

Authority: Toronto and East York Community Council Item 27.16,
as adopted by City of Toronto Council on September 30 and October 1, 2009
Enacted by Council: October 27, 2009

CITY OF TORONTO

BY-LAW No. 1101-2009

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto
with respect to the lands municipally known as 524, 528, 530, 532 and
534 St. Clair Avenue West.**

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 a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or 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 hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of the 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 (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 dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this 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 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 2 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 4(2), 4(4)(b), 4(12) with respect to outdoor amenity space, 4(16), 8(3) PART I (1), (2), (3), 8(3) PART II 4(c)(ii), (iii) and 12(2)(222) 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", as amended, shall apply to prevent the erection and use of a *mixed-use building* on the *lot*, provided:
 - (1) not more than 155 residential *dwelling units* are erected and used on the *lot*;
 - (2) the *lot* is used for any of the uses permitted in an MCR district as set forth in the chart at Section 8(1)(f) of By-law No. 438-86, as amended and subject to any qualifications in Section 8(2) of the By-law;
 - (3) the *lot* consists of at least the lands delineated by heavy lines on the attached Map 1;
 - (4) the combined *non-residential gross floor area* and *residential gross floor area* erected on the *lot* shall not exceed 13,600 square metres of which not more than 13,040 square metres shall comprise *residential gross floor area*;
 - (5) no person shall erect or use a building or structure above *grade* on the *lot* which is located otherwise than wholly within the areas delineated by heavy lines on Map 2, except for balconies and architectural features located at or above a *height* of 15.3 metres, which are permitted to extend a maximum of 1.8 metres from the building wall;

- (6) no person shall erect or use a building or structure on the *lot* having a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol H on the attached Map 2, except for the following:
- (a) any mechanical penthouse, stair tower, elevator shaft, dynamic damper, chimney stack or other heating, cooling or ventilating equipment or window washing equipment located on the roof of a building or any fence wall or structure enclosing such elements, provided that the maximum *height* of the top of such element or enclosure is no higher than the sum of 6.0 metres plus the *height* limit otherwise applicable as shown on Map 2;
 - (b) any parapets, guard rails, railings and decorative fencing and privacy screens, including those located on the roof of the building, provided that the maximum *height* of the top of such element is no higher than the sum of 1.8 metres plus the *height* limit otherwise applicable as shown on Map 2;
 - (c) any structure, located on the roof of such building, used for outside or open air recreation, safety or wind protection purposes, provided that:
 - A. the maximum *height* of the top of such structure is no higher than the sum of 5 metres plus the *height* limit otherwise applicable as shown on Map 2;
 - B. such structure may be located adjacent to an outside wall or any vertical projection of such wall; and
 - C. such structure does not enclose space so as to constitute any form of penthouse or other rooms or rooms;
- (7) the height in *storeys* of the *mixed-use building* shall not exceed 19 *storeys*;
- (8) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (a) a minimum of 0.8 *parking spaces* per *dwelling unit* for the use of the residents of the *lot*;
 - (b) a minimum of 8 *parking spaces* for commercial and visitor use;
 - (c) two *car sharing parking spaces* dedicated to *car-sharing*;
 - (d) despite subsection (a) above, for each *car sharing parking space* provided on the *lot*, to a maximum of 2 *car sharing parking spaces*, the minimum number of *parking spaces* required for resident use shall be reduced by 10 *parking spaces*; and

- (e) despite subsection (a) above and the provisions of By-laws No. 438-86 (former City of Toronto) and 984-2004 (City of Toronto), as amended, up to a maximum number of 7 *parking spaces* on the *lot* may be used by residents of the *dwelling units* located within the building located at the property municipally known in 2009 as 500 St. Clair Avenue West;
- (9) *residential amenity space* shall be provided and maintained on the *lot* in accordance with the following:
 - (a) a minimum of 2 square metres of indoor *residential amenity space* for each *dwelling unit*, located in a multi-purpose room or rooms which need not be contiguous, at least one of which contains a kitchen and a washroom; and
 - (b) a minimum of 1.4 square metres of outdoor *residential amenity space* for each *dwelling unit*, of which at least 40 square metres is to be provided in a location adjoining or directly accessible from the indoor *residential amenity space*;

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) *Car-sharing* shall mean the practice of multiple people sharing the use of a one or more vehicles owned by a profit or non-profit car-sharing organization and to use a car-sharing vehicle, a person must meet the membership requirements of the car-sharing organization, including the payment of membership fees that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven;
 - (b) *Car-sharing parking space* shall mean a *parking space* exclusively for a car used only for a *car-sharing* purposes and such vehicle is accessible to non-resident *car-sharing* members at all times;
 - (c) “*grade*” means 157.85 metres Canadian Geodetic Datum; and
 - (d) “*height*” means the height above *grade* as shown on Map 2.

