

Authority: Etobicoke York Community Council Item 28.1,
as adopted by City of Toronto Council on August 5 and 6, 2009
Enacted by Council: October 1, 2009

CITY OF TORONTO

BY-LAW No. 995-2009

To amend Chapters 320 and 324 of the Etobicoke Zoning Code, with respect to the lands municipally known as 60 and 70 Esther Lorrie Drive.

WHEREAS authority is given to Council 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 Section 5.1.1 of the City of Toronto Official Plan contains provisions relating to the authorization of increases in density of development; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may, in a By-law passed under Section 34 of the *Planning Act*, authorize increases in the height and density of development otherwise permitted by the By-law that will be permitted in return for the provision of such facilities, services and 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 or matters in return for an increase in the height and 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 owners of the lands hereinafter referred to have elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increase in the density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands in Chapters 320 and 324 of the Etobicoke Zoning Code, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are to be secured by one or more agreements between the owners of such lands and the City of Toronto;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. That the zoning map referred to in Section 320-5, Article II of the Zoning Code, and originally attached to the Township of Etobicoke By-law No. 11,737, be and the same is hereby amended by repealing By-law No. 12188 and changing the zoning of the lands located in the former Township of Etobicoke as identified within the heavy black lines on Schedule "A" annexed hereto from Fifth Density Residential (R5) to Sixth Density Residential (R6), provided the following provisions shall apply to the development of the lands identified in Schedule "A".

2. Definitions

The provisions of Section 304-3 Definitions of the Zoning Code shall apply unless inconsistent with the provisions of this By-law. For the purposes of this By-law the following definitions shall apply:

“Average Grade” - means the geodetic elevation at ground level adjoining the main front wall of the main entrance of the Proposed Residential Building;

“Building Envelope” - means the building area permitted within the setbacks established in this By-law for the Proposed Residential Building, as shown on Schedules “A”, “B” and “B2” attached hereto;

“Exclusive Indoor Amenity Space” - means the indoor amenity space to be constructed in the Proposed Residential Building pursuant to the provisions of this by-law as more particularly described in 0 herein;

“Gross Floor Area” - shall have the same meaning as the Zoning Code definition in Section 304-3, except that the following areas shall also be excluded: Mechanical Floor Area; unenclosed balconies, underground parking garage, and below grade storage areas;

“Height” - means, with respect to each section of the building erected within the Building Envelope for the Proposed Residential Building as shown on Schedules “B” and “B2” attached hereto, the vertical distance between the average grade as defined in this By-law and the highest point of the roof surface of the building, excluding mechanical equipment, mechanical penthouses, parapets, architectural elements, stairs and stair enclosures located on the roof of such building provided the maximum height of the top of such elements is no higher than 7.0 metres;

“Indoor Amenity Area” - means a common area or areas which are provided for the exclusive use of residents of the building, and their guests, for recreation or social purposes;

“Lands” - shall mean the lands described in Schedule “A” attached hereto;

“Minor Projections” - means minor building elements which may project from the main wall of the building, including roof eaves, window sills, railings, cornices, guard rails, balustrades, porches, balconies and bay windows, to a maximum projection of 1.5 metres;

“Proposed Residential Building” - means the proposed apartment building to be constructed in the south-east portion of the Lands as shown on Schedule “B” and more particularly on Schedule “B2” attached hereto; and

“Two Existing Apartment Buildings” - means the two existing seven (7) storey apartment buildings shown on Schedule “B” attached hereto.

3. Notwithstanding Sections 320-18, 320-76 and 320-77 of the Etobicoke Zoning Code, the following development standards shall apply to all of the lands described in Schedule “A” attached hereto.

4. Permitted Uses

No buildings or structures shall be erected or used on the Lands, except for the following uses:

- (a) The Two Existing Apartment Buildings having a maximum height of 7 storeys;
- (b) The Proposed Residential Building;
- (c) accessory structures including those permitted under Section 320.76F of the Zoning Code and shall include covered ramps, exterior stairs and garbage enclosures; and
- (d) a temporary sales office for the purpose of marketing and sales of units related to the proposed building which shall be permitted and exempt from all development standards listed in the By-law or Zoning Code. The sales office shall not be subject to the requirements of the agreement referred to in Section 0 herein.

