

Authority: Ontario Municipal Board Orders issued May 23, 2013, August 16, 2013 and July 23, 2014 in Board File No. PL121000

CITY OF TORONTO

BY-LAW No. 838-2015(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known as 984, 990 and 1000 Bay Street.

Whereas the Ontario Municipal Board, pursuant to its decisions issued May 23, 2013, August 16, 2013 and July 23, 2014 in relation to Board File No. PL121000, has determined to amend Zoning By-law No. 438-86 of the former City of Toronto, as amended, pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to lands municipally known as 984, 990 and 1000 Bay Street; and

Whereas authority is given to the Ontario Municipal Board under Section 34 of the *Planning Act*, R.S.O. 1990 c. P.13, as amended; and

Whereas pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, 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 or matters in return for any increase in the height or density of development, the Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services or matters; and

Whereas the owner of the lands hereinafter referred to has elected to provide the facilities, services or matters as are hereinafter set forth; and

Whereas the increase in height and density permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended, is to be permitted subject to the provision of the facilities, services or matters set out in this By-law and to be secured by one or more agreements between the owner of the lands 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 Council has required the owner of the aforesaid lands to enter into one or more agreements to secure certain facilities, services or matters in connection with the aforesaid lands set forth in the By-law;

Therefore pursuant to decisions of the Ontario Municipal Board issued on May 23, 2013, August 16, 2013 and July 23, 2014 in Board Case No. PL121000, By-law No. 438-86, as amended, of the former City of Toronto, is amended 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 or 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 4(o) 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, services 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 Sections 2(1) definitions grade, 4(2)(a), 4(5)(b), 4(8)(b), 4(12), 4(13), 4(14)(a)(ii), 8(3)Part I 1, 8(3) Part I 2, 8(3) Part I 3(A), 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 12(2) 259 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 land 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 or use of a mixed use building on the lands municipally known as 984, 990 and 1000 Bay Street (hereinafter referred to as 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) the *residential gross floor area* shall not exceed 25,900 square metres;
 - (c) the *non-residential gross floor area* shall not exceed 700 square metres;
 - (d) the *residential gross floor area* and *non-residential gross floor area* shall not exceed 26,600 square metres;
 - (e) no portion of the *building* or structure erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 subject to the following:
 - (i) canopies, awnings and *building* cornices are permitted outside the heavy line shown on Map 2;
 - (ii) lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, pilasters, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and public art features and gateway features which may extend beyond the heavy lines shown on the attached Map 2;

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- (iii) balconies, which may extend to a maximum horizontal projection from an exterior *building* wall of 2.75 metres beyond the heavy lines shown on Map 2, provided that such balconies do not project beyond the dashed line on Map 2 indicating the boundary of the *lot*, unless permitted through an encroachment agreement, or any other appropriate agreement, with the City for balconies located above lands owned by or to be conveyed to the City; and
 - (iv) portions of the *building* and outdoor *residential amenity space* located above lands to be conveyed to the City for the purpose of a corner splay at the southwest corner of the *building* are permitted to encroach over such conveyed lands subject to an encroachment agreement, or any other appropriate agreement, with the City;
- (f) the *height* of any *building* or structure, or portion thereof, does not exceed those heights as indicated on Map 2;
 - (g) the maximum number of *dwelling units* shall not exceed 458 on the *lot*;
 - (h) a total of 145 *parking spaces* shall be provided and maintained below *grade* on the *lot* in accordance with the following:
 - (i) a total of 118 *parking spaces* shall be provided and maintained on the *lot* for the use of residents of the *lot*;
 - (ii) a total of 27 *parking spaces* for visitors;
 - (iii) a maximum of 7 *car-share parking spaces*; and
 - (iv) provided that a reduction of four *parking spaces* will be permitted for each *car-share parking space* provided and that the maximum reduction permitted by this means be capped by the application of the following formula:

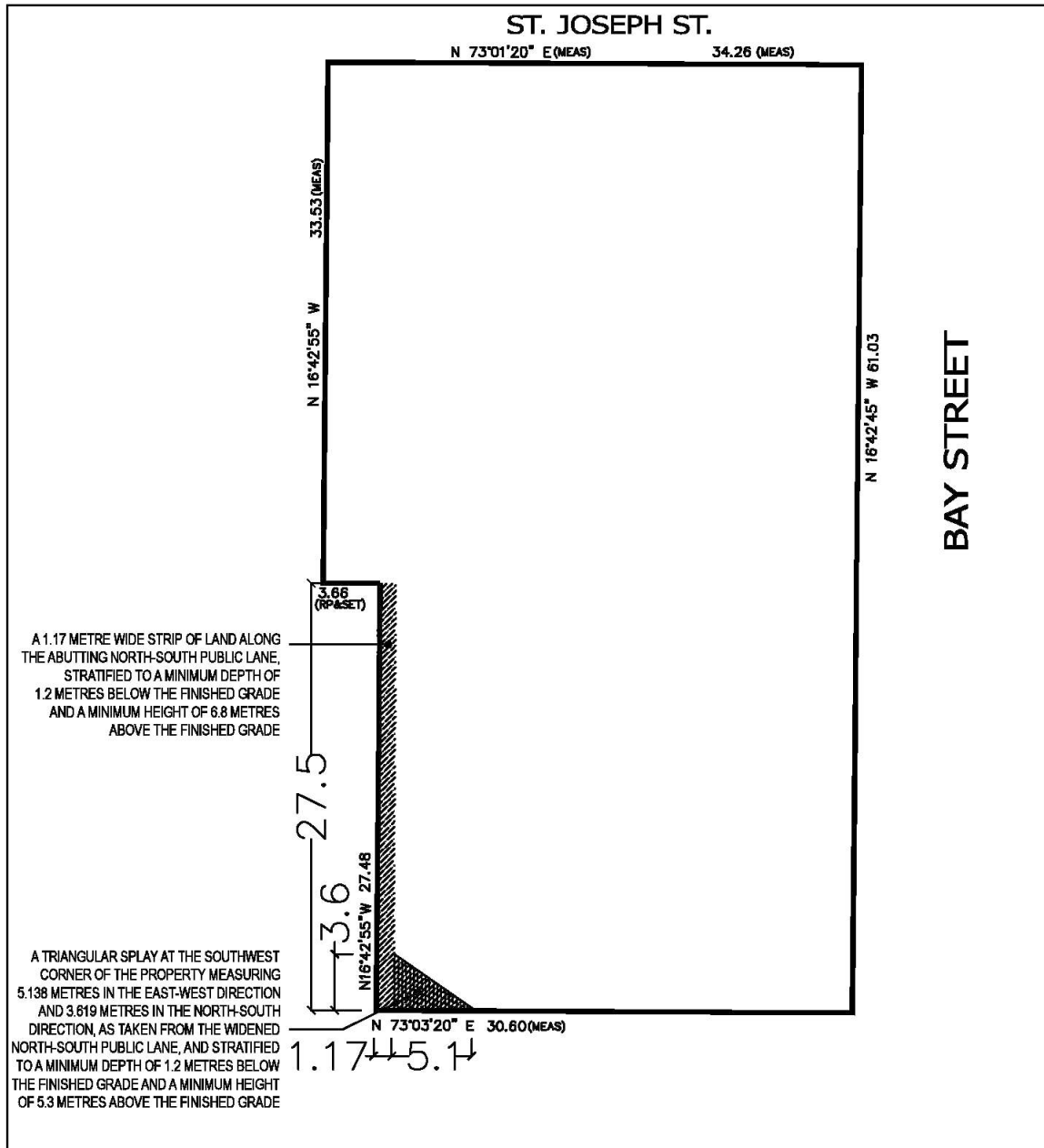
$$4 \times (\text{Total Number of Units} / 60), \text{ rounded down to the nearest whole number};$$
 - (i) a maximum of 14 *parking spaces* which are obstructed on one side in accordance with Section 4(17)(e) of By-law No. 438-86, as amended, shall have minimum dimensions of 5.6 metres in length by 2.6 metres in width;
 - (j) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) Residential:
 - (1) a minimum 0.8 occupant *bicycle parking spaces* for each *dwelling unit*;

