

Authority: Toronto and East York Community Council  
Item TE7.6, as adopted by City of Toronto Council on  
July 16, 17 and 18, 2019

## **CITY OF TORONTO**

### **BY-LAW 1663-2019**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 57-77 Wade Avenue.**

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 to the lands known municipally in 2019 as 57, 65 and 77 Wade Avenue; 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 such 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 matter 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, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas the Council of the City of Toronto has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by 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;

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 on the lands shown on Map 1 of this By-law are permitted subject to compliance with conditions set out in this By-law, and in return for the

provision by the owner of the lands shown on Map 1, of the facilities, services and matters set out in Schedule A hereof, the provision of which shall be secured by one or more agreements with the City pursuant to Section 37(3) of the Planning Act.

2. Upon execution and registration in priority of an agreement or agreements with the owner of the lot pursuant to Section 37 of the Planning Act, to the satisfaction of the City Solicitor, securing the provisions 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 this By-law 483-86, as amended, shall continue to apply to the *lot*.
4. Section 12(1) 134 (vi) of By-law 438-86 pertaining to the land known in 1980 as 77 Wade Avenue be deleted.
5. None of the provisions of Section 2(1) with respect to the definitions of "*grade*", "*height*" and "*lot*", and Sections 4(2)(a), 4(4), 4(6), 4(13), 9(3) Part I 1, 2, and 3 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* consists of those lands delineated by heavy black lines shown on Map 1, attached to and forming part of this By-law;
  - b. The *non-residential gross floor area* erected on the *lot* shall not exceed 13, 123 square metres;
  - c. The *non-residential gross floor area for restaurant, take-out restaurant or retail store* on the *lot* shall not individually or collectively exceed 500 square metres;
  - d. The permitted maximum floor space index of all uses on the *lot* is 3.8;
  - e. No portion of any building erected on the *lot* is located otherwise than wholly within the areas delineated by heavy lines and building envelopes shown on Map 2, attached to and forming part of this By-law;
  - f. The height of any building or structure, as measured from *grade*, shall not exceed the maximum height in metres specified by the numbers following the symbol "HT" on Map 2, attached to and forming part of this By-law;
  - g. Rail safety structures may project above the permitted maximum *height* as shown on Map 2, and may encroach into the required minimum building setbacks, as shown on Map 2;

- h. A minimum of 47 *parking spaces* for *non-residential* uses shall be provided on the *lot*, of which a minimum of 1 shall be an accessible *parking space* and a maximum of 4 may be *small-car parking spaces*;
  - i. *Parking spaces* for LEV, carpooling or car sharing shall be a minimum of 2;
  - j. Long term *bicycle parking spaces* for *non-residential* uses on the *lot* shall be shall be a minimum of 87;
  - k. Short term *bicycle parking spaces* for *non-residential* uses on the *lot* shall be a minimum of 35;
  - l. A minimum of 6 *shower - change facilities* shall be provided on the *lot*, 3 for each gender;
  - m. One *Type 'G' loading space* with minimum dimensions of 4.0 metres in width and 13.0 metres in length, and a vertical clearance of 6.1 metres, must be provided on the *lot*; and
  - n. One *Type 'B' loading space* with minimum dimensions of 3.5 metres in width and 11.0 metres in length, and a vertical clearance of 4.0 metres, must be provided on the *lot*.
6. For the purposes of this By-law, the terms set forth in italics shall have the same meaning as defined in By-law 438-86, as amended, with the exception of the following:
- a. "*grade*" shall be measured from 113.70 metres Canadian Geodetic Datum;
  - b. "*Height*" means the vertical distance between *grade* and the highest point of the building or structure;
  - c. "*lot*" shall mean those lands outlined by heavy lines on Map 1 attached;
  - d. "*non-residential gross floor area*" means the sum total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level, and reduced by the area of the building used for: parking loading and bicycle parking below-ground; required *loading spaces* at the ground level and required *parking spaces* at or above-ground; storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement; voids at the level of each floor with a manufacturing use; required shower and change facilities for required bicycle parking spaces; elevator shafts, ventilation duct, utility shafts; utility areas, catwalks, service platforms and a mechanical penthouse; and exit stairwells and escalators in the building; and
  - e. "*small-car parking space*" means a *parking space* with the minimum dimensions of 5.6 metres in length by 2.6 metres in width and a vertical clearance of 2.0 metres, with or without obstructions. The side of a *parking space* is obstructed

if any part of a fixed object such as a wall, column, bollard, fence or pipe is situated:

- i. within 0.3 metres of the side of the *parking space*, measured at right angles, and
  - ii. less than 1.0 metre from the front or rear of the *parking space*.
7. Despite any existing or future severance, partition or division of the *lot*, including any stratified severance, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division had occurred.
8. 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 November 27, 2019.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**Schedule A**  
**Section 37 Provisions**

Upon execution and registration in priority of an agreement or agreements with the owner, pursuant to Section 37 of the Planning Act, with conditions providing for without limitation, indexing escalation of letters of credit, development charges, indemnity, insurance, and registration, satisfactory to the City Solicitor, securing the provision of the facilities, services and matters set out herein, 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 requirements:

1. Prior to the issuance of the first above-grade building permit, the owner shall pay a cash contribution of \$350,000.00 to be allocated for affordable housing and parks improvements in the vicinity of the Subject Site at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. The payment amount identified in section 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 Publication 327-0058, or its successor, calculated from the date of the execution of the Section 37 Agreement to the date of payment.
3. The following matters are recommended to be secured in the Section 37 Agreement as a legal convenience at the owner's expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor:
  - a. The owner shall provide, at its own expense, 300 square metres of privately-owned, publicly-accessible open space located on the southern portion of the site, with the design details of this privately-owned, publicly-accessible open space to be secured through the Site Plan Approval process to the satisfaction of the Chief Planner and Executive Directors, City Planning. Prior to Site Plan Approval, the owner shall grant an easement to the City, for nominal consideration and free and clear of physical and title encumbrances, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, for the purpose of the general public's use of this privately-owned, publicly-accessible open space, on terms satisfactory to the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor.
  - b. The owner shall provide, at its own expense, a minimum 3.5 metre wide public walkway, to be located along the full extent of the south edge of the site, connecting Wade Avenue to the future Davenport Diamond Greenway Multi-Use Trail, with the design details of this walkway to be secured through the Site Plan Approval process to the satisfaction of the Chief Planner and Executive Director, City Planning. Prior to Site Plan Approval, the owner shall grant an easement to the City, for nominal consideration and free and clear of physical and title encumbrances, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, for the purpose of pedestrian and cycling use

by the general public upon and over this walkway, on terms satisfactory to the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Parks, Forestry and Recreation and the City Solicitor.

- c. The owner shall design and construct the public realm improvements for the public walkway between Wade Avenue and the Davenport Diamond Greenway Multi-Use Trail in accordance with the Davenport Diamond Public Realm Plan.
- d. Prior to the issuance of Notice of Approval Conditions for the Site Plan application, the owner shall complete a peer review of the submitted Noise and Vibration Feasibility Study by the City's peer reviewer, to the satisfaction of the Chief Planner and Executive Director, City Planning, and provide certification from the noise and vibration consultant that all recommended mitigation measures have been incorporated into the drawings submitted for Site Plan Approval.
- e. Prior to the issuance of Notice of Approval Conditions for the Site Plan application, the owner shall incorporate all mitigation measures from a rail safety study acceptable to the City's third-party peer reviewer into the drawings submitted for the Site Plan application, to the satisfaction of the Chief Planner and Executive Director, City Planning, and prior to Site Plan Approval the owner shall agree in writing with the City that all mitigation measures be constructed and maintained by the owner at its sole cost and expense.
- f. Prior to issuance of Notice of Approval Conditions for the Site Plan application, the owner shall provide a Construction Phasing Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, and thereafter the owner shall agree in writing with the City to implement the plan during the course of construction, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- g. Prior to the commencement of excavation and shoring work, the owner will submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor, and thereafter shall implement the plan during the course of construction. The Construction Management Plan will include the size and location of construction staging areas, dates of significant concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, in consultation with the Ward Councillor.
- h. In the event the owner proposes to provide fewer parking spaces on the lot than what is required by the amending by-laws, then the owner shall, prior to Site Plan Approval, submit an application to the General Manager, Transportation Services pursuant to Section 40 of the Planning Act requesting an exemption from the minimum number of parking spaces required by the amending by-laws.



