

Authority: Toronto and East York Community Council
Item TE18.6 as adopted by City of Toronto Council on
September 30, October 1 and 2, 2020

CITY OF TORONTO

Bill 1032

BY-LAW -2021

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2020 as 176 and 178 Front Street East and 33 Sherbourne Street.

Whereas Council of the City of Toronto has the authority to pass the By-law pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended; 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/or 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/or 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;

Now therefore, By-law 438-86 is further amended as follows:

1. This By-law applies to the lands delineated by a heavy line on Map 1 attached to and forming part of this By-law.
2. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.

3. None of the provisions of Sections 4(2)(a), 4(5), 4(8), 4(9), 4(12), 4(13), 4(16), 7(3)Part I, II, III, 12(2)132, 12(2)246, 12(2)259, 12(2)260, 12(2)270 and 12(2)(380) of Zoning By-law 438-86, 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 or use of a *mixed use building* and uses accessory thereto on the *lot* provided that:
- (a) In addition to the uses permitted in Section 7(1)(f) of Zoning By-law 438-86, a *commercial parking garage* shall also be permitted uses;
 - (b) The permitted maximum gross floor area of all buildings and structures will be 30,500 square metres;
 - (c) The non-residential gross floor area of the building and structures must be a minimum 1,300 square metres;
 - (d) A minimum of twenty-five percent of the total number of dwelling units constructed on the *lot* must contain two or more bedrooms, and a minimum ten percent of the total number of dwelling units constructed on the *lot* must contain three or more bedrooms;
 - (e) No portion of a building or structure erected on the *lot*, including mechanical penthouses, shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol HT on Map 2 attached to and forming part of this By-law, except for the following:
 - (i) Elevator shafts, elevator overrun, elevator machine room, enclosed stairwells, and access ladders to 8.5 metres;
 - (ii) Equipment used for the functional operation of the building, such as electrical, utility, mechanical and ventilation equipment; window washing equipment, structures used for the functional operation of the building, such as, maintenance equipment storage, mechanical rooms, chimneys, vents, and water supply facilities; and structures that enclose, screen or cover the elements listed above, by a maximum of 5.0 metres;
 - (iii) Parapets, railings, architectural features, ornamental elements, canopies, guard rails, mechanical and privacy screens, planting and other landscaping structures, insulation and roof surface materials, building equipment and noise and wind mitigation structures, by a maximum of 2.5 metres; and
 - (iv) Landscaping features and structures on the area labelled "HT 9.0 m" and "HT 31.5 m" on Map 2 used for outside or open air recreation, noise and wind mitigation structures, and landscaping structures and elements of a green roof, by a maximum of 3.0 metres.

- (f) The following elements and structures are permitted to encroach beyond the heavy lines and above the heights as shown on Map 2, subject to the limitations below:
- (i) Ornamental elements, window projections, window washing equipment, mechanical and privacy screens, mechanical equipment, fences, trellises, railings, landscape features and awnings, to a maximum of 3.0 metres;
 - (ii) Canopies to a maximum of 3.0 metres;
 - (iii) Lighting fixtures, window sills, eaves, vents and stacks, to a maximum of 1.0 metres;
 - (iv) Balconies and architectural features located on the 4th to 10th *storeys* to a maximum of 2.75 metres, and a maximum of 5.0 metres for the portion measured from the east *side lot line* by a length of 17.5 metres;
 - (v) Balconies and architectural features located on the 11th storey and above to a maximum of 2.75 metres; and
 - (vi) Balconies and private terraces located on the 10th *storey* may encroach to the limit of the east *side lot line*.
- (g) *Residential amenity space* shall be provided and maintained on the *lot* in accordance with the following:
- (i) A minimum rate of 2.0 square metres per *dwelling unit* of indoor *residential amenity space*;
 - (ii) A minimum rate of 1.4 square metres per *dwelling unit* of outdoor *residential amenity space* must be provided, of which a minimum of 40 square metres is to be provided in a location adjoining or directly accessible from an area that comprises indoor *residential amenity space*; and
 - (iii) The indoor *residential amenity space* may be provided in multipurpose rooms which are not contiguous, where a minimum of one multipurpose room is to have a kitchen and washroom and a minimum area of 100 square metres;
- (h) A minimum of 0.15 *parking spaces* per *dwelling unit*, rounded down to the nearest whole number, must be provided on the *lot* for residents of the building;
- (i) A minimum of 26 *parking spaces* must be provided in a *commercial parking garage*, with or without a fee, for the use of residential visitors and the non-residential uses of the building, and the general public, of which, a minimum of 2 *parking spaces* may be used for car share purposes;

