

Authority: Toronto and East York Community Council Item 24.13,  
adopted as amended, by City of Toronto Council on June 11, 12 and 13, 2013

## CITY OF TORONTO

### BY-LAW No. 818-2013

#### **To amend the General Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 333 - 351 King Street East.**

Whereas the Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to lands known municipally in the year 2012 as 333-351 King Street East; and

Whereas the Council of the City of Toronto has conducted a public meeting under Section 34 of the *Planning Act* regarding the proposed Zoning By-law amendment; 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 any 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 lands hereinafter referred to has elected to provide the facilities, services, and matters as are hereinafter set forth; and

Whereas the increase in the height of development permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the lands and the City of Toronto (hereinafter referred to as the "City"); and

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

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 all of the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 2 of this By-law.
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 or 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. None of the provisions of Section 2(1) with respect to the definitions of, *grade, height, lot, owner, parking space, sales office* and *storey* and Sections 4(2)(a), 4(5)(b), 4(8), 4(13), 7(3), 12(2)132, 12(2)246 and 12(2)260 of Zoning By-law No. 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 and use of *non-residential buildings* on the *lot* provided that:
- (1) The *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
  - (2) Except as otherwise provided herein, the provisions of Zoning By-law No. 438-86, as amended, shall continue to apply to the *lot*.
  - (3) The total *non-residential gross floor area* erected or used on the *lot* shall not exceed 95,500 square metres, of which a minimum total of 12,000 square metres of *non-residential gross floor area* shall be located on the first *storey* of the buildings.
  - (4) No person shall erect or use a building or structure or portion thereof on the *lot* having a greater *height*, in metres than the *height* in metres specified by the numbers following the letter H on the attached Map 2, inclusive of mechanical penthouse, rooftop structures and elements set forth in Section 4(2)(a) of By-law No. 438-86, as amended, provided this does not prevent:
    - (a) elements on the roof of the building or structure used for green roof technology or alternative roofing system, provided the maximum vertical projection of such elements is no higher than 0.5 metres above the *height* limits shown on Map 2; and
    - (b) roof top stacks, vents, and parapets, to a maximum vertical projection of 3.0 metres above the *height* limits shown on Map 2.
  - (5) Despite Section 3(4) of this By-law, no person shall erect or use a building or structure on the *lot* which exceeds the number of *storeys* specified by the numbers delineated on Map 2.
  - (6) No person shall erect or use a building or structure on the *lot* which does not conform to the building envelope shown on Map 3.
  - (7) A minimum of 265 *parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
    - (a) 74 *parking spaces* for the *existing office building*;
    - (b) 46 *parking spaces* for the *west office tower*; and

- (c) 134 *parking spaces* for the *east office tower*.
- (8) *Parking spaces* provided above the minimum number required in Section 3(8) of this By-law may only be provided as follows:
- (a) up to 10 *parking spaces* for each parking space provided on the *lot* for the dedicated and exclusive use as either a publicly accessible *car-share parking space* or a publicly accessible car pool parking space.
- (9) A minimum of 435 *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- (a) 193 *bicycle parking spaces* for the *existing office building*;
  - (b) 52 *bicycle parking spaces* for the *west office tower*;
  - (c) 190 *bicycle parking spaces* for the *east office tower*; and
  - (d) a minimum of 40 *bicycle parking spaces-visitor* shall be provided for visitors of the *non-residential gross floor area* erected on the *lot*, all of which shall be located in an easily accessible area at finished ground level.
- (10) A minimum of 13 *shower - change facilities* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- (a) 4 *shower - change facilities* within the *existing office building*;
  - (b) 1 *shower - change facility* within the *west office tower*; and
  - (c) 8 *shower - change facilities* within the *east office tower*.
- (11) A minimum of 11 loading spaces shall be provided and maintained on the *lot*, in accordance with the following minimum requirements:
- (a) a total of 6 loading spaces within the *existing office building* and the *west office tower* comprised of 1 *loading space - Type A*, 3 *loading spaces - Type B* and 2 *loading spaces - Type C*; and
  - (b) 5 loading spaces within the *east office tower* comprised of 2 *loading spaces - Type B* and 3 *loading spaces - Type C*;
- for the shared use of the buildings located on the *lot*.
4. None of the provisions of this By-law or By-law No. 438-86, as amended, as of the date of the passing of this By-law, shall apply to prevent the erection and use of a temporary *sales office* on the *lot*.

