

Authority: Toronto and East York Community Council Item 34.16, adopted as amended, by City of Toronto Council on August 25, 26, 27 and 28, 2014

CITY OF TORONTO

BY-LAW No. 1061-2014

To amend former City of Toronto Zoning By-law No. 438-86, as amended, respecting lands known municipally as 57 Spadina Avenue.

Whereas Council of the City of Toronto has the authority pursuant to 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the height of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act* may authorize increase in the height 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 matter as are set out in the by-law; 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 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 facilities, services and matters set out in this By-law which are secured by one or more agreements between the *owner* of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. None of the provisions of Section 2(1) with respect to the definition of the terms *bicycle parking space*, *bicycle parking space - occupant*, *bicycle parking space - visitor*, *grade*, *height* and *lot*, and Sections 4(2)(a), 4(5), 4(12), 4(13), 4(14), 4(16), 7(3) Part II 1(i), 7(3) Part II 7, 12(2)132, 7(3) Part II 8(II), 12(2)246, and 12(2)260, 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 and use of a *mixed-use building* containing *residential gross floor area*, *non-residential gross floor area* and a *commercial parking garage* on the *lot* provided that:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) no portion of any building or structure above finished ground level is located otherwise than wholly within the areas delineated by heavy lines shown on Map 2, attached to and forming part of this By-law;

- (c) the *height* of any building or structure, does not exceed the height in metres specified by the numbers following the symbol H on Map 2, and the *storeys* specified by the numbers following the symbol ST on Map 2 attached to and forming part of this By-law;
- (d) notwithstanding subsection 1(b) and (c) of this By-law, the following building elements and structures are permitted to project beyond the heavy lines other than a *lot* line and above the *heights* shown on Map 2, subject to the limitations noted below:

Elements and structures	Limitation
Eaves, cornices, window sills, landscape features, wheel chair ramps, light fixtures, stairs and stair enclosures, balustrades, guardrails, bollards	no limitations
Elements associated with a <i>green roof</i>	Permitted beyond the heavy lines on Map 2, subject to a maximum vertical projection of 0.5 metres above the <i>heights</i> shown on Map 2
Railings	Permitted beyond the heavy lines on Map 2, subject to a maximum vertical projection of 1.2 metres above the <i>heights</i> limits on Map 2
Fences, privacy screens	Permitted beyond the heavy lines on Map 2, to a maximum vertical projection of 2.4 metres beyond the <i>heights</i> shown on Map 2
Ornamental elements, architectural elements	Permitted to extend above the height limits shown on Map 2, subject to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 2
Vents, stacks, chimneys	Permitted to extend beyond the heavy lines on Map 2, subject to a maximum vertical projection of 3.2 metres above the <i>heights</i> shown on Map 2
Parapets	Permitted to extend beyond the heavy lines on Map 2, subject to parapets on the roof of the eighth storey are limited to a maximum vertical projection of 1.2 metres above the <i>heights</i> shown on Map 2, and parapets on all other portions of the <i>building</i> are limited to a maximum vertical projection of 0.9 metres above the <i>height</i> limits shown on Map 2

Elements and structures	Limitation
Structures used for outside or open air recreation, safety or wind protection purposes	Permitted to extend beyond the heavy lines on Map 2, provided that the maximum <i>heights</i> of the top of the structure is no higher than the sum of 3.0 metres and the applicable <i>heights</i> shown on Map 2 and the structures shall not enclose space so as to constitute a form of penthouse or other room or rooms
Awnings, canopies	Permitted to extend above the <i>heights</i> shown on Map 2, subject to a maximum horizontal projection of 3.0 metres beyond the exterior of the wall to which such awnings and canopies are attached
Balconies	Permitted to extend above the <i>heights</i> on Map 2, subject to a maximum horizontal projection of 2.0 metres beyond the heavy lines shown on Map 2

- (e) notwithstanding subsection 1(d), balconies, ornamental and architectural elements over the area of the 1.3 metre future stratified lane widening shall be permitted provided such balconies, ornamental and architectural elements are located a minimum of 10 metres above *grade*;
- (f) notwithstanding subsection 1(d), balconies attached to the northerly wall of the building subject to a height limit of 116.25 metres and shown with a east-west dimension of 19.01 metres on Map 2 are limited to a maximum horizontal projection of 0.23 metres;
- (g) notwithstanding subsection 1(d), the only elements and structures permitted to project above the height of the mechanical penthouse as identified on Map 2 are limited to vents, stacks, chimneys, screens, parapets and railings, subject to the limitations noted in subsection 1(d);
- (h) no person shall erect or use a portion of the building for any purpose except one or more of the uses permitted by Section 7(1)(a) of By-law No. 438-86, as amended, with the exception that a *medical/dental office* is not permitted;
- (i) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 29,000 square metres, of which:
 - (i) the *residential gross floor area* must not exceed 24,550 square metres;

