

Authority: Ontario Municipal Board Order issued on January 9, 2014, in Board File No. PL070048

## **CITY OF TORONTO**

### **BY-LAW No. 70-2014(OMB)**

**To amend former City of North York Zoning By-law No. 7625, as amended, with respect to lands municipally known as 2205, 2225, 2235 and 2255 Sheppard Avenue East.**

Whereas the owner of the lands shown on Schedule 1 attached hereto applied for a zoning by-law amendment for the development of the lands shown on Schedule 1 attached hereto and appealed that application to the Ontario Municipal Board; and

Whereas pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, the council of a Municipality, and the Ontario Municipal Board on appeal, may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law, 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 lands elects to provide facilities, services or matters in return for an increase in height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with such facilities, services or matters; and

Whereas the owner has elected to provide the facilities, services and matters as are hereinafter set forth; and

Whereas the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by former City of North York By-law No. 7625 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 and the City of Toronto (hereinafter referred to as the "City");

Therefore pursuant to the Order of the Ontario Municipal Board issued on January 9, 2014, in Board Case No. PL070048, By-law No. 7625 of the former City of North York, as amended, is further amended as follows:

1. Schedules B and C of By-law No. 7625 of the former City of North York are amended in accordance with Schedule 1 of this By-law.
2. Section 64 of By-law No. 7625 of the former City of North York is amended by adding the following subsection:

**"64.23 (133) C1(133)**

#### **DEFINITIONS**

- (a) For the purpose of this exception, "gross floor area" shall mean the total area of all of the enclosed floors in a building above or below grade measured from the outside of the exterior walls but excluding all motor vehicle spaces within the

building, including vehicular parking spaces, vehicular access to such spaces, loading docks and associated areas, and bicycle parking areas.

- (b) For the purpose of this exception, on the lands identified on Schedule C1(133A), "bicycle parking" shall mean an area below established grade or at grade that is equipped with bicycle racks or lockers for the purpose of parking and securing bicycles, but is not intended for general storage use.
- (c) For the purpose of this exception, on the lands identified on Schedule C1(133A), "recreational amenity area" shall mean an area that is communal and available to all occupants of a building or a group of buildings within a zone for social and recreational purposes including indoor or outdoor space, playgrounds, tennis courts, lawn bowling greens, indoor or outdoor swimming pools, exercise or entertainment rooms, and other similar uses.
- (d) For the purpose of this exception, on the lands identified on Schedule C1(133A), "established grade" shall mean 175.3 metres Canadian Geodetic Datum in relation to Building 'A', 174.65 metres Canadian Geodetic Datum in relation to Building 'B', 175.3 metres Canadian Geodetic Datum in relation to Building 'C', 175.1 metres Canadian Geodetic Datum in relation to Building 'D' and 175.1 metres Canadian Geodetic Datum in relation to Building 'E', all as shown on Schedule C1(133A).
- (e) For the purpose of this exception, "Phase 1" shall mean the lands shown as Phase 1 on Schedule C1(133B).
- (f) For the purpose of this exception, "Phase 2" shall mean the lands shown as Phase 2 on Schedule C1(133B).
- (g) For the purpose of this exception, on the lands identified on Schedule C1(133A), "apartment house dwellings" shall mean a building containing more than four (4) dwelling units, each having access either from an interior corridor system or direct access at grade, or any combination thereof.
- (h) For the purpose of this exception, "owner" shall mean the owner or owners of Phases 1 and 2, but shall not include the City of Toronto.

## **PERMITTED USES**

- (i) On the lands identified on Schedule C1(133A), the only permitted uses shall be:
  - (i) Residential: apartment house dwellings, multiple attached dwellings, and accessory uses including recreational amenity areas; and
  - (ii) Non-residential: automatic laundry shops, banks, business and professional offices, clubs, commercial galleries, commercial schools, dry-cleaning and laundry collecting establishments, financial institutions, fitness centres, personal service shops, professional medical offices, retail

stores, sales offices, service shops, showrooms, studios, synthetic dry-cleaning establishments, and restaurants (including accessory outdoor cafe).

