

Authority: Toronto and East York Community Council  
Item TE14.7, as adopted by City of Toronto Council on  
May 28, 2020

## CITY OF TORONTO

### BY-LAW 657-2020

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2019 as, 202-208 St. Clair Avenue West and 2-6 Forest Hill Road.**

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 with respect to the lands known municipally in the year 2019 as 202-208 St. Clair Avenue West and 2-6 Forest Hill Road; 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 the Official Plan for the City of Toronto contains such 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 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 matter 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, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and 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 height and density permitted beyond that otherwise permitted on the aforesaid lands 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 which are secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas pursuant to Section 39 of the Planning Act, the council of a Municipality may, in a By-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the By-law;

The Council of the City of Toronto enacts:

1. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
2. None of the provisions of Sections 2(1) with respect to the definition of "height", "grade", "residential gross floor area" and "lot" and Sections 4(2)(a), 4(2)(b), 4(6)(b), 4(12), 4(13),

4(16), 4(17), 6(3) Part I 1, 6(3) Part II, 6(3) Part III (1), 6(3) Part IV 2, 12(2)10, 12(2)59 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, and By-law 333-2002 amending By-law 438-86 of the former City of Toronto shall apply to prevent the erection or use of an *apartment building* on the *lot* provided that:

- a. the *lot* on which the proposed building is to be located comprises at least those lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;
- b. no above grade portion of any building or structure is located otherwise than wholly within the areas delineated by heavy lines shown on Map 2, attached to and forming part of this By-law;
- c. the height of any building or structure, as measured from *grade* to the top of slab, does not exceed the height in metres specified by the numbers following the symbol H on Map 2 attached to and forming part of this By-law;
- d. notwithstanding Section 2(b) of this By-law, the following building elements and structures are permitted to extend beyond the heavy lines and building envelopes, and above the *heights* shown on Map 2 attached to and forming part of this By-law:
  - i. Parapets and elements of a green roof, roof drainage materials, thermal insulation, roof assemblies including decking and pavers or roof ballast, terraces, patios, balustrades, bollards, skylights, roof access hatches, and accessory structures, may project above the height limits by no more than 2.0 metres;
  - ii. The following structures on the roof and terraces of the building may exceed the permitted maximum height by 5.0 metres: ornamental or architectural features, chimneys, privacy screens, terrace dividers, cabanas, pergolas, public art features, lighting fixtures, ramps, mechanical lift, noise mitigation, heating and cooling units, stacks and associated components, towers, elevator shafts, make-up air units, emergency generator, window washing equipment, lightning rods, balustrades, cornices, elevator overrun, guardrails, landscape elements, mechanical equipment, parapets, railings, stair enclosures, stairs, trellis, vents and wind mitigation features and generally, in the area labelled MPH on Map 2, 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 above listed elements;
  - iii. The following structures on the roof and terraces of the building may

exceed the permitted maximum height by 3.0 metres: Pool, hot tub, guardrail for pool, pool mechanical equipment, raised pool deck and associated structures; public art features, lighting fixtures, ramps, balustrades, cornices, guardrails, parapets, built-in barbeques and railings;

