

Authority: Ontario Municipal Board Decision issued on December 18, 2014 and Local Planning Appeal Tribunal Order issued on August 18, 2020 in Case PL030514

CITY OF TORONTO

BY-LAW 411-2021(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally in the year 2019 as 162 Queens Quay East.

Whereas the Local Planning Appeal Tribunal, by way of an Order issued on August 18, 2020 and Decision issued on December 18, 2014 in LPAT Case PL030514, following an appeal pursuant to Section 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended, determined to amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally in the year 2019 as 162 Queens Quay East; 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 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 owner may be required to enter into one or more agreements with the municipality in respect of the facilities, services and matters; and

Whereas the owners of the aforesaid lands have 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, 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 owners of the land and the City of Toronto; and

Therefore, By-law 438-86, the General Zoning By-law of the former City of Toronto, as amended, is further amended by the Local Planning Appeal Tribunal as follows:

1. Pursuant to Section 37 of the Planning Act, the height and density of development permitted in this By-law on the *lot* are permitted subject to compliance with all of the conditions set out in this By-law, including the provision by the owner of the *lot* of the facilities, services and matters set out in Section 9 hereof, to the City at the owner's sole expense and in accordance with and subject to the agreement referred to in Section 2.
2. Upon execution and registration of an agreement or agreements with the owner of the *lot* pursuant to Section 37 of the Planning Act securing the provision of the facilities, services and matters set out in herein, the *lot* is subject to the provisions of this By-law,

provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a *Building Permit*, the owner may not erect or use such building until the owner has satisfied the said requirements.

3. District Map 51G-312 contained in Appendix "A" of the aforesaid By-law 438-86, is hereby further amended by rezoning the lands delineated by heavy lines to "CR" as shown on Map A attached hereto.
4. Height and Minimum Lot Frontage Map 51G-312 contained in the aforesaid By-law 438-86 is hereby further amended by zoning the lands delineated by heavy lines as shown on Map B attached hereto.
5. Section 12(1) 334 of the aforesaid By-law 438-86 is amended by adding the following:
"162 Queens Quay East" By-law 411-2021(LPAT)
6. Section 12(1) 426 of the aforesaid By-law 438-86 is amended by adding, following the phrase "*East Bayfront*", the words:
"other than in the *East Bayfront – West Precinct*".
7. Notwithstanding Zoning By-law 438-86, the following provisions and development standards shall apply to the lands described in Map A, attached hereto.
8. None of the provisions of Section 2 with respect to bicycle *parking space - occupant*, *bicycle parking space - visitor*, *height*, *grade*, *parking space and residential amenity space*, Sections 4(2) and (ii), 4(5), 4(8), 4(12), 4(13), 4(16), 4(17)e, 7(3) PART I, 7(3) PART II, 12(2)246, 12(2)260 and 12(2)380 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 and use of a *mixed-use building* containing *dwelling units*, *retail and uses accessory* thereto, including an underground *parking garage* and *commercial parking garage* which may contain *parking spaces*, *parking spaces* for visitors in a *commercial parking garage*, and *car share spaces*, and provided the erection or use of buildings or structures is in accordance with Section 9 of this by-law.
9. Section 12(1) of By-law 438-86 is amended by adding the following exception:
No. 494 - to prevent the erection or use of buildings or structures or the use of land within the area delineated by heavy lines on Map 1 attached to this exception in accordance with the following provisions:

Permitted Uses:

- (a) In addition to the uses permitted within a CR district, the following added uses shall be permitted within a CR district as delineated on Map 2 attached to this exception:

- (i) those non-residential uses permitted within a CR district in section 8(1)(f)(b), and subject to the qualifications in section 8(2) where applicable; except for an *automobile service and repair shop, automobile service station, car washing establishment, motor vehicle repair shop, class A*;
- (ii) a *district energy, heating and cooling plant*, a vacuum waste collection facility;
- (iii) those residential uses permitted within a CR district in section 8(1)(f)(a), and subject to the qualifications in section 8(2) where applicable, provided that the owner of the *lot* elects to provide the facilities, services or matters referred to in (l) of this exception and enters into the agreement(s) referred to in (l)xxi of this exception;
- (iv) *retail store* is permitted and is not subject to qualifications in section 8(2)(5)(a);
- (v) below-grade *commercial parking garage*; and
- (vi) *temporary sales and leasing centre*.

Gross Floor Area:

- (b) The total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot*, as outlined by heavy lines on Map 1 attached to this exception, shall not exceed 28,700 square metres.

