

Authority: Toronto and East York Community Council Item TE17.13, as adopted by City of Toronto Council on July 12, 13, 14 and 15, 2016

CITY OF TORONTO

BY-LAW 638-2018

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 68 and 70 Charles Street East and 628, 634, 636 and 638 Church Street.

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 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 increase 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 matter as are set out in the by-law; 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 matter 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, a 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 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. Pursuant of 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 and in return for the provision at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Schedule A of this By-law.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *site* pursuant to Section 37 of the Planning Act securing the provisions of the facilities, services, and matters set out in Schedule A, the *site* 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*, a permit pursuant to the Ontario Heritage Act, 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 438-86*, as amended, shall continue to apply to the *site*.
4. None of the provisions of Sections 2(1) with respect to the definition of "*grade*", "*height*", "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", 4(2)(a), 4(5)(b), 4(5)(c), 4(5)(d), 4(13)(a), 4(13)(c), 4(13)(d), 4(17)(b), 8(3) Part I 1-3(a), 8(3) Part II 1(a), 8(3) Part III 1(a), 8(3) Part XI 2, 12(2)80, 12(2)84, 12(2)260, 12(2)380 of *By-law 438-86*, shall apply to prevent the erection or use of a *mixed-use building* on the *site*, which contain *dwelling units* and non-residential uses provided that all of the provisions of this By-law are complied with.
5. The lands on which the building is to be located comprises at least the site.
6. The total aggregate *residential gross floor area* and *non-residential gross floor area* on the site, as delineated by a heavy line on Map 1 shall not exceed 32,000 square metres.
7. The *Manhattan Apartments* located on the *site* and shown on Map 2 attached to and forming part of this By-law are retained *in situ* subject to such alterations as are permitted pursuant to a heritage easement agreement or amending agreement thereto entered into by the *owner* with the *City* for such buildings pursuant to Section 37 of the Ontario Heritage Act together with any permit issued pursuant to Section 33 of the Ontario Heritage Act.
8. The *Bernard Haldan Houses* located on the *site* and shown on Map 2 attached to and forming part of this By-law may be altered and relocated to the area shown on Map 2 provided such alterations and relocation are in accordance with a heritage easement agreement or amending agreement thereto entered into with the *City* pursuant to Section 37 of the Ontario Heritage Act.
9. The *residential gross floor area* erected or used on the *site* shall not exceed 31,650 square metres.
10. The *non-residential gross floor area* erected or used on the *site* shall not exceed 350 square metres.
11. The total number of *dwelling units* must not exceed 428.
12. A minimum of 10 percent of the total number of *dwelling units*, exclusive of the 20 *rental replacement dwelling units*, that are erected or used on the *site* must have least three bedrooms.

13. No portion of any building or structure erected and used above *grade* is located otherwise than wholly within the areas delineated by heavy lines of the *building envelope* area shown on Map 2 attached to and forming part of this By-law, subject to the following:
- (i) Canopies, awnings, cornices, ornamental or architectural elements, stairs, wheelchair ramps, and public art may exceed beyond the *building envelope* as shown on Map 2 to a maximum of 2.5 metres.
14. The *height* of any building or structure, or portion thereof, including mechanical penthouse and elevator/stair overrun, shall not exceed those heights as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
- (i) Parapets, fences, skylights, railings, terrace guards and dividers, decorative screens, light monitors, light fixtures, ornamental elements, trellises, landscape elements, elements of a green roof, wind mitigation features, privacy screens, planters, balustrades, open air recreation, safety and wind protection features, window washing equipment, enclosed heating, ventilation or cooling equipment such as chimneys, stacks, flues, vents and air intakes extending no more than 2.5 metres above the applicable height map as shown as following the symbol H on the attached Map 2;
 - (ii) balconies may project beyond the *building envelope* to a maximum projection of 1.7 metres;
 - (iii) window sills may project beyond the *building envelope* to a maximum projection of 0.7 metres; and
 - (iv) the outdoor *residential amenity space* roof deck located above storey 47 is permitted to project a maximum of 2.0 metres.
15. The number of *storeys* of each portion of a building on the *site* must not exceed the numbers as shown following the symbol "ST" on Map 2 for the corresponding *building envelope* area, excluding mechanical, rooftop elements and mezzanine level.
16. For the purpose of this development the portion of the building facing Church Street is considered to be the front of the building. Balconies are only permitted:
- (i) above floor 7 along the front tower building face and the Charles Street tower building face;
 - (ii) above floor 4 the north tower building face; and
 - (iii) balconies on 5 and 6 floors along the west tower building face are only permitted within a distance of 18 metres commencing at the northernmost portion of such west face.

