

Authority: Planning and Growth Management Committee Item PG34.2, as adopted by City of Toronto Council on July 8, 9, 10 and 11, 2014

CITY OF TORONTO

BY-LAW No. 1045-2015

To amend By-law No. 1150-2008, being a By-law to amend former City of Toronto By-law No. 438-86, as amended, with respect to the lands known municipally as 165 East Liberty Street and 171 East Liberty Street.

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 Council of the City of Toronto on October 30, 2008 adopted By-law No. 1150-2008 being a By-law "To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 165 East Liberty Street and 171 East Liberty Street"; 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 of development beyond those otherwise permitted by the By-law 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 or matters in return for an increase in height of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters; and

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

Whereas the increases in the height permitted hereunder, beyond those otherwise permitted in the Zoning By-law, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements by the owner of such lands and the City of Toronto; and

Whereas Council 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 in connection with the aforesaid lands as permitted in this By-law;

The Council of the City of Toronto enacts:

1. By-law No. 1150-2008 is amended by:
 - (a) adding Map 2 and Map 3 attached to and forming part of this By-law;
 - (b) deleting the first paragraph of Section 1 and substituting the following:

"None of the provisions of Sections 2(1) "*parking space*", 4(4)(b), 4(6)(b), 9(1)(f)(b), 9(3)(3) and 12(2)298 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* or *mixed-use buildings* on the *lot* within *Area A* as shown on Map 2 and Map 3 for the uses permitted under this By-law, provided that:"

(c) deleting Section 1(b)(iii) and substituting the following:

"(iii) the total combined *non-residential gross floor area* for the uses in subsection (vi) does not exceed 13,350.0 square metres";

(d) amending Section 1(b)(vi) by adding *apartment building* and *day nursery*, with no qualifications, to the list of permitted uses;

(e) amending Section 1(b) by adding the following:

"(viii) residential uses, including 'live-work' uses, shall not be permitted on the *lot*, except within *Area A*, and such residential uses shall be subject to the provisions of this By-law";

(f) deleting Section 1(c) and substituting the following:

"(c) the maximum combined *non-residential gross floor area* and *residential gross floor area* on the *lot* shall not exceed 57,800.0 square metres, provided that:

(i) the maximum *non-residential gross floor area* in *Area A* for any non-residential use listed under subsection 1(b)(vi) of this By-law shall not exceed 13,350.0 square metres, of which a minimum of 12,000.0 square metres of *non-residential gross floor area* shall be used for non-residential uses other than *retail store*;

(ii) the maximum *non-residential gross floor area* on the *lot* for any non-residential use listed under subsection 1(b)(vi) of this By-law shall not exceed 39,100.0 square metres, of which a minimum of 12,000.0 square metres of *non-residential gross floor area* will be used for non-residential uses other than retail uses; and

(iii) the maximum *residential gross floor area* shall not exceed 18,050.0 square metres and shall only be permitted in *Area A*, within which a maximum of 283 *dwelling units* are permitted";

(g) deleting Section 1(d) and substituting the following:

"(d) *Parking spaces* shall be provided on the *lot* as follows:

- (i) a minimum of 142 *parking spaces* shall be provided for the residential uses on the *lot* and situated within *Area A* as shown on Map 2;
- (ii) a minimum of 187 *parking spaces* shall be provided for the non-residential uses on the *lot*; and
- (iii) a minimum of 133 *parking spaces* shall be provided at 5 Hanna Avenue, within a commercial garage, for the non-residential uses on the *lot*."

(h) adding a new AMENITY Subsection 1(f) as follows:

"(f) despite subsection 4(12) of Zoning By-law No. 438-86, as amended:

- (i) a minimum of 1.75 square metres per *dwelling unit* of indoor *residential amenity space* shall be provided within *Area A* as shown on Map 2; and
- (ii) a minimum of 0.9 square metres per *dwelling unit* of outdoor *residential amenity space* shall be provide within *Area A* as shown on Map 2" .;

(i) adding a new SETBACKS Subsection 1(g) as follows:

"(g) despite subsection 9(3) Part II of Zoning By-law No. 438-86, as amended, no portion of a building or structure erected or used above *grade* within *Area A* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 3, subject to the following:

- (i) canopies, awnings, architectural fins, building cornices, lighting fixtures, ornamental elements, parapets, trellises, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend beyond the heavy lines shown on Map 3; and
- (ii) balconies and associated architectural vertical framing structures may extend up to 1.8 metres beyond the heavy lines shown on Map 3, except on the building façade facing East Liberty Street and the building façade facing south where no extensions are permitted."