Height, Tower Floorplates, Phasing and Setbacks:

- (c) No portion of a building above *grade* is located otherwise than wholly within the heavy lines on Map B attached to this exception.
- (d) No portion of a building shall have a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on Map B attached to this exception.
- (e) Notwithstanding the provisions in section 8(3).3.1(a)(ii), windows are permitted to be located on a *lot line* that is not a *street line* or that does not abut a *public park* or a UOS district.
- (f) Notwithstanding clauses (c) through (e) above, the types of structures listed in the column entitled "STRUCTURE" in the following chart are permitted to project beyond the heavy lines and above the *heights* shown on Map B, provided they comply with the restrictions set out opposite the structure in the columns entitled "MAXIMUM PERMITTED PROJECTION" and "OTHER APPLICABLE QUALIFICATIONS"

	STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
A.	Eaves, cornices, decorative and architectural features such as vertical fins, louvers, exhaust flues, vents and stacks, light fixtures, window sills, guardrails, bollards, balustrades, railings, fences, stairs, stair enclosures, signs, trellises, patios, wheel chair ramps and underground garage ramps and associated structures, underground stair enclosures, retaining walls, landscape features, roofing materials, window washing equipment, monuments, arbours, decorative trellis, privacy screens and walls, partitions dividing outdoor amenity areas and public art features	1.0 metre	The maximum <i>height</i> of the top of such elements shall be no higher than the sum of 3.0 metres and the <i>height</i> limit applicable to that portion of the <i>lot</i> .
B.	Balconies and associated architectural framing and <i>enclosed buffer balconies</i>	2.0 metres	
C.	On the ultimate roof of the building, elevator shaft, elevator machine room, lightning rods and exhaust flues, window washing equipment, heating, cooling or ventilating equipment, or a fence, wall, screen or structure enclosing such elements.	Such elements may project above a <i>height</i> of 68.5 metres provided the maximum <i>height</i> of the top of such elements shall be no higher than the sum of 7.0 metres and the <i>height</i> limit applicable to that portion of the <i>lot</i> .	The structures enclosing such elements shall not occupy more than 50 percent of the roof area

	STRUCTURE	MAXIMUM PERMITTED PROJECTION	OTHER APPLICABLE QUALIFICATIONS
D.	Structures used for outside or open air recreation, safety or noise and wind protection purposes.	The maximum <i>height</i> of the top of such structures shall be no higher than the sum of 3.0 metres and the <i>height</i> limit applicable to that portion of the <i>lot</i> .	The structures shall not enclose space so as to constitute a form of penthouse or other room or rooms.
E.	Awnings, canopies	3.0 metres	Must be located below the level of the third storey.
F.	A parapet, including roof drainage, thermal insulation and roof ballast, at each of the roof levels of the building	1.0 metres	The maximum vertical dimension of any such parapet shall not exceed 0.7 metres
G.	Elements of a green roof	The maximum <i>height</i> of such elements shall be 1.2 metres above the height limit applicable to that portion of the <i>lot</i> .	

Parking:

- (g) *Parking spaces* shall be provided in accordance with Section 4(5) except that:
- (i) a minimum of 190 *parking spaces* shall be provided on the *lot*;
 - (ii) required *parking spaces* for visitors to the *dwelling units* may be provided in a *commercial parking garage*;
 - (iii) the total number of *parking spaces* required to meet the requirements for residential use (excluding visitors) may be reduced by 4 *parking spaces* for each *car share parking space* provided and maintained on the *lot*. The limit on this parking reduction is calculated as the greater of: 4 x (total number of units/60), rounded down to the nearest whole number, or 1 space;
 - (iv) for each 5 *bicycle parking spaces* - occupant provided in excess of the minimum number of *bicycle parking spaces* – occupant required by section 4(13) the minimum required residential automobile *parking spaces*

shall be reduced by 1 *parking space*, up to a maximum reduction of 20 percent of the total minimum residential *parking spaces* required; and

- (v) a maximum of 10 percent of the total number of *parking spaces* may be provided as compact *parking spaces* having minimum dimensions of 2.5 metres in width by 5.0 metres in length, which are obstructed by a wall or column which extends more than 1.0 metre from the front or rear of the *parking space*, with such obstructions being located less than 0.3 metres from the side of the *parking space*, measured at right angles.
- (h) Loading facilities shall be provided in accordance with Section 4(8).
- (i) Bicycle parking shall be provided in accordance with Section 4(13) and are subject to the following:
 - (i) a *bicycle parking space* must comply with the following:
 - (A) the minimum dimension of a *bicycle parking space* is:
 - (1) Minimum length is 1.8 metres;
 - (2) Minimum width (centre-to-centre separation distance) is 0.6 metres;
 - (3) Minimum vertical clearance from the ground is 1.9 metres; and
 - (B) the minimum dimension of a *bicycle parking space* if placed in a vertical position on a wall, structure or mechanical device (*bicycle stacker*):
 - (1) Minimum length is 1.8 metres;
 - (2) Minimum width (centre-to-centre separation distance) is 0.4 metres;
 - (3) Minimum vertical clearance from the ground is 1.2 metres; and
 - (4) If a *bicycle stacker* is provided, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres.

