

Authority: Ontario Municipal Board Decision issued November 24, 2016 and Order issued October 3, 2017 in Board File PL150732

## CITY OF TORONTO

### BY-LAW 1477-2017(OMB)

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2016 as 53, 61 and 65 Ontario Street and 102 Berkeley Street.**

Whereas the Ontario Municipal Board, pursuant to its decision issued on November 24, 2016 and Order issued on October 3, 2017 in respect of Board File PL150732 after hearing the appeal under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend former City of Toronto Zoning By-law 438-86, as amended; 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* or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set 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* 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 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 *height* and/or the density permitted hereunder, beyond that otherwise permitted on the land by By-law 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;

By-law 438-86, as amended, of the former City of Toronto is further amended by the Ontario Municipal Board as follows:

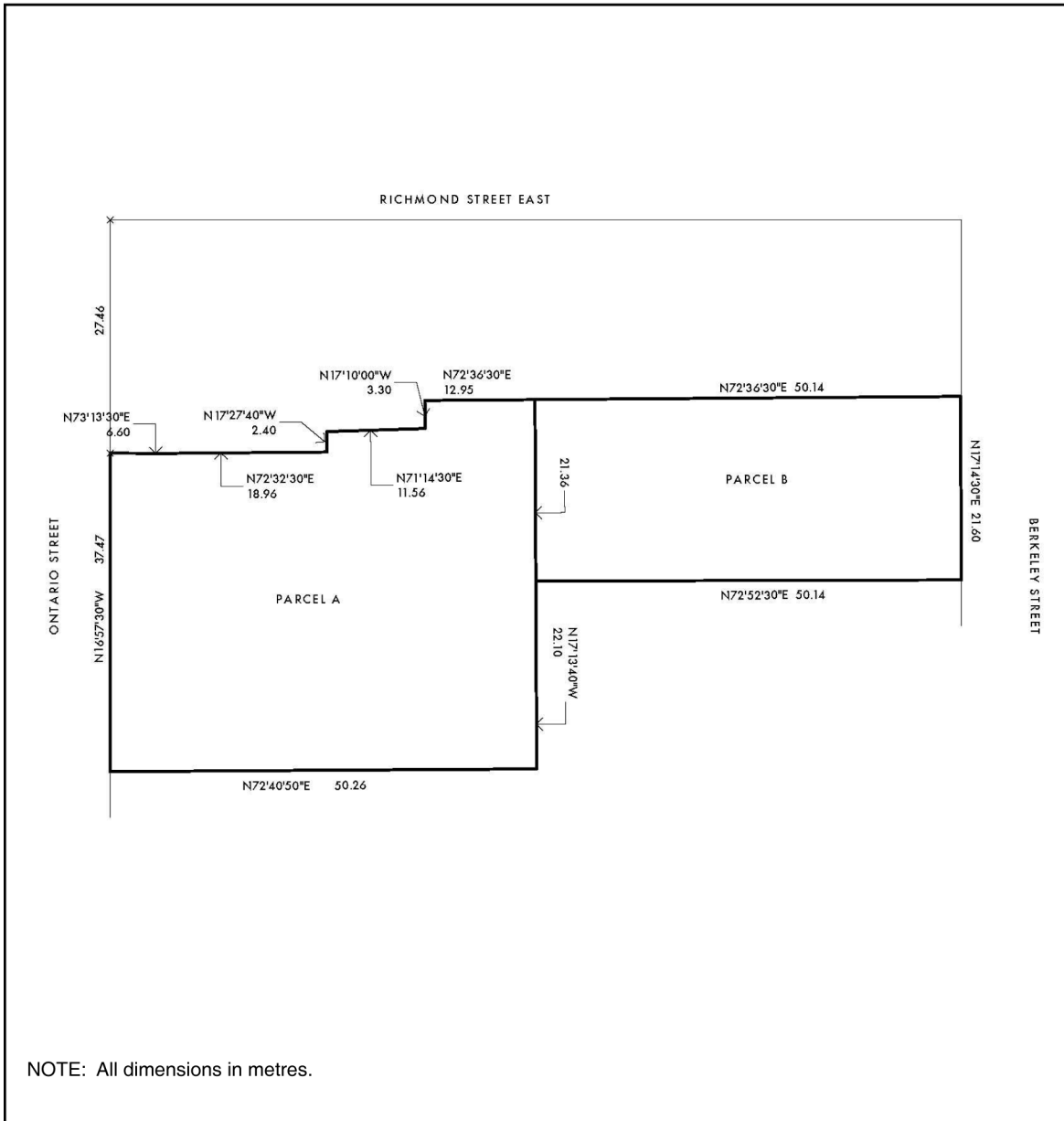
1. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the lands identified as *Parcel A* and *Parcel B*.
2. None of the provisions of Section 4(2)(a), 4(12), 4(13)(a) and (c), 7(3) Part II 1 and 12(2)246(a)(i), (c), (e) and (f) of By-law 438-86 of the former City of Toronto, as amended, shall apply to prevent the erection or use of a *mixed-use building* which may contain *dwelling units* and non-residential uses, and *accessory* uses thereto, on *Parcel A* provided that:
  - (a) *Parcel A* comprises those lands delineated by heavy dashed lines and identified as *Parcel A* on Map 1 attached to and forming part of this By-law;
  - (b) The combined *residential gross floor area* and *non-residential gross floor area* on *Parcel A* must not exceed 19,050 square metres, of which:

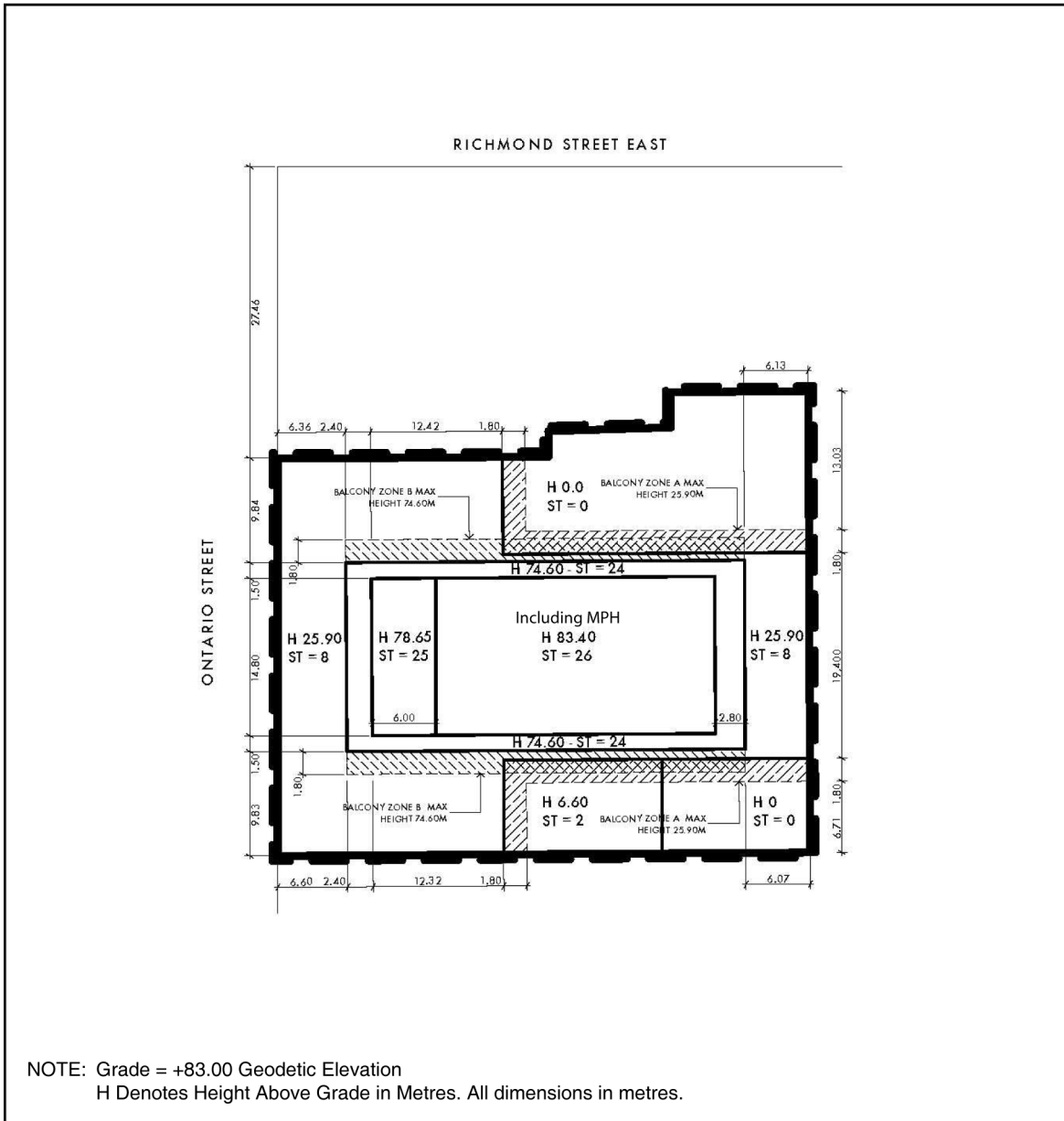
- (i) the *residential gross floor area* must not exceed 18,500 square metres; and
  - (ii) the *non-residential gross floor area* must not exceed 750 square metres.
- (c) No portion of the building or structure erected above *grade* on *Parcel A* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, except for the following:
- (i) canopies, awnings, building cornices, lighting fixtures, ornamental architectural elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, terraces, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements and wind mitigation features, which may extend beyond the heavy lines, except for the lot lines, shown on Map 2; and
  - (ii) balconies are permitted outside the heavy lines shown on Map 2 within the areas illustrated by hatching and identified as balcony zones on Map 2.
- (d) No portion of the building or structure erected on *Parcel A* above *grade* shall exceed the *height* limits shown in metres and specified by the numbers following the letter H on Map 2, and the *storeys* specified by the numbers following the symbol ST on Map 2, except for the following:
- (i) railings and guards, vents, exhausts, lightning rods, chimney stacks, pool equipment, retaining walls, planters, green roof elements, roof assemblies, parapets and ornamental architectural elements which may project above the permitted *height* by a maximum of 1.5 metres;
  - (ii) wind remediation screens and dividers which may project above the permitted *height* by a maximum of 2.0 metres; and
  - (iii) landscape features and elements including trellises, fences and outdoor amenity structures, window washing and building maintenance equipment which may project above the permitted *height* by a maximum of 3.0 metres.
- (e) Any *storey* located above the 25<sup>th</sup> *storey* may only be used for the functional operation of the building;
- (f) *Parking spaces* must be provided and maintained on *Parcel A* in accordance with the following minimum requirements:
- (i) 110 *parking spaces* for residents; and
  - (ii) 16 *parking spaces* for visitors.
- (g) Notwithstanding Section 4(17)(a) of By-law 438-86, as amended, a total of 4 obstructed *parking spaces* may be provided with a minimum width of 2.6 metres in lieu of 2.9 metres;

