

CITY OF TORONTO
BY-LAW No. XXX – 2022

To amend the General Zoning By-law No. 438-86, as amended, for the former City of Toronto 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;

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 Appendix 1 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 2;
 - (d) the *height* of any *residential building* or structure, or portion thereof, as measured from an established grade of 158.52 Canadian Geodetic Datum, shall not exceed the maximum *height* in metres specified by the numbers following the symbol "HT" on Map 2, attached to and forming part of this by-law, with the exception of the following parts of any *building* or *structure*:
 - i. A parapet, roof drainage, thermal insulation, roof assemblies, including decking and pavers or roof ballast, *green roof* elements or technology, architectural elements and features, landscape elements and features, balcony and terrace partitions and dividers, , partitions dividing outdoor recreation, antanae, aircraft warning lights, telecommunications equipment and antennae, planters, renewable energy devices and equipment, solar energy devices, garbage chute overruns, lighting rods, exhaust flues, pipes, chimneys and vents at each of the roof levels of the building to a maximum of 3.0 metres;
 - ii. Wind mitigation elements and associated screening structures, safety railings, stairs, enclosed stairwells, and partitions dividing outdoor recreation, a maximum of 2.0 metres; and,

- iii. Structures on the roof of any part of the building used for outside or open air recreation, mechanical equipment and associated screening structures, wind mitigation elements, elevator shafts and, window washing equipment to 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 ground floor, with or without structural support, or a roof over a platform may encroach into the minimum front yard setback and rear yard setback to a maximum of 3.0 metres;
 - ii. Decks, porches, balconies, terraces or a similar structure located above the first floor, may encroach into the minimum rear yard setback or west side yard setback to a maximum of 2.2 metres;
 - iii. Decks, porches, balconies or a similar structure located above the first floor may encroach into the minimum east side yard setback to a maximum of 1.5 metres;
 - iv. Decks, porches, balconies, terraces, or a similar structure, located below established grade or at the first floor, may encroach into the minimum east side yard setback a maximum of 4.1 metres;
 - v. Vents, pipes, utility equipment, and siamese connections, may project into the minimum front yard setback and rear yard setback to a maximum of 1.0 metres;
 - vi. Roof and parapet elements may encroach into the minimum front yard setback and rear yard setback to a maximum of 1.0 metres;
 - vii. Exterior stairs, wheelchair access ramps, pedestrian access ramps, and elevating devices to a maximum extent of 3.0 metres, may encroach into the minimum front yard setback and rear yard setback; and
 - viii. Wall mounted lighting to a maximum extent of 0.6 metres may encroach into the minimum front yard setback and rear yard setback;
- (f) A minimum of 25% of the area of the *lot* must be used for landscaping, of which a minimum of 30% of the area of the *lot* must be used for 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.
 - ii. A minimum of 273 square metres of outdoor amenity space must be provided.

- (h) A minimum of 48 *parking spaces* must be provided and maintained on the *lot*, of which,
 - i. a minimum of 0.187 residential occupant *parking spaces* per dwelling unit must be provided for the use of residents of the building;
 - 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;
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres; ii. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres by 1.0 metres; iii. A vertical clearance of 1.0 metres, and iv. 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;
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.45 metres by 1.8 metres; ii. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres

by 1.2 metres; iii. A vertical clearance of 1.0 metres; and, iv. 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: i. Positioned above each other or another bicycle parking space; ii. 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 metres; and iii. 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: i. Parking, loading and bicycle parking at, above or below ground; ii. Required loading spaces at the ground level and required bicycle parking spaces at, above or below ground; iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in any level of the building; iv. Shower and change facilities required by this By-law for required bicycle parking spaces; v. Residential amenity space required and above the requirement of this By-law; vi. Elevator shafts; vii. Garbage shafts; viii. Mechanical penthouse; and ix. Exit stairwells in the building.
- ix. "*loading space – Type G*" means a loading space that is a minimum of 4.0 m wide, 13.0 metres long and has a minimum vertical clearance of 6.1 metres;

2. 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 this ____ day of _____, A.D. 2022.

