

Authority: North York Community Council Item NY32.2,
adopted as amended, by City of Toronto Council on
June 15 and 16, 2022

CITY OF TORONTO

BY-LAW 994-2022

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2022 as 109 Erskine Avenue.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this 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 pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in 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; and

Whereas the Council of the City has required the *owner* of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by this By-law; and

Whereas Schedule A of this By-law requires the owner to provide certain facilities, services or matters and to enter into an agreement prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same; 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;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the Planning Act, the heights and density of development permitted by 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 site of the facilities,

services and matters set out in Schedule A of this By-law the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act. That this By-law applies to the lot as identified within the heavy lines as indicated on Map 1, attached to and forming part of this By-law.

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 Schedule A of this By-law, 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, such building may not be erected or used until the *owner* of the *lot* has satisfied the said requirements.
3. Despite any existing or future severances, partition, division, dedication, or conveyance of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition, division, dedication or conveyance occurred.
4. The lands subject to this By-law are outlined by heavy lines on Map 1, attached to and forming part of this By-law.
5. None of the provisions of Sections 2 with respect to *lot*, *residential gross floor area*, *non-residential gross floor area*, *grade*, *height*, *bicycle parking space- occupant*, *bicycle parking space-visitor* and Sections 4(2), 4(3) 4(4), 4(11), 4(12), 4(13), 4(16), 4(17), 6(2)(11), 6(2)(12), 6(3) Part I 1, 6(3) Part II, and 6(3) Part III, 6(3) Part IV 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 *residential building* containing *dwelling units* on the *lot* provided that:
 - (a) The *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) The permitted maximum *residential gross floor area* for any *building* or *structure* on the *lot* is 14,250 square metres;
 - (c) No portion of any *residential building* above *grade*, is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 1, with the exception of an *building* or *structure* permitted by Map 2 and (e) of this By-law;
 - (d) No part of any *building* or *structure* on the *lot* erected or used above grade shall exceed the height limits shown in metres as indicated by the numbers following the letters "HT" in the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, except for the following:
 - (i) roof drainage materials, thermal insulation, roof assemblies including decking and pavers or roof ballast, terraces, patios, balustrades, bollards, amenity space features and associated accessory structures, a maximum of 1.5 metres;

- (ii) structures used for pool or spa maintenance or operational equipment and swimming pools (elevated or otherwise) a maximum of 1.7 metres;
 - (iii) elements on the roof of the building or structure used for green roof technology and related roofing material a maximum of 2.0 metres;
 - (iv) parapets, garbage chutes, aircraft warning lights, lightning rods, safety railings, guard rails, ornamental or architectural elements and features, balcony and terrace partitions, screens and dividers, telecommunications equipment and antennae, planters, retaining walls, wheelchair ramps, and lightning rods a maximum of 2.3 metres;
 - (v) equipment used for the functional operation of the building, such as electrical, utility, air handling, mechanical, exhaust flues, vents, ventilation equipment, and associated screening a maximum of 3.0 metres;
 - (vi) window washing equipment a maximum of 3.0 metres;
 - (vii) structures on the roof of any part of the building used for outside or open air recreation, acoustical barriers, wind mitigation features, landscape elements and features, fencing, canopies, enclosed stairwells, stairwell overruns, enclosed stairs, unenclosed stairs, emergency generators, trellises and gazebos, a maximum of 4.0 metres; and
 - (viii) mechanical equipment, mechanical penthouse projections, chillers, coolers, wind mitigation elements, elevator shafts, machine rooms, and elevator overruns, and screening structures associated with elevator shafts, overruns or the mechanical penthouse, a maximum of 6.0 metres;
- (e) No portion of any *building* erected on the *lot* above grade 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, excepting for the following:
- (i) An entrance canopy, awning, or similar structure at the first storey, with or without structural support, or a roof over a platform permitted in (ii) and (iii) below a maximum of 3.0 metres into the required minimum front yard setback and rear yard setback;
 - (ii) Rooftop terraces to the same extent as the roof it is covering;
 - (iii) Platforms and balconies, a maximum of 2.2 metres into the required minimum setbacks;
 - (iv) Notwithstanding (e)(iii) above, platforms and balconies, a maximum of 1.5 metres into the required minimum east side yard setback;
 - (v) Ground floor terraces, decks or porches which are located in the east side yard, a maximum of 4.1 metres into the required minimum east side yard setback;

- (vi) Vents, pipes, utility equipment, and siamese connections a maximum of 1.0 metre into the required minimum front yard setback and rear yard setback;
 - (vii) Roof and parapet elements a maximum of 1.0 metre into the required minimum front yard setback and rear yard setback;
 - (viii) Exterior stairs, wheelchair access ramps, pedestrian access ramps, and elevating devices a maximum of 3.0 metres, into the required minimum front yard setback and rear yard setback;
 - (ix) Wall mounted lighting and architectural details and cladding a maximum of 0.6 metres;
 - (x) Platforms, decks, porches, balconies or a similar structure located above established grade, must not encroach into the minimum front yard setback; and
 - (xi) Notwithstanding (e)(i) through (x) above, terraces are permitted above rooftop areas and may project into the required building setbacks of a building or structure up to the extent as the roof it is covering;
- (f) A *lot* with a residential apartment *building* must have:
- (i) A minimum of 25 percent of the area of the *lot* for landscaping; and
 - (ii) A minimum of 25 percent of the landscaping area required in (f)(i) above, must be soft landscaping;
- (g) *Residential amenity space* shall be provided on the *lot* in accordance with the following:
- (i) A minimum of 288 square metres of indoor amenity space must be provided; and
 - (ii) A minimum of 273 square metres of outdoor amenity space must be provided;
- (h) *Parking spaces* must be provided on the *lot* in accordance with the following:
- (i) A minimum of 0.187 residential occupant *parking spaces* per dwelling unit must be provided for the use of residents of the building; and
 - (ii) A minimum of 0.045 parking spaces per dwelling unit are required for the use of residential visitors in the building;

If the calculation of the number of required parking spaces results in a number with a fraction, the number is rounded down to the nearest whole number;

- (i) *Bicycle parking spaces* shall be provided in accordance with the following:

- (i) The minimum ratios are as follows:
 - 1. *Bicycle parking spaces – occupant* shall be provided at a rate of 0.9 bicycle parking spaces per dwelling unit; and
 - 2. *Bicycle parking spaces –visitor* shall be provided at a rate of 0.1 bicycle parking spaces per dwelling unit;
- (ii) In the event that the calculation of the number of required parking spaces or bicycle parking spaces results in a number with a fraction, the number shall be rounded down to the nearest whole number;
- (j) A minimum of one "*loading space- type G*" must be provided on the *lot*;
- (k) Section 4(16) does not apply to any *building* or *structure*;
- (l) For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
 - (i) "*Bicycle parking space-visitor*" shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and may be within a secured room and/or within a parking stacker - bicycle, and:
 - 1. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres;
 - 2. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.0 metres;
 - 3. A vertical clearance of 1.0 metre, and
 - 4. May be located indoors or outdoors including within a secured room or enclosure;
 - (ii) "*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 may be within a secured room and/or within a parking stacker – bicycle, and:
 - 1. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres;
 - 2. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.2 metres;
 - 3. A vertical clearance of 1.0 metre; and

4. May be located indoors or outdoors including within a secured room or enclosure;
- (iii) "*parking stacked – bicycle*" means a mechanical bicycle parking facility with bicycle parking spaces which:
1. Positioned above each other or another bicycle parking space;
 2. The platform of such bicycle parking space may have dimensions of not less than 0.37 metres by 1.8 metres and a height allowance of 1.0 metre; and
 3. May not be readily accessible at all times without maneuvering another bicycle or device;
- (iv) "*grade*" means 158.52 Canadian Geodetic Datum;
- (v) "*green roof*" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code;
- (vi) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- (vii) "*lot*" means those lands identified as "109 Erskine Avenue" on Map 1 attached hereto;
- (viii) "*residential gross floor area*" shall mean the sum of the total areas of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level, reduced by the area of the building used for:
1. Parking, loading and bicycle parking at, above or below ground;
 2. Required loading spaces at the ground level and required bicycle parking spaces at, above or below ground;
 3. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in any level of the building;
 4. Shower and change facilities required by this By-law for required bicycle parking spaces;
 5. Residential amenity space required and above the requirement of this By-law;
 6. Elevator shafts;
 7. Garbage shafts;

8. Mechanical penthouse; and
 9. Exit stairwells in the building;
- (ix) "*loading space – Type G*" means a loading space that is a minimum of 4.0 metres wide, 13.0 metres long and has a minimum vertical clearance of 6.1 metres.
6. Despite 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.

Enacted and passed on July 22, 2022.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

SCHEDULE A
Section 37 and Section 111 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:

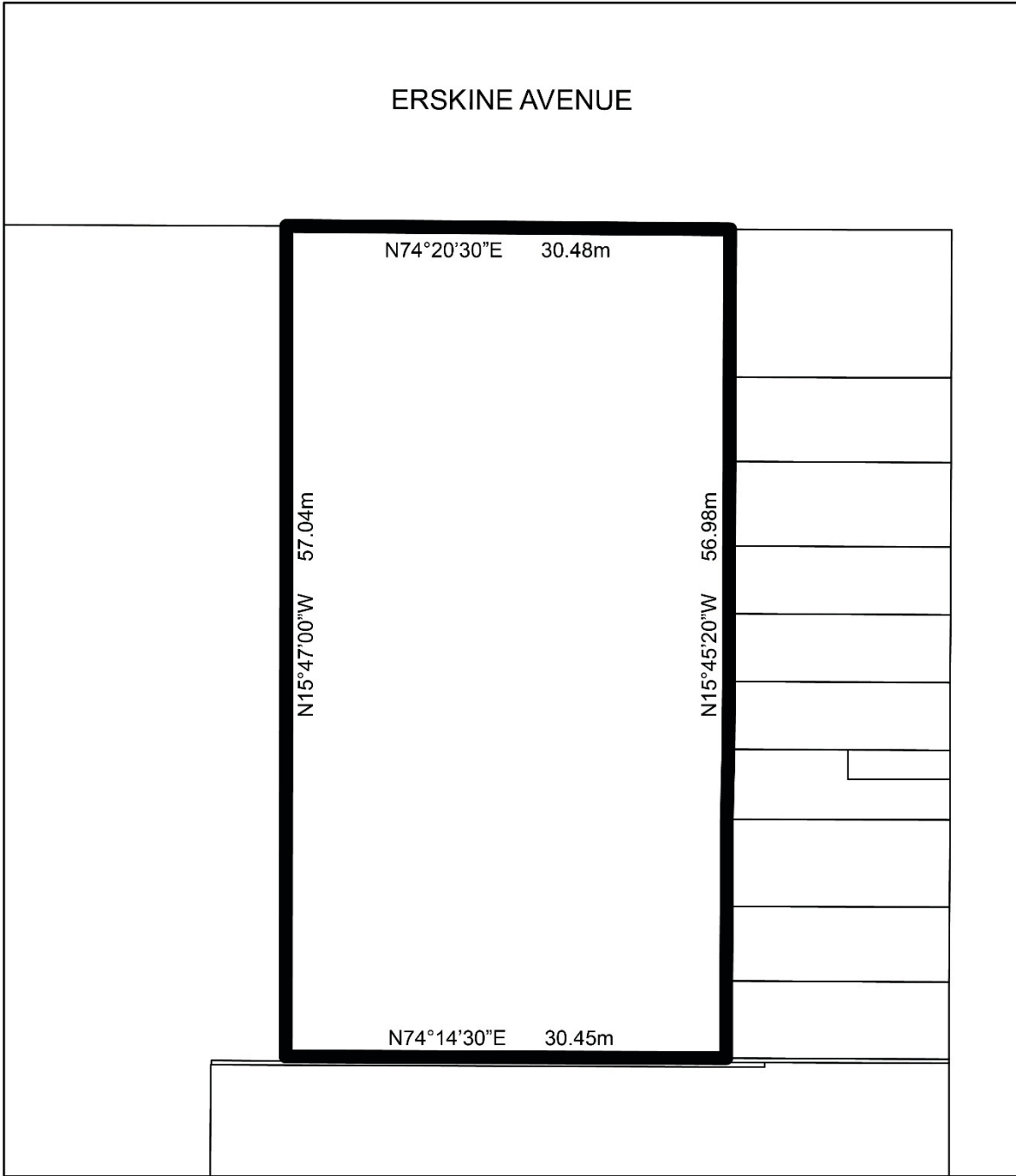
- (1) Prior to the issuance of any Building Permit, the owner shall enter into an agreement and register on title to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits asset out in sections (2) through (5) below.
- (2) The owner shall provide the following to support the development of the lands prior to the issuance of the first Above-Grade Building Permit:
 - i. A cash contribution of TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$2,800,000.00) to be allocated towards community services and facilities, local parkland acquisition and improvements, and/or public realm improvements within the vicinity of the subject property, with the design of any streetscape improvements to comply with the Streetscape Manual, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - ii. The cash contribution referred to 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;
 - iii. In the event the cash contribution referred to above have not been used for the determined purpose within three years of the amending Zoning By-law coming into full force and effect, 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 the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands.
- (3) The following matters are to be secured in the Section 37 Agreement as a legal convenience to support development:
 - a. Transportation Demand Management measures:
 - i. Prior to the issuance of an above grade building permit, the Owner shall provide a monetary contribution of FIFTY THOUSAND DOLLARS (\$50,000.00) towards additional area bike share facilities and area parks improvements be provided, to the satisfaction of the Chief Planner and

Executive Director, City Planning, which cash contribution 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;

- ii. The Owner shall provide preloaded Presto Cards with a value of \$156 shall be provided to each unit;
 - b. The Owner shall enter into a financially secured agreement for the construction of any improvements to the existing municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development;
 - c. The Owner shall 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.
- (4) The Owner shall enter into and execute a Section 111 agreement and other related agreements to the satisfaction of the City Solicitor including the following conditions:
- a. The Owner shall provide and maintain thirty-three (33) replacement rental dwelling units for a period of at least 20 years beginning from the date that each replacement rental unit is first occupied. During such 20-year period, no replacement rental dwelling unit shall be registered as a condominium or any other form of ownership housing that provides a right to exclusive possession of a dwelling unit, including life-lease or co-ownership, and no application shall be made to demolish any replacement rental dwelling unit or convert any replacement rental unit to a non-residential rental purpose. The thirty-three (33) replacement rental dwelling units shall collectively contain a total gross floor area of at least 2,185 square metres and be composed of nine (9) two-bedroom units, twenty (20) one-bedroom units, and four (4) studio units, as generally illustrated in the plans prepared by RAW Design and dated March 7, 2022, with any revision to these plans being to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - b. The Owner shall provide and maintain at least five (5) two-bedroom replacement rental dwelling units, six (6) one-bedroom replacement rental units, and four (4) studio replacement rental units at affordable rents, as currently defined in the Toronto Official Plan, and three (3) two-bedroom replacement rental units and fourteen (14) one-bedroom replacement rental units at mid-range rents, as defined in the Toronto Official Plan, for a period of at least ten (10) years beginning from the date of first occupancy of each unit. The one (1) remaining two-bedroom replacement rental unit shall have unrestricted rent;

- c. The Owner shall provide an acceptable Tenant Relocation and Assistance Plan to all Eligible Tenants of the thirty-three (33) existing rental dwelling units proposed to be demolished, addressing the right to return to occupy one of the replacement rental dwelling units at similar rents (including the right for one of the tenants of the existing studio units to return to a one-bedroom replacement rental unit without an increase in rent from having to move to a larger bedroom type), the provision of alternative accommodation at similar rents in the form of rent gap payments, and other assistance to mitigate hardship. The Tenant Relocation and Assistance Plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning;
- d. The Owner shall provide tenants of all thirty-three (33) replacement rental dwelling units with access to, and use of, all indoor and outdoor amenities in the proposed development at no extra charge, and on the same terms and conditions as any other resident of the development, without the need to pre-book or pay a fee unless specifically required as a customary practice for private bookings;
- e. The Owner shall provide ensuite laundry in each replacement rental dwelling unit within the proposed development at no additional cost to tenants;
- f. The Owner shall provide air conditioning in each replacement rental dwelling unit within the proposed development at no additional cost to tenants;
- g. The Owner shall provide and make available eleven (11) vehicle parking spaces to returning tenants of the replacement rental dwelling units who previously leased vehicle parking spaces, and at similar monthly parking charges that such tenants previously paid, in the existing building. Should fewer than eleven (11) returning tenants who previously leased vehicle parking spaces elect to lease a vehicle parking space in the development or should a returning tenant leasing a vehicular parking space in the development vacate their replacement rental unit, the owner may provide and make available no fewer than five (5) vehicular parking spaces to tenants of the replacement rental units;
- h. The Owner shall provide tenants of the replacement rental dwelling units with access to all bicycle and visitor vehicular parking at no charge and on the same terms and conditions as any other resident of the development;
- i. The Owner shall provide and make available, at no charge, at least seven (7) storage lockers to returning tenants whose lease agreements for their existing rental units in the existing building included access to storage space; and
- j. The thirty-three (33) replacement rental dwelling units required in Part (4)a above shall be made ready and available for occupancy no later than the date by which ninety percent (90 percent) of the new dwelling units in the proposed development, exclusive of the replacement rental units, are made available and ready for occupancy, subject to any revisions to the satisfaction of the Chief Planner and Executive Director, City Planning.

Map 1



Map 2

