

Authority: Local Planning Appeal Tribunal Decision
issued January 18, 2019 and Ontario Land Tribunal Order
issued July 30, 2021 in File PL180221

CITY OF TORONTO

BY-LAW 701-2021(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known as 59 Richmond Street East and 114 and 120 Church Street.

Whereas the Local Planning Appeal Tribunal, by its Decision issued on January 18, 2019 and the Ontario Land Tribunal by its Order issued on July 30, 2021, in OLT Case File PL180221 approved amendments to former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands; 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 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 pursuant to Section 39 of the Planning Act, the Council of Toronto 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; 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;

Pursuant to the Order of the Ontario Land Tribunal, By-law 438-86 of the former City of Toronto, as amended, is further amended as follows:

1. The land subject to this By-law are outlined in heavy lines on Map 1, attached to and forming part of this By-law.
2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.

3. District Map 51G-321 contained in Appendix "A" of By-law 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spaces 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, is further amended by redesignating from "CR T6.0 C4.5 R6.0" to "G" the lands identified as "G" on Map 1 attached to and forming part of this By-law.
4. None of the provisions of Section 2(1) with respect to "*commercial parking garage*", "*grade*", "*height*", "*bicycle parking space - occupant*", "*bicycle parking space - visitor*", "*non-residential gross floor area*", "*residential gross floor area*", and "*lot*", and Sections 4(2)(a), 4(5), 4(8), 4(12), 4(13), 4(14), 4(16), 4(17), 8(2)(5), 8(3) Part I(1), (2) and (3), 8(3) Part II 1(A)(1) and (II), 9(3) Part II(A)(I) and (II), 12(2)(132), 12(2)(260), and 12(2)(380) of Bylaw 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 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 and ancillary uses, including a below-grade commercial parking garage on the lands municipally known in the year 2019 as 59 Richmond Street East and 114 and 120 Church Street (referred to as the lot) provided:
 - (a) The total combined *residential gross floor area* and *non-residential gross floor area* may not exceed 38,200 square metres, provided:
 - (i) The total *residential gross floor area* may not exceed 37,475 square metres;
 - (ii) The total non-residential gross floor area may not exceed 2,200 square metres;
 - (iii) A minimum *non-residential gross floor area* of 680 square metres shall be provided; and
 - (iv) No *residential gross floor area* shall be located above a Canadian Geodetic Datum Elevation of 230.69 metres;
 - (b) A minimum 15 percent of *dwelling units* shall contain at least two-bedrooms, of which 50 percent shall have a minimum *gross floor area* of 87 square metres;
 - (c) A minimum 10 percent of *dwelling units* shall contain at least three-bedrooms, of which 50 percent shall have a minimum *gross floor area* of 100 square metres;
 - (d) The total number of *storeys* erected or used in the *mixed-use building* shall not exceed 45 *storeys*, excluding the mechanical penthouse;
 - (e) No portion of any building or structure on the *lot* shall have a *height* greater than the *height* in metres specified by the number following the "H" symbol in the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law;

- (f) Nothing in Section 4(e) above shall prevent the following elements from projecting above the *height* limits shown on Map 2:
- (i) structures on the roof of any part of the building used for fencing, green roof elements, parapets, masonry piers, landscape features including seating elements and BBQ counters, boiler vents, air intake fans, vents, elevator overruns, partitions dividing outdoor recreation areas, roof drainage, thermal insulation or roof ballast to a maximum of 1.9 metres;
 - (ii) structures on the roof of any part of the building used for architectural elements, exhaust flues, landscape features and walls or structures enclosing such elements, planters for trees and vegetation, safety railings and fences, stair towers, structures housing a pool or spa maintenance or operational equipment and swimming pools (elevated or otherwise) to a maximum of 2.75 metres; and
 - (iii) structures on the roof of any part of the building used for outside or open air recreation, wind mitigation elements, public art features, telecommunications equipment and antennae, window washing equipment, trellises, life safety equipment lightning rods, above-ground parts of a geo-energy device, cogeneration energy devices to a maximum of 4.0 metres;
- (g) No portion of any *building*, erected on the *lot* shall be located otherwise than wholly within the areas delineated by heavy lines and building envelopes shown on Map 2, except for the following:
- (i) Masonry piers located in the portion of Map 2 marked as areas A, B and C may project a maximum of 0.4 metres;
 - (ii) window frame surrounds, panels at spandrels and soffits may project a maximum of 0.5 metres;
 - (iii) acoustic screens and features, lighting fixtures, terraces, terrace guards, window sills, guardrails, balustrades, cladding, railings, planters, monuments, retaining walls, fences, screens, wind mitigation screens and features and patios may project a maximum of 1.0 metre;
 - (iv) cornices, parapets, finials, architectural elements, trellises and arbors, eaves, masonry, pilasters, decorative features, stairs, stair enclosures, and stair landings may project a maximum of 2.0 metres; and
 - (v) window washing equipment, awnings, canopies, weather protection canopies, supportive columns, wheel chair ramps, vents, stacks, underground garage ramps and associated structures, underground garage stair enclosures, and landscape and public art features may project a maximum of 2.6 metres;
- (h) *Residential amenity space* must be provided in accordance with the following:

