

Authority: Ontario Municipal Board Order issued December 22, 2015 in Board File No. PL140475

CITY OF TORONTO

BY-LAW No. 529-2016(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally in the year 2015 as 70 and 72 Carlton Street.

Whereas the Ontario Municipal Board pursuant to its Decision issued December 22, 2015, upon hearing an appeal under Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend By-law No. 438-86, as amended of the former City of Toronto with respect to the lands known municipally in the year 2015 as 70 and 72 Carlton Street; 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 lands elects to provide facilities, services or matters, in return for an increase in height or density of development, the *owner* may be required to enter into one or more agreements with the municipality in respect of 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 land and the City of Toronto;

By-law No. 438-86 of the former City of Toronto is amended by the Ontario Municipal Board as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *lot* 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 *lot* 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 *lot* 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 *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, 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. None of the provisions of Sections 2(1) with respect to the definition of *grade*, *height*, *bicycle parking space – occupant*, *bicycle parking space – visitor*, *storey*, Sections 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 4(14), 4(16), 4(17), 8(3) Part I, 8(3) Part II, 8(3) Part III, 12(2)132 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* on the *lot* containing both residential and non-residential uses and a *commercial parking garage*, including uses *accessory* thereto, provided that:
- (a) 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;
 - (b) permitted uses on the *lot* shall be in accordance with Section 8(1) of By-law No. 438-86, as amended, with the exception that a *commercial parking garage* is also a permitted use on the *lot* provided the floor level of that portion of the building containing the *parking spaces* associated with the *commercial parking garage* is located below *grade*;
 - (c) the total *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot*, excluding those portions of the building used for the purposes of a *commercial parking garage*, shall not exceed 32,420 square metres, provided:
 - (i) the maximum *residential gross floor area* shall not exceed 31,670 square metres, of which not less than 834 square metres of *residential gross floor area* shall be used for the purpose of *rental replacement dwelling units*; and
 - (ii) a minimum of 700 square metres of *non-residential gross floor area* shall be provided;
 - (d) a maximum of 490 *dwelling units* shall be permitted on the *lot*, including 13 *rental replacement dwelling units*, of which at least 3 *rental replacement dwelling units* shall have two *bedrooms* and at least 2 *rental replacement dwelling units* shall have 1 *bedroom*;
 - (e) no portion of any building erected above finished ground level on the *lot* 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 the following, located wholly within the *lot*:
 - (i) balconies and associated structures, which may project to a maximum of 1.5 metres beyond the heavy lines shown on Map 2, provided such projections are maintained within the limits of the *lot*;
 - (ii) lighting fixtures, cornices, sills, eaves, canopies, window washing equipment, parapets, railings, privacy screens, terraces, cabanas, planters, balustrades, bollards, stairs, covered stairs or stair enclosures, awnings,

fences and safety railings, trellises, window washing equipment, mechanical and architectural screens, guards, guardrails, chimneys, vents, stacks, mechanical fans, retaining walls, wheel chair ramps, ornamental or architectural features, landscape features, and art installations may extend beyond the heavy lines shown on the attached Map 2 provided such projections are maintained within the limits of the *lot*; and

- (iii) the erection or use of the structures, elements and enclosures permitted by Section 3(f) of this By-law;
- (f) no person shall erect or use a building or structure on the *lot* having a greater height, in metres than the height in metres specified by the numbers following the symbol H on the attached Map 2, provided this does not apply to prevent:
- (i) the erection or use of the structures, elements and enclosures permitted by Section 3(e) of this By-law; and
 - (ii) the erection or use of structures on any roof used for outside or open air recreation, maintenance, safety, or wind protection purposes, green roofs;
- (g) notwithstanding any provision of this By-law to the contrary, no portion of the building between finished ground level and 4.4 metres above finished ground level shall be located within the hatched area shown on the attached Map 2 with the exception of the following structures and elements:
- (i) columns, piers, beams and other structural elements, soffit and fascia, heating and insulating elements, window and door sills, door swings, elements for utilities, and lighting;
 - (ii) vents and grills flush with finished ground level; and
 - (iii) signage, excluding signage affixed to the ground;
- (h) the number of *storeys* in the building on the *lot*, above any level of the building containing a *parking space*, must not exceed the number of *storeys* shown on Map 2 for the corresponding portion of the building, excluding mechanical and roof top elements;
- (i) *parking spaces* for *dwelling units* other than *rental replacement dwelling units*, shall be provided and maintained on the *lot* in accordance with the following requirements:
- (i) the number of *parking spaces* provided in accordance with the following:
 - (A) residents: a minimum of 0.35 *parking spaces* per *dwelling unit*; and
 - (B) visitors: a minimum of 0.06 *parking spaces* per *dwelling unit*;

