

Authority: Toronto and East York Community Council Item 23.1,  
adopted as amended, by City of Toronto Council on February 23, 24 and 25, 2009  
Enacted by Council: February 25, 2009

**CITY OF TORONTO**

**BY-LAW No. 246-2009**

**To amend By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 60 Grenville Street, 76 Grenville Street and 51 Grosvenor Street.**

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 the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases 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 Subsection 37(3) of the *Planning Act* provides that, where an owner of land elects to provide facilities, services or matters in return for any increase in the height of density of development, the Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

WHEREAS the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters as are hereinafter set forth; and

WHEREAS the increase in the height permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended, is to be permitted subject to 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 the lands and the City of Toronto (hereinafter referred to as the "City"); and

WHEREAS the Official Plan of the 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 to secure certain facilities, services and matters in connection with the aforesaid lands set forth in the By-law; and

WHEREAS pursuant to Chapters 363 and 667 of the Toronto Municipal Code, and Section 111 of the *City of Toronto Act, 2006*, the owner has applied to the City of Toronto for a permit to demolish the building municipally known in 2008 as 51 Grosvenor Street, containing 59 residential rental dwelling units in order for such lands to be incorporated as part of the new public hospital permitted by this by-law; and

WHEREAS Council has permitted the demolition of the building at 51 Grosvenor Street conditional on amongst other things the use of such lands for public hospital purposes and the owner paying to the City of Toronto the sum of \$300,000 for the purpose of providing affordable housing;

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 including the provision by the *owner* of the *lot* of the 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 referred to in Section 4(1) of this By-law.
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 or 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, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Section 2 with respect to the definitions of *common outdoor space*, *grade*, *lot* and *parking garage*, Sections 4(2)(a), 4(5)(b) and (f), 4(10)(a), 4(14), 6, 8(3)PART I.2, and 8(3)PART III.1.(a), and the exceptions in Sections 12(1)100, 12(2)87, and 12(2)132, of By-law No. 438-86, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing or 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", shall apply to prevent the erection and use of a building or buildings for the purposes of a *public hospital* together with *accessory* uses thereto including, *retail store*, *restaurant*, *take-out restaurant* and a *parking garage* on the *lot*, provided:
  - a. the *lot* consists of at least the lands delineated by heavy lines on the attached Map 1;
  - b. the total *non-residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 89,000 square metres of which not more than 1,860 square metres in aggregate shall be used for the *accessory* purposes of *retail store*, *restaurant* and *take-out restaurant* uses;
  - c. no above *grade* portion of any building or structure is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 1 attached with the exception of the following:
    - (i) canopies, awnings, eaves and building cornices;

- (ii) lighting fixtures, ornamental elements, parapets, trellises, window sills, guardrails, bay window and window projections, signage, balustrades, railings, stairs, stair enclosures, uncovered platforms, wheelchair ramps, underground garage ramps, landscape features and public art features, including retaining walls and planter boxes and structural retaining walls and roofs and structures over the ground floor related areas; and
  - (iii) oxygen tanks and storage facilities and structures related thereto.
- d. no person shall erect or use a building or structure on the *lot* having a greater *height* than the *height* limits specified by the numbers in metres as shown on Map 2 exclusive of the rooftop structures and equipment permitted by paragraphs 4 (e), 4(f) and 4(g) of this By-law;
- e. stair towers, elevator shafts, communication equipment, generators or other power, heating, cooling, or ventilating equipment or window washing equipment on the roof of any building or fences, walls or structures enclosing such elements, are permitted provided the maximum *height* of the top of such elements or enclosures is no higher than the sum of 9.0 metres and the *height* limit specified on Map 2;
- f. structures on the roof of any building used for outside or open air recreation, maintenance, safety, or wind protection purposes, including landscape garden amenities and green roofs are permitted, provided:
  - (i) the maximum *height* of the top of such structures is no higher than the sum of 3.0 metres and the *height* limit specified on Map 2; and
  - (ii) the structures do not enclose space so as to constitute a form of penthouse.
- g. roof-top chimney stacks, vents and air intakes are permitted;
- h. a minimum of 900 square metres of *common outdoor space* shall be provided on the *lot*;
- i. a minimum of 310 *parking spaces* shall be provided and maintained on the *lot* in an underground *parking garage*, except that such *parking spaces* shall not be required to be provided on the *lot* or off-site for *existing buildings* remaining on the *lot* and for *Phase 1* until a minimum of 1000 square metres of *non-residential gross floor area* is erected and used pursuant to this By-law on the portion of the *lot* located west of *Phase 1* on Map 3;
- j. at least two *loading space - type A* and at least four *loading space - type B* shall be provided and maintained on the *lot*, except that such loading spaces shall not be required to be provided on the *lot* or off-site for *existing buildings* remaining on the *lot* and for *Phase 1* until a minimum of 1000 square metres of *non-residential gross floor area* is erected and used pursuant to this By-law on the portion of the *lot* located west of *Phase 1* on Map 3;