## **EXCEPTION REGULATIONS**

### **GROSS FLOOR AREA**

- (j) The maximum gross floor area for all uses on the lands identified on Schedule C1(133A) shall be 94,000 square metres, of which the maximum gross floor area for residential uses shall be 93,500 square metres and the maximum gross floor area for non-residential uses shall be 1,500 square metres.

### **DWELLING UNITS**

- (k) The number of dwelling units shall not exceed 1,152.

### **BUILDING HEIGHT**

- (l) The provisions of Section 23.2.4.3 for height on the lands identified in Schedule C1(133A) shall not apply.
- (m) On the lands identified on Schedule C1(133A), the maximum number of storeys above established grade and the maximum building height in metres for all buildings shall be as shown on Schedule C1(133A). The number of storeys and measurement of building height shall exclude mechanical penthouses, parapets, indoor recreational amenity area, any roof structures used only as ornaments, stairwells to access the roof and stair enclosures.

### **BUILDING ENVELOPES**

- (n) The maximum tower floorplate shall be:
  - (i) 795 square metres for portions of Building 'B' as shown on Schedule C1(133A) in excess of 12.0 metres in height;
  - (ii) 795 square metres for portions of Building 'C' as shown on Schedule C1(133A) in excess of 18.0 metres in height; and
  - (iii) 795 square metres for portions of Building 'D' as shown on Schedule C1(133A) in excess of 11.0 metres in height.

### **YARD SETBACKS**

- (o) The minimum yard setbacks for all buildings and structures above grade on the lands identified on Schedule C1(133A) shall be as shown on Schedule C1(133A); where there is no minimum yard setback indicated on Schedule C1(133A), the minimum yard setback shall be 0 metres.

- (p) The minimum yard setbacks shown on Schedule C1(133A) shall not apply to balconies, canopies, window sills, lighting fixtures, ornamental elements, exterior stairways, wheelchair ramps and decks.
- (q) The minimum yard setbacks for below grade structures shall be 0 metres.

## **PARKING**

- (r) All required parking shall be provided within the lands shown on Schedule C1(133A).
- (s) All required parking shall be provided below established grade with the exception of surface parking spaces intended for short term parking and delivery which may be permitted on the lands shown on Schedule C1(133A).
- (t) Notwithstanding Section 6A(2) (Parking Requirements) of By-law No. 7625, the minimum number of parking spaces shall be calculated in accordance with the following:

### **Residential:**

- (i) 1-Bedroom - 0.7 spaces per dwelling unit;
- (ii) 2-Bedroom - 0.9 spaces per dwelling unit;
- (iii) 3 or more Bedrooms - 1.0 space per dwelling unit; and
- (iv) Visitors - 0.1 spaces per dwelling unit.

### **Commercial/Retail:**

- (i) 1.0 spaces per 100 square metres of gross floor area;
- (u) The maximum number of parking spaces shall be calculated in accordance with the following:

### **Residential:**

- (i) 1-Bedroom - 1.0 spaces per dwelling unit;
- (ii) 2-Bedroom - 1.3 spaces per dwelling unit; and
- (iii) 3 or more Bedroom - 1.5 space per dwelling unit.

### **Commercial/Retail:**

- (i) 4.0 spaces per 100 square metres of gross floor area.
- (v) Section 6A(6)(g) (Non-residential Parking Regulations) of By-law No. 7625 shall not apply.

### **LOT COVERAGE**

- (w) The provisions of Section 23.2.1 for lot coverage shall not apply.

### **LOT AREA**

- (x) The provisions of Section 23.2.4.1 for lot area shall not apply.

### **FLOOR AREA OF DWELLING UNIT**

- (y) The provisions of Section 23.2.4.2 for minimum dwelling unit size shall not apply.

### **BICYCLE PARKING**

- (z) A minimum of 200 bicycle parking spaces shall be provided for Buildings 'A', 'B' and 'C' combined and a minimum of 200 bicycle parking spaces shall be provided for Buildings 'D' and 'E' combined, of which, in each case, a minimum of 160 bicycle parking spaces shall be allocated to occupants and a minimum of 40 bicycle parking spaces shall be allocated to visitors.

