

Authority: Toronto and East York Community Council Item 25.9,  
adopted as amended, by City of Toronto Council on April 29 and 30, 2009  
Enacted by Council: April 30, 2009

## CITY OF TORONTO

### BY-LAW No. 489-2009

**To amend the General Zoning By-law No. 438-86, as amended, of the former  
City of Toronto with respect to the lands municipally known as 674-686 Bay Street,  
72-74 Elm Street, 85-87 Walton Street and a portion of Barnaby Place.**

WHEREAS authority is given 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 or 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 pursuant to Section 37 of the *Planning Act*; and

WHEREAS Council has required the *owner* of the aforesaid lands to enter into one or more agreement to secure certain facilities, services and matters in connection with the aforesaid lands set forth in the 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 those 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 3(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 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 Sections 8(3) Part I 2, 8(3) PART III 1(a), 4(2)(a)(i), 4(2)(a)(ii), 4(5)(b), 4(8)(b), 4(13)(a) & (c) , 12(2) 260, 12(2)111, 12(2)256(a) and 12(2)132 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 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", and Section 1 of By-law No. 150-93, shall apply to prevent the erection or use of a building or buildings for the purposes of a research and education office building with accessory uses thereto including *street related retail and service* uses and *parking garage* on the lands municipally known as 674-686 Bay Street, 72-74 Elm Street and 85-87 Walton Street (hereinafter referred to as the *lot*), provided that:
  - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
  - (b) the total *non-residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 56,302 square metres of which not more than 505 square metres in aggregate shall be used for the *accessory* purposes of *street related retail and service* uses;
  - (c) notwithstanding 4(b) of this by-law, an additional 81 square metres of below *grade non-residential gross floor area* shall also be permitted on the *lot* provided that this additional *non-residential gross floor area* forms part of the existing building known municipally at the date of passage of this by-law as 175 Elizabeth Street;

- (d) except as provided for in Section 4(d)(iii) hereof, no portion of the building or structure erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 1, with the following exceptions:
- (i) canopies, awnings, eaves and building cornices;
  - (ii) lighting fixtures, ornamental elements, parapets, trellises, window sills, bollards, bay windows 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) a maximum of 205 m<sup>2</sup> of non-residential gross floor area of the building or building which may be permitted beyond the heavy lines delineated on Map 2 attached within the area shown cross hatched and identified as “Encroachment”;
- (e) 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(f) and 4(g) of this By-law;
- (f) 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 18.53 metres and the *height* on Map 2;
- (g) roof tops chimney stacks, vents and air intakes are permitted and are excluded for the purposes of determining maximum *height* pursuant to Section 4(e) and 4(f) of this By-law;
- (h) a minimum of 100 *parking spaces* shall be provided and maintained on the *lot* in an underground *parking garage* of which a maximum 13 parking spaces may be “*small car spaces*”, as defined in this By-law;
- (i) a minimum of 130 *bicycle parking spaces* shall be provided in a secure bicycle room on the first floor and maintained on the *lot* for the employees of the building;
- (j) a minimum of 9 *bicycle parking spaces* for visitors shall be provided on the P1 level;
- (k) at least 3 *loading space – type B* and 2 *loading space – type C* shall be provided and maintained on the *lot*; and

- (1) the *owner* of the *lot* enters into and registers on title to the *lot* an agreement with the City pursuant to Section 37(3) 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) “*grade*” means 95.82 metres Canadian Geodetic Datum;
  - (b) “*lot*” means the lands outlined by heavy lines on Map 1 attached to this By-law;
  - (c) “*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
  - (d) “*small car spaces*” means a parking space that has a width of 2.6 metres and a length of 5.6 metres.
6. 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.
7. 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 30th day of April, 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 facilities, services and 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 indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement.