- (j) adding a new HEIGHTS Subsection 1(h) as follows:
- "(h) despite subsection 4(2) of Zoning By-law No. 438-86, as amended, the *height* of any building or structure, or portion thereof, within *Area A* shall not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 3, which shall not exceed a maximum *height* of 28 *storeys*, with the exception of the following:
- (i) the maximum *height* for terraces and balcony guards, elements of a green roof and insulation and roof surface materials, planters, railings, parapets, elevator overrun, staircase, cooling tower discharge structures, boiler vents, generator vents, garbage chutes, window washing equipment, ornamental architectural features, chimney stacks, ladders and structures used for safety or wind protection purposes shall be permitted to encroach a maximum of 1.5 metres above the *height* limit shown on Map 3;
 - (ii) despite any section in this By-law to the contrary, above and inclusive of the 9th *storey* the following shall apply:
 - a. a maximum of 12 *storeys* shall have a total *floorplate* which does not exceed a maximum of 789.0 square metres;
 - b. if there are 9 *storeys*, a minimum of 1 *storey* shall have a total *floorplate* which does not exceed a maximum of 680.0 square metres;
 - c. if there are more than 9 *storeys* but less than 17 *storeys*:
 - i. a minimum of 1 *storey* shall have a total *floorplate* which does not exceed a maximum of 680.0 square metres; and
 - ii. despite section 1(h)(ii)(a), the remaining *storeys* shall have a total *floorplate* which does not exceed a maximum of 770.0 square metres; and
 - d. if there are 17 *storeys* or more:
 - i. a minimum of 7 *storeys* shall have a total *floorplate* which does not exceed a maximum of 770.0 square metres; and
 - ii. a minimum of 1 *storey* shall have a total *floorplate* which does not exceed a maximum of 680.0 square metres.";

- (k) adding a new BICYCLE PARKING Section 1(i) as follows:
- "(i) despite subsection 4(13) of Zoning By-law No. 438-86, as amended, a minimum of 324 *bicycle parking spaces* shall be provided on the *lot*, of which:
- (i) a minimum of 40 *bicycle parking spaces* will be provided for the non-residential uses on the *lot*;
 - (ii) a minimum of 0.6 *bicycle parking spaces* per *dwelling unit* shall be located only on the ground floor or parking level 1 and shall be secured within the interior of the building;
 - (iii) a minimum of 0.15 *bicycle parking spaces* per *dwelling unit* shall be provided for visitors to the residential units, and shall be located only on the ground floor or parking level 1 and shall be secured within the interior of the building; and
 - (iv) none of the required *bicycle parking spaces for residents or visitors* shall be located below parking level 1.";
- (l) adding new definitions to Section 2 as follows:
- "*Area A*" means the area of the *lot* indicated as such on Map 2 and Map 3 attached to and forming part of this By-law.
- "*grade*" means 85.55 metres Canadian Geodetic Datum.
- "*floorplate*" means the total area of a floor of a building measured from the exterior of the main wall of the floor level, including voids at the level of the floor, such as an atrium, mezzanine, stairwell, escalator, elevator, ventilation duct or utility shaft.
- "*lot*" means the entire area shown in dashed black lines on Map 2 attached to and forming part of this By-law.";
- (m) adding a new Section 3 as follows:
- "3. 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.";
- (n) adding a new Section 4 as follows:
- "4. A sales office, used exclusively for the initial sale and/or initial leasing of *dwelling units* or *non-residential gross floor area* to be erected on the *lot*, shall be permitted.";

- (o) adding a new Section 5 as follows:

"5. Section 37

The owner of the subject lands shall at its expense enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act* R.S.O. 1990, c. P.13, as amended, to secure the facilities, services, and matters referred to below. The owner of the subject lands, in accordance with, and subject to the aforesaid Section 37 agreement(s), shall provide at its expense the following facilities, services and/or matters on terms satisfactory to the City of Toronto, in order to permit the increase in height authorized in this By-law Amendment:

- a) The owner shall contribute \$1,000,000.00, indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment upon issuance of the 1st above-grade building permit, toward securing and/or constructing community services and/or facilities within the general area of 171 East Liberty Street, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor;

The following matters to support the development shall also be secured within the Section 37 Agreement:

- b) Prior to the issuance of the first demolition permit for the of part of the existing building necessary to facilitate the proposed development, the owner will submit a Construction Management Plan including but not limited to details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor;
- c) Prior to the issuance of any above grade permits, an updated wind study will be provided to the satisfaction of the City Planning Division to identify measures to mitigate wind impacts year-round. Mitigation measures will be required to be incorporated into the proposed building;
- d) A minimum of ten percent of the total number of *dwelling units* to be constructed in the building shall be capable of being designed as three bedroom units in compliance with the provisions of the

Ontario Building Code, and these *dwelling units* are to be shown on any marketing plans as three bedroom units and to be marketed as three bedroom units. These units may be sold and/or constructed with fewer bedrooms with provisions in the condominium documentation to allow renovation to three bedroom units;

- e) Prior to the issuance of below-grade permits, the owner shall submit a functional pavement marking and signing plan for a dedicated westbound right-turn-lane at the East Liberty Street/Pirandello Street and construct, or cause to be constructed, at no cost to the City, this dedicated westbound right-turn-lane to the satisfaction of the General Manager, Transportation Services; and
- f) The owner agrees to provide and maintain a minimum of 32 parking spaces within the commercial garage at 171 East Liberty Street for the exclusive use of visitors to the residential condominium, at no cost, between the hours of 6:00PM on Fridays and 6:00AM on Mondays to the satisfaction of the Chief Planner and Executive Director, City Planning. These 32 parking spaces shall include signage that indicates that the spaces are for the exclusive use of visitors to the residential condominium, at no cost, between the hours of 6:00PM on Friday and 6:00AM on Monday."

Enacted and passed on October 2, 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)



