

Authority: Toronto and East York Community Council Item TE19.6, adopted as amended, by City of Toronto Council on November 8 and 9, 2016

CITY OF TORONTO

BY-LAW No. 1104-2016

To amend former City of Toronto By-law No. 168-93, being the Railway Lands East Area A Zoning By-law, as amended, with respect to the lands bounded by Bay Street, Yonge Street, 1 Front Street West and the Rail Corridor (municipally known in 2015 as 141 Bay Street, Block 1 and the portion of T lands between Bay and Yonge Streets).

Whereas authority is given to Council by 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 pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and 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, 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 and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 168-93 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. 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 Schedule A 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. Except as otherwise provided herein, the provisions of By-law No. 168-93, as amended, 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 the Railway Lands East Area A," shall continue to apply to the lands comprising *block 1 and the portion of T lands between Bay and Yonge Streets*.
4. The Maps appended to By-law No. 168-93 of the former City of Toronto, as amended, are further amended as follows:
 - (a) District Map 50G-323, as amended, is further amended, as it applies to *block 1 and the portion of T lands between Bay and Yonge Streets* in accordance with Map 1 attached hereto and forming part of this by-law;
 - (b) Height Map 50G-323, as amended, is further amended, as it applies to *block 1 and the portion of T lands between Bay and Yonge Streets* in accordance with Map 2 attached hereto and forming part of this by-law; and
 - (c) Map 3 attached hereto and forming part of this by-law is added as Appendix I Map 1 - Building envelope.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as Section 2(1) – DEFINITIONS, of the said By-law No. 168-93, as amended, with the exception of the following:
 - (a) "*bicycle parking space - occupant*" has the same meaning, but is amended by adding, after section (iii), the following: (iv) if a stacked bicycle parking space is provided, the minimum vertical clearance for each bicycle parking space is 1.2 metres;
 - (b) "*bicycle parking space - visitor*" has the same meaning but is amended by adding, after section (iii), the following: (iv) if a stacked bicycle parking space is provided, the minimum vertical clearance for each bicycle parking space is 1.2 metres;
 - (c) "*block 1a and 1b*" means the lands delineated by heavy lines shown on Map 1;
 - (d) "*established grade*" means 77.5 metres above Mean Sea Level referenced to the Canadian Geodetic Vertical Datum of 1928 (CGVD28 – pre-1978 adjustment);
 - (e) "*kiosk*" shall mean a space for seasonal skating accessory rental;
 - (f) "*loading space - type C*" shall mean a loading space with a length of at least 6.0 metres, a width of at least 3.5 metres and a vertical clearance of at least 3.0 metres; and
 - (i) is located at grade and situated so that it serves an entrance to the building erected or to be erected on the lot and is readily accessible via a driveway or laneway with a minimum vertical clearance of 3.0 metres connecting

with a street abutting the lot on which the building or structure is located;
or

- (ii) is located in the basement of such building on the first or second level below grade and is situated so that it serves an elevator or similar lifting device serving the building and is readily accessible via a ramp, driveway or laneway with a minimum vertical clearance of 3.0 metres connecting with a street abutting the lot on which the building or structure is located;
- (g) "*parking space*" shall mean space for the storage of a vehicle subject to the following regulations:

Parking Space Dimensions - Minimum

A parking space is subject to the following:

- (i) A parking space must have the following minimum dimensions:
 - (A) length of 5.6 metres;
 - (B) width of 2.6 metres;
 - (C) vertical clearance of 2.0 metres; and
 - (D) the minimum width in (B) must be increased by 0.3 metres for each side of the parking space that is obstructed according to (iv) below;
- (ii) For a parking space accessed by a drive aisle with a width of less than 6.0 metres, whether it is a one-way or two-way drive aisle, the minimum dimensions of a parking space are:
 - (A) length - 5.6 metres;
 - (B) width - 2.9 metres;
 - (C) vertical clearance - 2.0 metres; and
 - (D) the minimum width in (B) must be increased by 0.3 metres if one or both sides of the parking space is obstructed according to (iv) below;
- (iii) The minimum dimensions of a parking space that is adjacent and parallel to a drive aisle from which vehicle access is provided are:
 - (A) length - 6.7 metres;
 - (B) width - 2.6 metres;
 - (C) vertical clearance - 2.0 metres; and
 - (D) the minimum width in (B) must be increased by 0.3 metres for each side of the parking space that is obstructed according to (iv) below;
- (iv) The side of a parking space is obstructed if any part of a fixed object such as a wall, column, bollard, fence or pipe is situated:

