

Authority: Toronto and East York Community Council Item 11.2, adopted as amended, by
City of Toronto Council on December 11, 12 and 13, 2007
Enacted by Council: December 13, 2007

CITY OF TORONTO

BY-LAW No. 1412-2007

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 406 Adelaide Street East.

WHEREAS the Council of the City of Toronto has been requested to amend its zoning by-law 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 2007 as 406 Adelaide Street East; and

WHEREAS the Council of the City of Toronto has provided adequate information to the public and has conducted at least one public meeting under Section 34 of the *Planning Act* regarding the proposed zoning by-law amendment; and

WHEREAS the City of Toronto Official Plan contains provisions relating to the authorization of the height and density of development; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height and density of development beyond those otherwise permitted in return for the provision of such facilities, services or 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 land that is the subject of this By-law has elected to provide the facilities, services and matters as hereafter set out 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 Council of 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 in return for the increases in height and density proposed;

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

1. None of the provisions of Sections 4(2)(a), 4(5), 4(12), 7(3) Part II 1, 3, 7, and 12(2) 246 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 structure 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 *mixed-use building* and *accessory* uses on the *lot* provided that the provisions of Section 2 herein and the following provisions are complied with:
 - (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1;

- (b) the total combined *residential gross floor area* and *non-residential gross floor area* of any building on the *lot* shall not exceed 24,175 square metres, of which not more than 23,955 square metres shall be *residential gross floor area* and not more than 220 square metres shall be *non-residential gross floor area*;
- (c) the use of the *non-residential gross floor area* shall be limited to one or more uses permitted under section (8)(1)(f)(b)(iv) of By-law No. 438-86, as amended;
- (d) no above *grade* portion of a building or structure on the *lot* is located other than wholly within the areas delineated by heavy lines on the attached Map 2 with the exception of cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, vents, wheel chair ramps, underground garage ramps and their associated structures, fences, screens, landscape features and an *artistic feature*, all of which may within the *lot* extend beyond the heavy lines on the attached Map 2;
- (e) the *height* of any building or structure, or portion thereof, on the *lot* does not exceed those heights as indicated by the numbers following the symbol “H” on the attached Map 2, except for the following:
 - (i) a structure on the roof of the building used for outside or open air recreation, safety or wind protection purposes, chimney stack or other heating, cooling or ventilating equipment, window washing equipment , stairs, stair enclosures, and safety railings may exceed the height limit on the attached Map 2 by no more than 3.0 metres; and
 - (ii) parapets and ornamental elements may exceed the height limit on the attached Map 2 by no more than 1.2 metres;
- (f) a minimum of 544 square metres of indoor *residential amenity space* shall be provided within the building on the *lot* in a multi-purpose room or a number of rooms on the ground floor that may or may not be contiguous to each other and that have a kitchen and a washroom adjoining or directly accessible thereto;
- (g) a minimum of 544 square metres of outdoor *residential amenity space* shall be provided on the *lot* of which at least 40 square metres is to be provided in a location adjoining or directly accessible from the indoor *residential amenity space*; and

- (h) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) 0.30 *parking spaces* for each *bachelor dwelling unit*;
 - (ii) 0.70 *parking spaces* for each *one bedroom dwelling unit*;
 - (iii) 1.00 *parking spaces* for each *two bedroom dwelling unit*; and
 - (iv) 0.06 *parking spaces* for each *dwelling unit* for visitors use.
- 2. Pursuant to Section 37 of the *Planning Act*, the heights and density of development as contemplated on the *lot* by this By-law are permitted 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, in accordance with and subject to the provisions of the agreement(s) to be executed and registered on title to the *lot* as referred to in Section 2(a) herein;
 - (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, priority of agreement and the indexing of financial contributions as applicable;
 - (b) prior to issuance of an above grade building permit for the building on the *lot*, the *owner* shall make a cash contribution to the City in the amount of \$85,000.00 toward improvements to the east-west public lane situated north of the *lot* as shown on the attached Map 1 but where all or some of such cash contribution has not been allocated for expenditure within 5 years of the date this By-law comes into effect any remaining monies may be applied to the Heritage Lighting Program referred to in (c) below at the discretion of the Chief Planner and Executive Director, City Planning Division;
 - (c) prior to issuance of an above grade building permit for the building on the *lot*, the *owner* shall make a cash contribution to the City in the amount of \$245,000.00 toward the Heritage Lighting Program being an identified community improvement program in the King-Parliament Community Improvement Area;
 - (d) the *owner* shall provide and maintain a public pedestrian walkway over the *lot* which shall have a minimum width of 3 metres and shall directly connect at *grade* Adelaide Street and the existing public lane within the area identified as "Public Pedestrian Walkway and Landscape Area" identified on the attached Map 2, with the specific location, configuration and design to be determined in the context of a site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* and Section 41 of the *Planning Act* as applicable; and