- (ii) a minimum of 2,500 square metres of *non-residential gross floor area* must be provided for office uses, with the total non-residential gross floor area on the *lot* not to exceed 5,000 square metres; and
- (iii) the area of a *commercial parking garage* shall not be included in the calculation of *non-residential gross floor area*;
- (j) *residential amenity space* - outdoor must be a minimum of 288 square metres, of which a minimum of 40 square metres must be directly accessible from the *residential amenity space* - indoor;
- (k) *residential amenity space* - indoor to be provided at a minimum rate of 2.0 square metres per *dwelling unit*, and may be provided in rooms which are not contiguous, with at least one room to contain a kitchen and washroom;
- (l) no more than 25% of the required amount of *residential amenity space* - outdoor may be provided as a *green roof*;
- (m) *parking spaces* for residents must be provided and maintained on the *lot* in accordance with the following minimum standards:
 - (i) 0.3 *parking spaces* for each *bachelor dwelling unit*;
 - (ii) 0.5 *parking spaces* for each one *bedroom dwelling unit*;
 - (iii) 0.75 *parking spaces* for each two *bedroom dwelling unit*; and
 - (iv) 1.20 *parking spaces* for each three or more *bedroom dwelling unit*;

Notwithstanding the total number of resident *parking spaces* provided pursuant to the above noted ratios, the total number of required resident *parking spaces* may be reduced by a maximum of 38 *parking spaces*, provided that a minimum of two of the parking spaces required by subsection (q) below are provided as *car share spaces*;

- (n) a minimum of one *loading space - type G* and one *loading space - type B* shall be provided and maintained on the lot;
- (o) *parking spaces* for residents may be reduced at a rate of 1 *parking space* for each 5 *bicycle parking spaces* provided in excess of the minimum number of *bicycle parking spaces* for the *lot* based on the standards in subsection 1(p), provided the reduction is not greater than 20% of the total minimum *parking spaces* required in subsection 1(m);
- (p) *bicycle parking spaces* shall be provided in accordance with the following minimum standards:

- (i) a minimum of 1.0 *bicycle parking spaces* for each *dwelling unit*, allocated as 0.8 *bicycle parking spaces - long term* per *dwelling unit* and 0.2 *bicycle parking spaces - short term* per *dwelling unit*;
 - (ii) a minimum of 0.2 *bicycle parking spaces -long term* for each 100 square metres of gross floor area of office uses, and a minimum of the greater of 0.2 *bicycle parking spaces - short term* for each 100 square metres of gross floor area of office uses or 6 *bicycle parking spaces*; and
 - (iii) a minimum of 0.2 *bicycle parking spaces - long term* for each 100 square metres of gross floor area for retail uses, and a minimum of the greater of 0.3 *bicycle parking spaces - short term* for each 100 square metres of gross floor area of retail uses or 6 *bicycle parking spaces*;
- (q) a minimum of 25 *parking spaces* for visitors to the *dwelling units*, and visitors and occupants of the non-residential uses must be provided on the *lot*, and may be provided within a *commercial parking garage* where the following minimum number of *parking spaces* must be reserved for the exclusive use of visitors to the *dwelling units*:
- (i) between Monday 6:01 a.m. to Friday 6:00 p.m.:
 - (a) 2 *parking spaces* between the hours of 6:01 a.m. to 12:00 p.m.;
 - (b) 7 *parking spaces* between the hours 12:01 p.m. to 6:00 p.m.;
 - (c) 14 *parking spaces* between the hours 6:01 p.m. to 6:00 a.m.; and
 - (ii) between Friday 6:01 p.m. to Monday 6:00 a.m., 14 *parking spaces*;
- (r) *parking spaces* shall be provided in accordance with the minimum *parking space* dimensions set out in Section 4(17) of By-law No. 438-86, as amended, with the exception of the following:
- (i) a maximum of 4 *parking spaces* may be provided with a minimum length of 5.3 metres; and
 - (ii) the provisions of subsection 4(17)(e) of By-law No. 438-86, as amended, shall not apply to the *parking spaces* identified in subsection 1(r)(i).

