

89-109 Niagara St – Zoning Amendment Application – Supplementary Report – Rental Housing

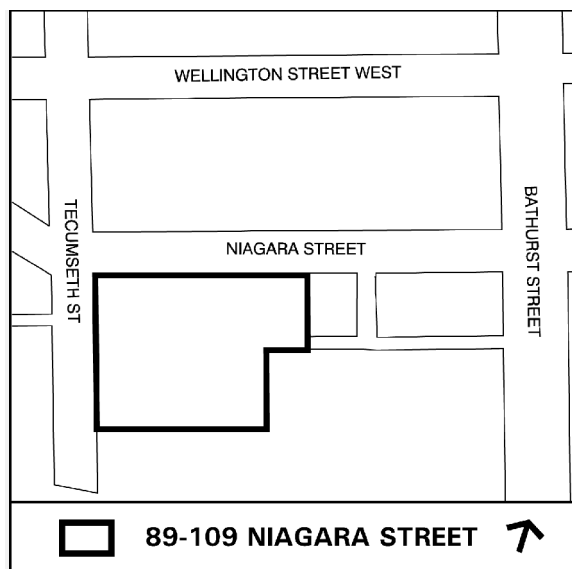
Date:	June 11, 2014
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 19 – Trinity-Spadina
Reference Number:	12 130868 STE 19 OZ

SUMMARY

This report provides additional information regarding rental housing further to the Final Report dated May 26, 2014, for the proposed rezoning at 89-109 Niagara Street. The Final Report recommends approval of the proposed rezoning and recommends that the owner enter into a Section 37 Agreement under the *Planning Act* to secure community benefits including the provision of 21 rental housing units.

The rezoning application proposes the redevelopment of the lands at 89-109 Niagara Street for a new mixed-use development which includes the retention and reuse of the existing heritage buildings facing Niagara Street, commonly referred to as the "coffin factory", and the addition of two residential towers 12 and 14 stories in height connected by a five-storey podium. The proposed uses include six ground floor commercial/office units and 367 residential dwellings, all of which permit *live-work units*.

This report provides further detail on the agreement reached with the owner to provide the rental housing units, and recommends revisions to the draft zoning by-law attached with the Final Report



dated May 26, 2014, to secure the rental housing through a Section 37 Agreement under the *Planning Act*.

RECOMMENDATIONS

The City Planning Division recommends that:

1. The Draft Zoning By-law Amendment included in Attachment 7 of the Staff Report from the Director of Community Planning, Toronto and East York District entitled "89-109 Niagara Street– Zoning Amendment Application – Final Report" dated May 26, 2014, be replaced with the draft Zoning By-law Amendment included in Attachment 1 of this report entitled "89-109 Niagara Street– Zoning Amendment Application – Supplementary Report – Rental Housing" dated June 11, 2014.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

The proposed mixed-use development entails the retention and restoration of the existing heritage buildings at 89-91 Niagara Street, 93-97 Niagara Street, 100-107 Niagara Street and 109 Niagara Street. Two new residential towers of 12 storeys (39.3 metres) and 14 storeys (45.3 metres) are proposed south of the heritage buildings, rising from a five-storey podium containing residential units. The total site area is 6,497 square metres and the total gross floor area of the development is 30,142 square metres, providing a floor space index (density) of 4.64 times the lot area. The proposed development has a total of 367 dwelling units and 2,322 square metres of non-residential gross floor area.

The proposal includes the provision of 21 *affordable* and *mid-range* rental housing units which are located on 3 different floors within the residential component of the development.

COMMENTS

The predominant use of the building has been commercial for many years, and tenants of the units had commercial leases. During the review of the planning application, Planning staff received comments from current and former tenants of the existing buildings about residential and live/work uses in some of the approximately 80 units in the complex. Staff pursued the matter and became aware of a history of residential uses, covering an extensive period of time. However, such residential uses would have been informal, given the commercial leases that were in place.

