

Authority: Toronto and East York Community Council Item 34.10,
as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

CITY OF TORONTO

BY-LAW No. 1027-2014

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally in the year 2014 as 156-174 Front Street West and 43-51 Simcoe Street.

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 has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

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

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted 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 and matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the lands and the City of Toronto;

The Council of the City of Toronto enacts:

1. For the purposes of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
2. Except where otherwise provided herein, the provisions of Zoning By-law No. 438-86 shall continue to apply to the lot.
3. None of the provisions of Section 4(1)(a), 4(2)(a), 4(5)(b), 8(3) Part I 1 & 2, 12(2) 132 and 12(2) 276 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 structure in various areas of the City of Toronto", as amended, shall apply

to prevent the erection of a *non-residential building* on the *lot*, including a *commercial parking garage*, provided that:

- (1) The *non-residential gross floor area* of buildings and structure shall not exceed 127,120 square metres;
- (2) No portion of any building erected above *grade* is located outside the areas delineated by heavy lines shown on Map 2 attached to and forming part of this By-law, with the exception of lighting fixtures, canopies, balustrades, stairs, stair enclosures, wheel chair ramps, underground garage ramps, ornamental or architectural features, and landscape features may extend beyond the heavy lines shown on the attached Map 2;
- (3) No portion of a building or structure erected on the *lot* shall have a greater *height* in metres than specified by the numbers following the symbol H on the attached Map 2;
- (4) Notwithstanding Section 3(3) above, the building shall be setback a minimum of 4.5 metres at *grade* from the west property line;
- (5) Notwithstanding Section 3(3) above, the building shall be setback a minimum of 3.0 metres at *grade*, from the south property line, except for the areas where the building at 156 Front Street West lawfully existed on the date of passing of this By-law;
- (6) A minimum ratio of 0.35 parking spaces per 100 square metres of gross floor area for the office uses and a minimum rate of 1.0 parking space per 100 metres of gross floor area for retail use, save and except that a maximum reduction of 49 parking spaces will be permitted, and shall be provided and maintained on the lot;
- (7) Sharing of parking spaces required under Section 3(6) shall be permitted in accordance with the following minimum occupancy rates:

<u>Use</u>	<u>Minimum Parking Occupancy (Percent)</u>		
	<u>Morning</u>	<u>Afternoon</u>	<u>Evening</u>
Office	100	60	0
Retail	20	100	100

- (8) Where the calculation of the required number of parking spaces results in a number containing a fraction, the number is rounded down to the nearest whole number, but there may not be less than a requirement of one parking space;
- (9) A minimum of 4 loading space-type B shall be provided on the lot; and
- (10) A minimum of 5 *loading space-type C* shall be provided on the *lot*.

4. None of the provisions of this By-law shall prevent a temporary sales office on the lot.
5. Notwithstanding any existing or future severances, partition, or division of the lot, the provisions of this By-law shall apply to the whole of the lot as if no severance, partition or division had occurred.
6. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the lot contemplated herein beyond that otherwise permitted in By-law No. 438-86, as amended, is permitted in return for the provision by the owner, at the owner's expense, of certain facilities, services and matters set out in Appendix 1 hereof subject to and in accordance with an agreement pursuant to Section 37(3) of the *Planning Act* that is in a form and registered on title to the lot, to the satisfaction of the City Solicitor.
7. Where Appendix 1 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
8. Definitions

For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as such word or expression as defined in By-law No. 438-86, as amended, except for the following:

- (1) "*grade*" means the Canadian Geodetic Datum elevation of 81.00 metres;
- (2) "*height*" means the vertical distance between *grade* and the highest point of a building, inclusive of cooling tower and/or mechanical penthouse elements;
- (3) "lot" means the lands delineated by heavy lines on Map 1 attached to this By-law;
- (4) "non-residential gross floor area" excludes all area below grade but will otherwise be the same as *non-residential gross floor area* as it is defined in By-law No. 438-86;
- (5) "*gross floor area*" as it is used for the purpose of calculating parking in Section 3(6) of this By-law is defined as the sum of the total area of each floor level of a building, above and below ground, measured from the exterior of the main wall of each floor level, not including that portion of a building used exclusively for heating, cooling, ventilation, electrical, fire emergency stairwells, elevator shafts, atriums, utility areas, storage areas in the basement, *parking spaces*, loading spaces, or a drive aisle used to access a *parking space* or loading space;
- (6) "*sales office*" means a building or structure, used exclusively for the purpose of marketing, sales and leasing of *non-residential gross floor area* within the building on the *lot*; and