2. For the purposes of this By-law:

- (a) "*lot*" means those lands outlined on Map 1 attached hereto;
- (b) "*grade*" means 86.25 metres Canadian Geodetic Datum;
- (c) "*height*" means the highest point of the roof above *grade*, except for those structures and elements as prescribed by this by-law;

- (d) "*bicycle parking space*" means an area used for parking or storing a bicycle having the following dimensions:
- (i) the minimum dimension of a *bicycle parking space* placed in a horizontal position is:
 - A. minimum length of 1.8 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum vertical clearance from the ground of 1.9 metres;
 - (ii) the minimum dimension of a *bicycle parking space* placed in a vertical position on a wall, structure or mechanical device is:
 - A. minimum horizontal clearance from the wall, structure or mechanical device of 1.2 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum vertical clearance of 1.9 metres;
 - (iii) the minimum dimension of a *bicycle parking space* provided in a *bicycle stacker* is:
 - A. minimum length of 1.8 metres; and
 - B. minimum width of 0.45 metres;
 - (iv) the overall minimum vertical clearance for a *bicycle stacker* is 1.2 metres;
- (e) "*bicycle stacker*" 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*;
- (f) "*bicycle parking space - long term*" means bicycle parking spaces for the use of occupants or tenants of a building;
- (g) "*bicycle parking space - short term*" means bicycle parking spaces for the use of visitors to the building;
- (h) "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code;
- (i) "*owner*" means the registered owner of the lot; and

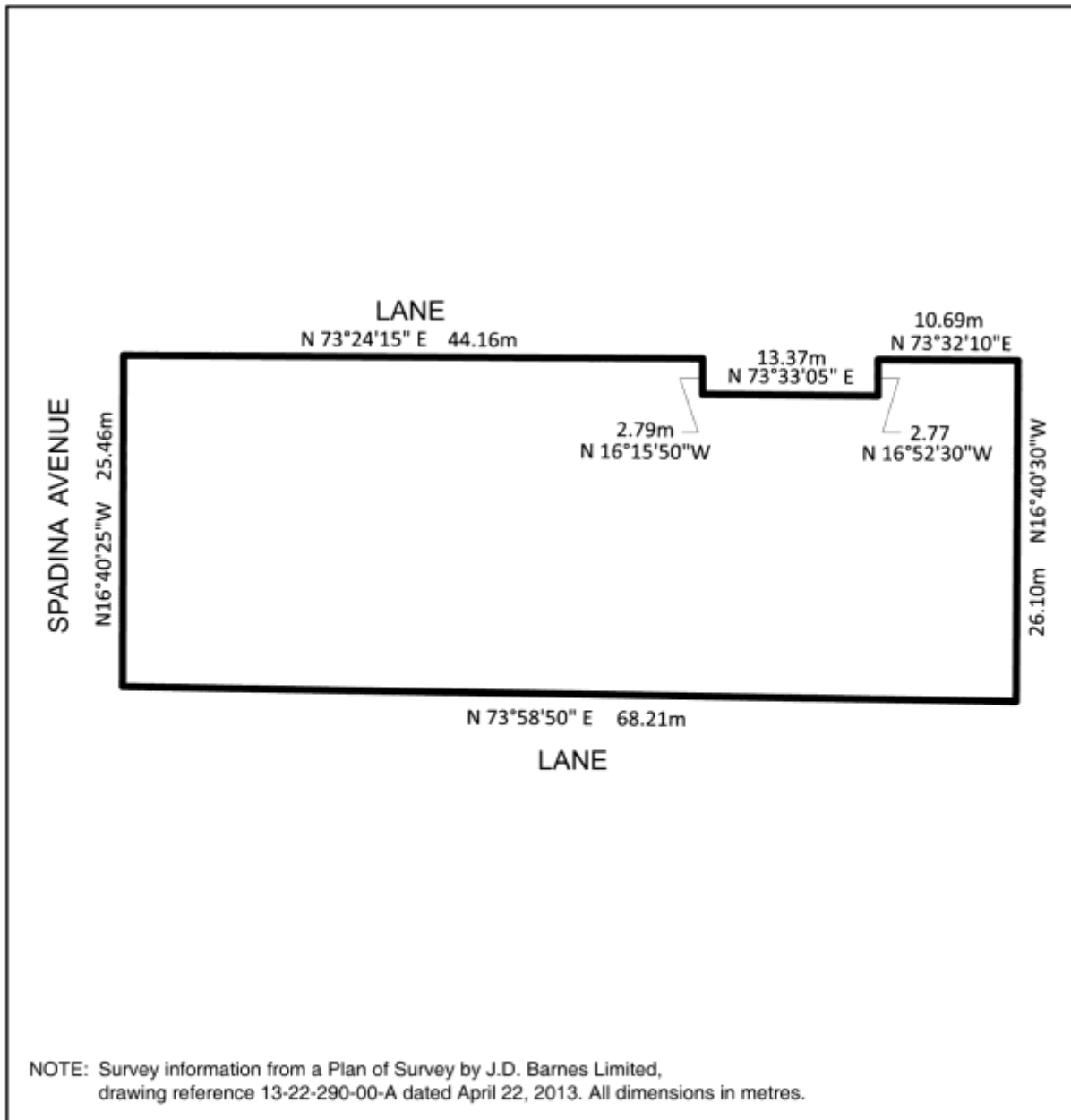
- (j) "*car share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit sharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or not be refundable.
3. Every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.
4. Despite any existing or future severance, partition, or division of the lot, the provisions of this by-law shall apply to the whole lot as if no severance, partition or division occurred.
5. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the *lot* under By-law No. 438-86, as amended, in return for the provision by the *owner*, at the *owner's* expense of certain facilities, services and matters as set out in Schedule A hereto 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.
6. Where Schedule A 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.