5. Gross Floor Area

The maximum Gross Floor Area, as defined herein, permitted on the Lands shall be 37,800 square metres.

6. Maximum Density

The maximum density permitted on the Lands shall be 1.41 times the area of the Lands;

7. Minimum/Maximum Height

The maximum building heights to be permitted on the Lands shall be in accordance with the heights shown on Schedule “B2”, attached hereto.

8. Setbacks/Floor Plate Restrictions/Building Envelope

- (a) No building or structure within the Lands shall be located other than within the Building Envelopes shown on Schedule “B2” attached hereto;
- (b) Notwithstanding the foregoing, any portion of the Proposed Residential Building or any structure constructed on the lands which is located below the finished exterior ground level immediately adjoining such building or structure, may be located outside of the Building Envelope for that building or structure; and

- (c) Permitted accessory structures, ground floor canopies, wheelchair and covered ramps, exterior stairs, parapets and railings related to underground parking structures, vents, temporary sales offices, fences, safety railings and other landscape features shall be permitted outside the Building Envelope.

9. Parking and Loading Requirements

The following parking requirements shall apply to the Lands:

- (a) Proposed Residential Building: – minimum rates:
 - (i) Vehicle parking for residential apartment uses shall be provided at a minimum ratio of 1.0 stall per dwelling unit for units with less than 3 bedrooms and 1.2 stalls for units with three or more bedrooms. An additional 0.2 stalls per dwelling unit shall be provided per dwelling unit and shall be reserved for the exclusive use of visitors;
- (b) Two Existing Apartment Buildings – minimum rates:
 - (i) A minimum of 1.05 spaces per dwelling unit;
 - (ii) Of this number, 0.15 spaces per dwelling unit shall be reserved for the exclusive use of visitors parking.
- (c) Surface Parking:
 - (i) A minimum of 22 of the total required visitor parking spaces may be provided at ground level.
- (d) Bicycle Parking (entire Lands):
 - (i) Bicycle parking spaces (not to be located within dwelling units) shall be provided at the rate of 0.50 spaces for each dwelling unit within the Proposed Residential Building to a maximum requirement of 126 spaces.

10. Area Requirements

The following area requirements shall apply to the Lands:

- (a) Landscaped Open Space:
 - (i) A minimum 35% of the lot area shall be reserved for Landscaped Open Space.

- (b) Indoor Amenity Space:
- (i) Indoor Amenity Space shall be separately provided within the Proposed Residential Building for the exclusive use of residents of that building at a minimum rate of 1.50 square metres per unit.
 - (ii) In addition to clause (i) above, minimum of 180.0 square metres of Exclusive Indoor Amenity Space shall be provided within the Proposed Residential Building, in a room having direct access to the exterior of the building, and reserved for the exclusive use of the residents of the Two Existing Apartment Buildings.
11. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.
12. Chapter 324, Site Specifics, of the Zoning Code is hereby amended to include reference to this By-law.
13. Unless otherwise noted, this by-law shall apply collectively to the Lands described in Schedule “A” annexed hereto, notwithstanding their future division into parcels, and the Lands shall be deemed to have an area of 27,875m².
14. Section 37
- (a) The density of development permitted by this By-law is subject to the Owner of the land, at its expense, providing the following capital facilities, cash contributions toward specific capital facilities, and/or matters pursuant to Section 37 of the *Planning Act* in order to permit a residential development with a maximum density of 1.41 times the area of the Lands; a maximum of 455 dwelling units on the Lands; and heights as shown on Schedules “B” and “B2” as follows:
- (i) Prior to the issuance of the first above ground building permit (excluding sales office), the owner shall be required to provide adequate funding, satisfactory to the Chief Planner and Executive Director, City Planning Division, and the Director of Development Engineering and at no cost to the City to install 2 public transit shelters at Toronto Transit Commission stops in the area;
 - (ii) Prior to the issuance of the first Building Permit for above-grade buildings, the owner shall deliver to the City funds in the amount of fifteen thousand dollars (\$15,000) for a new fire alarm system and improved security access system at the Rexdale Library;
 - (iii) Prior to issuance of the first Building Permit for above-grade buildings, the Owner shall deliver to the City funds in the amount of one hundred fifty thousand dollars (\$150,000) for improvements to Sunnydale Acres Park.

- (iv) Regarding the Two Existing Apartment Buildings, the owner is required to enter into an agreement to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor to secure:
- (1) the rental status of the units for a 20 year period;
 - (2) the design and construction and/or installation of an outdoor children's playground in front of the Existing Buildings at a cost of not less than thirty-five thousand dollars (\$35,000);
 - (3) the design and construction and/or installation of garden plots north of the Two Existing Apartment Buildings, which garden plots shall include benches and landscaped walkways. For greater clarity, such improvements and their respective associated costs shall be not less than eighty-nine thousand four hundred and ninety-one dollars (\$89,491);
 - (4) the repainting of the foyer and common areas adjoining the foyer of the Two Existing Apartment Buildings, the total cost of which is estimated to be thirty thousand dollars (\$30,000);
 - (5) the completion of the installation of water saving toilets in all units of the Two Existing Apartment Buildings, the cost of which is estimated to be twenty thousand dollars (\$20,000);
 - (6) the completion of the programmed upgrade of the security system through the installation of additional cameras and monitoring equipment in the Two Existing Apartment Buildings, the cost of which is estimated to be twenty-five thousand dollars (\$25,000); and
 - (7) the completion of the owner's programme of refurbishment of the parkade structure and decking adjacent to the Two Existing Apartment Buildings, the cost of which is one hundred and eighty-five thousand dollars (\$185,000),

with all such renovations and improvement to the condition of the Two Existing Apartment Buildings to be without pass-through costs to the tenants of the Two Existing Apartment Buildings and all to the satisfaction of the Director, Community Planning, Etobicoke and East York District.

- (v) The owner, at its sole expense, shall include and construct within the design of the Proposed Residential Building a room containing not less than one hundred eighty square metres (180m²) that can be accessed from the exterior of the Proposed Residential Building, for the exclusive use of the tenants, from time to time, of the Two Existing Apartment Buildings with no additional charge to said tenants. Prior to Occupancy of the

Proposed Residential Building, the Exclusive Indoor Amenity Space shall be painted and be outfitted, with minimum standards to the satisfaction of the Director, Community Planning, Etobicoke and East York District. The total aggregate cost to the owner of constructing and outfitting the Exclusive Indoor Amenity Space as hereinbefore described shall not exceed four hundred eighty four thousand two hundred fifty dollars (\$484,250); provided that the Owner shall have the option of enhancing the Exclusive Indoor Amenity Space by increasing the amount of money dedicated to the cost of construction and the provision of any additional amenity features or equipment.

- (vi) The owner and the City acknowledge that, in the event the owner applies to the Committee of Adjustment for consent to sever and convey the portion of the Lands on which the Proposed Residential Building is to be situated, it shall be a condition of any such consent granted by the Committee of Adjustment that the proposed transferee of the severed lands to contain the Proposed Residential Building enter into a lease for the Exclusive Indoor Amenity Space with the then current owner of the Two Existing Apartment Buildings in a form to be approved by the City, acting reasonably, notice of which shall be registered and remain registered on title to the Lands for the duration of said lease which shall also contain the following non-exhaustive terms and conditions:
- (1) the owner of the Exclusive Indoor Amenity Space shall be the lessor and the owner or the then current owner of the Two Existing Apartment Buildings shall be the lessee;
 - (2) the term of the lease shall be ninety-nine (99) years, commencing on the later of the date on which the lessee under the lease is legally entitled to occupy the Exclusive Indoor Amenity Space and the date on which the Exclusive Indoor Amenity Space is completed and furnished as per the requirements of this by-law and the provisions of any agreement made pursuant to section 37 of the *Planning Act*;
 - (3) all the residents of the Two Existing Apartment Buildings shall, during the length of their respective tenancies, have access to the Exclusive Indoor Amenity Space for the exclusive use and enjoyment of the tenants of the Two Existing Apartment Buildings in accordance with procedures, rules and regulations established from time to time by the owner or the then current owner of the Two Existing Apartment Buildings, acting reasonably, and, should the Proposed Residential Building, or any part thereof, proceed as a condominium development, notice of the use of the Exclusive Indoor Amenity Space shall be included in any such condominium's declaration as such term is defined in the *Condominium Act, 1998*;

