

CITY OF TORONTO

BY-LAW 152-2022(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, respecting the lands municipally known in the year 2021 as 2161 Yonge Street.

Whereas the Local Planning Appeal Tribunal, pursuant to its decision issued on July 31, 2019 and Order issued on January 22, 2021 in respect of Board File PL171355 after hearing the appeal under Section 34(11) of the Planning Act, R.S.O. c. P.13, as amended, deems it advisable to amend the Zoning By-law for the former City of Toronto Zoning By-law 438-86; 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; 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, are to be 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;

Now therefore pursuant to the Order of the Local Planning Appeal Tribunal, By-law 438-86 is further amended as follows:

1. Maps 1 and 2 attached, form 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. For the purpose of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
4. None of the provisions of Sections 2 with respect to the definitions of *height*, *grade*, *lot*, Sections 4(2), 4(4)(b), 4(6), 4(12), 4(13)(a) and (c), 8(3) PART I, 8(3) PART II, 8(3)

PART III 8(3) PART VII, and Sections 12(1)166, 12(2)118, 12(2)119 12(2)269, AND 12(2)270 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* and uses *accessory* thereto, including an underground *parking garage* and a *commercial parking garage*, on the lands municipally known in the year 2021 as 2161 Yonge Street provided:

- (A) the total combined *residential gross floor area* and *non-residential gross floor area* of the building does not exceed 31,325 square metres provided that:
 - i. the maximum *residential gross floor area* shall be 22,440 square metres;
 - ii. the maximum *non-residential gross floor area* shall be 8,885 square metres; and
 - iii. the minimum office floor area shall be 8,094 square metres;
- (B) a minimum of ten percent of the total number of *dwelling units* constructed on the *lot* must contain three bedrooms or more;
- (C) In addition to the number of three bedroom *dwelling units* required in (B) above, a minimum of fifteen percent of the total number of *dwelling units* constructed on the *lot* must contain two bedrooms or more;
- (D) no part of any building or structure erected on the *lot* shall exceed the height in metres specified by the numbers following the symbol "H" on Map 2 of the By-law, with the exception of the following building elements, which are permitted to exceed the maximum height:
 - i. equipment used for the functional operation of the building to a maximum of 6.5 metres;
 - ii. a parapet, including roof drainage, thermal insulation and roof ballast, at each of the roof levels of the building, provided that the maximum vertical dimension of any such parapet does not exceed a maximum of 1.5 metres; and
 - iii. structures on the roof of the building used for outside or open air recreation, architectural elements, elements of a green roof, public art features, partitions dividing outdoor recreation areas, safety railings and fences, trellises, planters, landscape features, wall or structure enclosing such elements to a maximum of 4.0 metres;
- (E) 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, with the exception of the following building elements:

- i. balconies, terraces, awnings, canopies, parapets, trellises, pillars, fences, screens, guardrails, balustrades and windows may encroach to a maximum of 2.5 metres;
 - ii. architectural, art and landscape features, chimneys, vents, cornices, window sills, bifold doors, pilasters and eaves may encroach to a maximum of 1.0 metres; and
 - iii. railings, retaining walls, stairs, stair enclosures, doors, wheelchair ramps, site servicing features, and underground garage ramps and associated structures may encroach to a maximum of 2.0 metres;
- (F) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- i. 0.3 *parking spaces per dwelling unit* for the residents of the building;
 - ii. 43 *parking spaces* for the use of visitors; and
 - iii. visitor parking spaces may be shared between residential and non-residential uses;
- (G) for each *car-share parking space* provided on the *lot*, the minimum number of required residential *parking spaces* shall be reduced by 4 *parking spaces*;
- (H) the minimum number of *car-share parking spaces* shall be 2;
- (I) *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*
 - iii. a minimum of 43 *bicycle parking spaces* for non-residential uses of the building; and
 - iv. *bicycle parking spaces* may be provided as *stacked bicycle parking spaces*, or as vertical *bicycle parking spaces*;
- (J) notwithstanding the definition of *bicycle parking space – visitor* in Section 2(1) of Zoning By-law 438-86, as amended, a *bicycle parking space* for visitors may be provided within a secured room; and
- (K) three *loading space – type C* shall be provided and maintained on the *lot*.

5. Despite any future severance, partition or division of the lands as shown on Map 1, the provisions of this exception shall apply as if no severance, partition or division has occurred.
6. None of the provisions of By-law 438-86 shall apply to prevent a *sales office* on the *lot*.
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:

"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*;

"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, such car-share motor vehicles to be made available 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;

"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;

"height" means the vertical distance between *grade* and the highest point of the buildings or structures, excluding permitted projections identified in section 4(C) of this By-law;

"grade" means 156.88 metres Canadian Geodetic Datum;

"lot" means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;

"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*.

