

Authority: Local Planning Appeal Tribunal Decision  
issued on March 11, 2019 and Order issued on March 12,  
2020 in File PL170084

## CITY OF TORONTO

### BY-LAW 320-2020(LPAT)

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2019 as 767, 769, 771 and 773 Yonge Street.**

Whereas the Local Planning Appeal Tribunal pursuant to its Decision issued on March 11, 2019, and Order on March 12, 2020 in respect of File PL170084, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended deems it advisable to amend the General Zoning By-law for the former City of Toronto, being By-law 438-86, as amended, with respect to lands municipally known in the year 2019 as 767, 769, 771 and 773 Yonge Street; 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 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 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 permitted beyond that otherwise permitted on the aforesaid lands by City of Toronto By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law, which is secured by one or more agreements between the owner and the City of Toronto;

Pursuant to the Order of the Local Planning Appeal Tribunal, By-law 438-86, as amended, is further amended as follows:

1. This By-law applies to the lands delineated by a heavy line on Map 1 attached to and forming part of this By-law.
2. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.
3. The provisions of By-law 1106-2016 shall not apply to the *lot*.

4. None of the provisions of sections 2(1) with respect to the definition of "bicycle parking space – occupant", "bicycle parking space – visitor", "grade", "height", "lot", "non-residential gross floor area" and "residential gross floor area", 4(2)(a), 4(5), 4(8), 4(9), 4(10), 4(12), 4(13), 4(14), 4(16), 4(17), 8(3) Part I, II, III, IV, and XI, and 12(1)3(b), 12(1)82, 12(2)132, 12(2) 193, and 12(2)259, of By-law 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 or use of a mixed-use building on the *lot* provided that:
- a. the aggregate of the *residential gross floor area* and *non-residential gross floor area* of buildings and structures shall not exceed 13,900 square metres;
  - b. a minimum of ten percent of the total number of *dwelling units* constructed on the *lot* shall contain three bedrooms or more;
  - c. the *height* of any building or structure, or portion thereof, erected above *grade* within the *lot* shall, in respect of the building envelope area, have a maximum *height* in metres as shown following the symbol H on the attached Map 2, with the exception of the following:
    - i. Elevator shafts, window washing equipment and mechanical equipment used for the functional operation of the building, which may project to a maximum of 6.0 metres;
    - ii. Equipment used for the functional operation of the building, such as electrical, utility, mechanical and ventilation equipment; structures or parts of the building used for the functional operation of the building, such as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, vents and water supply facilities; and structures that enclose, screen or cover the equipment, structures and parts of a building listed in this provision; shall exceed the maximum *height* by 5.0 metres;
    - iii. Architectural features, ornamental elements, parapets, trellises, pergolas, lighting fixtures, unenclosed structures providing safety or wind protection to rooftop amenity space, and lightning rods, all of which may project up to a maximum of 3.0 metres;
    - iv. Screens and partitions, which may project to a maximum of 2.5 metres;
    - v. Landscape planters and elements of a green roof, which may project to a maximum of 2.0 metres; and
    - vi. Roof topping and finishes, railings and balustrades, which may project to a maximum of 1.0 metres;

- d. no portion of a building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, with the exception of the following:
  - i. Balconies, canopies, window projections, window washing equipment, patios and awnings may encroach up to a maximum of 1.8 metres;
  - ii. Lighting fixtures may encroach to a maximum of 1.0 metres;
  - iii. A pilaster, decorative column, cornice, sill, belt course, chimney breast, eave or other similar architectural feature on a building may encroach to a maximum of 0.6 metres; and
  - iv. Ramps, stairs, stair enclosures and servicing areas and associated structures and elements required for the functional operation of the building;
- e. the south face of a building or structure must not have any transparent glazing above a height of 14.0 metres;
- f. *residential amenity space* shall be provided and maintained on the *lot* in accordance with the following:
  - i. A minimum of 270 square metres of indoor *residential amenity space* shall be provided, which may be shared with non-residential uses;
  - ii. A minimum of 135 square metres of outdoor *residential amenity space* shall be provided, which may be shared with non-residential uses;
  - iii. The indoor *residential amenity space* may be provided in multipurpose rooms which are not contiguous; and
  - iv. The outdoor *residential amenity space* may be located in an area that is not adjoining or directly accessible from the indoor *residential amenity space*;
- g. a minimum of 22 *parking spaces* must be provided on the *lot* for residents of the building. No parking spaces are required for visitors or non-residential uses;
- h. access to a *parking space* may be provided by motor vehicle elevators, provided a minimum of two (2) motor vehicle elevators are provided and maintained in the building for the use of residents of the *lot*;
- i. *bicycle parking spaces* must be provided and maintained on the *lot* in accordance with the following:
  - i. A minimum of 124 *bicycle parking spaces – occupant*; and