In consultation with community members, the Councillor and the applicant, agreement was reached to ensure that some of the vibrant mix of uses, including live-work and artist studios, form an ongoing part of the new development. The proposal for 21 rental dwelling units, for live/work purposes, emerged as a preferred Section 37 community benefit.

Rental Housing

The owner has agreed to secure 13 affordable and 8 mid-range units as rental housing for a period of at least 20 years, with affordability provisions for the first 15 years, followed by a gradual phase-out to market rents, as outlined in the May 26, 2014 Final Report.

The further details of the rental housing provisions in this report and the revisions to the draft by-law in Attachment 1 reflect the discussions with the owner. Highlights include:

- Setting aside a minimum of 8 car parking spaces and 15 bicycle parking spaces for the tenants of the 21 rental units.
- No more than 2 of the 21 units may include an interior bedroom that has no window on an exterior wall – all others have conventional bedrooms with windows.
- Minimum unit sizes are specified, that provide for a wide range of sizes within each unit type by bedroom type, so that households of varying sizes and composition can be accommodated.
- Townhouse-style units as well as apartment units are provided, and the units include 1, 2 and 3-bedrooms.
- Smaller units will have storage lockers located elsewhere in the building, and en-suite laundry equipment, at no charge to the tenants.
- Tenants will have full access to the indoor and outdoor amenity spaces, and other facilities of the new development.
- The rental units are integrated within the condominium complex and are located in the older heritage building as well as the new building, sharing floors with condominium units.

All 21 rental housing units shall permit *live/work units* as defined in the draft zoning bylaw amendment. Staff have reviewed the floor plans for the rental housing units and believe that at least 16 of the 21 will be especially appropriate for such use. Some of the other smaller units are too constrained by floor area or layout to be easily used for work purposes as well residential use. The owner worked with staff to provide increased floor area and improve the layouts of many of the units to maximize the live/work potential. A number of the units are generously sized, and many have separate niche areas suitable for the work component.

Staff will work with the owner to reach a Section 37 Agreement that meets the goal of focusing the use of these 21 rental units primarily for artist live/work tenants. Staff have consulted with Artscape on their approach to making such rental units work for artists,

and selecting tenants, and the owner has agreed to consider these examples with staff while developing criteria and rental processes for the Section 37 Agreement. Priority for renting one of these 21 units when the new building is complete will be given to former tenants of the existing buildings.

CONTACT

Noreen Dunphy, Senior Planner
Tel. No. 416-392-1255
Fax No. 416-397-4080
E-mail: ndunphy@toronto.ca

Thomas Rees, Planner
Tel. No. 416-392-0758
Fax No. 416-392-1330
E-mail: trees2@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

(P:\2014\Cluster B\pln\TEYCC\16386953047.doc) - ca

ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment

Attachment 1: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of
Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. --20~

**To amend Zoning By-law No. 438-86, as amended,
With respect to the lands municipally known as
89-109 Niagara 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;

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*;

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development;

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;

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;

