

Authority: Toronto and East York Community Council Item TE24.4, as adopted by City of Toronto Council on May 24, 25 and 26, 2017

CITY OF TORONTO

BY-LAW 788-2017

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 60 Shuter Street, 187 and 189 Church 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 in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the following facilities, services and matters set out in Schedule A hereof, 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 *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Schedule A hereof, the *lot* 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 requirements.

3. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.
4. None of the provisions of Sections 2(1) "grade", "height" and "lot", 4(2)(a), 4(5)(b), 4(8), 8(3) Part I, II, III, XI, 12(2) 380, 12(2)132 and 12(2)260 of By-law 438-86, shall apply to prevent the erection or use of a *mixed-use* building on the *lot* as shown on Map 1 provided that:
 - a. the aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures shall not exceed 25,750 square metres, subject to the following:
 - i. the *residential gross floor area* of buildings shall not exceed 23,750 square metres; and
 - ii. the *non-residential gross floor area* of buildings and structures shall not exceed 2,000 square metres exclusive of the part of the below grade parking garage used for parking of motor vehicles whose users are not occupants or customers of the *mixed-use building*;
 - b. In addition to the uses permitted by Section 8(1) of By-law 438-86 within a CR district, the following additional uses shall be permitted within the site: a *commercial parking garage*;
 - c. The height of any building or structure, or portion thereof including mechanical penthouse, erected above *grade* within the *lot* shall, in respect of the building envelope area, have a maximum height in metres as shown following the symbol H on the attached Map 2, with the exception of the following, limited to a *height* below 85 metres:
 - i. lighting fixtures, cornices, sills, eaves, canopies, window washing equipment, parapets, privacy screens, terraces, patios, planters, balustrades, stairs, awnings, fences and safety railings, trellises, guardrails, vents, flues, stacks and exhaust stacks, retaining walls, wheelchair ramps, ornamental or architectural features, structures and elements related to outdoor patios, roofing assembly, landscape features, and art installations may extend beyond the heavy lines shown on the attached Map 2 by no more than 3 metres;
 - d. No portion of a building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 except that:
 - i. cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, planters, guardrails, balustrades, railings, stairs, stair enclosures, vents, fences, screens, wheel chair ramps, underground garages and their associated structures, landscape and public art features;

- e. Despite 4(c), no part of the building shall be constructed at a *height* between 7.5 metres and 62 metres below the cantilever (floors 24 to 27), in the grey area shown on Map 2, except for those items listed in (d);
- f. The maximum floorplate sizes of the tower measured from the exterior of the building shall be:
 - i. levels 6-10: 1,031 square metres;
 - ii. levels 11-23: 750 square metres; and
 - iii. levels 24-29: 835 square metres.
- g. Notwithstanding the provisions of Section 4(12), *amenity space* is provided and maintained on the *lot* in accordance with the following:
 - i. a minimum of 2 square metres per *dwelling unit* of indoor *residential amenity space* shall be provided;
 - ii. a minimum of 0.76 square metres per *dwelling unit* of outdoor *residential amenity space* shall be provided;
 - iii. the indoor *residential amenity space* may not be adjoining or directly accessible from the outdoor *residential amenity space*; and
 - iv. the indoor *residential amenity space* may be provided in multipurpose rooms which are not contiguous;
- h. Notwithstanding the provisions of Section 4(3), *parking spaces* shall be provided and maintained in an underground parking garage on the *lot* in accordance with the following:
 - i. a minimum of 0.21 *parking spaces* per *dwelling unit* for the residential use;
 - ii. a minimum of 0.06 *parking spaces* per *dwelling unit* for visitors;
 - iii. a minimum of 2 car-share parking spaces must be provided;
 - iv. visitor *parking spaces* may be provided within a *commercial parking garage* with or without a fee;
 - v. no *parking spaces* are required for the non-residential uses; and
 - vi. if the calculation of *parking spaces* results in a number contains a fraction, the number is rounded up to the nearest whole number, but there may not be less than a requirement of one *parking space*;