### **LOADING**

- (aa) Notwithstanding Section 6A(16) (Loading Requirements) of By-law No. 7625, loading shall be provided as follows:
- (i) A minimum of one (1) shared Type 'G' and one (1) shared Type 'B' loading space shall be provided for Buildings 'A', 'B' and 'C', which are to be located within Building 'B';
  - (ii) A minimum of one (1) shared Type 'G' and one (1) shared Type 'C' loading space shall be provided for Buildings 'D' and 'E', which are to be located within Building 'D';
  - (iii) Type 'G' loading space means a loading space that is a minimum of 4.0 metres wide, a minimum of 13.0 metres long and has a minimum vertical clearance of 6.1 metres;
  - (iv) Type 'B' loading space means a loading space that is a minimum of 3.5 metres wide, a minimum of 11.0 metres long and has a minimum vertical clearance of 4.0 metres; and
  - (v) Type 'C' loading space means a loading space that is a minimum of 3.5 metres wide, a minimum of 6.0 metres long and has a minimum vertical clearance of 3.0 metres.

**RECREATIONAL AMENITY AREA**

- (bb) Recreational amenity area shall be provided in accordance with the following:
- (i) A minimum of 1.5 square metres of indoor recreational amenity area per dwelling unit; and
  - (ii) A minimum of 1.5 square metres of outdoor recreational amenity area per dwelling unit.

**DIVISION OF LANDS**

- (cc) Notwithstanding any severance or division of the lands subject to this exception, the regulations of this exception shall continue to apply to the whole of the lands as if it remained one lot.

**SECTION 37 AGREEMENT**

- (dd) Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted on the lands are permitted in return for the provision by the owner of the following facilities, services and matters to the City at the owner's sole expense, in accordance with and subject to compliance with the provisions of the agreement(s) to be executed and registered on title to the lands as shown on Schedule C1(133A) attached hereto:
- (i) The owner agrees to enter into one or more agreements with the City pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required to be provided by this Section and consents to the registration of such agreement or agreements against title to the lands outlined in heavy lines on Schedule C1(133A) attached hereto;
  - (ii) The owner shall provide to the City, prior to issuance of an above grade building permit for the first building or structure within Phase 1, a payment of \$575,000.00; and shall provide to the City a second payment of \$575,000.00 prior to the issuance of an above grade building permit for the first building or structure within Phase 2, both such payments to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date of payment in either case; such payments to be applied to capital improvements in any or all of Clydesdale Park, Hickory Nut or Pleasantview Community Centre at the discretion of the City;
  - (iii) The owner shall at its own expense prior to the issuance of an occupancy permit for any building or structure on Phase 1, and following construction and acceptance by the City of services required for such Phase 1 including the environmental remediation and construction to base course asphalt of Street A and the northerly portion of Street B, convey, or cause to be

conveyed, Street A and the northerly portion of Street B and all associated corner roundings, together with the Private Street at the westerly edge of the Phase 1 lands, all as shown on Schedule C1(133B) to the City in fee simple, free and clear of encumbrances, at no cost and for nominal consideration and to the satisfaction of the City Solicitor."

3. Section 64.23 of By-law No. 7625 of the former City of North York is amended by adding Schedule C1(133A) and Schedule C1(133B) attached to this By-law.
4. Section 64.34 of By-law No. 7625 of the former City of North York is amended by deleting Subsection 64.34(5) in its entirety and replacing it with the following subsection:

**"64.34(5) MO(5)**

**PERMITTED USES**

- (a) On lands identified as Parcel 1, 3 and 4 on Schedule MO(5), the only permitted uses shall be:
  - (i) In addition to the uses permitted in an MO zone, the following uses are also permitted:
    - (A) a club; and
    - (B) notwithstanding Section 34-A(2)(a)(vi), a communications and broadcasting establishment.