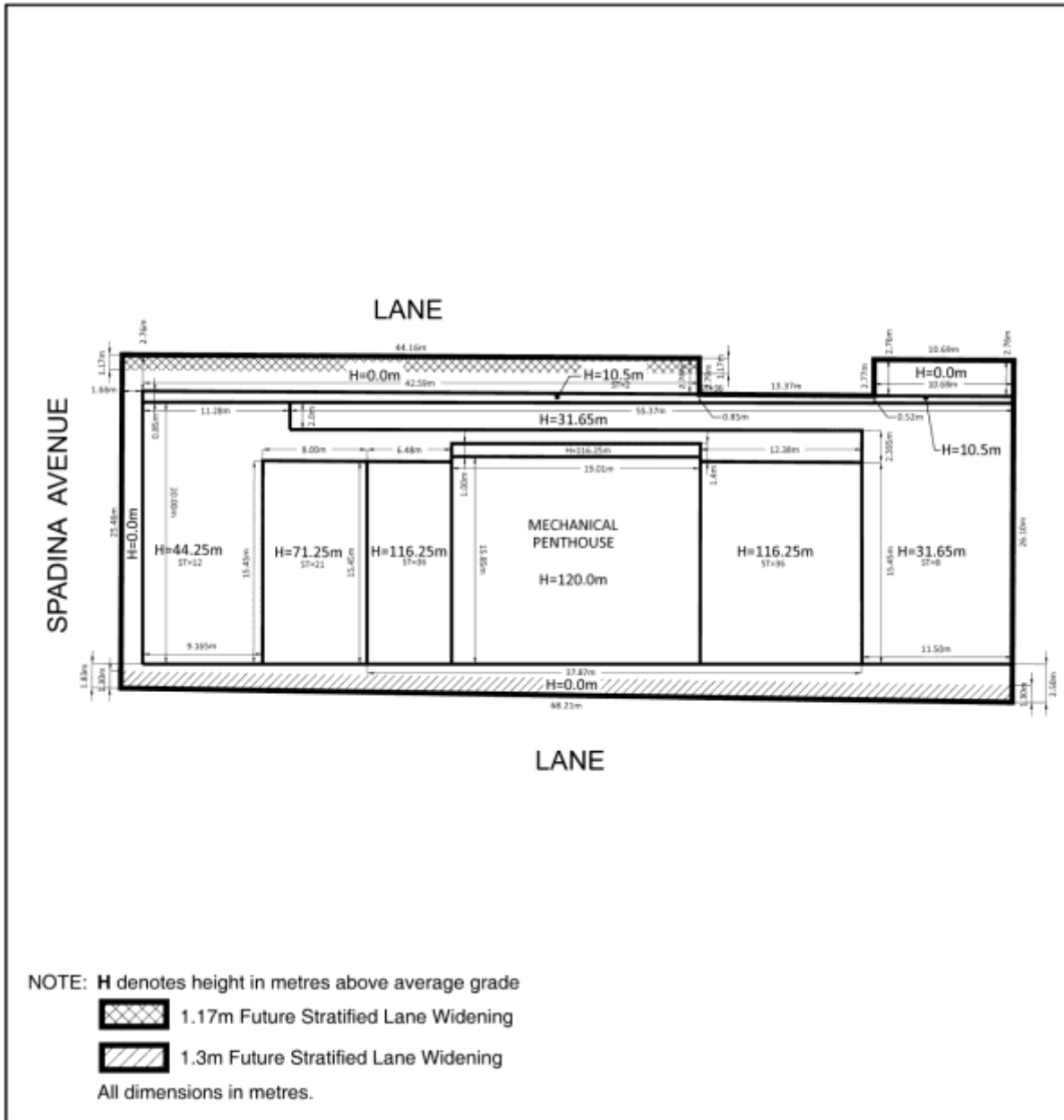
Enacted and passed on August 28, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