- i. Notwithstanding the provisions of Section 4(17), a maximum number of 5 *parking spaces* are permitted to have a minimum vertical clearance of 1.75 metres and a width of 2.6 metres, despite any obstructions;
- j. Notwithstanding the provisions in Section 4(13), *bicycle parking spaces* shall be provided and maintained in accordance with the following:
 - i. a minimum of 0.9 *bicycle parking space* – occupant per unit;
 - ii. a minimum of 0.1 *bicycle parking space* – visitor per unit;
 - iii. *bicycle parking spaces* may be provided in a *stacked bicycle parking space*;
 - iv. not more than 75 percent of bicycle parking spaces – occupant shall be provided in a manner that requires a person to park the bicycle in a vertical position; and
 - v. *stacked bicycle parking spaces* for occupants may have a horizontal dimension of 0.45 metres and a vertical dimension of 1.2 metres if in a stacked position;
- k. Notwithstanding the definition of *bicycle parking spaces – occupant* in Section 2(1), *bicycle parking spaces – occupant* may be provided within a secured underground *parking garage*;
- l. A minimum of one *loading space – Type 'G'* shall be provided and maintained on the *lot*;

Definitions

For the purpose of this By-law:

- m. "*grade*" means 89.7 metres Canadian Geodetic Datum (CGVD2013);
- n. "*height*" means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in Section 3(c) of this By-law;
- o. "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
- p. "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space*;
- q. "*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 kilometres drive, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;

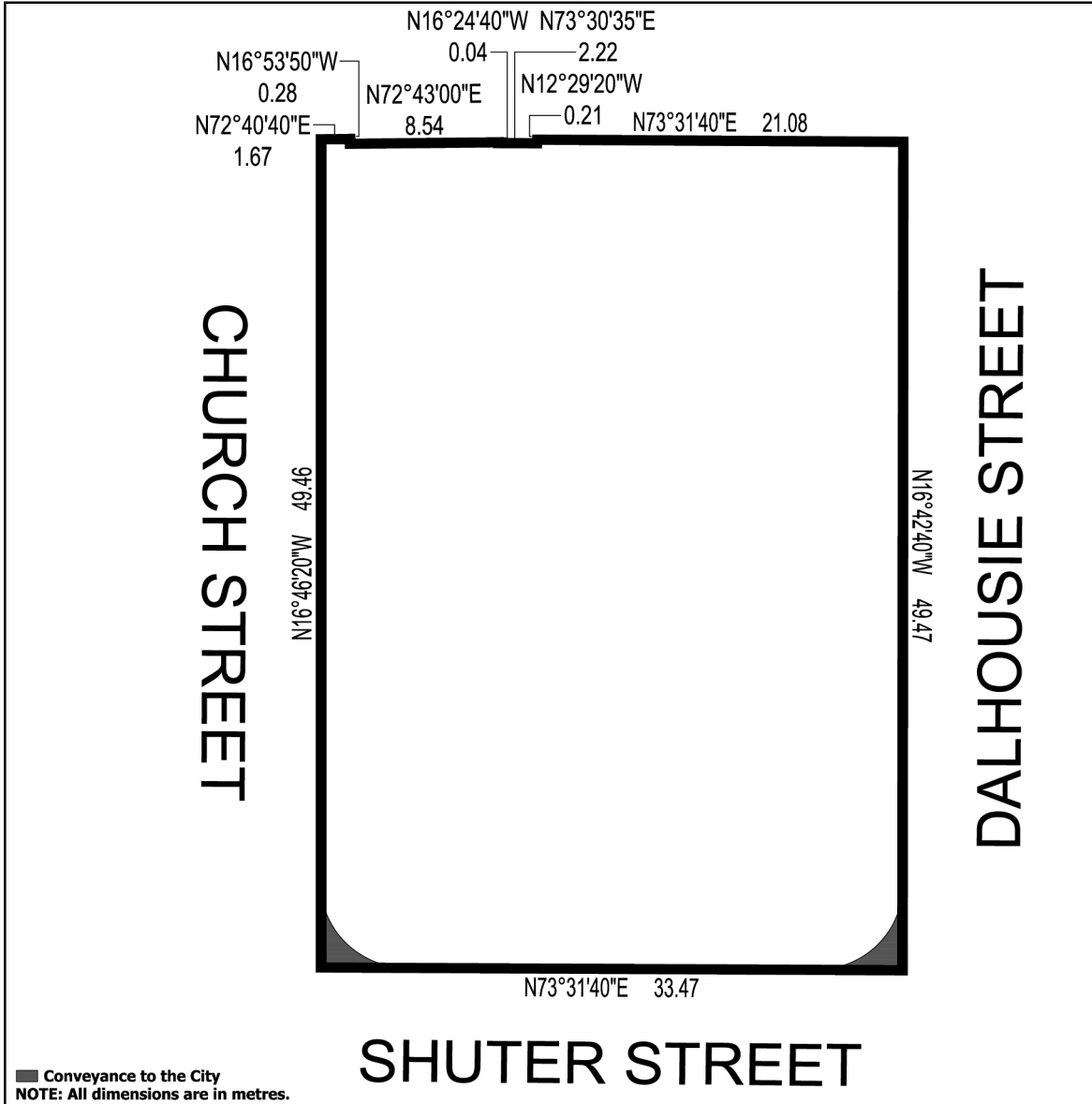
- r. *"car-share motor vehicle"* means a motor vehicle available for short term rental, including the option for hourly rental, for the use of at least the occupants of a building erected within the site; and
 - s. *"car-share parking space"* means a parking space used exclusively for the parking of a *car-share motor vehicle*.
5. Despite any existing or future severance, 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.
6. None of the provisions of this By-law shall apply to prevent the construction or use of a temporary sales office on the *lot*, for a maximum of 3 years from the dated of enactment of By-law 788-2017.