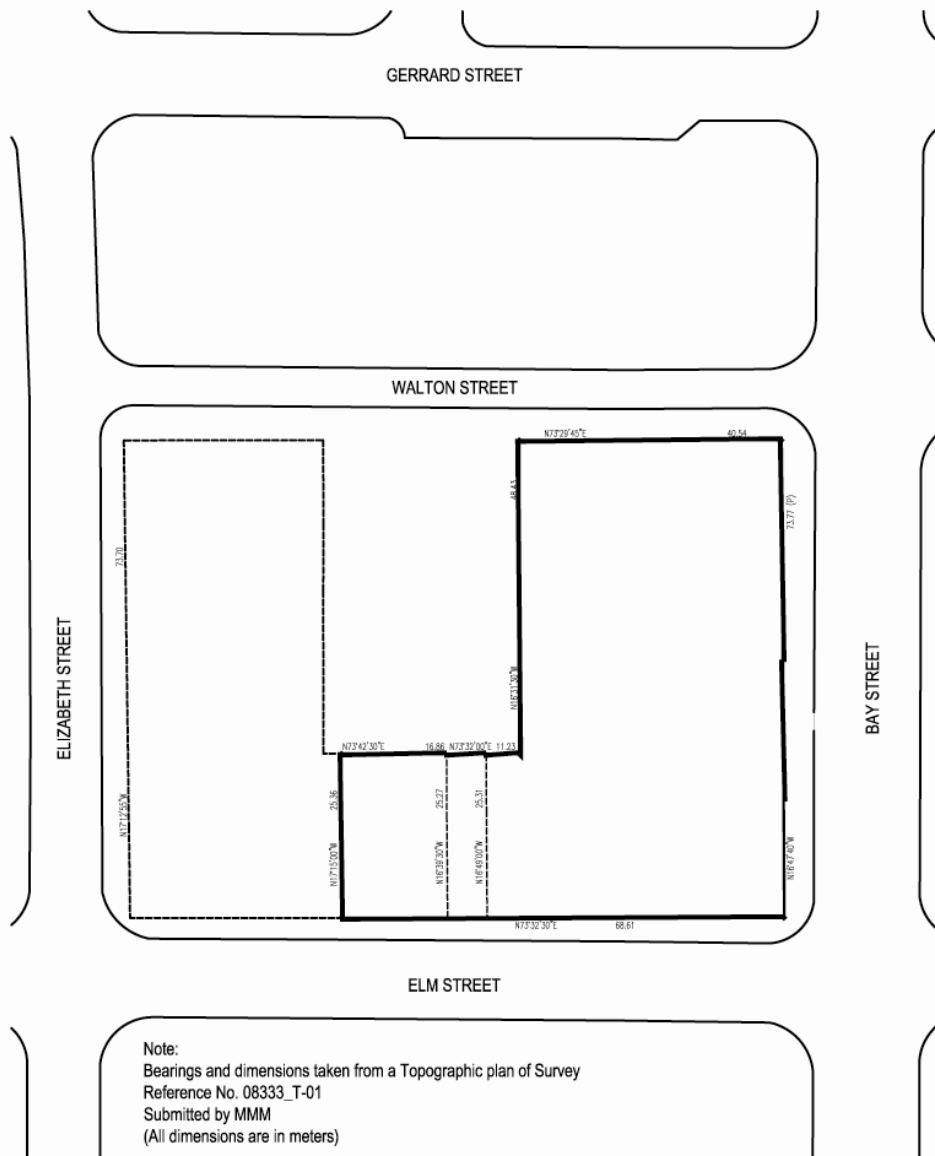
The community benefits recommended to be secured in the Section 37 agreement are as follows:

1. Provide and thereafter maintain public art having a minimum value of \$25,000 to be located on a publicly accessible portion of the lot to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

Although the following matters are not considered to be Section 37 contributions or benefits, they will be secured in the Section 37 Agreement:

2. Incorporate in the construction of the building, and maintain, exterior building and landscape materials satisfactory to the Chief Planner and Executive Director of City Planning;
3. Provide and maintain trees and a continuous soil trench within the Bay Street and Walton Street road allowance to the satisfaction of the Director of Urban Forestry in accordance with Layout and Planting Plan – Ground Level, Drawing No. L3 and Streetscape Details, Drawing No. L4 prepared by du Toit Allsopp Hillier date stamped February 27, 2009;
4. Provide and maintain an irrigation system for proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer irrigation system for all new trees in the public rights-of-ways, satisfactory to the Executive Director, Technical Services and General Manager, Parks, Forestry and Recreation;
5. Provide the City with documentation as to LEED certification of the development and the marketing materials that will include information on LEED certification;
6. Be encouraged to build in conformity with the Green Development Standard Checklist submitted by the owner and received by the Chief Planner and Executive Director, City Planning Division on September 9, 2008;
7. Enter into a Site Plan Agreement to the satisfaction of the Chief Planner and Executive Director of City Planning, under Section 114 of the *City of Toronto Act, 2006*;

8. Prior to final site plan approval, the owner will:
- (a) Complete an Air Quality study and employ the results of the study into the design of the building, satisfactory to the Chief Planner and Executive Director, City Planning Division. The City will require the owner to retain a third party reviewer at their expense;
  - (b) Complete a Noise Attenuation study and employ the results of the study into the design of the building, satisfactory to the Chief Planner and Executive Director, City Planning Division. The City will require the owner to retain a third party reviewer at their expense;
  - (c) Obtain City Council's approval of the closure and sale of Barnaby Place (public lane) and shall complete the sale of such lane; and
  - (d) Submit to the Executive Director of Technical Services for review and acceptance, a site servicing review to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate.