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.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. District Map 49G-323 contained in Appendix 'A' of 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 in various areas of the City of Toronto”, as amended, is further amended by re-designating the *lot*, as delineated by heavy lines on the attached Map 1 forming part of this By-law, to CR (T4.64; C1.00; R4.28).
2. Height and Minimum Lot Frontage Map 49G-323 contained in Appendix 'B' of Bylaw No. 438-86, as amended, is further amended in accordance with Map 2 forming part of this By-Law.
 3. Notwithstanding the provisions of Section 8(1), 8(2), and Section 8(3) Part XI of By-law No. 438-86, as amended, the permitted uses in the buildings on the *lot* as delineated on Map 2 forming part of this By-law shall be limited as follows:
 - a. Building A
 - i. Building A is a mixed-use building that allows both residential and non-residential uses.
 - ii. *Dwelling units* are not permitted on the ground floor level and basement level.
 - iii. The *dwelling units* on the second, third, fourth and fifth floors shall all permit *live-work units*, as defined by this By-law.
 - iv. Non-residential uses shall be consistent with the provisions of Section 8(1) and 8(2) of By-law No. 438-86.
 - b. Building B
 - i. Building B is a residential building that does not permit non-residential uses.
 - ii. Building B comprises Tower 1, Tower 2, and a connecting base building as delineated on Map 2 forming part of this By-law.
 - iii. *Live-work units*, as defined by this By-law, are only permitted on the first, second, and third floors of Tower 1.
 - iv. *Live-work units* as defined in Section 2 of By-law 438-86, as amended, and qualified by Section 8(2)14 of By-law 438-86, as amended, are permitted.
 - c. In addition to the uses permitted in Section 8(1)(f)(a) and 8(1)(f)(b) of By-law 438-86, as amended, *car share* and *care share parking space* are permitted uses on the *lot*;
 4. Notwithstanding the provisions of Section 4(2), Section 8(3) Part I, Section 8(3) Part II, and Section 11(b) and (c) of By-law No. 438-86, as amended, the height, density, setback and building location requirements are as follows:
 - a. The maximum height of Building B, as delineated on Map 2 forming part of this Bylaw, shall not exceed the following:
 - i. Tower 1: 14 *storeys* above *grade*

- ii. Tower 2: 12 *storeys* above *grade*
- b. No portion of a building above *grade* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, except for the following: light fixtures, cornices, sills, eaves, mullions, canopies, awnings, parapets, trellises, ornamental and architectural elements, guardrails, balustrades, railings, stairs, stair enclosures, stair landings, terraces, platforms, wheel chair ramps, vents, air shafts, underground garage ramps and their associated structures, privacy screens and walls, fences, bollards, retaining walls, landscape features, lightning rods, transformer vaults and elements required for the functional operation of the building, window washing equipment, balconies and public art features, and heritage features.
 - c. No portion of the building or structure on the *lot* shall have a greater *height*, in metres above *grade*, than the height limit in metres above *grade* specified by the numbers following the symbol 'H' on the attached Map 2 except that:
 - i. a stair tower, elevator shaft, chimney stack or other heating, cooling or ventilation equipment or window washing equipment on the roof of the building or a fence, wall, decorative feature or structure enclosing such elements may exceed the height limits on the attached Map 2 by no more than 5.0 metres provided that such elements or enclosures are within the mechanical area lines shown on Map 2;
 - ii. a structure on the roof of the building, used for outside or open air recreation, landscaping, architectural purposes, privacy, safety, noise mitigation or wind protection may exceed the height limits shown on the attached Map 2 by no more than 3.0 metres provided the structure is at least 3.0 metres from any property line;
 - iii. heritage features as defined in the Heritage Easement Agreement have no height limit.
 - d. The minimum ground floor height of Building B, measured floor-to-floor from the ground floor to the second floor, is 4.5 metres.
 - e. The amount of *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall be as follows:
 - i. the *residential gross floor area* shall not exceed 27,820 m²;
 - ii. the *non-residential gross floor area* shall be at least 2,322 m²;
 - iii. a non-residential unit or portion of a non-residential unit located above *grade* shall have a maximum *non-residential gross floor area* of 350 m².
 - iv. the combined *residential gross floor area* and *non-residential*