- 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 27th day of October, 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* at its expense 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 escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- (1) the *owner* shall pay to the City the sum of \$350,000 immediately upon this by-law coming into force and effect and in any event prior to any building permit or any demolition permit issuing for any portion of the *lot* other than for the repair of any existing building on the *lot*, such funds to be used toward community benefits used for capital improvements and enhancements to the Artscape Wychwood Barns.

Such cash amount to be indexed in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the sum by the *owner* to the City;

- (2) prior to condominium registration, the *owner* of the *lot* shall provide a generally rectangular easement of indefinite term, in favour of the City of Toronto, at the southern limit of the *lot*, extending approximately 36.8 metres in length from the east property line to the west property line and approximately 1.6 metres deep from the south property line to the building wall on the ground floor, for the purposes of widening the publicly accessible sidewalk on St. Clair Avenue West to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor;
- (3) the *owner* shall implement any wind mitigation measures required by the wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted with the Site Plan Approval re-submission;
- (4) the *owner* shall construct and maintain a roof of light coloured materials – installed for 75% of the roof having a reflectance of 0.3, as set out in the Green Development Checklist, satisfactory to the Chief Planner;
- (5) the *owner* shall provide and maintain exterior materials generally as shown in the drawings of the St. Clair Avenue West and Raglan Avenue frontages received date June 15, 2009 with building materials labelled, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

- (6) the *owner* shall provide and maintain not less than 9 new replacement rental *dwelling units*, comprising 8 affordable rental *dwelling units* and 1 rental *dwelling unit* with mid-range rents which units shall generally be of the same type and size as in the buildings existing on the *lot* at the date of enactment of this by-law, to the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, subject to the following:
- (a) the 9 replacement rental *dwelling units* shall be provided entirely on the *lot* or entirely on the lands municipally known in 2008 as 743 St. Clair Avenue West;
 - (b) the replacement rental *dwelling units* shall be maintained as rental units for at least 20 years, beginning with the date that each unit is occupied and until the *owner* obtains approval for a zoning by-law amendment removing the requirement for the replacement rental units to be maintained as rental units. If the tax rate were to increase such that the *owner* is paying more tax than they would if the rental replacement units were registered as a condominium, the *owner* will have the right to apply for a zoning by-law amendment removing the requirement for the designated rental units to be maintained as rental units prior to the expiry of this 20 year period, provided the 9 designated replacement rental *dwelling units* remain as rental *dwelling units* until the *owner* obtains approval for a zoning by-law amendment removing the requirement that the *owner* provide and maintain the designated *dwelling units* as rental *dwelling units*;
 - (c) the 9 replacement rental *dwelling units* shall be ready and available for occupancy no later than,
 - (i) if provided on the *lot*, the date by which not more than 60% of the other *dwelling units* erected on the *lot* are available and ready for occupancy or
 - (ii) if provided at the lands municipally known in 2008 as 743 St. Clair Avenue West, the date the first new *dwelling unit* erected on the *lot* is available for occupancy;
 - (d) the *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the 8 designated affordable replacement rental *dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and, upon turn-over, the rent charged to any new tenant shall not exceed the greater of the most recently charged rent or the most recently reported Rental Market Report average rent for the City of Toronto by unit type and over the course of the 10 year period, annual increases shall not

- exceed the Provincial rent guideline and, if applicable, permitted above guideline increases;
- (e) the *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent the 1 designated replacement rental *dwelling unit* with mid-range rents on the same basis as in (d) except that the maximum mid-range rent shall not exceed an amount that is 1.5 times average market rent by unit type;
 - (f) rents charged to tenants occupying an affordable replacement rental *dwelling unit* or a mid-range replacement rental dwelling unit at the end of the 10 year period set forth in (d) shall be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their *dwelling unit* or until the expiry of the rental tenure period set forth in (b) with a phase-in period of at least three years for rent increases;
 - (g) rents charged to tenants newly occupying a replacement rental dwelling unit after the completion of the 10 year period set forth in (d) will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement that is required in (7);
 - (h) the *owner* of the *lot* provides the City with a letter of credit in the amount of \$1,215,000 to the satisfaction of the City Solicitor, prior to the issuance of any demolition permit or building permit for the *lot*, to be indexed as set out in (1), to secure the provision of the 9 replacement rental *dwelling units* at the lands known municipally in 2008 as 743 St. Clair Avenue West provided such units have not yet been provided such that they are ready and available for occupancy; and
- (7) the *owner* of the *lot* enters into and registers on title to the *lot* and on title to the lands known municipally in 2008 as 743 St. Clair Avenue West one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix 1.