- (4) in the event the tenant and/or the landlord under the lease wish to amend the lease, any such amendment which may have the effect of terminating the rights of the then tenants of the Two Existing Apartment Buildings from accessing or enjoying the Exclusive Indoor Amenity Space shall first be approved by the City, acting reasonably;
 - (5) in the event the landlord under the lease intends to terminate the lease, prior to any such termination, the landlord shall provide sixty (60) days' written notice to the City Solicitor and the Director, Community Planning, Etobicoke and East York District;
 - (6) the lessee shall only have the right to terminate the lease upon the occurrence of the demolition of the Two Existing Apartment Buildings or condominium registration pursuant to the *Condominium Act, 1998* in connection with all of the existing rental units of said buildings; and
 - (7) the registered owner of the Two Existing Apartment Buildings shall be responsible for the maintenance and repair of the Exclusive Indoor Amenity Space, including without limitation, winter maintenance to ensure access is provided to the Exclusive Indoor Amenity Space through the winter, and the common expenses to be paid to the condominium corporation in connection with the Indoor Amenity Space, if any.
- (vii) In the event the Project is developed as a condominium corporation, either (i) the condominium declaration will provide that the Exclusive Indoor Amenity Space is to be an exclusive use common element for the benefit of the tenants of the Two Existing Apartment Buildings or, (ii) prior to the turn-over meeting held pursuant to Section 43 of the *Condominium Act, 1998*, the declarant or the first board of directors appointed pursuant to Section 42 of the *Condominium Act, 1998*, as applicable, shall assign the Lease to the condominium corporation created by the condominium registration.
- (viii) Notwithstanding Sections 14.1)vi) and 14.a)vii), nothing in this by-law shall prevent the owner from conveying the Exclusive Indoor Amenity Space to the owner of the Two Existing Residential Buildings provided:
- (1) all the residents of the Two Existing Apartment Buildings shall, during the length of their respective tenancies, have access to the Exclusive Indoor Amenity Space in accordance with the condominium declaration, at no additional charge subject to the procedures, rules and regulations established from time to time by the owner or the then current owner of the Two Existing Apartment Buildings, acting reasonably; and

- (2) the registered owner of the Two Existing Apartment Buildings shall be responsible for the maintenance and repair of the Exclusive Indoor Amenity Space, including without limitation, winter maintenance to ensure access is provided to the Exclusive Indoor Amenity Space through the winter, and the common expenses to be paid to the condominium corporation in connection with the Indoor Amenity Space, if any.
- (b) The Agreement referred to in 0 herein shall provide that the owner of the lands provide signage and warning clauses in accordance with the requirements of the Toronto District School Board and Toronto District Catholic School Board.
- (c) The owner of the lands enters into an agreement with the City pursuant to Section 37 of the *Planning Act*, prior to the issuance of any part permit or permit to secure the facilities, services, and matters set forth in Section 0 herein, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor, prior to this By-law coming into force and effect.
- 15.** 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 or matters set out herein, 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.

| BY-LAW NUMBER AND ADOPTION DATE | DESCRIPTION OF PROPERTY | PURPOSE OF BY-LAW |
|--|---|--|
| 995-2009 October 1, 2009 | Lands located on the northwest corner of Kipling Avenue and Esther Lorrie Drive, south of the Humber River, municipally known as 60-80 Esther Lorrie Drive. | To permit a maximum of 251 new apartment units within a new 12 -storey apartment building on the property, along with site specific development standards. |

