

Authority: Toronto and East York Community Council Item 8.6,  
as adopted by City of Toronto Council on July 12, 13 and 14, 2011  
Enacted by Council: July 14, 2011

## CITY OF TORONTO

### BY-LAW No. 929-2011

#### **To amend the former City of Toronto General Zoning By-law No. 438-86 with respect to the lands municipally known as 126, 128, 132 and 132A Berkeley Street and 93R and 97 Ontario Street.**

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 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;

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

1. This By-law applies to the lands delineated by a heavy line and identified as 126, 128, 132 and 132A Berkeley Street and 93R and 97 Ontario Street" as shown on Map 1 attached to and forming part of this By-law.
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 site 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 site 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)(i), 4(12), 4(13)(a), (b), and (c), 4(14), 4(16), 7(3)Part II, 12(2) 94, and 12(2) 246(c) 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 *residential building* on the *lot* provided that:
  - (a) the *residential gross floor area* of buildings and structures shall not exceed 9,050 square metres;
  - (b) no portion of a building or structure erected on the *lot* shall have a greater *height* in metres than the *height* in metres specified by the numbers following the symbol H on the attached Map 2 except that:
    - (i) a mechanical penthouse having a maximum vertical dimension of 6 metres shall be permitted within the area on Map 2 outlined by a dashed lines, provided the overall *height* of the building including the mechanical penthouse within the area on Map 2 outlined by a dashed lines does not exceed 35.5 metres.
    - (ii) the maximum height for parapets, fences, railings, balcony and terrace guards and dividers, decorative screens, privacy screens, wind screens, planters, balustrades, and window washing equipment shall be the sum of 2.0 metres and the applicable *height* limit shown on Map 2.

- (iii) the maximum height for unenclosed heating, ventilation or cooling equipment such as chimneys, stacks and flues shall be the sum of 2 metres and the applicable *height* limit shown on Map 2 or permitted by subsection (i) above.
- (c) no portion of a building or structure erected or used above *grade* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2;
- (d) Section 6(c) of this By-law shall not apply to the type of structures listed in the column entitled "STRUCTURE" in the following chart, provided that the restrictions set out opposite the structure in the columns entitled "MAXIMUM PERMITTED PROJECTION" and "OTHER APPLICABLE QUALIFICATIONS" are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A. light fixtures, cornices, eaves, sills	1.0 metres	none
B. balconies	not more than 1.5 metres from the wall where it is attached	none
C. canopies	not more than 2.5 metres from the wall where it is attached	none
D. ornamental and architectural features, landscape features, art installations, bollards, stairs, stair enclosures, wheel chair ramps, retaining walls, underground garage ramps and their associated structures, air shafts, transformers vaults and elements required for the functional operation of the building	no restriction	none
E. the structures listed in Section 6(b)(ii) of this By-law	no restriction	subject to the requirements of Section 6(b)(ii) of this By-law

- (e) despite Section 4(5)(b) and Section 12(2) 246(e) of By-law No. 438-86, the minimum number of *parking spaces* to be provided in a building on the *lot* shall be as follows:
- (i) 0.2 *parking spaces* for each bachelor *dwelling unit*;
  - (ii) 0.45 *parking spaces* for each one-bedroom *dwelling unit*;
  - (iii) 0.6 *parking spaces* for each two-bedroom *dwelling unit*;
  - (iv) 0.75 *parking spaces* for each three-bedroom *dwelling unit*; and
  - (v) 0.06 *parking spaces* for every *dwelling unit* contained therein, to be used for visitor's parking.
- (f) a minimum of 1.1 square metres of indoor *residential amenity space* shall be provided for each *dwelling unit* located in a multi-purpose room or rooms in the building (whether or not such rooms are contiguous), at least one of which contains a kitchen and a washroom;
- (g) a minimum of 2.4 square metres of outdoor *residential amenity space* shall be provided 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*;
- (h) *bicycle parking spaces-occupant* and *bicycle parking spaces-visitor* shall be provided as follows:
- (i) a minimum of 0.9 *bicycle parking spaces – occupant* per *dwelling unit* and at least 5% of the *bicycle parking spaces – occupant* shall be provided at the ground floor level;
  - (ii) a minimum of 0.1 *bicycle parking spaces – visitor* per *dwelling unit*;
- (i) the *bicycle parking spaces* required in Section 6(h) of this By-law may be provided in a *stacked bicycle parking space*;
- (j) "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both bicycle parking spaces;
- (k) despite the minimum dimensions of *bicycle parking spaces* in Section 2(1) of By-law No. 438-86 if *bicycle parking spaces* are provided in a *stacked bicycle parking space* then the minimum vertical dimension of a *stacked bicycle parking space* shall be at least 1.2 metres and the minimum horizontal dimensions shall be at least 0.45 metres width and 1.8 metres length;

- (l) despite the minimum width for one-way driveways or passageways in Section 4(5)(i)(ii) of By-law No. 438-86, one-way driveways or passageways providing access to a public highway shall have a minimum width of 3.0 metres;
- (m) despite the definitions of "*grade*", "*height*" and "*lot*" in Section 2(1) of By-law No. 438-86, they shall not apply to the lands and instead the following definitions shall apply:
  - (i) "*grade*" means 85.15 metres Canadian Geodetic Datum;
  - (ii) "*height*" means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in Section 6(b)(i) and (ii) of this By-law;
  - (iii) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
- (n) this By-law shall apply to all of the lands shown on Map 1 attached to this By-law, regardless of future severance, partition or division.

ENACTED AND PASSED this 14th day of July, 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 Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement(s) shall be registered against title to the *lot* as outlined in heavy lines on Map 1 to secure the following facilities, services or matters:

- (a) Prior to the issuance of the first above grade building permit, the owner of the *lot* shall pay the sum of FIFTY THOUSAND DOLLARS (\$50,000.00) to the City of Toronto as contribution towards the North St. Lawrence Market redevelopment (\$5,000.00) and towards a Heritage Conservation District Study and streetscape improvements in the Corktown Neighbourhood (\$45,000.00), such payment to 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;
- (b) At least three (3), three-bedroom dwelling units, bedroom to be defined as a habitable room which meets the requirements of the Ontario Building Code, shall be provided in the building;



