

Authority: Toronto and East York Community Council Item 25.10,
as adopted by City of Toronto Council on July 16, 17, 18 and 19, 2013

CITY OF TORONTO

BY-LAW No. 1043-2013

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 951 to 971 Bay Street and 36 Wellesley Street West.

Whereas the Council of the City of Toronto has been requested to amend Zoning By-law No. 438-86, as amended, pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, with respect to lands known municipally in 2013 as 951 to 971 Bay Street and 36 Wellesley Street West; 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 the 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 By-law No. 438-86, as amended, in return for the provision 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 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 or matters; and

Whereas the increase in the height and density permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended, is to be permitted subject to the provision of the facilities, services or matters set out in this By-law and to be secured by one or more agreements between the *owner* of the lands and the City of Toronto (hereinafter referred to as the "City"); and

Whereas the Official Plan of the City of Toronto contains provisions relating to the authorization of the height and density of development;

The Council of the City of Toronto enacts:

1. 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 or 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 4(1) of this By-law.
2. 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 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.

3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Sections 2(1) "*grade*", "*lot*" and "*parking space*", 4(2)(a), 4(5)(b), 4(5)(c), 4(5)(i)(ii), 4(8)(b), 4(12), 4(17), 8(3) Part I, 2 and 3(a), 8(3) Part II 1(a)(ii) and 8(3) Part III 1(A) of By-law No. 438-86 of the former City of Toronto, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing or 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", shall apply to prevent the erection and use of a *mixed use building* on the *lot*, provided:
 - (a) the *lot* consists of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the total *non-residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 1,550 square metres;
 - (c) the total *residential gross floor area* of the building or buildings erected on the *lot* shall not exceed 47,650 square metres;
 - (d) a minimum amount of indoor residential amenity space shall be provided on the *lot* not less than the greater of 1.95 square metres of *residential amenity space* per dwelling unit or 1,430 square metres of *residential amenity space*, and all indoor *residential amenity space* shall be equally accessible to residents of both the rental and the condominium-registered portions of the building;
 - (e) a minimum of 1,000 square metres of outdoor *residential amenity space* shall be provided on the *lot* and all outdoor *residential amenity space* shall be equally accessible to residents of both the rental and the condominium-registered portions of the building;
 - (f) no portion of the *mixed-use building* shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law and no portion of the *mixed-use building* shall have a *height* in metres greater than the *height* limits specified by the numbers following the symbol H on Map 2;
 - (g) notwithstanding Section 4(f) above, the following may project beyond the heavy lines and above the *heights* shown on Map 2: stair enclosures to a maximum height of 3.0 metres above the roof, electrical and mechanical equipment to a maximum height of 2.0 metres above the roof, structures used for outside or open air recreation, maintenance, safety, or wind protection purposes, terraces, balconies and balcony guards, planters, railings, parapets, window washing equipment, ornamental or architectural features, chimney stacks, vents and air

intakes, communications equipment, cornices, light fixtures, awnings, landscape features, trellises, eaves, window sills, balustrades, doors, wheel chair ramps and canopies;

- (h) the *mixed use building* provides the following colonnades at grade:
- (i) a minimum width of 2.7 metres abutting Bay Street the full extent of the *mixed use building*, unobstructed except for a vestibule for the residential entrance projecting no more than 0.5 metres into the colonnade and building columns; and
 - (ii) a minimum width of 3.8 metres abutting Wellesley Street West and a minimum 37 metres long measured from the east property line, unobstructed except for building columns.
- (i) at least one *loading space - type B* and one *loading space - type G* shall be provided and maintained on the *lot*;
- (j) notwithstanding Section 4(17) of By-law No. 438-86, up to the following number of *parking spaces* may have the following minimum dimensions:
- | number of <i>parking spaces</i> | minimum width | minimum length |
|---------------------------------|---------------|----------------|
| 199 | 2.6 metres | 5.6 metres |
| 41 | 2.6 metres | 4.7 metres |
| 9 | 2.6 metres | 5.0 metres |
| 2 | 2.5 metres | 5.6 metres |
- (k) ingress and egress to and from required parking facilities shall be provided by unobstructed drive aisles having a minimum width of 3.5 metres for one-way operation and 5.3 metres for two-way operation provided that the minimum width of a drive aisle measured at the entrance to a *parking space* shall be 6.0 metres;
- (l) a minimum of 251 parking spaces shall be provided and maintained on the *lot* of which 209 parking spaces shall be for residents of the dwelling units and 42 shall be for visitors to the dwelling units;
- (m) notwithstanding Section 4(l) above, 29 of the required visitor parking spaces may be provided in a parking facility located within 200 metres of the *lot*, provided that a minimum of 250 parking spaces shall be provided and maintained on the *lot*, of which 237 parking spaces shall be for residents of the dwelling units and 13 shall be for visitors to the dwelling units. In the event that 29 visitor parking spaces are provided off-site, the table in Section 4(j) above is revised to require 198 instead of 199 parking spaces having a minimum dimensions of 2.6 metres by 5.6 metres; and
- (n) the *owner* of the *lot* enters into and registers on title to the *lot* an agreement with the City pursuant to Section 37(3) of the *Planning Act*, to the City Solicitor's satisfaction, to secure the matters in Appendix 1.

