

CITY OF TORONTO

BY-LAW 852-2017(OMB)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known municipally as 411 Church Street.

Whereas the *owner* of the lands known as 411 Church Street appealed a proposed zoning By-law amendment to the Ontario Municipal Board; and

Whereas the Ontario Municipal Board, by its Decision issued on November 24, 2016 in Board File PL160145, approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, with respect to those lands; and

Whereas pursuant to Section 37 of the *Planning Act*, the height and density of the development permitted in 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 lot of facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*;

Pursuant to the order of the Ontario Municipal Board, former City of Toronto By-law 438-86 is amended as follows:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *lot* 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 *lot* 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 *lot* pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 of the By-law, 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. This By-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
4. Except as otherwise provided herein, the provisions of By-law 438-86 shall continue to apply.
5. None of the provisions of Section 2(1) with respect to "*bicycle parking space*", *bicycle parking space – occupant*", *bicycle parking space – visitor*", "*grade*", "*height*", "*lot*", and Sections 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 4(17), 8(3) Part I 1, 2 and 3, 6(1)(a), 6(3)Part I 1, 6(3)Part II 2, 6(3) Part II 3, 6(3) Part II 4, 6(3) Part II 5, 8(1)(a), 8(3) Part II 1(a) and

(b) and 8(3) Part XI 1 and 2, 12(2)260 and 12(2)132, 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 lands 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", shall apply to prevent the erection and use of a *mixed use building* or a *commercial parking garage* on the *lot*, provided:

- (a) the *lot* consists of at least the lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;
- (b) the maximum *gross floor area* of the *mixed use building* shall not exceed 36,390 square metres; the floor area of any *commercial parking garage* shall not be included in the calculation of *gross floor area* for the purposes of this By-law;
- (c) a maximum 575 *dwelling units* shall be permitted on the *lot*;
- (d) the *non-residential gross floor area* of the *mixed use building* shall not be less than 600 square metres;
- (e) a minimum of 1,074 square metres of indoor *residential amenity space* shall be provided on the *lot*;
- (f) a minimum of 1,074 square metres of outdoor *residential amenity space* shall be provided on the *lot*;
- (g) no portion of the *mixed use building* shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law and no portion of the *mixed use building* shall have a *height* in metres greater than the *height* limits specified by the numbers following the symbol H on Map 2;
- (h) notwithstanding Section 5(g) above, the following may project beyond the heavy lines to a maximum vertical projection of 6 metres above the *heights* shown on Map 2:
 - (i) structures used for outside or open air recreation, maintenance, safety, or wind protection purposes, balconies, terraces, elements of a green roof, insulation and roof surface materials, railings, parapets, window washing equipment, ornamental or architectural features, ramps, electrical and mechanical equipment and rooms, stair enclosures, elevator overruns, chimney stacks, vents and air intakes, communications equipment, lightning rods, cornices, light fixtures, canopies and awnings, landscape features, public art features, trellises, eaves, window sills, balustrades and doors;
- (i) nothing in sections 5(g) and 5(h) of this By-law shall prevent balconies, to a maximum horizontal projection of not more than 2.5 metres from the main wall of

