

CITY OF TORONTO

Bill 648

BY-LAW -2020

To amend the City of Toronto By-law 438-86, as amended, to repeal By-law 85-2001, and to repeal By-law 787-2010 with respect to the lands municipally known in the year 2019 as as 2 Bloor Street West and 820 Yonge Street.

Whereas Council of the City of Toronto has the authority to 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 it is appropriate that Council of the City of Toronto to repeal By-law 85-2001 and By-law 787-2010, as they apply to the lands subject of this By-law; 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. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
2. None of the provisions of Section 2 with respect to the definitions of *height*, *grade*, *lot*, *owner*, and *parking stacker* and Sections 4(2)(a), 4(5)(b) and (h), 4(8), 4(12), 4(13),

4(14)(a), 4(17), 8(3) PART I 1, 2 and 3(a), 8(3) Part II 4(C)(II), 8(3) Part III 1, 12 (2) 259, 12 (2) 260 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 land 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 *mixed-use buildings* containing *dwelling units*, uses permitted in Section 8(1)(f) and above *grade* parking facilities for such dwelling units, on the lands comprising *Parcel A* on Map 1, together with the use of the building in existence on January 1, 2010 the lands comprising *Parcel B* on Map 1 on January 1, 2010 for uses permitted in Sections 8(1)(f), and 8(b)(iv) and (vi) of the Zoning By-law, are permitted, provided:

- (a) On *Parcel A*, the combined *residential gross floor area* and *non-residential gross floor area* must not exceed 136,800 square metres;
- (b) On *Parcel A*, the *residential gross floor area* shall not exceed 122,000 square metres;
- (c) On *Parcel A*, the *non-residential gross floor area* must not exceed 32,600 square metres;
- (d) On *Parcel A*, a minimum of 5,000 square metres of *non-residential gross floor area* must be provided as office space;
- (e) The maximum number of *dwelling units* is 1,650;
- (f) A minimum of 10 percent of the total number of *dwelling units* must contain at least three bedrooms;
- (g) The *height* of the building or structure or portion, including a mechanical penthouse, must not exceed the height in metres specified by the numbers following "H" as shown on Map 2 of Bylaw [Clerks to insert By-law number];
- (h) Despite (g) above:
 - i. structures and elements related to outdoor flooring and roofing assembly, safety railings, guard rails, railings, parapets, terraces, planters, balustrades, bollards, stairs, ancillary structures, retaining walls, and ornamental or architectural features may project above the height limits by no more than 2.0 metres;
 - ii. 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;
 - iii. mechanical elements, garbage chutes, vents, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;

- iv. elevator overrun, acoustical barriers, landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures, and fences may project above the height limits by no more than 2.75 metres;
 - v. cabanas and trellises may project above the height limits by no more than 3.6 metres;
 - vi. photovoltaic solar energy devices and sunlight collection and distribution devices (sun beamers) may project above the height limits by no more than 5.0 metres;
 - vii. window washing equipment, lightning rods and wind mitigation features;
 - viii. mechanical screening and heating/cooling towers may project above the height limits by no more than 6.0 metres;
 - ix. decorative lighting canopy and *public art* features; and,
 - x. structural elements, including but not limited to those that support the building, provided they project no higher than a Canadian Geodetic Datum elevation of 136.11 metres;
- (i) Despite (h) above, only the following structures and elements on the *lot* may extend above the *heights* identified as H 170 metres, H 211 metres, and H 254 metres on Map 2:
- i. Ancillary structures, structures and elements related to outdoor flooring and roofing assembly, parapets and *green roof* provided they extend no higher than 2 metres; and,
 - ii. elements on the roof of the building or structure used for *green roof* technology and related roofing material provided they extend no higher than 2 metres;
- (j) the required building setbacks must be provided as shown on Map 2 of By-law [Clerks to insert By-law number] except that:
- i. balconies may project no more than 2.0 metres into the building setbacks required by (j);
 - ii. Despite (j)i. above, balconies located on the west side of Building C may project no more than 3.0 metres in the building setbacks required by (j);
 - iii. despite (j)i, balconies are not permitted to project into the building setbacks on the south façade of Building C;
 - iv. cladding, photovoltaic solar energy devices, wind mitigation features, canopies, awnings, building cornices, window washing equipment,

