

Authority: Toronto and East York Community Council
Item TE18.3, as adopted by City of Toronto Council on
September 30, October 1 and 2, 2020

CITY OF TORONTO

BY-LAW 52-2021

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2021 as 64-86 Bathurst Street.

Whereas authority is given to Council of the City of Toronto by 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, a 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 569-2013, as amended, is permitted in return for the provisions of the facilities, services and matters set out in this By-law that are 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 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 hereof, the provisions of which shall be secured by an agreement or agreement's 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 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. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the Planning Act, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. None of the provisions of Section 2 with respect to the definitions of *bicycle parking spaces – occupant*, *bicycle parking spaces – visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, *residential gross floor area*, and *residential amenity space*, and Sections 4(2)(a) and (b), 4(3), 4(4), 4(6), 4(10), 4(12), 4(13), 4(16), 4(17), Sections 8(1)(f)(a) and (b), 8(2)(7)(b), 8(3)(Part I), 8(3)(Part II)(1)(b)(ii), 8(Part II)(4), Sections 12(2)(270)(a), 12(2)(340) and 12(2)(341) of Zoning By-law 438-86, as amended, 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", and By-law 345-79, shall apply to prevent the erection or use of a *mixed-use building* containing residential and/or non-residential uses, including a *commercial parking garage*, 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) The combined total *gross floor area* of all buildings and structures erected or used on the *lot* shall not exceed 30,000 square metres, of which a minimum of 2,500 square metres shall be for office uses, and a maximum of 8,000 square metres is permitted for all non-residential uses;
 - (c) *Gross floor area* for non-residential uses will be limited to the ground, second, and third floors, with the exception of such space provided for in subsection (l) below;
 - (d) Notwithstanding subsection (b) above, the area of the buildings and structures occupied by the *commercial parking garage* shall be excluded from the calculation of *gross floor area*;
 - (e) Not more than 320 *dwelling units* are erected on the *lot*;
 - (f) Of the total number of *dwelling units* provided:
 - (i) A minimum of 20 percent shall be provided as *two-bedroom dwelling units*; and

- (ii) A minimum of 10 percent shall be provided as three-*bedroom dwelling units* or larger.

- (g) No portion of any building or structure erected on the *lot* shall be located otherwise than wholly within the heavy black lines identified on Map 2 attached to and forming part of this By-law, with the exception that the following elements of a building or structure may encroach into a required minimum building setback and a required minimum main wall separation distance as follows:
 - (i) Lighting fixtures, cornices, sills, eaves, parapets, balustrades, ornamental and architectural features, bay windows, gas and hydro meters, and window washing equipment attached to a **building or structure** may project a maximum distance of 3.0 metres beyond the heavy lines shown on Map 2;
 - (ii) Lighting fixtures, railings, privacy screens, balustrades, bollards, stairs and related enclosures, underground garage ramps and associated structures, walls and safety railings, wind mitigation elements, trellises, guards, guardrails, retaining walls, wheelchair ramps, air intakes and vents, ventilating equipment, bike share facilities, outdoor **amenity** space elements, ornamental or architectural features, including planters, green energy and renewable energy elements, gas and hydro meters, and art installations may be located at ground level beyond the heavy lines shown on Map 2, in accordance with the height limits set out in Section (I) below of this exception;
 - (iii) Canopies and awnings attached to a **building or structure** may project horizontally a maximum of 5.0 metres beyond the heavy lines shown on Map 2;
 - (iv) Architectural privacy screens and balconies attached to a **building or structure** may project horizontally a maximum of 2.0 metres beyond the heavy lines shown on Map 2; and
 - (v) Structures, elements or enclosures permitted by subsection (h) below.

- (h) No part of a building or structure erected or used on the lot above *grade* shall exceed the *height* limits specified by the numbers following the symbol 'H' shown on the attached Map 2, with the exception of:
 - (i) Structures, elements or enclosures listed in subsection (f) above;
 - (ii) Parapets to a maximum *height* of 1.5 metres;
 - (iii) Pool lip or surround to a maximum *height* of 1.0 metre;