- (j) *Bicycle parking spaces* must be provided and maintained on the lot in accordance with the following:
- (i) A minimum of 0.9 *bicycle parking spaces – occupant per dwelling unit*;
 - (ii) A minimum of 0.1 *bicycle parking spaces – visitor per dwelling unit*; and
 - (iii) A minimum 6 *bicycle parking spaces – visitor* must be provided for visitors to the *non-residential uses*.
- (k) *Bicycle parking spaces* may be provided in a *stacked bicycle parking space* and 100 percent of the *bicycle parking spaces* that are not *stacked bicycle parking spaces* may be provided in a vertical position;
- (l) A minimum of one *loading space – type "G"* and one *loading space – type "C"* shall be provided and maintained on the *lot*;
- (m) The definitions of "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*grade*", "*height*", "*lot*" "*non-residential gross floor area*", and "*residential gross floor area*", in Section 2(1)(iii) of By-law 438-86 shall not apply to the lands and instead the following definitions shall apply:
- (i) "*Grade*" means 79.47 metres Canadian Geodetic Datum;
 - (ii) "*Height*" means the vertical distance between grade and the highest point of the roof except for those elements prescribed in Section 3 e) of this By-law;
 - (iii) "*Lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
 - (iv) "*Bicycle parking space – occupant*" means an area either enclosed or unenclosed or any combination thereof, that is equipped with a bicycle rack or locker or room for the purpose of parking and securing bicycles, and
 - (1) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (2) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and

- (3) Where the bicycles are to be parked in a stacked bicycle parking space, the bicycle parking space is not subject to the dimensions outlined in a. and b. above but will have horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.0 metres.
- (v) "*Bicycle parking space – visitor*" means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and
- (1) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (2) Where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (3) Where the bicycles are to be parked in a stacked bicycle parking space, the bicycle parking space is not subject to the dimensions outlined in a. and b. above, but will have horizontal dimensions of at least 0.45 metres by 1.8 metres and a vertical dimension of at least 1.0 metres; and
 - (4) May be located in an area that is indoors or outdoors in an enclosed or unenclosed space or any combination thereof, including within a secured room, enclosure or bicycle locker.
- (vi) "*Non-residential gross floor area*" and "*residential 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 of the main wall of each floor level, reduced by the area in the building used for:
- (1) Parking, loading and bicycle parking below-ground;
 - (2) Required loading spaces on the ground level and required *bicycle parking spaces* at or above-ground;
 - (3) Storage rooms, vestibules, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (4) Shower and change facilities that are required by this By-law for required *bicycle parking spaces*;
 - (5) Amenity space required by this By-law;
 - (6) Elevator shafts;
 - (7) Garbage shafts;

- (8) Mechanical penthouse; and
 - (9) Exit stairwells in the building.
 - (vii) "*Stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space*;
5. Despite any future severance, partition or division of the lands as shown on Map 1, the provisions of this exception shall apply as if no severance, partition or division has occurred.
 6. None of the provisions of this By-law shall apply to prevent the construction of a temporary sales office on the *lot*.
 7. Pursuant to section 37 of the Planning Act and subject to compliance with this By-law, the increase in *height* of development on the *lot* contemplated herein beyond the otherwise permitted in By-law 438-86 is permitted in return for the provision by the *owner*, at the *owners'* expense of certain facilities, services and matters set out in Schedule A subject to and in accordance with an agreement pursuant to subsection 37(3) of the Planning Act that is in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
 8. Where Schedule A of this By-law requires the *owners* 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 same.

