

Authority: Toronto and East York Community Council Item TE26.8, adopted as amended, City of Toronto Council on July 14, 15 and 16, 2021; and MM36.43, by Councillor Kristyn Wong-Tam, seconded by Councillor Mike Layton, as adopted by City of Toronto Council on October 1 and 4, 2021

## CITY OF TORONTO

**Bill 787**

**BY-LAW - 2021**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2020 as 1075 Bay 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; 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 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 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 to Section 37 of the Planning Act, the *heights* and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the site of the facilities, services and matters set out in Appendix 1 of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act.

2. Upon execution and registration of an agreement or agreements with the *owner* of the site pursuant to Section 37 of the Planning Act, securing the provision of the facilities, services and matters set out in Appendix 1 of this By-law, the 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, the *owner* may not erect or use such building until the owner has satisfied the said requirement.
3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
4. None of the provisions of Section 2(1) with respect to the definition of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, and *residential gross floor area*, and Sections 4(2)(a), 4(5), 4(8), 4(12), 4(13)(a), (c) and (d), 8(3) Part I(1), (2) and (3), 8(3) Part II, 8(3) Part III, 12(2)132, 12(2)259, 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 *mixed-use building* on the *lot*, provided that:
  - (a) for the purposes of this By-law, the *lot* consists of the lands outlined by heavy lines on Map 1, attached to this By-law;
  - (b) the permitted maximum *gross floor area* on the *lot* is 50,105 square metres, of which:
    - (i) a maximum of 36,220 square metres of *gross floor area* may be used for residential uses;
    - (ii) a minimum of 12,100 square metres of *gross floor area* must be used for office uses; and
    - (iii) *gross floor area* does not include areas in the building used for a *commercial parking garage* below *grade*;
  - (c) the provision of *dwelling units* is subject to the following:
    - (i) a minimum of 25 percent of the total number of *dwelling units* must have two or more bedrooms;
    - (ii) a minimum of 10 percent of the total number of *dwelling units* must have three or more bedrooms; and
    - (iii) any *dwelling units* with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by i. above;
  - (d) the permitted maximum *height* of any building or structure, including any mechanical penthouse containing equipment and structures used for the functional

- operation of the building, is the *height* in metres specified by the number following the HT symbol, as shown on Map 2, attached to this By-law;
- (e) the permitted maximum number of *storeys* in a building is the number of *storeys* following the symbol ST, as shown on Map 2, attached to this By-law;
  - (f) for the purposes of regulation (e) above, the following portions of a building are not a *storey*:
    - (i) a partial mezzanine level located above the first floor and below the second floor of a building, with a maximum *gross floor area* of 400 square metres; and
    - (ii) the mechanical penthouse levels of the building located above "ST 59" as shown on Map 2, attached to this By-law;
  - (g) the following elements of a building may project above the permitted maximum *height* in Map 2, attached to this By-law:
    - (i) lightning rods and window washing equipment may project above the *height* limits;
    - (ii) wind mitigation features may project above the *height* limits by no more than 3 metres;
    - (iii) structures and elements related to outdoor flooring and roofing assembly may project above the *height* limits by no more than 0.5 metres;
    - (iv) safety railings, guard rails, railings, parapets, terraces, cabanas, patios, planters, balustrades, bollards, stairs, ancillary structures, wheelchair ramps, pergolas, trellises, and ornamental or architectural features may project above the *height* limits by no more than 3.8 metres;
    - (v) landscape features, privacy screens, covered stairs or stair enclosures, and fences may project above the *height* limits by no more than 2.5 metres;
    - (vi) elements on the roof of the building or structure used for green roof technology and related roofing material may project above the *height* limits by no more than 2.0 metres; and
    - (vii) elevator overrun, cooling towers, generators and associated screens may project above the *height* limits no more than 5.0 meters.
  - (h) the required minimum building setbacks for a building or structure are shown on Map 2, attached to this by-law;
  - (i) the following may encroach into the required minimum building setbacks on Map 2, attached to this By-law:

- (i) balconies at and above the 13th *storey* may encroach into a building setback by a maximum of 2.4 metres;
- (ii) despite regulation i. above, balconies may encroach into a building setback to a maximum of 0.6 metres along the east face of the building at and above the 13th *storey*, in the area labeled "Juliette Balcony Zone" as shown on Map 2, attached to this By-law;
- (iii) cornices, sills, eaves, balustrades, and architectural trim may encroach into a building setback by a maximum of 0.75 metres;
- (iv) window washing equipment may encroach into a building setback by a maximum of 3.0 metres;
- (v) trellises, canopies, and associated supporting structures may encroach into a building setback by a maximum of 3.0 metres;
- (vi) despite regulation v. above, canopies located below the 2nd *storey* on the west and north side of the building may encroach into a building setback;
- (vii) privacy screens and balcony guards may encroach into a building setback by a maximum of 2.4 metres; and
- (viii) railings around the building's roof may encroach into a building setback to the same extent as the roof below.
  
- (j) within "Area A", as shown on Map 2, attached to this by-law, no portion of the building shall be located between a height of 0.0 to 7.0 metres, as measured from *grade*;
- (k) despite regulation (j) above, structural and architectural elements that support the building, including columns, beams and soffits, may be located within "Area A", as shown on Map 2, attached to this by-law, between a height of 0.0 to 7.0 metres, as measured from *grade*;
- (l) *residential amenity space* must be provided at a minimum rate of 4.0 square metres *dwelling unit*, of which:
  - (i) at least 0.95 square metres per *dwelling unit* is outdoor *residential amenity space*; and
  - (ii) no more than 25 percent of the outdoor component may be a green roof.
- (m) *parking spaces* must be provided and maintained in accordance with the following:
  - (i) a minimum of 0.18 *parking spaces* per *dwelling unit* must be provided for the use of residents of the *mixed use building*;

- (ii) a minimum of 55 *parking spaces* must be provided for residential visitors and non-residential uses in the *mixed use building*, which may be provided in a *commercial parking garage*; and
- (iii) a minimum of 4 *car-share parking spaces* must be provided;
- (n) a maximum of 20 percent of the total *parking spaces* may be obstructed on one or two sides in accordance with Section 4(17)(e) without a requirement to increase the minimum width by 0.3 metres;
- (o) a minimum of one *loading space - type G* and two *loading spaces - type C* must be provided;
- (p) *bicycle parking spaces* must be provided and maintained 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*;
  - (iii) a minimum of 3 plus 0.2 *bicycle parking spaces - visitor* for each 100 square metres of interior floor area used for non-residential uses in the *mixed use building*;
  - (iv) a minimum of 0.2 *bicycle parking spaces - occupant* for each 100 square metres of interior floor area used for non-residential uses in the *mixed use building*;
  - (v) both *bicycle parking spaces - occupant* and *bicycle parking spaces - visitor* may be provided in a *stacked bicycle parking space*;
  - (vi) the minimum dimensions of a *bicycle parking space* if placed in a horizontal position is:
    - A. minimum length of 1.8 metres;
    - B. minimum width of 0.6 metres; and
    - C. minimum vertical clearance from the ground of 1.9 metres, or 1.2 metres for each *bicycle parking space* if a *stacked bicycle parking space* is provided.
  - (vii) the minimum dimensions of a *bicycle parking space* if placed in a vertical position on a wall, structure or mechanical device is:
    - A. minimum length or vertical clearance of 1.9 metres;
    - B. minimum width of 0.6 metres; and
    - C. minimum horizontal clearance from the wall of 1.2 metres.

- (viii) despite regulations (vi) and (vii) above, if a *stacked bicycle parking space* is provided in a mechanical device where any portion of a bicycle is situated above or below any portion of an adjacent bicycle, the minimum required length of each such *stacked bicycle parking space* is 1.7 metres and the minimum required width is 0.4 metres.