**EXCEPTION REGULATIONS**

**YARD SETBACKS**

- (b) The minimum yard setbacks for all buildings and structures that are located within Parcels 3 and 4 as shown on Schedule MO(5) and that have a side lot line abutting the east-west portion of Settlers Road, are to be as follows:
  - (i) Minimum side yard setback on the east-west portion of Settlers Road:
    - (A) 6 metres for all buildings and structures other than a parking structure; and
    - (B) 2.5 metres for a parking structure.
  - (ii) All other side yard setbacks, a minimum of 3 metres, and an additional 0.3 metres for every 0.6 metres of additional building height in excess of 11 metres.
- (c) The minimum side yard setbacks for buildings and structure that are located within Parcels 3 and 4 as shown on Schedule MO(5) and do not have a side lot line

abutting the east-west portion of Settlers Road, are to be provided in accordance with Section 30.4.

- (d) The minimum front and rear yard setbacks for buildings and structures that are located within Parcels 3 and 4 as shown on Schedule MO(5) are to be provided in accordance with Section 30.4.
- (e) Notwithstanding the requirements of Section 64.34-A(5)(b) and Section 30.4:
  - (i) On Parcel 1 as shown on Schedule MO(5), the following is required:
    - (A) a minimum front yard setback of 6 metres;
    - (B) for a parking structure only, a minimum west side yard setback of 0 metres;
    - (C) for a parking structure only, a minimum south side yard setback of 0 metres; and
    - (D) for a parking structure only, a minimum rear yard setback of 0 metres. (*By-law No. 169-1998*).
  - (ii) On Parcel 3 as shown on Schedule MO(5), the following is required:
    - (A) for a parking structure, an enclosed atrium and satellite broadcasting and receiving dishes only, a minimum east side yard setback of 0 metres;
    - (B) for a parking structure only, a minimum rear yard setback of 0 metres; and
    - (C) for a viewing deck (lounge), a minimum rear yard setback of 1 metre.
  - (iii) On Parcel 4 as shown on Schedule MO(5), the following is required:
    - (A) for satellite broadcasting and receiving dishes only, a minimum front yard setback of 3 metres;
    - (B) for an enclosed atrium and satellite broadcasting and receiving dishes only, a minimum west side yard setback of 0 metres;
    - (C) for a parking structure only, a minimum east side yard setback of 0 metres;
    - (D) a minimum north side yard setback of 25 metres except for a parking structure which is to have a minimum north side yard setback of 0 metres; and



- (E) for a parking structure only, a minimum rear yard setback of 0 metres.

### **GROSS FLOOR AREA**

- (f) The total gross floor area of the fitness centre, personal service shop, retail and service shop uses is not to exceed 5,851 square metres.
- (g) Notwithstanding Section 34-A(7), the combined aggregate gross floor area of all buildings within Parcels 3 and 4 as shown on Schedule MO(5) is not to exceed 290% of the area of Parcels 3 and 4; provided that, as long as the temporary air supported structure erected over the tennis courts on Parcel 3 (Block 3, Plan 66M-2144) exists, the combined aggregate gross floor area of all of the buildings within Parcels 3 and 4 is not to exceed 297% of the area of Parcels 3 and 4.

### **PARKING**

- (h) Notwithstanding the requirements of Section 30.6 and Sections 2.61.1 and 2.61.2, 375 car parking spaces having a minimum width of 2.4 metres are permitted in the below grade structure on Parcel 3 as shown on Schedule MO(5).

### **SIGNS**

- (i) No signs advertising or related to the fitness centre, personal service shop, retail and service shop uses are permitted. Notwithstanding the foregoing, reference to "The Fitness Institute", a fitness centre, is permitted on the pylon sign located adjacent to the main entrance to Parcels 3 and 4 as shown on Schedule MO(5) from Sheppard Avenue East.
5. Section 64.34 of By-law No. 7625 of the former City of North York is amended by deleting Schedule MO(5) and replacing it with Schedule MO(5) attached to this by-law.

PURSUANT TO DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED JANUARY 9, 2014 IN BOARD CASE NO. PL070048.