- e. notwithstanding Section 2 b. of this By-law:
  - i. The following structures may encroach into the required minimum building setbacks by 1.0 metres: privacy screens, landscape elements, built-in barbeques, chimney breasts, mechanical equipment, mechanical penthouses, porches, pergola, balconies, balustrades, cornices, eaves, guardrails, lighting fixtures, ornamental elements, public art features, railings, stair enclosures, stairs, trellis, underground garage ramps, vents, wheelchair ramps, terraces, wind mitigation features and window sills, and, awnings;
  - ii. Despite provision 2 e. i. above, no balcony or terrace shall be permitted closer than 4.5 metres from the west *side lot line* except for those balconies or terraces located on the 6th floor of the south elevation which extend to the west *side lot line*; and
  - iii. a canopy covering the building entrance may encroach into the required minimum building setback along Forest Hill Road as shown on Map 2;
- f. an *apartment building* shall be setback a minimum of 4.8 metres from the curb of St. Clair Avenue West as it exists in 2019, and 6.4 metres from the curb of Forest Hill Road as it exists in 2019, immediately adjacent to the property.
- g. the *residential gross floor area* of the building erected on the *lot* does not exceed 13,750 square metres;
- h. a minimum indoor *residential amenity space* and outdoor *residential amenity space* must be provided and maintained at 4 square meters per dwelling unit, of which:
  - i. at least 2.0 square metres for each dwelling unit is indoor *residential amenity space*; and
  - ii. at least 40.0 square metres is outdoor *residential amenity space* in a location adjoining or directly accessible to the indoor *residential amenity space*;
- i. A parking space must have the following minimum dimensions:
  - i. length of 5.6 metres;
  - ii. width of 2.6 metres;

- iii. vertical clearance of 2.0 metres; and
  - iv. the minimum width in ii. must be increased by 0.3 metres for each side of the parking space that is obstructed. The side of a parking space is obstructed if any part of a fixed object such as a wall, column, bollard, fence or pipe is situated within 0.3 metres of the side of the parking space, measured at right angles, and more than 1.0 metre from the front or rear of the parking space;
- j. A minimum parking space rates shall apply in a dwelling unit in an *apartment building*:
- i. 0.6 for each bachelor dwelling unit up to 45 square metres and 1.0 for each bachelor dwelling unit greater than 45 square metres;
  - ii. 0.7 for each one bedroom dwelling unit;
  - iii. 0.9 for each two bedroom dwelling unit;
  - iv. 1.0 for each three or more bedroom dwelling unit; and
  - v. 0.1 visitor parking space for each dwelling unit;
- k. A maximum of 5 parking spaces that are not visitor parking spaces may be used for car-share purposes;
- l. Parking spaces for residents of dwelling units in an *apartment building* may be provided in the form of stacked parking spaces;
- m. A minimum of 4 parking spaces plus 1 parking space for every 50 parking spaces or part thereof in excess of 100 parking spaces, must comply with the minimum dimension required in m), below, for an accessible parking space;
- n. The minimum dimensions and provisions for an accessible parking space are:
- i. length of 5.6 metres;
  - ii. width of 3.4 metres;
  - iii. vertical clearance of 2.1 metres;
  - iv. the entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle;
  - v. accessible parking spaces must be the parking spaces closest to a barrier free: (A) entrance to a building; (B) passenger elevator that provides access to the first storey of the building; and is the shortest route from the required entrances in (A) and (B);

- o. *Bicycle parking spaces* must be provided in accordance with the following:
    - i. At least 0.9 *bicycle parking spaces – occupant* for each dwelling unit shall be provided;
    - ii. At least 0.1 *bicycle parking spaces – visitor* per dwelling unit shall be provided; and
    - iii. *bicycle parking spaces* shall be provided above or below *grade*, either in a vertical position, horizontal position or in *stacked bicycle parking positions*;
  - p. A minimum of one Type G loading space is required.
3. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86 of the former City of Toronto, as amended, with the exception of the following:
- a. "*lot*" means those lands outlined on Map 1 attached to this By-law;
  - b. "*bicycle parking space – occupant*" means an area that is equipped for a bicycle rack or locker for the purpose of parking and securing bicycles for occupants, and:
    - i. where the bicycles are to be parked in a vertical position on a wall, structure or mechanical device, a minimum width of 0.6 metres, a minimum horizontal clearance from the wall of 1.2 metres and a minimum length or vertical clearance of 1.9 metres;
    - ii. where the bicycles are to be parked in a horizontal position, has a minimum width of 0.6 metres, a minimum length of 1.8 metres and a minimum vertical clearance from the ground of 1.9 metres;
    - iii. if provided in a *stacked bicycle parking position*, the minimum vertical clearance for each *bicycle parking space* must be at least 1.2 metres;
  - c. "*bicycle parking space – visitor*" means an area that is equipped for a bicycle rack or locker for the purpose of parking and securing bicycles for visitors, and:
    - i. where the bicycles are to be parked in a vertical position on a wall, structure or mechanical device, a minimum width of 0.6 metres, a minimum horizontal clearance from the wall of 1.2 metres and a minimum length or vertical clearance of 1.9 metres;
    - ii. where the bicycles are to be parked in a horizontal position, has a minimum width of 0.6 metres, a minimum length of 1.8 metres and a minimum vertical clearance from the ground of 1.9 metres;

