

Authority: Toronto and East York Community Council  
Item TE20.5, as adopted by City of Toronto Council on  
November 25 and 26, 2020

## CITY OF TORONTO

### BY-LAW 690-2021

**To amend former City of Toronto By-law 438-86, as amended, with respect to the lands municipally known in the year 2020 as 60 and 64 Queen Street East and 131, 133 and 135 Church Street.**

Whereas Council of the City of Toronto has the authority to 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 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* of the land and the City of Toronto;

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 Section 2(1) with respect to "*grade*", "*height*", "*residential gross floor area*", "*non-residential gross floor area*" and "*lot*", and Sections 4(2)(a), 4(5), 4(8), 4(12), 4(13)(a), (c) and (d), 4(14), 4(16), 8(2)(5), 8(3) Part I(1), (2) and (3), 8(3) Part II(A), 12(2)(259), and 12(2)(260) of By-law 438-86 of the former City of Toronto, being "A By-law to regulate the use of land and the erection, use,

bulk, *height*, spacing of land and other matters relating to 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*, including a *temporary sales office* and uses *accessory* thereto, provided that:

- (a) The lot on which the buildings are to be located, comprises the lands outlined by heavy lines on Map 1, attached to and forming part of this By-law;
- (b) The total gross floor area on the lot must not exceed 29,900 square metres, of which a maximum of 29,650 square metres may be used for residential purposes;
- (c) No gross floor area used for residential purposes may be located above a Canadian Geodetic Datum elevation of 263.55 metres;
- (d) Notwithstanding the definition gross floor area provided in 4(b) of this By-law, gross floor area may also be reduced by 437.74 square metres of space that is to be conveyed to the City and secured by one or more agreements pursuant to Section 37(3) of the Planning Act, as may be amended;
- (e) The space described in (d) above must be measured on each storey from the interior side of the main walls and the interior side of the demising walls, including dedicated lobbies and elevator shafts;
- (f) The total number of dwelling units must not exceed 445;
- (g) The provision of dwelling units is subject to the following:
  - i. a minimum of 40 percent of the total number of dwelling units must contain two bedrooms; and
  - ii. a minimum of 10 percent of the total number of dwelling units must contain three bedrooms;
- (h) *Residential amenity space* must be provided on the *lot* at a minimum of 3.54 square metres for each *dwelling unit*, of which:
  - i. a minimum of 2.26 square metres per *dwelling unit* is indoor *residential amenity space*;
  - ii. a minimum of 1.28 square metres per *dwelling unit* is outdoor *residential amenity space*;
  - iii. a minimum of 35 square metres of the total outdoor *residential amenity space* required for the building must be dedicated for use by pets; and
  - iv. guest suites do not constitute *dwelling units* for the purposes of this exception;

- (i) No portions of a *building* or *structure* located above ground shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law, with the exception of the following:
  - i. parapets, columns and support structures may encroach up to a maximum of 1.5 metres;
  - ii. canopies, light fixtures, awnings, ornamental elements, architectural features, windowsills, planters, guardrails, railings, stairs, wheelchair ramps, vents, screens and landscape features may encroach up to a maximum of 1.5 metres; and
  - iii. (i)ii. above shall not apply to the required building setback to the *front lot line* abutting Dalhousie Street, as shown on Map 2, above the Canadian Geodetic Datum elevation of 121.65 metres;
- (j) Despite the definition of *storey* in 4(f) below, the mezzanine located between the first and second *storeys*, shall not constitute a *storey*;
- (k) The permitted maximum number of *storeys* in a *mixed-use building* is 57, excluding the mechanical penthouse;
- (l) No portion of a *mixed-use building*, including a mechanical penthouse, erected on the *lot*, shall be located above the *heights* in metres specified by the numbers following the symbol "H" as shown on Map 2 attached to and forming part of this By-law;
- (m) Notwithstanding (l) above, the following building elements, structures, or parts of a building, are permitted to extend beyond the *heights* shown on Map 2 attached to and forming part of this By-law:
  - i. lightning rods, antennae, satellite dishes, window washing equipment, stair enclosures, parapets, architectural features, and elements of a green roof and insulation and roof surface materials may project above the height limits to a maximum of 3.0 metres; and
  - ii. wind screens, awnings, guard rails, railings and dividers, *structures* for open air recreation, pergolas, trellises, balustrades, screens, stairs, roof drainage, chimneys, vents, terraces, light fixtures, landscaping, and planters may project above the *height* limits to a maximum of 3.0 metres on any portion of the second *storey* podium roof or the sixth *storey* podium roof;
- (n) *Parking spaces* must be provided and maintained on the *lot* in accordance with the following:
  - i. a minimum of 0.115 *parking spaces* per *dwelling unit* for the use of residents of the *mixed-use building*;

- ii. no *parking spaces* are required for visitors to residents of the *mixed-use building*; and
  - iii. no *parking spaces* are required for non-residential uses;
- (o) Notwithstanding the definition of *parking space* in Section 2(1) or the *parking space* dimensions in Section 4(17)(a) to (c) inclusive, a maximum of 8 *parking spaces* are permitted to have the following minimum dimensions:
- i. length 5.0 metres;
  - ii. width 2.6 metres; and
  - iii. height 2.0 metres;
- (p) The nearest point of an accessible *parking space* must be located no more than 10.0 metres, unobstructed by walls, curbs and similar features, from the nearest door of the vestibule or lobby that leads to a barrier-free elevator that provides access to the first *storey* of the *mixed-use building*;
- (q) An accessible *parking space* must have the following minimum dimensions:
- i. length of 5.6 metres;
  - ii. width of 3.9 metres; and
  - iii. vertical clearance of 2.1 metres;
- (r) One *loading space – type G* must be provided and maintained on the *lot*;
- (s) *Bicycle parking spaces* must be provided and maintained on the *lot* in accordance with the following:
- i. a minimum of 0.9 *bicycle parking spaces - occupant* for each *dwelling unit* for use by the residents of the *mixed-use building*; and
  - ii. a minimum of 0.1 *bicycle parking spaces - visitor* for each *dwelling unit* for use by visitors to residents of the *mixed-use building*;
- (t) Notwithstanding the definitions of *bicycle parking space – visitor* and *bicycle parking space – occupant* in Section 2(1), *bicycle parking spaces* must be provided in accordance with the following:
- i. *bicycle parking spaces* may be provided as *stacked bicycle parking spaces*;

- ii. each *stacked bicycle parking space* must have a minimum vertical clearance of 1.2 metres, a minimum width of 0.24 metres and a minimum length of 1.8 metres;
  - iii. *bicycle parking spaces – occupant* may be located on the first, second, and third *storeys*, and the mezzanine located between the first and second *storeys*, but may not be located in any required *residential amenity space*; and
  - iv. *bicycle parking spaces - visitor* may be located in an enclosed or secured room or enclosure located on the mezzanine level between the first and second *storeys*, but may not be located in any required *residential amenity space*.
3. None of the provisions of By-law 438-86 shall apply to prevent the erection or use of a *temporary sales office* on the *lot*.
4. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, with the exception of the following:
  - (a) "*grade*" shall mean an Canadian Geodetic Datum elevation of 86.65 metres above sea level with reference to Canadian Geodetic Datum (CGVD2013);
  - (b) "*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 *mixed-use building* shall be reduced by the area in the *building* used for:
    - i. Parking, loading and bicycle parking below *grade*;
    - ii. Loading spaces at the ground level and *bicycle parking spaces* at, or above *grade*;
    - iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
    - iv. Shower and change facilities required by this By-law for required *bicycle parking spaces*;
    - v. *Residential amenity space* required by this By-law;
    - vi. Elevator shafts;
    - vii. Garbage shafts;
    - viii. Mechanical penthouse; and

- ix. Exit stairwells in the building;
- (c) "*height*" shall mean the vertical distance between *grade* and the highest point of the *structure*, except for those elements otherwise expressly permitted in this By-law;
- (d) "*lot*" shall mean the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
- (e) "*stacked bicycle parking space*" shall mean a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*;
- (f) "*storey*" means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it; and
- (g) "*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*.
5. 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 if no severance, partition or division occurred.
6. The provisions of this By-law respecting the *height* of any *building* or *structure*, including permitted exceptions, are subject to any further limitations as may be set out in a by-law passed under an agreement pursuant to Section 5.81 of the Aeronautics Act, R.S.C. 1985, c. A-2.
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 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 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 16, 2021.

Frances Nunziata,  
Speaker

John D. Elvidge,  
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:

Community Benefits

- (A) Prior to the issuance of the first above grade *building* permit for the lands, the owners shall pay to the City a cash contribution of \$ 2,250,000 dollars towards new and existing affordable housing, public realm, street and park improvements in the Ward, in consultation with the Ward Councillor.
- (B) The cash contribution referred to in (A) 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.
- (C) In the event the cash contribution referred to in this section has not been used for the determined purpose(s) within three years of the amending Zoning By-law coming into full force and effect, the cash contribution may be redirected for other purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands.
- (D) The Owner shall design, construct, finish, and convey to the City, in an acceptable environmental condition, at no cost to the City, a minimum 4,712 square feet (437.74 square metres) Community Agency Space located on the mezzanine level and inclusive of the ground floor entrance and elevator in accordance with the Section 37 Agreement, and subject to the following:
  - (i) the Community Agency Space shall be delivered to the City 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, 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 handover 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 \$353,000.00 towards the operating costs of the community agency space;
- (iv) prior to conveyance of the community agency space to the City, the owner shall provide a one-time cash contribution in the amount of \$707,000.00 towards the initial finishing costs, less the cost of constructing the kitchen, washrooms and janitorial closet, to be paid prior to conveyance to the City with the remaining funds to be used for future capital improvements to the community agency space;
- (v) the one time cash contribution referred to in (D)(iii) and (iv) of this section 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
- (vi) 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.

#### Helicopter Flight Path

- (E) Prior to the issuance of the first *building* permit on the site, the owner shall provide confirmation from St. Michael's Hospital, or their representative, that any temporary (including construction cranes or related construction machinery) and permanent *structures* are below or outside the protected flight path to the satisfaction Chief Building Official and Executive Director, Toronto Building.

#### Municipal Infrastructure

- (F) The owner will pay for and construct any improvements to the municipal infrastructure in connection with the site servicing report, as accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.

#### Ontario Line

- (G) Prior to any site plan approval for the site, the owner shall obtain from Metrolinx, or its successor, written confirmation to the Chief Planner and Executive Director, City Planning and City Solicitor that the owner has satisfied any required technical or related review for any proposed below grade structural elements, including the manner of excavation and shoring for the development of the site as these matters relate to the Ontario Line tunnel.
- (H) Prior to site plan approval for the site, should Metrolinx, or its successor, provide a recommendation related to any tiebacks, or similar mechanism, that may impact the City's right-of-way, the owner shall first obtain any required approvals from the City prior to agreeing to implement any recommendations from Metrolinx that may impact the City's right-of-way.

#### Toronto Green Standard

- (I) The owner will construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for each *building* on the site.

#### Construction Management Plan

- (J) Requirements for a construction management plan with the general matters included in the Section 37 Agreement, including but not limited to, noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the General Manager, Transportation Services, in consultation with the Ward Councillor.



