

Authority: Toronto and East York Community Council Item 32.12,
adopted as amended, by City of Toronto Council on June 10, 11, 12 and 13, 2014

CITY OF TORONTO

BY-LAW No. 566-2014

To amend By-law No. 20623 (as amended by By-law No. 440-85, as further amended by OMB Order issued on October 3, 1995, OB # 1995-6 Folio # 159) and to amend By-law No. 438-86, each of the former City of Toronto, insofar as they apply to the lands known as 43, 49 and 51 Gerrard Street West and 695 Bay Street.

Whereas the lands defined herein as the *site* together with certain adjacent lands are subject to a site specific zoning by-law, being *By-law No. 440-85* as defined herein; and

Whereas Section 13 of *By-law No. 438-86*, as defined herein, specifies that, "The by-laws set out in this schedule and each of the provisions thereof shall continue in full force and effect and wherever there is a conflict between a provision of this by-law and a provision of any of those by-laws, the latter provision shall prevail"; and

Whereas the by-laws set out within the said schedule include *By-law No. 440-85*; and

Whereas the owner of the *site* has applied to the City for the proposed Zoning By-law amendment that would provide the owner with the option of either:

- (a) employing the permissions granted by *By-law No. 440-85* in respect of the *site*, which preclude the *site* being used for residential or hotel purposes; or
- (b) in lieu thereof, employing the permissions granted by the proposed Zoning By-law Amendment that allow the *site* to be used for residential purposes; and

Whereas the Council of the City of Toronto conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed Zoning By-law amendment; and

Whereas the Council of the City of Toronto has determined to amend each of *By-law No. 440-85* and *By-law No. 438-86* in respect of the *site*;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law within the *site* 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, services and matters set out in Appendix 1 of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. 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, services and matters set out in Appendix 1 of this By-law, 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 requirements.

3. For clarity, except as otherwise provided herein, as stipulated in Section 13 of *By-law No. 438-86*, the provisions of *By-law No. 440-85* continue to apply to all of the lands described and shown on Plan 1 attached thereto as Areas "A", "B" and "C", but if the *site* is used for the purposes permitted by Section 4 of this By-law:
 - (a) the provisions of *By-law No. 440-85* shall no longer apply to the *site* and the *site* may not be used for the non-residential buildings permitted by *By-law No. 440-85*; and
 - (b) the permissions and provisions of *By-law No. 440-85* shall continue to apply to all of the lands described and shown on Plan 1 attached thereto as Areas "A" and "B" notwithstanding that the lands described and shown on Plan 1 attached thereto as Area "C" are used for the uses permitted by Section 4 of this By-law and that the use of the *site* may not comply with such of those provisions of *By-law No. 440-85* as would otherwise have applied to Area "C".
4. None of the provisions of Section 4(2)(a), 4(5)(b), 4(12), 4(13), 4(17), 8(3) Part I 1, 8(3) Part I 3(a), 8(3) Part III 1(a), 12(2)111(a) of *By-law No. 438-86* shall apply to prevent the erection or use of a *mixed-use building* which may contain *dwelling units* and non-residential uses including a parking garage below *grade* on the *site* which may include a *commercial parking garage*, and which may include a *temporary sales office*, provided that:
 - (a) the *site* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *site* shall not exceed 48,600 square metres;
 - (c) the *residential gross floor area* erected or used on the *site* shall not exceed 48,000 square metres and the *non-residential gross floor area* erected or used on the *site* shall not exceed 6,969 square metres;
 - (d) there is at least 500 square metres of *non-residential gross floor area* located on the ground floor of the *mixed-use building*;
 - (e) no portion of the building or structure erected on the *site* shall be located above *grade* otherwise than wholly within a *building envelope*, subject to the following exceptions:
 - (i) canopies, awnings and building cornices;
 - (ii) balconies located on the Walton Street frontage or the Gerrard Street West frontage provided that the balconies may not occupy more than forty percent of the face length of each storey in which they are located; and

