

Authority: Toronto and East York Community Council
Item TE7.13, as adopted by City of Toronto Council on
July on 16, 17 and 18, 2019

CITY OF TORONTO

Bill 1639

BY-LAW -2019

To amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2018 as 11-25 Yorkville Avenue and 16-18 Cumberland 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; 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; 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 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 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

The Council of the City of Toronto enacts:

1. Except as otherwise provided herein, the provisions of former City of Toronto By-law 438-86, as amended, shall continue to apply to the *lot*.
2. None of the provisions of Section 2 with respect to the definitions of *lot*, *grade*, *height*, *residential amenity space*, and *residential gross floor area* and Sections 4(2)(a), 4(3)(a), 4(5)(b), 4(8), 4(12), 4(13)(a),(c), and (d), Section 8(3) Part I, Section 8(3) Part II(1) and Sections 12(2)132, 12(2)259, 12(2)304, 12(5)(h), 12(6) of former City of Toronto By-law 438-86 and By-law 333-02, 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 land and the erection and use of certain buildings and structures in various areas of the City of Toronto", apply to prevent the erection and use of a building on the *lot*, provided that:

- (a) the *lot* comprises the lands delineated by heavy black lines on Map 1, attached hereto and forming part of this by-law;
- (b) in addition to the uses permitted in Section 8(1), *guest suites* are permitted on the *lot*;
- (c) the total combined *residential gross floor area* and *non-residential gross floor area* for Parcel A, as delineated by a heavy line on Map 1 attached hereto, shall not exceed 53,000 square metres, provided:
 - (i) The total *residential gross floor area* shall not exceed 48,500 square metres; and
 - (ii) The total *non-residential gross floor area* shall not exceed 4,500 square metres;
- (d) the total *non-residential gross floor area* for Parcel B, as shown on Map 1 attached hereto, shall not exceed 850 square metres;
- (e) a maximum of 674 *dwelling units* are permitted on Parcel A, as delineated by a heavy line on Map 1 attached hereto;
- (f) a minimum of ten percent of the total number of *dwelling units* constructed on Parcel A, as delineated by a heavy line on Map 1 attached hereto, must contain three bedrooms or more;
- (g) the number of storeys of each portion of the buildings on the *lot* must not exceed the numbers as shown followed by the symbol ST on Map 2 attached hereto, excluding mezzanine, mechanical and roof top elements;
- (h) no part of any *building* shall exceed the *height* limits in metres specified by the numbers following the symbol H as shown on Map 2 attached hereto with the exception of any of the items listed below:
 - (i) Equipment used for the functional operation of the *building* including electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, and vents, all of which may project to a maximum of 7.0 metres;
 - (ii) Architectural features, parapets, elements and structures associated with green roof, *building* maintenance units, and window washing equipment, all of which may project up to a maximum of 11.0 metres;

- (iii) Planters, landscape features, and guard rails, all of which may project up to a maximum of 2.2 metres;
 - (iv) Divider screens, on a balcony and/or terrace, which may project up to a maximum of 2.5 metres; and
 - (v) Trellis, pergolas and unenclosed structures providing safety or wind protection to rooftop *residential amenity space*, all of which may project up to a maximum of 4.0 metres;
- (i) no portion of any *building* or structures erected or used above *grade* is located otherwise wholly within the areas delineated by heavy lines on the attached Map 2 attached hereto, with the exception of the following:
- (i) Balconies, terraces, cornices, canopies, window sills, parapets, trellises, pillars, patios, decks, guardrails, balustrades and railings, all of which may encroach up to a maximum of 2.5 metres;
 - (ii) Architectural, art and landscape features, pilasters and eaves, all of which may encroach up to a maximum of 1.0 metres;
 - (iii) Light fixtures, which may encroach up to a maximum of 0.6 metres; and
 - (iv) Railings, stairs, wheelchair ramps, fences, screens, site servicing features, and underground garage ramps and associated structures;
- (j) *parking spaces* shall be provided and maintained on Parcel A, as delineated by a heavy line Map 1 attached hereto, in accordance with the following:
- (i) A minimum of 0.25 *parking spaces* per *dwelling unit* for the use of the residents of the *buildings*;
 - (ii) A minimum of 0.03 *parking spaces* for the use of the residential visitors of the *buildings*; and
 - (iii) No *parking spaces* are required for non-residential uses;
- (k) no *parking spaces* are required on Parcel B, as delineated by a heavy line on Map 1 attached hereto;
- (l) the *parking spaces* required by subsection 2(j) above may be provided in a *parking stacker* within a below *grade* parking garage on Parcel A, as delineated by a heavy line Map 1 attached hereto;
- (m) mechanisms and equipment associated with the *parking stacker* are permitted within the dimensions outlined in subsection 6(e);

- (n) *bicycle parking spaces* shall be provided and maintained on the *lot*, and may be in the form of a stacked bicycle parking space, in accordance with the following:
 - (i) A minimum of 0.90 *bicycle parking spaces* per *dwelling unit*;
 - (ii) A minimum of 0.10 *bicycle parking space* per *dwelling unit* for visitors; and
 - (iii) A minimum of 17 *bicycle parking spaces* shall be provided for non-residential uses.