- ii. A minimum of 14 *bicycle parking spaces – visitor*;
- j. *bicycle parking spaces* may be provided in a *stacked bicycle parking space* and 100 percent of the *bicycle parking spaces* that are not *stacked bicycle parking spaces* may be provided in a vertical position;
- k. a minimum of one *loading space – Type "G"* shall be provided and maintained on the *lot*;
- l. despite the definitions of "bicycle parking space – occupant", "bicycle parking space – visitor", "*grade*", "*height*" and "*lot*" in section 2(1)(iii) of By-law 438-86 shall not apply to the lands and instead the following definitions shall apply:

"*bicycle parking space – occupant*" means an area that is equipped with a bicycle locker or a room or bicycle rack for the purpose of parking and securing bicycles, and:

- i. Where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.45 metres by 1.6 metres and a vertical dimension of at least 1.9 metres;
- ii. Where the bicycles are to be parked in a vertical position, a *bicycle parking space* must have a horizontal dimension of at least 0.45 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- iii. Where the bicycles are to be parked in a *stacked bicycle parking space*, the *bicycle parking space* is not subject to the dimensions outlined in (i) and (ii) above;

"*bicycle parking space – visitor*" means an area or room that is equipped with a room or a bicycle rack for the purpose of parking and securing bicycles, and may include spaces in a secured room, and:

- i. Where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.45 metres by 1.6 metres and a vertical dimension of at least 1.9 metres;
- ii. Where the bicycles are to be parked in a vertical position, a *bicycle parking space* must have a horizontal dimension of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
- iii. Where the bicycles are to be parked in a *stacked bicycle parking space*, the *bicycle parking space* is not subject to the dimensions outlined in (i) and (ii) above;

"*grade*" means 116.05 metres Canadian Geodetic Datum;

"*height*" means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in Section 4(C) of this By-law;

"*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;

"*non-residential gross floor area*" means the sum of the total area of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level used for non-residential uses, but excluding:

- i. Parking, loading and bicycle parking below-ground;
- ii. Required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
- iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- iv. Shower and change facilities required by this By-law for required bicycle parking spaces;
- v. Amenity space required by this By-law;
- vi. Elevator shafts;
- vii. Garbage shafts;
- viii. Mechanical penthouse; and
- ix. exit stairwells in the building;

"*residential gross floor area*" means the sum of the total area of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level used for residential uses, but excluding:

- i. Parking, loading and bicycle parking below-ground;
- ii. Required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
- iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- iv. Shower and change facilities required by this By-law for required bicycle parking spaces;
- v. Amenity space required by this By-law;
- vi. Elevator shafts;

- vii. Garbage shafts;
- viii. Mechanical penthouse; and
- ix. exit stairwells in the building; and

"*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space*.