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- (h) *Bicycle parking spaces* must be provided and maintained on *Parcel A* in accordance with the following minimum requirements:
- (i) *bicycle parking spaces-occupant* shall be provided at a minimum rate of 0.9 spaces per *dwelling unit* for residents; and
  - (ii) *bicycle parking spaces-visitor* shall be provided at a minimum rate of 0.1 spaces per *dwelling unit* for visitors.
- (i) *Residential amenity space* shall be provided and maintained in accordance with the following minimum requirements:
- (i) indoor *residential amenity space* shall be provided at minimum rate of 1.55 square metres per *dwelling unit*, and shall be contained in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom;
  - (ii) outdoor *residential amenity space* shall be provided at a minimum rate of 1.85 square metres per *dwelling unit*, a minimum of 40 square metres of which is to be provided in a location adjoining or directly accessible from an area that comprises indoor *residential amenity space*; and
  - (iii) indoor *residential amenity space* may include one guest suite having a maximum *gross floor area* of 45 square metres.
- (j) One *loading space – type G* shall be provided on the *lot*; and
- (k) A minimum of 18 percent of the *dwelling units* shall have 2 or 3 bedrooms and no less than 10 percent of the *dwelling units* shall have a minimum average unit size of at least 95 square metres.
3. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (a) "*Grade*" means 83.00 metres Canadian Geodetic Datum;
  - (b) "*Parcel A*" means the lands delineated by heavy dashed lines and identified as *Parcel A* on Map 1 attached to and forming part of this By-law; and
  - (c) "*Parcel B*" means the lands delineated by heavy dashed lines and identified as *Parcel B* on Map 1 attached to and forming part of this By-law.
4. Despite any existing or future severance, partition or division of *Parcel A* and/or *Parcel B*, the provisions of this By-law shall apply to *Parcel A* and *Parcel B* as if no severance, partition or division occurred.
5. Within the lands shown on Map 1, 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.
6. None of the provisions of Section 12(2)380 of By-law 438-86, as amended, shall apply to *Parcel A*.
7. On the lands identified as *Parcel B* on Map 1 of this By-law, the lawfully existing setbacks of the building are as existing on the lands on May 31, 2017 are as existing on that date and notwithstanding anything hereinbefore contained, none of the provisions of this By-law or By-law 438-86, as amended, shall apply to prevent the continued maintenance and use of the non-residential building existing on *Parcel B* nor require any *parking spaces*, loading spaces or *bicycle parking spaces* for the non-residential uses existing on *Parcel B* on May 31, 2017.
8. Pursuant to Section 37 of the *Planning Act* and subject to compliance with this By-law, the increase in height of development on *Parcel A* contemplated herein, beyond that otherwise permitted in By-law 438-86, is permitted in return for the provision by the *owner*, at the *owner's* expense, of certain facilities, services and matters set out in Schedule A hereof, subject to and in accordance with an agreement pursuant to Section 37(3) of the *Planning Act* securing the following facilities, services and matters set out in Schedule A hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act* that is in a form and registered on title to *Parcel A*, to the satisfaction of the City Solicitor.
9. Where Schedule A 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 satisfaction of the same.

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**SCHEDULE A**  
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* and the *owner* with conditions providing for indexing escalation of both the financial contributions, and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above *grade* building permit the *owner* shall provide a cash contribution of \$750,000, and 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 the payment is made towards:
  - a. \$300,000.00 to be used towards the First Parliament Building site, municipally known in 2016 as 25 Berkeley Street, 265 Front Street East, and 271 Front Street East, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Ontario Heritage Trust, in consultation with the Ward Councillor;
  - b. \$300,000.00 to be used towards local streetscaping and/or park improvements in the vicinity of the *lot*, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
  - c. \$100,000.00 to be used towards a Heritage Lighting Master Plan and/or Heritage Interpretation Master Plan Implementation to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor; and
  - d. \$50,000.00 to be used towards the redevelopment of the North St Lawrence Market, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.
2. In the event the cash contributions referred to in Section 1 have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.