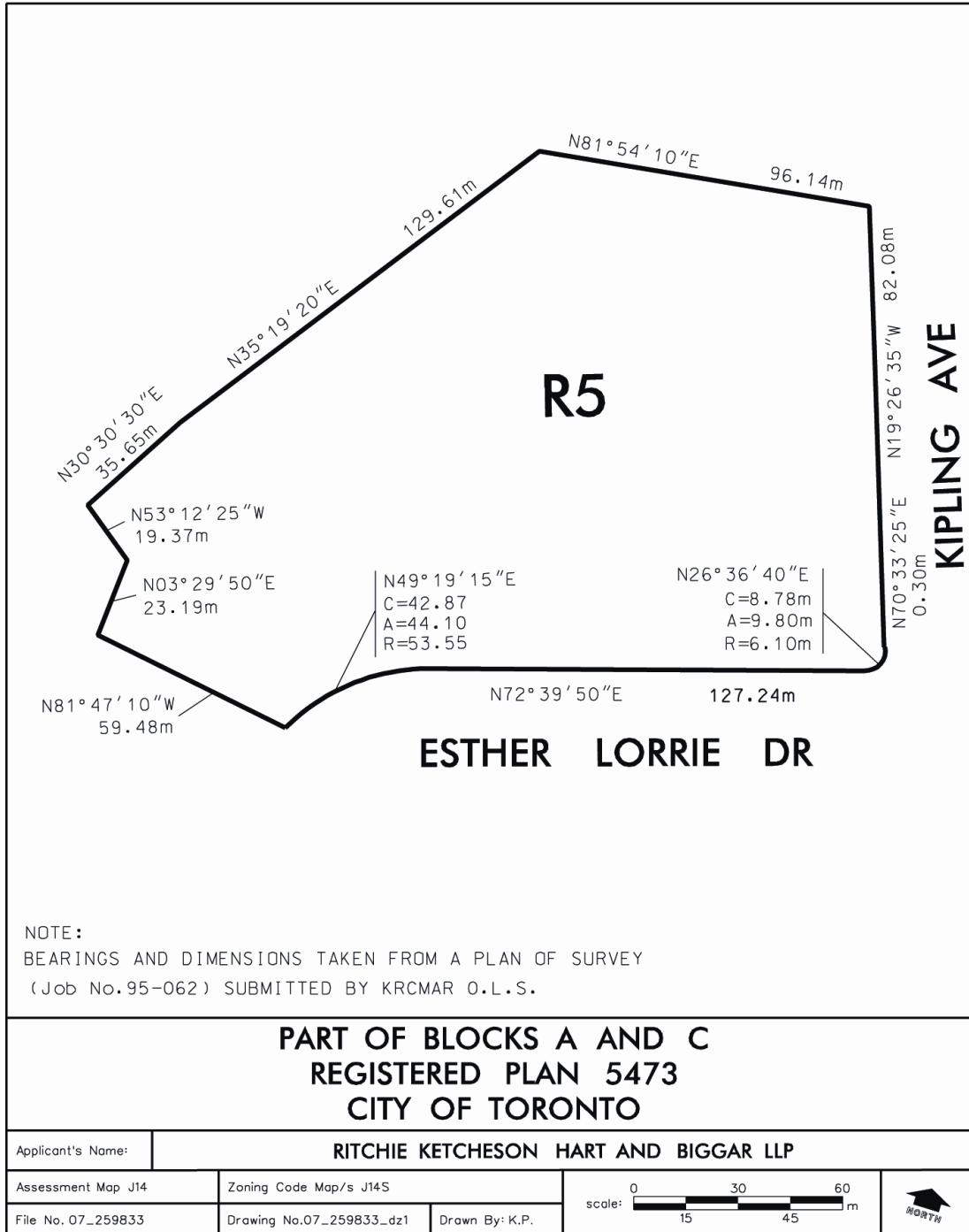
ENACTED AND PASSED this 1st day of October, A.D. 2009.

