

Authority: Toronto and East York Community Council Item TE5.6, as adopted by City of Toronto Council on May 5, 6 and 7, 2015 and MM8.45, moved by Councillor Pam McConnell, seconded by Councillor Paul Ainslie, as adopted by City of Toronto Council on July 7, 8 and 9, 2015

CITY OF TORONTO

BY-LAW No. 819-2015

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known in the year 2015 as 93-95 Berkeley Street and 112-124 Parliament Street.

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 increases 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 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 of development, the 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 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 land and the City of Toronto;

The Council of the City of Toronto enacts:

1. This By-law applies to the lands delineated by heavy black lines and identified as 93 and 95 Berkeley Street and 112, 114, 116, 118, 120, 122 and 124 Parliament Street as shown on Map 1 attached to and forming part of the By-law.
2. None of the provisions of Section 2(1) with respect to "grade", "lot", and Sections 4(2)(a), 4(5)(b), 4(5)(c)(ii), 4(5)(i)(ii), 4(12), 4(13), 4(14), 7(3) Part I; Part II 1(i), 3, and 7; and Part IV 1 and 2, 12(2)94, 12(2)246(c) and (e), and 12(2)260 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 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 or a *residential building* 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 maximum gross floor area is 22,050 square metres, of which:
 - (i) the *residential gross floor area* must not exceed 21,020 square metres; and
 - (ii) the *non-residential gross floor area* must not exceed 1,030 square metres, where a minimum of 820 square metres of *non-residential gross floor area* must be provided for office uses;
- (d) the minimum yard setbacks for all buildings and structures in metres and the minimum separation distances in metres shall be as set out on Map 2, attached to and forming this By-law;
- (e) 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;
- (f) the following elements may exceed the maximum permitted heights as shown on Map 2, subject to the following limitations:
 - (i) elements associated with a green roof - a maximum vertical projection of 0.5 metres above the heights shown on Map 2;
 - (ii) railings - a maximum vertical projection of 1.2 metres above the heights shown on Map 2;
 - (iii) fences, privacy screens - a maximum vertical projection of 2.5 metres above the heights shown on Map 2;
 - (iv) vents, stacks, chimneys - a maximum vertical projection of 3.5 metres above the heights shown on Map 2;
 - (v) parapets - a maximum vertical projection of 1.0 metres above the heights shown on Map 2; and
 - (vi) structures used for outside or open air recreation, safety or wind protection purposes. Said structures shall not enclose space so as to constitute a form

of penthouse or other room or rooms - a maximum vertical projection of 3.0 metres above the heights shown on Map 2;

- (g) the following elements are permitted to project horizontally beyond the heavy lines and building envelopes other than a *lot* line as specified on Map 2, subject to the following limitations:
- (i) eaves, cornices, window sills, landscape features, wheelchair ramps, light fixtures, stairs and stair enclosures, balustrades, guardrails, bollards - no limitations;
 - (ii) awnings, canopies - a maximum of 3.0 metres beyond the exterior of the wall to which such awnings and canopies are attached;
 - (iii) balconies - a maximum of 1.5 metres beyond the heavy lines shown on Map 2; and
 - (iv) ornamental elements, architectural elements - a maximum of 1.6 metres beyond the heavy lines shown on Map 2;
- (h) a minimum of 990 square metres of *residential amenity space* must be provided and maintained on the *lot* with the following minimum standards:
- (i) 2.30 square metres of *residential amenity space* located indoors for each *dwelling unit*;
 - (ii) 1.25 square metres of residential amenity space located outdoors for each *dwelling unit* of which at least 40.0 square metres is to be provided in a location adjoining or directly accessible from the *residential amenity space* located indoors; and
 - (iii) no more than 25 percent of the *residential amenity space* located outdoors may be provided as a green roof;
- (i) notwithstanding Section 12(2)246(e), *parking spaces* for residents on the *lot* must be provided and maintained 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) 0.8 *parking spaces* for each *two-bedroom dwelling unit*; and
 - (iv) 1.0 *parking spaces* for each three or more *bedroom dwelling unit*;

