated by heavy lines as shown on Map 2 attached hereto and forming part of this By-law;
- (g) the *height* of any building or structure shall not exceed those *heights*, in metres above *grade*, following the symbol “H” shown on Map 2 attached hereto, but this paragraph does not prevent the erection or use of:
 - (i) a structure used for outside or open air recreation, safety or wind protection in the area identified as the “Amenity Terrace” on Map 2 attached hereto provided that:
 - A. the maximum *height* of the top of the structure is no higher than the sum of 3.0 metres and the applicable *height* limit for the “Amenity Terraces” shown on Map 2 attached hereto; and
 - B. the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;
- (h) only the following building elements and structures shall be permitted beyond the heavy lines and above the *height* limits shown on Map 2 attached hereto:
 - (i) cornices, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, wheel chair ramps, vents, underground garage ramps and their associated structures, fences, screens, landscape and public art features;
 - (ii) balconies may extend to a maximum horizontal projection from an east or west exterior building wall of approximately 1.5 metres beyond the heavy lines shown on Map 2 attached hereto; and
 - (iii) window washing equipment, lightning rods and exhaust flues located above the mechanical penthouse roof level *height* of 120 metres provided that the maximum vertical dimension of any such element does not exceed 1.2 metres;

- (i) a minimum of 2 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided on the *lot* in a multi-purpose room or in a number of rooms located on the same *storey* which *storey* contains a kitchen and a washroom for use in association with such *residential amenity space*;
 - (j) a minimum of 176 square metres of outdoor *residential amenity space* shall be provided on the *lot* of which 40 square metres shall be provided in a location directly adjoining or directly accessible from indoor *residential amenity space*;
 - (k) a *bicycle parking space – occupant* shall not be combined with any storage lockers for the *dwelling units*, and shall be provided and maintained only on the ground floor, the second *storey* and third *storey* above *grade*, and the first and second levels immediately below *grade* in the *parking garage*; and
 - (l) notwithstanding paragraph (iii) in the definition of *bicycle parking space – visitor*, a *bicycle parking space – visitor* may be provided in a secure room or area and shall be provided and maintained only on the ground floor and the on the first level immediately below *grade* in the *parking garage*.
2. Pursuant to Section 37 of the *Planning Act*, the heights and density of development on the *lot* as contemplated by 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 to the City at the *owner's* sole expense and in accordance with and subject to the provisions of the agreement to be executed and registered on title to the *lot* as referred to in Section 2(a) hereof:
- (a) the owner shall enter into one or more agreements with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by this Section 2 and consents to the registration of such agreement against title to the *lot*, the said agreement to include provisions relating to indemnity, insurance, GST, termination, unwinding, registration and priority of agreement and the indexing of financial contributions as applicable;
 - (b) payment of a cash contribution to the City in the amount of \$475,000, prior to issuance of any above *grade building permit* for the building to be erected on the *lot*, for the following local community improvement initiatives:
 - (i) \$175,000 toward the Toronto Transit Commission (TTC) Cumberland subway entrance renovations; and
 - (ii) \$300,000 toward design and implementation of streetscape improvements for Balmuto Street between Bloor Street East and Charles Street;
 - (c) provision of a public art contribution in accordance with the City of Toronto's Percent for Public Art Program for a value not less than one percent of the gross construction cost of all buildings and structures on the *lot*;

- (d) provision of the following in support of the orderly development of the *lot*;
- (i) submission of documentation respecting Leadership in Energy and Environmental Design (“LEED”) certification of the development in accordance with the following:
- A. in conjunction with the construction and marketing of the development, the *owner* shall provide to the Chief Planner and Executive Director, City Planning Division, such documentation as is requested with respect to LEED Certification and the marketing materials that include information on LEED Certification;
- B. the *owner* shall also:
- (1) use reasonable commercial efforts to obtain LEED certification of the proposed building on the *lot*;
 - (2) prior to receiving site plan approval, register the development with the Canada Green Building Council “CaGBC” (the “LEED Registration”) and provide written confirmation of the LEED Registration to the Chief Planner;
 - (3) prior to submitting an application for condominium registration for the development on the *lot*, make a LEED application and provide the Chief Planner with a copy together with written confirmation that it has been submitted and, if requested, copies of all documentation submitted with the LEED application;
 - (4) upon the receipt of a CaGBC report provide the Chief Planner with a copy of such CaGBC report, if requested;
 - (5) submit a response to the CaGBC regarding any CaGBC report as required and provide the Chief Planner with a copy, if requested;
 - (6) upon receipt of the CaGBC’s decision as to whether LEED certification has been granted, provide the Chief Planner with a copy, if requested; and
 - (7) provide the Chief Planner with a copy of the *owner’s* marketing materials for the development that contain information regarding LEED and all LEED certification documentation, if requested;

