

Authority: Ontario Municipal Board Decisions/Orders issued on June 16, 2014 and April 15, 2015 in Board File No. PL130373

CITY OF TORONTO

BY-LAW No. 837-2015(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, respect to the lands known municipally in the year 2014 as 355 Church Street.

Whereas 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 2013 as 355 Church Street; and

Whereas Council of the City of Toronto at its meeting of May 6 and 7, 2014 determined to support the coming into force of this By-law; 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/or density of development beyond that otherwise permitted by the zoning 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 Council of the City of Toronto has required the *owner* of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the lands as permitted in this By-law; and

Whereas the *owner* of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increases in the density and heights permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, are 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 such land and the City of Toronto (the "*City*"); and

Whereas the Ontario Municipal Board, by way of Order/Decision PL130373 issued on April 15, 2015, following an appeal pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands known municipally in the year 2014 as 355 Church Street;

Former City of Toronto Zoning By-law No. 438-86, as amended, is further amended by the Ontario Municipal Board as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law on the *lot* 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 and in Appendix 1 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. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of Sections 2(1) with respect to the definitions of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, and Sections 4(2)(a), 4(5)(b), 4(8)(d)(iii), 4(12), 4(13), 4(16), 4(17)(e), 8(3) Part I 1, 2 and 3(a), 8(3) Part II 1(a)(ii), (b)(ii), 8(3) Part III, 12(2)260 and 12(2)286 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 a *mixed-use building* on the *lot* provided that:
 - (1) the *lot* on which the uses are located comprises at least the lands delineated by heavy lines on *Map 1* attached to and forming part of this By-law;
 - (2) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 24,805 square metres, of which:
 - (a) the *residential gross floor area* shall not exceed 21,410 square metres; and
 - (b) the *non-residential gross floor area* shall not exceed 3,540 square metres;
 - (3) the number of *dwelling units* erected or used on the *lot* shall not exceed 334;
 - (4) no *non-residential gross floor area* shall be erected or used on the *lot* above a *height* of 18.4 metres;

- (5) at least ten percent (10%) of all *dwelling units* erected or used on the *lot* shall have two or more *bedrooms*, and at least a further ten percent (10%) of all *dwelling units* erected or used on the *lot* shall have three or more *bedrooms*;
- (6) in aggregate, the ground floor of any building erected and used on the *lot* shall contain not less than 260square metres of *non-residential gross floor area* comprised of one or more of the uses listed in Sections 8(1)(f)(b)(i), (ii) and (iv) of By-law No. 438-86, as amended;
- (7) no portion of any building or structure erected or used above *ground* is located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law, with the exception of the following structures and elements:
 - (a) lighting fixtures, cornices, sills, eaves, canopies and awnings which may extend a maximum of 2.5 metres beyond the heavy lines shown on the attached Map 2, window washing equipment, parapets, railings, planters, balustrades, bollards, stairs, covered stairs or stair enclosures, fences and safety railings, trellises, guardrails, chimneys, vents, stacks, mechanical fans, retaining walls, wheel chair ramps, landscape features, and public art elements may extend beyond the heavy lines shown on the attached Map 2; and
 - (b) along the McGill Street frontage of the *lot*, bay windows within *dwelling units* erected on the ground floor and the second floor of the building;

provided such do not extend within the hatched area shown on Map 2 from finished ground level to a *height* of 5.9 metres above *grade*;

- (8) no portion of any building or structure erected or used on the *lot*, including the mechanical and roof top elements and including any elevator/stair overrun, shall exceed the *heights* shown in metres and storeys and specified by the numbers following the symbol "H" in the areas delineated by heavy lines shown on the attached Map 2, provided this does not apply to prevent:
 - (a) the erection or use of the structures and elements permitted by Section 1.(7) of this By-law; and
 - (b) the erection or use of structures on any roof used for outside or open air recreation, maintenance or safety, landscape garden amenities, terrace guards, landscape planters, green roof technology and window washing equipment; and

provided such are not located within the hatched area shown on Map 2 from finished ground level to a *height* of 5.9 metres above *grade*;

- (9) despite Sections 1.(7) and (8) of this By-law, no portion of any building, structure or element shall be located within the hatched area shown on Map 2, from

finished ground level to a *height* of 5.9 metres above *grade*;

(10) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:

(a) for use by residents of the *lot*:

- i. a minimum of 0.3 *parking spaces* for each *bachelor dwelling unit*;
- ii. a minimum of 0.44 *parking spaces* for each one *bedroom dwelling unit*;
- iii. a minimum of 0.55 *parking spaces* for each two *bedroom dwelling unit*;
- iv. a minimum of 0.76 *parking spaces* for each *dwelling unit* containing three or more *bedrooms*; and
- v. a minimum of 0.06 *parking spaces* for each *dwelling unit* on the *lot*, for the use of residential visitors to the *lot*;

and in the event the total of the number of *parking spaces* in i., ii., iii. and iv. is less than 174, subject to clause (c), the total number of *parking spaces* to be provided and maintained on the *lot* is 174;

- (b) the maximum number of *car-share parking spaces* provided on the *lot* shall be 4;
- (c) for each *car-share parking space* provided on the *lot*, the minimum number of required residential *parking spaces* shall be reduced by 4 *parking spaces*;
- (d) the *parking spaces* required under Section 5.(10)(a) v. of this By-law shall also be available for use by the occupants of, or visitors to, the office uses on the *lot*, except that at least 0.01 *parking spaces* for each *dwelling unit* on the *lot* shall be provided exclusively for the use of residential visitors to the *lot*;
- (e) despite the requirements of clause (d) above, no *parking spaces* shall be required for any other non-residential use operating on the *lot*; and
- (f) despite the requirement in Section 4.(17) (b) of By-law 438-86, as amended, that a *parking space* obstructed on one side in accordance with Section 4. (17) (e) of such by-law have an increased width of 0.3 metres, a maximum of 6 *parking spaces* so obstructed shall not be required to have an increased width;

- (11) at least one *loading space – type G* and one *loading space - type C* are provided and maintained on the *lot* for the use of the building on the *lot*;
 - (12) a minimum of 352 *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (a) a minimum of 301 *bicycle parking spaces-occupant* for the use of residents of the *lot*;
 - (b) a minimum of 34 *bicycle parking spaces-visitor* for the use of residential visitors to the *lot*;
 - (c) a minimum of 7 *bicycle parking spaces-occupant* for the use of commercial and retail occupants of the *lot*; and
 - (d) a minimum of 10 *bicycle parking spaces-visitor* to be provided for the use of commercial and retail visitors to the *lot*; and
 - (13) *residential amenity space* for the use of residents of the *lot* shall be provided and maintained on the *lot* as follows:
 - (a) a minimum of 2.1 square metres of indoor *residential amenity space* for each *dwelling unit*, shall be provided and maintained in a location adjoining or accessible to indoor *residential amenity space* required in (b) below, in a multi-purpose room or rooms that may or may not be contiguous with one another and at least one of which shall contain a kitchen and a washroom; and
 - (b) a minimum of 1.7 square metres of outdoor *residential amenity space* for each *dwelling unit*, of which at least 40.0 square metres is provided in a location adjoining or directly accessible from the indoor *residential amenity space* required in clause (a) above which contains a kitchen and a washroom.
6. None of the provisions of this By-law or By-law No. 438-86, as amended, shall apply to prevent a temporary *sales office* on the *lot*.
7. 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 had occurred.
8. Within the *lot*, 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:
- (1) 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

- (2) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

9. 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 or where otherwise defined in this By-law:

- (1) "*above-grade permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building and for clarity does not include a foundation permit;
- (2) "*bicycle parking space-occupant*" means an area that is equipped with a bicycle rack, bicycle stacker or locker for the purpose of parking and securing bicycles, and:
 - (a) where the bicycles are to be parked in a horizontal position, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (b) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and vertical dimension of at least 1.9 metres;
 - (c) in the case of a bicycle rack, is located in a secured room or area; and
 - (d) if a *stacked bicycle parking space* is provided, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres.
- (3) "*bicycle parking space - visitor*" means an area that is equipped with a bicycle rack, bicycle stacker or locker for the purpose of parking and securing bicycles; and
 - (a) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and vertical dimension of at least 1.9 metres;
 - (b) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (c) may be located outdoors or indoors but not within a secured room or enclosure; and
 - (d) if a *stacked bicycle parking space* is provided, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres;

- (4) "*building permit*" means a permit issued under the *Building Code Act, 1992*, S.O. 1992, c.23 as amended or re-enacted from time to time, but it does not include any permit issued to construct a temporary *sales office* or a portion thereof or any permit required for the demolition, repair, maintenance, renovation or improvement of the building existing on the *lot* on the date of issue of the Ontario Municipal Board Order of this By-law;
- (5) "*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 be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable; and *car-share parking space*" means a *parking space* that is reserved and actively used for car-sharing;
- (6) "*grade*" means 96.75 metres Canadian Geodetic Datum;
- (7) "*height*" means the vertical distance between *grade* and the highest point of the roof, building, structure or element;
- (8) "*lot*" means the lands delineated by heavy lines on Map 1;
- (9) "*sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*;
- (10) "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*.