Despite the total number of resident *parking spaces* provided pursuant to the above-noted ratios, *parking spaces* for residents on the lot may be reduced at a rate of 4 *parking spaces* for each *car-share parking space* provided on the lot, provided the maximum permitted reduction is calculated using the following formula:

4 times (total number of *dwelling units* divided by 60), rounded down to the nearest whole number;

- (j) a minimum of 3 *car-share parking spaces* shall be provided on the *lot*;
 - (k) in addition to subsection 2(i) of this By-law, *parking spaces* for residents on the *lot* may be reduced at a rate of 1 *parking space* for each 5 *bicycle parking spaces* provided in excess of the minimum number of required *bicycle parking spaces* for the *lot* based on the standards contained in By-law No. 569-2013, as amended, provided the reduction is not greater than 20 percent of the total minimum *parking spaces* required in subsection 2(i) of this By-law;
 - (l) a minimum of 30 *parking spaces* for visitors to the *dwelling units*, and visitors and occupants of the *non-residential uses* must be provided and maintained on the *lot*, which may include *car-share parking spaces*;
 - (m) *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 0.9 *bicycle parking spaces -occupant per dwelling unit* and 0.1 *bicycle parking spaces -visitor per dwelling unit*;
 - (ii) a minimum of 0.2 *bicycle parking spaces -occupant* for each 100 square metres of gross floor area of office uses, and a minimum of 3 plus 0.2 *bicycle parking spaces -visitor* for each 100 square metres of gross floor area of office uses; and
 - (iii) a minimum of 0.2 *bicycle parking spaces -occupant* for each 100 square metres of gross floor area for retail uses, and a minimum of 3 plus 0.3 *bicycle parking spaces - visitor* for each 100 square metres of gross floor area of retail uses;
 - (n) a minimum of one *loading space - Type G* must be provided and maintained on the *lot* to serve both residential uses and non-residential uses on the *lot*;
 - (o) notwithstanding the requirements of Section 2(1) of By-law No. 438-86 regarding *bicycle parking space - occupant* and *bicycle parking space - visitor*, a *stacked bicycle parking space* is permitted, provided the minimum vertical clearance for each *stacked bicycle parking space* is 1.2 metres;
 - (p) ingress and egress to and from the parking facilities shall be provided by an unobstructed driveway or passageway having a minimum width of 3.3 metres for one-way operation and a minimum width of 5.5 metres for two-way operation; and
 - (q) none of the provisions of Zoning By-law No. 438-86, as amended, shall apply to prevent a *temporary sales office* on the *lot*.
3. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, with the exception of the following terms:

- (a) *car-share motor vehicle* shall mean a motor vehicle available for short-term rental, including an option for hourly rental, for the use of at least the occupants of the building erected on the lot;
 - (b) *car-share parking space* shall mean a parking space used exclusively for the parking of a *car-share motor vehicle*;
 - (c) *grade* shall mean 82.110 metres Canadian Geodetic Datum;
 - (d) *green roof* shall mean 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;
 - (e) *lot* shall mean the parcel of land outlined by heavy lines on Map 1 and known municipally as 93 and 95 Berkeley Street, and 112, 114, 116, 118, 120, 122 and 124 Parliament Street in the year 2015;
 - (f) *stacked bicycle parking space* shall mean 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*; and
 - (g) *temporary sales office* shall mean an office, *showroom* or sales trailer used exclusively for the initial sale and/or initial leasing of *dwelling units* or non-residential units to be erected on the *lot*.
4. Despite any future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply 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 development on the *lot* contemplated herein beyond the otherwise permitted in By-law No. 438-86 is permitted in return for the provision by the owner, at the *owner's* expense certain facilities, services and matters set out in Schedule A 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.
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 July 9, 2015.