- (e) provide the following in support of the orderly development of the *lot*;
 - (i) the *owner* shall:
 - A. use reasonable commercial efforts to obtain Leadership in Energy and Environmental Design (“LEED”) certification of the proposed building on the *lot*;
 - B. prior to site plan approval for development on the *lot*, register the proposed building with the Canada Green Building Council and provide written confirmation of such registration to the Chief Planner and Executive Director, City Planning Division; and
 - C. provide such documentation and supporting materials as may be requested by the Chief Planner and Executive Director, City Planning Division, with respect to LEED certification including, application materials, marketing materials, reports and decision documents;
 - (ii) the owner shall use quality exterior building materials in the construction of the building on the *lot* to the satisfaction of the Chief Planner and Executive Director, City Planning Division, acting reasonably, and shall incorporate details of the same into its submission of plans and drawings for site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* and Section 41 of the *Planning Act* as applicable;
 - (iii) *owner* shall, for the purpose of enhancing and complimenting the terminus of Princess Street shown on the attached Map 1, retain an artist to design and shall provide and maintain an *artistic feature* on the *lot* satisfactory to the Chief Planner and Executive Director, City Planning Division, acting reasonably, which shall be financially secured as part of the landscaping requirements prior to site plan approval and the specific location and details of the *artistic feature* shall be determined in the context of site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* and Section 41 of the *Planning Act* as applicable;
 - (iv) the *owner* shall, at its own expense, provide and maintain an irrigation system for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor and constructed with a back flow preventer, to the satisfaction of the General Manager Parks, Recreation and Forestry; and

- (v) retain a consultant archaeologist, licensed by the Ministry of Culture under the provision of the *Ontario Heritage Act*, as amended, to undertake an archaeological assessment of the *lot* and shall:
 - A. prior to site plan approval for development on the *lot*, submit an Archaeological Assessment and Mitigation Plan;
 - B. prior to issuance of the first building permit for a building on the *lot* and prior to any remediation, demolition, excavation, grading, construction or other soil disturbances on the *lot*, satisfy all archaeological licensing and technical review requirements of Heritage Preservation Services and the Ministry of Culture; and
 - C. at its own expense, mitigate adverse impacts to any archaeological resources found on the *lot* in accordance with the Archaeological Assessment and Mitigation Plan to the satisfaction of the Manager of Heritage Preservation Services.
- 3. Notwithstanding any of the foregoing provisions, where 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 the 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 upon the same.
- 4. None of the provisions of By-law No. 438-86, as amended, shall apply to prevent a temporary sales office, including an office in a sales trailer, on the *lot* for the purpose of selling the residential dwellings provided for in this By-law.
- 5. For the purposes of this By-law:
 - (a) “*artistic feature*” shall include without limitation a work of sculptured art, work of visual or graphic art, sculptured landscaping, fountains and artistic treatment of landscaping or building elements;
 - (b) “*grade*” shall mean 82.830 metres Canadian Geodetic Datum;
 - (c) “*public pedestrian walkway*” shall mean an exterior pedestrian walkway that:
 - (i) is a *publicly accessible open space*;
 - (ii) is designed for and intended for use by the public;
 - (iii) provides direct access between streets, parks, public buildings and/or other public spaces, and or common outdoor spaces; and