Mayor

City Clerk

(Seal of the City)

SCHEDULE A
Section 37 Provisions

Upon execution and registration in priority of an agreement or agreements with the Owner, pursuant to Section 37 of the Planning Act, with conditions providing for without limitation, indexing escalation of Letters of Credit, development charges, indemnity, and registration satisfactory to the City Solicitor, securing the provision of the facilities, services and matters set out herein, the facilities, services and matters set out below are required to be provided to the City by the Owner of the lands at the Owner's expense in accordance with the By-law, and 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, the Owner may not erect or use such building until the Owner has satisfied the following:

(1) 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 \$2,800,00.00 dollars 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 contributions 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 contributions 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;

(2) The following matters are also recommended 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 \$50,000.00 (Fifty Thousand Dollars) 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;

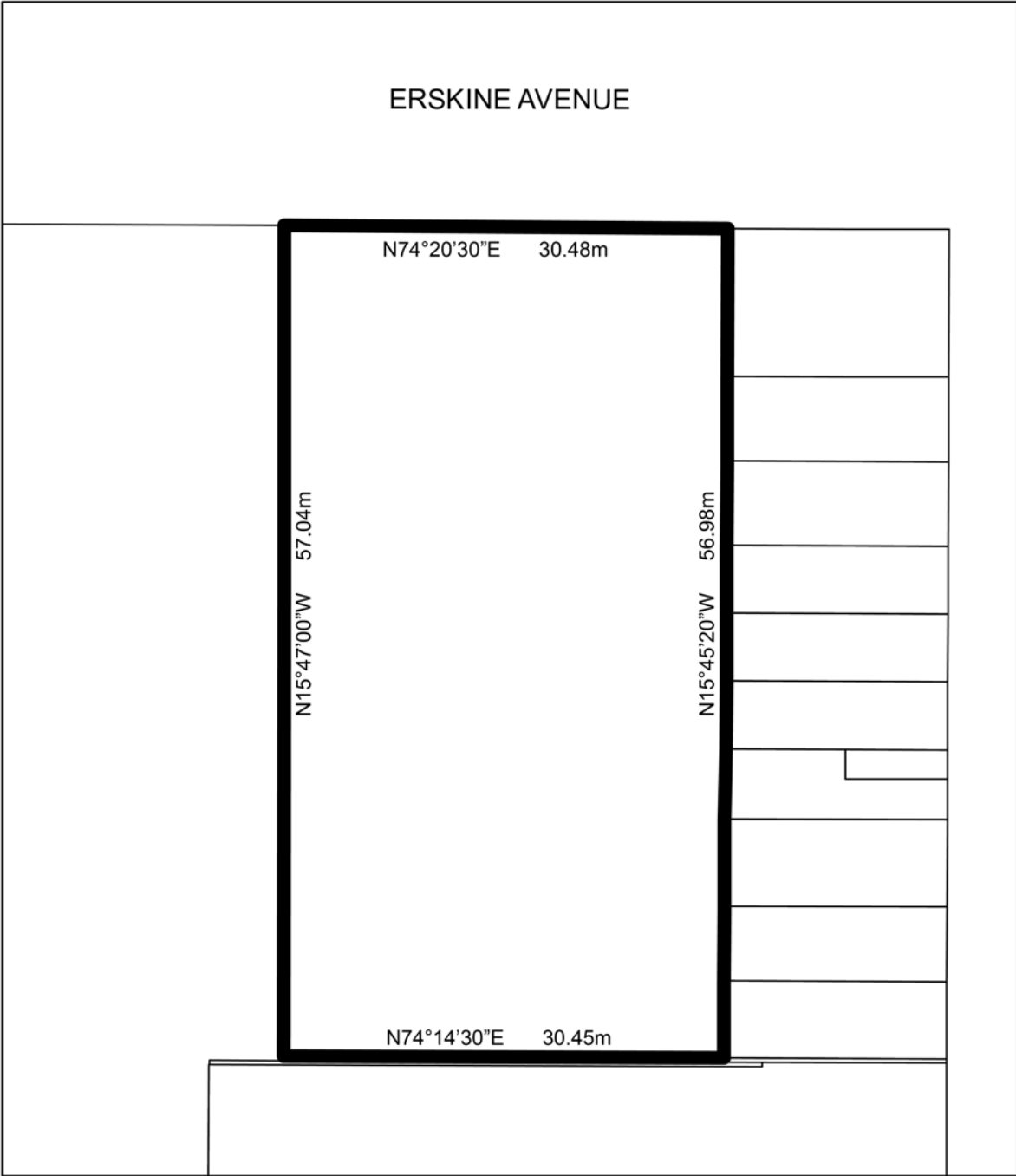
- ii. The Owner shall provide preloaded Presto Cards with a value of \$156 shall be provided to each unit;

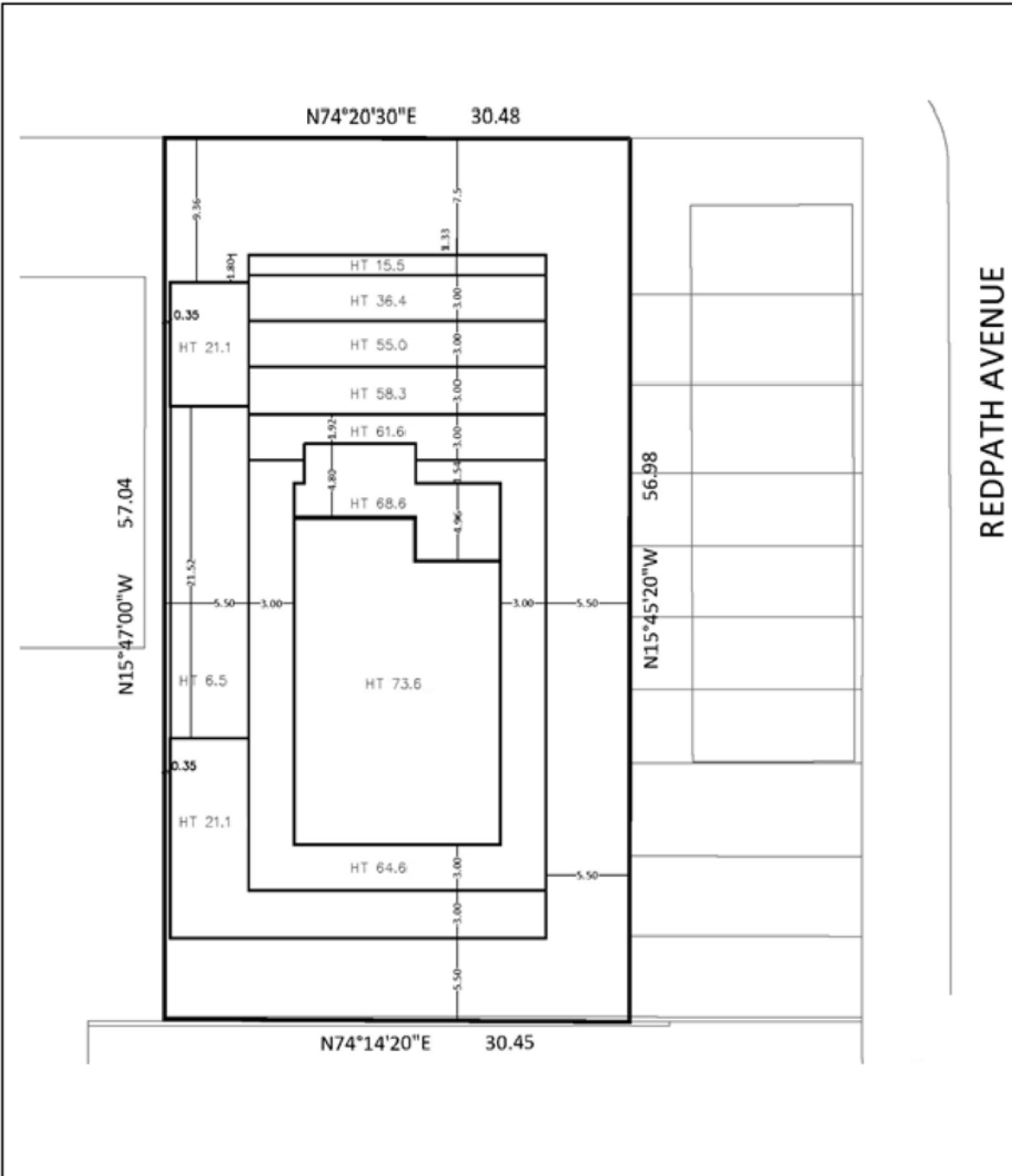
- b. The owner shall enter into a financially secured agreement for the construction of any improvements to the existing municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development;

- 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.

(3) City Council authorize the appropriate City officials to take such actions as are necessary to implement City Council's decision, including execution of the Section 111 agreement and other related agreements.

(4) City Council direct the General Manager, Parks Forestry and Recreation to accept a payment in lieu of the on-site parkland dedication in satisfaction of the applicant's required parkland contribution pursuant to Section 42 of the Planning Act.






REDPATH AVENUE

 **TORONTO**
Map 2

109 Erskine Avenue

File # 20 208290 NNY 15 0Z


Former City of Toronto By-law 438-86
Not to Scale
05/20/2022