

CITY OF TORONTO

BY-LAW No. 890-2011(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 328, 330, 332, 334, 336, 338 and 340 Adelaide Street West.

WHEREAS the Ontario Municipal Board, pursuant to its Order dated June 3, 2011, upon hearing the appeal under Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended; 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 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 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 of the former City of Toronto, 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 (the "City"); 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;

THEREFORE By-law No. 438-86 of the former City of Toronto, as amended, is further amended by the Ontario Municipal Board as follows:

1. This By-law applies to the lands delineated by a heavy line and identified as "328, 330, 332, 334, 336, 338 and 340 Adelaide Street West" as shown on Map 1 attached to and forming part of this By-law and hereinafter referred to as "the lot".
2. Pursuant to Section 37 of the *Planning Act*, the heights 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 provision by the owner of the lot of the facilities and services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
3. Upon execution and registration of an agreement or agreements with the owner of the site pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities and 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 requirement.

4. Except as otherwise provided herein, the provisions of Zoning By-law No. 438-86 shall continue to apply to the *lot*.
5. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
 - (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. None of the provisions of sections 4 (2)(a), 4(5)i(ii), 4(8), 4(12), 4(13)(A) and (C), 4(16), 4(17)(a) and (b), 7(3) Part II 1(i) and 3, 7(3) Part II 7(E),(G), 7(3) Part II 8(ii), 12(2)246 (A), (H) and (E), 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 or use of a *mixed-use building* on the *lot* provided that;
 - (a) the aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures shall not exceed 27,801 square metres, subject to the following:
 - (i) the *residential gross floor area* of buildings and structures shall not exceed 26,032 square metres; and
 - (ii) the *non-residential gross floor area* of buildings and structures shall not exceed 1,769 square metres.
 - (b) a maximum of 429 *dwelling units* shall be permitted.
 - (c) no portion of a building or structure erected on the *lot* shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol H on the attached Map 2 except that:
 - (i) a mechanical penthouse shall be permitted within the area on Map 2, provided the overall *height* of the building within the area on Map 2 does not exceed 133.4 metres;
 - (ii) the maximum *height* for railings, parapets, decorative screens, window washing equipment, stair towers, partitions dividing outdoor recreation areas and trellises, elements of a green roof, lighting rods, and exhaust flues shall be the sum of 2.00 metres and the applicable *height* limit shown on Map 2; and

- (iii) The maximum *height* of architectural features shall be the sum of 3.85 metres and the applicable *height* limit shown on Map 2.
- (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 Map 2 except:
 - (i) lighting fixtures, ornamental elements, trellises, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps, landscape and public art features, railings, awnings and canopies; and
 - (ii) balconies may extend a maximum of 1.6 metres beyond the heavy lines as shown on Map 2, as measured perpendicular to the exterior walls of the building.
- (e) a minimum of 100 *parking spaces* shall be provided for residential uses, and a minimum of 8 *parking spaces* shall be provided for non residential uses.
- (f) no *parking spaces* shall be required for residential visitors on the lot.
- (g) the minimum width of a drive aisle accessing *parking spaces* shall be 5.5 metres.
- (h) despite the definition of *parking space* in section 2(1)(iii), and the minimum width dimensions of *obstructed parking spaces* in section 4(17), the minimum parking dimensions shall be as follows:
 - (i) Length – 5.6 metres;
 - (ii) Vertical clearance – 2.0 metres; and
 - (iii) Width – 2.9 metres.
- (i) despite subsection (h)(ii), a maximum of 10 *parking spaces* with a width of 2.6 metres may be provided and designated for small cars only.
- (j) despite subsection (h)(ii), 88 wall-mounted bicycle racks may project into the minimum 2.0 vertical clearance to a maximum of 1 metre.
- (k) despite section 4(17), there is no requirement to increase the width of a *parking space* due to an obstruction.
- (l) Despite the definition of a *bicycle parking space – visitor* in section 2(1)(iii), a *bicycle parking space* for visitors may be permitted within a secure room.
- (m) Despite section 4(13)(d), 88 *bicycle parking spaces- occupant* are permitted to be provided in a manner which requires a person to park a bicycle in a vertical position.