 - (o) *stacked bicycle parking spaces* provided on the *lot* must be provided and maintained with the following minimum dimensions:
 - (i) Length of 1.8 metres;
 - (ii) Width of 0.4 metres; and
 - (iii) Vertical clearance of 0.7 metres;

 - (p) loading shall be provided and maintained on the *lot* in accordance with the following:
 - (i) A minimum of one *loading space* – Type "G" and one *loading space* – Type "B" shall be provided on Parcel A, as delineated by a heavy line on Map 1 attached hereto; and
 - (ii) A minimum of one *loading space* – Type "C" shall be provided on Parcel B, as delineated by a heavy line on Map 1 attached hereto; and

 - (q) *residential amenity space* shall be provided and maintained on Parcel A, as delineated by a heavy line on Map 1 attached hereto, at a minimum rate of 2.0 square metres for each *dwelling unit* for indoor *residential amenity space* and 1.1 square metres for each *dwelling unit* for outdoor *residential amenity space*.
3. Despite any future severance, partition or division of the lands as shown on Map 1 attached hereto, the provisions of this exception shall apply as if no severance, partition or division has occurred.
4. None of the provisions of By-law 438-86 shall apply to prevent a sales office on the *lot*.
5. 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 Diagram 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.
6. 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:
- (a) "*lot*" means those lands outlined by heavy lines on Map 1 attached hereto and forming part of this By-law;
 - (b) "*grade*" means an elevation of 116.35 metres Canadian Geodetic Datum;
 - (c) "*guest suite*" means a suite, other than a *dwelling unit*, that has no kitchen facilities and is available for use on a temporary basis as overnight accommodation for persons visiting residents of a *building* on the *lot*;
 - (d) "*height*" means the *height* of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - (e) "*parking stacker*" means a mechanical motor vehicle parking facility with *parking spaces* which:
 - (i) Are positioned above each other;
 - (ii) Have dimensions of not less than 2.6 metres by 5.6 metres except that the platform of such parking space may have dimensions of not less than 2.4 metres by 5.0 metres; and
 - (iii) May not be readily accessible at all times without maneuvering another vehicle or a device;
 - (f) "*residential gross floor area*" means the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the *building* or structure at the level of each floor, but excluding:
 - (i) *Residential amenity space* required by this By-law;
 - (ii) Parking, loading and *bicycle parking spaces* below established *grade*;
 - (iii) Parking, loading and *bicycle parking spaces* at or above established *grade*;

