

Authority: Toronto and East York Community Council Item TE13.5, as adopted by City of Toronto Council on February 3 and 4, 2016

CITY OF TORONTO

BY-LAW No. 442-2016

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known in 2016 as 45-77 Dunfield Avenue.

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 pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, may authorize increases in the height or density of development beyond those otherwise permitted by the 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 or matters in return for an increase in 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 or matters; and

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

Whereas the increase in the density and height permitted beyond that otherwise permitted in 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 are to be secured by one or more agreements by the owner of such land and the City of Toronto (hereinafter referred to as the "City");

The Council of the City of Toronto enacts:

1. By-law No. 546-2002 of the City of Toronto is repealed.
2. None of the provisions of Section 2 with respect to '*height*', '*grade*', '*bicycle parking space - occupant*' and '*bicycle parking space - visitor*' and Section 4(2), 4(4), 4(6)c, 4(12), 4(13), 4(17), Section 6(2)12iii, Section 6(2)12iv, Section 6(3) Part I 1, Section 6(3) Part II 2, Section 6(3) Part II 3.A(II), Section 6(3) Part II 4, Section 6(3) Part II 5, Section 6(3) Part III 1(b), Section 12(2) 118(iv), Section 12(2) 199(iii) and Section 12(2)119(i)iii 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 an apartment building or daycare, including uses accessory thereto, on the *lot* provided that:

- (a) the *lot* consists of those lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) the total *residential gross floor area* erected or used on the *lot* shall not exceed 90,000 square metres;
- (c) the minimum total area for a 52 child *day nursery* erected or used on the lot is 531 square metres of interior space and a minimum of 254 square metres of exterior space;
- (d) no part of any building or structure erected within the *lot* shall be located above grade otherwise than wholly within the areas delineated by heavy lines on Map 2;
- (e) except where a heavy line shown on Map 2 is contiguous with the boundary of the *lot*, nothing in Section 2(d) hereof shall prevent the following elements from projecting beyond the heavy lines shown on Map 2:
 - (i) eaves, cornices, lighting fixtures, fences and safety railings, trellises, balustrades, chimneys, vents, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, stair landings, decks, planters, and public art features;
 - (ii) balconies to a maximum horizontal projection of not more than 1.5 metres; and
 - (iii) canopies to a maximum horizontal projection of not more than 1.5 metres;
- (f) no part of any building or structure to be erected on the *lot* shall exceed the height limits in metres specified by the numbers following the symbol "H" as shown on Map 2;
- (g) nothing in Section 2(f) of this By-law shall prevent the erection or use of the building elements or structures identified in Section 4(2)(a)(i) of By-law No. 438-86, as amended;
- (h) a minimum of 27 percent of the lot area shall be maintained as *landscaped open space*;
- (i) the minimum supply of bicycle parking spaces shall be provided according in accordance with the following rates:
 - (i) a minimum of 1.0 *bicycle parking spaces - occupant per dwelling unit*;
 - (ii) a minimum of 0.2 *bicycle parking spaces - visitor per dwelling unit*;
 - (iii) a minimum of 0.2 *bicycle parking spaces - occupant per 100 square metres of non-residential gross floor area*;

- (iv) a minimum of 6 *bicycle parking spaces - visitor* for non-residential uses;
- (j) despite the definition of *bicycle parking spaces - visitor*, bicycle parking spaces required for visitors may also be provided in a *stacked bicycle parking space*;
- (k) not more than 50 percent of *bicycle parking spaces - occupant* shall be provided in a manner that requires a person to park the bicycle in a vertical position;
- (l) a maximum of 174 parking spaces located in the existing underground garage may be a minimum of 2.2 metres in width and 5.9 metres in length, the remaining parking spaces on the *lot* will be 2.6 metres in width and 5.9 metres in length;
- (m) the minimum driveway widths for two-way operation in the existing underground garage shall be 4.5 metres in width at the loading space, and a minimum of 5.12 metres for the driveway aisle in the remaining basement garage;
- (n) a minimum of 1 *loading space - Type G*, having a length of 3.5 metres in width (4 metres where enclosed) by 13 metres in length will be provided on the *lot*;
- (o) the following provisions are complied with on *Parcel A* as delineated on the attached Map 1:
 - (i) the minimum number of *parking spaces* that shall be provided and maintained, to serve the employees, residents and their visitors shall be in accordance with the following ratios:
 - (ii) a total of 0.3 parking spaces for each *dwelling unit*, of which 0.1 parking spaces for each *dwelling unit* will be for the use of visitors;
 - (iii) a minimum of 216 square metres of indoor *residential amenity space* shall be provided and maintained on *Parcel A*;
 - (iv) a minimum of 216 square metres of outdoor *residential amenity space* shall be provided and maintained on *Parcel A*;
- (p) the following provisions are complied with on *Parcel B* as delineated on the attached Map 1:
 - (i) the minimum number of *parking spaces* that shall be provided and maintained, to serve the employees, residents and their visitors shall be in accordance with the following ratios:
 - (ii) 0.35 *parking space* for each *bachelor dwelling unit*;
 - (iii) 0.06 *parking space* for each *dwelling unit* for the use of visitors;
 - (iv) 0.4 parking spaces per 100 square metres of *non-residential gross floor area*;

