

Authority: Toronto and East York Community Council Item 33.4,
as adopted by City of Toronto Council on May 11 and 12, 2010
Enacted by Council: February 8, 2011

CITY OF TORONTO

BY-LAW No. 248-2011

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 181, 199 and 203 Richmond Street West and 10 Nelson 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 2010 as 181, 199 and 203 Richmond Street West and 10 Nelson 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 May 11 and 12, 2010 determined to amend Zoning By-law No. 438-86, as amended, of the former City of Toronto; 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 pursuant to section 37 of the *Planning Act*, the council of a 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 the by-law 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 the 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;

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 by way of a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below-grade 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 Section 2 with respect to the definitions of *grade*, *height* and *temporary sales office*, and Sections 4(2)(a), 4(5)(b), 4(8), 4(13), 4(14)(a), 7(3) PART II 1(i) and 3, 12(2)246(a), (c), of 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 or use of a *mixed-use building* on the *lot* provided that:
- (a) the *lot* comprises the lands delineated by heavy lines on Diagram 1 attached to and forming part of this By-law;
 - (b) the aggregate total of the *residential gross floor area* and *non-residential gross floor area* shall not exceed 62,500 square metres, subject to the following:
 - (i) the *residential gross floor area* shall not exceed 61,500 square metres; and
 - (ii) the *non-residential gross floor area* shall not exceed 2,000 square metres.
 - (c) notwithstanding anything contained in By-law No. 438-86, no person shall use the *lot* or erect or use a building or portion of a building within the lot for the purpose of an *entertainment facility – nightclub*;
 - (d) 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 Diagram 2, subject to the following:
 - (i) awnings, canopies, lighting fixtures, ornamental elements, trellises, window sills, bay windows, balustrades, stairs, stair enclosures, guard rails, parapets, wheelchair ramps, balconies, underground garage ramps, landscape and public art features may extend to a maximum of 1.5 metres beyond the heavy lines shown on Diagram 2;
 - (ii) despite 3(d)(i) above, none of these projections shall project over the *lot* line into the City right-of-way.
 - (e) the *height* of any building or structure, or portion thereof, does not exceed those *heights* as indicated by the numbers following the symbol H on the attached Diagram 2, with the exception of the following:
 - (i) the maximum *height* for parapets, terrace guards and dividers, planters, railings, decorative screens, or window washing equipment shall be the sum of 1.8 metres and the applicable height limit shown on Diagram 2, and provided such projections do not exceed a *height* of 101.7 metres for *Tower Element B* and 131.2 metres for *Tower Element A*;
 - (ii) the maximum height of chimney stacks or other heating, cooling or ventilating equipment and associated screening, pergolas or trellises shall be the sum of 4.0 metres and the applicable height limit shown on

Diagram 2, and provided such projections do not exceed a *height* of 101.7 metres for *Tower Element B* and 131.2 metres for *Tower Element A*; and

(iii) nothing shall prevent the erection or use of a structure on the roof of any building constructed on the *lot* used for noise attenuation, outside or open air recreation, safety or wind protection purposes, stairs and stair enclosures, provided:

A. the maximum *height* of the top of the structure is no higher than the sum of 3.0 metres and the applicable height limit shown on Diagram 2, and provided the structure does not exceed a *height* of 101.7 metres for *Tower Element B* and 131.2 metres for *Tower Element A*;

B. no part of the structure, with the exception of terrace guards and dividers, planters, railings and decorative screens, is less than 2.0 metres from an adjacent outside wall or a vertical projection of the wall; and

C. the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;

(f) for each *car-share parking space* provided on the *lot*, the minimum number resident *parking spaces* as required by section 12(2)246 (e) of Zoning By-law No. 438-86, as amended, shall be reduced by 4 *parking spaces*, and such reduction shall not exceed 40 resident *parking spaces* irrespective of the number of car-share *parking spaces* provided;

(g) despite section 4(13) of Zoning By-law No. 438-86, as amended, no *change rooms* for bicycle parking shall be required in any building or structure on the *lot*;

(h) despite section 4(12) of Zoning By-law No. 438-86, as amended, a minimum of 2 square metres of *residential amenity space – indoor* shall be provided for each *dwelling unit* in a multi-purpose room or rooms in any building constructed on the *lot*, at least one of which contains a kitchen and a washroom, provided that all amenity space is accessible to all residents of either building constructed on the *lot*; and

(i) *bicycle parking spaces – visitor* may be located at the exterior of the building in a bicycle rack or ring, and those exterior *bicycle parking spaces – visitor* will not be required to comply with the minimum dimensions as set out in section 2(1) Definitions and Interpretation of Zoning By-law No. 438-86, as amended, for a *bicycle parking space – visitor*.

