

Authority: Ontario Land Tribunal Decision issued October 3, 2017 and Order issued July 22, 2021 in Tribunal File PL160872

CITY OF TORONTO

BY-LAW 882-2021(OLT)

To amend the former City of Toronto Zoning By-law 438-86, as amended, respecting the lands municipally known in the year 2020 as 55 Eglinton Street East.

Whereas authority is given to Council by Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increase 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, the municipality may require the Owner to enter into one or more agreements with the municipality in respect of 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; and

Therefore, pursuant to the Decision of the Ontario Municipal Board issued October 3, 2017 and the Order of the Ontario Land Tribunal issued July 22, 2021 in Tribunal File PL160872, Zoning By-law 438-86 is hereby amended as follows:

1. Maps 1 and 2 attached, form part of this By-law.
2. Pursuant of Section 37 of the Planning Act, the heights and density of development permitted by this By-law on the lands identified as the *lot* on Map 1, attached to and forming part of this By-law, are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the owner of the *lot*, of the facilities, services and matters set out in Schedule 1 hereof, the provisions of which shall be secured by one or more agreements pursuant to Section 37(3) of the Planning Act in accordance with Schedule 1 of this By-law.

3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
4. This By-law applies to the lands delineated by a heavy line and identified municipally as "55 Eglinton Avenue East" as shown on Map 1, attached to and forming part of this By-law.
5. Height and Minimum Lot Frontage District Map 51K-321 contained in Appendix "B" of By-law 438-86, as amended, is further amended in accordance with Map 2 attached hereto and forming part of this By-law.
6. None of the provisions of this By-law or By-law 438-86, as amended, shall prevent the erection and use of a *Temporary Sales Office* and *Temporary Construction Office* on the *lot* to be used exclusively during construction and the initial sale and/or initial leasing of *dwelling units* or *non-residential gross floor area*, respectively, on the *lot*.
7. None of the provisions of Section 2(1) with respect to the definition of '*bicycle parking spaces – occupant*', '*bicycle parking spaces – visitor*', '*height*', '*grade*', '*lot*', '*non-residential gross floor area*', '*residential gross floor area*', '*storey*' and Sections 4(2)(a), 4(4), 4(6), 4(12), 4(13), 4(16), 4(17), 8(2), 8(3) PART I, 8(3) Part II, 8(3) Part VIII, 8(3) Part XI, 12(2)118(iv), 12(2)119, and 12(2)270, of Zoning By-law 438-86, as amended, 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", shall apply to prevent the erection and use of a *mixed-use building* on the *lot* provided that:
 - (a) The combined *residential gross floor area* and *non-residential gross floor area* for the *lot* shall not exceed 41,300 square metres, provided:
 - (i) a minimum of 6,314 square metres of *non-residential gross floor area* is provided for office uses; and
 - (ii) a maximum of 400 square metres of *non-residential gross floor area* on the first floor is provided for retail uses;
 - (b) No portion of any building or structure on the *lot* shall have a *height* in metres greater than the *height* limits specified by the numbers following the symbol H on Map 2, attached to and forming part of this By-law, except for those elements otherwise expressly permitted in this By-law;
 - (c) A maximum 50 *storey* building shall be permitted on the *lot*;
 - (d) The maximum *tower gross floor area* of each *storey* on the *lot*, shall be 788 square metres;
 - (e) Notwithstanding subsection (c) above, the following building elements and structures may exceed all *height* limits, with the exception of the 177.9 metres

height limit, specified by the numbers following the symbol H on Map 2, attached to and forming part of this By-law:

- (i) eaves, canopies, cornices, light fixtures, awnings, architectural features, structures used for outside or open air recreation, trellises, mechanical and architectural screens, chimneys, vents, stacks, transformer vaults, ornamental elements, architectural elements, *landscape* elements, elements and structures associated with a green roof, stairs, covered/enclosed stairwells, window washing equipment and crane structures, stairs and stair enclosures associated with an entrance or exit from an underground parking garage, underground garage ramps and their associated structures, public art, solar panels and equipment, lightning rods, satellite dishes, utility, mechanical and ventilation equipment, roof access, and maintenance equipment storage by a maximum of 6.5 metres; and
 - (ii) fences, safety railings and other elements or structures on the roof of the *building* used for safety or wind protection and mitigation purposes, parapets, bollards, balustrades, seating areas, privacy screens, guardrails, terraces, terrace guards, platforms, wheelchair ramps, retaining walls, roof drainage, and planters by a maximum of 3.0 metres;
- (f) Notwithstanding subsections (c) and (e) above, the following building elements and structures may exceed the 177.9 metres *height* limit shown on Map 2, attached to and forming part of this By-law:
- (i) elements and structures associated with a green roof, lightning rods, antennae, flagpoles, satellite dishes, cornices, parapets, chimneys, vents, stacks, window washing equipment and crane structures, stair enclosure and stairs exclusively for access to maintain the green roof on the top of the mechanical penthouse by a maximum of 6.5 metres; and
 - (ii) fences, safety railings and other elements or structures on the roof of the building used for safety purposes by a maximum of 3.0 metres;
- (g) The minimum height of the first floor of the building shall be 3.75 metres, measured from the floor level above ground level to the mezzanine floor level;
- (h) No portion of any building or structure erected and used above *grade* on the *lot* shall be located otherwise than wholly within the areas delineated by heavy lines shown on Map 2, attached to and forming part of this By-law, except for the following elements:
- (i) louvres, cornices, light fixtures, damper equipment to reduce building movement, ornamental elements, parapets, trellises, balconies, eaves, window sills, guardrails, balustrades, window washing equipment and crane structures, railings, stairs, stair enclosures, doors, wheelchair ramps, screens, air vents and air intakes, and site servicing features by a maximum of 2.5 metres; and

- (ii) art and *landscape* features, patios, decks, terraces, planters, awnings and canopies, pillars, columns and other structural elements, railings, fences, ventilation shafts, site servicing features, elements required for the functional operation of the building and underground garage ramps and associated structures;
- (i) Notwithstanding the areas delineated by heavy lines shown on Map 2, attached to and forming part of this By-law, a *loading space* shall be set back a minimum of 0.0 metres of the south *lot* line;
- (j) Notwithstanding subsection (h) above, no balconies shall be permitted within 10 metres of the east *lot* line, and no balconies or windows shall be permitted on the west elevation of any building or structure on the *lot* below a *height* of 202.5 metres Canadian Geodetic Datum elevation;
- (k) Notwithstanding subsection (h) above:
 - (i) the *main wall* of a building shall be set back a minimum of 2.6 metres from the north *lot* line between the ground level and 6.5 metres in height within 'Area A' shown on Map 2; and
 - (ii) structural elements, including but not limited to those that support the building and the elements identified in (h)(i) and (h)(ii) above are permitted to encroach into the building setback required in (k)(i) above;
- (l) A minimum of 30 percent of *dwelling units* shall be two bedroom or three bedroom *dwelling units*, or a combination thereof;
- (m) A minimum of 4.0 square metres of *residential amenity space* must be provided for each *dwelling unit* of which:
 - (i) at least 2.0 square metres per *dwelling unit* is indoor *residential amenity space*;
 - (ii) at least 40 square metres is outdoor *residential amenity space* in a location adjoining or directly accessible to the indoor *residential amenity space*; and
 - (iii) no more than 25 percent of the outdoor component shall be a green roof;
- (n) *Parking spaces* must be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.23 *parking spaces* per *dwelling unit* for the use of the residents of the building;
 - (ii) no *parking spaces* shall be required for residential visitors; and
 - (iii) no *parking spaces* shall be required for non-residential uses;