- (iv) Canopy or trellis, including supporting structure, on a roof provided that the maximum *height* of such structure is no higher than 3.0 metres above such roof;
 - (v) Window washing equipment to a maximum *height* of 7.0 metres;
 - (vi) **Structures** on any roof used for mechanical equipment, chimneys, vents, stacks, mechanical fans, cooling towers, elevators and related structural elements, roof assemblies, and structures and elements associated with green energy and renewable energy facilities located on any roof, which may have a maximum vertical projection above the permitted height limits specified of Map 2 of 1.5 metres;
 - (vii) **Structures** on any roof used for maintenance, safety, wind or green roof purposes, outdoor **amenity space** or open air recreation, including architectural screens, and vestibules providing access to outdoor **amenity space**, and lightning rods, provided that the maximum height of such elements is no higher than 3.0 metres above the height limits specified on Map 2;
 - (viii) **Structures** at ground level, including bollards, guards, guardrails, wheel chair ramps, gas and hydro meters, green energy and renewable energy facilities, air intakes and vents, and ventilating equipment provided that the maximum height of such elements is no higher than 1.2 metres above ground level;
 - (ix) **Structures** at ground level, including underground garage ramps and associated structures, walls and safety railings, privacy screens, retaining walls, balustrades, stairs and related enclosures, fences, bike share facilities, outdoor **amenity space** elements, and safety railings, provided that the maximum height of such elements is no higher than 2.0 metres above ground level; and
 - (x) **Structures** at ground level, including lighting fixtures, ornamental, architectural or landscape features, including planters, wind mitigation elements, trellises, and art installations provided that the maximum height of such elements is no higher than 4.0 metres above ground level.
- (i) Above the height of 61.5 metres, that portion of the building subject to a height limit of 68.5 metres and labelled MPH on Map 2 of By-law 52-2021 may only be used for a mechanical penthouse, elements for the functional operation of the building, including a fence, wall or structure enclosing such elements, or *residential amenity space*;
 - (j) Above the height of 61.5 metres, that portion of the building subject to a *height* limit of 64.5 metres and labelled H=64.5M on Map 2 of By-law 52-2021 may only be used for stairs and related enclosures;

- (k) Above the height of 61.5 metres, that portion of the **building** subject to a height limit of 66.5 metres and labelled H=66.5M on Diagram 7 of By-law 52-2021 may only be used as an enclosed structure for mechanical equipment and operations associated with the outdoor pool, storage associated with **amenity space** equipment, such as, but not limited to, patio furniture, and may be designed to permit tiered-style seating, including associated structural supports and safety railings;
- (l) A minimum of 4.0 square metres per *dwelling unit of residential amenity space* shall be provided as follows:
- (i) A minimum of 2.0 square metres per *dwelling unit* shall be provided as indoor *residential amenity space*;
 - (ii) A minimum of 40 square metres of outdoor *residential amenity space* shall be provided in a location adjoining or directly accessible to the indoor *residential amenity space*; and
 - (iii) The change and shower facilities provided as part of the indoor *residential amenity space* may be accessible to the non-residential uses of the building.
- (m) *Parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:
- (i) A minimum of 0.19 *parking spaces* per *dwelling unit* must be provided for residents; and
 - (ii) A minimum of 20 *parking spaces* shall be provided on a shared non-exclusive basis for residential visitors and non-residential uses.
- (n) Three (3) *parking spaces* shall be provided on the *lot* as accessible *parking spaces* as follows:
- (i) Each accessible *parking space* shall have the following minimum dimensions:
 - A. Length of 5.6 metres;
 - B. Width of 3.4 metres;
 - C. Vertical clearance of 2.1 metres; and
 - D. A 1.5 metre width accessible barrier-free aisle or path is required along the entire length of an accessible *parking space* and such aisle or path may be shared by two accessible *parking spaces*.

- (o) Loading spaces shall be provided as follows:
 - (i) A minimum of one *loading space- type G*;
 - (ii) A minimum of one *loading space-type B*; and
 - (iii) A minimum of two *loading spaces- type C*.
 - (p) *Bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum standards:
 - (i) For *dwelling units*: a minimum of 0.90 *bicycle parking spaces* for each *dwelling unit*, allocated as *bicycle parking spaces – occupant*;
 - (ii) For residential visitors: a minimum of 0.10 *bicycle parking spaces* for each *dwelling unit* allocated as *bicycle parking spaces – visitor*;
 - (iii) For retail uses: a minimum of 0.2 *bicycle parking spaces* - *occupant*/100 square metres of retail *gross floor area*;
 - (iv) For office uses: a minimum of 0.2 *bicycle parking spaces* - *occupant*/100 square metres of office *gross floor area*;
 - (v) For retail and office uses: no *bicycle parking spaces – visitor* are required to be provided on the *lot*; and
 - (vi) A *bicycle parking space – occupant* or *bicycle parking space – visitor* may be provided in either a vertical or horizontal position or in a *bicycle stacker*.
5. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, except for the following:
- (a) "*bicycle parking space*" means an area used for storing bicycles having the following minimum dimensions:
 - (i) Where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
 - (ii) Where the bicycles are to be parked in a vertical position, has a minimum length or horizontal clearance from the wall of 1.2 metres, a minimum width of 0.6 metres and a vertical dimension of at least 1.9 metres;
 - (iii) Where the bicycles are to be parked in a *bicycle stacker*, has a minimum width of 0.45 metres, a minimum of length of 1.8 metres and a minimum vertical clearance of 1.2 metres for each *bicycle parking space*;