SCHEDULE A
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 of the proposed development on the *lot* as shown on Map 2 in this By-law and secured in an agreement under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

1. Prior to the issuance of an above-grade permit, the *owner* shall pay to the City a cash contribution amount of Two Million Dollars (\$2,000,000), with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of approval of the bills to the date the payment is made, to be applied toward the following:
 - (a) Two Hundred Thousand Dollars (\$200,000) towards the City's Capital Revolving Fund for Affordable Housing for the purpose of maintaining and constructing affordable rental housing units in Ward 20, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
 - (b) One Million and Three Hundred Thousand Dollars (\$1,300,000.00) towards community services and facilities and public realm improvements in Ward 20, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor; and
 - (c) Five Hundred Thousand Dollars (\$500,000.00) towards improvements to the City-owned laneway to the south of the property, between Spadina Avenue and the east limit of the property at 393 King Street West, excluding the lane widening to be conveyed to the City, the design of such to be determined in conjunction with, and co-ordinated with, site plan approval of the development, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, and construction co-ordinated with the Construction Management Plan referred to in Section 3(d).
2. In the event the cash contributions or portions thereof referred to in Section 1(a) and (b) above have not been used for the intended purposes within three (3) years or in the event the cash contribution or portions thereof referred to in Section 1(c) above has not been used for the intended purpose within five (5) years of this By-law coming into full force and effect, then, after the time lapse applicable to each such benefit has expired, the cash contributions or remaining portions thereof may be redirected for another purpose at the discretion of the Chief Planner and Executive Director, City Planning Division, 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.
3. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support the development:

- (a) The *owner* shall submit a Pedestrian Wind Study, and implement the mitigation measures listed in the Study through the Site Plan Approval process to ensure wind velocity is within acceptable levels, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (b) The *owner* shall provide 10% family sized dwelling units in the development. A minimum of 8% of the units in the development shall be constructed as 3 bedroom units with a minimum unit area of 79 square metres, in compliance with the Ontario Building Code. A minimum of 2% of the units in the development may be constructed as 2 bedroom units that are convertible to 3 bedroom units through renovation or through knock out panels between units, in compliance with the Ontario Building Code;
- (c) The *owner* shall construct the streetscape fronting on Spadina Avenue, subject to any requirements imposed in the Site Plan Approval process, in accordance with the Streetscape Manual or to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (d) Prior to the issuance of the first building permit, the *owner* shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of the development, shall implement the plan during the course of construction. The Construction Management Plan will include details regarding size and location of construction staging areas, dates and significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary;
- (e) Prior to Site Plan Approval on the *lot*, the owner shall convey land to the City for the purpose of widening public laneways, to the satisfaction of the General Manager of Transportation Services and the City Solicitor as follows:
 - (i) A strip of land approximately 1.17 metres in width and abutting the City owned laneway to the north shall be conveyed commencing a minimum of 1.2 metres below finished ground level; and
 - (ii) A strip of land approximately 1.3 metres in width and abutting the City owned laneway to the south shall be conveyed commencing from a minimum of 1.2 metres below finished ground level to a level a minimum of 10 metres but not more than 10.3 metres above finished ground level;
- (f) Prior to final approval of the Development Review Process (Site Plan), the Owner shall submit a revised Functional Servicing Report to address all servicing issues in respect of the Development to the satisfaction of the Executive Director of Engineering and Construction Services; and

- (g) Prior to the final approval of the Development Review Process (Site Plan), the Owner shall enter into an agreement to pay for or construct, to the satisfaction of the Executive Director of Engineering and Construction Services, such improvements to the existing municipal infrastructure as are determined by the Executive Director of Engineering and Construction Services.
4. The *owner* of the Lands 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 Schedule.