- k. the lateral boundaries of driveways on the *lot* within a distance of 6 metres from Grosvenor Street may be constructed at less than right angles to the *street*; and
- l. the *owner* of the *lot* enters into and registers on title to the *lot* an agreement with the City pursuant to Section 37 of the *Planning Act*, to the City Solicitor's satisfaction, to secure the matters in Appendix 1.

**5. Definitions:**

- 1. For the purposes of this By-law, the terms set forth in italics, subject to Section 5(2) of this By-law, have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended;
- 2. The following definitions shall apply:
  - (a) "*common outdoor space*" means atria space within a building or buildings, green roofs and rooftop amenity areas located on a building or buildings, and unenclosed, paved, sodded or landscaped exterior area or areas adjoining and directly accessible from the *street*, on the *lot* which provide amenities for the benefit and enjoyment of occupants, visitors and general public and which:
    - (1) for the unenclosed exterior areas on the *lot*, adjoining and directly accessible from a *street*, are accessible by a ramp not exceeding a gradient of 1 in 12, or by stairs and a ramp not exceeding a gradient of 1 in 12;
    - (2) contains, but is not limited to, at least two of the following elements:

landscaping such as grass, shrubs, trees and flowers; refuse receptacles/recycling bins; seating; and
    - (3) is not for the purposes of a driveway, vehicular ramp, loading or servicing area, outdoor storage, motor vehicle parking, *restaurant patio*, vent or stairs;
  - (b) "*existing buildings*" means buildings or structures existing on the *lot* in the year 2008;
  - (c) "*grade*" means 106.24 metres Canadian Geodetic Datum;
  - (d) "*lot*" means the lands outlined by heavy lines on Map 1 attached to this By-law;
  - (e) "*parking garage*" means a building or a portion of a building, other than a *private garage*, that is used for the temporary parking of motor vehicles, as an *accessory* use to the principal use or uses permitted on the whole of

the *lot* or on the portion of the *lot* on which the *parking garage* is located, and the *parking garage* may be occupied by motor vehicles whose users are not occupants or visitors of the building where the *parking garage* is located; and