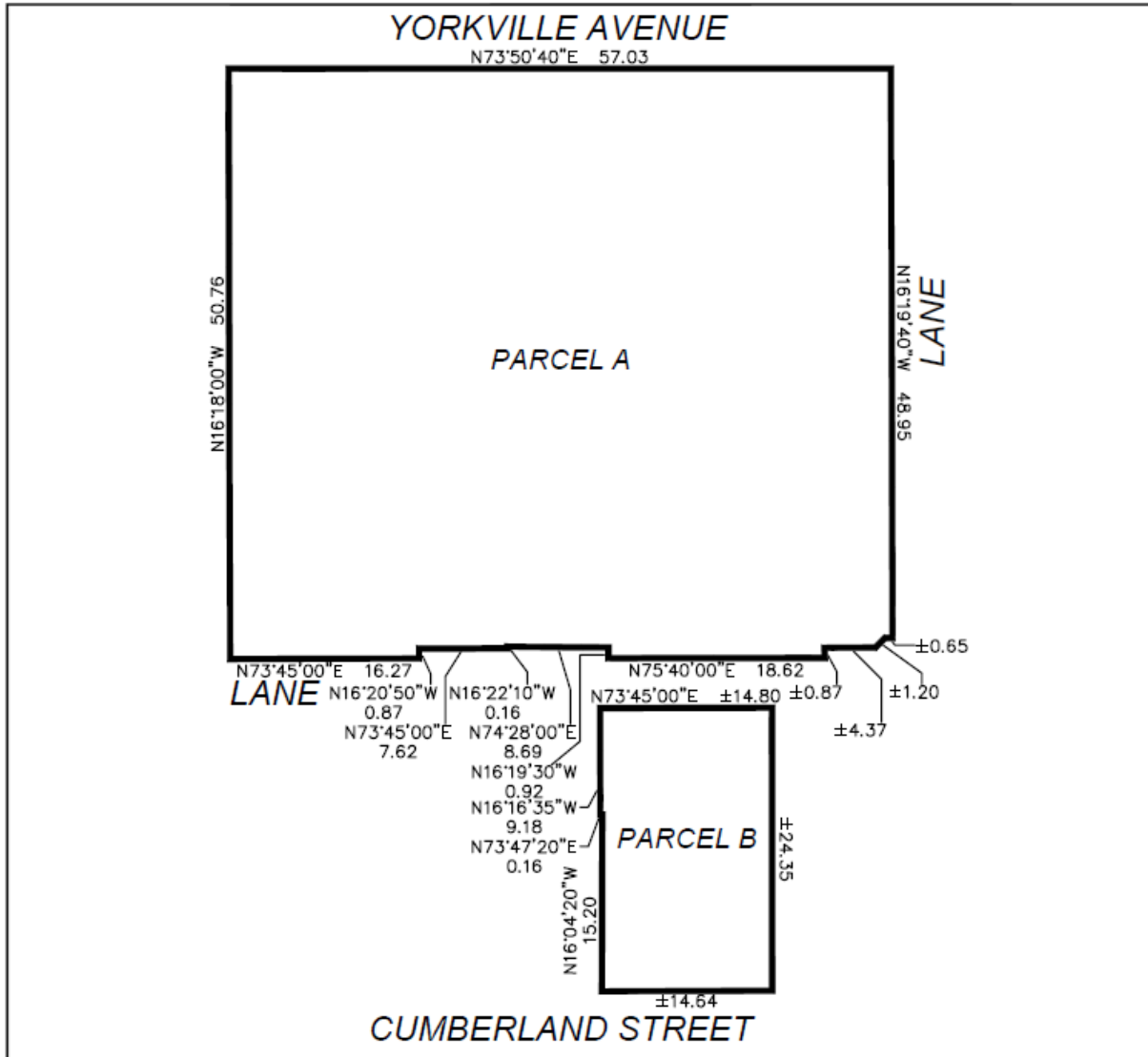
- (iv) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- (v) Shower and change facilities required by this By-law for required *bicycle parking spaces*;
- (vi) Elevator shafts;
- (vii) Garbage shafts;
- (viii) Mechanical rooms; and
- (ix) Exit stairwells in the *building*;
- (g) "*sales office*" means a *building*, structure, facility or trailer on the *lot* used for the purpose of the used exclusively for the initial sale and/or initial leasing of *dwelling units* or *non-residential gross floor area* uses proposed on the *lot*; and
- (h) "*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*.

Enacted and passed on , 2019.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)



11-25 Yorkville Avenue and 16-18 Cumberland Street Toronto

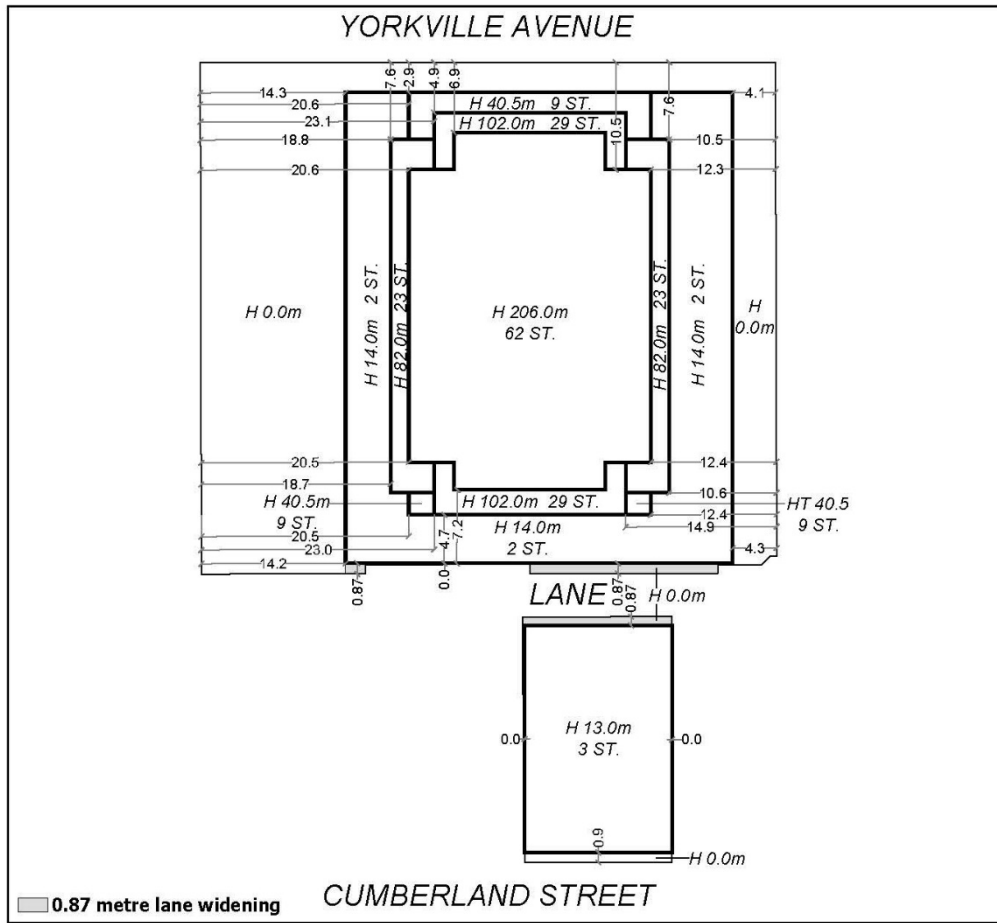
11-25 Yorkville Avenue and 16-18 Cumberland Street