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- (i) a minimum of 3.9 square metres of *residential amenity space* shall be provided per dwelling unit;
 - (ii) of which, a minimum of 600 square metres shall be provided as outdoor *residential amenity space*, of which no more than 25 percent may be a green roof; and
 - (iii) indoor *residential amenity space* shall be located in a multi-purpose room or rooms, at least one of which shall contain a kitchen and a washroom;
- (i) *Parking spaces* required by this By-law for residential visitor and *non-residential* uses may be located within a *commercial parking garage* and may be available on a first-come-first-serve basis and available for and marketed to the general public;
 - (j) *Parking spaces* must be provided and maintained on the *lot* in accordance with the following minimum requirements:
 - (i) a minimum of 0.17 *parking spaces* per unit shall be provided for residents;
 - (ii) a minimum of 29 *parking spaces* shall be provided for residential visitors and non-residential uses and may be located in a *commercial parking garage* on the *lot*, available on a first-come first-serve basis to the general public; and
 - (iii) Notwithstanding Section 4(17) of By-law 438-86, a maximum of 10 *parking spaces* may have a minimum width of 2.4 metres, a minimum length of 5.4 metres, and a minimum height of 1.7 metres, with or without obstructions;
 - (k) Of the *parking spaces* required by 4(j) above, a maximum of 5 such *parking spaces* may be *car-share parking spaces*. For each *car-share parking space* on the *lot*, the minimum number of parking spaces shall be reduced by 4 *parking spaces*;
 - (l) *Bicycle parking spaces* must be provided and maintained on the *lot* and may be in the form of a *parking stacker - bicycle*, in accordance with the following minimum requirements:
 - (i) a minimum of 448 *bicycle parking spaces residential – occupant* shall be provided which can be provided in a *parking stacker - bicycle*;
 - (ii) a minimum of 50 *bicycle parking spaces residential – visitor* shall be provided which can be provided in a *parking stacker - bicycle*;
 - (iii) a minimum of 2 *bicycle parking spaces retail – occupant* shall be provided;
 - (iv) a minimum of 6 *bicycle parking spaces retail – visitor* shall be provided;
 - (v) Notwithstanding the definition of *bicycle parking space – visitor* and *bicycle parking space – occupant* in Section 2(1) of Zoning By-law 438-86,

as amended, a *bicycle parking space* may be provided in a secured room or bicycle locker above or below grade and may be provided as a *parking stacker - bicycle parking space*; and

- (m) One (1) *loading space – type G* and two (2) *loading spaces – type C* shall be provided and maintained on the *lot*.
5. None of the provisions of By-law 438-86 of the former City of Toronto shall apply to prevent the erection or use of a "*temporary sales office*" on the *lot*.
6. Despite any future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply as if no severance, partition or division occurred.
7. 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 terms:
- (a) "*bicycle parking space - occupant*" shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
- (i) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
- (b) "*parking stacker - bicycle*" means a mechanical bicycle parking facility with *bicycle parking spaces* which:
- (i) Are positioned above each other;
 - (ii) The platform of such *bicycle parking space* may have dimensions of not less than 0.37 metres by 1.6 metres and a height allowance of 1.2 metres; and
 - (iii) May not be readily accessible at all times without manoeuvring another bicycle or device;
- (c) "*bicycle parking space-visitor*" shall mean an shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and maybe within a secured room and/or within a *parking stacker-bicycle* and:
- (i) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres;
 - (ii) Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres; and

