

Authority: Toronto and East York Community Council Item TE26.11, adopted as amended, by City of Toronto Council on October 2, 3 and 4, 2017 and MM35.47, by Councillor Kristyn Wong-Tam, seconded by Councillor Mary-Margaret McMahon

CITY OF TORONTO

Bill 1473

BY-LAW 2017

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2017 as 25 Ontario Street and part of 280 King Street East

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 at least 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*, 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 the height 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/or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height and/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/or 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. This By-law applies to the lands delineated by heavy black lines and identified as 25 Ontario Street and part of 280 King Street East as shown on Map 1 attached to and

forming part of this By-law.

2. None of the provisions of Section 2(1) with respect to the definition of *grade*, and Sections 4(2)(a), 4(5)(b)(c)(d)(e)(f), 4(8), 7(2)6(iii), 7(3) Part I, 7(3) Part II, 7(3) Part IV, 12(2)132, 12(2)246 (a)(b)(c)(d)(f)(g)(h)(i) and 12(2)380 of By-law 438-86 of the former City of Toronto being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection and use of a *non-residential building* on the *lot* provided that:
- (a) the lot comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) except as otherwise provided herein, the provisions of Zoning By-law 438-86, as amended, shall continue to apply to the *lot*;
 - (c) the total *non-residential gross floor area* erected or used on the *lot* shall not exceed 41,610 square metres, of which all of the non-residential gross floor area from the second storey ascending upward through the building to the uppermost storey shall be restricted to office uses and accessory uses thereto;
 - (d) no portion of any building or structure above finished ground level is located otherwise than wholly within the areas delineated by heavy lines shown on Map 2, attached to and forming part of this By-law;
 - (e) no building or structure or portion thereof shall have a greater *height* in metres greater than the *height* in metres specified by the numbers following the letters HT and the number of *storeys* specified by the numbers following the letters ST on the attached Map 2, inclusive of rooftop structures and elements set forth in Section 4(2)(a) of By-law 438-86, as amended, provided this does not prevent:
 - i. structures used for window washing equipment, to a maximum vertical projection of 6.5 metres above the *height* limits shown on Map 2; and
 - ii. elevator overruns, chimney stacks, vents and air intakes, communications equipment, lightning rods, parapets, green roof elements, railings, and screens to a maximum vertical projection of 3.0 metres above the *height* limits shown on Map 2;
 - (f) nothing in subsection (d) above shall apply to prevent the following elements from projecting horizontally beyond the heavy lines as shown on Map 2 of this By-law: eaves, cornices, window sills, window mullions, wheelchair ramps, light fixtures, railings, awnings, canopies, raised planters, fences, vents, green roof elements, screens, underground garage ramp and associated structures;
 - (g) for the purposes of determining the number of *storeys* of the building permitted by subsection (e) above, the following will not be considered a *storey*:

- i. one mezzanine floor level which is located above the first floor level above-ground, not exceeding 1,000 square metres in floor area, and limited in use to *accessory* uses such as storage, mechanical, electrical, and other areas dedicated to the functional operation of the building; and,
 - ii. a maximum of two mechanical penthouse floor levels, which are to be the uppermost floor levels of the building, and are to be restricted in use to mechanical, electrical, heating, cooling and other areas dedicated to the functional operation of the building, with the exception that the lower of the two mechanical penthouse levels may have a maximum of 580 square metres of floor area comprising indoor amenity space, defined as space that is communal and available for the use of the occupants of the building for recreational or social activities and may include collaborative, venue and meeting spaces dedicated to the office uses;
- (h) parking spaces shall be provided on the lot in accordance with 12(2) 246(e), with the exception that a maximum of 3 *parking spaces* may be designated for the exclusive use of couriers and deliveries;
- (i) despite 4(17), a maximum of 4 *parking spaces* may be obstructed on one side and have a minimum width of 2.60 metres;
- (j) despite 4(17), a maximum of 4 *parking spaces* may have a minimum length of 5.35 metres;
- (k) despite 7(1)(f)(a)(vii), a *commercial parking garage* is permitted on the *lot*, the *parking spaces* required by subsection (h) above may be provided in a *commercial parking garage*, and the floor area of any *commercial parking garage* is excluded from the calculation of *non-residential gross floor area*;
- (l) despite 4(13), a minimum of 90 *bicycle parking spaces - visitor* and 83 *bicycle parking spaces – occupant* shall be provided and maintained on the *lot*;
- (m) despite 4(13), *bicycle parking spaces* may be provided in *bicycle parking stackers*;
- (n) despite the definition of *shower - change facility*, the *shower - change facility* provided for each gender in accordance with Section 4(13) shall not be required to provide lockers;
- (o) A minimum of 4 loading spaces shall be provided and maintained on the *lot*, in accordance with the following minimum requirements:
 - i. a minimum of two *loading space – Type "B"* shall be provided and maintained on the *lot*;
 - ii. a minimum of two *loading space – Type "C"* shall be provided and

maintained on the *lot*;