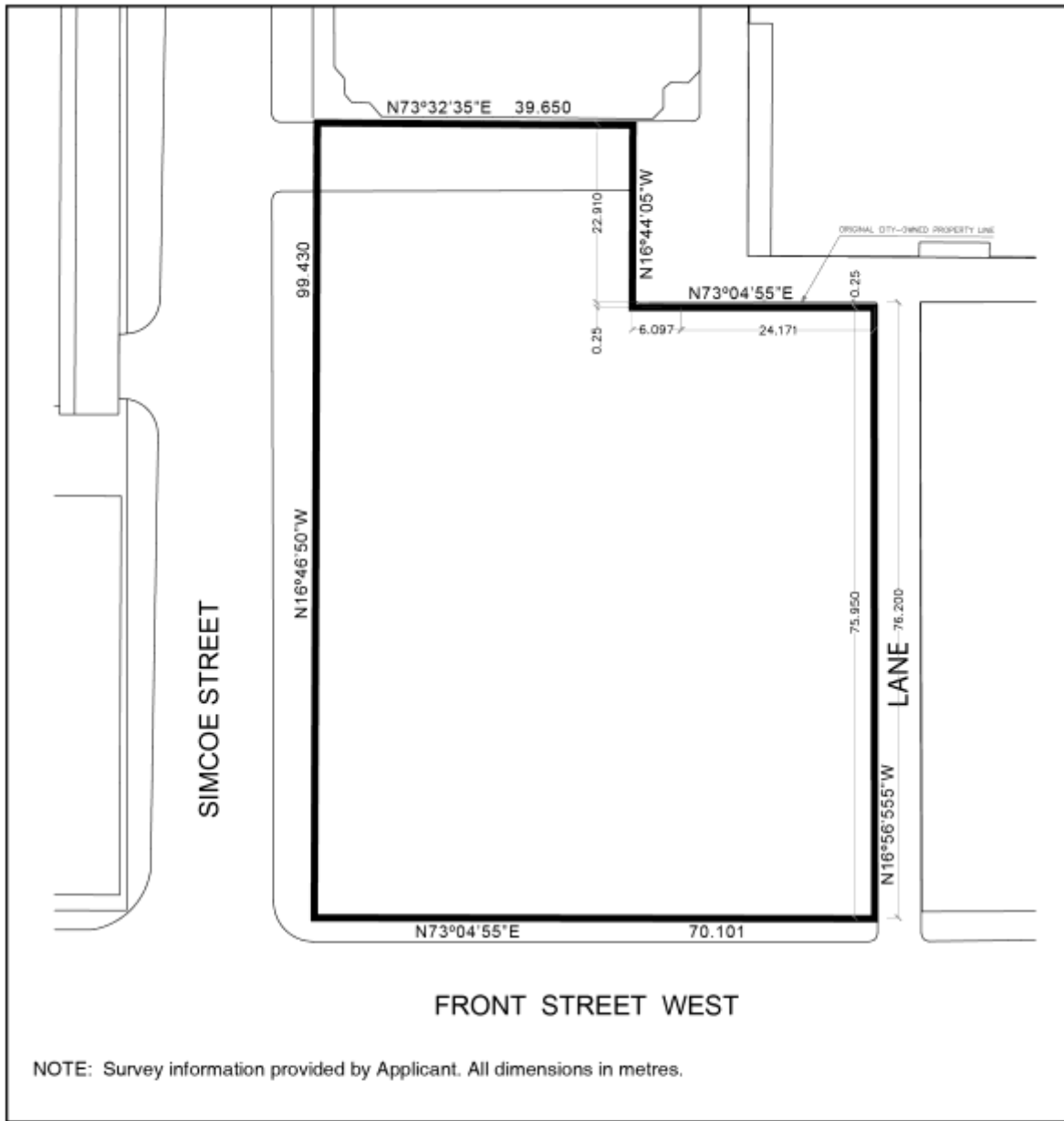
(7) "*owner*" means the registered owner of the *lot*.