- (o) A maximum of 10 percent of the *parking spaces* provided and maintained on the *lot* shall have a minimum width of 2.6 metres, despite being obstructed according to Section 4(17)(e) on one side of each *parking space*;
- (p) Notwithstanding subsection (o) above, Electric Vehicle Infrastructure, including electric vehicle supply equipment, does not constitute an obstruction to a *parking space*;
- (q) The minimum width of a *parking space* shall be 2.6 metres where accessed by a two-way drive aisle that has a minimum width of 5.5 metres;
- (r) For each *car-share parking space* provided on the *lot*, the minimum number of required *parking spaces* for residents required pursuant to subsection (n) above shall be reduced by four (4) *parking spaces*, up to a maximum of 7 *car-share parking spaces*;
- (s) For the purpose of calculating *parking space* requirements in subsection (n) above, if the calculation of the required number of *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than one *parking space*;
- (t) Notwithstanding subsection (n) above, *parking spaces* may be provided off-site within 500 metres of the *lot*;
- (u) A minimum of six (6) accessible *parking spaces* shall be provided on the *lot* and the accessible *parking spaces* shall comply with the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 3.4 metres; and
 - (iii) vertical clearance of 2.1 metres;
- (v) The entire length of an accessible *parking space* shall be adjacent to a 1.5 metres wide accessible barrier free aisle on one side;
- (w) Accessible *parking spaces* provided on the *lot* are not required to be the *parking spaces* closest to a barrier free entrance to a building or passenger elevator or be the shortest route from such entrance or elevator;
- (x) *Bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.9 *bicycle parking spaces* – occupant per dwelling unit;
 - (ii) a minimum of 0.1 *bicycle parking spaces* – visitor per dwelling unit;

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- (iii) a minimum of 0.2 *bicycle parking spaces – occupant* for each 100 square metres of *interior floor area* used for an office, other than a medical office;
 - (iv) a minimum of 3 *bicycle parking spaces – visitor* plus 0.2 *bicycle parking spaces – visitor* for each 100 square metres of *interior floor area* used for an office, other than a medical office;
 - (v) a minimum of 0.15 *bicycle parking spaces – occupant* for each 100 square metres of *interior floor area* used for a medical office;
 - (vi) a minimum of 3 *bicycle parking spaces – visitor* plus 0.15 *bicycle parking spaces – visitor* for each 100 square metres of *interior floor area* used for a medical office;
 - (vii) a minimum of 0.2 *bicycle parking spaces – occupant* for each 100 square metres of *interior floor area* used for a *personal service shop*; and
 - (viii) a minimum of 3 *bicycle parking spaces – visitor* plus 0.3 *bicycle parking spaces – visitor* for each 100 square metres of *interior floor area* used for a *personal service shop*;
 - (y) No *bicycle parking spaces* shall be required for any use not specified in subsection (x) above;
 - (z) *Bicycle parking spaces* may be provided in a *stacked bicycle parking space* arrangement, or in any combination of vertical, horizontal or stacked positions;
 - (aa) One (1) shower-change facility shall be provided for each gender related to the *bicycle parking spaces – occupant* required for office, medical office and *personal service shop* uses; and
 - (bb) One (1) *loading space – type G* and one (1) *loading space – type C* shall be provided and maintained on the *lot*.
8. For the purpose 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*" means an area that is equipped for the purpose of parking and securing bicycles, and:
 - (i) where the bicycles are to be parked on a horizontal surface, such horizontal *bicycle parking spaces* shall have horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, such vertical *bicycle parking spaces* shall have horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;

- (iii) where the bicycles are to be parked in a stacked position, such *stacked bicycle parking spaces* shall have horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.2 metres; and
 - (iv) in the case of a bicycle rack, may be located within a secured room, and may be located on any level of the building above or below *grade*;
- (b) "*bicycle parking space – visitor*" means 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 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are 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;
 - (iii) where the bicycles are to be parked in a stacked position, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.2 metres; and
 - (iv) may be located outdoors or indoors, within a secured room, and may be located on any floor of the building above or below *grade*;
- (c) "*car-share*" car-share means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization, and such car-share motor vehicles to be made available to at least the occupants of the building for short term rental, including hourly rental. Car-share organizations may require that the car-share motor vehicles be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (d) "*car-share parking space*" means a *parking space* exclusively reserved and used only for *car-share* purposes whereby the vehicle is accessible to at least the occupants of the buildings;
- (e) "*grade*" means 163.0 metres Canadian Geodetic Datum;
- (f) "*height*" means the vertical distance between *grade* and the elevation of the highest point of the building or structure, excluding permitted projections identified in Sections 7(e) and (f) of this By-law;
- (g) "*interior floor area*" means the floor area of any part of a building, measured to:
 - (i) the interior side of a *main wall*;
 - (ii) the centreline of an interior wall; or

