

Authority: Etobicoke York Community Council
Item EY17.1, as adopted by City of Toronto Council on
September 30, October 1 and 2, 2020

CITY OF TORONTO

BY-LAW 176-2021

To amend Chapters 320 and 324 of the Etobicoke Zoning Code with respect to lands located on the north side of Bloor Street West, west of The East Mall, known municipally known in the year 2021 as 300 to 304 The East Mall.

Whereas authority is given to Council pursuant to 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 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 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 and matters in return for an increase in the 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 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 the Etobicoke Zoning Code 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 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 in the by-law;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Schedule 1 attached to this By-law.

2. Despite Sections 320-82 and 320-83 of the Etobicoke Zoning Code, the following provisions shall apply to the lands described in Schedule 1 attached. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.

3. Despite Section 304-3 of the Etobicoke Zoning Code:
 - a. "*Established Grade*" – means 132.44 metres Canadian Geodetic Datum.

 - b. "*Height*" – means the vertical distance between Established Grade of the *Lot* and the highest point of the building but shall exclude the vertical projections permitted in this By-Law; and

 - c. "*Lot*" – means the parcel of land outlined by heavy lines in Schedule 1, attached.

4. Maximum Height

- a. The permitted maximum building *height* on the *lot* is shown following the letter HT, as shown on Schedule 2, attached;

- b. Despite 4(a) above, the following elements of a building may project above the permitted maximum building *height* shown on Schedule 2, attached:
 - i. structures and elements related to outdoor flooring and roofing assembly, safety railings, guard rails, railings, parapets, terraces, planters, balustrades, bollards, stairs, retaining walls, and ornamental or architectural features may project above the *height* limits by no more than 2.0 metres;

 - ii. elements on the roof of the building or structure used for green roof technology and related roofing material may project above the *height* limits by no more than 2.0 metres;

 - iii. acoustical barriers, landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures, and fences may project above the *height* limits by no more than 2.75 metres;

 - iv. cabanas and trellises may project above the *height* limits by no more than 3.6 metres;

 - v. any equipment or structures used for the functional operation of the building, including mechanical penthouse, mechanical elements, garbage chutes, vents, emergency generators, lighting fixtures, mechanical screening and heating/cooling towers may project above the *height* limits by no more than 7.0 metres;

- vi. window washing equipment, lightning rods, wind mitigation features elevator overrun and public art features may project above maximum building *heights*;
- vii. photovoltaic solar energy devices and sunlight collection and distribution devices (sun beamers) may project above the *height* limits by no more than 5 metres.

5. Minimum Building Setbacks

- a. The required minimum building setbacks and above-ground separation distance between main walls are as shown on Schedule 2 attached to this By-law;
- b. Despite 5 (a) above, the following encroachments are permitted into the required minimum building setbacks and above-ground separation distance between main walls on Schedule 2 attached to this By-law:
 - i. balconies may encroach no more than 2.0 metres into the minimum building setbacks;
 - ii. cladding, photovoltaic solar energy devices, wind mitigation features, canopies, awnings, building cornices, window washing equipment, terraces lighting fixtures, ornamental elements, lightning rods, trellises, eaves, window sills, stairs, stair enclosures, air intakes and vents, ventilating equipment, landscape and green roof elements, partitions dividing outdoor recreation areas, privacy screens, acoustical walls, wind mitigation elements, chimney stack, and exhaust flues may encroach no more than 2.5 metres into the minimum building setbacks; and
 - iii. public art features.

6. 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 Schedule 1 and Schedule 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof 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 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.

- 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 A are satisfied.
7. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law apply.
8. Despite any future severance, partition or division of the lands as shown on Schedule 1 the provisions of this exception will apply as if no severance, partition or division has occurred.
9. Chapter 324, Site Specifics, of the Etobicoke Zoning Code, is amended to include reference to this By-law by adding the following to Section 324-1, Table of Site Specific By-laws.

BY-LAW NUMBER AND ADOPTION DATE	DESCRIPTION OF PROPERTY	PURPOSE OF BY-LAW
By-law 176-2021 March 10, 2021	The lands located on the north side of Bloor Street West, west of The East Mall, known municipally known in the year 2020 as 300 to 304 The East Mall.	To permit a mixed-use redevelopment of the lands with multiple buildings and a public park.

Enacted and passed on March 10, 2021.