5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
6. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
  - (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
  - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

7. Definitions:

For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in the said By-law No. 438-86, as amended, except for the following:

- (1) "*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;
- (2) "*car-share parking space*" means a parking space that is reserved and actively used for car-sharing;
- (3) "*east office tower*" means the proposed office tower permitted by this By-law, on the east portion of the property, with frontage on King Street East, Berkeley Street and Front Street East;
- (4) "*existing office building*" means the existing building, as identified by the heavy dark line on Map 2 attached to this By-law;
- (5) "*grade*" means 80.595 metres Canadian Geodetic Datum;
- (6) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- (7) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
- (8) "*owner*" shall mean the registered owner of the *lot* in fee simple;

- (9) "*parking space*" means an unimpeded area that has dimensions not less than those prescribed by subsection 4(17) of By-law No. 438-86, as amended, Minimum Parking Space Dimensions;
- (10) "*sales office*" means a building or structure, used exclusively for the purpose of marketing, sales and leasing of *non-residential gross floor area* within the *east office tower* and the *west office tower* on the lot;
- (11) "*storey*" means a level of the building or structure located between a floor and a ceiling or roof immediately above, excluding those areas of the buildings labelled as mechanical on Map 2, and the first *storey* shall be the first level of the building which contains the main entrance to the buildings. For clarity, a *storey* does not include levels of the buildings occupied by an underground garage; and
- (12) "*west office tower*" means the proposed office tower permitted by this By-law at the southwest corner of the property, with frontage on Princess Street and Front Street East.

Enacted and passed on June 13, 2013.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

**Appendix "1"**  
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for no credit for development charges, indexing escalation of both the financial contribution and any letters of credit, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

- (1) the *owner* shall pay to the City by certified cheque the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) towards capital expenditures for the City's North St. Lawrence Market redevelopment, of which TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) shall be paid prior to the enactment of this By-law by the City Council and the remaining TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) shall be paid prior to the issuance of the first building permit for all or any part of the *lot*, with the exception of any building permit required for the repair, maintenance or renovation of the *existing office building*;

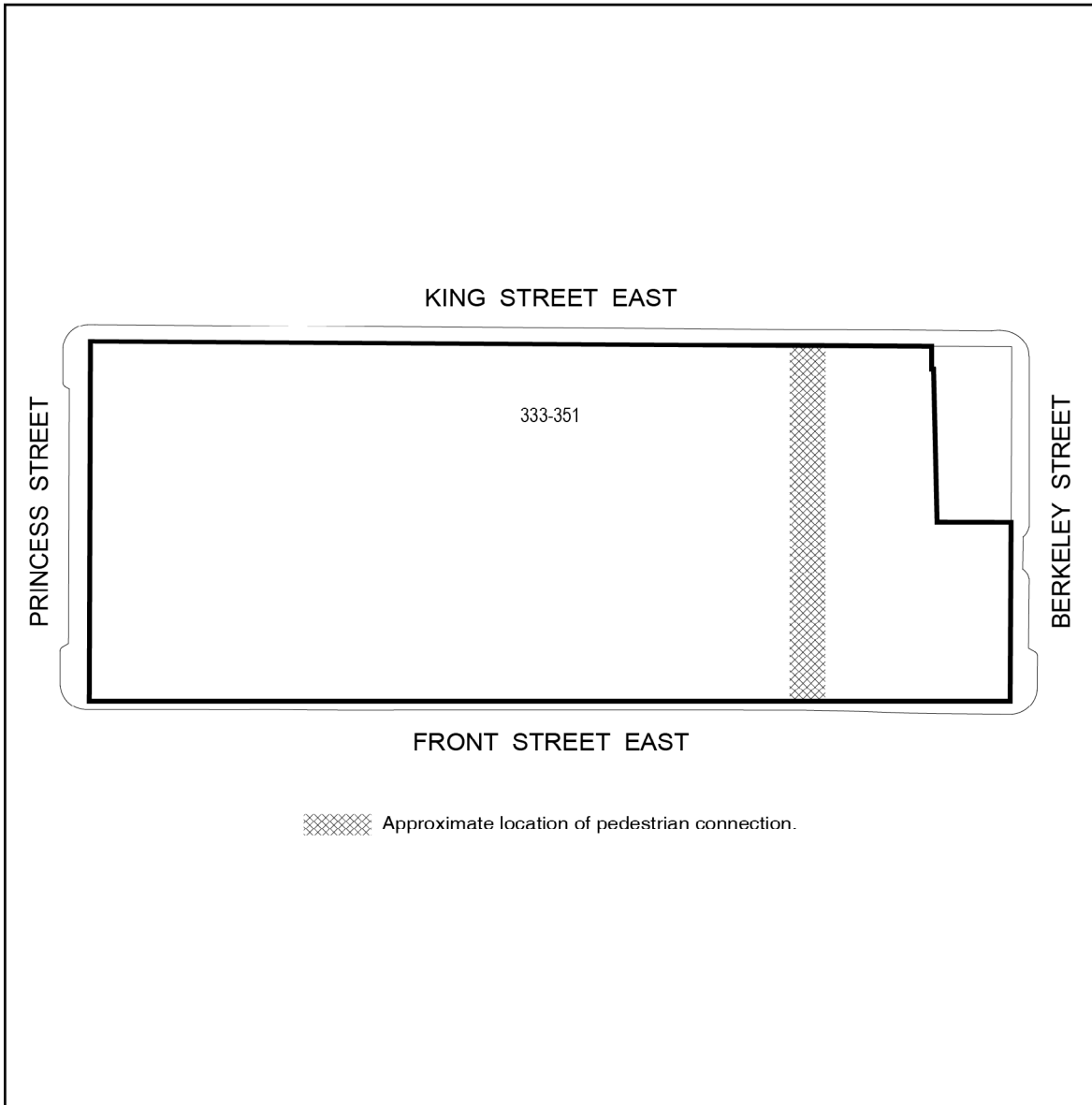
such amount is to be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of the Section 37 Agreement to the date of payment of the sum by the *owner* to the City;