- (iii) a line delineating the part being measured;
- (h) "*lot*" means the parcel of land outlined by heavy lines on Map 1, attached to and forming part of this By-law;
- (i) "*main wall*" means any exterior wall of a building or structure, including all structural members essential to the support of a roof over a fully or partly enclosed area;
- (j) "*non-residential gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level that is devoted to non-residential use, measured from the exterior *main wall* of each floor level, exclusive of any areas in a building or structure used for:
 - (i) *parking spaces* and *loading spaces* and *bicycle parking spaces* below ground;
 - (ii) required *loading spaces* at ground level;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - (iv) facilities for bicycle parking, including but not limited to the area occupied by *bicycle parking spaces* and required *shower-change facilities* located above or below *grade*;
 - (v) elevator shafts;
 - (vi) garbage shafts;
 - (vii) mechanical penthouses; and
 - (viii) exit stairwells in the building or structure;
- (k) "*personal service shop*" means premises used to provide personal grooming services or for the cleaning or care of apparel;
- (l) "*residential gross floor area*" means the sum of the total area of each floor level of a building or structure above and below finished ground level devoted to residential use, measured from the exterior *main wall* of each floor level, exclusive of any areas in a building or structure used for:
 - (i) *parking spaces* and *loading spaces* and *bicycle parking spaces* below ground;
 - (ii) required *loading spaces* at the ground level;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;

- (iv) facilities for bicycle parking, including but not limited to the area occupied by *bicycle parking spaces* and required *shower-change facilities* located above or below *grade*;
 - (v) *residential amenity space* for the *dwelling units* on the *lot*;
 - (vi) elevator shafts;
 - (vii) garbage shafts;
 - (viii) mechanical penthouses; and
 - (ix) exit stairwells in the building or structure;
- (m) "*stacked bicycle parking space*" means 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*;
- (n) "*storey*" means the portion of a building that is between the top of a floor and the top of the floor next above it, and if there is no floor above it, the portion between the top of the floor and the ceiling above it; and for the purpose of this by-law: a mezzanine floor level used exclusively for the parking and storage of bicycles, mechanical and electrical equipment, and the functional operation of the building; interstitial structural and mechanical levels; the mechanical penthouse including enclosed areas at the mechanical penthouse level devoted to *residential amenity space* and access to *residential amenity space*; and *residential amenity space* at the mechanical penthouse level, shall not constitute a *storey*;
- (o) "*temporary sales office*" means 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
- (p) "*tower gross floor area*" means the area of each floor level of a building above the Canadian Geodetic Datum elevation of 206 metres, measured from the exterior *main wall* of each floor level, exclusive of any areas on each floor level used for:
- (i) *residential amenity space*;
 - (ii) elevator shafts;
 - (iii) garbage shafts;
 - (iv) mechanical penthouses; and
 - (v) exit stairwells in the building;
9. Notwithstanding any existing or future severance, partition or division of the *lot*, the provisions of this by-law shall apply to the whole *lot* as if no severance, partition or division occurred.