Frances Nunziata,
Speaker

John D. Elvidge,
Interim City Clerk

(Seal of the City)

Schedule A

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 Schedule 1 and Schedule 2 of By-law 176-2021 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 earlier of condominium registration or first residential use **lot** in 'Building 2' or 'Tower B' or 'Tower C' as shown on Schedule 2 to By-law 176-2021, the owner shall design, construct, finish and convey to the City, in an acceptable environmental condition, for nominal consideration and at no cost to the City, a minimum 5,000 square feet (465 square metres) Community Agency Space located on the ground floor of 'Building 2' of Schedule 2 of By-law 176-2021, adjacent to the public park and subject to the following:
 - i. The Community Agency Space shall be delivered to the City as part of the first phase of development of the *lot* in accordance with the City's Community Space Tenancy Policy and finished to Base Building Condition, with the terms and specifications to be secured in the Section 37 Agreement, all satisfactory to the Executive Director, Social Development, Finance and Administration, the Executive Director, Corporate Real Estate Management, the Chief Planner and Executive Director, City Planning and the City Solicitor;
 - ii. Prior to the issuance of the first above grade building permit for the lot, the owner shall provide a letter of credit in the amount sufficient to guarantee 120 percent of the estimated cost of the design, construction and conveyance of the Community Agency Space complying with the specifications and requirements of the Section 37 Agreement, to the satisfaction of the Executive Director, Corporate Real Estate Management, the Executive Director, Social Development, Finance and Administration, the Chief Planner and Executive Director, City Planning and the City Solicitor;
 - iii. Prior to conveyance of the Community Agency Space to the City, the owner shall provide a one-time cash contribution in the amount of \$750,000.00 for future capital improvements to the Community Agency Space;
 - iv. The cash contribution referred to in (1) iii. above shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building 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 the Agreement to the date of payment; and
 - v. Concurrent with or prior to, the conveyance of the Community Agency Space to the City, the owner and the City shall enter into, and register on title to, the

appropriate lands an Easement and Cost Sharing Agreement for nominal consideration and at no cost to the City, that is in a form satisfactory to the City Solicitor; the Easement and Cost Sharing Agreement shall address and/or provide for the integrated support, use, operation, maintenance, repair, replacement and reconstruction of certain shared facilities, and the sharing of costs, in respect thereof, of portions of the subject lands to be owned by the City and the owner as they pertain to the Community Agency Space.

- (2) The following matters shall be secured in the Section 37 Agreement as a legal convenience to support development:
- i. The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard.
 - ii. The owner shall provide, at its own expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, a minimum area of 750 square metres as Privately-Owned Publicly-Accessible Space (POPS) on the west side of the site in front of the lobby entrances to Building 1 with trees, child specific play areas and seating and shall provide to the City for nominal consideration public access easements to and over the POPS for use by members of the general public. Public access easements shall also be provided over the pedestrian walkway along the proposed north-south central private street through the site, which would be accessed from the public sidewalk and street (Bloor Street West). The public access easements are to be conveyed to the City for nominal consideration and include rights of support and are to be free and clear of title encumbrances. Such easements to be conveyed to the City prior to Site Plan Approval, and with the configuration and design to be determined to the satisfaction of the Chief Planner and Executive Director, City Planning in the context of site plan approval. The owner shall operate, maintain and repair the POPS and install and maintain signs, at its own expense, stating that members of the public shall be entitled to use the POPS during the day and night, 365 days of the year. The owner shall have completed the construction of the POPS prior to the first commercial or residential use of Tower 'B' and Tower 'C' on the western portion of the site.
 - iii. The owner shall obtain all required permit(s) from the Ministry of Transportation (MTO) prior to any construction and for all signs visible to Highway 427. MTO permits can only be applied for once Site Plan Approval is granted.
 - iv. Through the Site Plan Approval process, the owner shall implement the wind control measures identified in the Pedestrian Wind Study, dated October 8, 2019, prepared by RWDI and any future addendum, to the satisfaction of the Chief Planner and Executive Director, City Planning. Any required mitigation measures would be secured through the Site Plan application review process.
 - v. Prior to Site Plan Approval, the owner shall submit an updated Noise Impact Study/Addendum Letter to be further peer reviewed at the expense of the owner to the satisfaction of the Chief Planner and Executive Director, City Planning. The

owner shall construct and maintain any required noise mitigation measures, to be secured through the Site Plan application review process, to the satisfaction of the Chief Planner and Executive Director, City Planning.