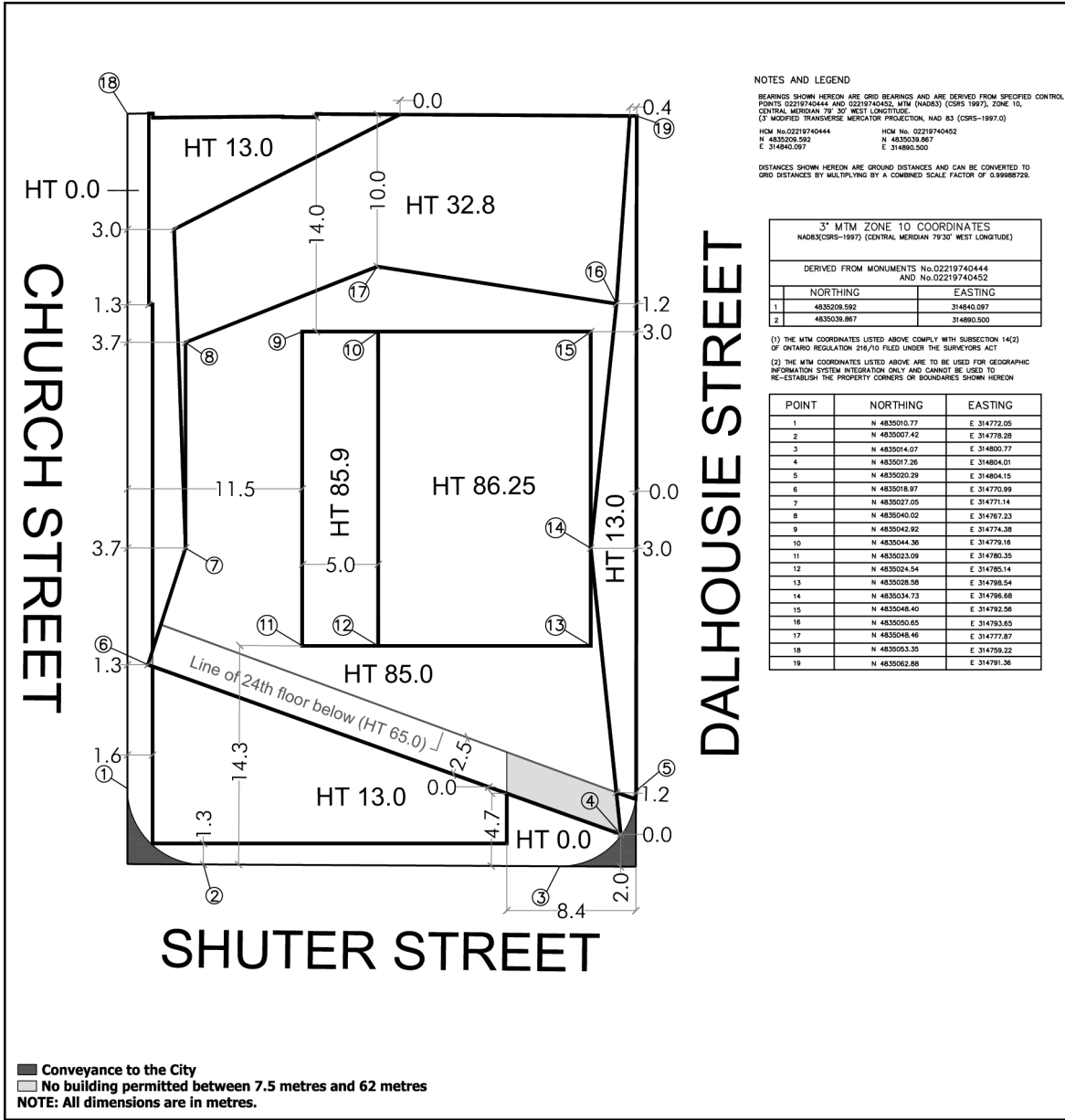
Enacted and passed on July 7, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