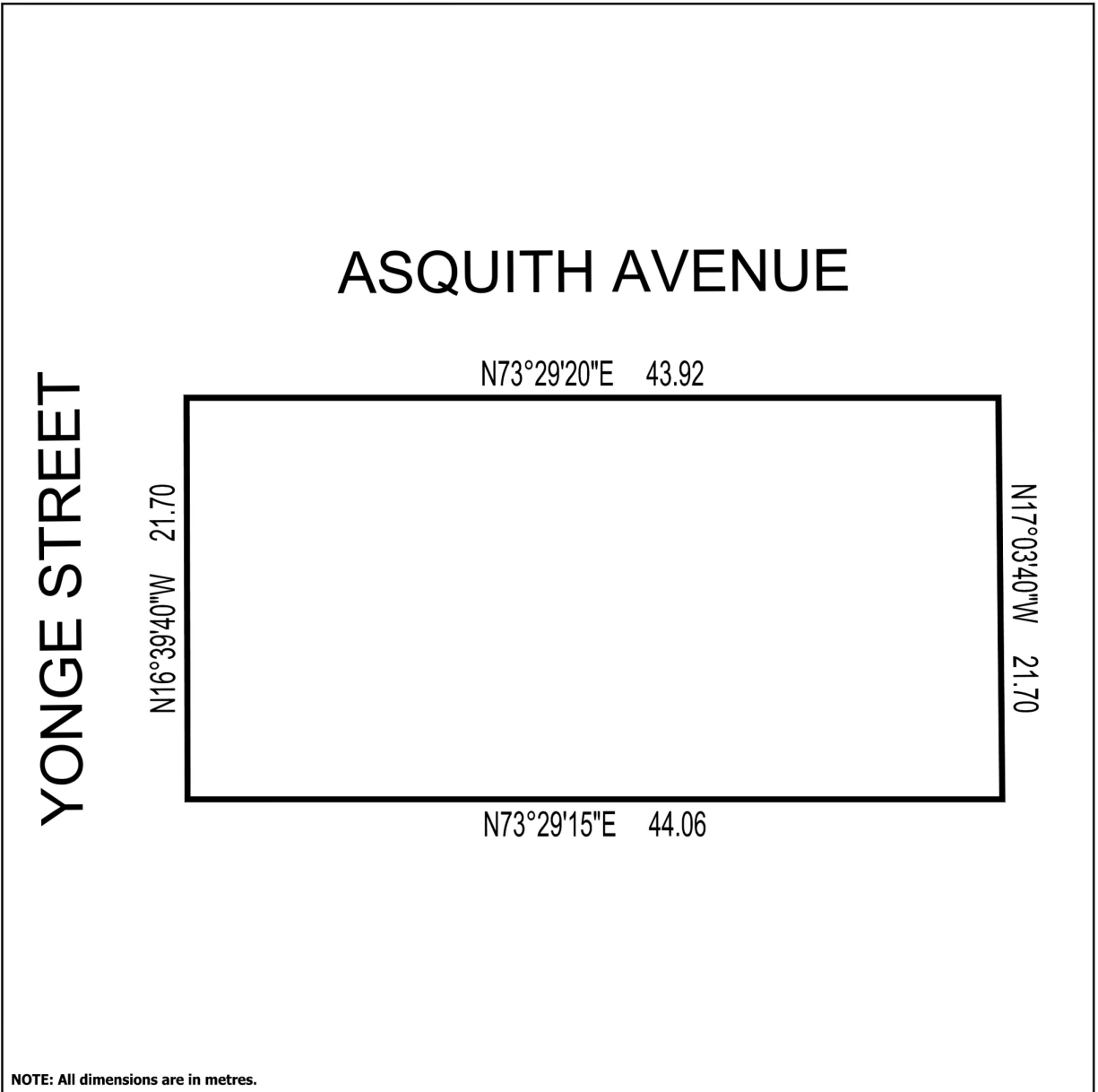
- 5. Despite any future severance, partition or division of the lands as shown on Map 1, the provisions of this exception shall apply as if no severance, partition or division has occurred.
- 6. None of the provisions of this By-law shall apply to prevent the construction of a temporary sales office on the *lot*.
- 7. Section 37 Provisions
  - a. pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 1 and 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 lands, to the satisfaction of the City Solicitor;
  - b. where Schedule 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 satisfaction of the same; and
  - c. 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 Schedule 1 are satisfied.

Local Planning Appeal Tribunal Decision issued on March 11, 2019 and Order issued on March 12, 2020 in File PL170084.

**Schedule 1**  
**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the owner of the lands at their expense to the City in accordance with one or more 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. The provision of community benefits pursuant to Section 37 of the Planning Act in the amount of not less than \$1,880,000 to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, for the following benefits:
  - a. An indexed cash contribution of \$626,000 to be paid to the City prior to the issuance of the first above-grade building permit, to be allocated towards local area park or streetscape improvements, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
  - b. An indexed cash contribution of \$627,000 to be paid to the City prior to the issuance of the first above-grade building permit, to be allocated towards existing community, recreation and/or cultural space improvements in the ward, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
  - c. An indexed cash contribution of \$627,000 to be paid to the City prior to the issuance of the first above-grade building permit, to be allocated towards new or existing Toronto Community Housing and/or affordable housing;
2. The cash contributions referred to in No. 1 above are to be indexed in accordance with the Non-residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of the registration of the Section 37 Agreement to the date the payment is made to the City; and
3. In the event the cash contributions referred to above have not been used for the intended purposes within 3 years of the site specific By-law coming into full force and effect, the cash contributions may be redirected for other purposes, at the discretion of the Chief Planner and Executive Director, City Planning, 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 lands.