- iii. may be provided indoors and outdoors and may be located in a secured room, enclosure or bicycle locker at ground level;
- d. "*grade*" means the established grade at 152.4 metres Canadian Geodetic Datum;
- e. "*stacked bicycle parking position*" means a *bicycle parking space - occupant* that is positioned above or below another bicycle parking space;
- f. "*temporary sales office*" shall mean a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot* and/or the administration and management of construction activity related to construction on the *lot*;
- g. "*parking space stacker*" means a mechanical motor vehicle parking facility with parking spaces which are positioned above each other;
- h. "*stacked parking space*" means a parking space that is positioned above or below another parking space and is accessed only by means of an elevating device such as a *parking space stacker*;
- i. "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in City of Toronto Municipal Code Chapter 492, Green Roofs;
- j. "*residential gross floor area*" shall mean the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level. The gross floor area of the apartment building is reduced by the area in the building used for:
  - i. parking, loading and bicycle parking below established grade;
  - ii. required loading spaces and required bicycle parking spaces at or above established grade;
  - 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. indoor amenity space required by this By-law;
  - vi. elevator shafts;
  - vii. garbage shafts;
  - viii. mechanical penthouse; and
  - ix. exit stairwells in the building;

- k. *car-share* means the practice where a number of people, who are residents of the building, share the use of one or more motor vehicles. Such car-share motor vehicles shall be made available for short term rental, including hourly rental.
4. None of the provisions of By-law 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the *lot* of a *temporary sales office*, for a period of not more than 3 years from the date this by-law comes into full force and effect.
5. Within the lands shown on Map 1 attached to this By-law, 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. 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 shown on Map 1 if no severance, partition or division occurred.
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 Appendix I of this By-law 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 Appendix I 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.
  - 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 Appendix I are satisfied.

Enacted and passed on July 29, 2020.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