- (A) within 0.3 metres of the side of the parking space, measured at right angles; and
- (B) more than 1.0 metre from the front or rear of the parking space;

Parking Space Dimensions - Maximum

The maximum dimensions for a parking space are:

- (A) length of 6.0 metres; and
- (B) width of 3.2 metres;

Vertical Clearance of a Parking Space

The minimum vertical clearance for a parking space extends over the entire length and width of the parking space, excluding a wheel stop with a height of less than 18.0 centimetres.

- (h) "*privately- owned publically-accessible open space*" shall mean an area which may include, but is not limited to, landscaping, seating, ice skating rink, and other uses typically associated with recreational parks.
6. The permitted uses identified in Section 6(1) CR DISTRICTS: PERMITTED USES shall be permitted on *block 1a*, in addition to the following uses:
- (a) Temporary surface parking lot, for a period of 5 years beginning from the issuance of a demolition permit on the property.
7. The permitted uses identified in Section 7(1) T DISTRICTS: PERMITTED USES shall be permitted on T *block 1b*, in addition to the following uses:
- (a) *Privately-owned publically-accessible open space*;
 - (b) *Kiosk*;
 - (c) *Restaurant*, provided the *restaurant* uses do not exceed a *maximum non-residential gross floor area* of 753 square metres, and ancillary outdoor seating;
 - (d) Temporary retail uses; and
 - (e) Storage, provided the storage uses do not exceed a *maximum non-residential gross floor area* of 150 square metres.
8. Section 8(2) h DISTRICTS: CONDITIONS TO BE SATISFIED BEFORE CERTAIN USES ARE PERMITTED shall be amended to include:
- (a) Lands on *block 1a* zoned with the "h" Holding Symbol shall not be used for any purpose other than those permitted under (8)(1) until the "h" Holding Symbol has been removed. An amending by-law to remove the "h" Holding Symbol in whole,

or in part, shall be enacted by City Council upon the following occurring, to the satisfaction of the Chief Planner and Executive Director, City Planning Division:

- (i) submission of Servicing Plans for the lot, to the satisfaction of the General Manager, Toronto Water and the Executive Director, Engineering and Construction Services; and
 - (ii) confirmation by the General Manager, Toronto Water that there is sufficient servicing capacity to accommodate the development.
 - (b) Prior to the removal of the "h" Holding Symbol, the following uses shall be allowed:
 - (i) a four-storey building providing access to the Metrolinx train platform, Bay East Teamway, and the privately- owned publically-accessible open space, provided these uses do not exceed a *non-residential gross floor area* of 1,100 square metres; and
 - (ii) temporary surface parking lot, for a period of 5 years beginning from the issuance of a demolition permit on the property.
9. Section 6(3) PART I 1 – DENSITY, of the said By-law No. 168-93, as amended, is further amended by replacing "*block 1*" with "*block 1a*", and the following text under Maximum Non-Residential Gross Floor Area, "8.0 times the area of *the lot*", with "139,900 square metres".
10. Section 6(3) PART I 3 – EXCEPTIONS: BLOCKS 1, 2, 4, 5A, 6, 7, AND 9 - STREET-RELATED RETAIL AND SERVICE USES, of the said By-law No. 168-93, as amended, is further amended by removing reference to *block 1*.
11. Notwithstanding Section 6(3) PART III 1, in the case of *block 1a*, 1,000 square metres of common outdoor space shall be provided.
12. Notwithstanding Section 4(5)(b), in the case of *block 1a*, parking spaces shall be provided in accordance with the following minimum standards:
- (a) A minimum of 443 parking spaces shall be provide on *block 1a*.
13. Notwithstanding Section 4(5)(i), in the case of block 1a, ingress and egress to and from parking facilities shall be provided in accordance with the following requirements:
- (a) If the centreline of a parking space is at an interior angle of 70 to 90 degrees to the centreline of the drive aisle providing vehicle access, the minimum width for that one or two lane drive aisle is 6.0 metres;
 - (b) If the centreline of a parking space is at an interior angle from 50 to less than 70 degrees to the centreline of the drive aisle providing vehicle access, the minimum width for that drive aisle is 5.5 metres for each lane; and