- (iii) lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements, and public art features;
- (f) the *height* of any building or structure or portion thereof shall not exceed those *heights* as indicated by the H symbol on Map 2 and will also be restricted to 43 storeys excluding a mechanical penthouse;
- (g) the preceding section 4(f) of this By-law does not apply to prevent the erection or use above the said *height* limits of the following projections: roof-mounted mechanical equipment and screening, parapets, architectural elements, spires or antennas, roof access stairs and their enclosures, chimney stacks and window-washing equipment;
- (h) the ground floor shall be setback as follows for a height of 5.5 metres:
 - (i) 1 metre from the north *lot* line; and
 - (ii) 1.4 metres from the west *lot* line;
- (i) *dwelling units* shall be provided as follows:
 - (i) a minimum of 5% of all *dwelling units* shall be *three-bedroom units* with a minimum area of 84 square metres each; and
 - (ii) a minimum of 5% of all *dwelling units* shall be *two-bedroom units* with a minimum area of 84 square metres each;
- (j) *parking spaces* shall be provided and maintained in a below *grade* parking garage within the *site* in accordance with the following minimum and maximum amounts:
 - (i) parking for residents of the *dwelling units* shall be provided in accordance with Section 4(5)(b) of *By-law No. 438-86*, except not more than 240 *parking spaces* shall be required in total exclusively for residents;
 - (ii) a minimum of 32 *parking spaces* shall be provided for visitors to the *dwelling units* which may be permitted in a *commercial parking garage*;
 - (iii) no minimum parking is required for non-residential uses located on the ground floor of the *mixed-use building*;
 - (iv) a maximum of 100 *parking spaces* may be provided in a *commercial parking garage* and it shall have a maximum area of 6,000 square metres which, for clarity, shall be excluded from the calculation of *non-residential gross floor area*;

- (v) bicycle parking spaces may be permitted to be provided in a *stacked bicycle parking system* or in a horizontal bicycle rack;
- (vii) bicycle parking spaces in a *stacked bicycle parking system* will have the following minimum dimensions:
 - a. vertical clearance 1.2 metres;
 - b. centre-to-centre separation distance 0.45 metres; and
 - c. length 1.8 metres.
- (viii) all other bicycle parking spaces shall have the following minimum dimensions:
 - a. centre-to-centre separation distance 0.45 metres; and
 - b. length 1.8 metres.
- (ix) *car-share parking spaces* may be provided and each *car-share parking spaces* may reduce the minimum resident parking required by four *parking spaces* to a maximum reduction of the number of *parking spaces* equal to $[4 \times (\text{the total number of dwelling units divided by } 60)]$, rounded down to the nearest whole number];
- (k) despite the minimum width and length dimensions for *parking space* in Sections 4(17)(a) - (e) of *By-law No. 438-86*, a maximum of 15% of the required *parking spaces* to be provided and maintained in the below grade garage may be for *small car spaces*;
- (l) bicycle parking spaces shall be provided and maintained within the *site* in accordance with the following minimum and maximum requirements:
 - (i) for residential uses, a minimum of 1.0 bicycle parking spaces per dwelling unit, in accordance with the following ratio: 0.8 bicycle parking spaces - occupant per dwelling unit and 0.2 bicycle parking spaces - visitor per *dwelling unit*; and
 - (ii) for the non-residential uses listed in Section 8(1)(f)(b)(iv),(v) and (vi) of *By-law No. 438-86*, bicycle parking spaces shall be provided and maintained in accordance with Section 4(13) of *By-law No. 438-86*;
- (m) indoor amenity space shall be provided in accordance with Section 4(12) of *By-law No. 438-86*, except that *outdoor amenity space* shall be provided at a minimum ratio of 1.5 square metres per *dwelling unit*;
- (n) no part of the *site* is used for an *hotel*; and
- (o) each storey of the *mixed-use building* located above the fifth storey, or higher than 17 metres above *grade*, shall have a maximum floor plate size of 1,100 square metres.

