

Authority: Etobicoke York Community Council Item 19.1, adopted as amended, by City of Toronto Council on October 30, 31 and November 1, 2012 and MM30.10, moved by Councillor Doucette, seconded by Councillor Milczyn, as adopted by City of Toronto Council on February 20 and 21, 2013

CITY OF TORONTO

BY-LAW No. 264-2013

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known as 34 - 50 Southport Street.

Whereas authority is given to Council of the City of Toronto by 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 pursuant to Subsection 37(3) of the *Planning Act*, the Council of a municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height and/or density of development beyond that otherwise permitted by the zoning by-law, in return for the provision of such facilities, services and matters as are set out in the by-law; and

Whereas the increases in the density and heights permitted hereunder, beyond that otherwise permitted on the land by former City of Toronto By-law No. 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 and to be secured by one or more agreements between the *owner* of such land and the City of Toronto (hereinafter referred to as the "City");

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and *density* of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law including the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 2 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 or matters set out in Appendix 1 hereof, 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, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of former City of Toronto By-law No. 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Sections 2 with respect to the definitions *grade*, *height*, *lot*, *live/work units* and *parking garage* or sections 4(2)(a), 8(2)14, 8(3) Part I 1, 8(3) Part I 2, 8(3) Part I 3(a), 8(3) Part IV 1 and 8(3) Part XI 2 (i)(ii)(iii) of former City of Toronto

By-law No. 438-86 shall apply to prevent the erection or use of one or more *mixed-use buildings* and *live work units* including *accessory uses* and a *parking garage*, on the lands shown on Map 1, municipally known as 34 - 50 Southport Street (hereinafter referred to as 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; and
- (b) The total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* does not exceed 47,900 square metres provided:
 - (i) The *residential gross floor area* does not exceed 45,700 square metres and shall not be located above the elevation of 93.5 metres for Building B or 84.65 metres for Building A;
 - (ii) A minimum of 1,300 square metres and a maximum of 2,200 square metres of *non-residential gross floor area* shall be provided on the *lot*;
 - (iii) A minimum of 650 square metres of *non-residential gross floor area* on the *lot* shall be used for *retail stores*; and
 - (iv) *Retail stores* shall only be permitted on the first storey above grade located within the building identified as Building A on the attached Map 2;
- (c) No portion of the building or structures erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, save and except for:
 - (i) Canopies, awnings and building cornices;
 - (ii) Lighting fixtures, lightning rods, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and public art features; and
 - (iii) Balconies, which may extend to a maximum horizontal projection perpendicular from an exterior building wall of 1.8 metres beyond the heavy lines shown on Map 2, provided that such a balcony does not project beyond the dashed line on Map 2 indicating the boundary of the *lot*;
- (d) The *height* of any building or structures, or portion thereof, does not exceed those *heights* in metres as indicated by the numbers following the symbol H on Map 2 except those items listed in Section 2(c) (i)(ii)(iii) of this By-law;

- (e) *Parking spaces* are provided on the *lot* in accordance with the following minimum standards:
- (i) 0.80 *parking spaces* for each *bachelor dwelling unit*;
0.90 *parking spaces* for each *one bedroom dwelling unit*;
1.00 *parking spaces* for each *two bedroom dwelling unit*; and
1.20 *parking spaces* for each *dwelling unit* having three or more bedrooms;
 - (ii) A minimum of 0.20 *parking spaces* per residential dwelling unit shall be provided for use of visitors;
 - (iii) A minimum of 23 surface *parking spaces* shall be provided exclusively for commercial uses and these spaces shall be maintained in the area south of Building C illustrated on Map 2; and
 - (iv) A minimum of 56 additional *parking spaces* shall be provided for commercial uses, however these spaces may be shared with residential visitor parking spaces in the areas designated 1 storey on the western portion of the *lot*, as illustrated on Map 2. All shared parking must be available to commercial uses between the hours of 7:00 a.m. and 7:00 p.m., seven days a week, with each of the designated visitor/commercial parking stalls being signed to this effect.
- (f) A minimum of 416 *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (i) For residential occupants, not less than a minimum of 326 *bicycle parking spaces-occupant*;
 - (ii) For residential visitors, not less than a minimum of 82 *bicycle parking spaces-visitor* to be provided;
 - (iii) For commercial/retail occupants, not less than a minimum of 2 *bicycle parking spaces-occupant*; and
 - (iv) For commercial/retail visitors, not less than a minimum of 6 *bicycle parking spaces-visitor* to be provided.
- (g) At least one *loading space-type G* shall be provided and maintained on the *lot*; and
- (h) At least one *loading space-type B* shall be provided and maintained on the *lot*.