- gross floor area shall not exceed 30,142 m²; and
 - v. the combined *residential gross floor area* and *non-residential gross floor area* of Building A as defined on Map 2 forming part of this By-law shall not exceed 9,577 m².
 - f. The maximum *tower floor plate* for any building on the *lot* is 755 m².
 - g. Minimum building setbacks from the property line and minimum separation distances between buildings within the *lot* shall be in accordance with the dimensions shown on Map 2 forming part of this By-law.
- 5. Notwithstanding the provisions of Section 4(12) of By-law No. 438-86, as amended, the residential amenity space requirements for the *lot* are as follows:
 - a. a minimum of 2.0 m² per dwelling unit of indoor *amenity space* shall be provided on the *lot*;
 - b. a minimum of 2.0 m² per dwelling unit of outdoor *amenity space* shall be provided on the *lot*;
 - c. an outdoor *amenity space* shall be provided in a location adjoining or directly accessible from an indoor *amenity space*;
 - d. Building A, as delineated on Map 2 forming part of this By-law, shall include a minimum of 152 m² of indoor *amenity space* on the ground floor and shall include a kitchen and washroom;
 - e. a minimum of 138 m² of outdoor *amenity space* shall be located adjacent to the indoor amenity space in Building A;
 - f. Building B, as delineated on Map 2 forming part of this By-law, shall include indoor *amenity space* on the sixth floor of both Tower 1 and Tower 2 with a combined area of 444 m². Both indoor *amenity spaces* on the sixth floor of Tower 1 and Tower 2 shall each include a kitchen and washroom;
 - g. Building B, as delineated on Map 2 forming part of this By-law, shall include outdoor *amenity space* on the sixth floor that is adjacent to, and directly accessible from, the indoor *amenity spaces* on the sixth floor of both Tower 1 and Tower 2; and
 - h. the indoor *amenity spaces* on the ground floor of Building B in both Tower 1 and Tower 2, as delineated on Map 2 forming part of this By-law, do not require a kitchen or washroom.

6. Notwithstanding the provisions of Section 4(4), 4(7), 4(9), 4(10)(d), 4(13), 4(16), 8(3) Part XI 2(i)(iii) of By-law No. 438-86, as amended, the parking, loading and bicycle parking requirements for the *lot* are as follows:

- a. Minimum parking space requirements shall also be consistent with the following ratios:
 - i. 0.5 spaces for every bachelor and one-bedroom *dwelling unit* for residential occupants;
 - ii. 0.8 spaces for every two-bedroom *dwelling unit* for residential occupants;
 - iii. 1.0 spaces for every three-bedroom *dwelling unit* for residential occupants;
 - iv. 0.1 spaces for all *dwelling units* for residential visitors, in addition to the parking requirement for residential occupants;
 - v. 0.35 spaces per 100 m² of non-residential uses;
 - vi. The minimum parking space requirements for residential visitors and non-residential uses can be shared between the two uses for up to a maximum of six spaces;
 - vii. A minimum of 8 parking spaces as required in a. i, ii and iii above shall be provided and maintained for the use of the 21 rental housing *dwelling units* in a secure location underground for residents of the buildings, and that is physically separated from any non-residential parking spaces; and
 - viii. 1 *car-share parking space* may replace 4 parking spaces otherwise required for residential occupants, up to a maximum of 6 *car-share parking spaces*, provided that none of the parking spaces for the rental housing *dwelling units* as required by section 6.a.vii. of this By-law.
- b. A *motor vehicle driveway* that provides direct access from the *lot* to Niagara Street shall have a *minimum width* of 3.84 metres, not including a sidewalk, and shall not permit motor vehicle ingress from Niagara Street to the *lot*.
- c. A minimum of one *loading space – type G* shall be provided and maintained on the *lot*.
- d. A minimum of 255 *bicycle parking spaces* shall be provided and maintained on the *lot*, of which a minimum of 224 shall be provided as

bicycle parking spaces – occupant and a minimum of 31 shall be provided as *bicycle parking spaces – visitor*. A minimum of 15 of the 224 *bicycle parking spaces – occupant* shall be provided and maintained for the use of the 21 rental housing *dwelling units*.