5. Despite any existing or future severance, partition or division of the *site*, the provisions of this by-law shall apply to the whole *site* as if no severance, partition or division occurred.
6. Within the *site*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the site 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.
7. Except as otherwise provided herein, the provisions of *By-law No. 438-86* shall continue to apply to the *site*.
8. For the purposes of the By-law, the following expressions shall have the following meaning:
 - (a) "*building envelope*" means a building envelope as delineated by heavy lines on Map 2 attached to this By-law;
 - (b) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto;
 - (c) "*By-law No. 440-85*" means By-law No. 440-85 which amends By-law No. 20623 being a previous general zoning by-law of the former City of Toronto, including the amendments to By-law No. 440-85 made by Ontario Municipal Board Decision No. 1995-6 in Folio #159;
 - (d) "*By-law No. 20623*" means By-law No. 20623, as amended, of the former City of Toronto;
 - (e) "*car-share parking space*" means a parking space used exclusively for the parking of a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the *site*;
 - (f) "*Chief Planner*" means the City of Toronto Chief Planner and Executive Director;
 - (g) "*City*" means the City of Toronto;
 - (h) "*grade*" shall mean, 96.5 metres above sea level based on Geodetic Survey of Canada 1929 mean sea level vertical datum (1978 Southern Ontario Adjustment);
 - (i) "*height*" shall mean the vertical distance between *grade* and the highest point of a building or structure;
 - (j) "*owner*" means the owner of the fee simple of the *site* or any part thereof;

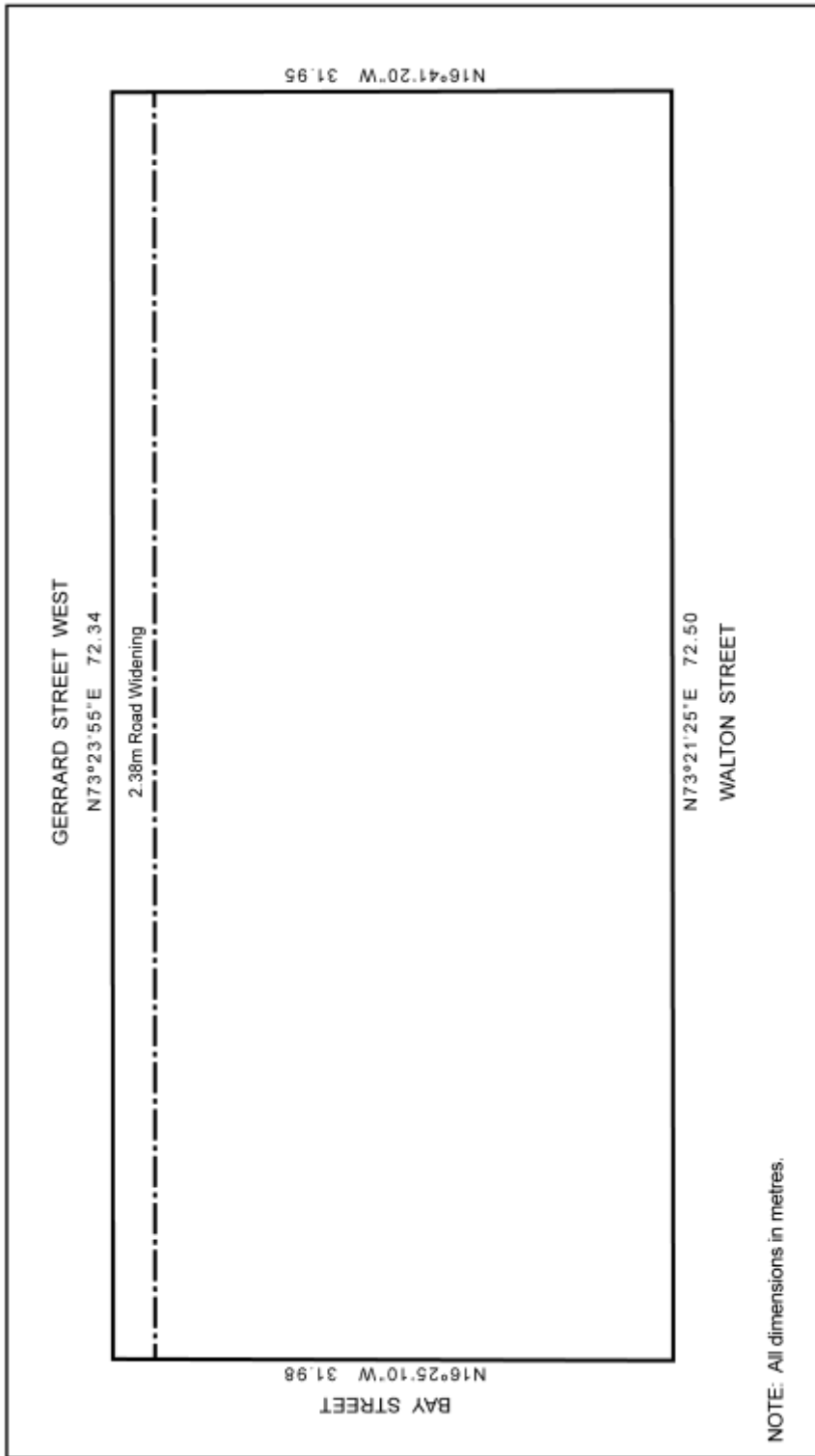
- (k) "*proposed building*" means any building erected on the *site*, excluding any temporary sales showroom for the purposes of marketing *dwelling units*;
- (l) "*site*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
- (m) "*small car spaces*" means a *parking space* that may be obstructed and/or accessed by a drive aisle that is less than 6 metres in width as set out in Section 4(17) of *By-law No. 438-86* and which shall be identified by appropriate signage in the parking garage on *site*;
- (n) "*stacked bicycle parking*" 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;
- (o) "*temporary sales office*" means a building, structure, facility or trailer on the *site* used for the purpose of the sale of *dwelling units* to be erected on the *site*; and
- (p) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.