5. For the purposes of this By-law:
- (a) "*grade*" means 107.5 metres Canadian Geodetic Datum;
 - (b) "*lot*" means the lands outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - (c) "*parking space*" means an unimpeded area that has dimensions not less than those prescribed by Section 4(j) above that is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle; and
 - (d) each other word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended.
6. Former City of Toronto By-law Nos. 21926 and 22928 are repealed.
7. Building permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to building permit issuance, including the provision of monetary payments and the provision of financial securities.
8. 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.

Enacted and passed on July 19, 2013.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

Appendix 1

Section 37 Provisions

The facilities, services and matters set out herein are the facilities, services or 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 indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement.

The community benefits to be secured in the Section 37 agreement are as follows:

- (a) a cash payment of \$4,250,000 payable prior to the issuance of the first above-grade building permit issued for the purpose of constructing the development permitted by this By-law, to be used by the City as follows:
 - (i) \$3,525,000 for parkland acquisition, park construction, and/or local streetscape improvements within a 200 metre radius of the *lot* to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor;
 - (ii) \$425,000 for capital improvements to Toronto Community Housing Corporation properties in Ward 27 to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor; and
 - (iii) \$300,000 for the provision of bike share facilities at locations near the *lot* to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor.
- (b) the cash amounts identified in (a) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment.
- (c) the *owner* shall provide and maintain on the *lot* not less than seventy-eight (78) new rental replacement dwelling units, of which at least 28 units will have mid-range rents, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, subject to the following:
 - (i) the seventy-eight (78) rental replacement units will consist of at least:
 - a. 16 units shall be bachelor units or shall have bedrooms;
 - b. 37 units shall have no fewer than 1-bedrooms; and
 - c. 25 units shall have no fewer than 2-bedrooms.
 - (ii) the seventy-eight (78) rental replacement unit sizes may be smaller than existing rental unit sizes by no more than approximately 10% on average

for bachelor units and approximately 30% on average for one and two-bedroom units;

- (iii) the rental replacement units shall be maintained as rental housing units for at least twenty (20) years, beginning with the date that each unit is occupied until such time as the owner obtains approval for a zoning by-law amendment removing the requirement for the rental replacement units to be maintained as rental units;
 - (iv) the seventy-eight (78) rental replacement units shall be ready and available for occupancy no later than the date when 60% of the residential condominium units are ready and available for occupancy;
 - (v) the twenty-eight (28) units with mid-range rents will comprise at least eight (8) bachelor, twelve (12) one-bedroom and eight (8) two-bedroom units and shall be of a size and location in the building to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - (vi) the *owner* shall provide and maintain mid-range rents charged to the tenants who rent each of the twenty-eight (28) mid-range rental replacement units during the first ten (10) years of their occupancy, such that the initial rent shall not exceed 1.5 times average rent by unit type based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report for the City of Toronto 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, and, upon turn-over, the rent charged to any new tenant shall not exceed the initial rent increased by the annual Provincial Guideline increases and, if applicable, permitted above-Guideline increases;
 - (vii) rents charged to tenants occupying the twenty-eight (28) rental replacement units with mid-range rents at the end of the 10-year period 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 subsection (2) with a further phase-in period of a least three years for rent increases to unrestricted market rents; and
 - (viii) rents charged to tenants newly occupying one of the twenty-eight (28) rental replacement units after the completion of the 10-year period will not be subject to restrictions relating to the amount of the rent by the City of Toronto under the terms of the Section 37 Agreement.
- (d) the owner shall provide tenant relocation assistance in accordance with the more detailed Tenant Relocation and Assistance Plan to be included in the Section 37 Agreement or agreements, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, for tenants in the existing buildings on the lands. At a minimum, tenant relocation assistance shall include:

- (i) the right to return to a rental replacement unit at a similar rent for all eligible tenants who resided in the existing rental units;
 - (ii) a process for returning tenants to choose their rental replacement units by seniority;
 - (iii) extended notice of the date tenants must vacate for the demolition of their units; and
 - (iv) financial assistance comprising at least: a moving allowance of at least \$2,500 for moving out of their rental unit and \$2,500 to move back to a replacement unit; a rent subsidy of at least \$1,200 per month for a period twelve (12) months; and nine (9) months' rent compensation, exclusive of any assistance required by provincial law. Financial assistance shall be based, at a minimum, on the rental amount paid as of June 2013.
- (e) the following matters are to be secured in the Section 37 Agreement as a legal convenience to support development:
- (i) conveyance to the City for public highway purposes a 0.71 metre wide strip of land the full extent of the *lot* abutting the north limit of Wellesley Street West, to a minimum depth of 1.2 metres;
 - (ii) conveyance to the City for public highway purposes a 4.0 metre wide strip of land the full extent of the *lot* abutting the south limit of Phipps Street, to a minimum depth of 1.2 metres, excluding levels 2 through 8, inclusive, of the building's podium;
 - (iii) rights-of-way/easements for 24-hour public access to the entirety of the colonnades along the Wellesley Street West and Bay Street frontages of the development;
 - (iv) a minimum of 65 units, or 9% of all units, will be 3-bedroom units or have an average size of 950 square feet; and
 - (v) any off-site parking provided pursuant to Section 4(m) of this Zoning By-law shall be provided to the satisfaction of the General Manager of Transportation Services.