- terraces lighting fixtures, ornamental elements, lightning rods, trellises, eaves, window sills, stairs, stair enclosures, air intakes and vents, ventilating equipment, landscape and green roof elements, partitions dividing outdoor recreation areas, privacy screens, acoustical walls, wind mitigation elements, chimney stack, exhaust flues may project no more than 2.5 metres into the building setbacks required by (j);
- v. structural elements, including but not limited to those that support the building, may encroach no more than 4.0 metres into the ground floor building setback on the north side of "Building A" and "Building B" (as shown on Map 2);
 - vi. Structural elements, including but not limited to those that support the building, may encroach no more than 20 metres into the required building setbacks on the south side of "Building C" (as shown on Map 2);
 - vii. decorative lighting canopy; and,
 - viii. *public art* features;
- (k) the minimum number of *parking spaces* provided and maintained on *Parcel A* for the exclusive use of the residents of such parcel shall be in accordance with the following:
- i. a minimum of 0.15 *parking spaces* per *dwelling unit*;
 - ii. No *parking spaces* are required for visitors of the *dwelling units* or the *non-residential gross floor area*;
 - iii. no *parking spaces* are required for the non-residential uses;
 - iv. The *parking spaces* may be in an *automated parking system*;
 - v. no *parking spaces* shall be required to be provided on the *lot* or off-site for any *existing buildings* or any portion thereof remaining on the *lot* after the date of enactment of this by-law or to service any of the non-residential uses occurring on the *lot*;
- (l) *parking spaces* provided pursuant to this By-law shall comply with the parking space dimensional requirements noted in Section 4(17) of By-law 438-86, as amended, with the exception that:
- i. the minimum length of a *parking space* shall be 5.4 metres;
 - ii. the minimum width of a *parking space* shall be 2.2 metres;

- iii. parking spaces provided in excess of the quantity required in subsection 2(k). above, which may include tandem or small car spaces, will not be subject to Section 4(17);
- (m) *bicycle parking spaces* shall be provided and maintained on *Parcel A* in accordance with the following:
 - i. *Bicycle parking spaces* shall be provided in accordance with the following rates:
 - 1. a minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit*;
 - 2. a minimum of 0.1 *bicycle parking spaces – visitor per dwelling unit*; and,
 - 3. a minimum of 67 *bicycle parking spaces* for the *non-residential gross floor area*;
 - ii. Despite Section 2(1) *bicycle parking space – visitor* of By-law 438-86, a *bicycle parking spaces – visitor* may be located in a secured room or an unsecured room;
 - iii. Despite Section 2(1) *bicycle parking space – occupant* of By-law 438-86, a *bicycle parking spaces – occupant* may be located in a secured room or an unsecured room;
 - iv. Despite Section 2(1) of By-law 438-86, a *bicycle parking space – visitor* and *bicycle parking space – occupant* oriented in a horizontal position must have a minimum length of 1.6 metres, a minimum width of 0.40 metres and a minimum vertical clearance of 1.9 metres;
 - v. Despite 2(m)(iv), if a *bicycle parking space* is provided in a *stacked bicycle parking system*, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres;
 - vi. Despite Section 2(1) of By-law 438-86, a *bicycle parking space – visitor* and *bicycle parking space – occupant* oriented in a vertical position must have a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.40 metres and a minimum horizontal clearance from the wall of 1.1 metres;
 - vii. The number of required *bicycle parking spaces* must be rounded down when the calculation results in a fraction;
- (n) no *parking spaces* shall be required to be provided on the *lot* or off-site for any *existing buildings* or any portion thereof remaining on the *lot* after the date of