SANDRA BUSSIN,
Speaker

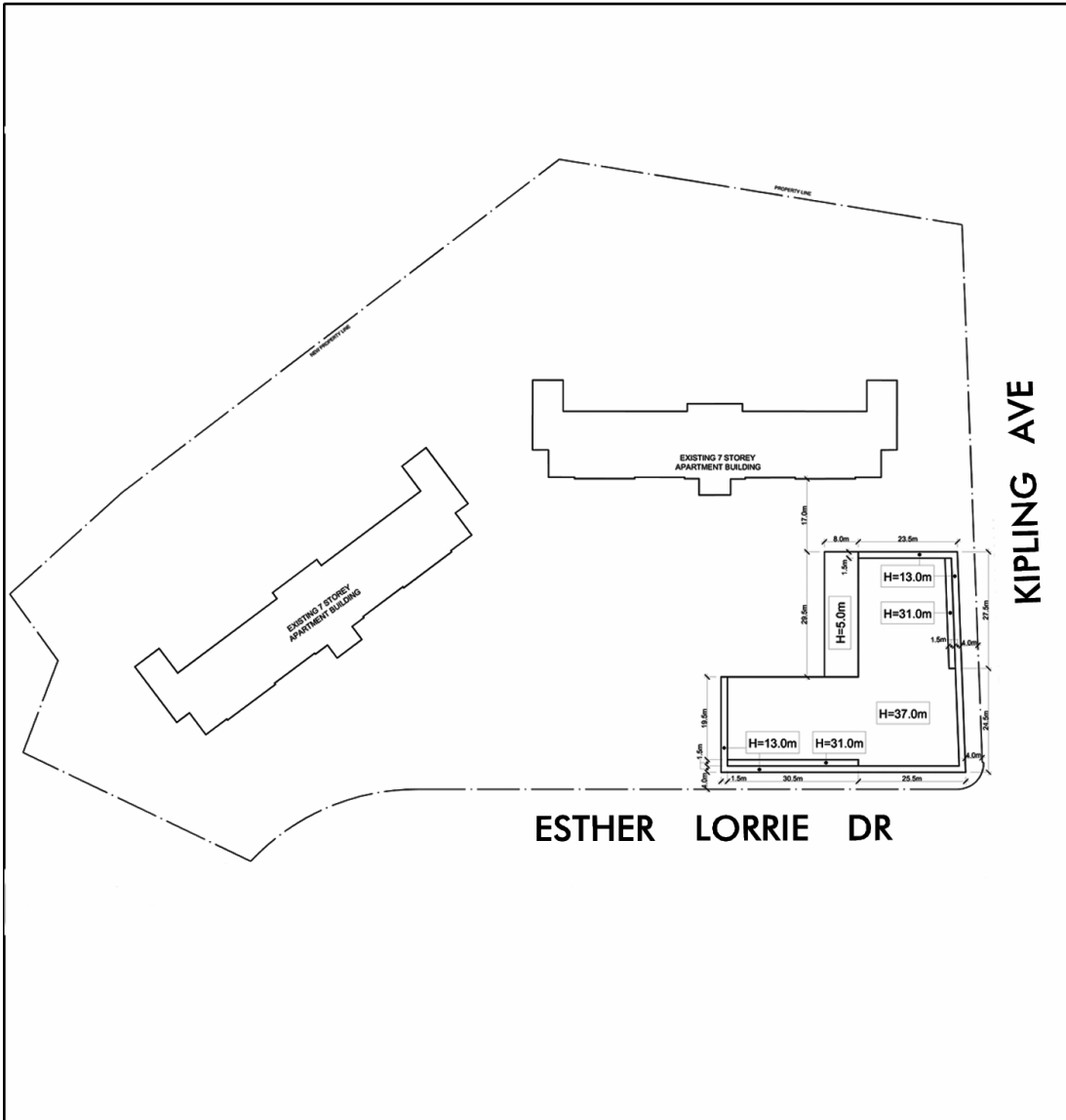
ULLI S. WATKISS
City Clerk

(Corporate Seal)

