

Authority: Motion MM42.1, moved by Councillor Rae, seconded by Councillor Davis, as adopted by City of Toronto Council on November 30, December 1, 2, 4 and 7, 2009 and Toronto and East York Community Council Item 28.3, as adopted by City of Toronto Council on October 26 and 27, 2009  
Enacted by Council: December 4, 2009

## CITY OF TORONTO

### BY-LAW No. 1238-2009

#### **To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 12 to 18 Mercer Street and 60 John Street.**

WHEREAS the Council of the City of Toronto has been requested to amend its 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 2009 as 12 to 18 Mercer Street and 60 John Street; and

WHEREAS the Council of the City of Toronto has provided adequate information to the public and conducted at least one public meeting in accordance with Section 34 of the *Planning Act*; and

WHEREAS the Council of the City of Toronto, at its meeting of November 30, December 1, 2, 4 and 7, 2009, determined to amend Zoning By-law No. 438-86, as amended, of the former City of Toronto;

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

1. The *owner* of the *lot* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *lot* have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below grade building permit.
2. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
3. None of the provisions of Sections 4(2)(a), 4(12), 4(14)(a), 7(3)Part II 1(i), 7(3) Part II 3 and 12(2)246 of Zoning By-law No. 438-86, of the former City of Toronto, as amended, 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 or use of a *mixed-use building* containing *dwelling units* on 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 of the *residential gross floor area* and the *non-residential gross floor area* erected or used on the *lot* does not exceed 28,600 square metres;

- (c) the aggregate *residential gross floor area* erected or used on the *lot* does not exceed 27,300 square metres.
- (d) the aggregate *non-residential gross floor area* erected or used on the *lot* does not exceed 1,300 square metres.
- (e) for certainty, no person shall use the *lot* or erect or use a building within the *lot* for the purpose of an *entertainment facility – nightclub*.
- (f) a minimum of 555 square metres of indoor *residential amenity space* shall be provided on the *lot*, and shall include at least one kitchen and one washroom;
- (g) a minimum of 2 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided on the *lot*;
- (h) no portion of the building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
  - (i) lighting fixtures, ornamental elements, trellises, window sills, planters, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend a maximum of 1.0 metre beyond the heavy lines shown on Map 2;
  - (ii) an architectural feature may extend beyond the heavy lines shown on Map 2 for the portion of the building above a *height* of 104.5 metres, subject to the following restrictions:
    - (a) the architectural feature may project up to a maximum of 5.0 metres beyond the heavy lines shown on Map 2 on the east side of the building;
    - (b) the architectural feature may project up to a maximum of 3.0 metres beyond the heavy lines shown on Map 2 on the west side of the building;
    - (c) the architectural feature may project up to a maximum of 4.0 metres beyond the heavy lines shown on Map 2 on the south side of the building;
    - (d) the architectural feature may project up to a maximum of 4.0 metres beyond the heavy lines shown on Map 2 on the north side of the building;

- (e) despite 3(h)(ii)a-d) above, none of these projections shall encroach into the City right-of-way, with the exception of the lands shown hatched as a lane widening on Map 2;
- (iii) despite section 7(3) PART II 7 E of Zoning By-law No. 438-86, as amended, balconies may extend up to 2.0 metres beyond the heavy lines shown on Map 2, with the exception of the following areas, where balconies may project further than 2.0 metres:
  - (a) between the finished elevation of the ground and a *height* of 18.5 metres on the east side of the building, balconies may extend up to 3.0 metres beyond the heavy lines shown on Map 2; and
  - (b) between the *heights* of 18.5 metres and 104.5 metres on the west side of the building, balconies may extend up to 2.3 metres beyond the heavy lines shown on Map 2;
- (iv) within the area shown in hatching on Map 2 as a lane widening balcony projections shall be permitted above an elevation of 8.0 m above the finished elevation of the ground and for clarity, the building or structure shall be permitted beyond a depth of 0.5 metres below the finished elevation of the ground.
- (i) the *height* of any building or structure, or portion thereof including mechanical penthouse, does not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
  - (i) railings, parapet walls, window washing equipment, stair towers, partitions dividing outdoor recreation areas and trellises, lightning rods, and exhaust flues, located above the *height* of each of the roof levels of the building provided the maximum vertical dimension of any such element does not exceed 2.0 metres and provided these projections do not exceed a *height* of 111.6 metres;
  - (ii) an architectural feature attached to the balconies on the west side of the tower may extend up to 5.0 metres beyond the *height* of 104.5 metres;
  - (iii) a pergola on the roof of the podium may extend up to 3.0 metres beyond the *height* of 18.5 metres
- (j) a minimum of 190 *parking spaces* for residents and visitors shall be provided on the *lot*, including 3 *car-share parking spaces*, and including 0.06 *parking spaces* for each *dwelling unit* for the exclusive use of visitors to the building and signed as such;
- (k) at least one *loading space – type “G”* is provided on the *lot*;

4. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provisions by the owner of the *lot*, of the facilities, services and matters set out in Section 6 of this By-law, the provisions of which shall be secured in an agreement or agreements pursuant to Section 37(3) of the *Planning Act*;
5. 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 facilities, services and matters set out in Section 6 of this By-law, the *lot* is subject to the provisions of this By-law, provided that in the event 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 requirement.
6. 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 of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of the agreement:
  - a. An indexed cash contribution of \$1,300,000 prior to the first above-grade building permit, of which 10% will be allocated to affordable housing in Ward 20, and the remainder for the provision of one or more of the following: streetscape improvements to John Street and Mercer Street, Heritage Conservation District Studies in the King Spadina East Precinct subject to the appropriate Official Plan Amendment coming into force and effect, and design development supporting the John Street streetscape project;
  - b. A reduction of the cash contribution of the cost of relocating Bell and Rogers utility boxes from John Street to inside the development, up to a maximum of \$300,000;
  - c. A reduction of the cash contribution for the implementation of streetscape improvements to John Street and/or Mercer Street to a level beyond a standard Site Plan approval, to a maximum of \$100,000;
  - d. \$50,000 of the cash contribution is to be provided prior to the enactment of Bills, for the purpose of contributing to one or more Heritage Conservation District studies within the East Precinct of King-Spadina, subject to the appropriate Official Plan Amendment coming into force and effect, or design development for the John Street and/or Mercer Street streetscapes;
  - e. A public art contribution in accordance with the Percent for Public Art Program for a value not less than one percent of the gross construction cost, with up to 50% of the public art contribution to be used on the development, including treatment of the proposed parking entrance on John Street, with the remainder allocated to the John Street streetscape improvement initiative;

- f. The implementation of a heritage interpretation program for Mercer Street and/or John Street to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - g. Architectural plans, elevations and landscaping including 1:50 scale elevations, will be secured to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the owner will be required to, in conjunction with each Site Plan Application submit 1:50 scale drawings in conformity with this requirement for the five storey podium;
  - h. The owner shall incorporate in the construction of the buildings and thereafter maintain exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - i. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms, or be convertible to three or more bedrooms;
  - j. The owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director, City Planning Division, date-stamped August 20, 2009;
  - k. The owner shall provide and maintain an irrigation system, at the applicant's expense, for proposed trees within the public road allowances, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the Executive Director, Technical Services Division, and requirements to maintain in good order and operation; and
  - l. The owner shall implement any wind mitigation measures required by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval.
7. For the purposes of this By-law, all italicized words and expressions in this exception have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the terms *grade*, *height*, *car-share*, *car-share parking space*, and *entertainment facility – nightclub*:

The following definitions either replace the definitions listed above or provide definitions for new terms:

“*grade*” means 84.8 metres Canadian Geodetic Datum;

“*height*” means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in this By-law;

“*car-share*” means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;

“*car-share parking space*” means a parking space that is reserved and actively used for car-sharing; and

“*entertainment facility – nightclub*” shall mean premises such as but not limited to a dancehall or discotheque, used in whole or in part to provide dance facilities for patrons, and where seating is not provided for the majority of patrons.

ENACTED AND PASSED this 4th day of December, A.D. 2009.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)



