# Authority: Ontario Municipal Board Order issued on January 24, 2013 in Board File No. PL120190

## CITY OF TORONTO

### BY-LAW No. 1429-2013(OMB)

### To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known as 1844-1854 Bloor Street West, 35 and 37 Pacific Avenue, 6-14 Oakmount Road and part of 18 and 18A Oakmount Road.

Whereas authority is given to Council of the City of Toronto 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 Subsection 37(3) of the *Planning Act*, the Council of a municipality may, in a bylaw passed under Section 34 of the *Planning Act*, authorize increases in the height and/or density of development beyond that otherwise permitted by the zoning by-law, in return for the provision of such facilities, services and matters as are set out in the by-law; and

Whereas the increases in the density and heights permitted hereunder, beyond that otherwise permitted on the land 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 to be secured by one or more agreements between the *owner* of such land 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; and

Whereas the *owner* of the land that is the subject of this By-law has elected to provide the facilities, services and matters as are hereinafter set forth; and

Whereas Council at its meeting of June 6, 7 and 8, 2012 determined to support the coming into force of this By-law; 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 land as permitted in this By-law; and

Whereas the Ontario Municipal Board, by way of Order/Decision issued on January 24, 2013, following an appeal pursuant to Sections 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c.P 13, as amended, determined to amend the Official Plan for the City of Toronto and to amend the former City of Toronto Zoning By-law No. 438-86, as amended, the General Zoning By-law, with respect to lands known municipally in the year 2012 as 1844-1854 Bloor Street West, 35 and 37 Pacific Avenue, 6-14 Oakmount Road and part of 18 and 18A Oakmount Road;

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

- 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 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 2 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 Section 2 with respect to the definitions of *grade* and *lot* and Sections 4(2)(a); 4(4)(b); 4(4)(c)(ii); 4(4)(i); 4(6)(b); 4(12); 6(1)(f)(a)(iii); 6(2)(21); 6(3) PART I 1; 6(3) PART II 2, 3, 4, 5 and 8; 6(3) PART III 1(a) and (b); 6(3) PART IV 2; of Zoning By-law No. 438-86, as amended, of the former City of Toronto 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", shall apply to prevent the erection or use of a residential and/or *mixed use building*, and a *day nursery* on the *lot*, provided that:
  - (a) the *lot* comprises the lands delineated by heavy lines on Schedule 'A', attached to and forming part of this By-law;
  - (b) despite any existing or future consent, partition or division of the *lot*, the provisions of this By-law shall apply to the *lot* as if no consent, partition or division occurred;
  - (c) no above *grade* portion of a building or structure erected or used on the *lot* shall be located other than wholly within the areas delineated by heavy lines on Schedule 'B', attached to and forming part of this By-law, except for the following:
    - cornices, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, wheel chair ramps, stairs, stair enclosures, vents, underground garage ramps and their associated structures, fences, safety railings, screens, landscape and public art features;
    - (ii) balconies, which may extend to a maximum horizontal projection from an exterior building wall of 1.8 metres beyond the heavy lines shown on Schedule 'B';

- (iii) canopies in the areas delineated by heavy dashed lines on Schedule 'B', may extend to a maximum horizontal projection from an exterior building wall of 4.9 metres and 2.2 metres beyond the heavy lines shown on Schedule 'B', respectively as shown on such Schedule;
- (iv) canopies, which may extend to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Schedule 'B', when facing the interior courtyard fronting Bloor Street West;
- (v) a mechanical space for plenum, together with associated guard rails and cladding, in the area delineated by a heavy dashed line and identified as Mechanical Space/Plenum on Schedule 'B', may extend beyond the heavy lines shown on Schedule 'B' provided it is located at least 0.7 metres from the Bloor Street West *lot* line;
- (d) no part of any building or structure erected or used on the *lot*, shall exceed the *heights* in metres specified by the numbers following the symbol "H" on the attached Schedule 'B', including any mechanical space and elevator/stair overrun, with the exception of the following:
  - structures on any roof used for outside or open air recreation, maintenance, safety, or wind protection purposes, including landscape garden amenities, green roofs, parapets, terrace guards, screens, and window washing equipment, provided:
    - (1) no part of such structures is higher than the sum of 3.0 metres and the *height* limits specified on Schedule 'B'; and
    - (2) the structures do not enclose space so as to constitute a form of penthouse; and
  - (ii) in no case shall any part of a building or structure erected or used on the *lot* exceed a height of 14 storeys above the finished level of the ground, excluding any mechanical space or elevator overrun;
- (e) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 34,900 square metres;
- (f) the *residential gross floor area* erected or used on the *lot* shall not exceed a total of 32,750 square metres and no *residential gross floor* area shall be erected or used in the 10 metre *height* area shown on Schedule 'B' at the north end of the *lot*;
- (g) the *non-residential gross floor area* erected or used on the *lot* shall:
  - (i) be located only on the ground floor and/or on the mezzanine level of any ground floor non-residential unit;