- (iv) "*bicycle parking space – occupant*" means a *bicycle parking space* for use by the occupants or tenants of a building;
- (v) "*bicycle parking space – visitor*" means a *bicycle parking space* for use by visitors to a building;
- (vi) "*bicycle stacker*" means a device where by a *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed;
- (vii) "*grade*" means 86.50 metres, Canadian Geodetic Datum;
- (viii) "*gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - A. Parking loading and bicycle parking below-ground;
 - B. Required *loading spaces* at the ground level and required *bicycle parking spaces* at or above-ground;
 - C. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below-ground;
 - D. Shower and change facilities required by the By-law for required *bicycle parking spaces*;
 - E. *Residential amenity space* to a maximum of 4.0 square metres per *dwelling* unit;
 - F. Elevator shafts;
 - G. Garbage shafts;
 - H. Mechanical penthouse; and
 - I. Exit stairwells in the building or structure.
- (ix) "*height*" means the highest point of the building or structure above *grade*, except for those elements prescribed by this By-law;
- (x) "*lot*" means in aggregate the lands outlined by heavy lines on Map 1 of this By-law; and
- (xi) "*residential amenity space*" means indoor or outdoor space on a *lot* that is communal and available for use by the occupants of a *building* on the *lot* for recreational or social activities;

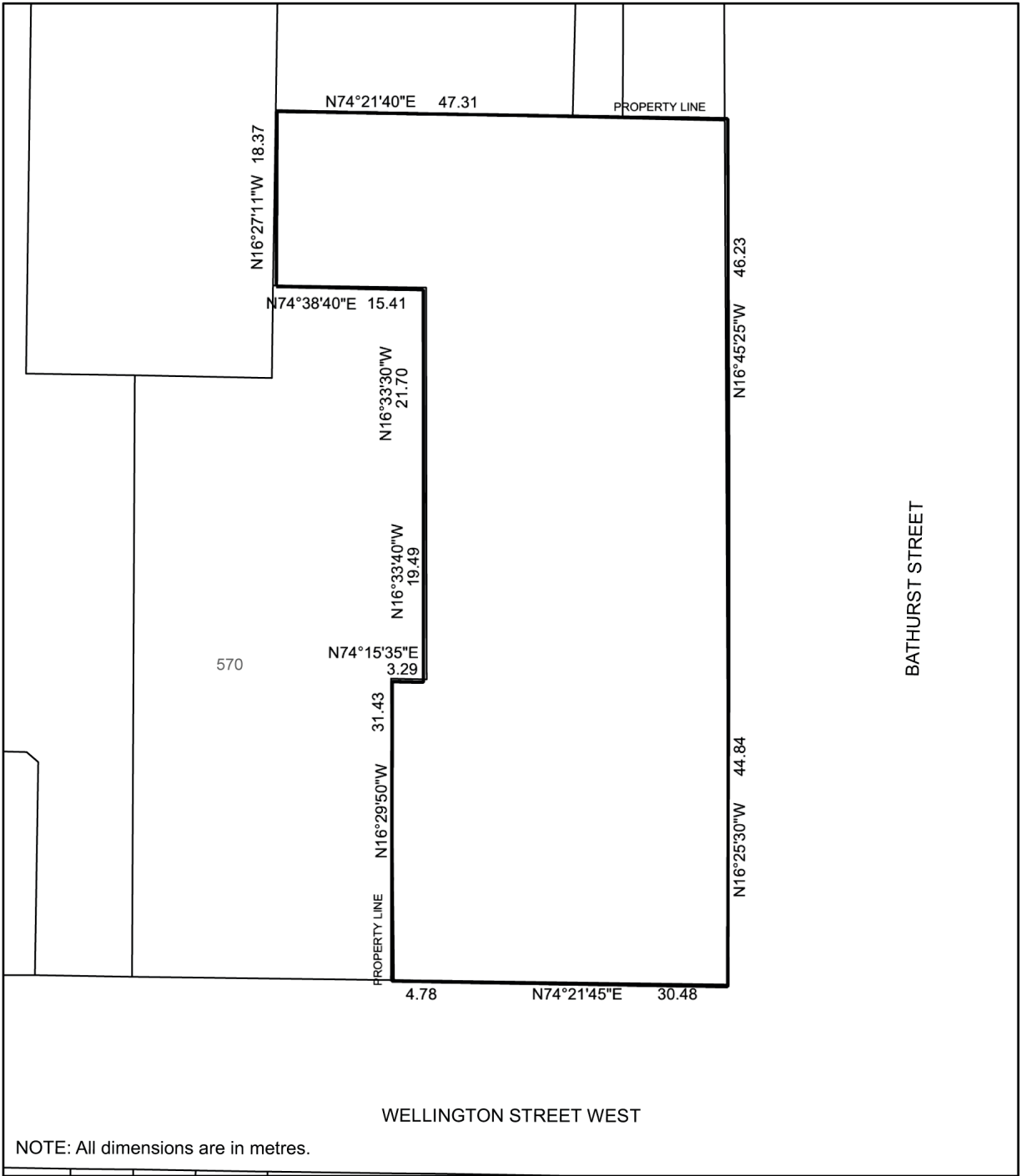
6. Notwithstanding any severance, partition or division of the *lot*, the provisions of this By-law and By-law 438-86, as amended, with the exception of By-law 345-79, shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
7. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Appendix 1 hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
8. Where Appendix 1 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.
9. The owner shall not use, or permit the use of, a building or structure erected with an increase in height and/or density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
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 on the lot line and the following provisions are complied with:
 - (a) all water mains and sanitary sewers, and appropriate appurtenances have been installed and are operational.