- (ii) provision of quality building materials for the podium and tower facades of the building on the *lot*, satisfactory to the Chief Planner and Executive Director, City Planning Division, as follows:
 - A. the masonry components of the west façade of the entire podium will be of limestone and/or granite; and
 - B. the masonry components of a portion of the north and south facades of the podium will be of limestone and/or granite to the extent that those elevations are viewed or exposed to Balmuto Street;
 - (iii) prior to issuance of the first above grade *building permit* for the building on the *lot*, the provision of assurances satisfactory to the Executive Director of Technical Services and the City Solicitor that the owner of the *lot* has existing rights in perpetuity in the nature of an easement for access purposes over the lands shown in hatching and identified as “Private Lane” on Map 1, which lands are intended as part of the proposed access for the development on the *lot*;
 - (iv) improvements to the street right-of-way immediately abutting the *lot* on the east side of Balmuto Street, including streetscaping and tree installation, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager, Parks, Forestry and Recreation Division and the Executive Director, Technical Services Division and in a manner that is consistent with the landscaping approved for the *lot* in the development site plan approval process pursuant to s.41 of the *Planning Act* or predecessor legislation;
 - (v) provision and maintenance of an irrigation system for any proposed trees within the public right-of-way abutting the *lot*, which system includes an automatic timer, is designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and is constructed with a back flow preventer, all to the satisfaction of the General Manager, Parks, Forestry and Recreation Division and the Executive Director, Technical Services Division; and
 - (vi) provision of space within the development for the construction of any required transformer vaults, Hydro and Bell maintenance holes and sewer maintenance holes.
3. Notwithstanding any of the foregoing provisions, where the provisions of this By-law or the Section 37 Agreement require provision of facilities, services and matters prior to issuance of a building permit for the proposed development of the *lot*, including provision of financial securities and payment of contributions, no building or structure may be erected or used on the *lot* until the *owner* has satisfied the said requirements and building permit issuance shall be dependent on the same.

4. Notwithstanding any other provision of this By-law or the Section 37 Agreement(s), the City and the *owner* may modify or amend the said agreement(s) from time to time upon consent of the other, without further amendment to those provisions of this By-law which identify the facilities, services and matters to be secured.
5. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the *Planning Act* in accordance with the provisions of Section 2 herein, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of the agreement.
6. For the purposes of this By-law:
 - (a) “*building permit*” means a permit issued for the construction of a building, or any part thereof, pursuant to section 8 of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, superseded or replaced from time to time;
 - (b) “*grade*” means 115.0 metres Canadian Geodetic Datum;
 - (c) “*height*” means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in this By-law;
 - (d) “*lot*” means those lands outlined in heavy lines on Map 1 attached hereto; and
 - (e) with the exception of the words or expressions referred to in paragraphs (a) to (d) above, each word or expression that is italicized in the By-law herein shall have the same meaning as the said word or expression as defined in By-law No. 438-86, as amended.
7. None of the provisions of By-law No. 438-86, as amended, or this By-law shall apply to prevent the erection or use of a temporary sales showroom on the *lot* for the purpose of selling the residential dwellings set out in this By-law.
8. 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.

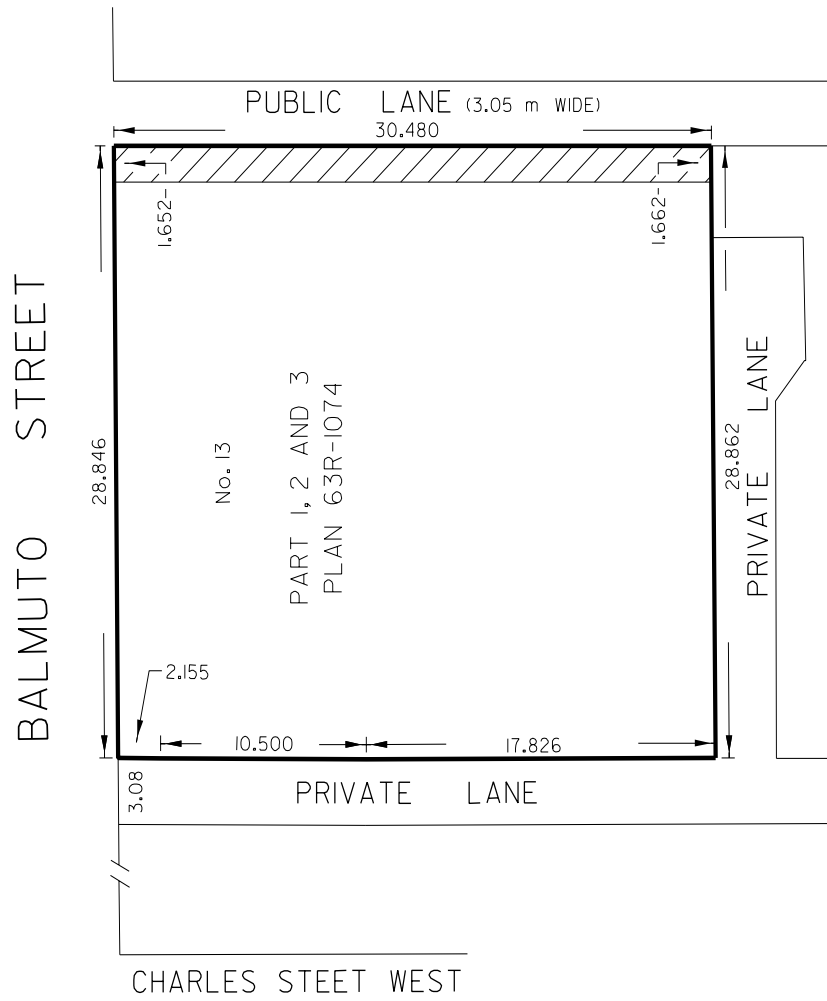
ENACTED AND PASSED this 6th day of March, A.D. 2007.