5. For the purposes of this By-law:

- (a) "*bicycle parking space – occupant*" means a bicycle parking space for the use of occupants or tenants of a building;
- (b) "*bicycle parking space – visitor*" means a bicycle parking space for use by visitors to a building;
- (c) "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or km driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (d) "*car-share parking space*" means a *parking space* that is reserved and actively used for car-sharing;
- (e) "*grade*" means 112.50 metres Canadian Geodetic Datum;
- (g) "*gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
- (i) parking spaces and loading facilities below *grade*;
  - (ii) required loading facilities at the ground level;
  - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
  - (iv) facilities for bicycle parking, including the area occupied by *bicycle parking spaces* and required shower and change facilities;
  - (v) indoor *residential amenity space*;
  - (vi) elevator shafts, garbage shafts;
  - (vii) mechanical penthouses; and
  - (viii) exit stairwells in the building or structure.

- (h) "*height*" means the vertical distance between grade and the highest point of the building or structure, subject to permitted projections;
  - (i) "*lot*" means those lands outlined by heavy lines on Map 1, attached to this By-law;
  - (j) "*stacked bicycle parking space*" means a *bicycle parking space* 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*;
6. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.
7. 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.

Enacted and passed on October     , 2021.

Frances Nunziata,  
Speaker

John D. Elvidge,  
City Clerk

(Seal of the City)

## APPENDIX 1

### 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:

#### *Community Benefits*

- (1) Prior to the issuance of the first above-grade building permit, the owner shall pay to the City a cash contribution of \$9,000,000 to be allocated as follows:
  - A. \$3,000,000 towards new and/or existing affordable housing within Ward 13, in consultation with the Ward Councillor;
  - B. \$3,000,000 towards local area park or streetscape improvements located within Ward 13 and within the vicinity of the subject lands, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, the General Manager, Parks, Forestry and Recreation, and the General Manager, Transportation Services; and
  - C. \$3,000,000 towards community, cultural, or recreational facilities capital improvements within Ward 13, in consultation with the Ward Councillor.
- (2) The cash contribution outlined in (1) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, and calculated from the date from the date of the Agreement to the date of payment.
- (3) In the event the cash contribution has not been used for the intended purpose within three years of the Zoning By-law Amendments coming into full force and effect, the cash contribution may be directed for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided the purpose is identified in the City's Official Plan and will benefit the community in the vicinity of the lands outlined by heavy lines on Map 1 attached to this By-law.
- (4) At the election of the Chief Planner and Executive Director, City Planning, all or part of the cash contribution referred to in (1)B. above may instead be secured by the owner as a letter of credit satisfactory to the City Treasurer for the provision of streetscape improvements within the vicinity of the subject lands, to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services, in consultation with the Ward Councillor.

#### *Privately-Owned Publicly Accessible Space (POPS) and Pedestrian Walkway*



- (5) The owner will construct and maintain a privately-owned publicly accessible space (POPS) with a minimum area of 265 square metres, and a mid-block connection with a minimum width of 2.5 metres and a minimum vertical clearance of 5.0 metres, in the locations generally identified in Map 3, attached to this by-law, with specific configuration and design of the POPS and the mid-block connection to be determined in the context of Site Plan approval all to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (6) The owner will prepare all documents and convey a public access easement in perpetuity in favour of the City over the POPS and the mid-block connection, including support rights, free and clear of encumbrances, and for nominal consideration, as a condition of Site Plan approval, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

*Toronto Green Standard*

- (7) The owner will construct and maintain the development in accordance with Tier 1 of the Toronto Green Standard, and the owner will be encouraged to achieve Tier 2 of the Toronto Green Standard, where appropriate.

*Falling Snow and Ice*

- (8) The owner will incorporate measures in the detailed design of the building which mitigate the risk of snow and ice falling from the building as part of Site Plan approval, to the satisfaction of the Chief Planner and Executive Director, City Planning.

*Public Art Contribution*

- (9) The owner shall commission public art at a minimum value of \$500,000 to be located near the corner of Bay Street and St. Mary Street on the subject lands, in accordance with the City of Toronto's Percent for Public Art Program.
- (10) At the sole discretion of the Chief Planner and Executive Director, City Planning, the public art contribution in (9) above may be made by way of a cash contribution in the amount of \$500,000 to the City's capital budget for Public Art programs.