- (v) a minimum of 2,110 square metres of indoor *residential amenity space* shall be provided and maintained on *Parcel B*;
 - (vi) a minimum of 1,260 square metres of outdoor *residential amenity space* shall be provided and maintained on *Parcel B*; and
 - (q) the provisions of this By-law shall apply collectively to this land, notwithstanding its future division into two or more parcels of land.
3. Notwithstanding 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.
 4. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height and density of development on the *lot* contemplated herein is permitted in return for the provision by the *owner*, at the *owner's* expense, of the facilities, services and matters set out in Appendix 1 hereof which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
 5. Where Appendix 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on the satisfaction of the same.
 6. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
 7. Definitions

For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended except that the following definitions shall apply:

- (a) *Height* means the vertical distance between *grade* and the highest point of the roof, building or structure, as shown on Map 2, exclusive of any elements described in 4(2)(a) herein up to a maximum of 6 metres to the top of the mechanical penthouse roof slab;
- (b) *Grade* means 160.88 metres Canadian Geodetic Datum;
- (c) *Parcel A* means the area labeled as PARCEL A on Map 1 attached;
- (d) *Parcel B* means the area labeled as PARCEL B on Map 1 attached;
- (e) *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,

and the parking space within the stacker shall have horizontal dimensions of at least 0.46 metres in width and 1.85 metres in length, and the stacker shall be located in an area with a vertical dimension of at least 1.2 metres.

(f) *Bicycle parking space - occupant* means:

- (i) bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (ii) 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;

(g) *Bicycle parking space - visitor* means:

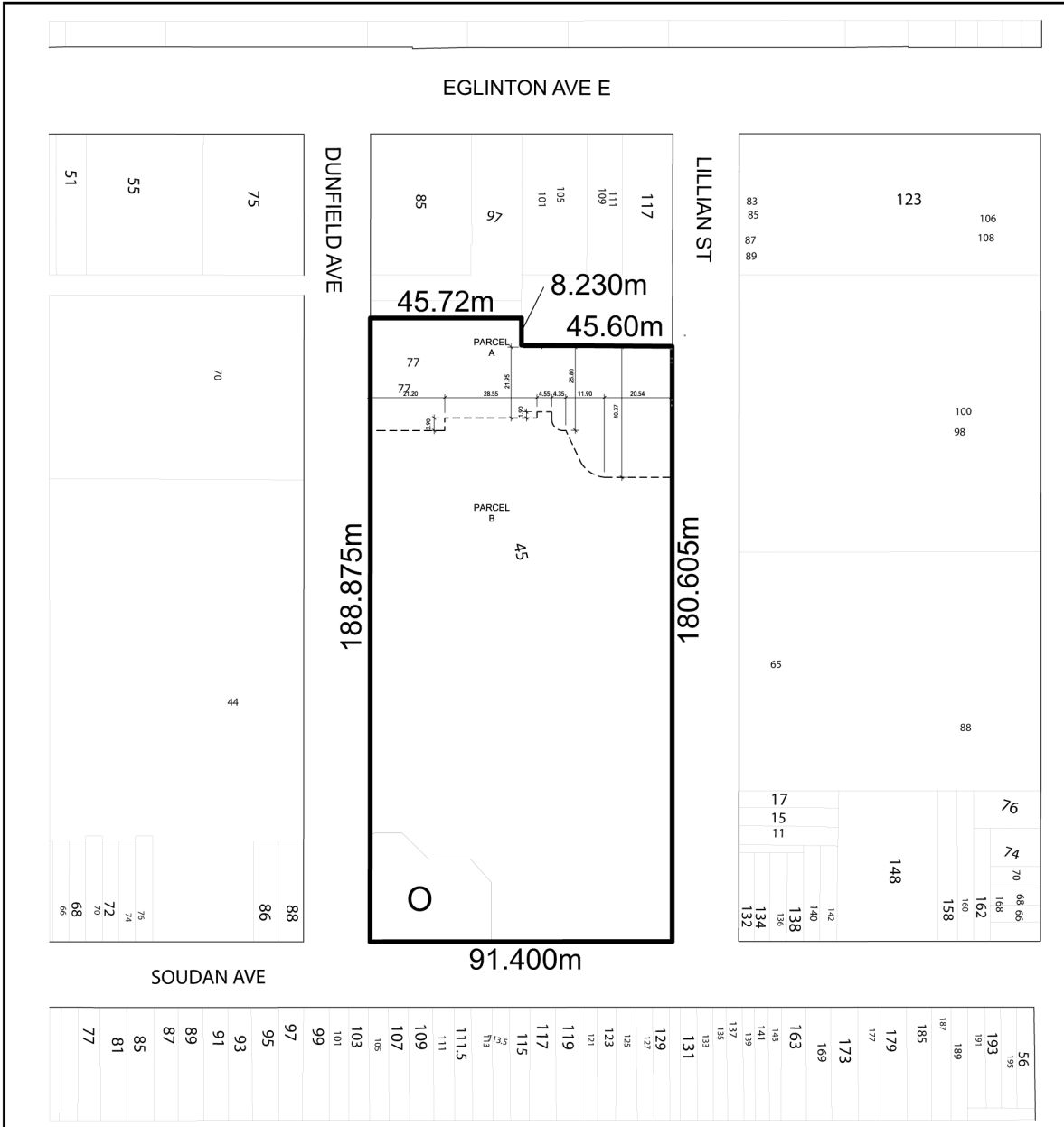
- (i) bicycles parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
- (ii) bicycles parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres.

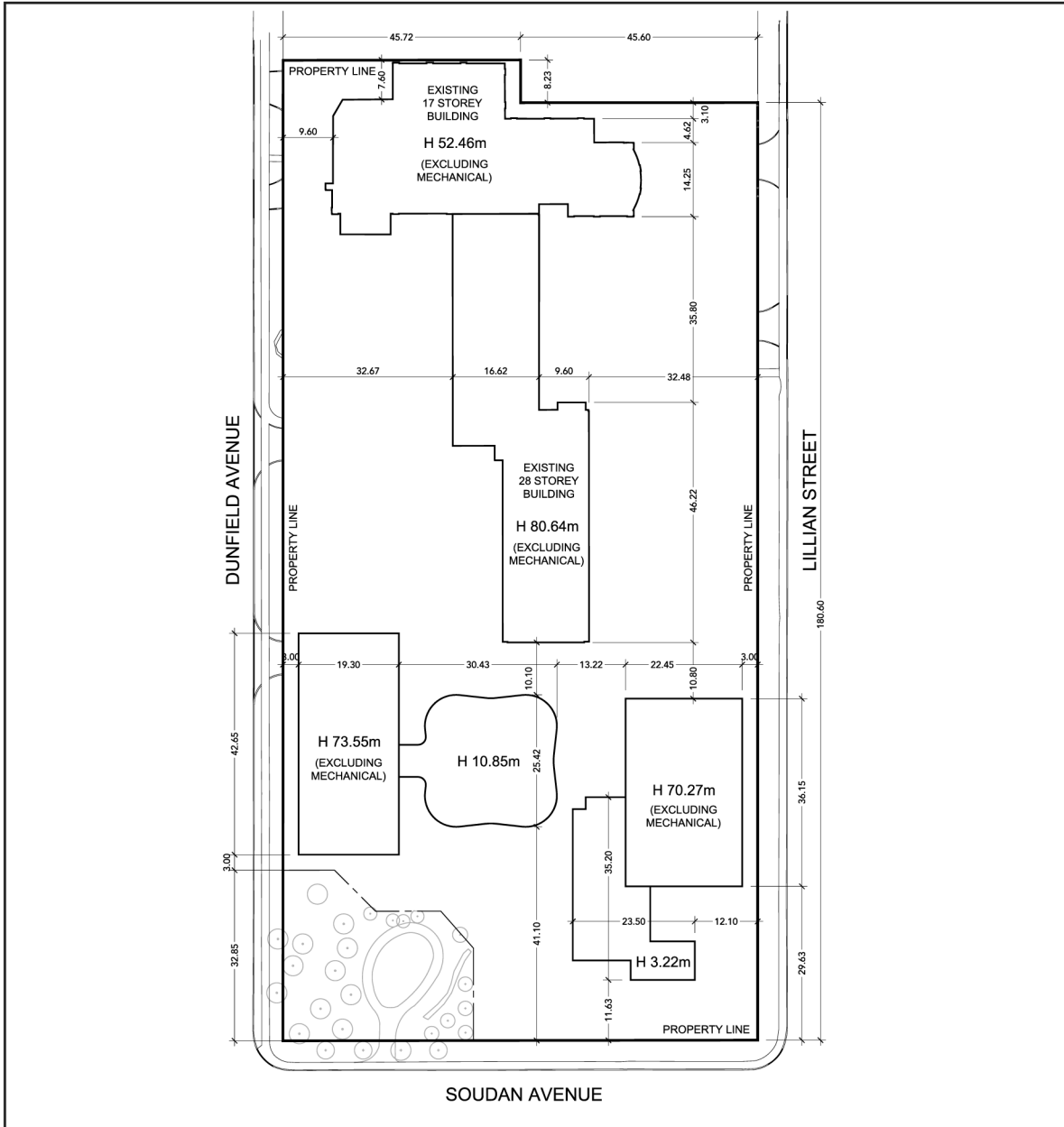
Enacted and passed on May 5, 2016.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