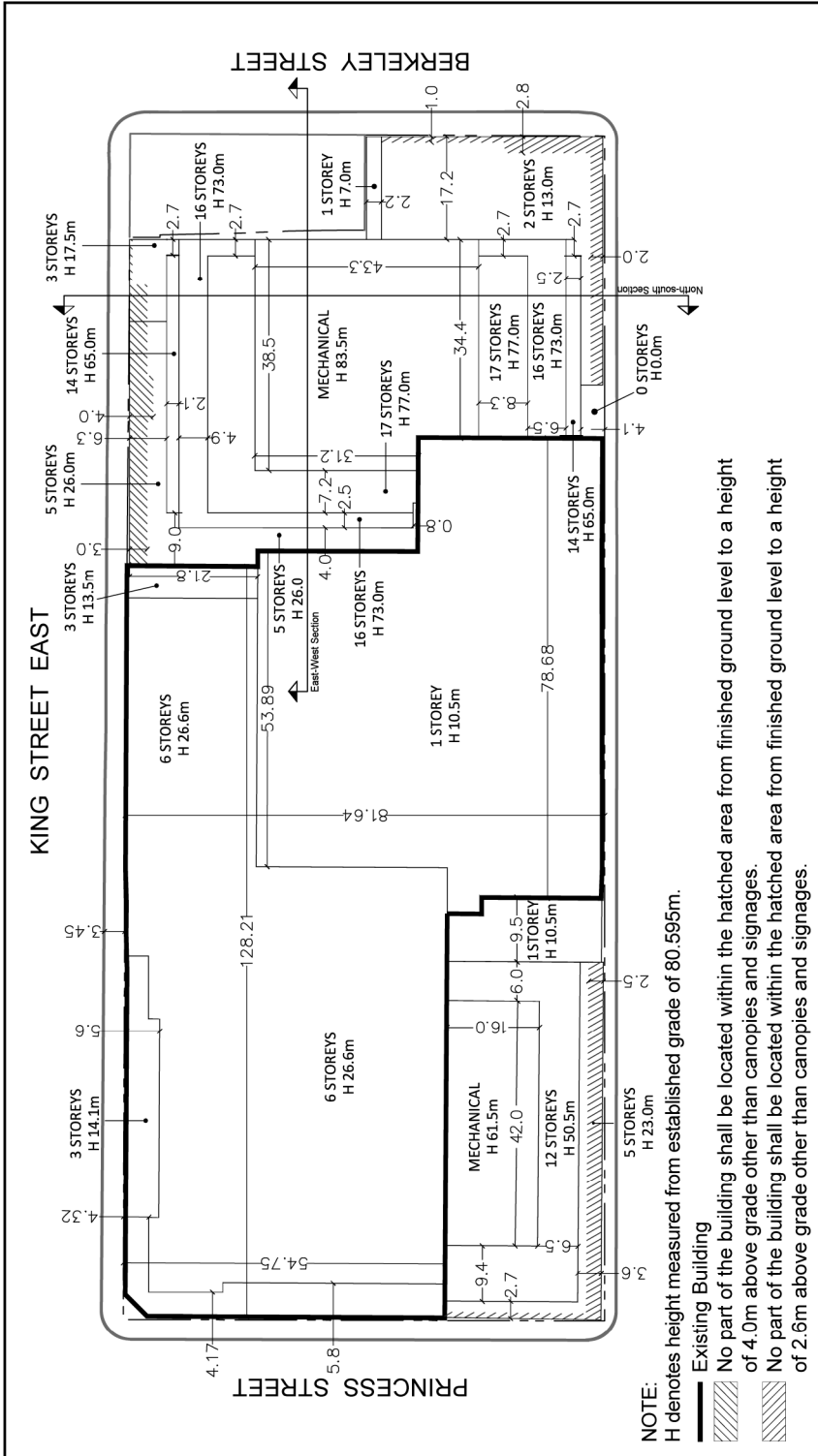
- (2) prior to the earlier of the issuance of site plan approval pursuant to section 114 of the *City of Toronto Act, 2006*, or the issuance of the first building permit for all or any part of the *lot*, with the exception of any building permit required for excavation or shoring or for the demolition, repair, maintenance, renovation or improvement of the *existing office building*, the *owner* shall have obtained and registered all to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning Division (the "Chief Planner"), a restrictive covenant pursuant to Section 119 of the *Land Titles Act*, restricting in perpetuity the future build-out potential of the property municipally known in 2012 as 359-361 King Street East to a maximum height of 26 metres;
- (3) prior to the issuance of the final building permit for the *east office tower*, the *owner* shall convey and register to the satisfaction of the City Solicitor a non-exclusive easement in perpetuity, in favour of the City of Toronto for use by the City and the general public as a publicly accessible, privately owned, pedestrian walkway, for the most part located within the *east office tower*, having a minimum width of 6 metres, a minimum height of 4 metres, and providing a direct *at-grade* connection between Front Street East and King Street East, generally within the area identified as "Approximate Location of Pedestrian Connection" on Map 1 of this By-law. Such walkway to be provided and maintained at the *owner's* expense and the specific location, configuration and design to be determined to the satisfaction of the Chief Planner prior to the earlier of the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006* and the issuance of the first building permit for all or any part of the *east office tower*;