8. 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 2 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;

- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

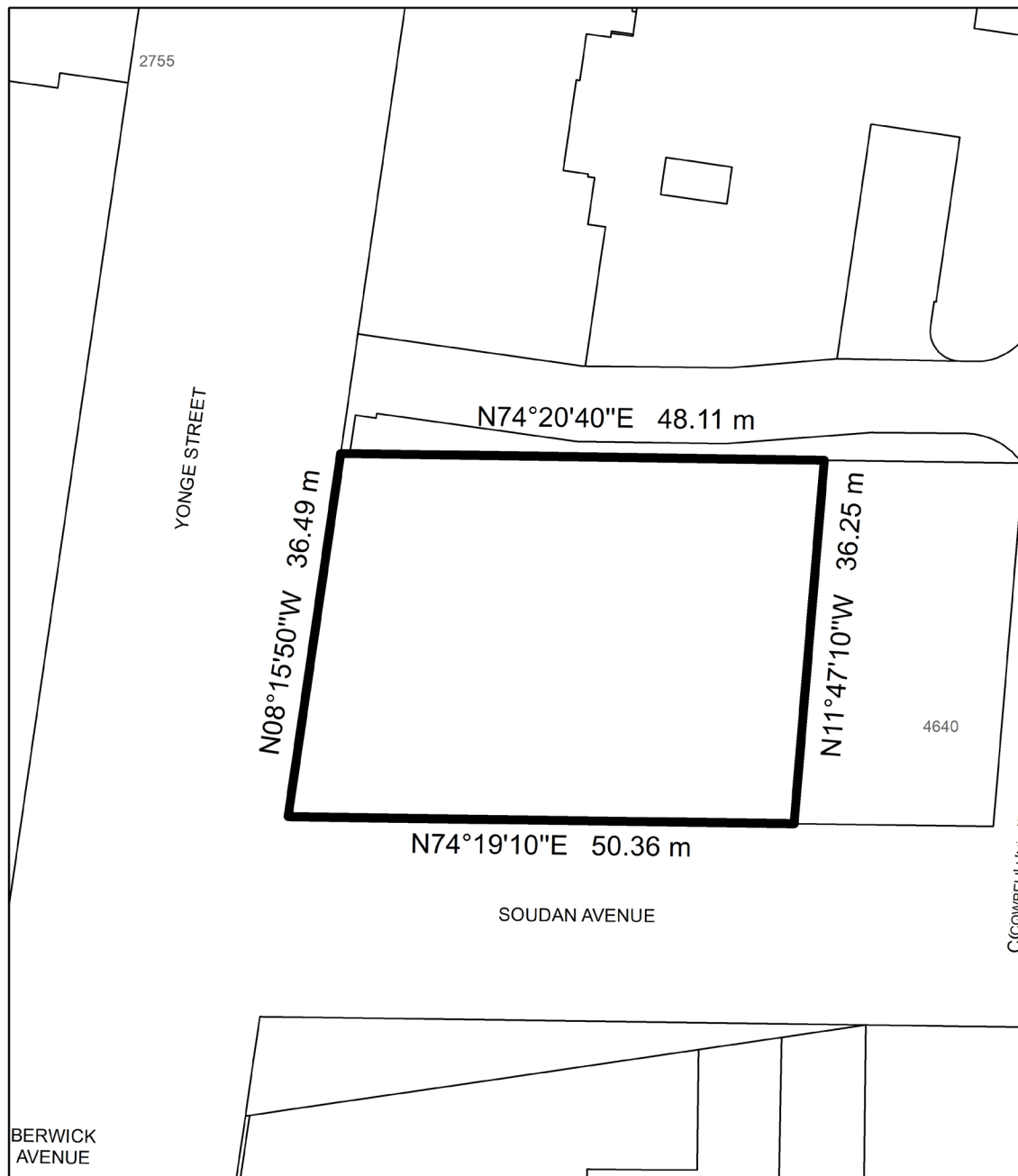
Pursuant to Local Planning Appeal Tribunal Decision issued on July 31, 2019 and Order issued on January 22, 2021 in Tribunal File PL171355.

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 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 the First Above Grade Building Permit, the Owner shall make a financial contribution of three million five hundred thousand dollars (\$3,500,000.000 CAN) to the City to be allocated to any one or more of the following: public realm improvements in the Yonge-Eglinton Secondary Plan area; public art; upgrades to the Davisville Community Centre recreational facilities; and/or additional community services and facilities in the Yonge-Eglinton Secondary Plan area in accordance with emerging infrastructure priorities identified in the Yonge-Eglinton Secondary Plan Review, the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor
2. The financial 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 and Executive Director, City Planning Division, 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.



 **Toronto**
Map 1

2161 Yonge St

File #: 17 186503 STE 22 0Z



Toronto
Map 2

2161 Yonge St

File #: 17 186503 STE 22 OZ



City of Toronto By-law 438-86
Not to Scale
03/10/2021