Residential Amenity Space:

- (j) *Residential amenity space* shall be provided in accordance with the following provisions:
 - (i) indoor *residential amenity space* for a building on a *lot* shall be provided at a rate of 2 square metres per *dwelling unit*;

- (ii) outdoor *residential amenity space* shall be provided at a rate of 1 square metre per *dwelling unit*; and
- (iii) *residential amenity space* provided indoors may be provided in rooms which are not contiguous.

Ground Floor Animation Areas:

- (k) No building or structure on the *lot* that is subject to a Ground Floor Animation Area requirement as shown on Map 3 attached to this exception, may be erected or used unless:
 - (i) at least 70 percent of the length of the building frontage along Queens Quay East identified as Animation Frontage on Map 3 is used for no purpose other than *ground floor animation uses*; and
 - (ii) no *dwelling units* are located on the ground floor of buildings or structures facing an Animation Frontage shown on Map 3.

Section 37 Agreement:

- (l) Pursuant to Section 37 of the Planning Act, the heights and density of residential development contemplated herein are permitted subject to compliance with all of the conditions set out above and in return for the provision by the owner of the *lot* of the following facilities, services and matters to the City at the owner's sole expense and in accordance with and subject to the agreement(s) referred to in paragraph xxi below:
 - (i) To secure the provision of local infrastructure improvements through one or a combination of the following:
 - (A) to provide a contribution of \$69.86 per square metre of *residential gross floor area* towards local infrastructure improvements, to be paid prior to the issuance of the first above-grade *Building Permit* for the *lot* or for the portion of the *lot* being developed; and
 - (B) to undertake local infrastructure improvements in lieu or part of all of the contribution set out in subclause (l)(i)(A), the value of which is to be determined by the City.
 - (ii) Any development containing ownership *dwelling units* shall provide not less than 5 percent of all ownership *dwelling units* with the following size restrictions:
 - (A) A maximum *residential gross floor area* of 46.5 square metres for bachelor *dwelling units*;
 - (B) A maximum *residential gross floor area* of 60.4 square metres for one-bedroom *dwelling units*;

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- (C) A maximum *residential gross floor area* of 79 square metres for two bedroom *dwelling units*;
 - (D) A maximum *residential gross floor area* of 93 square metres for three bedroom *dwelling units*;
 - (E) A maximum *residential gross floor area* of 120 square metres for a two bedroom townhouse/stacked townhouse unit; and
 - (F) A maximum *residential gross floor area* of 135 square metres for a three bedroom townhouse/stacked townhouse unit.
- (iii) To secure the provision of new *affordable rental housing* through one or a combination of the following:
- (A) the provision and maintenance of not less than 10 percent of the total number of *dwelling units* as new *affordable rental housing* on the *lot* as follows:
 - (1) the *affordable rental housing* shall be maintained as rental housing for a term of not less than 25 years; and
 - (2) the *affordable rental housing* shall be maintained with *affordable rents* for a term of not less than 15 years;
 - (B) a dedication to the City of sufficient land for the purpose of constructing not less than 20 percent of the total number of *dwelling units* as new *affordable rental housing* on the *lot*; and/or
 - (C) a cash-in-lieu contribution to the City in the amount of the value otherwise required by subclause B above, to be paid prior to the issuance of the first above-grade *Building Permit* for the *lot* or for the portion of the *lot* being developed; and
- for the purposes of calculating *affordable rental housing* requirements above, the percentage of *dwelling units* deemed to be provided will be based on the percentage of total *residential gross floor area* provided as *affordable rental housing* or, in the case of B and C, the percentage of *residential gross floor area* able to be accommodated on the land to be provided. These calculations will be based on the total *residential gross floor area* devoted to *dwelling unit* accommodation, excluding *dwelling units* in a university residence.
- (iv) Provide a public art contribution in accordance with the City's public art program of a value not less than 1 percent of the gross construction costs of all buildings and structures to be erected on the *lot*.
 - (v) To construct and maintain the development in accordance with the Tier 1 performance measures of the Toronto Green Standard as adopted by

Toronto City Council on December 5, 2017, and as amended from time to time.

- (vi) To connect all buildings to a district energy system and/or on-site renewable energy sources, if available at costs comparable to other energy sources.
- (vii) The submission of *Site Plan Application(s)* for review and comment by the Waterfront Toronto Design Review Panel.
- (viii) The provision of a *noise study* and detailed design plans in support of a *Site Plan Application* for any *sensitive land use* proposed on the *lot*. The *noise study* shall be submitted by the owner to the City and the owner shall provide a copy to *Redpath*. The *noise study* shall be peer reviewed by the City at the expense of the owner and, should it so choose, by *Redpath*. Upon request by *Redpath*, comments received from *Redpath* shall be presented to City Council in a process that permits a reasonable opportunity for *Redpath* to give reasons for such comments.

In addition, the owner shall provide any *noise study* that pertains to the *lot* to the Ministry of the Environment, Conservation and Parks. Comments received from the Ministry of the Environment, Conservation and Parks shall be presented to the City in a process that permits a reasonable opportunity for the Ministry of the Environment, Conservation and Parks to give reasons for such comments, should they so choose.

- (ix) The owner will provide and maintain any recommended mitigation, attenuation or equivalent measures recommended in the *noise study*, in accordance with the *Minutes of Settlement*, any Report prepared by a qualified professional in accordance with the *Minutes of Settlement* in support of a *Building Permit* application, and the approved plans submitted with any *Building Permit* application for any building or part of a building that implements any mitigation works or protocols identified in the *noise study*, the *Minutes of Settlement* or the Report in support of the *Building Permit* application for such building or part of a building.
- (x) The provision of a *vibration study* and detailed design plans in support of a *Site Plan Application* for any *sensitive land use* proposed within 75 metres of Queens Quay East or within 75 metres of an approved future public transit corridor. The *vibration study* shall be submitted by the owner to the City. The *vibration study* may be peer reviewed by the City.
- (xi) The owner will provide and maintain any recommended mitigation, attenuation or equivalent measures identified in the *vibration study* in accordance with any Report prepared by, a qualified professional in support of a *Building Permit* application, and the approved plans submitted with any *Building Permit* application for any building or part of a building that implements any mitigation works identified in the *vibration study* for such building or part of a building.

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- (xii) The provision of an *emissions study* and detailed design plans in support of a *Site Plan Application*, for any *sensitive land use* proposed on the *lot*. The *emissions study* shall be submitted by the owner to the City and the owner shall provide a copy to *Redpath*. The *emissions study* shall be peer reviewed by the City at the expense of the owner, and should it so choose, by *Redpath*. Upon request by *Redpath*, comments received from *Redpath* shall be presented to City Council in a process that permits a reasonable opportunity for *Redpath* to give reasons for such comments.
 - (xiii) The owner will provide and maintain any recommended mitigation, attenuation or equivalent measures recommended in the *emissions study*, in accordance with the *Minutes of Settlement*, and any Report prepared by, a qualified professional in accordance with the *Minutes of Settlement* in support of a *Building Permit* application, and the approved plans submitted with any *Building Permit* application for any building or part of a building that implements any mitigation works or protocols identified in the *emissions study*, the *Minutes of Settlement* or the Report in support of the *Building Permit* application for such building or part of a building.
 - (xiv) The owner shall not request the City to approve any *Site Plan Application* for any development that will accommodate a land use for which a *noise study* or *emissions study* was undertaken, until *Redpath* and, where applicable, the Ministry of the Environment, Conservation and Parks, have been given at least 45 days to review the *noise study* and *emissions study* (applicable to *Redpath*), in order to provide a response to the City.
 - (xv) Prior to the issuance of a *Building Permit* in respect of any building(s) or portion of building that will accommodate a *sensitive land use* for which a *noise study*, *vibration study* or *emissions study* was undertaken, written confirmation(s) by appropriate qualified consultants will be submitted to the City that the *Building Permit* plans for such building(s) or portions of such building incorporate mitigation and architectural control measures recommended by such *noise study*, *vibration study* and / or *emissions study* and the owner shall provide such confirmation(s) to *Redpath*.

Where no *noise study*, *vibration study* and/or *emissions study* was previously undertaken in respect of the building(s) or portion of building where a *sensitive land use* is proposed, the owner shall prepare and provide a *noise study*, *vibration study* and/or an *emissions study*, as applicable, to the City in support of the application for *Building Permit* and the written confirmation(s) referenced above will be submitted to the City prior to the issuance of a *Building Permit* for such *sensitive land use*. The owner shall provide such *noise study* and/or *emissions study*, as is applicable, and a copy of the confirmation(s) to *Redpath*.

- (xvi) The inclusion of the following specific warning clause (the "*Warning Clause*") in all agreements of purchase and sale and lease, excluding agreements pertaining to the resale or lease of individual residential condominium units:

"Warning: This site is in proximity to the heavy industrial Redpath Sugar Refinery located at 95 Queens Quay Boulevard East (the "Redpath Facility") which operates 24 hours a day, 7 days a week. Various processes, shipping and receiving, either operate continuously or at any time of day or night. Activities may include: loading, unloading and repair of large tractor trailers or bulk bin trucks; docking and unloading of ocean and lake going ships; venting of steam; construction and repair; and operation of various sugar refining processes. In addition, there may be industrial odours and light emanating from the refinery from time to time. Redpath may apply to alter or expand the Redpath Facility in the future.

Notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from the Redpath Facility, from time to time noise from the Redpath Facility is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibration, and visual impact may impact the enjoyment of indoor and outdoor areas of this development.

Redpath Sugar advises that it will not be responsible for any complaints or claims arising from any of the activities at or relating to the Redpath Facility, property or operations thereon."

- (xvii) A large area plan shall be displayed in the sales pavilion(s)/office(s) for any residential development, prominently identifying the *Redpath* Facility.
- (xviii) The inclusion of the *Warning Clause* in all condominium disclosure statements and declarations applicable to the *lot*, or portions thereof, and the condominium purchasers and their successors and assigns shall be advised of the *Warning Clause* in the Status Certificate (both for original and subsequent purchasers). Equivalent provisions are to be contained in any subdivision agreement pursuant to the Planning Act.
- (xix) The inclusion of a provision in all condominium disclosure statements and declarations applicable to all lands, or portions thereof, prohibiting any owner, tenant or condominium board to make any changes to units and common elements that would contravene the mitigation and architectural control measures recommended by the *noise study*, *vibration study*, *emissions study*, and/ or *Building Permit* plans for such building(s), as is applicable. The owner shall certify to the City that the aforementioned requirements have been complied with prior to clearance of the condominium for registration.
- (xx) The owner shall agree to comply with the applicable requirements of the *Minutes of Settlement*.
- (xxi) The owner shall enter into one or more agreements with the City pursuant to section 37 of the Planning Act to secure the facilities, services and

matters required by this paragraph and such agreement(s) are to be registered on title, to the satisfaction of the City.

Definitions:

- (m) For the purpose of this exception, all italicized words and expression have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (i) "*affordable rental housing*" means rental housing *dwelling units* that are subject to *affordable rents*;
 - (ii) "*affordable rents*" means rental rates where the total monthly shelter cost (gross monthly rent including utilities – heat, hydro and water – but excluding parking and cable television charges) is at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation;
 - (iii) "*bicycle parking space - occupant*" means an area that is equipped with a bicycle rack, locker or *bicycle stacker* for the purpose of parking and securing a bicycle, and:
 - (A) has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres where the bicycle is to be parked on a horizontal surface; or
 - (B) where the bicycle is 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; or
 - (C) where the bicycle is to be parked in a bicycle stacker, has a horizontal dimension of at least 0.4 metres by 1.8 metres and has a vertical dimension for each *bicycle parking space* of at least 1.2 metres;
 - (iv) "*bicycle stacker*" means a device whereby a *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device;
 - (v) "*Building Permit*" means a permit to construct a building or structure, or any part thereof, pursuant to Section 8 of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, superseded or replaced from time to time, and, for clarity, does not include the portion of any permits for demolition, site servicing, excavation and/or shoring;
 - (vi) "*car share motor vehicle*" means a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the *lot*;

- (vii) "*car share parking space*" means a *parking space* that is provided exclusively for the use of vehicles that are used exclusively for the parking of a *car share motor vehicle*;
- (viii) "*district energy, heating and cooling plant*" means a building or structure that is used for the production of electrical power, heating and cooling which is generated/converted at one or more linked locations and then is distributed to the users;
- (ix) "*emissions study*" means a study which includes:
- (A) a determination of the predictable worst case operating scenario of all relevant emissions, including odour and air quality;
 - (B) the identification of all receptor locations in the proposed development with the potential to experience (adverse) impacts;
 - (C) a determination of the impacts and nuisance potential at such receptors, if any;
 - (D) specific recommendations for mitigation at receptor and/or at source to create an appropriate air quality environment for future occupants/users of the proposed development;
 - (E) specific recommendations for odour mitigation at receptor in accordance with the *Minutes of Settlement*; and
 - (F) assuming the industries that are the relevant emissions sources are in compliance with the instruments listed below, an assessment of applicable Ministry of the Environment, Conservation and Parks regulations and guidelines, having the force of law; all relevant sections of the Environmental Protection Act, including Sections 9 and 14; and existing Certificates of Approval and/or Environmental Compliance Approvals, if publicly available, relative to the proposed development and the industries that are the source of the relevant emissions and where there are objective standards in the above-listed instruments, an assessment of the expected compliance with said instruments.

Such *emissions study* shall be prepared by a qualified air quality consultant and shall be consistent with professional standards and good practice for such studies, taking into account expansion or alteration plans identified by the source(s) that can reasonably be expected to be implemented in the future, and as further qualified by the *Minutes of Settlement*;

- (x) "*enclosed buffer balcony*" means an enclosed area outside the exterior wall of a building, such as an enclosed balcony, specifically intended to buffer one or more windows or openings from noise and/or odour impacts. An enclosed buffer balcony must be:

- (A) fully enclosed with floor to ceiling glazing or a combination of solid parapet with glazing above;
 - (B) separated from interior space with a weatherproof boundary of exterior grade wall, exterior grade window, exterior grade door, or any combination, in compliance with exterior envelope requirements of the Ontario Building Code, and that such exterior grade windows/doors must be designed such that they may not be removed;
 - (C) of sufficient horizontal extent to protect windows and openings where needed; and
 - (D) the architectural design of the interior space of the balcony space is not amenable to conversion into a noise sensitive space (i.e. bedroom, living room, kitchen or den space);
- (xi) "*enclosed buffer balconies*" is the plural form of "*enclosed buffer balcony*";
 - (xii) "*grade*" means 76.95 metres Canadian Geodetic Datum in the case of buildings or structures erected on the *lot* as shown on Map 1 to this exception;
 - (xiii) "*ground floor animation uses*" shall have the same meaning as the expression *street-related retail and service uses*, except that, in addition to those uses listed in sections 8(1)(f)(b)(i), (ii) and (iv), an artist's or photographer's studio, a *custom workshop*, a residential building lobby, and a *communications and broadcast establishment* shall also be permitted;
 - (xiv) "*gross construction area*" means all built area excluding any inset or projecting balconies;
 - (xv) "*height*" means the vertical distance between *grade* and the highest point of the roof, building, structure or element, excluding any roof assembly materials;
 - (xvi) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this exception;
 - (xvii) "*Minutes of Settlement* " means the Minutes of Settlement between *Redpath Sugar Ltd.*, Daniels HR Corporation, Daniels QQ Corporation, QQE 162 Inc. and the City of Toronto, dated May 15, 2014, as amended by the Amending Agreement between *Redpath Sugar Ltd.*, Daniels HR Corporation, Daniels QQ Corporation, QQE 162 Inc. and the City of Toronto, dated March 18, 2016, as may be amended from time to time;

- (xviii) "*noise study*" means a study which includes:
- (A) a determination of the planned and predict able worst case impact from all relevant noise sources;
 - (B) the identification of all receptor locations in the proposed development with the potential to experience (adverse) noise impact, ascertaining the noise excess at such receptors, if any;
 - (C) a determination of the numerical excess and nuisance potential at such receptors, if any;
 - (D) specific recommendations for mitigation at receptor and/or at source to create an appropriate sound environment for future occupants/users of the proposed development;
 - (E) specific recommendations for noise mitigation at receptor in accordance with the *Minutes of Settlement*; and
 - (F) assuming the industries that are the relevant noise sources are in compliance with the instruments listed below, an assessment of applicable Ministry of Environment, Conservation and Parks regulations and guidelines, having the force of law; all relevant sections of the *Environmental Protection Act*, including sections 9 and 14; existing Environmental Compliance Approvals/Registrations, if publicly available; and all relevant sections of the *Toronto Municipal Code*, including Chapter 591 or their successors, relative to the proposed development and the industries that are the source of the relevant emissions.

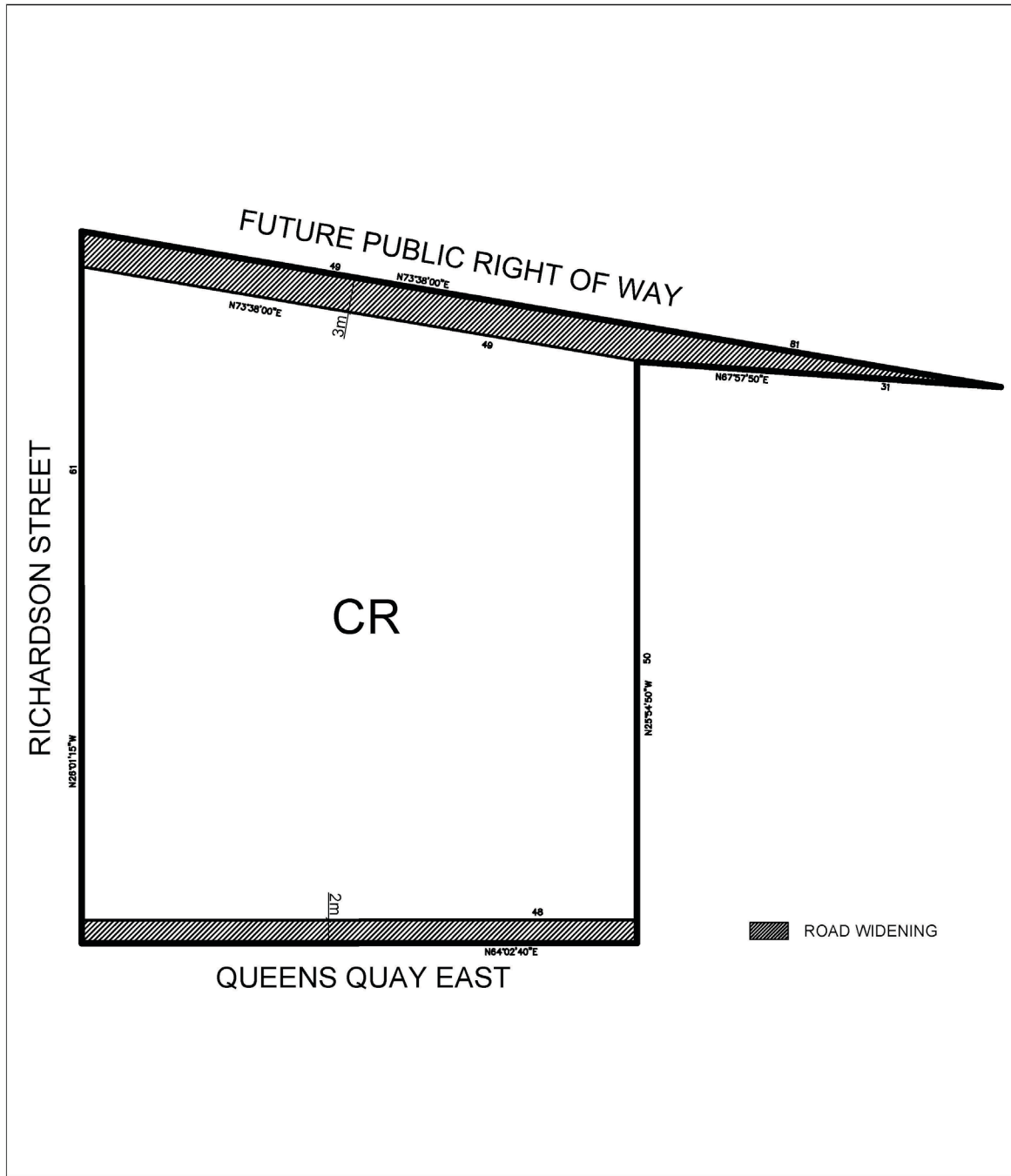
Such *noise study* shall be prepared by a qualified acoustical engineer and shall be consistent with professional standards and good practice for such studies, taking into account expansion or alteration plans identified by the stationary source(s) that can reasonably be expected to be implemented in the future, and as further qualified by the *Minutes of Settlement*;

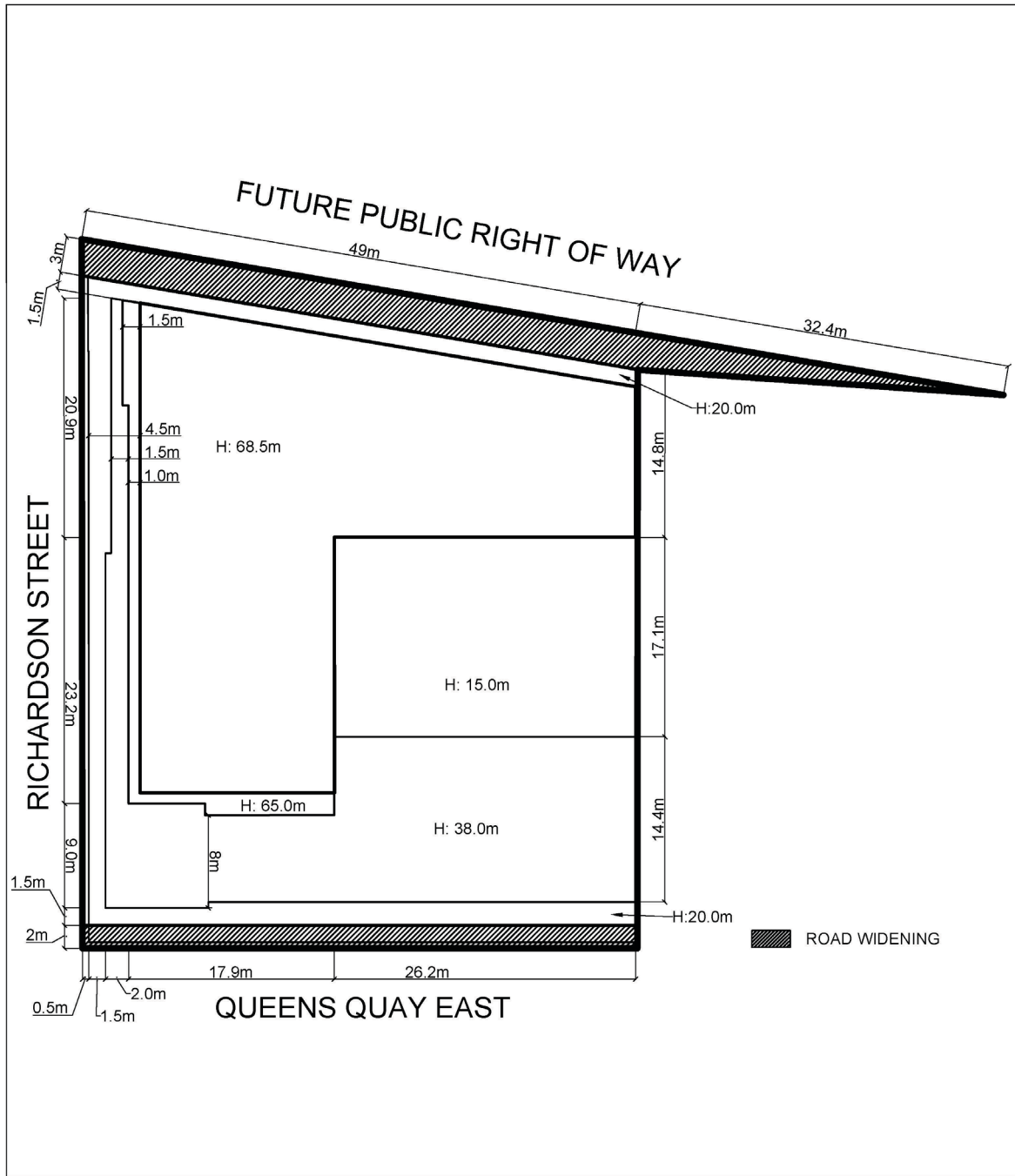
- (xix) "*Residential gross floor area*" shall have the same meaning as contained in Section 2(1) with the exception that areas used as *enclosed buffer balconies*, elevator shafts, garbage shafts, mechanical penthouse, exit stairwells in the building, and areas used for above *grade bicycle parking* and storage lockers shall be excluded from the definition;
- (xx) "*Redpath*" means the lands and premises known municipally as 95 Queens Quay Boulevard East, in the City of Toronto, owned and operated by Redpath Sugar Ltd., its successors or assigns;
- (xxi) "*sensitive land use*" means a *hotel, commercial school, trade school, college, university, post-secondary institution* and related uses, and all those uses permitted within a CR district in sections 8(1)(f)(a)(i) and (ii),

and 8(1)(f)(b)(ii) and (iii), and all of such uses where they are accessory, ancillary, naturally and normally incidental or subordinate to any permitted use that is not considered to be noise sensitive, such as a workplace *day nursery* within a building devoted to office uses, etc., but does not include a fire hall, *performing arts studio*, police station, *post office*, *public library*, *public art gallery*, *public museum* or *private art gallery*;

- (xxii) "*Site Plan Application*" means an application for the approval of plans and drawings pursuant to Section 41(4) of the Planning Act, as amended or Section 114 of the *City of Toronto Act*, 2006, as is applicable;
 - (xxiii) "*substantially complete*" means, at a minimum, complete construction of the building superstructure, including elevator core and the extent of the exterior cladding of the building walls required to achieve sound attenuation to result in compliance with the applicable noise limits;
 - (xxiv) "*temporary sales and leasing centre*" means a building or a portion of a building used for the marketing, initial sale and/or initial leasing of *dwelling units* or space for non-residential uses to be erected on any portion of the *lot*;
 - (xxv) "*vibration study*" means a study of vibration from transportation sources, and stationary source(s), prepared by a qualified noise and vibration consultant, that makes specific recommendations for mitigation features to be incorporated into the design of the development taking into account commonly used criteria in Ontario for assessing vibration in building(s). Such *vibration study* shall be consistent with professional standards and good practice.
- (n) The provisions of exception (470) of Section 12(1) apply to the *lot* only as provided for in this exception.
 - (o) Despite any existing or future severance, partition, or division of the *lot*, the provisions of this exception apply to the whole of the *lot* as if no severance, partition or division occurred.

Ontario Municipal Board Decision issued on December 18, 2014 and Local Planning Appeal Tribunal Order issued on August 18, 2020 in Case PL030514.





File # _____