- (ii) not exceed a total of 1,500 square metres; and
- (iii) only be used for one or more of the uses listed in the chart set forth in Section 8(1)(f)(b)(iv) "Retail and Service Shops" of By-law No. 438-86, as amended and subject to the qualifications listed in such chart as are applicable in a CR district for such use;
- (h) *residential amenity space* shall be provided as follows:
  - (i) at least 2 square metres of *residential amenity space* for each *dwelling unit*, in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom located indoors; and
  - (ii) at least 2 square metres of outdoor *residential amenity space* for each *dwelling unit*, of which at least 40 square metres shall be adjoining or directly accessible from one or more rooms containing indoor *residential amenity space*;
- (i) the minimum number of *parking spaces* shall be:

Resident's Parking:

0.6 parking space for each bachelor dwelling unit;
0.7 parking space for each one-bedroom dwelling unit;
0.9 parking space for each two bedroom dwelling unit;
1.0 parking space for each three or more bedroom dwelling unit;

Visitor's Parking:

0.1 parking space for every dwelling unit contained therein;

Non-Residential Uses:

1 *parking space* for each 100 square metres of *non-residential gross floor area*, or fraction equal to or greater than one-half thereof, contained therein;

Shared Non-Residential /Residential Visitor Parking:

The required residential visitor *parking spaces* may be shared with the non-residential component of the *mixed-use building* up to a maximum of the lesser of the required residential visitor parking or the required non-residential parking;

Day Nursery Facility/Non-Residential Shared Parking:

A minimum of six surface *parking spaces* shall be provided and shared between the *day nursery* permitted in clause (o) herein and the non-residential component of the *mixed-use building*. No exclusive use of these surface *parking spaces* shall be permitted save and except for up to two *car-share parking spaces* as defined in this By-law;

- (j) if the calculation of the number of required *parking spaces* results in a number containing a fraction, the number must be rounded down to the nearest whole number, but in no case may there be less than one *parking space*;
- (k) ingress and egress to and from the underground parking facility shall be provided by an unobstructed driveway or passageways providing access to a public highway and having a minimum width of 3.0 metres for one-way operations and a minimum width of 5.5 metres for two-way operation;
- the parking facilities required for residential visitors and non-residential uses and all driveways or passageways providing ingress thereto shall be shared and secured from the parking facilities and driveways required for residential occupants;
- (m) a minimum of one *loading space-type G* shall be provided for both residential and non-residential uses;
- (n) a minimum of 15 percent of the area of the *lot* shall be provided as *landscaped open space*; and
- (o) despite subsections 4(g)(i) and (ii) herein, a stand-alone building having a *non-residential gross floor area* not exceeding a maximum of 650 square metres is permitted in the 10.0 metre *height* area shown on Schedule 'B' at the north end of the *lot* provided no residential use is located within such building and that such building is used exclusively for a *day nursery* use.
- 5. For the purposes of this By-law, the terms set forth in italics shall have the same meaning as each such term has as defined in the said By-law No. 438-86, as amended, except for the following:
  - (a) "car-share" means the practice where a number of people share the use of one or more vehicles that are owned by a profit or non-profit car-sharing organization, such car-share motor vehicles to be made available for short term rental, including hourly rental. Car-share organizations may require that the car-share motor vehicles be reserved in advance, charge fees based on time and/or kilometers 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* exclusively reserved and signed for a car used only for *car-share* purposes and such *car-share* is for the use of at least the occupants of the building on the *lot*;
  - (c) "grade" means an elevation of 110.7 metres Canadian Geodetic Datum;

- (d) "*height*" means the vertical distance between *grade* and the highest point of the building or structure; and
- (e) "*lot*" means the lands outlined by heavy lines on Schedule 'A' attached to this By-law.
- 6. No person shall use any land or erect or use any building or structure on the *lot* 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 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.