17. Non-residential uses shall occupy no less than 30 percent of the building *frontage* along Church Street.
18. A minimum of 793 square metres of indoor *residential amenity space* is required with:
- (i) all indoor *residential amenity space* must be provided in a multi-purpose room or rooms, whether or not such rooms are contiguous; and
 - (ii) a minimum of one of the rooms referred to in subsection (K)(i) must contain a kitchen and washroom.
19. A maximum of 2 guest suites are permitted at a maximum inclusive size of 70 square metres each.
20. A minimum of 2 *parking spaces* shall be provided for the residents of the *rental replacement dwelling units*.
21. *Parking spaces* must be provided on the *site* in accordance with the following minimum requirements:
- | | |
|-------------------|---------------------------|
| Residential Units | 135 <i>parking spaces</i> |
| Visitors | 4.0 <i>parking spaces</i> |
| Non-Residential | 0 <i>parking spaces</i> |
22. Out of the required 135 residential *parking spaces*, a minimum of 2 *parking spaces* shall be provided for the residents of the *rental replacement dwelling units*.
23. Out of the required 135 residential *parking spaces*, a minimum of 6 *car-share parking spaces* shall be provided for the residents.
24. Notwithstanding the provisions of 4(17) of *By-law 438-86* the *parking spaces* and drive dimensional requirements must comply with the requirements of *By-law 438-86*, except that 36 *parking spaces* do not have to provide an additional 0.3 metres in width when obstructed on one side by the following:
- (i) a column located to a maximum of 2.35 metres from the front of the *parking space*; or
 - (ii) a stairway located to a maximum of 2.5 metres from the rear of the *parking space*.
25. A further reduction of 1 residential *parking space* will be permitted for each 5 *bicycle parking spaces* provided in excess of the minimum required by this By-law, up to a maximum of 20 percent of the total minimum vehicle *parking spaces* required.
26. *Bicycle parking spaces* shall be provided on the *site* in accordance with the following:
- (i) a minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit*

- (ii) a minimum of 0.1 *bicycle parking spaces* – visitor per *dwelling unit*; and
 - (iii) *bicycle parking spaces* for the non-residential use shall not be required.
27. *Bicycle parking spaces* for residents and visitors shall be provided and maintained in accordance with Section 4(13) of *By-law 438-86*, except that:
- (i) *stacked bicycle parking spaces* may be used to meet requirements;
 - (ii) minimum *bicycle parking spaces* shall be in accordance with Section 2(1) of *Zoning By-law 438-86*; and
 - (iii) the minimum vertical clearance of each *bicycle parking space* is 1.2 metres and an area used to provide stacked parking spaces shall have a minimum vertical clearance of 2.4 metres.
28. *Bicycle parking space – visitor* may be located within a secure room, enclosure or bicycle locker.
29. Outdoor *patios* are permitted accessory to all permitted non-residential uses, as illustrated on Map 3.
30. Notwithstanding any existing or future severances, partition, or division of the *site*, the provision of the By-law shall apply to the whole of the *site* as if no severance, partition or division had occurred.
31. None of the provisions of this By-law will apply to prevent the erection and use of a temporary *sales office* on the *site*.
32. Within the *site*, no person must 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:
- (i) 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
 - (ii) all watermains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
33. None of the provisions of By-law 1106-2016 which amends former City of Toronto By-law 438-86, as amended, shall apply to the *lot*.
34. 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 by the said By-law 438-86, as amended, except for the following:

- (1) "*grade*" means the Canadian Geodetic elevation of 115.0 metres.
- (2) "*height*" means the vertical distance between grade and the highest point of the building or structure.
- (3) "*site*" means the whole of the lands delineated by the heavy line on Map 1, attached to and forming part of this By-law.
- (4) "*sales office*" means an office, or sales trailer, used exclusively for the initial sales and/or initial leasing of dwelling units or the non-residential uses to be erected on the site.
- (5) "*building envelope*" means a building envelope for each height area as shown by an "H", and as delineated by the heavy lines on Map 2 attached.
- (6) "*building permit*" means a permit issued under the Building Code Act, including a permit for excavation or shoring but it does not include any permit for usual and minor works, repairs and maintenance of the Manhattan Apartments or the Bernard Haldon Houses acceptable to the Senior Manager.
- (7) "*Chief Planner*" means the City's Chief Planner and Executive Director, City Planning or his/her designate.
- (8) "*stacked bicycle parking space*" means a bicycle parking space in the horizontal position 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.
- (9) "*rental replacement dwelling unit*" means a dwelling unit which replaces one of the rental units existing on the site at the time of enactment of this by-law, as required pursuant to section 111 of the City of Toronto Act, 2006, S.O. 2006, c. 11.
- (10) "*Bernard Haldon Houses*" means the existing semi-detached heritage building located on the site and known municipally as 634 and 636 Church Street on the date of the passing of this By-law, as shown on Map 1, including as may be altered and relocated to the area shown on Map 2 provided such alteration and relocation are in accordance with a heritage easement agreement entered into with the *City* pursuant to Section 37 of the Ontario Heritage Act and registered to the satisfaction of the *City*.
- (11) "*Manhattan Apartments*" means the existing heritage building located on the *site* on the date of the passing of this By-law, and known municipally as 628 Church Street as shown on Map 1, including as may be altered provided such alteration are in accordance with a heritage easement agreement entered into with the *City* pursuant to Section 37 of the Ontario Heritage Act and registered to the satisfaction of the *City*.

- (12) "*Senior Manager*" means the City's Senior Manager, Heritage Preservation Services.
- (13) "*By-law 486-86*" means By-law 438-86, as amended, of the former City of Toronto being, "A By-law to regulate the use of land and the erection, use, bulk, height, spacing 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".
- (14) "*car-share parking space*" means a parking space used exclusively for the parking of 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*.

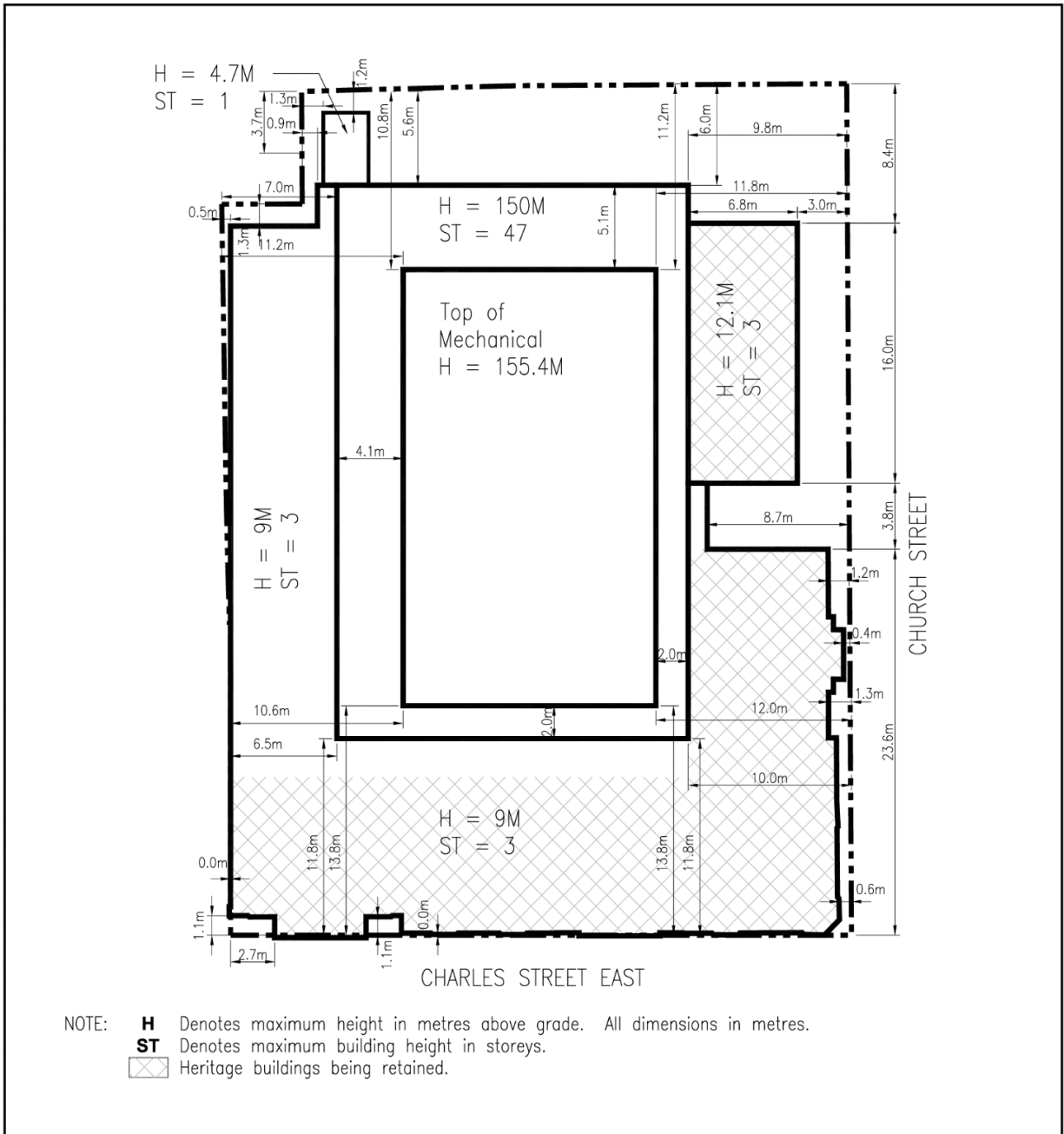
Enacted and passed on May 24, 2018.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