- enactment of this by-law or to service any of the non-residential uses occurring on the *lot*;
- (o) Despite 4(12) of by-law 438-86, a minimum of 0.70 square metres per unit of outdoor *residential amenity space* must be provided;
 - (p) Despite 4(12) of by-law 438-86, at least 40.0 square metres of the outdoor *residential amenity space* is in a location adjoining or directly accessible to one of the areas used as indoor *residential amenity space*;
 - (q) Despite 4(12) of by-law 438-86, the indoor *residential amenity space* does not need to be contiguous with the outdoor component, can be in separate rooms, and can be on different levels;
 - (r) Despite 4(12) of By-law 438-86, *residential amenity space* can be provided in rooms that are not contiguous and no more than 25 percent of the outdoor component may be a *green roof*;
 - (s) no outdoor amenity space or *common outdoor space* is required on the *lot* for the non-residential uses;
 - (t) The minimum requirement for *street related retail and service uses* shall not apply to *Parcel A*;
 - (u) loading spaces shall be provided and maintained on *Parcel A* in accordance with the following minimum amounts:
 - i. 1 *loading space – type B*;
 - ii. 5 *loading space(s) – type C*; and
 - iii. 2 *loading space(s) – type G*;
 - (v) Despite 2(1) of By-law 438-86, the *residential gross floor area* and *non-residential gross floor area* of a *mixed use building* is also reduced by the areas in a building used for:
 - i. Hallways and elevator vestibules below ground;
 - ii. Electrical, utility, mechanical and ventilation rooms on any level of the building; and,
 - iii. Ramps and car elevators to access *parking spaces* and the *automated parking system*;
 - (w) For the purposes of this By-law **[Clerks to insert By-law number]**, a terrace means an outdoor area located on the roof of a building and such terrace is not a balcony;

- (x) the *owner(s)* of the *lot* enters into and registers on title to the *lot* one or more agreements with the City pursuant to Section 37(3) of the *Planning Act*, to the City Solicitor's satisfaction, to secure the facilities, services and matters in Appendix 1.
3. None of the provisions of By-law 438-86, as amended, shall apply to prevent a *temporary sales office* on the *lot*.
4. Definitions:
- (a) For the purposes of this By-law, the terms set forth in italics, subject to Section 4.b of this By-law, have the same meaning as such terms have for the purposes of Zoning By-law 438-86, as amended;
- (b) The following definitions shall apply:
- i. "*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;
 - ii. "*car-share parking space*" means a parking space that is reserved and actively used for car-sharing;
 - iii. "*stacked bicycle parking system*" means a horizontal bicycle parking space that is positioned above or below another bicycle parking space;
 - iv. "*existing buildings*" means buildings or structures existing on the *lot* in the year 2009, as shown on *Parcel B* on Map 1;
 - v. "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code;
 - vi. "*grade*" means 116.11 metres Canadian Geodetic Datum;
 - vii. "*height*" means the vertical distance between *grade* and the highest point of the building roof shown on Map 2;
 - viii. "*lot*" means the lands outlined by heavy dashed lines comprising *Parcel A* and *Parcel B* on Map 1 attached to this Bylaw;