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- (2) a minimum 0.2 visitor *bicycle parking spaces* for each *dwelling unit*;
 - (ii) Non-Residential
 - (1) a minimum 7 *bicycle parking spaces* for the non-residential uses on the *lot*;
 - (k) *residential amenity space* shall be provided and maintained on the lot in accordance with the following:
 - (i) a minimum of 1.1 square metres of outdoor *residential amenity space* per *dwelling unit*;
 - (ii) a minimum of 1.8 square metres of indoor *residential amenity space* per *dwelling unit* and may include lounge areas, meeting rooms and offices, amenity lounges and rooms and two guest suites;
 - (l) at least one *loading space-type G* shall be provided and maintained on the *lot*;
 - (m) a *commercial parking garage* is not permitted within the *lot*;
 - (n) a weather protection with a minimum depth of 2 metres and a minimum height of 4.1 metres along Bay Street shall be provided and maintained on the *lot*; and
 - (o) the *owner* of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the *Planning Act*, to secure the facilities, services or matters referred to in Appendix 1 attached to this By-law and that such an agreement be registered on title to the *lot*.
5. None of the provisions of By-law No. 438-86 as amended shall apply to prevent a *temporary sales office* on the *lot*.
6. For the purposes of this By-law:
- (a) "*grade*" means 109.43 metres Canadian Geodetic Datum;
 - (b) "*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 car-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 may not be refundable;
 - (c) "*car-share motor vehicle*" means 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;
 - (d) "*car-share parking space*" means a parking space used exclusively for the parking of a *car-share motor vehicle*;

- (e) "*temporary sales office*" means a *building*, structure, facility or trailer on the *lot* used for the purpose of sale of *dwelling units* to be erected on the *lot*; and
 - (f) each word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended, except as provided for in this By-law.
7. *Building* permit issuance with respect to the lands to which this By-law applies shall be dependent upon satisfaction of the provisions in the By-law and in the Section 37 Agreement relating to *building* permit issuance, including the provision of monetary payments and the provision of financial securities.
8. By-law Nos. 1009-2010 and 1133-2011 are repealed.

PURSUANT TO THE DECISIONS OF THE ONTARIO MUNICIPAL BOARD ISSUED ON MAY 23, 2013, AUGUST 16, 2013 AND JULY 23, 2014 IN BOARD FILE NO. PL121000.