Note:  
 Bearings and dimensions taken from a Topographic plan of Survey  
 Reference No. 08333\_T-01  
 Submitted by MMM  
 (All dimensions are in meters)

**Hospital for Sick Children  
 Research Tower**

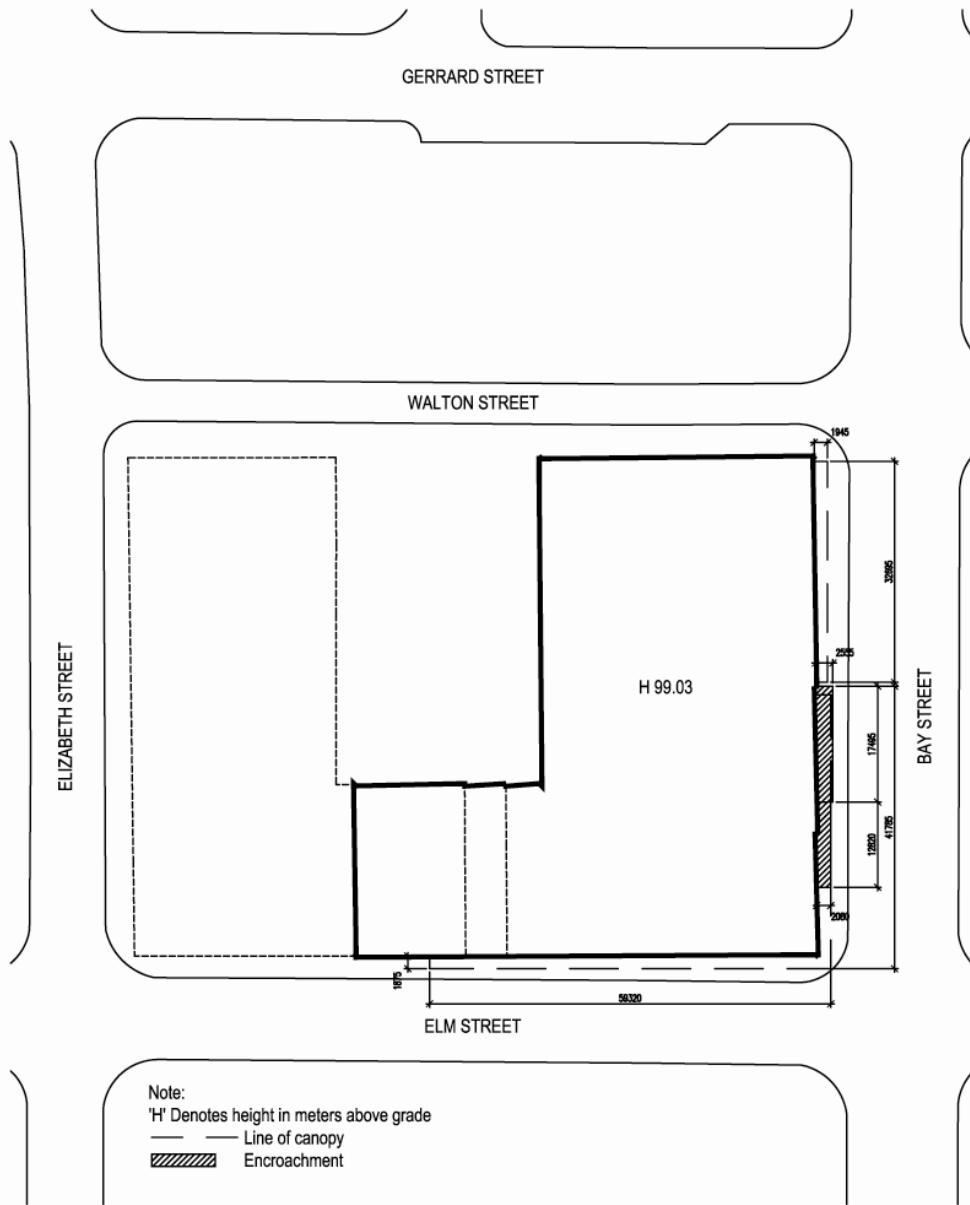
**Map 1**

Applicant's Submitted Drawing

Not to Scale  
 03/10/09

**674 & 686 Bay St, 72 & 74 Elm St,  
 85 & 87 Walton St and part of Barnaby Lane**

File # 08\_178797



**Hospital for Sick Children  
Research Tower**

**Map 2**

Applicant's Submitted Drawing

Not to Scale  
03/10/09

**674 & 686 Bay St, 72 & 74 Elm St,  
85 & 87 Walton St and part of Barnaby Lane**

File # 08\_178797