Map 1

File # 18 135369 STE 27 OZ



Not to Scale



11-25 Yorkville Avenue and 16-18 Cumberland Street, Toronto

Map 2

File #18 _____



Not to Scale

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:

- (A) A financial contribution in the amount of \$7,500,000.00 payable to the City prior to issuance of the first above-grade building permit, with such amount to be indexed upwardly in accordance with Statistics Canada Residential Building or Non-Residential Building Construction Price Index, as the case may be, for the Toronto Census Metropolitan Area, reported by Statistics Canada in the Building Construction Price Indexes Publication 327-0058, or its successor, calculated from the date of the Section 37 Agreement to the date of payment. The funds shall be directed as follows:
- i. \$2,500,000.00 towards capital improvements for new or existing Toronto Community Housing and/or affordable housing in consultation with the Ward Councillor;
 - ii. \$2,500,000.00 towards capital improvements for new or existing cultural and/or community space, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor; and
 - iii. \$2,500,000.00 towards local area park or streetscape improvements, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Parks, Forestry and Recreation, and the Ward Councillor;
- (B) An additional 149 square metres of on-site parkland dedication above the required on-site parkland contribution pursuant to Section 42 of the Planning Act;
- (C) The provision of twenty (20) of the eighty-one (81) replacement rental units at reduced rents, comprised of ten (10) bachelor units at rents reduced from mid-range rents to eighty per cent (80 percent) of affordable rents, and five (5) two-bedroom and five (5) three-bedroom units at rents reduced from mid-range rents to affordable rents, all as defined by the Official Plan, all for a period of 20 years, beginning from the date of first occupancy, and all shall be offered to tenants in accordance with a Tenant Access Plan to ensure the benefit of the affordable units is linked to households in need of affordable housing, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (D) Should the City elect to close the public lanes, generally shown as Laneway A and Laneway B in Attachment 15 to the report (June 24, 2019) from the Director, Community Planning, Toronto and East York District, the owner agrees, at its sole expense, to convert and/or construct the portions of the public lane, generally shown as Laneway A and Laneway B in Attachment 15 to the report (June 24, 2019) from the Director, Community Planning, Toronto and East York District, for public parkland purposes to the

satisfaction of the General Manager, Parks, Forestry and Recreation and General Manager, Transportation Services, and this may only occur if and when the north-south public lane along the eastern edge of the Site, is conveyed and assumed by the City to the satisfaction of the General Manager, Transportation Services; and

(E) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

- i. the owner shall provide and maintain a Privately-Owned and Publicly-Accessible Space (POPS), with a minimum area of 248 square metres, on the lot with the specific location, configuration and design secured in a Site Plan Agreement with the City to the satisfaction of the City Solicitor, pursuant to Section 114 of the City of Toronto Act, 2006, as amended and as applicable, Section 41 of the Planning Act, as amended;
- ii. the owner shall provide a minimum of 10 percent family sized units in the development, containing at least three bedrooms;
- iii. the owner shall enter into a financially secured agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades and road improvements are required to support the development, according to the transportation report accepted by the General Manager of Transportation Services and the functional servicing and stormwater management report and/or any other engineering report accepted by, and to the satisfaction of, the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Toronto Water;
- iv. the owner shall provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers By-law Chapter 681-10; and
- v. the owner shall enter into a maintenance agreement for the 455 square metre parkland dedication and converted lane generally shown as Laneway A and Laneway B in Attachment 15 to the report (June 24, 2019) from the Director, Community Planning, Toronto and East York District.