3. Despite any existing or future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply as if no severance, partition or division occurred.
4. 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.
5. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and/or density of development on the *lot* contemplated herein beyond the otherwise permitted in By-law 438-86, as amended, is permitted in return for the provision by the *owner*, at the *owner's* expense certain facilities, services and matters set out in Schedule A hereof subject to and in accordance with an agreement pursuant to Section 37(3) of the *Planning Act* that is in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
6. 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.
7. Holding Provision:

The lands zoned with the "(h)" symbol delineated by heavy lines on Map 1 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 December 1, 2017 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 Council:

 - (a) The owner shall submit a revised Functional Servicing Report demonstrating sufficient capacity to accommodate the servicing demand for this development, to the satisfaction of the Executive Director, Engineering and Construction Services.
 - (b) The owner shall submit a revised Hydrogeology Report and enter into a sanitary discharge agreement for discharging to the sanitary sewer in accordance with Toronto Municipal Code 681-6, By-law No. 868-2010, if required, to the satisfaction of the General Manager, Toronto Water.

8. Definitions:

For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in the said By-law 438-86, as amended, except for the following:

- (1) "*grade*" means 82.50 metres Canadian Geodetic Datum;
- (2) "*bicycle stacker*" means a device which provides *bicycle parking spaces* in a horizontal position above or below another *bicycle parking space* and equipped with a mechanism providing floor level access to both *bicycle parking spaces*, with each *bicycle parking space* to have a minimum vertical clearance of 1.2 metres.

Enacted and passed on December , 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 of the proposed development on the *lot* and in accordance with an agreement under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

- (1) Prior to issuance of a permit, the *owner* shall provide community benefits in the form of a cash contribution of one million, three hundred thousand dollars (\$1,300,000.00), and 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 the payment is made towards any combination of the following:
 1. Local streetscape/parkland improvements within the vicinity of the subject site, including but not limited to streetscape improvements on Ontario Street and Adelaide Street East to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
 2. The redevelopment of the site of Canada's First Parliament Buildings, municipally known as 25 Berkeley Street, 44 Parliament Street and 265 and 271 Front Street East, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Ontario Heritage Trust, in consultation with the Ward Councillor; and
 3. The preservation of off-site heritage resources that are designated and/or listed on the City of Toronto Heritage Register, including the implementation of the Heritage Interpretation Master Plan for Old Town Toronto and/or the Heritage Lighting Master Plan for Old Town Toronto, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
- (2) In the event the cash contributions referred to in Section (1) have not been used for the intended purpose within 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, City Planning Division, 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 lot.
- (3) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 1. That prior to Final Site Plan approval in connection with the Zoning By-law Amendment for the property at 25 Ontario Street and a portion of 280 King Street East, the *owner* shall:
 - a. Provide final site plan drawings substantially in accordance with the approved Conservation Plan required in Recommendation 1.a.2 in the

- report dated July 31, 2017 from the Chief Planner and Executive Director, City Planning Division to the satisfaction of the Senior Manager, Heritage Preservation Services;
- b.** Have obtained final approval for the necessary Zoning By-law Amendment required for the subject property, such Amendment to have come into full force and effect;
 - c.** Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - d.** Provide a Heritage Lighting Plan that describes how the exterior of the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services; and
 - e.** Submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
- 2.** That prior to the issuance of any permit for all or any part of the property at 25 Ontario Street or a portion of 280 King Street East, including a heritage permit or a building permit, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage building as are acceptable to the Senior Manager, Heritage Preservation Services, the *owner* shall:
- a.** Have obtained final approval for the necessary Zoning By-law Amendment required for the subject property, such Amendment to have come into full force and effect;
 - b.** Provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Recommendation 1.a.2 in the report July 31, 2017 from Chief Planner and Executive Director, City Planning Division, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - c.** Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan and Interpretation Plan;
- 3.** That prior to the release of the Letter of Credit required in Schedule A Section 3(2)(c), the *owner* shall:

- a.** Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work and the required interpretive work has been completed in accordance with the Conservation Plan and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - b.** Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services;
- 4.** A portion of the east wall abutting the property at 284 King Street East be designed as a blank wall during the site plan approval process to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- 5.** The *owner* of 25 Ontario Street shall withdraw their appeal to Official Plan Amendment 231 by the earlier of site plan approval or 30 days following the Zoning By-laws coming into full force and effect; and
- 6.** The *owner* of 25 Ontario Street shall withdraw their appeal to the St. Lawrence Neighbourhood Heritage Conservation District Plan by the earlier of site plan approval or 30 days following the Zoning By-laws coming into full force and effect.