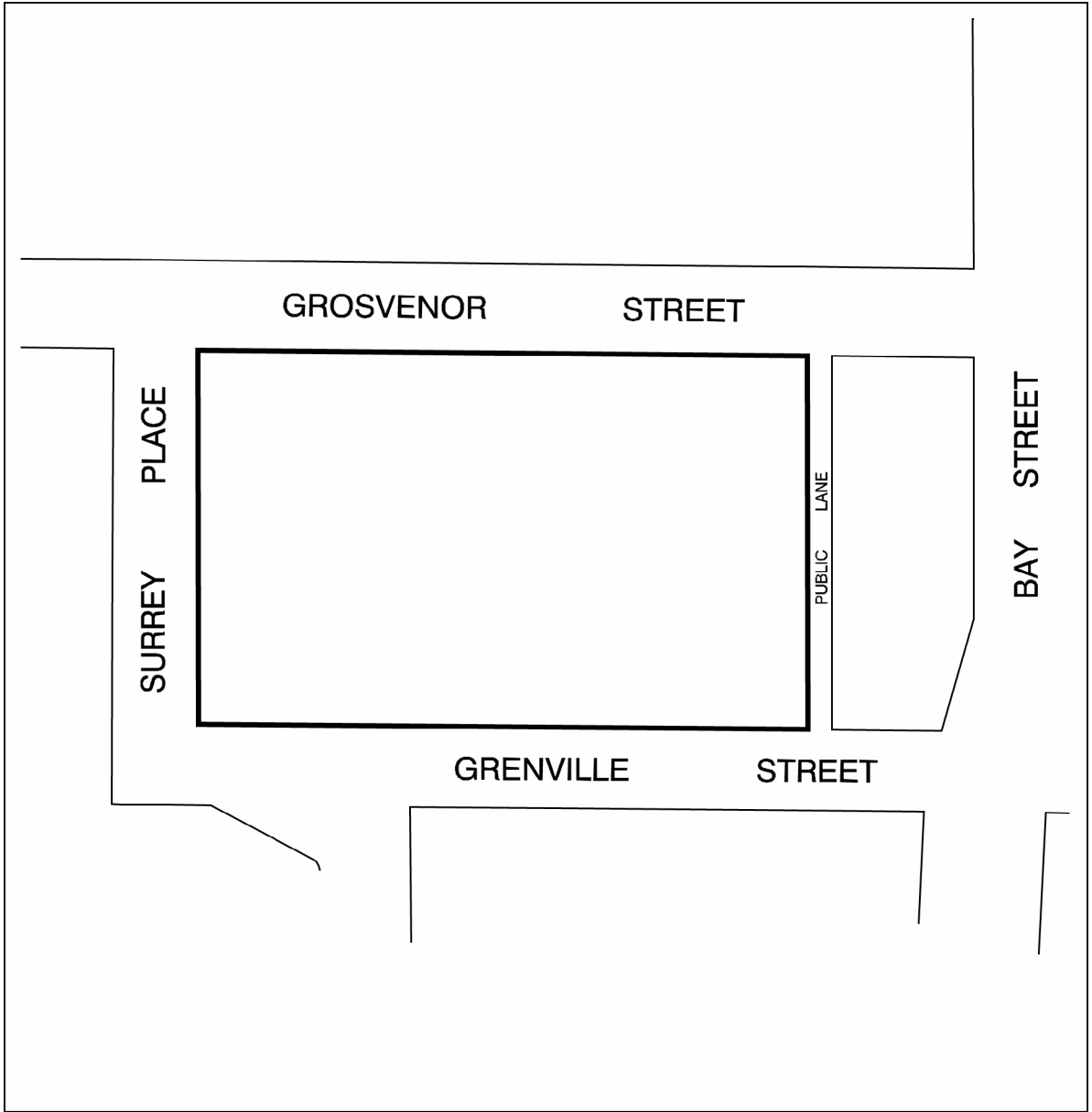
- (f) “*Phase 1*” means the area of the *lot* delineated as such on Map 3 attached to this By-law.
3. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall continue to apply to the whole of the *lot* as if no severance, partition, or division occurred.
4. Building permit issuance with respect to the lands to which this By-law applies shall be dependant upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.

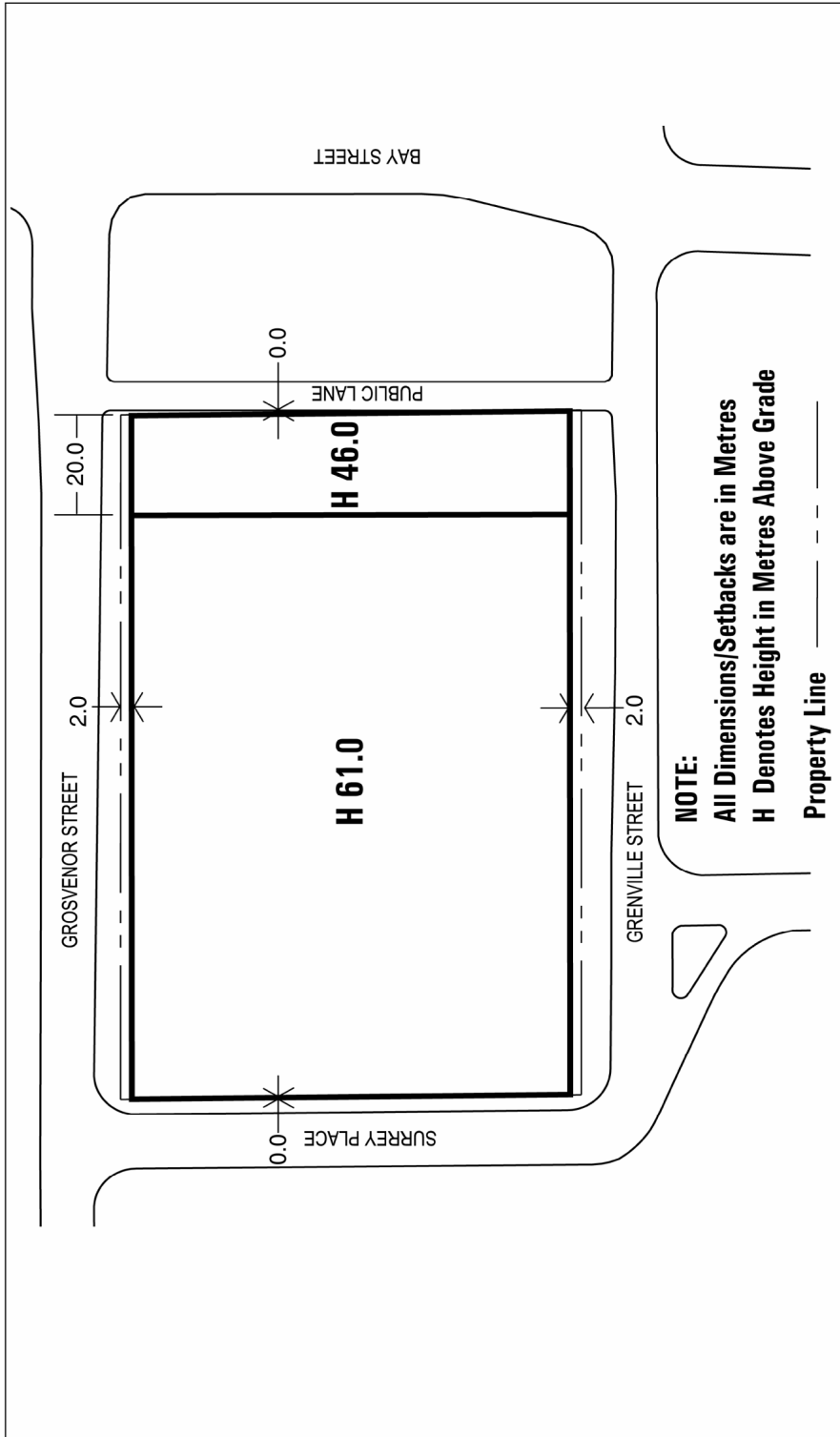
ENACTED AND PASSED this 25th day of February, A.D. 2009.

