

Authority: MM27.64, by Councillor Justin J. Di Ciano, seconded by Councillor Mark Grimes, as adopted by City of Toronto Council on March 28, 29 and 30, 2017 and Etobicoke York Community Council Item EY20.4, adopted as amended, by City of Toronto Council on March 9, 2017

CITY OF TORONTO

Bill 328

BY-LAW 2017

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2016 as 2 Gibbs Road.

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; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held one public meeting in accordance with *the Planning Act*; and

Whereas authority is given to Council by Section 34 and Section 36 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law; and

Whereas the Official Plan for the City of Toronto contains 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 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 569-2013 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; and

Whereas pursuant to Section 39 of the *Planning Act*, the council of a Municipality may, in a by-law passed under section 34 of the *Planning Act*, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.

The words highlighted in bold type in this by-law have the meaning provided in Zoning By-law 569-2013 Chapter 800 – Definitions. For the purposes of this By-law, the following definition will apply:

“Floor plate area” means the gross horizontal floor area of a single floor measured from all the exterior walls of a building or structure.

2. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines and designated with CR(H) as shown on Diagram 2 attached to this by-law to CR(H) 4.0 (c0.3; r3.8) SS3 (x104); and
3. Zoning By-law 569-2013, as amended, is further amended by amending Article 900.11.10 Exception Number 104 so that it reads:

(900) Exception CR 104

The lands that are both delineated by heavy lines and identified with the "(H)" on Diagram 2 of By-law [clerks to insert] are restricted in use as specified by section 4 of By-law [clerks to insert]:

Site Specific Provisions:

- (A) On 2 Gibbs Road, if the requirements of Section 5 and Schedule A of by-law [clerks to insert] are met, none of the provisions of 30.5.40.10(4), 40.10.40.1(1), 40.10.40.1(3), 40.10.40.10(3), 40.10.40.60.1(B), 40.10.40.60(9), 40.10.40.70.3(D), 40.10.40.80.2(A), 40.10.50.10 (2), 40.10.90.10(1), 40.10.100.10.1 (C), Table 200.5.10.1, 220.5.10.1(1) through (5) apply to prevent the erection or use of a **building** or **structure**, addition or enlargement if in compliance with (B) to (S) below;
- (B) The height of a **building** or **structure** is measured as the vertical distance between Canadian Geodetic Datum elevation of 134.2 metres, and the highest point of the **building** or **structure**;
- (C) Despite (B) above, No portion of any **building** or **structure**, excluding parapets, guard rails, railings and dividers, roof top stair enclosures, trellises, eaves, screens, stairs, roof drainage, window washing equipment, lightning rods, architectural features, mechanical penthouse, elevated pedestrian bridge, **landscaping** and elements of a **green roof** is to have a height greater than the height in metres specified by the number following the HT symbol as shown on Diagram 3 of By-law [clerks to insert];
- (D) Any equipment or **structures** used for the functional operation of the **building**, including mechanical penthouse, is permitted to exceed the heights permitted in (C) by 7.0 metres;

- (E) The maximum permitted **gross floor area** of all **buildings** and **structures** is 105,600 square metres;
- i. the **gross floor area** of **buildings** or **structures** occupied by residential uses must not exceed 100,000 square metres, excluding the area occupied by unenclosed balconies and enclosed pedestrian walkways; and
 - ii. the **gross floor area** of **buildings** and **structures** occupied by non-residential uses must not exceed 7,500 square metres.
- (F) A minimum of 10 percent of the total **dwelling units** on site must be three bedroom **dwelling units**;
- (G) Any storey of a **building** above a height of 30 metres must not have a **gross floor area** exceeding 750 square metres;
- (H) The portions of a **building** or **structure** above ground must be located within the areas delineated by heavy lines on Diagram 3 of By-law [clerks to insert], except that:
- i. cornices, light fixtures, ornamental elements, parapets, art and **landscaping** features, patios, decks, pillars, trellises, balconies, terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, roof top stair enclosures, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, elevated pedestrian bridge, awnings and canopies, and underground garage ramps and associated **structures** may extend beyond the heavy lines shown on Diagram 3 of By-law [clerks to insert] , provided that in no case will **building** elements extend closer than 14 m to the Highway 427 right-of-way.
- (I) Any portion of a **building** above a height of 30 metres must be separated by a minimum distance of 25 metres from all other portions of **buildings** which are above a height of 30 metres;
- (J) A **building** or **structure** must be set back at least 5.5 metres from a **lot line** abutting Gibbs Road;
- (K) Any **buildings** subject to a Stepback Area, as indicated on Diagram 4 of By-law [clerks to insert], require a stepback be provided as follows:
- i. In Stepback Area 1, at a height of 10 metres, the **main wall** of a **building** must be set back at a minimum distance of 1.5 metres from the interior face of the **main wall** below;
 - ii. In Stepback Area 2, at a height of 10 metres, the **main wall** of a **building** must be set back at a minimum distance of 2 metres from the interior face of the **main wall** below;
 - iii. In Stepback Area 3, at a height of 10 metres, the **main wall** of a **building** must be set back at a minimum distance of 3 metres from the interior face of the **main wall** below; and