Toronto Schedule 'A' BY-LAW



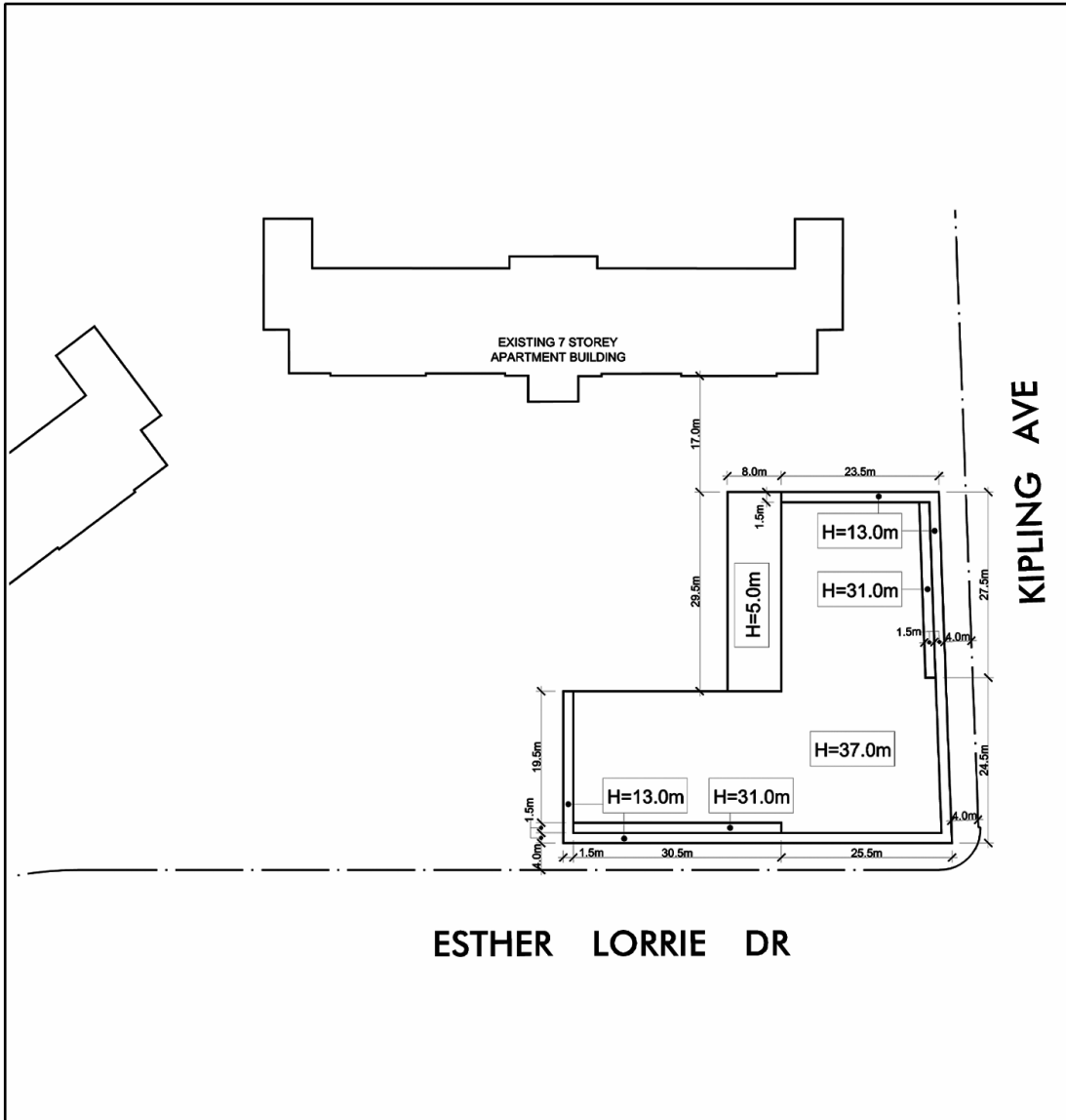
Toronto Schedule 'B' BY-LAW



**PART OF BLOCKS A AND C
REGISTERED PLAN 5473
CITY OF TORONTO**

| | | | |
|--------------------|--------------------------|---|---|
| Applicant's Name: | | RITCHIE KETCHESON HART AND BIGGAR LLP | |
| Assessment Map J14 | Zoning Code Map/s J14S | scale:  |  |
| File No. 07_259833 | Drawing No.07_259833_dz2 | | |

Toronto Schedule 'B2' BY-LAW



ESTHER LORRIE DR

KIPLING AVE

**PART OF BLOCKS A AND C
 REGISTERED PLAN 5473
 CITY OF TORONTO**

| | | | |
|--------------------|----------------------------|---------------------------------------|--|
| Applicant's Name: | | RITCHIE KETCHESON HART AND BIGGAR LLP | |
| Assessment Map J14 | Zoning Code Map/s J14S | scale: | |
| File No. 07_259833 | Drawing No. 07_259833_dz2a | | |