GLORIA LINDSAY LUBY,
Deputy Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)

MAP 1



LANDS SUBJECT TO AMENDMENT

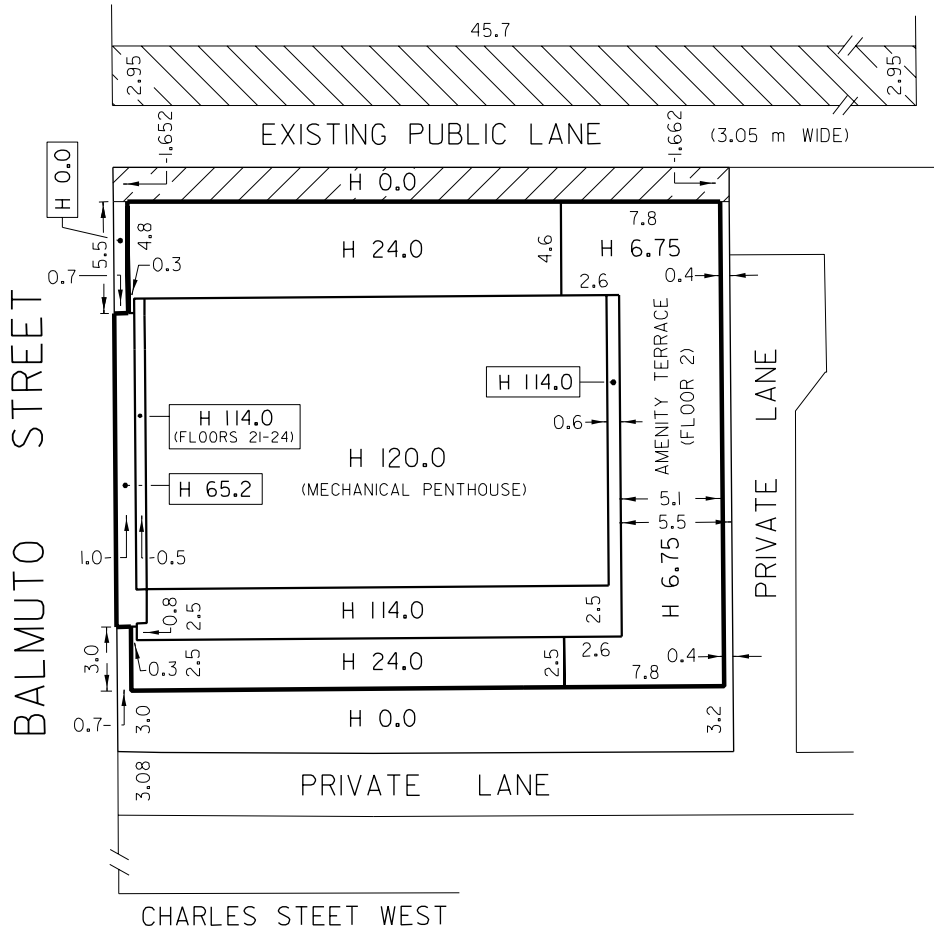


LANDS TO BE ACQUIRED
(PARTS 1 and 2, PLAN 63R-1074)




SURVEY AND MAPPING SERVICES
 FEBRUARY 2007 DRAWN: VG
 BL07/13BALMUT1.DGN
 FILE: B118-Z1
 MAP No. 50H-323

MAP 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 LANDS TO BE ACQUIRED
(PARTS 1 and 2, PLAN 63R-1074)

 PROPOSED WIDENING OF PUBLIC LANE



SURVEY AND MAPPING SERVICES
FEBRUARY 2007 DRAWN: WS/VG
BL07/13BALMUT2.DGN
FILE: B118-Z1
MAP No. 50H-323