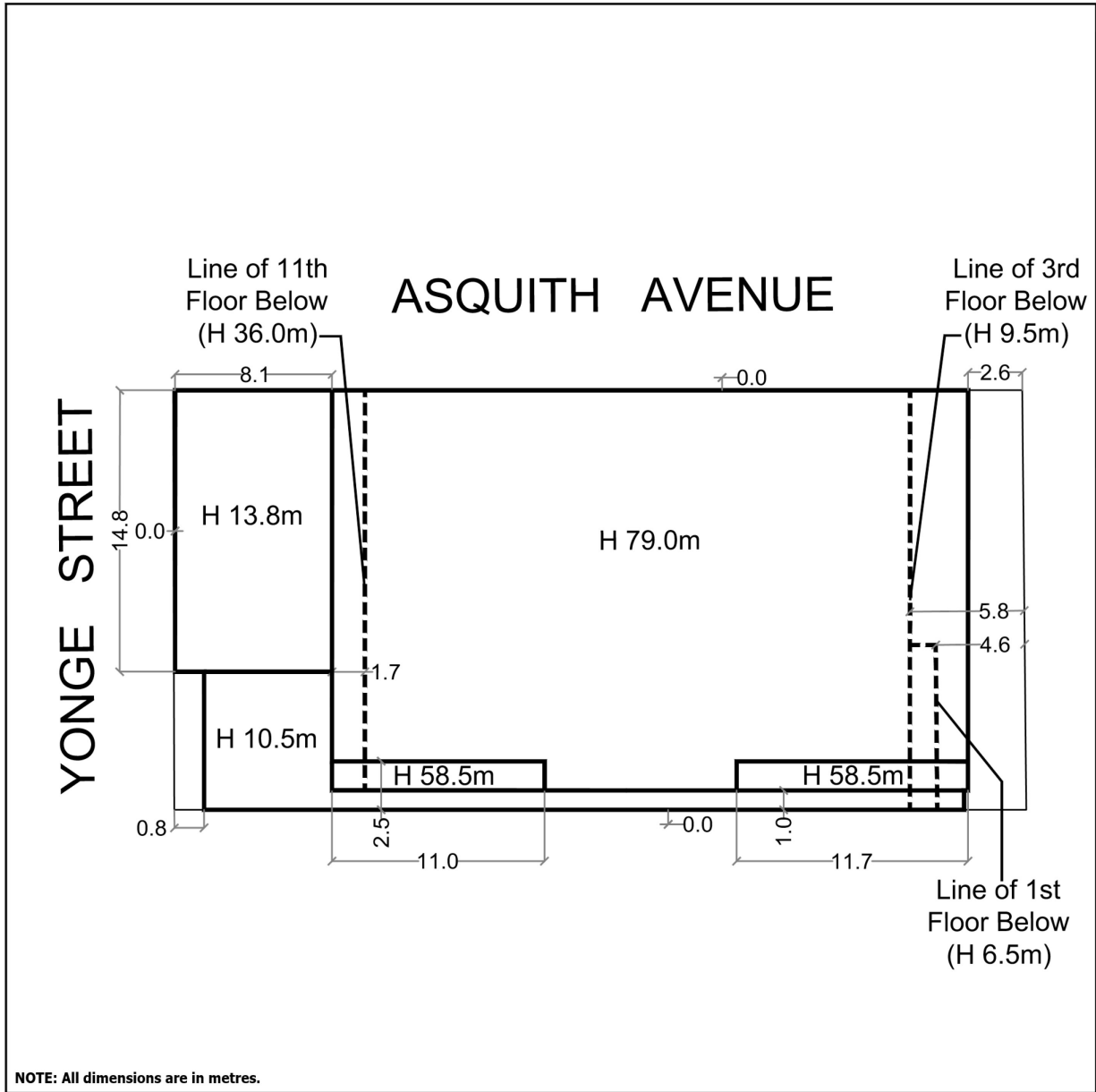
**767, 769, 771 and 773 Yonge Street, Toronto**

**Map 1**

File #16 \_\_\_\_\_



Not to Scale



767, 769, 771 and 773 Yonge Street, Toronto

Map 2

File #16 \_\_\_\_\_



Not to Scale