- ix. "owner" has the same meaning as in Zoning By-law 438-86, as amended, except it shall include a tenant of any part of the *lot* who leases any part of the *lot* that is subject to a lease with the City, but shall not include the City;
- x. "*Parcel A*" means the lands more particularly identified as such on Map 1 to this By-law;
- xi. "*Parcel B*" means the lands more particularly identified as such on Map 1 to this By-law;
- xii. "*public art*" means works of sculptured art, works of visual and graphic art, sculptured landscaping, fountains, and artistic treatment of publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), clearly visible at all times from publicly accessible areas, including but not limited to flooring, structure, lighting and street furnishings, provided such elements of work have been designed by or in collaboration with artists and selected by a process and are in accordance with a program recommended by the Toronto Public Art Commission through the Chief Planner and approved by City Council;
- xiii. "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of sale of dwelling units to be erected on *Parcel A*;
- xiv. "*automated parking system*" means a mechanical system for the purpose of parking and retrieving cars without drivers in the vehicle during parking and without the use of ramping or driveway aisles, and which may include but is not limited to, a vertical lift and the storage of cars on parking pallets. Automated manoeuvring of other vehicles may be required in order for cars to be parked or to be retrieved. Parking pallets and parking elevators will not conform to the parking space dimensions set out in By-law 438-86. For clarity, parking pallets will be considered as a parking space or as an accessible parking space for the purpose of determining compliance with the requirements in Zoning By-law 438-86 and relevant clauses above in By-law [Clerks to insert By-law number];
- xv. For the purposes of this by-law, the buildings identified as:
1. H 170 metres on Map 2 is referred to as Building A;
 2. H 211 metres on Map 2 is referred to as Building B; and.
 3. H 254 metres on Map 2 is referred to as Building C;

5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall continue to apply to the whole of the *lot* as if no severance, partition, or division occurred.
6. Section 37 Provisions
 - (a) 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 1 in return for the provision by the *owner*, at the *owner's* expense of the facilities, services and matters set out in Appendix I 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.
 - (b) Where Appendix I 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.
 - (c) The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix I are satisfied.
7. By-law 85-2001, being a by-law to amend By-law 438-86, the Zoning By-law, with respect to lands municipally known as 2 Bloor Street West in 2000, is hereby repealed as it applies to the lands identified in Map 1 to this By-law on the coming into force of this By-law XXXX-2020 [Clerks to insert By-law number]. For greater certainty, the repeal of By-law 85-2001 does not affect the prior repeal of By-law 310-70 and By-law 140-82 by Council of the City of Toronto and By-law 310-70 and By-law 140-82 shall remain repealed.
8. By-law 787-2010, being a by-law to amend by-law 438-86, with respect to lands municipally known as 2 Bloor Street West in 2010, is hereby repealed as it applies to the lands identified in Map 1 to this By-law on the coming into force of this By-law XXXX-2020 [Clerks to insert By-law number].

Enacted and passed on July , 2020.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

Appendix I
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the City in accordance with one or more agreements pursuant to 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:

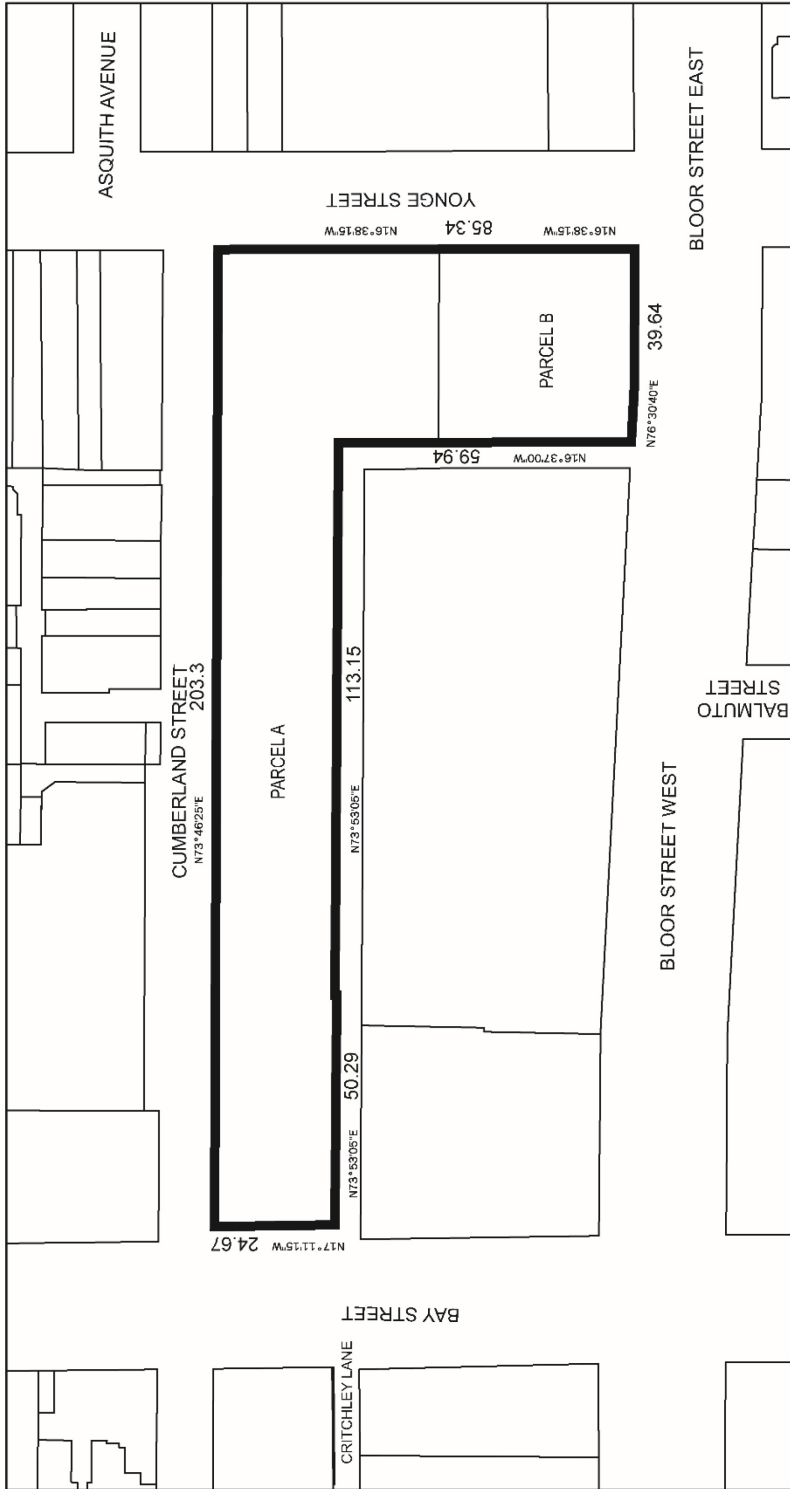
1. a total financial contribution of \$20,000,000.00, whereas City Council recognizes that \$500,000.00 has been already been paid to the City into the Planning Act Reserve Account, and the remaining financial contribution in the amount of \$19,500,000.00 shall be payable to the City prior to issuance of the first above-grade building permit, with such remaining financial contribution amount to be indexed upwardly in accordance with Statistics Canada Residential Building or Non-Residential Building Construction Price Index, as the case may be, for the Toronto Census Metropolitan Area, reported by Statistics Canada in the Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Section 37 Agreement to the date of payment and; the funds shall be directed as follows:
 - a. \$4,000,000.00 directed towards new and/or capital improvements to existing Affordable Housing in the vicinity of the *lot*;
 - b. \$500,000.00 directed towards streetscape improvements in the vicinity of the *lot*;
 - c. the \$500,000.00 already paid to the City through previous permissions, forming part of the total contribution shall continue to be directed towards the provision of streetscaping and landscaping improvements to Bloor Street West and Bloor Street East in the vicinity of the lot described in this By-law;
 - d. \$15,000,000.00 directed towards community facilities and parks within the vicinity of the *lot*; and
 - e. in the event the cash contribution referred to above has not been used for the intended purpose within three (3) years of the implementing Zoning By-law Amendment 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, in consultation with the ward Councillor, provided that the purposes are identified in Toronto's Official Plan and will benefit the local community.
2. the following matters are secured in the Section 37 Agreement as matters required to support the development of the *lot*:
 - a. a publicly accessible open space of not less than 125 square metres fronting onto Yonge Street. The *owner* shall operate, maintain and repair the open space and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the open space at all times of the day and night, 365 days

of the year; and the specific location, configuration and design of the open space shall be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;