- (iii) May be located indoors or outdoors including within a secured room or enclosure;
- (d) "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit carsharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or not be refundable;
- (e) "*car-share parking space*" means a *parking space* that is reserved and actively used for car-sharing;
- (f) "*commercial parking garage*" means a building or a portion of a building used for the temporary parking of motor vehicles as an accessory use on a *lot*;
- (g) "*grade*" shall mean an elevation of 86.24 metres Canadian Geodetic Datum;
- (h) "*gross floor area*" shall mean the sum of the *non-residential gross floor area* and *residential gross floor area* above and below the ground, measured from the exterior of the main wall of each floor level, excluding any *gross floor area* associated with a commercial parking garage";
- (i) "*height*" shall mean, the vertical distance between *grade* and the highest point of the building, except for those elements otherwise expressly permitted in this By-law;
- (j) "*lot*" shall mean the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
- (k) "*non-residential gross floor area*" shall mean the sum of the total area of each floor level of a building used for non-residential purposes, above grade, measured from the exterior main wall of each floor level, reduced by the area of the building used for:
 - (i) Parking, loading and bicycle parking below-ground;
 - (ii) *Commercial parking garage*;
 - (iii) *Loading spaces* at the ground level and *bicycle parking spaces* at or above-ground;
 - (iv) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (v) Shower and change facilities required by this By-law for required *bicycle parking spaces*;
 - (vi) Elevator shafts;

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- (vii) Garbage shafts;
 - (viii) Mechanical penthouse; and
 - (ix) Exit stairwells in the building;
- (l) "*residential gross floor area*" shall mean the sum of the total area of each floor level of a building, used for residential purposes, above and below the ground, measured from the exterior main wall of each floor level, reduced by the area in the building used for:
- (i) Parking, loading and bicycle parking below-ground;
 - (ii) *Loading spaces* at the ground level and *bicycle parking spaces* at or above-ground;
 - (iii) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) Shower and change facilities required by this By-law for required *bicycle parking spaces*;
 - (v) *Residential amenity space* required by this By-law;
 - (vi) Elevator shafts;
 - (vii) Garbage shafts;
 - (viii) Mechanical penthouse; and
 - (ix) Exit stairwells in the building; and
- (m) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used exclusively for the initial sale and/or initial leasing of *dwelling units* proposed on the *lot* for a period of not more than 3 years from the date this by-law comes into full force and effect.
- 8.** 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.
- 9.** 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.

Local Planning Appeal Tribunal Decision issued January 18, 2019 and Ontario Land Tribunal Order issued July 30, 2021 in File PL180221.

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 *lot* as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act in a form satisfactory to the City, registered on title to the *lot*, with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of the agreement,

1. Prior to the issuance of the first above grade building permit, the owner shall make an indexed cash contribution to the City in the amount of four million five hundred and nine thousand dollars (\$4,509,000) payable by certified cheque to the City of Toronto, to be allocated toward capital improvements at the discretion of the Chief Planner and Executive Director, City Planning, as follows:
 - a. One Million dollars (\$1,000,000) to be allocated to Public Art that will be located within the future 198 square metres on-site park. In lieu of a monetary contribution, the owner must at its election provide Public Art for the future 198 square metres on-site park in accordance with the City's Public Art Program to the equivalent value, in accordance with all of the applicable terms and conditions of Section 5 of the agreement entered into by the owner and the City, under Section 37(3) of the Planning Act;
 - b. Five Hundred Thousand dollars (\$500,000) to be used for capital improvements to existing community non-profits, including Fred Victor Centre;
 - c. Two Million dollars (\$2,000,000) to be allocated to local streetscape and/or park improvements;
 - d. Four Hundred and Fifty Thousand dollars (\$450,000) to be allocated to the implementation of the Heritage Interpretation Master Plan and/or Heritage Lighting Master Plan for Old Town Toronto; and
 - e. Five Hundred and Fifty Nine Thousand dollars (\$559,000) to be allocated to improvements to community, recreation and/or cultural spaces and/or City facilities.