- vi. Through the Site Plan Approval process, the owner shall implement the air quality measures and recommendations identified in the Air Quality Assessment proposal by RWDI, dated September 6, 2019 and any future addendum as well as conduct an Air Quality Assessment that will include dispersion modelling to determine the impacts of transportation emissions on local air quality to the satisfaction of Public Health. The Air Quality Assessment would be peer reviewed by an independent third party selected by the City (at the expense of the owner). Should there be an air quality impact identified in the study, appropriate mitigation measures would be considered and secured through the Site Plan application review process to the satisfaction of Public Health and the Chief Planner and Executive Director, City Planning.
- vii. The owner shall satisfy the requirements of the Toronto District School Board regarding warning clauses and signage with respect to school accommodation issues.
- viii. The owner shall notify NAV Canada a minimum of 10 days prior to the start of construction.
- ix. A minimum of 10 percent of the dwelling units on the *lot* must be three-bedroom units and a minimum of 20 percent of the dwelling units on the *lot* must be two-bedrooms units upon completion of the development.
- x. The owner shall be required to undertake the following, to the satisfaction of the General Manager of Transportation Services, at no cost to the City:
 - (a) Prior to Site Plan Approval, the owner shall submit for review and approval, all necessary engineering drawings and documentation associated with the removal of the existing channelized southbound-to-westbound right-turn lane at the northwest corner of the Bloor Street West and The East Mall signalized intersection, and its replacement with an exclusive southbound-to-westbound right-turn lane;
 - (b) Prior to the issuance of any above grade Building Permit, the owner shall construct and pay all costs associated with the removal of the existing channelized southbound-to-westbound right-turn lane at the northwest corner of the Bloor Street West and The East Mall signalized intersection, and its replacement with an exclusive southbound-to-westbound right-turn lane, as per the approved engineering drawings required in the condition above;
 - (c) Prior to Site Plan Approval, the owner shall submit for review and approval, a full-size pavement marking and signing plan (in metric units) modifying the previously-approved pavement markings along Gibbs Road,

west of The East Mall, revised to illustrate two separate eastbound lanes approaching the previously-approved signalized intersection of Gibbs Road with The East Mall, such that one lane is designated for right-turn movements and the other lane is designated for left-turn movements;