- (c) If the centreline of a parking space is at an interior angle of less than 50 degrees from the centreline of the drive aisle providing vehicle access, the minimum width for that drive aisle is 4.0 metres for each aisle.
14. Notwithstanding the foregoing, at parking entry or egress gates, a minimum of 3.0 metres for one-way operation and a minimum of 5.0 metres for two-way operation are permitted.
15. Notwithstanding Section 6(4) 7(2), in the case of *block 1a*, the main floor level may be greater than 7.5m measured from the front wall of the building and the width may be less than 60 percent of the *street* frontage of the building.
16. Notwithstanding the definition of "parking station", as defined in Section 2(1), motor vehicles may be parked or stored on *block 1a* for a charge.
17. Notwithstanding Section 4 (3)(a) Height Limits – Buildings and Structures:
- (a) No building or structure above the height of 243 metres will be permitted within the area indicated as "H 243m" on Map 2; and
- (b) A parapet located within the area indicated as "H 41m" on Map 2 shall not exceed 1 metre above a height of 41 metres.
18. No person shall erect a building or structure on *block 1a* where a setback line is identified on Appendix I Map 1 if the building or structure at or above grade is closer or further to the lot line than the distance identified for the setback line on Appendix I Map 1.
19. Section 17 or 18, above, does not apply to the type of structure listed in the column entitled "STRUCTURE" in the following chart, provided that the restriction set out opposite the structure in the column entitled "MAXIMUM PERMITTED PROJECTION" are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
a) Eaves, cornices, ornaments	0.9 metres
b) Fences, and safety railings	No restriction, provided the height thereof does not exceed 1.5 metres
c) Canopy	No restriction
d) Doors including revolving doors	No restriction
e) Landscaping (including but not limited to steps, railings, ramps, benches, planters)	2 metres

Enacted and passed on November 9, 2016.

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 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:

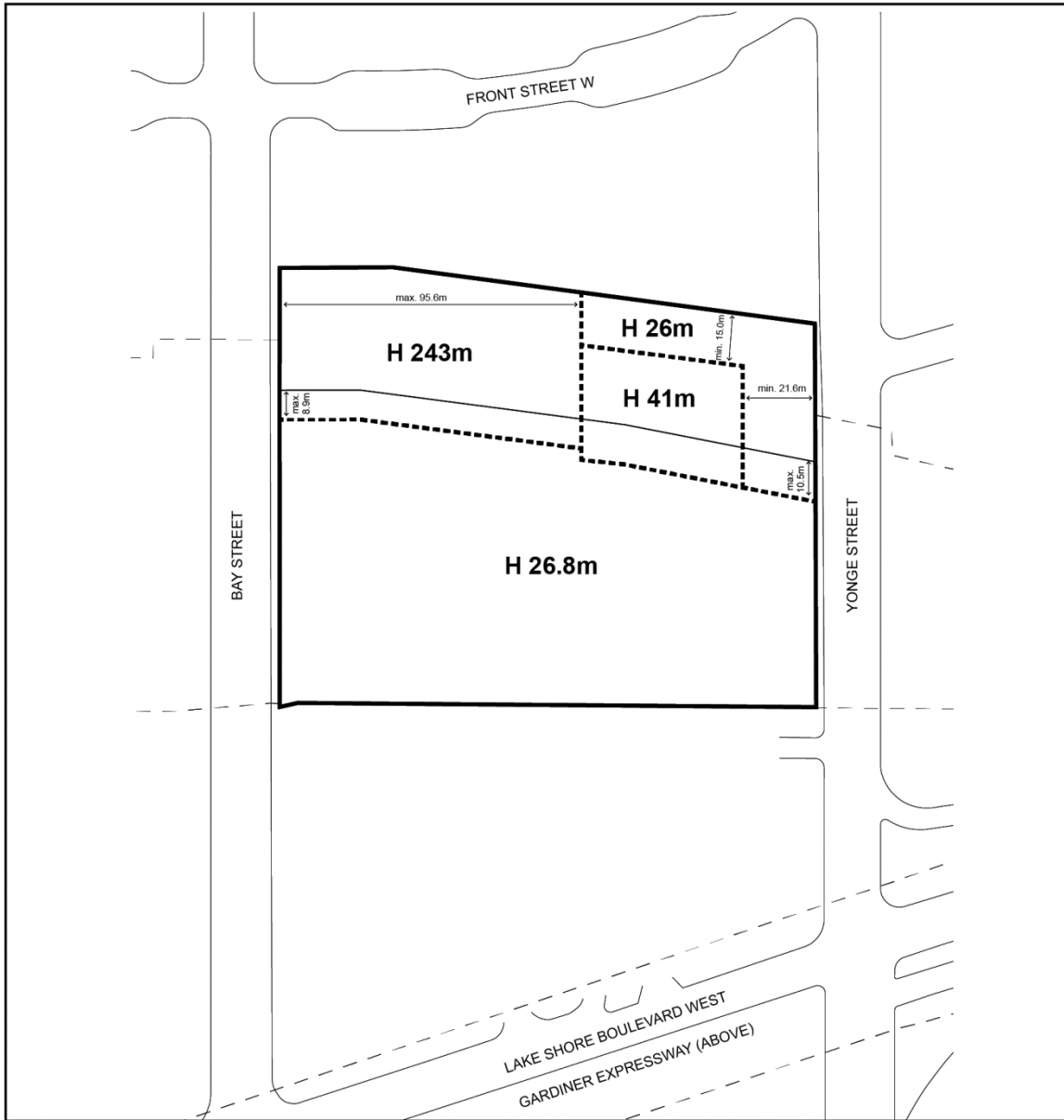
- (a) A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$4,000,000 towards the Jack Layton Ferry Terminal;
- (b) A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$1,500,000 towards the streetscape public realm improvements within the vicinity of the property, in addition to any improvements that have secured through the IMIT process, which may include improvements to the Bay Street underpass;
- (c) Provide a public art contribution in accordance with the City of Toronto's Percent for Public Art Program, half of which could be directed to public art within the Bay Street underpass;
- (d) In the event the cash contributions referred to in (a) and (b) above have not been used for the intended purpose within three (3) years of the date of the issuance of the above-grade building permit, the cash contribution may be directed 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;
- (e) The payments required in sections (a) and (b) 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 the site specific by-law for the project are appealed to the Ontario Municipal Board, from the date of the Board order approving the by-laws, to the date of submission of the funds by the owner to the City; and
- (f) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - (i) The Owner shall, for nominal consideration, provide an easement to the City for public access to the *privately-owned publically-accessible open space* or agree by way of an equally binding legal mechanism to terms regarding public access, with the mechanism to be to the satisfaction of the City Solicitor, prior to the issuance of Site Plan Approval for Phase 1 of the development at 45 and 141 Bay Street;

(ii) the Owner shall at its expense construct and maintain, for use by members of the general public;

- I. two above-grade publicly accessible pedestrian bridges from the lot to Union Station and from the lot to the Backstage condominium at 1-7 The Esplanade;
- II. a publicly accessible weather protected route through the building and PATH connection referred to in (I) to accommodate linkages between the 2 pedestrian bridges; and
- III. access to the privately-owned publically-accessible open space above the rail corridor on the both the east and west side of the proposed building,

and shall, prior to the issuance of Site Plan Approval for Phase 2 of the development at 141 Bay Street, for nominal consideration, provide an easement for public access to the City or agree through an equally binding legal mechanism to terms regarding public access, in relation to those matters listed in I, II and III, above, with the legal mechanism(s) to be to the satisfaction of the City Solicitor, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

(iii) the owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.



 **TORONTO**
Map 2

141 Bay Street

File # 15 208444 STE 28 0Z

*Height above established grade of 141 Bay of +77.5m



City of Toronto By-Law 438-86
Not to Scale
10/03/2016