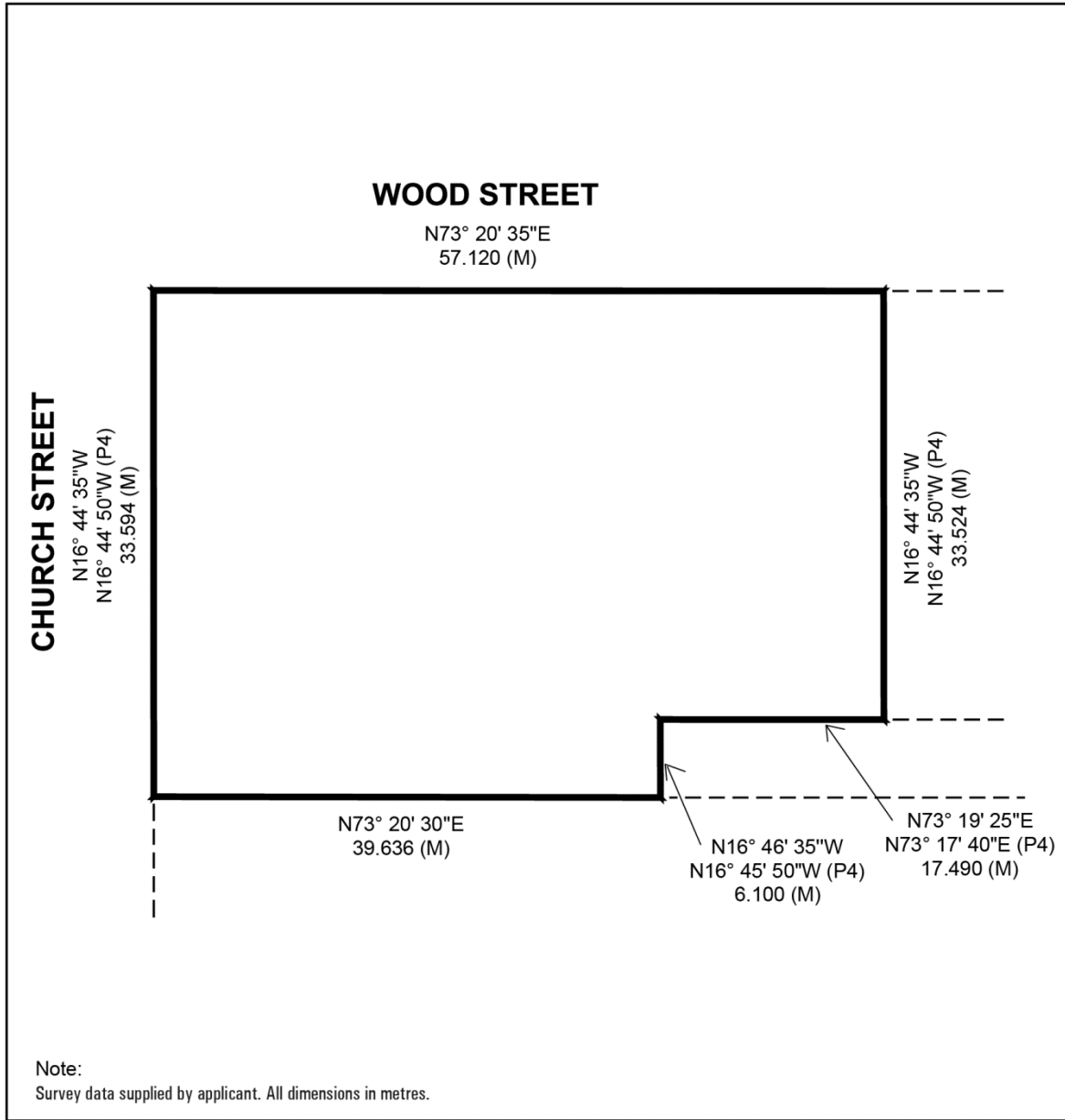
the building from projecting beyond the heavy lines and above the *height* shown on the attached Map 2;

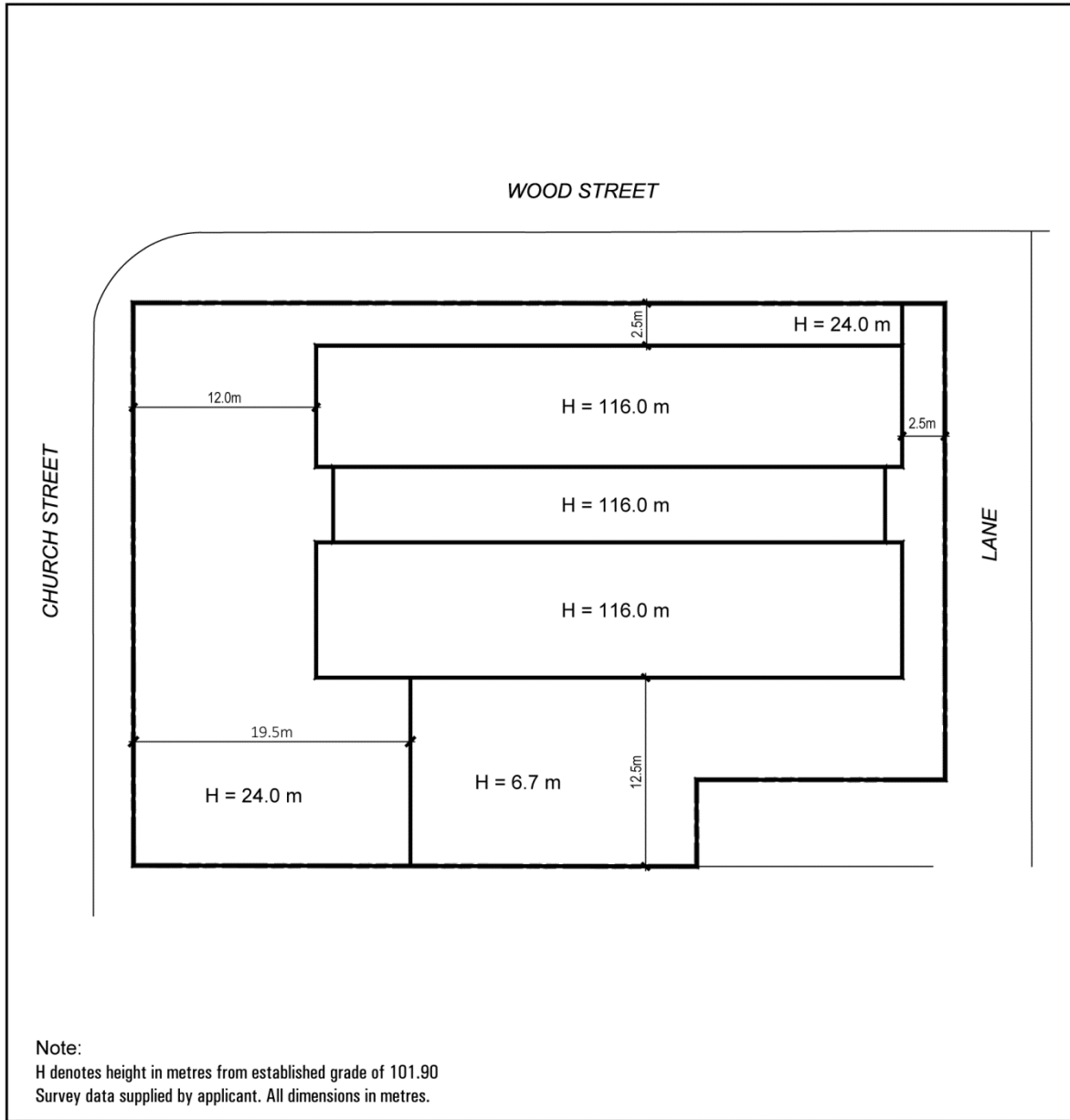
- (j) the following uses are permitted on the *lot*:
 - (i) a *mixed-use building*;
 - (ii) a *commercial parking garage*; and
 - (iii) all other uses permitted in a CR zone;
 - (k) at least one *loading space – type C* and one *loading space - type G* shall be provided and maintained on the *lot*;
 - (l) a minimum of 82 *parking spaces* shall be provided and maintained on the *lot* for residents of the *dwelling units* of which a maximum of 3 will be *car-share parking spaces* and a minimum of 4 will be *accessible parking spaces*;
 - (m) a minimum of 18 *parking spaces* shall be provided for visitors to the *dwelling units* or for the *non-residential* uses on the *lot*;
 - (n) the total number of parking spaces in Section 5(m) above may be located within a *commercial parking garage*;
 - (o) the provisions of Section 4(17) of By-law No. 438-86, shall apply with the exception that up to 8 *parking spaces* which are obstructed on one side in accordance with Section 4(17)(e) may have minimum dimensions of 2.6 metres in width by 5.6 metres in length;
 - (p) *bicycle parking spaces* for residential uses shall be provided on the *lot* as follows:
 - (i) 487 *bicycle parking spaces – occupant*; and
 - (ii) 54 *bicycle parking spaces – visitor*;
 - (q) a minimum of 15 *bicycle parking spaces – visitor* shall be provided for the non-residential uses on the *lot*.
6. Despite any existing or future consent, severance, partition or division of the *lot*, the provisions of this By-law shall apply to the *lot* as if no consent, severance, partition or division occurred.
7. For the purposes of this By-law:
- (a) "accessible parking space" means an unimpeded area that is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle having the following minimum dimensions:

- (i) Length – 5.6 metres;
 - (ii) Width 3.9 metres; and
 - (iii) Vertical Clearance – 2.1 metres;
- (b) "*bicycle parking space – occupant*" means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and:
- (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (iii) where bicycles are to be parked in a bicycle rack or in a stacked manner, bicycles may be parked in a secured room or area, in bicycle lockers or on a rack/hook on a wall associated with a vehicle *parking space* on any parking level so long as such rack/hook does not encroach into a vehicle *parking space* and in all such cases the dimensions in 7(b)(i) and (ii) shall not apply;
- (c) "*bicycle parking space – visitor*" means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:
- (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (iii) may be located indoors or outdoors including within a secured room or enclosure; and
 - (iv) where bicycles are to be parked in a bicycle rack or in a stacked manner, bicycles may be parked in a secured room or area, in bicycle lockers or on a rack/hook on a wall associated with a vehicle *parking space* on any parking level so long as such rack/hook does not encroach into a vehicle *parking space* and in all such cases the dimensions in 7(c)(i) and (ii) shall not apply;
- (d) "*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 driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;

- (e) "*grade*" means 101.9 metres Canadian Geodetic Datum;
 - (f) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
 - (g) "*lot*" means the lands outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - (h) "*owner*" means the registered owner of the *lot*; and
 - (i) each other word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law 438-86, as amended.
- 8.** None of the provisions of By-law 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* of a temporary sales office.
- 9.** None of the provisions of Section 12(2) 380 of the former City of Toronto By-law 438-86, as amended, shall apply to the *lot*.
- 10.** 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.





Appendix 1

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for the indexing escalation of the financial contributions, and letters of credit, indemnity, insurance, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above grade building permit, the *owner* must pay to the City a cash contribution in the amount of \$1,000,000.00, 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 execution of the Section 37 Agreement to the date the payment is made to the City, to be applied toward the following:
 - (i) \$100,000.00 for local Toronto Community Housing capital improvements and/or for the purpose of maintaining and constructing affordable rental housing units in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor;
 - (ii) \$800,000.00 for local area park and/or streetscape improvements in Ward 27, including the public realm directly adjacent to the Church Street Junior Public School in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor; and
 - (iii) \$100,000.00 for local capital improvements in existing and/or new community and cultural facilities in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor.
2. In the event the cash contributions referred to in Section 1 above have not been used for the intended purpose within three (3) years of this 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 Division, in consultation with the local 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 *owner* of the *lot* must enter into and register on title to the *lot* one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix.