

April 12, 2021

Authority: Toronto and East York Community Council Item ##, as adopted by City of Toronto Council on ~, 20~

**CITY OF TORONTO
BY-LAW No. ____-2021**

To amend the City of Toronto By-law 438-86, as amended, with respect to the lands municipally known in the year 2020 as 244, 250, 254, 258, 260 and 262 Church Street

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;

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;

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

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;

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 and 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;

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 No. 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 No. 438-86, as amended shall continue to apply to the lot.

2. None of the provisions of Sections 2(1) with respect to the definition of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, *residential gross floor area*, and *non-residential gross floor area* and 4(2)(a), 4(5), 4(8), 4(10), 4(12), 4(13), 4(14), 4(17)(d) and (e), 8(3)Part I, 8(3)Part II, 12(2)132, 12(2)259, 12(2)260 and 12(2)380 of Zoning By-law No. 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*, including a *temporary sales office*, *alternative housing* 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 aggregate *residential gross floor area* and *non-residential gross floor area* on the *lot* does not exceed 37,800 square metres, of which:
 - i. a maximum of 37,485 square metres may be used as *residential gross floor area*; and
 - ii. a maximum of 315 square metres of *commercial gross floor area* is permitted.
 - (c) No portion of a *mixed-use building* erected on the *lot*, including a mechanical penthouse containing equipment and structures used for the functional operation of the building, shall be located above the *heights* shown on Map 2 and within the coordinates identified on Map 3 attached to and forming part of this By-law, with the exception of the following:
 - i. lightning rods, window washing equipment, stair enclosures, elevator overruns, parapets, green roof, and architectural features, may project above the *height* limits to a maximum of 2.9 metres; and
 - A. Despite i, in areas of the building beneath the Obstacle Limitation Surfaces as defined in By-law 1432-2017 and depicted in the hatched area in Map 3, lightning rods, window washing equipment, stair enclosures, elevator overruns, parapets, green roof and architectural features, may not project above the *height* limit of 166.10 metres
 - ii. trellises, pergolas, railings, cornices, lighting fixtures, ornamental elements, planters, landscaping, partitions dividing outdoor amenity spaces, guard rails, wheelchair ramps, fences, screens, furniture, and elements or structures providing safety or wind protection to rooftop *residential amenity space*, may project above the *height* limits to a maximum of 2.9 metres;

- A. Despite ii., in areas of the building beneath the Obstacle Limitation Surfaces as defined in By-law 1432-2017 and depicted in the hatched area in Map 3, trellises, pergolas, railings, cornices, lighting fixtures, ornamental elements, planters, landscaping, partitions dividing outdoor amenity spaces, guard rails, wheelchair ramps, fences, screens, furniture, and elements or structures providing safety or wind protection to rooftop *residential amenity space*, may not project above the *height* limit of 166.10 metres;

- (d) The maximum permitted number of *storeys* in a *mixed-use building* is 52, excluding the mechanical penthouse;

- (e) No portion of a *mixed-use building* erected on the *lot* 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. Canopies, site servicing features, balconies lighting fixtures, awnings, ornamental elements, architectural features, window sills, planters, guardrails, railings, stairs, wheel chair ramps, vents, screens and landscape features may extend beyond the heavy lines shown on Map 2 of this By-law up to a maximum of 2 metres;
 - A. Despite i. above, no encroachments are allowed above Canadian Geodetic Datum elevation of 250.0 metres (CGVD1928:pre 1978)
- (f) Despite regulation (e) above, no encroachments into the *building* setbacks are allowed on the portion of the *lot* that is directly adjacent to 91 Dundas Street as of the date of passing of this by-law;
- (g) *Residential amenity space* shall be provided in accordance with the following:
- i. a minimum of 2.0 square metres of indoor *residential amenity space* per *dwelling unit*;
 - ii. a minimum of 1.2 square metres of outdoor *residential amenity space* per *dwelling unit*;
 - iii. *residential amenity space* may include guest suites that do not exceed an aggregate gross floor area of 100.0 square metres; and
 - iv. *guest suites* and *alternative housing* units do not constitute *dwelling units* for purposes of this exception
 - v. a minimum of 35 square metres of indoor *residential amenity space* must be provided for *alternative housing* use
- (h) *Parking spaces* shall be provided on the *lot* in accordance with the following:
- i. a minimum of 0.10 *parking spaces* per *dwelling unit* shall be provided and maintained for the use of residents;
 - ii. a minimum of 12 *parking spaces* shall be provided for the use of retail/visitors;
 - iii. the required *parking spaces* for the use of retail/visitors may be provided within a commercial and/or public parking facility on the *lot* with or without a fee;

- iv. no *parking spaces alternative housing* uses are required;
- v. notwithstanding Section 4(17) of By-law No. 438-86, as amended, a maximum of 11 *parking spaces* may be obstructed on one or two sides without a requirement to increase the width by 0.3 metres; and

- vi. The nearest point of an accessible *parking space* must be located no more than 10.0 metres, from the nearest point of a barrier-free elevator that provides access to the first *storey* of the *mixed-use building*;
- (i) Accessible *parking spaces* must be provided and maintained on the *lot* in accordance with the following minimum dimensions:
 - i. minimum length of 5.6 metres;
 - ii. minimum width of 3.9 metres; and
 - iii. minimum vertical clearance from the ground of 2.1 metres;
- (j) One *loading space* - Type "G" shall be provided and maintained on the *lot*;
- (k) *Bicycle parking spaces* shall be provided on the *lot* in accordance with the following:
 - i. a minimum of 0.9 *bicycle parking spaces* – *long-term* per *dwelling unit*;
 - ii. a minimum of 0.1 *bicycle parking spaces* – *short-term* per *dwelling unit*;
 - iii. the minimum dimensions of a *bicycle parking space* placed in a horizontal position are:
 - A. minimum length of 1.8 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum vertical clearance from the ground of 1.9 metres;
 - iv. the minimum dimensions of a *bicycle parking space* placed in a vertical position on a wall, structure or mechanical device are:
 - A. minimum length or vertical clearance of 1.9 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum horizontal clearance from the wall of 1.2 metres;
- v. *Bicycle parking spaces* may be located within all levels of the building consisting of horizontal, vertical and/or stacked *bicycle parking spaces*;
- vi. both *bicycle parking spaces* – long term and *bicycle parking spaces* – short term may be provided in a stacked bicycle parking space;

- vii. *bicycle parking spaces - short-term* may be located indoors or outdoors in an enclosed or secured room or enclosure;
 - viii. *bicycle parking spaces-long term* may be located indoors and may be located within a secured room or enclosure;
 - ix. Despite subsection 2(1)iv of this by-law, if a vertically-positioned *bicycle parking space* located in a parking level down to and including parking level P2, is provided in a mechanical device where any portion of a bicycle is situated above or below any portion of an adjacent bicycle, the minimum required width of each such vertically-positioned *bicycle parking space* is 0.35 metres;
 - x. A vertically-positioned *bicycle parking space* may be located adjacent to and within 0.3 metres of a *parking space* in parking levels down to and including parking level P2 provided that the vertically-positioned *bicycle parking space* does not encroach into the *parking space* and such *parking space* is not considered to be obstructed in accordance with regulation 4(17) of By-law No. 438-86, as amended, provided that no portion of the adjacent vertically-positioned *bicycle parking space* exceeds a horizontal clearance from the wall of 1.2 metres;
3. None of the provisions of By-law No. 438-86, as amended, shall apply to prevent 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 No. 438-86, as amended, with the exception of the following terms:
- (a) “*alternative housing*” means a *dwelling unit* operated by a non-profit organization providing living accommodation on the ground floor, mezzanine, and second floor of the new building authorized by this by-law and within the lands municipally known as 244 Church Street as of the date of passing of this by-law;
 - (b) “*bicycle parking space– long term*” means an area that is equipped with a bicycle rack, caged locker or bicycle stacker for the purpose of parking and securing bicycles for residents,
 - (c) “*bicycle parking space – short term*” means an area that is equipped with a bicycle rack, caged locker or bicycle stacker for the purpose of parking and securing bicycles for visitors;
 - (d) “*grade*” shall mean 89.60 metres Canadian Geodetic Datum (CGVD1928:Pre 1978);
 - (e) “*green roof*” shall mean 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;