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:
 - (i) Prior to the issuance of the first building permit for above-grade portions the residential development to be constructed on the southerly half of the **lot**, the owner of the **lot** shall pay the sum of ONE MILLION DOLLARS (\$1,000,000.00) to the City of Toronto as and allocated as set out below:
 - (a) \$100,000 shall be used for affordable housing in Ward 20 of the City; and
 - (b) \$900,000 shall be allocated towards:
 - (i) the design, development and construction of improvements to the streetscape along John Street between Queen Street West and Front Street West for the creation of a cultural spine along John Street;
 - (ii) the design, development and construction of improvements to the streetscape along Richmond Street West between University Avenue and Spadina Avenue;
 - (iii) Streetscape improvements to John Street, Nelson Street and Richmond Street West; or
 - (iv) Heritage conservation district studies in the King Spadina East Precinct.
 - (ii) The payments referenced in Section 6(i) above will be indexed upwardly 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 the Section 37 Agreement to the date of payment of the sum by the owner to the City of Toronto.

- (iii) The owner will provide access in favour of OCAD to loading at 205 Richmond Street West.
- (iv) The owner will provide a contribution of not less than one percent of the estimated gross construction costs for the residential development to be constructed on the northerly half of the *lot* towards upgrades to the OCAD space, prior to obtaining any above-grade building permits.
- (v) the owner will convey to the Ontario College of Art and Design University, for nominal consideration and free and clear of all encumbrances, a freehold conveyance of a stratified parcel of land having a gross floor area of no less than 743 square metres within the building to be constructed on the northerly half of the *lot*, for use as a gallery space by the Ontario College of Art and Design University.
- (vi) The owner agrees to provide architectural plans, elevations and landscape drawings satisfactory to the Chief Planner, in conjunction with each Site Plan Application and 1:50 Scale Elevations for the five-storey podium of the development contemplated by this by-law, with building materials labelled and the drawings having a sufficient level of detail to illustrate how the building will be perceived by the pedestrian.
- (vii) The owner agrees to incorporate in the construction of the development, and thereafter maintain, the exterior of the building and landscape materials referred to in section 6 (vi) above to the satisfaction of the Chief Planner.
- (viii) The owner agrees that it will make a public art contribution to the City in accordance with the Public Art program equal to one percent (1%) of the Gross Construction Costs of the residential development to be constructed on the southerly half of the *lot* to the City in accordance with the Public Art program.
- (ix) At least ten percent (10%) of the total number of *dwelling units* to be constructed in the buildings on the *lot* shall be capable of being designed as three bedroom units in compliance with the provisions of the Ontario Building Code.
- (x) 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.
- (xi) The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support the development.

- (xii) The owner shall provide, maintain and operate transportation demand measures, facilities and strategies as stipulated in the applicant's Traffic Impact Study accepted by the General Manager, Transportation Services.
7. Prior to the issuance of any below grade permits, including excavation and shoring, the land shown on Diagrams 1 and 2 and labelled "Lane" shall be stopped up and closed as a public highway, with the title to such land, up to a maximum height of 130 metres above *grade*, conveyed to the *owner* of the remainder of the *lot*.
8. Prior to the issuance of any below grade permits, including excavation and shoring, the *owner* shall confirm that all archaeological licensing and technical review requirements have been completed to the satisfaction of the City's Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit).
9. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the *lot*.
10. Notwithstanding any consent, severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no consent, severance, partition or division had occurred.
11. For the purposes of this By-law, all italicized words and expressions have the same meanings as described in By-law No. 438-86, as amended, with the exception that the following expressions shall have the following meanings:
- (a) "*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 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;
- (b) "*car-share parking space*" means a parking space that is reserved and actively used for car-sharing;
- (c) "*grade*" means 87.95 metres Canadian Geodetic Datum;
- (d) "*height*" means the vertical distance between *grade* as defined in this By-law and the highest point of the roof except for those elements prescribed in section 3(e) of this By-law;
- (e) "*lot*" means the lands outlined by heavy lines on Diagram 1 attached to this By-law;
- (f) "*public art*" means works of sculptured art, works of visual and graphic art, sculptured landscaping, fountains, and artistic treatment of publicly accessible areas including, without limitation, exterior publicly accessible areas

(public sidewalks, exterior walls or other building elements), clearly visible at all times from publicly accessible areas, including but not limited to flooring, structure, lighting and street furnishings, provided such elements of work have been designed by or in collaboration with artists and selected by a process and are in accordance with a program recommended by the Toronto Public Art Commission through the Chief Planner and approved by City Council;

- (g) *"temporary sales office"* means a temporary building, structure, facility or trailer on the *lot* used for the purpose of the sale of the *dwelling units* to be erected on the *lot*;
- (h) *"Tower Element A"* means the residential tower to be constructed in the location more particularly identified as "Tower Element A" on Diagram 2 to this By-law;
- (i) *"Tower Element B"* means the residential tower to be constructed in the location more particularly identified as "Tower Element B" on Diagram 2 to this By-law.

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

FRANCES NUNZIATA,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)