- e. Commercial uses located on the ground floor in Building A as delineated on Map 2 forming part of this Bylaw are exempt from the provisions of Section 8(3) Part XI 2(i) and (iii) of By-law No. 438-86, as amended.
7. Notwithstanding the definitions provided in Section 2 of By-law No. 438-86, as amended, the following definitions will apply to the *lot* unless indicated otherwise in this By-law. Where italicized terms referred to in this By-law are not defined in this By-law, the definitions provided in Section 2 of Bylaw No. 438-86, as amended, will apply.
- a. *Affordable* means rental housing where the total monthly shelter cost (gross monthly rent including utilities – heat, hydro and hot water – but excluding parking and cable television charges) is at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation.
 - b. *Amenity space* means a common area or areas within the *lot* which are provided for recreational or social purposes, and may be shared between all uses on the lot.
 - c. *Bicycle parking space – occupant* means an area that is equipped with a bicycle rack, locker or stacker for both residential and commercial occupants for the purpose of providing parking and securing of bicycles, and
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.80 metres and a vertical dimension of at least 1.2 metres;
 - ii. Where the bicycles are to be parked in a vertical position, has a horizontal dimensions of at least 0.60 metres by 1.20 metres and a vertical dimension of at least 1.90 metres.
 - d. *Bicycle parking space – visitor* means an area that is equipped with a bicycle rack, locker or stacker for both residential and commercial visitors for the purpose of providing parking and securing of bicycles, and
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.80 metres and a vertical dimension of at least 1.20 metres;
 - ii. Where the bicycles are to be parked in a vertical position, has a horizontal dimensions of at least 0.60 metres by 1.20 metres and a vertical dimension of at least 1.90 metres.

- e. *Car-share* means the practice where a number of people share the use of one or more automobiles that are owned by a profit or non-profit car-sharing car 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.
- f. *Car-share parking space* means a parking space that is reserved and actively used for *car share*.
- g. *Custom workshop* means a portion of a building where there is carried on non-offensive individual custom production of drapes and slip covers, venetian blinds, handmade leather goods, millinery, weaving, gold and silver engraving or an upholsterer's shop and other non-offensive custom production of articles or things but does not include factory production or a shop or factory otherwise classified in By-law 438-86, as amended.
- h. *Grade* means the Canadian Geodetic elevation of 84.12 metres.
- i. *Height* means the vertical distance between *grade* and the highest point of the roof except for the excluded elements prescribed in this By-law;
- j. *Interior bedroom* means a bedroom where none of the walls of the room include a balcony door or comprise an exterior building wall with a window.
- k. *Live-work unit* is defined as a *dwelling unit* that also may be used for work purposes where the resident or residents of such accommodation and up to a maximum of 2 employees, at any one given time, work in the dwelling unit, provided the work component is restricted to the following uses or classifications: office, studio, *designer's studio*, *artist's or photographer's studio*, *custom workshop* (see definition in this By-law), *personal grooming establishment*, *tailoring shop* (see definition in this By-law), and *software design and development establishment*.
- l. *Lot* means those lands outlined in heavy lines on Map 1 that forms part of this By-law.
- m. *Mid-range* means rental housing where the total monthly shelter cost (gross monthly rent including utilities – heat, hydro and hot water – but excluding parking and cable television charges) exceeds *affordable* rents but fall below one and one-half times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by Canada Mortgage and Housing Corporation.

- n. *Tailoring shop* means a portion of a building where the business of individual custom tailoring or non-offensive clothing manufacturing is carried on.
 - o. *Tower floor plate* means the total built area of each floor that is above the fifth floor within a building of at least 12 storeys, measured from the exterior of the main walls at each floor, but excluding balconies.
8. Except otherwise noted herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
 9. None of the provisions of By-law No. 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the lot for a temporary condominium sales showroom.
 10. Notwithstanding any existing or future severances, 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.
 11. 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.