- (f) “*height*” shall mean, the vertical distance between *grade* and the highest point of the structure, excluding any elements described in subsection 2(c)i and ii of this By-law;

- (g) “*lot*” shall mean the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
- (h) “*non-residential gross floor area*” shall mean the sum of the total area of each floor level of a building, that is solely for non-residential uses, above and below the ground, measured from the exterior of the main wall of each floor level, exclusive of any areas in a building or structure used for:
- A. Parking, loading and bicycle parking below *grade*;
 - B. *Loading spaces* at the ground level and *bicycle parking spaces* at or above *grade*;
 - C. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - D. Shower and change facilities required by this By-law for required *bicycle parking spaces*;
 - E. *Residential amenity space* required by this By-law;
 - F. Elevator shafts;
 - G. Garbage shafts;
 - H. Areas used for *Alternative Housing* up to a maximum of 2,750 square metres;
 - I. Mechanical penthouse; and
 - J. Exit stairwells in the building;
- (i) “*residential gross floor area*” shall mean the sum of the total area of each floor level of a building, that is solely for residential uses, above and below the ground, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
- A. Parking, loading and bicycle parking below *grade*;
 - B. *Loading spaces* at the ground level and *bicycle parking spaces* at or above *grade*;
 - C. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - D. Shower and change facilities required by this By-law for required *bicycle parking spaces*;
 - E. *Residential amenity space* required by this By-law;
 - F. Elevator shafts;
 - G. Garbage shafts;
 - H. Areas used for *Alternative Housing* up to a maximum of 2,750 square metres;
 - I. Mechanical penthouse; and
 - J. Exit stairwells in the building;
- (j) “*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/ or the administration and management of construction activity related to the construction on the *lot*;

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any severance, partition or division of the lands as shown on Map 1, the provisions of this By-law shall apply as if no severance, partition or division occurred;
6. The provisions of this By-law respecting the *neight* of any building or structure, including permitted exceptions, are subject to any further limitations as may be set put 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 this ___ _ day of _____ - ___, 2021.

Frances Nunziata,
Speaker
(Seal of the City)

ULLI S. WATKISS
City Clerk

APPENDIX I

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the City at the owner's expense in return for the increase in height and density of the proposed development on the lands permitted by this by-law amendment 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 owner shall pay to the City a cash contribution of six million and three hundred thousand (\$6,300,000.00) dollars to be allocated as follows:
- i. \$2,000,000.00 to new and existing capital improvements for City owned affordable housing in Ward 13;
 - ii. \$2,000,000.00 to new and existing capital improvements in City owned community, cultural, and recreational centres in Ward 13;
 - iii. \$2,000,000.00 to establishing a new non-profit City owned childcare centre in Ward 13; and
 - iv. \$300,000.00 to local area streetscape and park improvements in the Ward, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor
- (B) In the event the cash contribution referred to in this section has not been used for the determined purpose within three years of the Amending By-laws 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 that the purpose is identified in the City's Official Plan and will benefit the local community.

The Hospital For Sick Children

- (A) Prior to the issuance of the first Building Permit (excluding a Demolition Permit) on the lands, the owner shall provide confirmation from The Hospital for Sick Children through an official representative of the corporate entity, that no temporary (including construction cranes or related construction machinery) or permanent structures for the Development are within 3 metres of the Protected Flight Path, to the satisfaction of the Chief Building Official.
- (B) Prior to any construction, a Land Use Proposal Submission Form will be submitted to NAV CANADA for approval, with a copy to THSC.
- (C) Prior to any construction, an Aeronautical Assessment Form for Obstruction Marking

and Lighting will be submitted to Transport Canada for approval, with a copy to THSC.