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* and in accordance with an agreement under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

- (1) Prior to issuance of an above grade building permit, the *owner* shall provide community benefits having a total value of six hundred and seven thousand dollars (\$607,000), and indexed upwardly in accordance with the Statistics Canada Non-residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made towards:
 1. A cash contribution of \$150,000 towards local streetscape and/or parkland improvements within the area designated *Corktown Area of Special Identity* on Map 15-3 of the King-Parliament Secondary Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
 2. A cash contribution of \$307,000 towards the redevelopment of the site of Canada's First Parliament Buildings, municipally known as 25 Berkeley Street, 265 and 271 Front Street East, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Ontario Heritage Trust, in consultation with the Ward Councillor;
 3. A cash contribution of \$50,000 towards the redevelopment of the North St. Lawrence Market, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Director, Facilities Design and Construction, Facilities Management Division, in consultation with the Ward Councillor; and
 4. A cash contribution of \$100,000 towards the implementation of the Heritage Interpretation Master Plan for Old Town Toronto and/or the Heritage Lighting Master Plan for Old Town Toronto, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.
- (2) In the event the cash contributions referred to in Section (1) have 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, City Planning Division, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
- (3) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

1. A minimum of 10 percent of the *dwelling units*, or a minimum of 27 *dwelling units* in the development must be 3 bedrooms or larger in compliance with the *Ontario Building Code*;
2. A privately owned publicly accessible space (POPS) pedestrian mews connecting Berkeley Street and Parliament Street, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor in consultation with the Ward Councillor;
3. That prior to final Site Plan Approval for the property at 93 and 95 Berkeley Street the owner shall:
 - a. Provide final site plan drawings related to the approved Conservation Plan required in Recommendation 1.b.iii in the Alterations Report (March 4, 2015), from the Director, Urban Design, City Planning Division to the satisfaction of the Manager, Heritage Preservation Services;
 - b. The related Zoning By-law amendment giving rise to the proposed alterations shall be in full force and effect in a form and with content acceptable to the City Council, as determined by the Chief Planner and Executive Director, City Planning Division in consultation with the Manager, Heritage Preservation Services;
 - c. Provide a Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Manager, Heritage Preservation Services; and
 - d. Provide a detailed Landscape Plan for the subject property, satisfactory to the Manager, Heritage Preservation Services;
4. That prior to the issuance of any below-grade and/or demolition permit to remove the rear addition of 93-95 Berkeley Street, including a heritage permit or a building permit, but excluding permits for repairs and maintenance of the existing heritage building, the owner shall:
 - a. Have executed a site plan agreement as part of site plan approval for such property, issued by the Chief Planner and Executive Director, City Planning Division;
 - b. Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan, the approved Interpretation Plan, Lighting Plan and Landscape Plan;
 - c. Provide an Interpretation Plan for the subject property, to the satisfaction of the Manager, Heritage Preservation Services;

- d. Provide a Signage Plan to the satisfaction of the Manager, Heritage Preservation Services; and
 - e. Provide full documentation of the existing heritage property, including two (2) printed sets of archival quality 8" by 10" colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Manager, Heritage Preservation Services;
5. Prior to the issuance of any above-grade permit for the property at 93 to 95 Berkeley Street, the *owner* shall:
- a. Have final site plan approval issued by the Chief Planner and Executive Director, City Planning; and
 - b. Provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Recommendation 1.b.iii in the Alterations Report (March 4, 2015) from the Director, Urban Design, City Planning Division, including a description of materials and finishes to be prepared by the project architect, and qualified heritage consultant to the satisfaction of the Manager, Heritage Preservation Services; and
6. Prior to the release of the Letter of Credit to secure all work included in the approved Conservation Plan, the approved Interpretation Plan, Lighting Plan and Landscape Plan, the *owner* shall:
- a. Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the work has been completed in accordance with the approved Conservation Plan and the approved Interpretation Plan, and that an appropriate standard of conservation has been maintained to the satisfaction of the Manager, Heritage Preservation Services; and
 - b. Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Manager, Heritage Preservation Services.