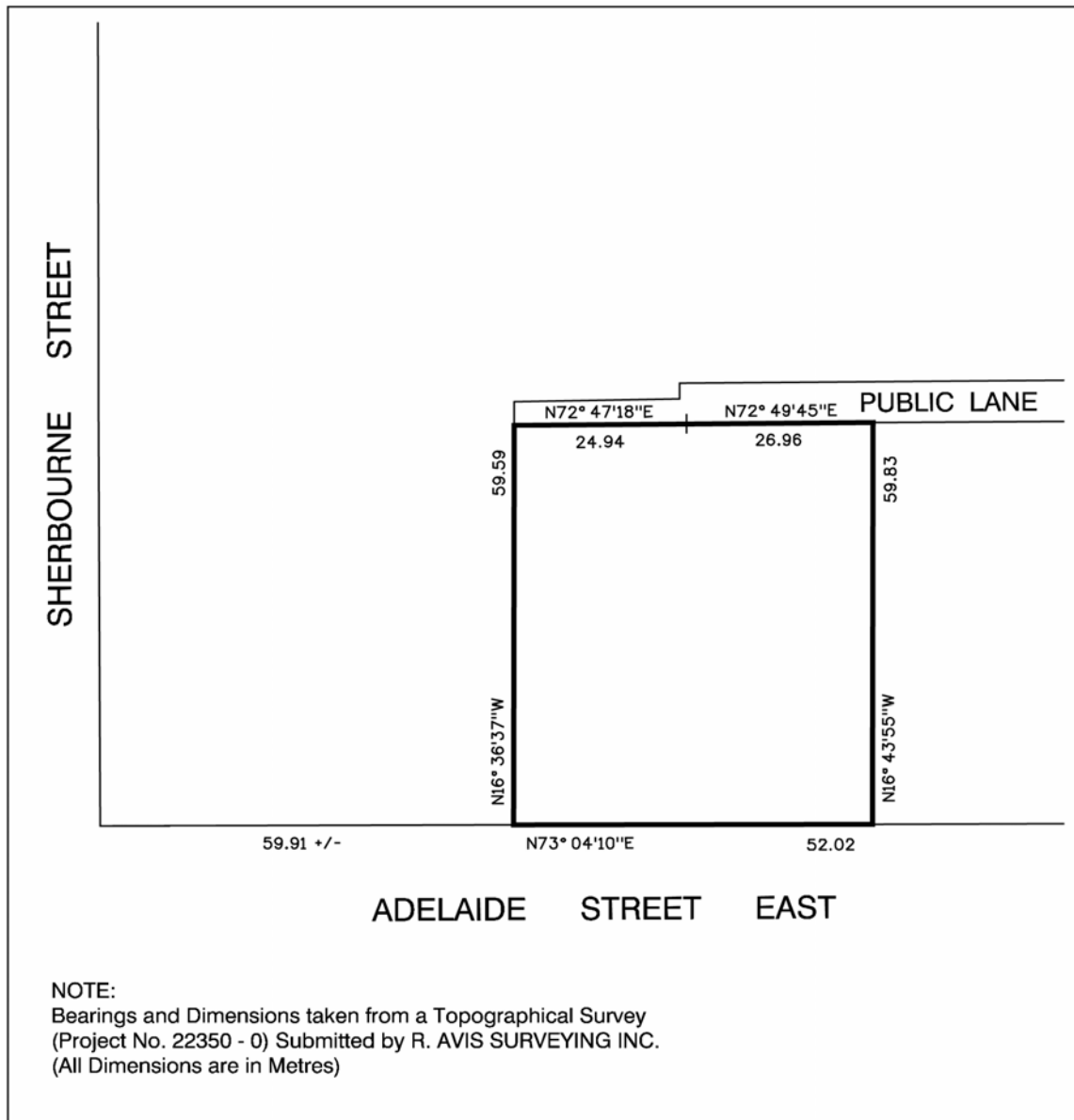
- (iv) is not used for commercial purposes, including retail areas, commercial display areas or other rentable space within the walkway, but may be adjacent to it;
- (d) “*publicly accessible open space*” shall mean an open space which is:
 - (i) open and accessible to the public between the hours of 7:00 a.m. and 9:00 p.m. daily and such access may be refused, or a person may be required to leave the open space in the case of any person who:
 - A. unreasonably interferes with the ability of other members of the public or lawful occupants to use the open space;
 - B. carries on an unlawful activity;
 - C. acts in a manner unreasonably inconsistent with the intended use of the open space;
 - D. injures or attempts to injure any person, property or property rights;
 - E. obstructs or injures any lawful business or occupation carried on by the building owner or person in lawful possession of the open space; or
 - F. commits any criminal or quasi-criminal offence;
 - (ii) illuminated to a minimum average intensity of 10 lux on the walkway surface; and
 - (iii) maintained clear of snow, ice and other obstructions at all times; and
- (e) With the exception of the words referred to in paragraphs (a) to (d) above, each word or expression that is italicized in this By-law shall have the same meaning as the said word or expression as defined in By-law No. 438-86, as amended.