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- (ii) for each *car-share parking space* provided on the *lot*, the minimum resident parking required may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula: $4 \times$ (the total number of *dwelling units* within the building divided by 60), rounded down to the nearest whole number;
 - (iii) no *parking spaces* shall be required for any portion of the *mixed-use building* that contains *non-residential gross floor area*; and
 - (iv) the total number of *parking spaces* required to be provided in accordance with subsection(a)(ii) above may be provided on a non-exclusive basis for the shared use of residential visitors and non-residential uses on the *lot* and all such *parking spaces* may be provided within a *commercial parking garage* on the *lot*;
 - (j) a minimum of 2 *parking spaces* shall be provided and maintained on the *lot* for the exclusive use of the residents of the *rental replacement dwelling units*;
 - (k) the provisions of section 4(17) of By-law No. 438-86, shall apply with the exception that up to a maximum of 26 *parking spaces* which are obstructed on one or two sides in accordance with Section 4(17)(e), may have the following minimum dimensions:
 - (i) length – 5.6 metres;
 - (ii) width – 2.6 metres; and
 - (iii) vertical clearance – 2.0 metres;
 - (l) a minimum of one *loading space – type 'G'* shall be provided and maintained on the *lot*;
 - (m) *Bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:

Dwelling units other than rental replacement dwelling units:

- (i) a minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit* shall be provided and maintained on the *lot*; and
- (ii) a minimum of 0.1 *bicycle parking spaces – visitors per dwelling unit* shall be provided and maintained on the *lot*;

Rental replacement dwelling units:

- (iii) a minimum of 13 *bicycle parking spaces – occupant*;

Non-Residential:

- (iv) a minimum of 2 *bicycle parking spaces – occupant*; and
 - (v) a minimum of 6 *bicycle parking spaces – visitors*;
- (n) *Residential amenity space* for each *dwelling unit* shall be provided in accordance with the following:
- (i) a minimum of 1.5 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided in a multi-purpose room or rooms, at least one of which shall contain a kitchen and a washroom;
 - (ii) a minimum of 1.6 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided, of which at least 40 square metres is to be provided in a location adjoining or directly accessible from the indoor *residential amenity space*;
 - (iii) required indoor *residential amenity space* may include one guest suite containing either a kitchen or a bathroom, having a maximum *total floor area* of 50 square metres; and
 - (iv) with respect to indoor *residential amenity space*, notwithstanding any provisions of this By-law or By-law No. 438-86, as amended, to the contrary, residents of the *rental replacement dwelling units* are only required to have access to indoor *residential amenity space* provided within the eighth *storey* of the building, as determined in accordance with Section 3(h) of this By-law.
4. None of the provisions of this By-law or By-law No. 438-86, as amended, as of the date of the passing of this By-law, shall apply to prevent a *temporary sales office* on the *lot*.
5. Definitions:

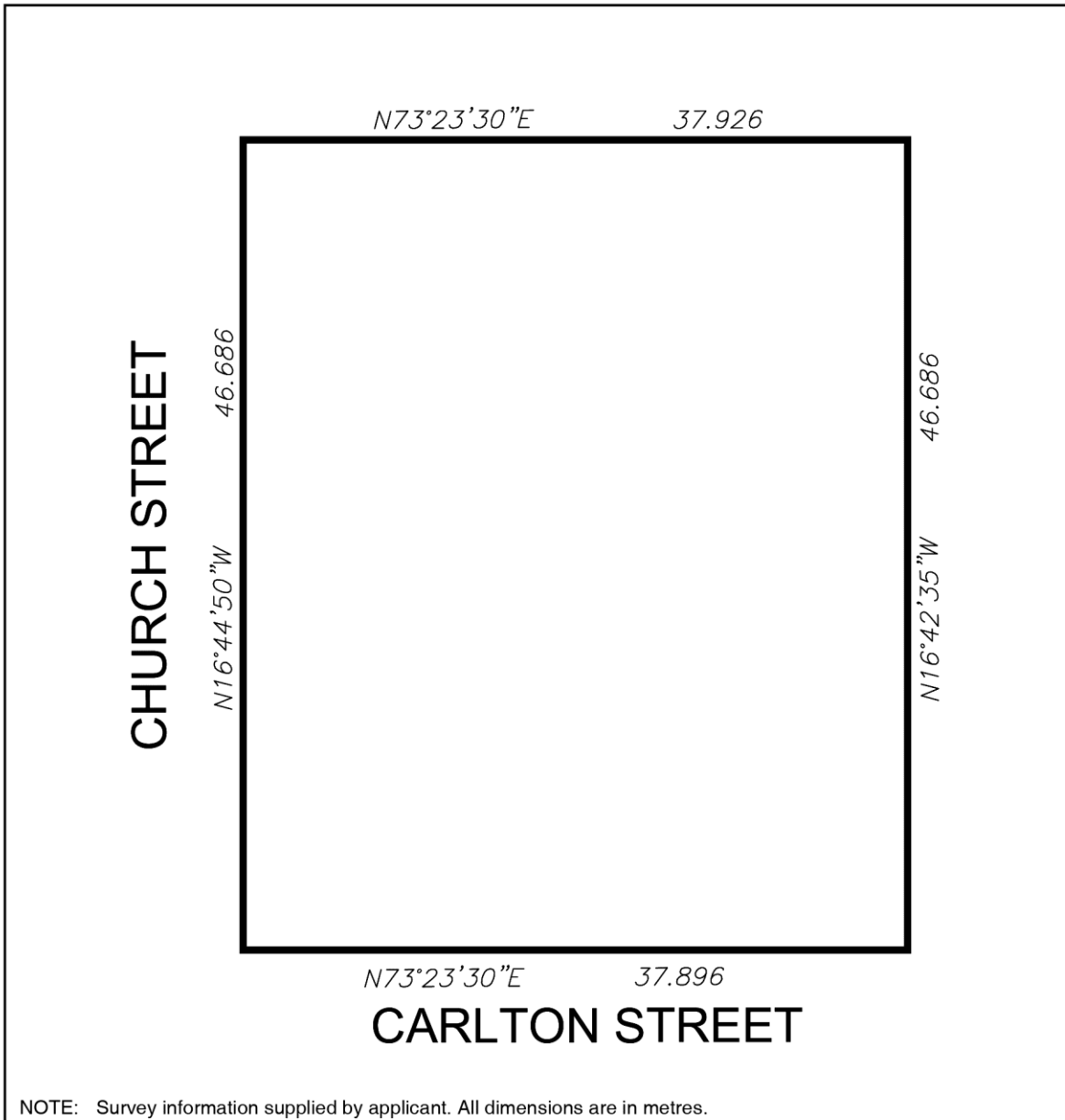
For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in the said By-law No. 438-86, as amended, except for the following:

- (a) "*bicycle parking space - occupant*" means an area that is equipped with a bicycle rack, stacker or locker for the purpose of parking and securing bicycles, and:
 - (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and

- (iii) notwithstanding (i) and (ii) above, where the bicycles are to be parked in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.4 metres by 0.4 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
- (b) "*bicycle parking space - visitor*" means an area that is equipped with a bicycle rack, stacker or locker for the purpose of parking and securing bicycles, and:
 - (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (iii) notwithstanding (i) and (ii) above, where the bicycles are to be parked in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.4 metres by 0.4 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
- (c) "*car-share*" means the practice whereby 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 to use a car-share vehicle, a person must meet the membership requirements of the car-sharing organization;
- (d) "*car-share parking space*" means a *parking space* that is reserved and signed for a car used only for *car-share* purposes;
- (e) "*grade*" means 99.65 metres Canadian Geodetic Datum;
- (f) "*height*" means the vertical distance between *grade* and the highest point of the building or structure, except for those elements otherwise expressly permitted by this By-law;
- (g) "*owner*" means the registered owner of the *lot*;
- (h) "*rental replacement dwelling unit*" means one of the thirteen (13) rental *dwelling units* in the building erected on the *lot*, as referenced in Appendix 1 of this By-law and secured by an agreement pursuant to Section 37 of the *Planning Act*, and for the purposes of determining *rental replacement dwelling unit* type, a *bedroom* shall have an exterior window;

- (i) "*storey*" means a level of a building, located between any floor and the floor, ceiling or roof immediately above it, with the first *storey* being that *storey* with a floor closest in elevation to the elevation of the adjacent finished ground level; and
 - (j) "*temporary sales office*" means a temporary office within a building, structure, facility or trailer on the *lot* used for the purpose of the initial rental, sale or marketing of *dwelling units* to be erected on the *lot*.
6. Despite any existing or future severance, 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 occurred.
7. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the *lot* 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.
8. In accordance with the City of Toronto Transitional Protocol, By-law No. 569-2013 is amended to remove the entirety of the lands shown on Map 1 attached hereto from By-law No. 569-2013.