- (4) prior to the issuance of the final building permit for the *east office tower*, the *owner* shall provide and register to the satisfaction of the City Solicitor in consultation with the Chief Planner, a non-exclusive easement in perpetuity, in favour of the City of Toronto for use by the City and the general public as a publicly accessible, privately owned, pedestrian walkway for the purpose of extending the width of sidewalks abutting the *lot* within the *lot* in the areas identified by hatched lines adjacent to King Street East, Berkeley Street and Front Street East as shown on and in accordance with the requirements of Map 2 of this By-law, with the specific location, configuration and design to be determined to the satisfaction of the Chief Planner as part of any site plan approval for the *east office tower* pursuant to Section 114 of the *City of Toronto Act, 2006*;
- (5) prior to the issuance of the final building permit for the *west office tower*, the *owner* shall provide and register to the satisfaction of the City Solicitor in consultation with the Chief Planner, a non-exclusive easement in perpetuity, in favour of the City of Toronto for use by the City and the general public as a publicly accessible, privately owned, pedestrian walkway for the purpose of extending the width of sidewalks abutting the *lot* within the *lot* in the areas identified by hatched lines adjacent to Princess Street and Front Street East as shown on and in accordance with the requirements of Map 2 of this By-law, with the specific location, configuration and design to be determined to the satisfaction of the Chief Planner as part of any site plan approval for the *west office tower* pursuant to Section 114 of the *City of Toronto Act, 2006*;
- (6) the *owner* shall construct and provide streetscape improvements to the public street right-of-ways abutting the entire *lot*, including but not limited to, sidewalk bump-outs, street lighting, pavers, street furniture and tree trench installation, to the satisfaction of the Chief Planner, the General Manager, Parks, Forestry and Recreation Division, and the Executive Director, Engineering and Construction Services Division, such work to be secured by the provision of Letters of Credit satisfactory to the Chief Planner prior to the issuance of any site plan approval for each of the *east office tower* and the *west office tower*;
- (7) the *owner* shall pay for and construct any improvements to the existing municipal infrastructure as set out in a Functional Servicing Report, acceptable to the Executive Director of Engineering and Construction Services Division, should such Executive Director determine that upgrades to such infrastructure are required to support any development permitted by this By-law;
- (8) the *owner* shall construct and maintain both the *east office tower* and the *west office tower* in accordance with Tier 1 required measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adopting of PG32.3 of the Planning and Growth Committee, as amended or replaced from time to time and shall provide the Chief Planner with satisfactory documentation of LEED registration and certification of the *east office tower*; and
- (9) the *owner* shall design and construct the *east office tower* substantially in conformity with the architectural design identified on plans on file with the Chief Planner, prepared by Diamond and Schmitt Architects, dated February 20, 2013, to the satisfaction of the Chief Planner, the further details of which, including exterior materials, will be refined on

approved plans and drawings as part of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, and shall be further secured in any Site Plan Agreement with the City for the *east office tower*.







**NOTE:**  
 H denotes height measured from established grade of 80.595m.  
 Existing Building  
 No part of the building shall be located within the hatched area from finished ground level to a height of 4.0m above grade other than canopies and signages.  
 No part of the building shall be located within the hatched area from finished ground level to a height of 2.6m above grade other than canopies and signages.

**Toronto** City Planning  
**Map 2**  
**333-351 King Street East**  
 File # 12 144494 0Z