ENACTED AND PASSED this 13th day of December, A.D. 2007.

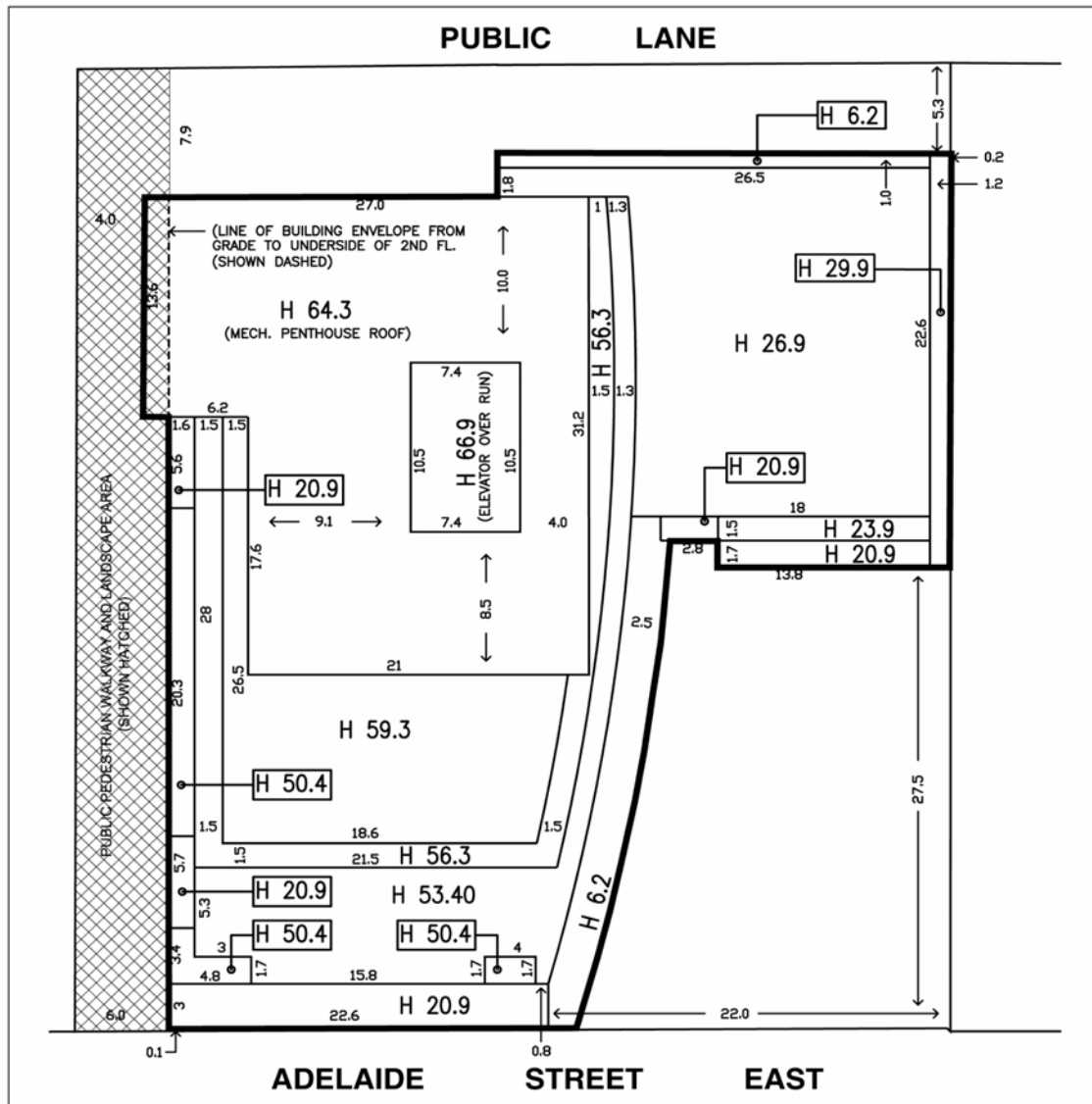
GLORIA LINDSAY LUBY,
Deputy Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)

MAP 1

MAP 2



TORONTO City Planning
Map 2

406 Adelaide Street East

File # 06 163120



Not to Scale
12/11/07