PURSUANT TO THE DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED
DECEMBER 22, 2015 IN BOARD FILE NO. PL140475.



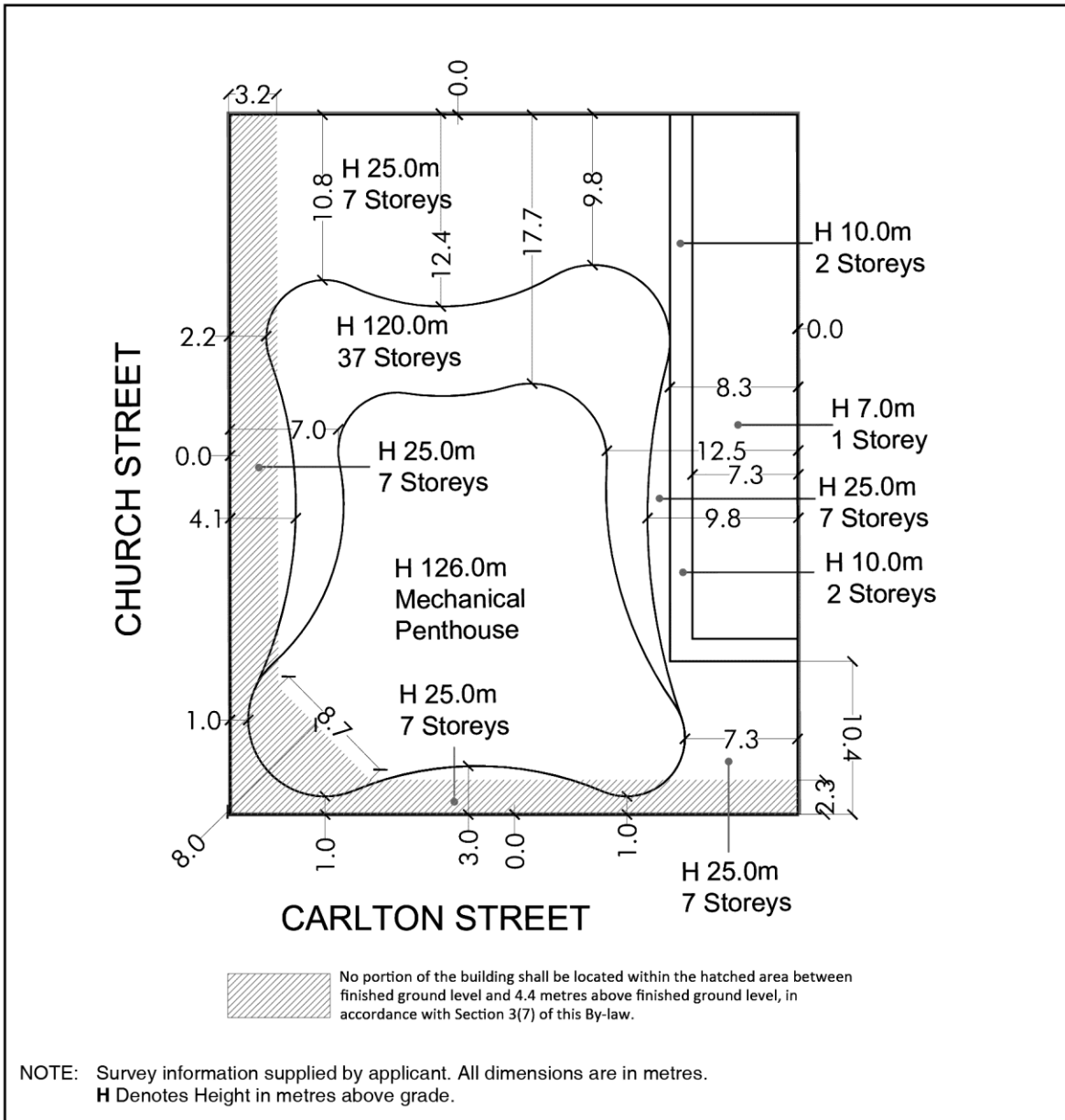
70-72 Carlton Street

Map 1

File # 13 135076 STE 27 0Z



Not to Scale
10/09/2015



APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit, other than for a temporary sales office, the *owner* shall make a cash contribution to the City in the amount of \$2,750,000 which will be used by the City for one or more of the following:
 - (a) \$325,000 for new community space in Ward 27; and
 - (b) \$2,425,000 for local parks and streetscape improvements in Ward 27;with such cash amounts to be applied as determined by the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor.
2. Within ten (10) days of the zoning by-law amendment becoming final and binding, the *owner* shall provide a cash contribution of \$500,000 toward the City's Capital Revolving Fund for Affordable Housing for the purpose of maintaining and constructing affordable rental housing units in Ward 27, as determined by the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor.
3. The cash amounts identified in Sections 1(a), (b) and 2 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.
4. In the event that the cash amounts identified in Sections 1(a), (b) and 2 above have not been used for the intended purpose within three years of this By-law coming into full force and effect, said funds may be redirected for another purpose, in the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
5. The *owner* shall replace the existing rental apartment units to the satisfaction of City Council in accordance with standard practice and policies, as required. The terms regarding replacement will be secured in the Section 111 permit/agreement, zoning by-law amendment and Section 37 agreement(s), as required.
6. The *owner* shall provide and maintain not less than 13 new *rental replacement dwelling units* on the *lot*, comprising of at least two (2) affordable rental *dwelling units* and at least nine (9) mid-range rental *dwelling units* with rents no higher than mid-range rents, which units must be of similar size to the units existing on the site at the date of this By-law, to

the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, subject to the following:

- (a) the *rental replacement dwelling units* shall comprise eight (8) bachelor units, two (2) one-bedroom units and three (3) two-bedroom units; and the combined floor area of the 13 *rental replacement dwelling units* shall be not less than 834 square metres, and the units will have a range of sizes as per the following subject to such modifications as the Chief Planner may approve:
 - (i) eight (8) bachelor units not less than 37.7 square metres, of which four (4) shall be larger than 51.6 square metres and one (1) shall be larger than 60.4 square metres;
 - (ii) two (2) one-bedroom units which shall be larger than 70.6 square metres and one (1) bedroom unit shall be larger than 75.5 square feet; and
 - (iii) three (3) two-bedroom units, two (2) which are a minimum of 88.3 square metres and one (1) shall be at least 92.9 square metres;