- b. a Phasing Plan for the development in a form and content satisfactory and acceptable to the Chief Planner and Executive Director, City Planning in consultation with the General Manager, Transportation Services; General Manager, Parks, Forestry and Recreation; Chief Engineer and Executive Director, Engineering and Construction Services; the Toronto Transit Commission; Director, Real Estate Services and the City Solicitor which will be provided in a satisfactory and acceptable manner to the City prior to any Site Plan Approval on the *lot*;
- c. a Functional Servicing and Stormwater Management Report, to the satisfaction of the Chief Engineer & Executive Director, Engineering and Construction Services, and payment for and construction of any necessary improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support the development;
- d. provision and maintenance of a continuous publicly-accessible pedestrian connection from Bay Street, at grade, to the concourse level of the Building 'A', and connecting to the TTC subway station entrance access below Bay Street;
- e. maintenance by the *owner* and at the *owner's* expense of the existing below grade, publicly accessible pedestrian connection beneath Cumberland Street to the concourse level of the building permitted by this By-law together with the construction, provision and maintenance of a publicly accessible concourse-level corridor between such connection and the Bay subway station;
- f. prior to the earlier of condominium registration and the first residential use of Building 'C' the construction, provision and maintenance of a continuous publicly-accessible pedestrian connection from Cumberland Street, at grade, to the concourse level of the existing building on *Parcel B* (as shown on Map 1) and connecting to the below-grade pedestrian connection located below Yonge Street leading to the Bloor-Yonge subway station;
- g. provision and maintenance of streetscape improvements adjacent to the *lot*;
- h. prior to Site Plan Approval for each phase of the development, a Pedestrian Level Wind Study, including wind tunnel analysis report, to the satisfaction of the Chief Planner and Executive Director, City Planning, which identifies recommendations for the pedestrian realm and the outdoor areas of the base buildings to mitigate wind impacts year-round, and the *owner* will implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning;

- i. prior to the issuance of Site Plan Approval, a Construction Management Plan and Neighbourhood Communication Strategy to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Executive Director, Engineering and Construction Services and the ward Councillor;
- j. warning clauses, to be inserted in all offers to purchase, agreements of purchase and sale or agreements to lease, and condominium declaration documents for each south-facing unit within Buildings 'A' and 'B', to advise of the legal possibility that office or residential buildings may be erected on the lands south of the public lane which runs along the south property line of the *lot*, with undetermined height and massing;
- k. prior to the earlier of condominium registration and the first residential use of Building 'C', relocation by the *owner* of the existing public art currently located on the Yonge Street frontage to the new publicly accessible open space required in 2.a. above, and maintenance by the *owner* of the public art, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- l. a minimum 4.0 metre wide publicly-accessible pedestrian walkway, inclusive of structural support columns and a minimum 2.1 metre pedestrian clearway, on the south side of Cumberland Street, forming part of the colonnade for the base building of Buildings 'A' and 'B';
- m. construction and maintenance by the *owner* of the development of the *lot* in accordance with Tier 1 performance measures of the Toronto Green Standard, and the *owner* will be encouraged to achieve Toronto Green Standard, Tier 2 or higher, where appropriate through the Site Plan Approval process; and
- n. amendment to the existing ground lease for the *lot* and related ancillary documents to decrease and surrender the leased lands for the purpose of parkland dedication as it relates to this application only, shall not result in any form of rent reduction or any negative financial implication or loss to the City, and shall be on terms approved by the Executive Director, Corporate Real Estate Management, in consultation with the General Manager, Parks, Forestry and Recreation, and in a form satisfactory to the City Solicitor.