PURSUANT TO ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JANUARY 24, 2013 UNDER OMB FILE NO. PL120190.

### 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 no credit for development charges, indexing escalation of both the financial contributions and any letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

- (1) Prior to the issuance of the first above grade building permit for all or any part of the *lot* the *owner* shall pay to the City the sum of One Million Five Hundred and Fifty Thousand Dollars (\$1,550.000.00), to be used by the City towards capital improvements to one or more of the following within Ward 13;
  - a. local parks;
  - b. local streetscapes; and
  - c. local non-profit childcare facilities;

such allocation to be determined by the City's Chief Planner in consultation with the Ward councillor, and which allocation shall include Fifteen Thousand Dollars (\$15,000.00) for capital improvements to the High Park Straw Bale Teaching Kitchen. Such payment shall be indexed to the non-residential Construction Price Index for Toronto for the period from the date of Council's authorization of this by-law to the date of payment.

- (2) The *owner* shall provide and maintain not less than 14 new replacement rental *dwelling units* on the *lot* with rents no higher than mid-range rents, which units shall generally be of the same type and size as the regular units in the remainder of the proposed building, 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 7 one-bedroom units and 7 two-bedroom units;
  - (b) the replacement rental *dwelling units* shall be maintained as rental *dwelling units* for at least 20 years, beginning with the date that each unit is occupied and until the *owner* obtains:
    - (i) any final approval(s) and permission, including permits, required under any other applicable by-law(s) and statute(s) which restrict or regulate the demolition or conversion of rental *dwelling units*; and
    - (ii) a description pursuant to the *Condominium Act*, respecting such replacement rental *dwelling units*, if applicable; and

- (c) the 14 replacement rental *dwelling units* shall be ready and available for occupancy no later than the date by which any other *dwelling units* erected on the *lot* are available and ready for occupancy.
- (3) The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the designated 14 replacement rental *dwelling units* during the first 10 years of such unit's occupancy, such that the initial rent shall not exceed an amount that is 1.5 times average market rent by unit type as identified in 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 times 1.5 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) 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)), whichever is later, at the time there shall be a phase-in period of a least three years to the satisfaction of the Chief Planer, for rent increases.
- (5) Rents charged to tenants newly occupying a replacement rental *dwelling unit* after the completion of the 10-year period set forth in (3) will not be subject to restrictions by the City under the terms of the Section 37 Agreement.
- (6) The tenants in the 14 designated rental replacement *dwelling units* will be provided access to laundry facilities within the building, and will be given access at no charge and on the same basis as residents of the remainder of the building to indoor and outdoor amenity space, *bicycle parking spaces*, storage lockers (where applicable), visitor parking (to the extent such parking is provided), and other common areas, utility and mechanical areas (as appropriate).
- (7) The tenants in the 14 designated rental replacement *dwelling units* will be given access to renting *parking spaces* on the same basis as residents of the remainder of the building, subject to maximum parking charges consistent with the City's practices on parking for rental replacement *dwelling units* to the satisfaction of the Chief Planner and Executive Director.
- (8) The *owner* shall incorporate in the construction of the building, and thereafter maintain, exterior materials shown on 1:50 scale drawings, approved by the Chief Planner and Executive Director, submitted for all the development's elevations.
- (9) The *owner* of the *lot* shall provide a public art contribution of one percent of the gross construction cost.
- (10) Prior to the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* the *owner* of the *lot* shall provide a Construction Management Plan at

its expense to the satisfaction of the Director, Technical Services, and thereafter the *owner* shall implement such plan.

- (11) The owner shall provide and maintain wind mitigation measures identified in the Pedestrian Wind Study prepared by RWDI Inc. dated August 12, 2011.
- (12) The *owner* shall satisfy the requirements of the Toronto Catholic District School Board and the Toronto District School Board regarding warning clauses and signage.
- (13) The *owner* shall undertake a technical review of the proposed development and satisfy the requirements of the Toronto Transit Commission ("TTC"), and provide any necessary warning clauses in future agreements of purchase and sale related to the TTC operations.
- (14) The *owner* shall agree to provisions regarding environmental sustainability, wind mitigation, municipal services and street tree irrigation, to the satisfaction of the Chief Planner and Executive Director.
- (15) The *owner* of the *lot* shall enter into and register on title to the *lot* 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.

10 City of Toronto By-law No. 1429-2013(OMB)



11 City of Toronto By-law No. 1429-2013(OMB)