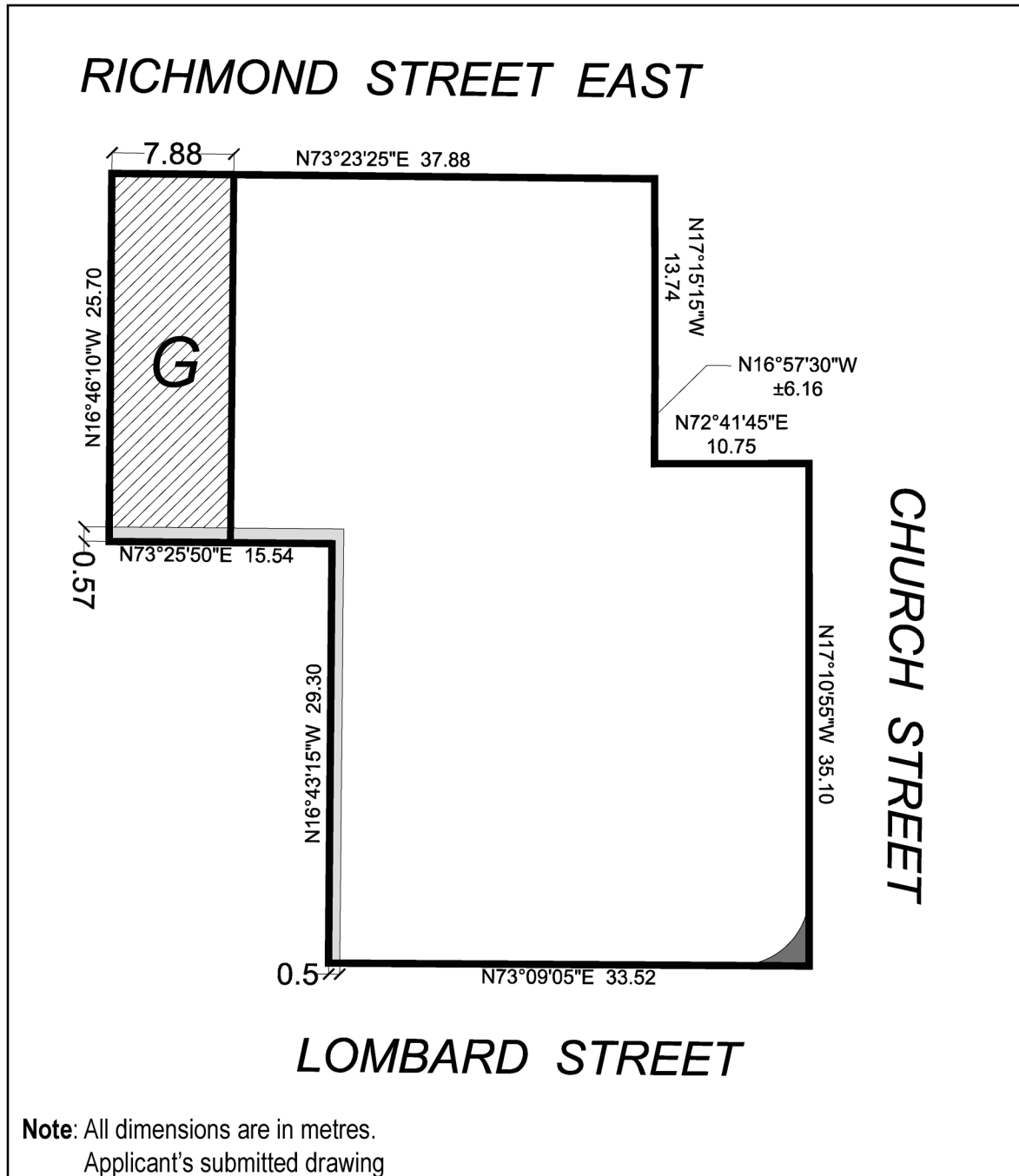
Such amounts to be indexed upwardly in accordance with the Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication 327-0058, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of the payment of the funds by the owner to the City; and

In the event the cash contribution(s) referred to in Section 1 of this Schedule A, above, have not been used for the intended purpose within three (3) years of the date of the issuance of the first above-grade building permit for the *lot*, the cash contribution may be

redirected for another purpose, 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 Toronto Official Plan and will benefit the community in the vicinity of the *lot*.




Legal Convenience Matters


2. That the Section 37(3) Agreement referenced in Section 1 of this Schedule A, above, secure as legal conveniences, the requirement for and associated details respecting the satisfaction of the following conditions:
 - a. The owner will provide for a conveyance of a 198 square metre portion of the *lot* to the City to satisfy parkland dedication requirements and the owner will prepare and register all documents and studies required to convey the parkland to the City, to the satisfaction of the City Solicitor;
 - b. The owner shall provide a minimum of 10 percent family sized units in the development on the *lot*, containing at least three bedrooms;
 - c. The owner shall convey a 0.5 metre wide strip of land along the east limit of the public lane and a 0.57 metre wide conveyance along the north limit of the public lane to the City for the widening of the Barbed Wire Lane;
 - d. The owner shall convey lands to the City consisting of a 5.0 metre corner rounding at Church Street and Lombard Street;
 - e. The owner shall submit a construction management plan to the satisfaction of the Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor, and shall implement the plan during the course of construction; and
 - f. The owner shall construct and maintain the development in accordance with Tier 1 performance measures of Toronto Green Standard, as adopted by City Council.



114-120 Church Street & 59 Richmond Street East

File # 17 253844 STE 28 OZ

-  Proposed laneway widening dedication
-  Proposed corner rounding dedication
-  Proposed on-site parkland dedication


 City of Toronto By-law 438-86
 Not to Scale
 11/15/2019