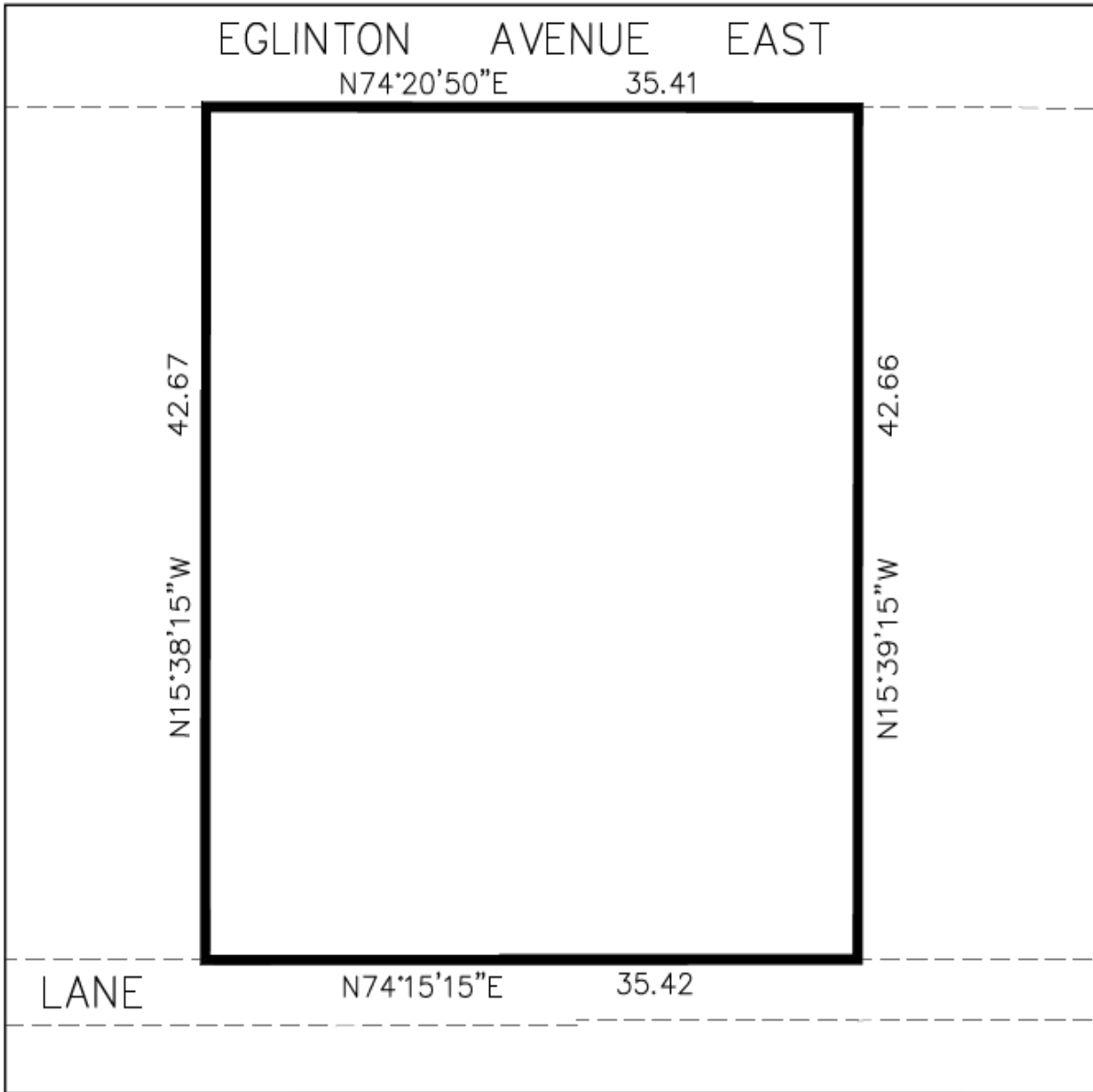
Ontario Land Tribunal Decision issued October 3, 2017 and Order issued July 22, 2021 in Tribunal File PL160872.

SCHEDULE 1

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* and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Prior to the issuance of any above-grade Building Permit, the Owner shall pay a cash contribution of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.000 CAN) to the City to be allocated towards the Davisville Aquatic and Community Recreation Centre or other community facilities in the vicinity of the Lands to the satisfaction of the Chief Planner, in consultation with the Ward Councillor.
2. The cash contribution set out above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto and calculated from the date of this Agreement to the date of payment by the Owner to the City.
3. In the event the cash contribution above has not been used for the intended purpose within three (3) years of the by-law coming into full force and effect, the cash contribution may be redirected for another purpose(s), at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the Lands.



55 Eglinton Avenue East, Toronto

Map 1

File #10 _____



Not to Scale