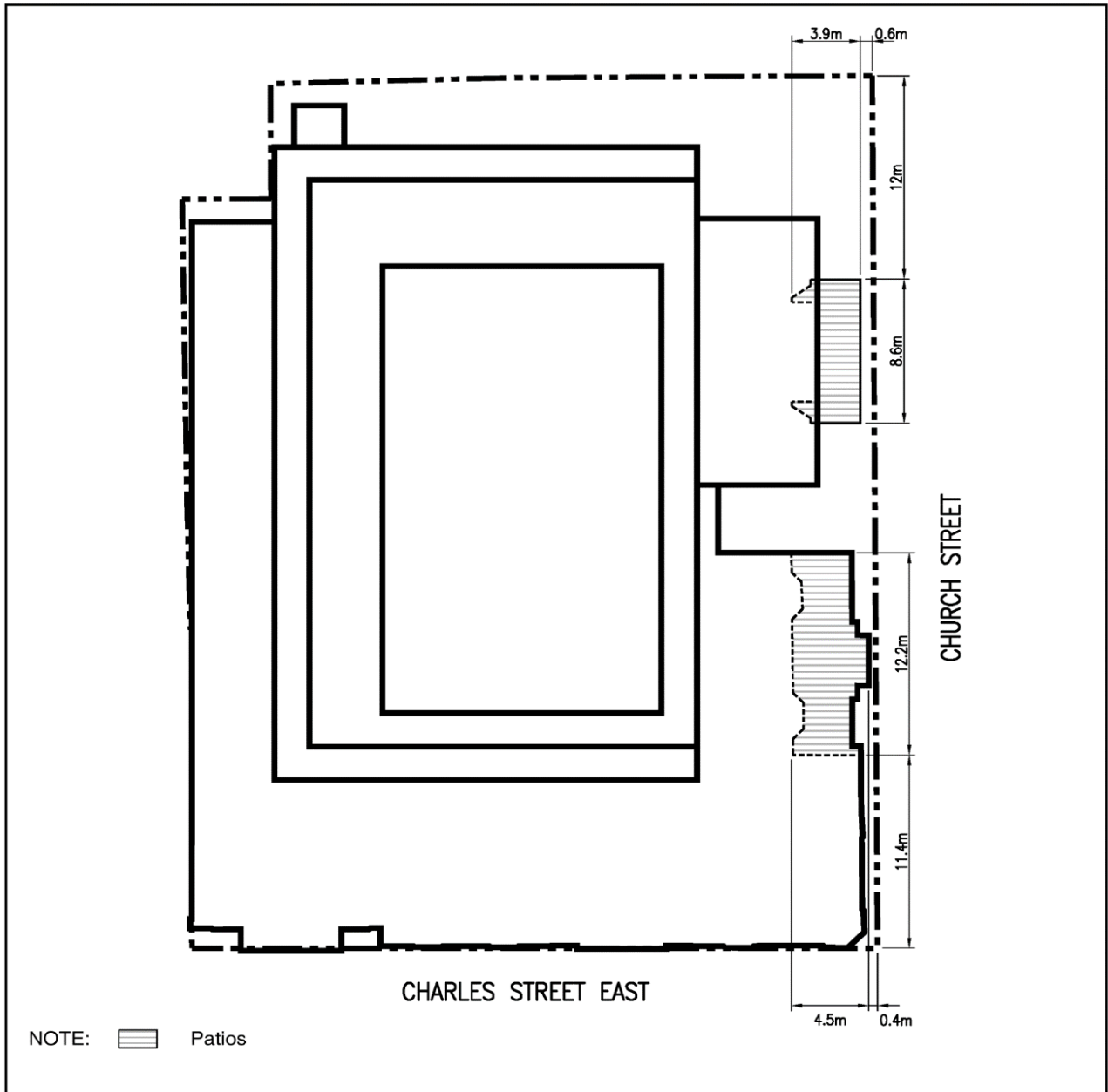
(Seal of the City)