PURSUANT TO THE ORDERS/DECISIONS OF THE ONTARIO MUNICIPAL BOARD
ISSUED ON JUNE 16, 2014 AND APRIL 15, 2015 UNDER BOARD FILE NO. PL130373.

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 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 any *above-grade permit*, the *owner* shall pay to the *City* the sum of One Million Four Hundred and Fifty Seven Thousand Eight Hundred and Thirty Dollars (\$1,457, 830.00) by certified cheque(s), to be used by the *City* towards capital improvements to the satisfaction of the *City's* Chief Planner and Executive Director, City Planning (the "*Chief Planner* ") as follows:
 - a. One Hundred Fifty Three Thousand Two Hundred Eighty Three Dollars (\$153,283.00) for Toronto Community Housing capital improvements, in consultation with the Ward Councillor;
 - b. One Hundred Seventy Five Thousand Dollars (\$175,000.00) for Family Service Toronto, being a non-profit charitable organization, for capital improvements for their ground floor social enterprise to be located on the *lot*;
 - c. Five Hundred Twenty Nine Thousand, Five Hundred and Forty Seven Dollars (\$529,547.00) for the procurement, design and construction of new affordable housing in the area of the *lot*; and
 - d. Six Hundred Thousand Dollars (\$600,000.00) for local street and/or park improvements in the immediate area of the *lot*, in consultation with the *City's* General Manager, Parks, Forestry and Recreation and the Ward Councillor;

with the payments in Sections 1.(a) to (d) and 2 of this Appendix 1 to this By-law to be increased by upwards indexing in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto calculated from the date of the execution of the Section 37 Agreement required in Sections 1 and 2 of this By-law and in Section 6 of this Appendix 1 to this By-law, to the date of each such payment to the *City*; and together with provision for other capital uses by the *City* of all or any portion of such payments as are acceptable to the *Chief Planner* and comply with the Toronto Official Plan, in the event such funds have not been distributed or expended within a time period satisfactory to the *Chief Planner*.

2. In addition to the payments in Section 1 of this Appendix 1, prior to the earlier of the issuance of any OMB Order in the matter of this rezoning, and the coming into force and effect of this By-law, the *owner* shall pay by certified cheque to the *City*, for Loft Community Services, a non-profit charitable organization, for capital improvements to McEwan House, to the satisfaction of the *Chief Planner*, the sum of Seventy Five Thousand Dollars (\$75,000.00).

3. 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 any *building permit*, for all or any part of the *lot*, the *owner* shall provide and register to the satisfaction of the City Solicitor in consultation with the *Chief Planner*, a public pedestrian sidewalk surface easement, in perpetuity, of up to 5 metres in width, and including necessary rights of support, 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 the public sidewalk abutting the *lot* adjacent to Church Street within the *lot*, with the specific location, configuration and design to be determined and further secured in an agreement to the satisfaction of the City Solicitor and the *Chief Planner* prior to the issuance of the first *building permit* for the *lot*, as part of any site plan approval for the *lot* pursuant to Section 114 of the *City of Toronto Act, 2006*, and with provision for the *owner* to maintain such portion of the *lot* free and clear of physical encumbrances, such easement to take effect six (6) months after the first occupancy of any new building constructed on the *lot* after this By-law is enacted, save and except for a temporary sales office.
4. Prior to the earlier of the issuance of the first *building permit* for the *lot*, as part of any site plan approval for the *lot* pursuant to Section 114 of the *City of Toronto Act, 2006* the *owner* shall submit a Functional Servicing Report to the satisfaction of the *City's* Executive Director, Engineering and Construction Services (the "*Executive Director EC*").
5. Prior to the earlier of the issuance of the first *building permit* for the *lot*, as part of any site plan approval for the *lot* pursuant to Section 114 of the *City of Toronto Act, 2006* the *owner* shall enter into a secured agreement with the *City* to pay for and construct any improvements to the existing municipal infrastructure as set out in the Functional Servicing Report as determined to be acceptable by the *Executive Director EC* should the *Executive Director EC* determine that upgrades to such infrastructure are required to support development, all to the satisfaction of the City Solicitor and the *Executive Director EC*.
6. The *owner* shall enter into and register on title to the *lot* one or more agreements with the *City* pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the *Chief Planner*, to secure the facilities, services and matters set forth in this Appendix 1.