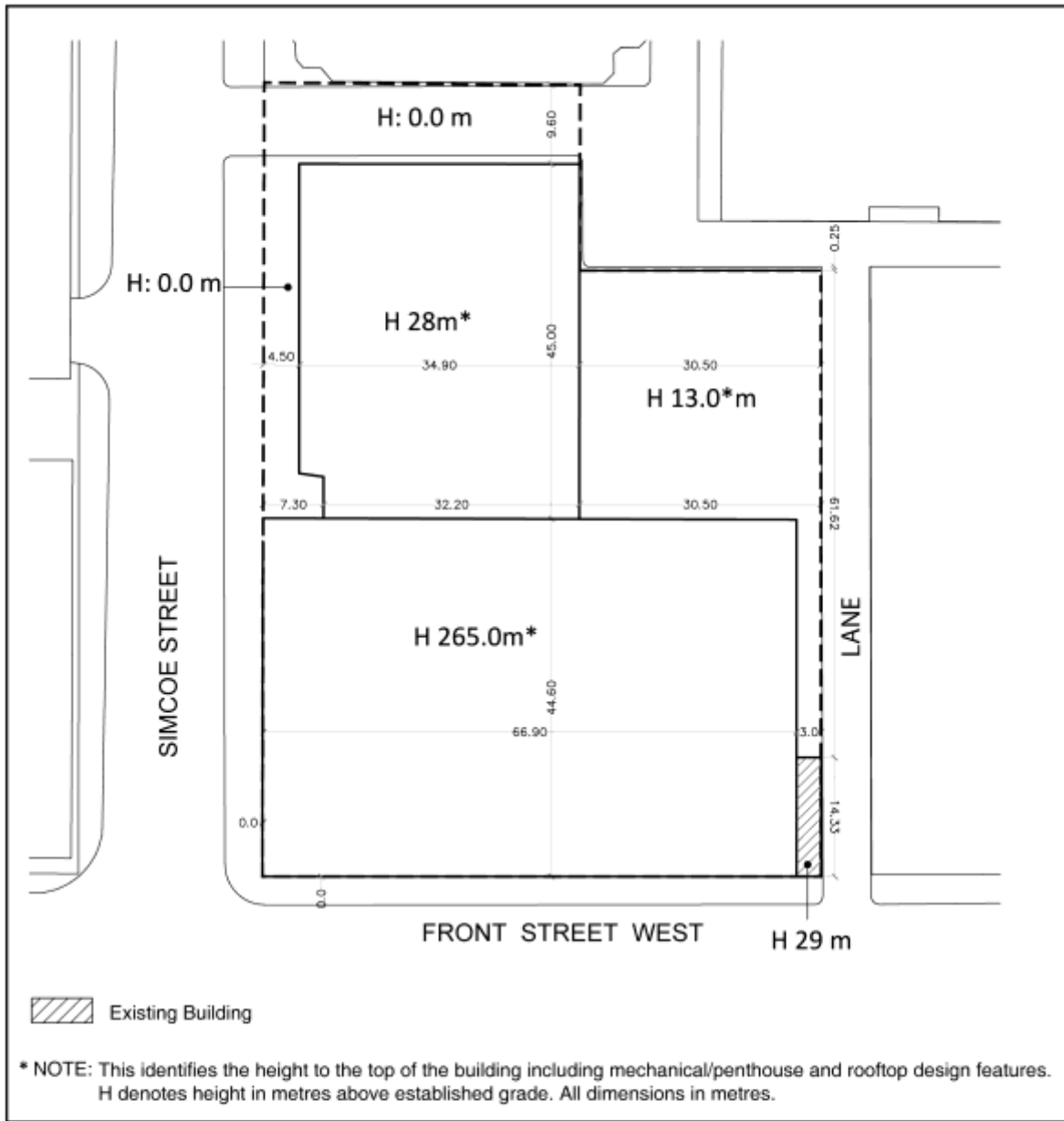
Enacted and passed on August 28, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





Appendix 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act*, in form and content satisfactory to the City, whereby the *owner* agrees as follows:

1. The *owner* shall, subject to Section 4 below, provide to the City a cash contribution of \$4,000,000, prior to the issuance of an above-grade building permit for any development, for the following local community improvement initiatives:
 - (a) \$1,000,000 for the John Street Cultural Corridor;
 - (b) \$400,000 for capital improvements to Toronto Community Housing Corporation (TCHC) facilities in Ward 20;
 - (c) \$1,500,000 for streetscape improvements in the immediate area, which may include a future east/west connection to the PATH system;
 - (d) \$500,000 for community services and facilities in Ward 20;
 - (e) \$100,000 for the Toronto Book Awards Plaque Program (of which \$50,000 shall have been paid prior to the passage of this By-law); and
 - (f) \$500,000 for public art, in accordance with the City of Toronto's Percent for Public Art Program.

2. The *owner* shall provide the following to support the development of the *lot*:
 - (a) the *owner* shall provide the City with documentation as to LEED certification of the development and the marketing materials that will include information on LEED certification;
 - (b) the design of the building and the site plan shall be generally in accordance with the plans associated with the Zoning By-law Amendment application, and on file with the City Planning Division, and shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division

3. In the event the cash contributions referred to in Section 1(a) through (f) above has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

4. The payments required in Section 1(a) through (f) herein, shall increase in accordance with the increase in 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, or if this By-law is appealed to the Ontario Municipal Board, from the date of the Board order approving the By-law, to the date of submission of the funds by the *owner* to the City.

5. Notwithstanding the foregoing, the *owner* and the City may modify or amend the said agreement(s), from time to time and upon the consent of the City and the *owner*, without further amendment to those provisions of this schedule which identify the facilities, services and matters to be secured.