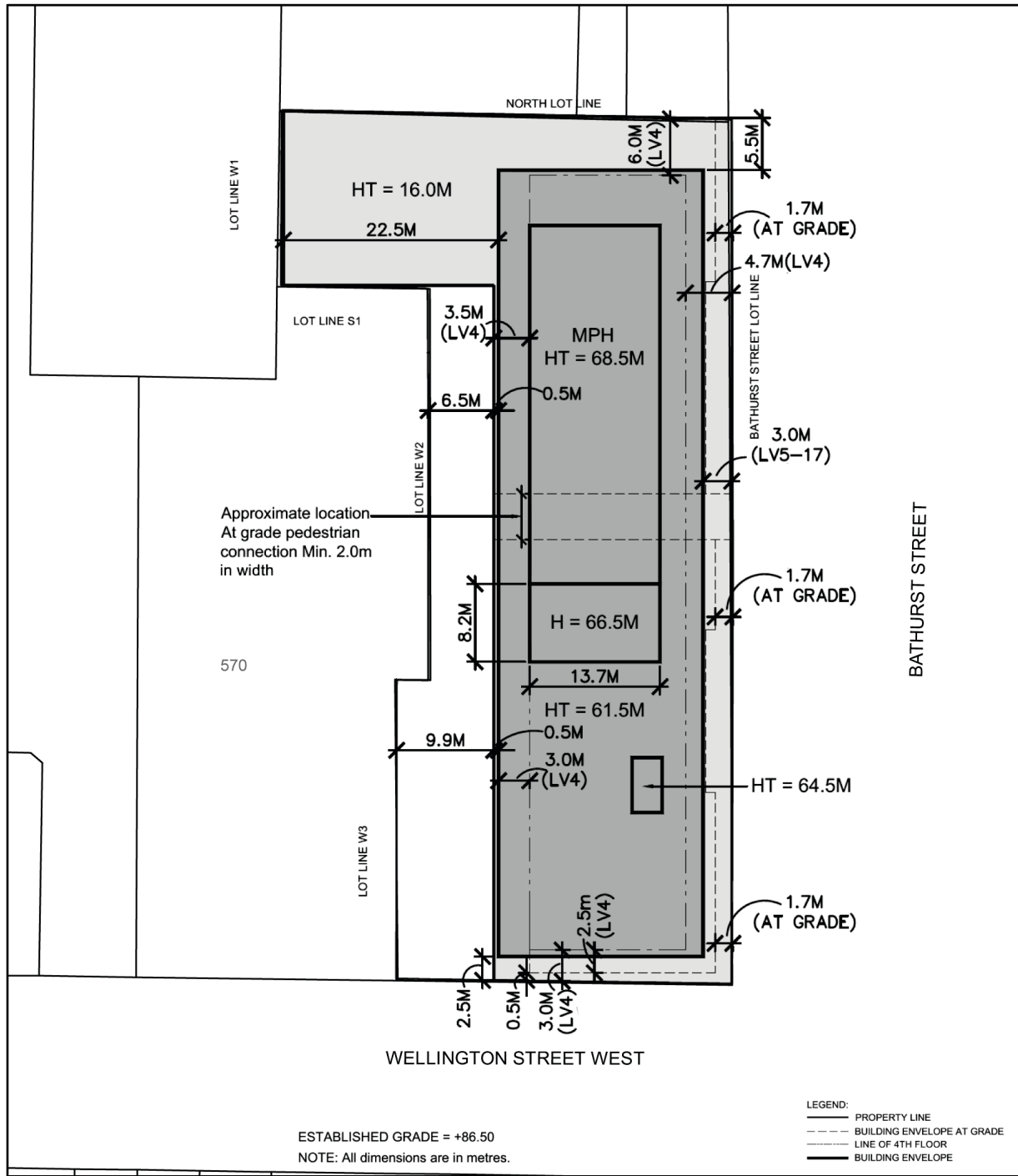
Enacted and passed on February 5, 2021.