12. SECTION 37 OF THE PLANNING ACT

- a. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *lot* is permitted in return for the Owner's election to provide, at the Owner's expense, the facilities, services and matters set out in Schedule "A" hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form satisfactory to the City Solicitor and registered on title to the *lot*.
- b. 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.
- c. The Owner shall not use, or permit the use of, a building or structure

erected with an increase in height and density pursuant to this By-law
unless all provisions of Schedule "A" are satisfied.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

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 *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the Owner agrees as follows:

1. The Owner will provide and maintain 21 rental housing *dwelling units* on the *lot* in accordance with the following:
 - a. No above grade building permit for Building B nor any building permit for Building A, as delineated on Map 2 forming part of this By-law, shall be issued that does not provide for the construction of the rental housing units in accordance with the following provisions of this By-law and the Section 37 Agreement.
 - b. All of the rental housing units located in Building A or Building B, as delineated on Map 2 forming part of this By-law, shall be completed, and made ready and available for occupancy, no later than the date that 90% of the other residential dwelling units in the same building are ready and available for occupancy.
 - c. The 21 rental housing *dwelling units* will generally be provided in accordance with the rental housing floor plans prepared by Bernard Watt Architect comprising Ground Floor (Drawing No. A-03) dated May 26, 2014, Second Floor (Drawing No. A-06) dated May 15, 2014, and Third Floor (Drawing No. A-07) dated May 15, 2014. Any changes shall be to the satisfaction of the Chief Planner of City Planning.
 - d. The 21 rental housing *dwelling units* shall all permit *live-work units* as defined in this By-law.
 - e. The 21 rental housing *dwelling units* shall comprise a mix of one-bedroom, two-bedroom and three-bedroom dwelling units, of which, there shall be no more than 11 one-bedroom *dwelling units*, at least 8 two-bedroom *dwelling units*, and at least 2 three-bedroom *dwelling units*. Move (h) here.
 - f. A minimum of 4 of the 21 rental housing *dwelling units* shall be in the form of two-storey units located on the ground floor and second floor of Building B as delineated on Map 2 forming part of this By-law.
 - g. The 21 rental housing *dwelling units* shall comprise 13 *affordable* units and 8 *mid-range* units.

- h. The 13 *affordable* rental housing *dwelling units* shall comprise at least 1 three-bedroom unit, 5 two-bedroom units and no more than 7 one-bedroom units. At least 2 of the two-bedroom *affordable* rental housing *dwelling units* shall be two-storey units located on the ground floor and second floor of Building B as delineated on Map 2 forming part of this By-law.
- i. No more than 3 units may have *interior bedrooms*, and no single unit shall have more than 1 *interior bedroom*.
- j. The combined floor areas of all of the 21 rental housing *dwelling units* shall comprise at least 1,588 square metres and minimum floor areas shall be as follows:
 - i. 1 bedroom apartments shall be at least 48.0 square metres, with 3 being at least 54.5 square metres and 5 being at least 59.5 square metres.
 - ii. 2 bedroom units shall be at least 66.5 square metres, with 2 being at least 71.5 square metres, 1 being at least 86.0 square metres, 1 being a two-storey unit of at least 111.0 square metres, and 2 being two-storey units of at least 127.0 square metres.
 - iii. 3-bedroom units shall be at least 102.0 square metres, with one being a two-storey unit of at least 127.0 square metres.
- k. At least 1 of the two-storey townhouse-style units located on the ground floor and second floor of Building B as delineated on Map 2 forming part of this By-law shall have a patio.
- l. At least 10 of the rental housing *dwelling units* shall have balconies.
- m. At least 14 storage lockers shall be reserved for the 21 rental housing *dwelling units*.
- n. At least 8 automobile parking spaces and 15 bicycle parking spaces shall be reserved for the use of the rental housing *dwelling units*.
- o. Access to the common facilities and residential indoor and outdoor amenity spaces on the *lot* will be provided for the use and enjoyment of the residents of the rental housing *dwelling units*.
- p. The 21 rental housing *dwelling units* shall be maintained as rental housing units for at least 20 years, beginning with the date each unit is occupied and even after that 20 year period has expired, the rental housing units shall be maintained unless the owner obtains approval for a zoning by-law

amendment removing the requirement for the rental housing *dwelling units* to be maintained as rental units. No application may be submitted for condominium registration of the 21 rental housing *dwelling units*, or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period.

- q. The owner shall provide and maintain affordable rents charged to the tenants who rent each of the 13 designated *affordable* rental *dwelling units* during the first 15 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, and, upon turn-over, 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 15 year period, annual increases shall not exceed the Provincial rent guideline and, if applicable, permitted above-guideline increases.
 - r. The owner shall provide and maintain rents no greater than *mid-range* rents charged to the tenants who rent each of the designated 8 rental *dwelling units* with *mid-range* rents during the first 15 years of its occupancy, with *mid-range* rents on the same basis as 1.q, except that the maximum *mid-range* rent shall not exceed an amount that is 1.5 times average market rent by unit type.
 - s. Rents charged to tenants occupying a rental housing *dwelling unit* at the end of the 15-year period set forth in 1.q and 1.r, will be subject to a phase-in period of at least three years for rent increases to unrestricted rents, provided that the three-year phase-in will not commence for any such tenant until they have reached the tenth anniversary of their tenancy.
 - t. Rents charged to tenants newly occupying a rental housing *dwelling unit* after the completion of the 15-year period set forth in 1.q and r, will not be subject to the *affordable* and *mid-range* rental housing provisions contained in this By-law and the associated Section 37 Agreement.
 - u. Priority to rent one of the 21 new rental housing *dwelling units* will be provided to tenants of the existing buildings on the *lot*, on the basis of seniority of tenure.
2. Prior to the issuance of the first above grade building permit, the owner shall provide to the satisfaction of the Chief Planner and Executive Director, City Planning Division, a bank draft or certified cheque made payable to the Treasurer, City of Toronto, in the amount of \$150,000.00 with such amount to be 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 of payment, for capital improvements to existing rental housing units provided by Toronto Community Housing Corporation in Ward 19.

3. Prior to the issuance of the first above grade building permit, the owner shall provide to the satisfaction of the Chief Planner and Executive Director, City Planning Division, a bank draft or certified cheque made payable to the Treasurer, City of Toronto, in the amount of \$100,000.00 with such amount to be 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 of payment, for the purpose of improving existing parks in Ward 19.

The facilities, services and matters set out below are required to be in an agreement or agreements under Section 37(3) of the *Planning Act* as a legal convenience to support development whereby the Owner agrees as follows:

4. Prior to issuance of the first above grade building permit, the Owner is required to coordinate and implement noise mitigation measures on the existing abattoir facility at 2 Tecumseth Street in accordance with the noise mitigation recommendations of a report entitled Addendum to GME's Environmental Noise & Vibration Feasibility Study prepared by Gradient Microclimate Engineering Inc. dated April 7, 2014, and a peer review report entitled Environmental Noise and Vibration Study Peer Review prepared by Aeroustics Engineering Limited dated April 15, 2014. The required noise mitigation measures may be revised if a qualified acoustical consultant conducts further testing and analysis of noise generated by the abattoir operations at 2 Tecumseth Street and provides alternative noise mitigation recommendations that are verified through a peer review process coordinated by the City at the Owner's expense.
5. Prior to occupancy of Building A and Building B as delineated on Map 2 of this By-law and no later than condominium registration, the Owner is required to implement noise mitigation measures, including non-operable windows on the west face of the second floor of Building A and on the west face of the first, second and third floors of Tower 1 of Building B, as per the noise mitigation recommendations of a report entitled Addendum to GME's Environmental Noise & Vibration Feasibility Study prepared by Gradient Microclimate Engineering Inc. dated April 7, 2014, and a peer review report entitled Environmental Noise and Vibration Study Peer Review prepared by Aeroustics Engineering Limited dated April 15, 2014. The required noise mitigation measures may be revised if a qualified acoustical consultant conducts further testing and analysis of noise generated by the abattoir operations at 2 Tecumseth Street and provides alternative noise mitigation recommendations that are verified through a peer review process coordinated by the City at the Owner's expense.
6. Prior to occupancy of any building on the *lot* and no later than condominium registration, the Owner is required to implement odour mitigation measures in accordance with the odour mitigation recommendations included in the

Assessment of Potential Odour Impacts from a Nearby Abattoir on Proposed Development at 89-109 Niagara Street, Toronto prepared by Zorix Environmental, dated December 2012 and in accordance with the odour mitigation recommendations included in the peer review report entitled Peer Review of Assessment of Potential Odour Impacts prepared by Ortech Environmental dated November 26, 2013.

7. The Owner is required to include the following warning clauses and restrictive covenants in all residential purchase and sale agreements regarding the potential for adverse noise, vibration, and odour impacts.

In order to control noise from adjacent roadway, railway, and an industrial facility, dwelling units in this building have been supplied with central air conditioning which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Toronto's and the Ministry of the Environment's noise criteria.

Purchasers/tenants are advised that despite the inclusion of noise control features in the development, outdoor sound levels due to increasing road and rail traffic may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the City's and the Ministry of the Environment's noise criteria."

Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 meters from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuation measures in the design of the development and individual dwelling(s). CNR or its assigns or successors in interest will not be reasonable for any complains or claims arising from use or such facilities and/or operations on, over or under the aforesaid rights-of-way.

In order to control odour from the industrial facility at 2 Tecumseth Street, dwelling units in this building have been supplied with central air conditioning which will allow windows and exterior doors to remain closed.

Purchasers/tenants are advised that despite the inclusion of odour control features in the development, offensive odour from the industrial facility at 2 Tecumseth Street may be occasionally experienced.

The Transferee covenants with the Transferor that the above clauses, verbatim, shall be included in all subsequent Agreements of Purchase and Sale and deeds conveying the lands described herein, which shall run with the said lands and is for the benefit of the subsequent owners of the said lands and the owner of the adjacent road.

8. All noise and odour mitigation requirements and warning clauses as referenced in items 4, 5, and 6 of Schedule "A" forming part of this bylaw that are required to address adverse impacts from the existing abattoir at 2 Tecumseth Street shall not be required if it is confirmed to the satisfaction of the Chief Planner of City Planning that the abattoir is permanently ceasing operations and will not be replaced by another *offensive* industrial use.
9. Prior to occupancy of any building on the *lot* and no later than condominium registration, the Owner is required to provide thirty (30) bicycle parking spaces on the south side of the Niagara Street right-of-way in front of the *lot*.
10. Prior to the issuance of the first below grade building permit for Building B, the Owner shall enter into an agreement with a *car-share* service provider, if *car-share parking spaces* replace parking spaces otherwise required for residential occupants.
11. A minimum of 30% of all the *dwelling units* on the *lot* shall be 2-bedroom units.
12. A minimum of 10% of all the *dwelling units* on the *lot* shall be 3-bedroom units.
13. Prior to the issuance of the first building permit for the proposed development, the owner shall submit a Construction Management Plan including, but not limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.
14. A Conservation Plan, prepared by a qualified heritage consultant, that is consistent with the conservation strategy set out in the Heritage Impact Statement for the properties located at 81-91 Niagara Street, 93-97 Niagara Street, 100-107 Niagara Street and 109 Niagara Street dated February 2012 and revised March 2014, prepared by Bernard H. Watt Architect, all to the satisfaction of the Manager, Heritage Preservation Services.
15. 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, to be provided to the City prior to the issuance of any permit for the properties at 81-91 Niagara Street, 93-97 Niagara Street, 100-107 Niagara Street and 109 Niagara Street, including a heritage permit or a building permit, but excluding permits for repairs and maintenance of the existing heritage buildings.