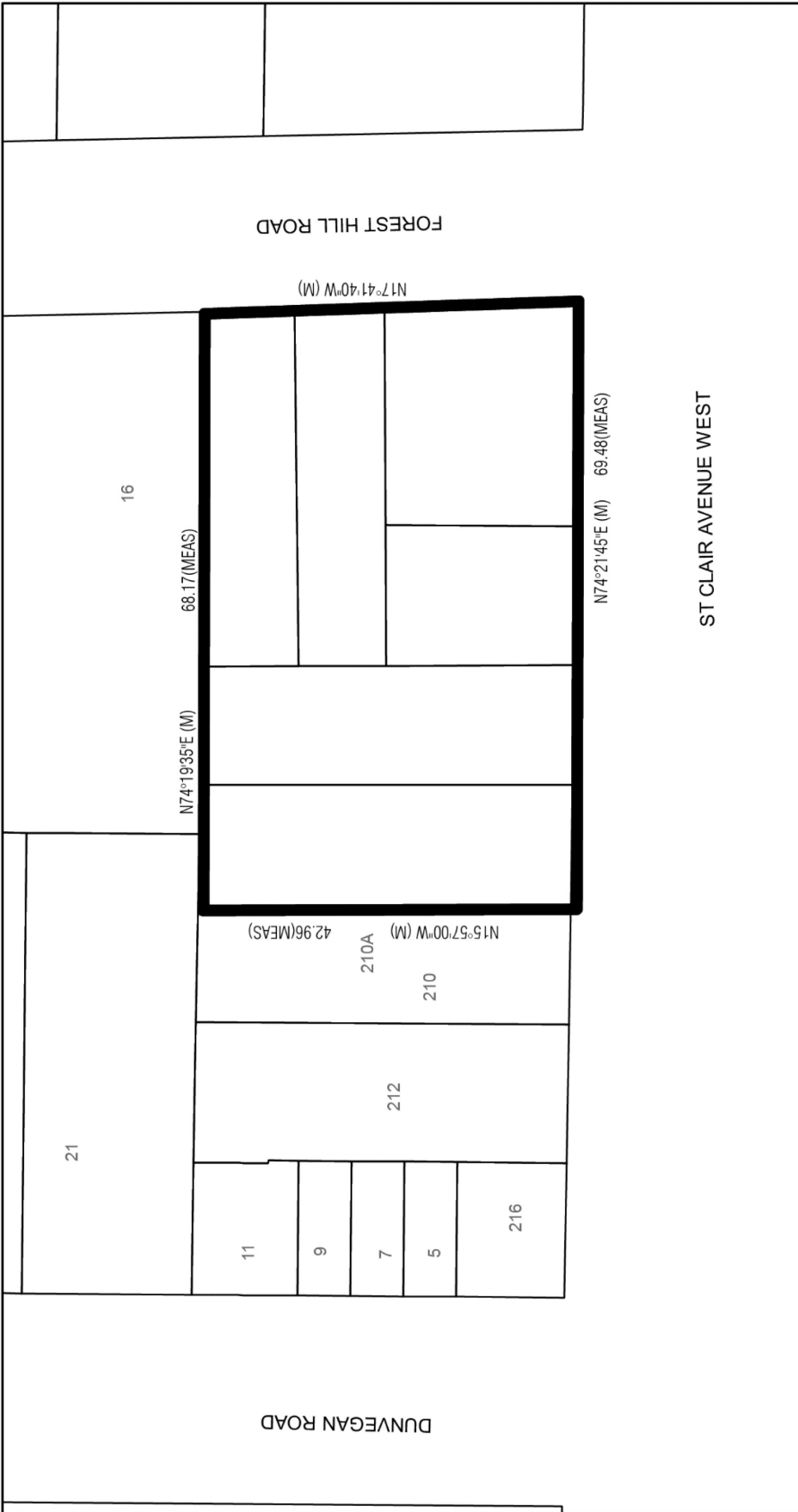
(Seal of the City)

**APPENDIX I**  
**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 lands as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

- (1) Prior to the issuance of the first above-grade building permit, the owner shall pay a cash contribution of TWO MILLION DOLLARS (\$2,000,000.000 CAN) (the "Cash Contribution") to the City to be allocated towards capital community services and facilities in the vicinity of the lands to the satisfaction of the Chief Planner, in consultation with the Ward Councillor.
- (2) The Cash Contribution set out in Subsection 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.
- (3) In the event the Cash Contribution in Subsection 1 has not been used for the intended purpose within three (3) years of the by-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the Property.
- (4) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
  - (a) The owner shall provide tenant relocation and assistance to all Eligible Tenants of the existing rental dwelling units to the satisfaction of the Chief Planner and Executive Director, City Planning.
  - (b) The owner construct and maintain the development of the Site in accordance with Tier 1 performance measures of the Toronto Green Standard and the owner will be encouraged to achieve Toronto Green Standard, Tier 2 or higher, where appropriate.