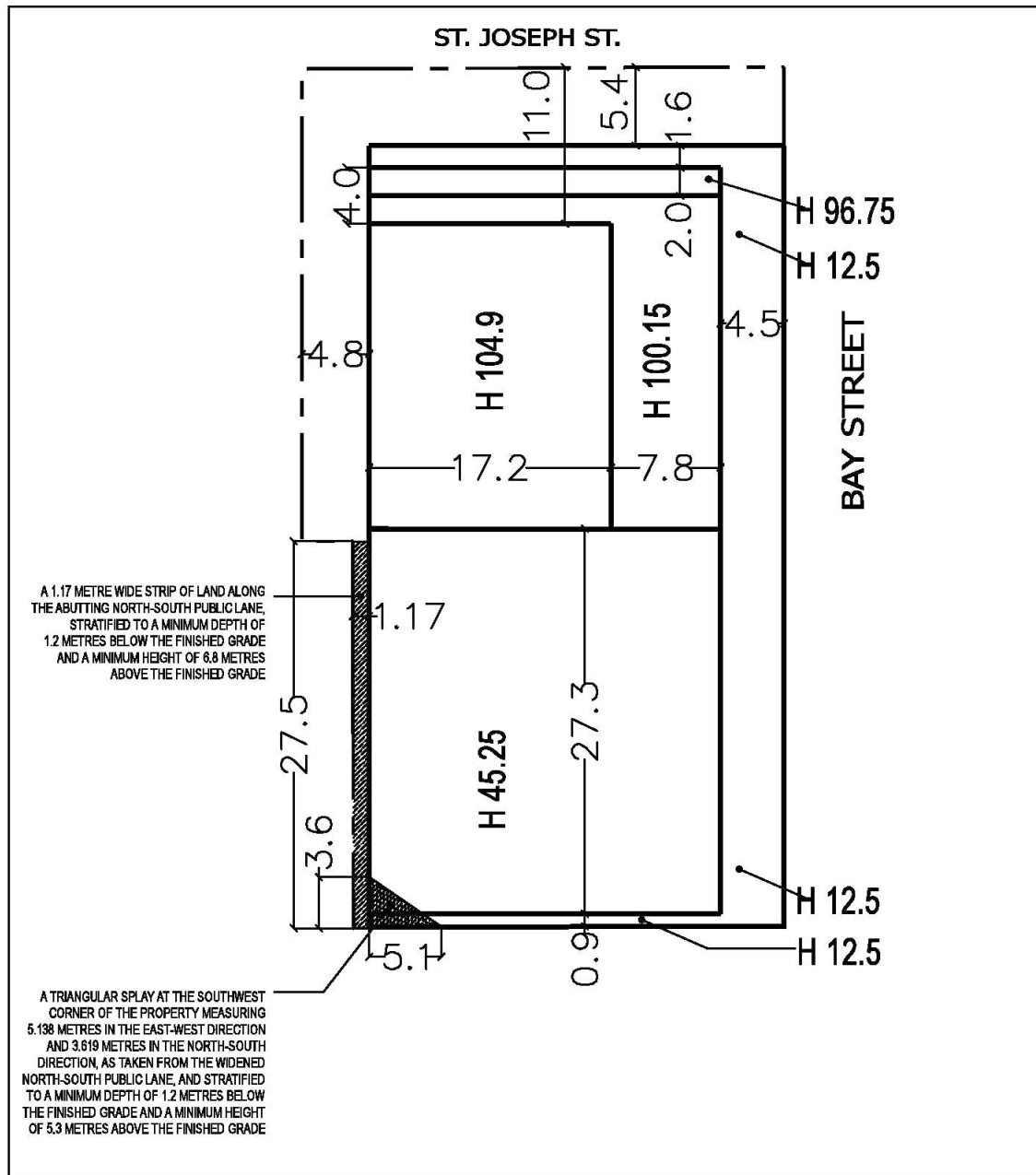
Map 1



ALL DIMENSIONS ARE IN METRES

984, 990 and 1000 Bay Street

Map 2



H DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE
ALL DIMENSIONS ARE IN METRES

984, 990 and 1000 Bay Street

APPENDIX 1
Section 37 Provisions

1. Pursuant to Section 37 of the *Planning Act*, and subject to compliance with the provisions of this By-law, the increase in height and density of development permitted by this By-law on the lot is permitted in return for the provision by the owner of the following facilities, services and matters to the City at the *owner's* sole expense:

- (1) The *owner* shall enter into an Agreement pursuant to Section 37 of the *Planning Act*, to be registered on title, to the satisfaction of the City Solicitor, to secure the following:
- i. Prior to the issuance of the first above-grade building permit, the *owner* shall pay to the City the sum of \$4,000,000, consisting of \$3,600,000 to be allocated to area park improvements and to local area streetscape improvements, including the narrowing of St. Joseph Street and \$400,000 to be allocated to capital improvements for local Toronto Community Housing buildings in consultation with the Ward Councillor;
 - ii. Prior to the issuance of the first above-grade building permit the *owner* shall make a Public Art Contribution of a maximum of \$500,000 for the new Cloverhill Park;
 - iii. Require that the cash amounts identified in (i) and (ii) above shall be indexed annually 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;

The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support the development:

- iv. A minimum of 33 units, or 7 percent of all units, will be 3 bedroom units at an average size of 950 square feet;
- v. The *owner* shall transfer a right-of-way in the nature of an easement in favour of the City, at no cost to the City, to enter in, over, upon and along the north-south private lane which runs from St. Joseph Street;
- vi. The *owner* shall convey to the City for a nominal sum:
 - i. A 1.17 metre wide strip of land to the full extent of the site abutting the easterly limit of the north-south public lane to the satisfaction of the Executive Director, Engineering and Construction Services; and

- ii. A triangular corner splay at the southwest corner of the property, as taken from the widened north-south public lane, to the satisfaction of the Executive Director, Engineering and Construction Services.