Frances Nunziata,
Speaker

John D. Elvidge,
Interim 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 lot and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade building permit, a cash contribution of \$265,000 towards the provision of new rental housing units, to be directed to the Capital Revolving Fund for Affordable Housing, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. Prior to the issuance of the first above-grade building permit, a cash contribution of \$265,000 towards the Toronto Community Housing revolving capital fund for repairs to Toronto Community Housing properties in Ward 10, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
3. Prior to the issuance of first above-grade building permit, a cash contribution of \$1,060,000 towards community services and facilities in the vicinity of the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
4. Prior to the issuance of the first above-grade building permit, a cash contribution of \$1,060,000 towards streetscape and/or public realm improvements in the vicinity of the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
5. All cash contributions referred to in Schedule A, sections 1 to 4 shall be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of registration of the Section 37 Agreement to the date the payment is made.
6. In the event the contributions referred to in Schedule A, sections 1 to 4 have not been used for the intended purposes within three (3) years of the By-laws 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 purpose is identified in the Toronto Official Plan and will benefit the community in Ward 10.
7. Submission, and thereafter implementation, of a construction management plan by the owner of 64-86 Bathurst Street to address such matters as wind, noise, dust and street closures during construction. Such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the ward Councillor and shall be completed prior to final Site Plan Approval.

Rental Housing Demolition and Replacement

8. The owner shall provide and maintain 8 replacement rental dwelling units, comprising 4 two-bedroom units and 4 three-bedroom units, on the subject site for a period of at least 20 years beginning from the date that each such replacement dwelling unit is first occupied and as generally shown on the plans submitted to the City Planning dated February 6, 2020; any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning.
9. The owner shall provide and maintain at least 2 two-bedroom and 1 three-bedroom replacement rental dwelling units at affordable rents and at least 2 two-bedroom 1 three-bedroom replacement rental dwelling unit at mid-range rents for a period of at least 10 years, beginning from the date that each replacement rental dwelling unit is first occupied; the 2 remaining three-bedroom replacement rental dwelling units will have unrestricted rents.
10. The owner shall provide all 8 replacement rental dwelling units with a balcony or terrace.
11. The owner shall provide all 8 replacement rental dwelling units with ensuite laundry and central air conditioning.
12. The owner shall provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities on the site at no extra charge; access and use of these amenities shall be on the same terms and conditions as any other building resident.
13. The owner shall provide tenants of replacement rental dwelling units with access to all bicycle parking, car parking, visitor parking and storage lockers on the same terms and conditions as any other building resident.
14. The owner shall provide tenant relocation and assistance to all eligible tenants, including the right to return to a replacement rental dwelling unit, to the satisfaction of the Chief Planner and Executive Director, City Planning.