- iv. In Stepback Area 4, at a height of 26 metres, the **main wall** of a **building** must be set back at a minimum distance of 2 metres from the interior face of the **main wall** below.
- (L) No portion of a **building**, excluding those features listed in (C) above, may penetrate a 45-degree **angular plane** projected over the **lot** from the eastern side **lot line**, commencing at an elevation of 48 metres above Canadian Geodetic Datum elevation of 134.2 metres as calculated using the method identified in Diagram 5 of By-law [clerks to insert];
- (M) A **Temporary Sales Office** is permitted for a period of 5 years from the date of the enactment of By-law [clerks to insert];
- (N) **Parking spaces** must be provided and maintained at the following rates:
 - i. 0.8 **parking spaces** for each bachelor **dwelling unit**;
 - ii. 0.9 **parking spaces** for each one-bedroom **dwelling unit**;
 - iii. 1.0 **parking spaces** for each two-bedroom **dwelling unit**;
 - iv. 1.2 **parking spaces** for each three-bedroom **dwelling unit**; and
 - v. 0.15 **parking spaces** for each **dwelling unit** for the purpose of visitor parking.
- (O) **Parking spaces** required for the purpose of residential visitor parking must be provided at an occupancy rate of 100 percent at all times;
- (P) For **parking spaces** adjacent to interior **building** walls, the minimum width must be 2.9 metres, the minimum length must be 5.6 metres, and the minimum vertical clearance must be 2.0 metres.
- (Q) For **parking spaces** not adjacent to interior **building** walls, the minimum width must be 2.6 metres, the minimum length must be 5.6 metres and minimum vertical clearance must be 2.0 metres.
- (R) A minimum of seven **loading spaces** must be provided as follows:
 - i. A minimum of 3 Type G **loading spaces**;
 - ii. A minimum of 2 Type B **loading spaces**; and
 - iii. A minimum of 2 Type C **loading spaces**.
- (S) The lands identified with the "(H)" and delineated by heavy lines on Diagram 2 of By-law [clerks to insert] are restricted in use as specified by section 4 of By-law [clerks to insert].

Prevailing By-laws and Prevailing Section: (None Apply)

4. Holding Provisions

- (A) The lands that are both delineated by heavy lines and zoned with the "(H)" symbol on Diagram 2 attached to and forming part of this By-law shall not be

used for any purpose other than those uses and buildings as existing on the site as of [date of by-law passing] until the "(H)" symbol has been removed. An amending by-law to remove the "(H)" symbol shall be enacted by City Council when the following conditions have been fulfilled to the satisfaction of the City Solicitor; the Director, Community Planning, Etobicoke York District and the Executive Director, Engineering and Construction Services, and Council.

- i. The execution and registration of a development agreement between the Owner of the Lands and the City, securing the financing and construction of any improvements that may be required to the City's sanitary sewer, storm sewer and water supply systems to accommodate the proposed development; and
- ii. The receipt of all necessary approvals for the infrastructure required, as described in (i) above.

5. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
- (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.

Prevailing By-Laws and Prevailing Sections (None Apply)

Enacted and passed on March , 2017.

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 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 Diagram 2 and Diagram 3 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:

- (1) The height and density of development permitted by this By-law is subject to the owner of the land, at its expense, providing the following capital facilities and/or cash contributions toward specific capital facilities pursuant to Section 37 of the *Planning Act* as follows:
 - (A) Prior to issuance of an above grade building permit (other than building permit for a temporary sales office for construction) for development of the 31-storey tower in Phase 1, the owner shall submit an indexed cash contribution in the amount of \$1,000,000 to be directed in consultation with the Ward Councillor toward the future YMCA/Community Centre facility or the Westwood Park to be located on the Westwood Theatre Lands, or local park improvements.
 - (B) Prior to the issuance of an above grade building permit for development of the 37 storey tower in Phase 2, the owner shall submit an indexed cash contribution in the amount of \$2,000,000 to be directed in consultation with the Ward Councillor toward the future YMCA/Community Centre facility or the Westwood Park to be located on the Westwood Theatre Lands.
 - (C) Prior to the issuance of an above grade building permit for development of the 43-storey tower in Phase 3, the owner shall submit an indexed cash contribution in the amount of \$1,000,000 to be directed in consultation with the Ward Councillor toward the East Mall Park, other local parks and/or Public Art in the vicinity of the development.
- (2) The cash contributions identified in '1(A), 1(B), and 1(C)' above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto from the date of execution of the Section 37 Agreement to the date of payment, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (3) In the event the cash contributions referred to in '1(A), 1(B), and 1(C)' above have not been used for the intended purposes within three (3) years of the By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
- (4) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support the development:

- (A) 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.
- (B) The owner shall provide, at its own expense, a minimum area of 1,400 meters squared of privately-owned publicly-accessible space (POPS #1) as a central garden and a minimum area of 600 metres squared of privately-owned publicly-accessible space (POPS #2) as a playground area with public access easements to and over the POPS for members of the public. The public access easements are to be conveyed to the City for nominal consideration and are to be free and clear of all physical and title encumbrances. The owner shall own, operate, maintain and repair the POPS. The owner shall install and maintain a centralized sign, as its own expense, stating that members of the public shall be entitled to use the POPS from 6:00 a.m. to 12:01 a.m. 365 days a year.
- (C) The owner shall obtain a permit(s) from the Ministry of Transportation prior to any construction and for all signs visible to Highway 427. MTO permits can only be applied for once the Site Plan Control Application is approved.
- (D) Through the Site Plan approval process, the owner shall submit a revised Transportation Impact Study to the satisfaction of the Ministry of Transportation.
- (E) Through the Site Plan approval process, the owner shall implement the wind control measures identified in the Wind Mitigation Recommendation Letter dated November 4, 2016 and in the updated Pedestrian Level Wind Study dated December 2, 2016 from Gradient Wind Engineering Inc. to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (F) Through the Site Plan approval process, the owner shall implement the noise control measures and recommendations identified in the Noise Impact Study dated December 22, 2015 and the Addendum Noise Impact Study letter dated September 2, 2016 by J.E. Coulter Associates Limited to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (G) The owner shall notify NAV Canada a minimum of 10 days prior to the start of construction.
- (H) The owner shall satisfy the requirements of the Toronto District School Board regarding warning clauses and signage with respect to school accommodation issues.
- (I) The proponent be required to undertake the following, to the satisfaction of the General Manager of Transportation Services, at no cost to the City:
 - (a) Prior to Site Plan Control Approval, submit for review and approval, all necessary drawings and documentation associated with the proposed traffic control signal at Gibbs Road and The East Mall in accordance with

the Transportation Services Directive for Development Related Traffic Signal Installations;

- (b) Prior to the issuance of any above grade Building Permit, pay for all costs associated with installation of the proposed traffic control signal at Gibbs Road and The East Mall, as per the approved drawings and documentation required under Condition 4(I)(a) above;
- (c) Prior to Site Plan Control Approval, submit for review and approval, a full-size pavement marking and signing plan (in metric units) for the proposed changes along Gibbs Road, west of The East Mall;
- (d) Prior to the issuance of any above grade Building Permit, pay for all costs associated with implementing the proposed modifications to Gibbs Road, west of The East Mall, as per the approved pavement marking and signing plan required under Condition 4 (I)(c) above;
- (e) Prior to the issuance of any above grade Building Permit, pay for all costs associated with increasing the traffic signal cycle length at Valhalla Inn Road and The East Mall to 110 and 105 seconds during the AM and PM Peak Periods, respectively;
- (f) Prior to the issuance of any above grade Building Permit, pay for all costs associated with implementing a southbound left-turn advance phase, and increasing the eastbound left-turn advance phase during the AM Peak Period at Bloor Street West and The East Mall intersection;
- (g) Prior to the issuance of any above grade Building Permit, pay for all costs associated with extending the east-west signal through phase during the PM Peak Period at the Bloor Street West and The East Mall;
- (h) Prior to the issuance of any above grade Building Permit, pay for all costs associated with increasing the northbound advance left-turn phase during the PM Peak Period at Burnhamthorpe Road and The East Mall intersection;
- (i) Prior to Site Plan Control Approval, the owner shall provide the City with a certified cheque in the amount of \$140,000 to be used to implement signal priority for Toronto Transit Commission (TTC) buses at existing signalized intersections and at the proposed signalized intersection of The East Mall and Gibbs Road to the satisfaction of the Chief Executive Officer of the Toronto Transit Commission and the Executive Director, Engineering and Construction Services;
- (j) Prior to Site Plan Control Approval and at no cost to the City or the TTC, the owner shall design and pay for the relocation of two existing transit stops and street furniture located north of Gibbs Road opposite 340 The East Mall to new locations in The East Mall and Gibbs Roads intersection

to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services and the Chief Executive Officer of the Toronto Transit Commission; and

- (k) Prior to Site Plan Control Approval and at no cost to the City or the TTC, the owner shall design and pay for two new transit shelters adjacent to the two relocated transit stops in The East Mall and Gibbs Roads intersection to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager of Transportation Services and the Chief Executive Officer of the Toronto Transit Commission.