 - (b) at least two *rental replacement dwelling units* shall be accessible, and thirteen (13) bicycle parking spaces-occupant shall be provided, one for each unit;
 - (c) the thirteen (13) *rental replacement dwelling units* shall be maintained as rental housing units for at least 20 years, beginning with the date each unit is occupied and until the *owner* obtains approval for a zoning by-law amendment removing the requirement for the replacement rental housing units to be maintained as rental units. No application may be submitted for condominium registration, or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period;
 - (d) the thirteen (13) *rental replacement dwelling units* shall be ready for occupancy no later than the date by which no more than 80 percent of the other *dwelling units* erected on the *lot* are available and ready for occupancy; and
 - (e) The owner is entitled to charge unrestricted rents for two (2) bachelor *dwelling units* provided as *rental replacement dwelling units*.
7. The *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the two (2) two-bedroom designated affordable *rental replacement dwelling units* during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type inclusive of basic utility costs, and upon turnover, the rent charged to any new tenant shall not exceed the greater of the most recently charged rent or the most recent Fall Update Rental Market Report average rent for the City of Toronto by unit type and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases.

8. The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the designated nine (9) new mid-range *rental replacement dwelling units* with mid-range rents during the first 10 years of occupancy, with mid-range rents on the same basis as Section 6 above except that maximum mid-range rent shall not exceed an amount that is 1.5 times the average market rent by unit type inclusive of basic utility costs.
9. Rents charged to tenants occupying a new *rental replacement dwelling unit* at the end of the 10-year period set forth in Sections 6 and 7 above shall be subject only to increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their *dwelling unit* or until the expiry of the rental tenure period set forth in Section 5(3) above with a phase-in period of at least three years to unrestricted rents.
10. Rents charged to tenants newly occupying a new replacement rental dwelling unit after the completion of the 10-year period set forth in 6 and 7 will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.
11. The *owner* shall provide a Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division, that requires the *owner* to provide for each eligible tenant the right to return to a replacement rental unit, assistance that includes at least a moving allowance and other financial assistance, with provisions for special needs tenants.
12. A minimum of ten percent (10 percent) of the *dwelling units* located within the building on the *lot* shall be three (3) *bedroom dwelling units* or greater, and it is agreed that for the purposes of meeting the minimum ten percent (10 percent) requirement, *rental replacement dwelling units* that are a two (2) *bedroom* plus a den shall be deemed to be equivalent to a three (3) *bedroom dwelling unit*.