5. Notwithstanding Section 8(1) (f) of former City of Toronto By-law No. 438-86, no person shall use a *lot* or erect or use a building within the *lot* for any purpose except one or more of the following uses:
 - (a) One or more *mixed-use buildings*;
 - (b) *Live/work units*;
 - (c) Community services, cultural and arts facilities; retail and service shops; or
 - (d) Uses *accessory* thereto, including a *parking garage*.

6. For the purposes of this By-law:
 - (a) *Grade* means 79.60 metres Canadian Geodetic Datum;
 - (b) "*Lot*" comprises the parcel of land outlined by heavy lines on Map 1;
 - (c) "*Height*" shall mean the vertical distance between *grade* and the highest point of the roof surface of the building, but excludes mechanical penthouses, elevator rooms, parapets and architectural elements, which are permitted at a maximum of 5.5 metres above the maximum permitted height;
 - (d) A "*live/work unit*" means a unit that contains a subsidiary business or retail use, which business or retail use is conducted only by an individual that lives/resides in the dwelling. The subsidiary business or retail use shall be restricted to the ground/main floor only. The subsidiary uses permitted shall include a professional office, retail store, artist's or photographer's studio, personal grooming establishment, tailoring shop and travel agency. Notwithstanding the foregoing, the following uses shall not be permitted: medical, dental, a medical laboratory, restaurant, food preparation, food retail, video sales/rentals, printing or photo finishing or dry cleaning establishments;
 - (e) *Temporary sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of sale of *dwelling units* to be erected on the *lot*; and
 - (f) Excluding definitions found in 4(a)-(f), each word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in former City of Toronto By-law No. 438-86, as amended.

7. None of the provisions of former City of Toronto By-law No. 438-86, as amended, shall apply to prevent the erection and use of a *temporary sales office* on the *lot*.

8. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

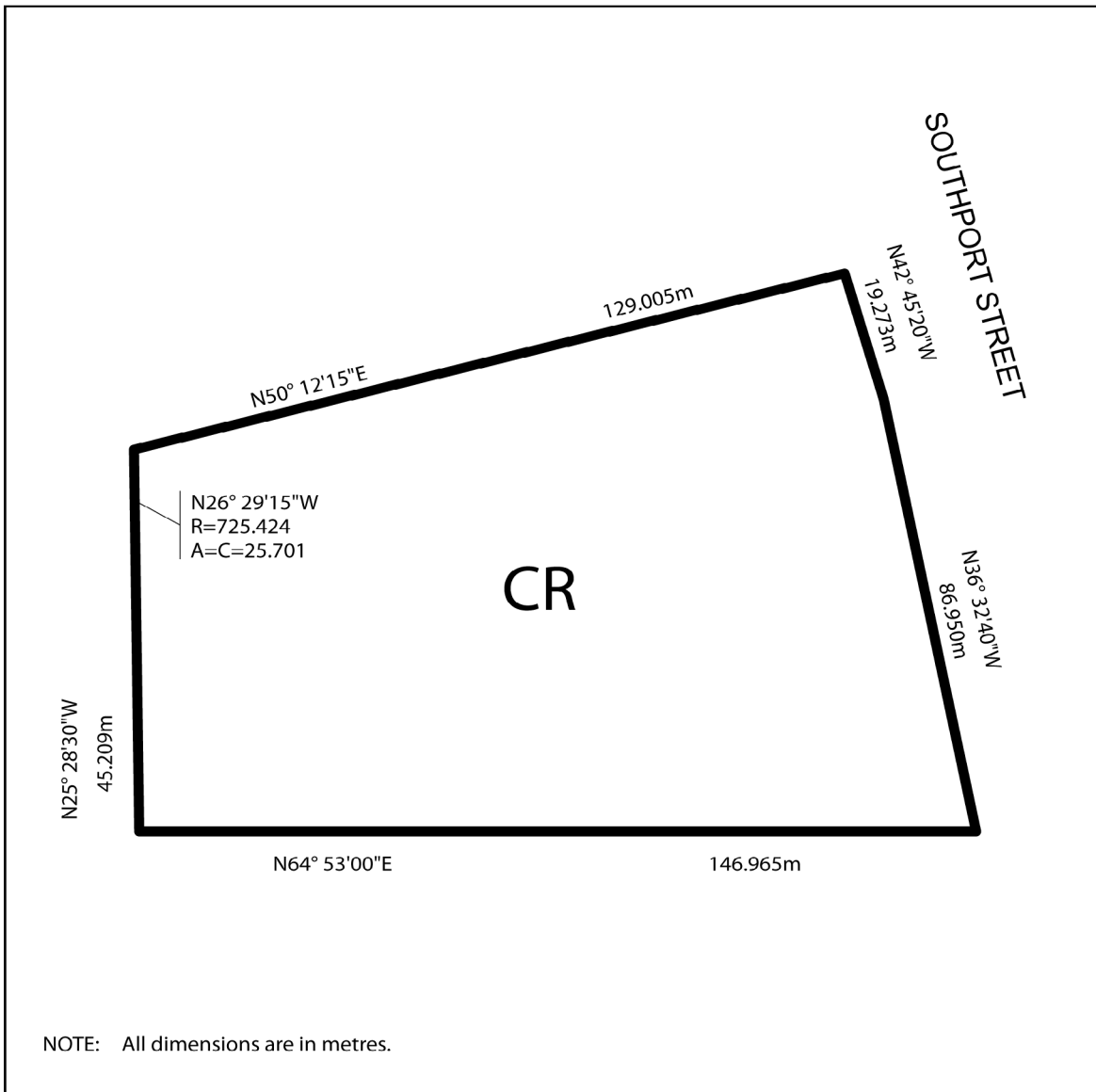
9. Phasing of the development is permitted provided that each phase of the development shall comply with all zoning requirements related to each phase.
10. Despite any other By-laws that apply to the *lot*, the provisions of this By-law shall prevail.
11. Except as provided herein, the provisions of former City of Toronto By-law No. 438-86, as amended, shall continue to apply to the *lot*.