Enacted and passed on December , 2021.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

SCHEDULE A
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. Prior to the issuance of the first above-grade building permit for the development, the *owner* shall provide cash contributions having a value of \$3,500,000 to be allocated as per the following:
 - a. A cash contribution of \$1,750,000 towards capital improvements in Toronto Community Housing buildings and/or existing affordable housing units within proximity of the subject site, in consultation with the Ward Councillor; and
 - b. A cash contribution of \$1,750,000 towards local streetscape, parkland and/or community facilities within proximity of the subject site, 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 Table: 18-10-0135-01, or its successor, calculated from the date of the Section 37 agreement to the date of payment.
3. In the event the cash contributions referred to Section 1 have not been used for the intended purposes within three (3) years of the date the Section 37 Agreement is executed, 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 the vicinity of the lands.
4. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - a. The *owner* shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council applicable at the time the Site Plan Application was submitted to the City for the Development, subject to any requirements with respect to the provision of bicycle parking as set out in the Zoning By-law Amendments;;

- b. That prior to final site plan approval the *owner* shall:
- i. Provide final site plan drawings substantially in accordance with the approved Conservation Plan required in Item TE18.9 to the satisfaction of the Senior Manager, Heritage Planning;
 - ii. Have obtained final approval for the necessary Zoning By-law Amendments required for the subject property, with such Amendments to have come into full force and effect;
 - iii. Provide a Heritage Lighting Plan that describes how the exterior of the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - iv. Provide a detailed landscape plan for the subject property, satisfactory to the Senior Manager, Heritage Planning;
 - v. Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - vi. Submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Planning; and
 - vii. Enter into necessary agreements, provide letters of credit and engineering fees, and a cost estimate for the work associated with the Front Street East boulevard widening for the northern portion of Front Street East beginning with and including the eastern side of Sherbourne Street to the western side of Princess Street, along with any related intersection improvements or relocation of signal infrastructure (the “Front Street Improvements”) to be constructed to current municipal standards and specifications (or equivalent) and generally in accordance with the Section 37 Agreement. However, should it be determined that the Front Street Improvements are to be incorporated into the City’s capital works program at the discretion of the City, the *owner* will provide a cash contribution to the City in the form of a certified cheque to fully cover the costs of the Front Street Improvements, with such cash contribution not to exceed the cost estimate for the work as provided by the *owner*;
- c. As a condition of site plan approval, the *owner* will be responsible for constructing the Front Street Improvements, complying with the specifications and requirements of the Section 37 Agreement, with any modifications determined to be acceptable to the Chief Engineer and Executive Director, Transportation Services throughout the site plan approval process.

- d. That prior to the issuance of any permit for all or any part of the property at 33 Sherbourne Street and 178 Front Street East (including 176 Front Street East), including a heritage permit or a building permit, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Planning, the *owner* shall:
- i. Have obtained final approval for the necessary Zoning By-law Amendments required for the subject property, with such Amendments to have come into full force and effect;
 - ii. Provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Item TE18.9, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning; and
 - iii. Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in the approved Conservation Plan, Heritage Lighting Plan and Heritage Interpretation Plan.
- e. That prior to the release of the Letter of Credit required in subsection 4. d. iii. above, the *owner* shall:
- i. Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work and the required interpretive work has been completed in accordance with the Conservation Plan and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning;
 - ii. Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Planning; and
 - iii. Have received City Council authority to enter into a heritage easement agreement under Section 37 of the Ontario Heritage Act with the *owner* of 33 Sherbourne Street and 178 Front Street East (including 176 Front Street East) in a form and content satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning Division.