- (n) minimum of one *loading space – type "G"* shall be provided and maintained on the lot with a minimum length of 13.0 metres and a minimum width of 3.5 metres.
- (o) a minimum of 403 square metres of indoor *residential amenity space* shall be provided and must be located in a multi-purpose room or rooms in the building, at least one of which must contain a kitchen and a washroom and no *outdoor residential amenity space* shall be required.
- (p) a minimum of 232 *bicycle parking spaces* for occupants of the building and 20 *bicycle parking spaces* for visitors shall be provided and maintained on the *lot*.
- (q) despite the definition of *bicycle parking space – visitor* in section 2(1)(iii), a *bicycle parking space* for visitors may be permitted within a secure room.
- (r) a sales office, used exclusively for the initial sale and/or initial leasing of *dwelling units* or *non-residential gross floor area* to be erected on the *lot*, shall be permitted.
- (s) despite the definitions of "*grade*", "*height*" and "*lot*" in section 2(1)(iii) of By-law No. 438-86 shall not apply to the lands and instead the following definitions shall apply:
 - (i) "*grade*" means 88.20 metres Canadian Geodetic Datum;
 - (ii) "*height*" means the vertical distance between *grade* and the highest point of the building or structure except for those elements prescribed in Section 6(c)(i), (ii) and (iii) of this By-law; and
 - (iii) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law.
- (t) this amendment shall apply to all of the lands, shown on Map 1 attached to this By-law, regardless of future severance, partition or division.

PURSUANT TO ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JUNE 3, 2011 IN BOARD FILE NO. PL101469.

APPENDIX 1 – SECTION 37

1. The facilities, services and matters set out herein are the matters required to be provided by the owner of the lands 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 Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement(s) shall be registered against title to the lands as outlined in heavy lines on Map 1 to secure the following facilities, services or matters;
 - (i) Prior to the issuance of the first above grade building permit, the owner of the **lot** shall make payment to the City of Toronto to the sum of ONE MILLION AND FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) to the City of Toronto, \$100,000.00 of which is payable upon the execution of the Section 37 Agreement, with the remaining \$1,400,000.00 being payable prior to the issuance of the First Above-Grade Building Permit. Such payment 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.
 - (ii) The ONE MILLION AND FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) payment shall be used for public benefits including \$150,000 for capital improvements to public housing in Ward 20, up to \$100,000 for Toronto Arts Council to finish the community space on site and the remaining \$1,250,000 to be used for improvements to John Street and local parks.
 - (iii) The Owner agrees to convey, on satisfactory terms, 500 square feet of community space to the Toronto Arts Council. The space will be located in the northwest corner of the building fronting onto Peter Street, and shall be provided in a base condition (fitted to drywall, with electrical and plumbing installed), without tenant improvements, with the cost of such tenant improvements to be borne by the occupant. The community space shall be conveyed to the Toronto Arts Council for nominal consideration with a warranty, and at the time of the conveyance shall be free of any liens, mortgages, charges or executions. The occupant shall be responsible for applicable realty taxes (if any) and its pro rata share of operating costs and consumables.
 - (iv) The conveyance to Toronto Arts Council shall be on terms satisfactory to the City Solicitor such that the ownership of the community space community space will revert to the City in the event that Toronto Arts Council ceases to exist, or ceases to use or occupy the community space.
 - (v) At least Ten Percent (10%) of the total number of *dwelling units* to be constructed in the *building* shall be capable of being designed as three bedroom units in compliance with the provisions of the Ontario Building Code, and these *dwelling units* are to be shown on any marketing plans as three bedroom units and to be marketed as potential three bedroom units. These units may be sold and/or

constructed with fewer bedrooms with provisions in the condominium documentation to allow renovation to three bedroom units.