Map 1



Toronto
Map 1

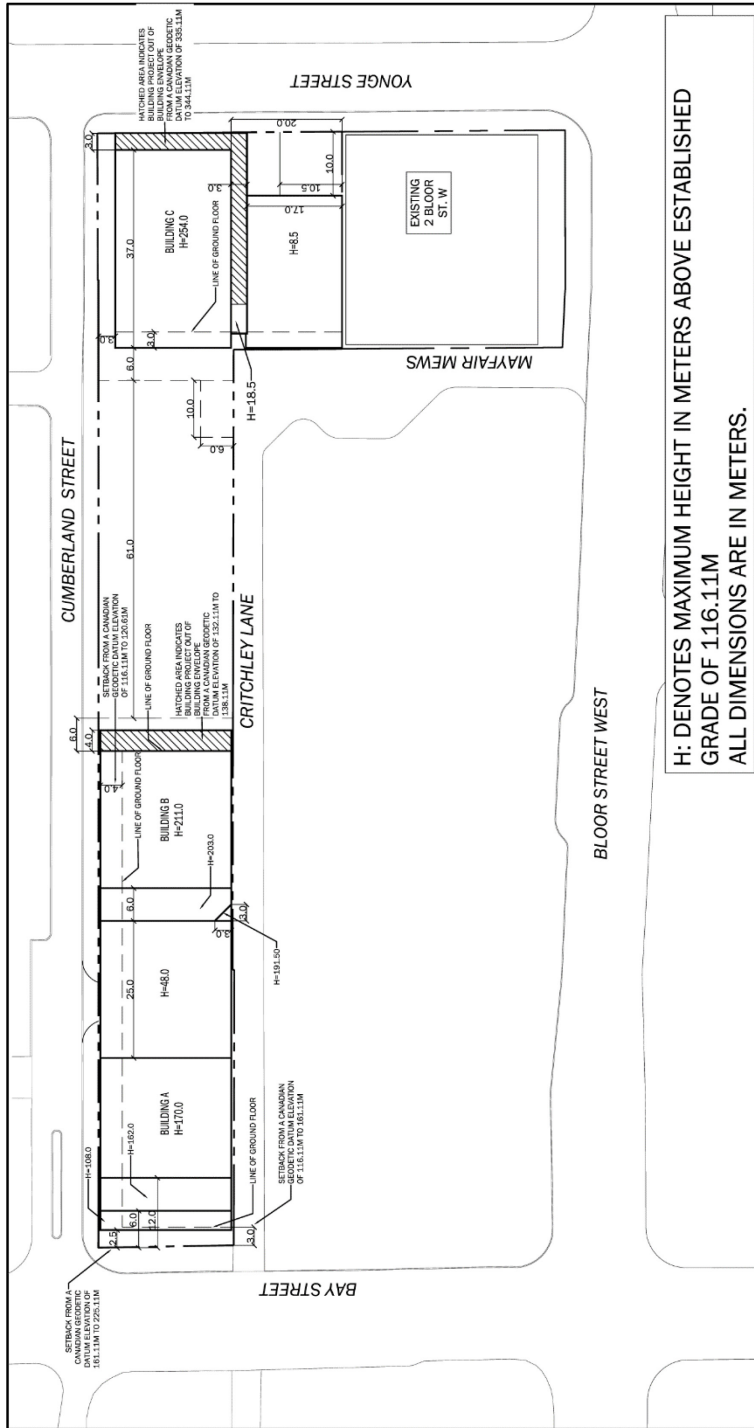
2 Bloor Street West

File # 18 221948 STE 27 0Z

City of Toronto By-law 438-86
Not to Scale
07/06/2020



Map 2



2 Bloor Street West
File # 18 221948 STE 27 0Z

City of Toronto By-law 438-86
Not to Scale
07/06/2020