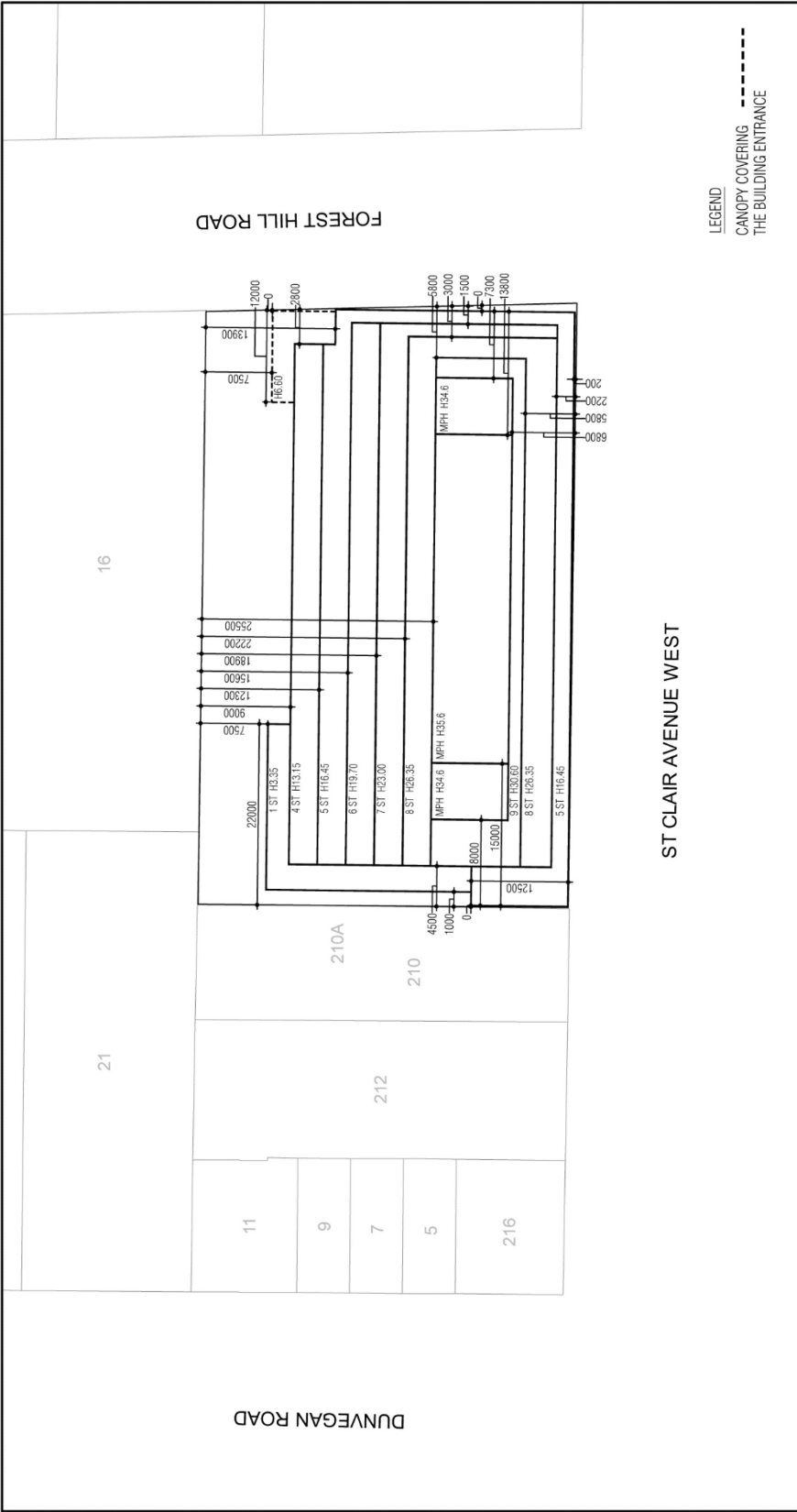




**202-208 St Clair Avenue West  
and 2-6 Forest Hill Road**  
File # 19 113008 STE 12 OZ



City of Toronto By-law 438-86  
Not to Scale  
01/30/2020



**202-208 St Clair Avenue West  
 and 2-6 Forest Hill Road**  
 File # 19 113008 STE 12 0Z

City of Toronto By-law 438-86  
 Not to Scale  
 02/24/2020