68, 70 Charles Street East,
628, 634, 636 & 638 Church Street

File # 15 227468 STE 27 0Z



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 and density of the proposed development on the *Lands* as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *Owner* agrees as follows:

- a. Prior to issuance of an above grade building permit (other than a building permit for a temporary sales office/pavilion) the owner shall provide a financial contribution to the City to be used for community benefits in the amount of \$3,353,000 to be used towards the following, all to the satisfaction of the Chief Planner and Executive Director of City Planning in consultation with the Ward Councillor:
 - (i) a cash contribution of \$335,300 towards new or existing affordable housing facilities;
 - (ii) a cash contribution of \$335,300 towards new or existing cultural facilities;
 - (iii) a cash contribution of \$2,682,400 towards local streetscape and park improvements; and
 - (iv) require that the cash amounts identified above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment;
- b. In the event the cash contribution referred to in Section (i), (ii) and (iii) above has not been used for the intended purpose with 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 of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
- c. The matters set forth in Recommendations 1 d. (i)-(iv), 1 e. (i)-(vii), and 1 f. (i) and (ii) of the Report of the Chief Planner and Executive Director, City Planning Division to the Toronto Preservation Board and Toronto and East York Community Council dated May 11, 2016, "Alterations to a Heritage Property, Intention to Designate Under Part IV, Section 29 of the Ontario Heritage Act, and Authority to Enter into a Heritage Easement Agreement – 628, 634, and 636 Church Street";
- d. At least 10 percent of the total number of dwelling units to be constructed on the *site* shall contain at least three or more bedrooms in compliance with the provision of the Ontario Building Code;

- e. Require the owner to pay for an construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Engineering and Construction Services, should it be determined that improvements are required to support the development;
- f. The Owner shall enter into a financially secured agreement to pay for and upgrade the municipal watermain system needed to support this development;
- g. The Owner shall provide and maintain twenty (20) residential rental dwelling units on the subject site as rental housing for a period of at least 20 years, comprising eight (8) one-bedroom units and twelve (12) two- bedroom units, as shown on the plans submitted to the City Planning Division dated March 21, 2016 with any revisions to the satisfaction of the Chief Planner and Executive Director, City Planning Division. Of these units, three (3) one-bedroom and two (2) two- bedroom units shall have affordable rent; five (5) one-bedroom and eight (8) two-bedroom units shall have mid-range rent; and two (2) two-bedroom units will have no rent stipulation;
- h. The Owner shall provide tenant relocation and assistance to each eligible tenant within the existing rental building, including an extended notice period, financial compensation beyond the minimum requirements set out in the Residential Tenancies Act, and the right to return to a replacement rental dwelling unit. All to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- i. The Owner shall enter into, and register on title, one or more Section 111 agreement(s) to secure the rental replacement units and the tenant relocation provisions outlined above and as detailed in the draft Zoning By-law Amendments to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
- j. the Owner shall enter into and register a Section 118 Restriction under the Land Titles Act, to the satisfaction of the City Solicitor, agreeing not to transfer or charge those parts of the lands comprising the twenty (20) replacement residential rental dwelling units, without the written consent of the Chief Planner and Executive Director, City Planning Division or their designate to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.