Enacted and passed on June 13, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)



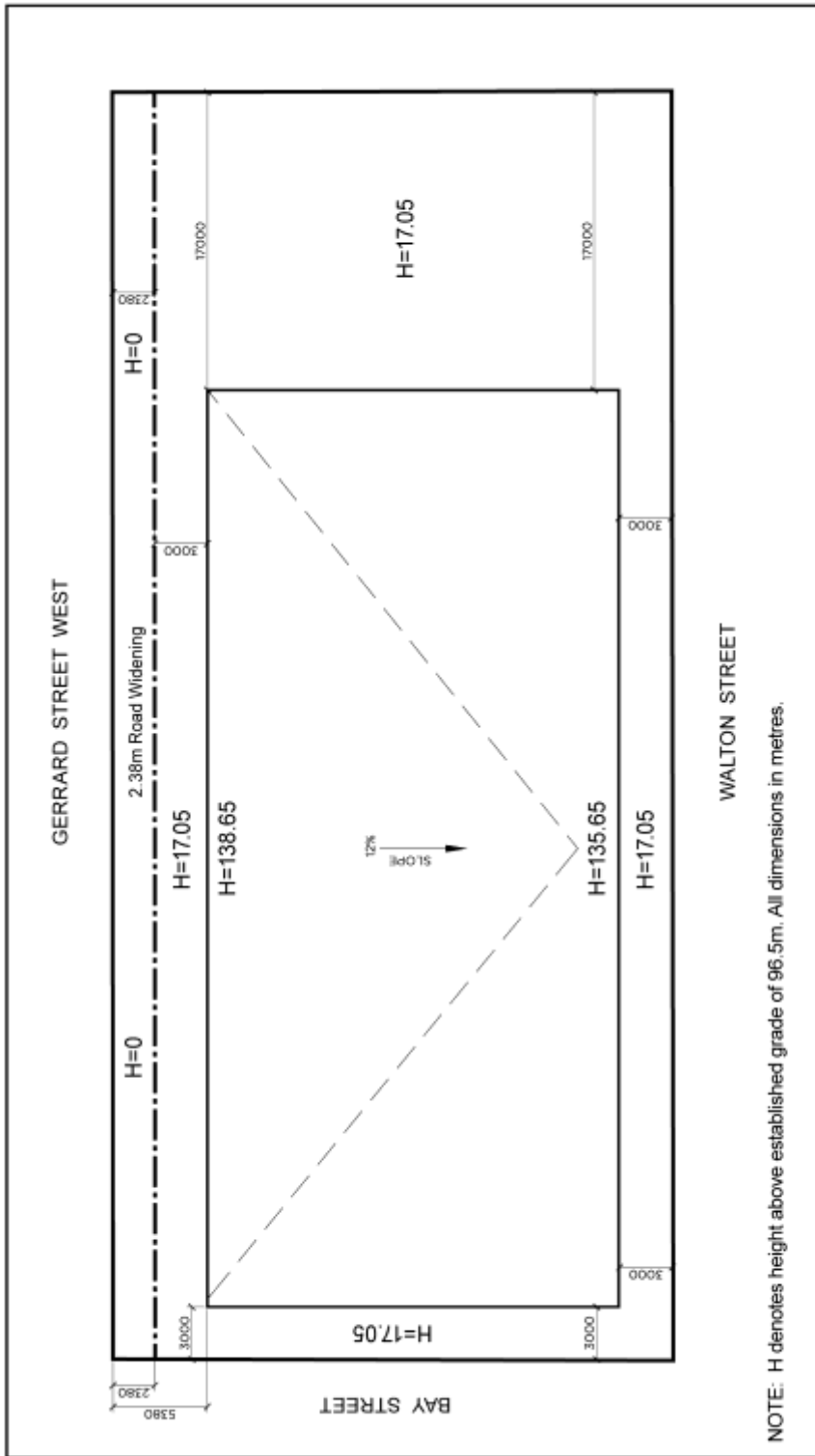
Map 1

43 Gerrard Street West

File # 11 268259 STE 27 0Z



Not to Scale
04/10/2014



Appendix 1
Council Authorities to Implement Matters Pursuant to the Section 37 Agreement

The facilities, services and matters set out herein are the matters required to be provided by the owner of the site as 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 and the owner with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

- i. The provision of a financial contribution in the amount of \$2,750,000, prior to the issuance of the first above-grade building permit, with the contribution to be used by the City for one or more of the following:
 - (a) \$250,000 to be used for public art on the site at 43, 49 and 51 Gerrard Street West and 695 Bay Street to the satisfaction of the Executive Director City Planning or her designate.
 - (b) \$450,000 to be used for off-site streetscape improvements on Bay Street, Yonge Street, Gerrard Street West and/or Walton Street to the satisfaction of the Executive Director City Planning or her designate.
 - (c) \$300,000 to be used for capital improvements to Toronto Community housing properties within Ward 27 to the satisfaction of the Chief Executive Officer, Toronto Community Housing Corporation or their designate.
 - (d) \$1,750,000 to be used for new affordable housing or a community recreation centre in Ward 27 to the satisfaction of the Deputy City Manager, Cluster A or her designate, in consultation with the Ward Councillor.
 - (e) Require that the cash amounts identified in Recommendation i(a), (b), (c) and (d) above shall 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 execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City.
- ii. The provision of a financial contribution in the amount of \$250,000, at the submission of a site plan application to be used by the City for the following:
 - (a) \$250,000 to be used for new affordable housing or a community recreation centre in Ward 27 to the satisfaction of the Deputy City Manager, Cluster A or her designate, in consultation with the Ward Councillor.
 - (b) Require that the cash amounts identified in Recommendation ii. (a), above shall 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 execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City.