

Authority: Toronto and East York Community Council Item 36.13,
as adopted by City of Toronto Council on August 25, 26 and 27, 2010
Enacted by Council: February 8, 2011

CITY OF TORONTO

BY-LAW No. 236-2011

To amend the General Zoning By-law No. 438-86, as amended, of the former City of Toronto respecting a portion of the lands known municipally as 1955-1985 Yonge Street, 3 Belsize Drive and 18 -22 Millwood Road.

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 provisions 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 an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

WHEREAS the owner of the lands 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; 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. None of the provisions of Section 2 with respect to "*height*", "*lot*" and "*grade*" and Sections 4(2)(a); 4(3)(a); 4(4)(b); 4(12); 6; 8(2) 11(iv); 8(3) Part I 1; 8(3) Part I 3(a); 8(3) Part II 1(b)(ii); 8(3) Part II 4; 8(3) Part IV; 8(3) Part XI 1; 8(3) Part XI 2(ii); 12(2) 63; 12(2) 118; 12 (2) 119; 12 (2) 270; and 12 (7) of Zoning 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 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 one *mixed use building* containing both residential and non-residential uses on the *lot*, provided that:

- (a) The *lot* consists of those lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* does not exceed 22,000 square metres inclusive of indoor *residential amenity space*, provided:
 - (i) the *residential gross floor area* on the *lot* does not exceed 20,800 square metres;
 - (ii) the *non-residential gross floor area* does not exceed 1,200 square metres; and
 - (iii) the maximum number of *dwelling unit(s)* on the *lot* shall be 206.
- (c) the *height* of any *mixed-use building* or structure, or portion thereof, does not exceed those *heights* in metres as shown on the attached Map 2;
- (d) the following *mixed-use building* elements and structures are permitted to extend beyond the heavy lines and building envelopes, and above the heights shown on Map 2:
 - (i) elevator shafts and associated equipment, mechanical equipment, chimney stacks or other heating, cooling or ventilating equipment, window washing equipment, cornices, canopies, ornamental elements, landscaping elements including planters and trellises, parapets, railings, guardrails, stairs, and stair enclosures may exceed the maximum *height* limits as shown on Map 2 by no more than 5.5 metres;
- (e) no portion of any *building* or *structure* erected on the *lot* above *grade* is located otherwise than wholly within the areas delineated by heavy lines shown on Map 2, with the exception of the following:
 - (i) Canopies and awnings are permitted outside the heavy lines shown on Map 2;
 - (ii) Balconies, terraces, lighting fixtures, ornamental elements, parapets, trellises, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, underground garage ramps and landscape features may extend beyond the heavy lines shown on Map 2;
- (f) windows for dwelling units shall be permitted at a minimum setback of 0.3 metres from the east *lot* line;

- (g) not less than 700 square metres of indoor *residential amenity space* shall be provided for the exclusive use of the residents of the building;
- (h) not less than 70 square metres of the 700 square metres of indoor *residential amenity space*, not including the common laundry facilities, shall be provided for the exclusive use of the residential rental apartments;
- (i) the *indoor residential amenity space* shall be permitted to be located in non-contiguous rooms, provided at least one such room contains a kitchen and washroom;
- (j) not less than 132 square metres of outdoor *residential amenity space* shall be provided on the *lot*;
- (k) the minimum required number of parking spaces that shall be provided and maintained on the *lot* to serve the residential component of the project in accordance with the following ratios:

<i>bachelor units</i>	0.5 space per dwelling unit
<i>1-bedroom units</i>	0.5 space per dwelling unit
<i>2-bedroom units</i>	0.85 space per dwelling unit
<i>3-bedroom units</i>	1.0 spaces per dwelling unit
<i>visitors</i>	0.12 space per dwelling unit

- (l) the maximum number of *parking spaces* that shall be permitted to be provided and maintained in a surface parking area within 7.5 metres of an 'R' district on the *lot* to serve the non-residential component of the project shall be 13 spaces.
2. 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 3 of this By-law.
 3. 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 or the payment of any monetary contribution 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.

4. None of the provisions of By-law No. 438-86 shall apply to prevent a *sales office* on the *lot* as of the date of the passing of this By-law.
5. Notwithstanding any future severance of the *lot*, this by-law shall apply to the entire *lot* as if no severance had occurred.
6. Definitions:

For the purposes of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended except that the following definitions shall apply:

- (i) "*sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;
- (ii) "*height*" means the vertical distance between *grade* and the highest point of the roof, building or structure, as shown on Map 2, exclusive of any elements described in 1(d)(i) herein up to a maximum of 5.5 metres to the top of the mechanical penthouse roof slab;
- (iii) "*lot*" means those lands outlined on Schedule 1 attached hereto; and
- (iv) "*grade*" means 156.3 metres Canadian Geodetic Datum.

ENACTED AND PASSED this 8th day of February, A.D. 2011.

FRANCES NUNZIATA,
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* a payment of \$435,000.00 of which \$100,000 will be payable prior to the introduction of the Bills in City Council and the remaining \$335,000.00 will be payable prior to the issuance of the first building permit. Such payment shall be indexed to the non-residential Construction Price Index for Toronto for the period from the date of Council enactment of this by-law and the date of payment. Such payment will be deposited to the Planning Act Reserve Fund to be used for the construction and associated costs of the Neshama Accessible Playground at Oriole Park and/or for the purchase, design and construction of lands for a new park facility on the lands south of the TTC bus barns at Yonge Street and Eglinton Avenue West.
- (2) The owner shall provide and maintain not less than 33 new replacement rental dwelling units *on the lot*, comprising at least 27 affordable rental *dwelling units* and 6 rental *dwelling units* with rents no higher than 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 replacement rental dwelling units shall comprise 18 one-bedroom units, 14 two-bedroom units and 1 three-bedroom unit;
 - (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; and
 - (c) the 33 replacement rental *dwelling units* shall be ready and available for occupancy no later than the date by which not more than 60% of the other *dwelling units* erected on the *lot* are available and ready for occupancy.
- (3) The *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the 27 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 recent Fall Update 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.

- (4) The owner shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the designated 6 replacement rental *dwelling units* with mid-range rents during the first 10 years of its occupancy, with mid-range rents on the same basis as (3) except that the maximum mid-range rent shall not exceed an amount that is 1.5 times average market rent by unit type.
- (5) Rents charged to tenants occupying a replacement rental *dwelling unit* at the end of the 10-year period set forth in (3) 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 (2(b)) with a phase-in period of a least three years for rent increases.
- (6) Rents charged to tenants newly occupying a replacement rental dwelling unit after the completion of the 10-year period set forth in (4) will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.
- (7) The owner shall provide, prior to the introduction of bills in City Council, and implement a Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division, that requires the owner to provide for each eligible tenant at 18 to 22 Millwood Road the right to return to a replacement rental unit, assistance that includes at least a moving allowance and other financial assistance on a sliding scale geared to the length of occupancy of each tenant, with provisions for special needs tenants.

The following matter is recommended to be secured in the Section 37 Agreement as a legal convenience to support the development:

- (8) the owner shall incorporate in the construction of the building, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for the development's Yonge Street, Belsize Drive and Millwood Road elevations.

The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in 2009 as 1955 – 1985 Yonge Street, 3 Belsize Drive and 18 – 22 Millwood Road 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.