Appendix 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

1.
 - a. the construction, finishing, furnishing and equipping of a non-profit licensed child care facility to accommodate at least 52 children, including 10 infants, 10 toddlers and 32 preschoolers in two groups of 16, comprising 531 square metres of interior space and 254 square metres of exterior space adjacent to the interior space, including outdoor storage, and the provision of a minimum of 3 child care-pick-up and drop-off parking spaces and 3 parking spaces for child care facility staff adjacent to the child care facility;
 - b. prior to the issuance of the final building permit, the completion Child Care Facility and the entering into a lease agreement with the City for one 99-year term; and such facility shall be free of all rent, the cost of all utilities and municipal services supplied to the facility, caretaking costs, repair and maintenance costs, property damage, liability insurance, realty taxes and local improvement charges;
 - c. prior to the issuance of an above grade building permit, a one-time cash contribution of \$180,000 to a replacement reserve fund to replace appliances and large equipment for the child care facility due to wear and tear; and
 - d. prior to the issuance of an above grade building permit, a one-time cash contribution of \$150,000 to start-up costs for the defrayment of operational deficits during the child care facility's first year of operation.
2. Require that the amounts identified in 1. c. and d. above shall be 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.
3. The following matters are also recommended to be secured in the Section 3 Agreement as a legal convenience to support development:
 - a. an easement for the provision of 6,060 square metres of privately owned, publicly accessible open space all located on the site.
 - b. the Owner shall provide and maintain 177 existing dwelling units at 77 Dunfield Avenue and 575 existing dwelling units at 45 Dunfield Avenue on the site as rental housing for the period of at least 20 years, from the date of the Zoning By-Law being in-force and effect, with all the new and retained associated facilities and amenities of the buildings to be secured for the rental housing units, at no extra cost to the existing tenants, and with no applications for demolition or

conversion from residential rental use, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor;

- c. the Owner shall provide and maintain 519 new rental units on the site as rental housing for the period of at least 10 years, with no application for demolition or conversion for a period of at least 10 years from the date of first occupancy;
- d. the Owner shall provide a Construction Mitigation Plan that includes provisions for special needs tenants, mitigation for tenants during construction periods, including compensation for the removal of facilities currently associated with the units, a respite room and other measures as may be deemed reasonable and appropriate to the satisfaction of the Chief Planner and Executive Director, City Planning Division, without cost-pass through to tenants; and
- e. the Owner shall provide a Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division.