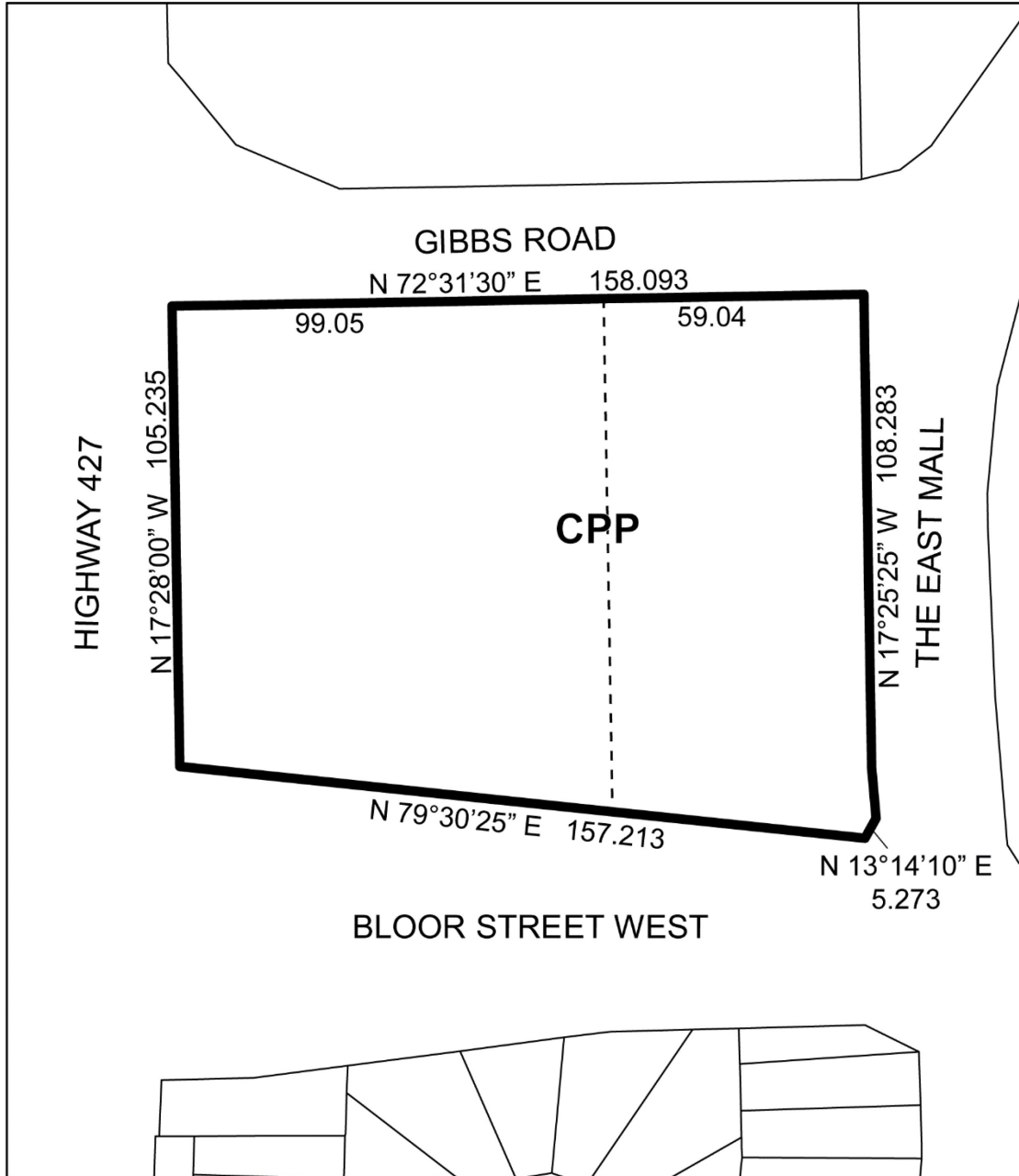
- (d) Prior to the issuance of any above grade Building Permit, the owner shall pay for all costs associated with implementing the proposed updated modifications to the previously-approved pavement markings for Gibbs Road, west of The East Mall, as per the approved pavement marking and signing plan required in the condition above;
- (e) Prior to Site Plan Approval, the owner shall submit for review and approval, through the proponent's retained transportation consultant, revised traffic capacity analyses of the existing signalized intersection at Bloor Street West and The East Mall and the existing signalized intersection at Bloor Street West and The West Mall, based upon the most up-to-date signal timing information available at the time of the analyses, and with recommendations for signal timing adjustments and provision of any additional signal phases to improve the level-of-service at these intersections, as required;
- (f) Prior to the issuance of any above grade Building Permit, the owner shall pay for all costs associated with implementing any approved signal timing adjustments and provision of any additional signal phases to improve the level-of-service at the existing signalized intersection at Bloor Street West and The East Mall and the existing signalized intersection at Bloor Street West and The West Mall, based upon the traffic capacity analyses required in the condition above;
- (g) Prior to Site Plan Approval, the owner shall submit for review and approval, through the proponent's retained transportation consultant, a revised traffic capacity analysis for the previously-approved proposed traffic control signals at the intersection of Gibbs Road and The East Mall with recommendations for any signal timing modifications from the previously-approved signal timing plan for that intersection, as required; and
- (h) Prior to the issuance of any above grade Building Permit, the owner shall pay for all costs associated with implementing any approved signal timing adjustments to the previously-approved signal timing plan for the proposed traffic control signals at the intersection of Gibbs Road and The East Mall, based upon traffic capacity analyses required in the condition above.

- xi The owner shall convey a public parkland dedication having an area of 2,040 square metres prior to the issuance of the first above grade building permit for the lands, to the satisfaction of the General Manager, Parks, Forestry and Recreation, the Director, Real Estate Services and the City Solicitor. The subject

parkland conveyance shall be in an environmental condition deemed acceptable by the City and free and clear, above and below grade of all physical and title encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation. The owner shall pay for the costs of the preparation and registration of all relevant documents. The owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland.

- xii. The owner shall undertake Base Park Improvements and Above Base Park Improvements as outlined in the memorandum from Parks, Forestry and Recreation dated February 24, 2020, at no cost to the City and to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor.

Schedule 1



Schedule 2