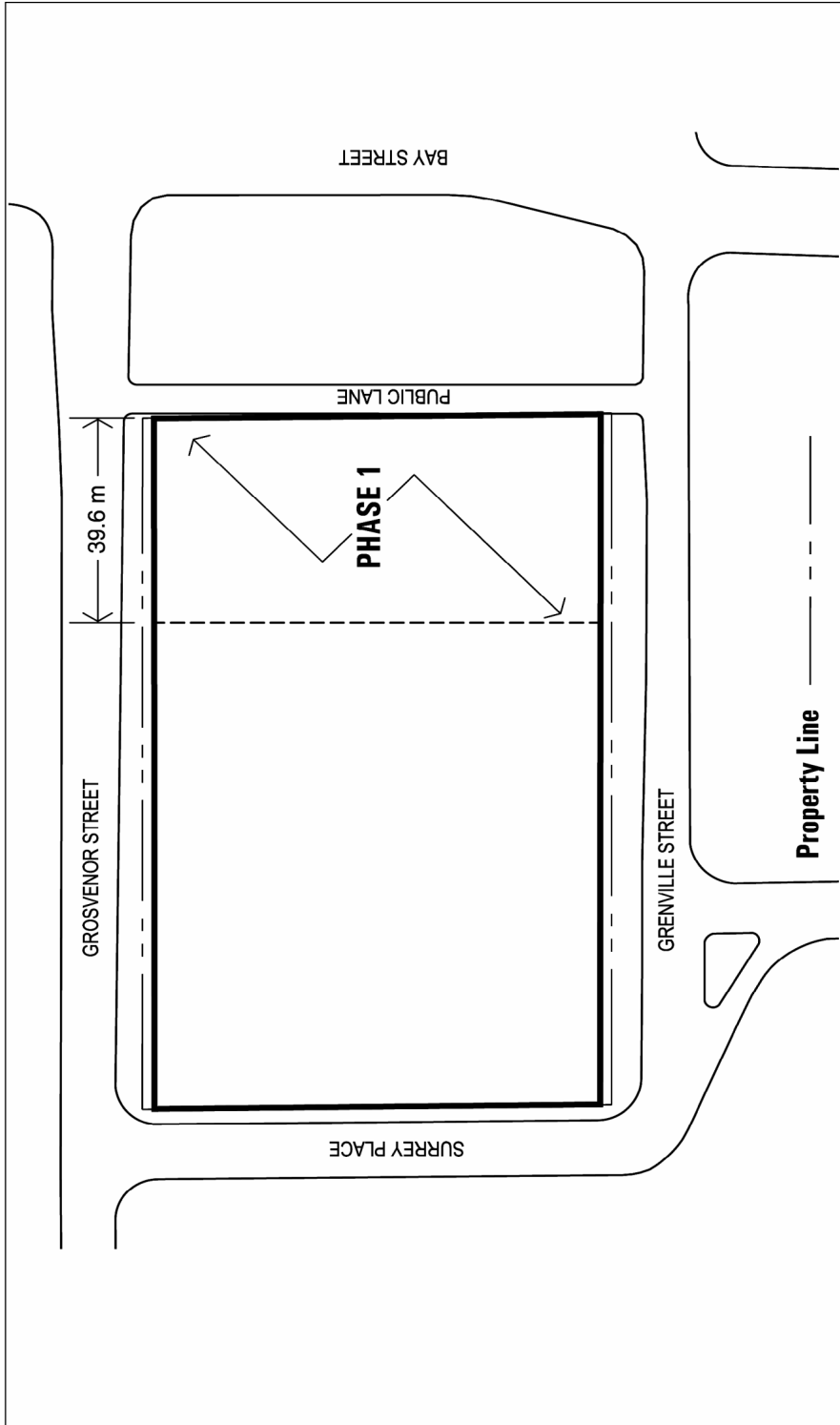
SANDRA BUSSIN,  
Speaker

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* 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 escalating of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- a. \$300,000 to be used for the provision of affordable housing to be paid to the City prior to the issuance of the first above *grade* building permit for a *public hospital on Phase 1*, provided in the event that such payment is made after December 31, 2010, the payment shall be increased to reflect any increases in the Construction Price Index from January 1, 2011;

- b. Continue to operate the existing residential rental building located on the *lot* as rental housing until the earlier of the date such building is vacant or January 31, 2010;

- c. The Tenant Assistance Plan:

Each tenant receiving notice of termination will be given 150 days notice, three months equivalent cash pay out, return of last months rent, \$500 moving expenses and all applicable interest on deposit together with the following:

Tenants who are in occupancy of their units for the following lengths of time will be provided with the following additional compensation:

One Year and Greater – will be given one additional month rent free;

Between 5 and 10 years – will be given two additional months rent free; and

Greater than 10 years – will be given nine months rent free, and shall receive a "top-up" payment equal to the difference in the current monthly market rent of such unit within the building minus the actual amount of monthly rent paid by the tenant multiplied by 12 months (or by a lesser number of months if the tenant vacates their unit after September 1, 2009 but before January 31, 2010).

Tenants who depart prior to notice of termination being given shall not receive the compensation package or the moving allowance.

- d. Be encouraged to build in conformity with the Green Development Standard Checklist submitted by the *owner* and date stamped as received by the Chief Planner and Executive Director, City Planning Division on October 1, 2008;

- e. An existing east-west public lane is required to form part of the *lot*. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, the *owner* shall obtain City Council's approval of the closure and sale of the public lane and shall complete the sale of such lane;
- f. Provide and thereafter maintain public art in a location on a publicly accessible portion of the *lot*;
- g. Comply with any other conditions set forth in the agreement required to ensure the orderly development and phasing of the lands as required by the Chief Planner and Executive Director, City Planning Division, acting reasonably;
- h. Enter into a Site Plan Agreement to the satisfaction of the Chief Planner and Executive Director, City Planning Division under Section 114 of the *City of Toronto Act, 2006*;
- i. Provide reasonable commercial efforts to obtain LEED certification of the development; and
- j. Provide and maintain parking in accordance with the approved Temporary Parking Study prepared by the BA Group dated December 11, 2008, subject to such revisions from time to time as may be requested by the *owner* and approved by the Chief Planner and Executive Director, Planning Division.