60 Shuter Street & 187-189 Church Street

File # 15 236785 STE 27 OZ

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Map 2 of this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement.

- a. Prior to the issuance of an above grade building permit, the Owner shall make an indexed cash contribution to the City in the amount of \$2,500,000 to be allocated towards the following:
- i. \$1,600,000 towards local area park or streetscape improvements;
 - ii. \$500,000 towards public art;
 - iii. \$200,000 towards existing community, recreation and/or cultural space improvements; and
 - iv. \$200,000 towards new or existing Toronto Community Housing and/or affordable housing;

Such amount to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made;

- b. The following matters are also recommended to be secured in Section 37 Agreement as a legal convenience to support the development:
- i. The Owner shall provide and maintain a pet relief facility; and
 - ii. The Owner shall provide 10 percent family sized units in the development, containing at least three bedrooms;
- c. In the event the cash contribution referred to in Section A has 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 of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
- d. Any site plan agreement pursuant to section 114 of *City of Toronto Act*, S.O. 2006, or section 41 of the *Planning Act*, R.S.O. 1990, entered into and registered against the Lands include:

- i. Prior to the construction of any *building* or structure, or application for site plan approval in accordance with section 114 of *City of Toronto Act*, S.O. 2006, or section 41 of the *Planning Act*, R.S.O. 1990, a detailed aeronautical assessment of the final building design will be undertaken and provided to St. Michael's for review and approval to ensure that there is no Impact on the Obstacle Limitation Surfaces as cited in the O. Reg. 114/16 ("Flight Path") and obstruction lighting will be incorporated as required;
- ii. All construction equipment, including cranes and other structural and forming equipment, both permanent and temporary, will be located to ensure that there is no Impact on the Flight Path;
- iii. All operational activities and use on the Lands or associated with the Future Building shall be undertaken such as to ensure that there is no Impact on the Flight Path;
- iv. Prior to any construction, a Land Use Proposal Submission form will be submitted to NAV CANADA for approval, with a copy to St. Michael's Hospital;
- v. Prior to any construction, an Aeronautical Assessment Form for Obstruction Marking and Lighting will be submitted to Transport Canada for approval, with a copy to the St. Michael's Hospital;
- vi. Prior to construction, a Crane/Construction Equipment Study will be undertaken and a Plan of Construction Operations (PCO) will be implemented to coordinate construction activities, if required, and ensure that there will be no Impact on the Flight Path;
- vii. Any *building* or structure on the Lands will fully comply with all requirements and guidelines regarding obstruction marking and lighting in areas adjacent to the Flight Path in accordance with the Canadian Aviation Regulations; and
- viii. The *owner* shall provide a report prepared by a qualified flight path consultant to the City, with a copy to the Hospital, that confirms that the proposed *building* or structure, including but not limited to its lighting and markings, its construction, its operation, and its use and functionality, complies with subsections (i) to (vii) above, prior to the execution and registration of any Site Plan Agreement against the title of the Lands.