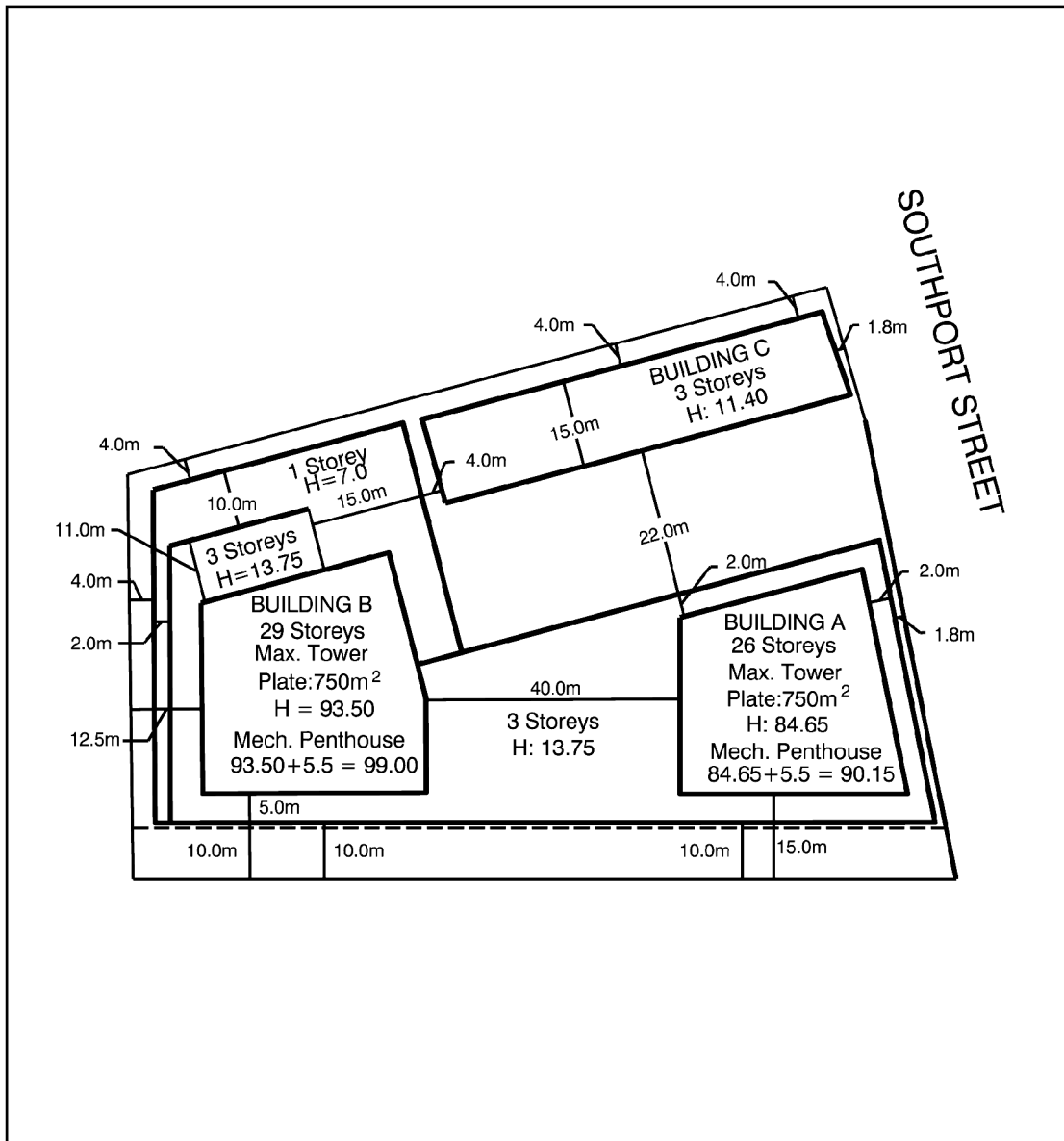
Enacted and passed on February 21, 2013.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





Appendix 1
Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for no credit for development charges, indexing escalation of both the financial contributions and any letters of credit, indemnity, insurance, GST, HST, termination and unwinding and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit for all or any part of the *lot* the *owner* shall pay to the *City* the sum of \$1,400,000 to be allocated generally as follows:
 - (a) \$25,000 for capital improvements to Swansea Mews Toronto Community Housing Corporation;
 - (b) \$160,000 for capital improvements to Swansea Town Hall;
 - (c) \$300,000 for capital improvements to the Runnymede Library;
 - (d) \$20,000 for Humber River lighting hydro connections in the vicinity of The Queensway and South Kingsway; and
 - (e) \$895,000 to be distributed in consultation with appropriate *City* staff and the Ward 13 Councillor among:
 - (i) capital improvements in local parks;
 - (ii) local streetscape improvements; and
 - (iii) Day Nursery capital improvements in Ward 13.

Such cash amount to be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the sum by the *owner* to the *City*.

2. The *owner* shall provide a public art contribution in the amount of \$500,000. Such cash amount to be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the sum by the *owner* to the *City*.
3. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act*, the *owner* shall provide 1:50 scale architectural elevation drawings for representative portions of the

buildings with building materials, colours and finishes illustrated and labelled to the satisfaction of the Chief Planner and Executive Director ("Approved Exterior Development Details").

4. The *owner* shall incorporate in the construction of the development and thereafter maintain the Approved Exterior Development Details to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
5. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act* and prior to any excavation for the development proposal, the *owner* shall provide a Construction Management Plan at its expense to the satisfaction of the Director, Technical Services and shall implement such plan.
6. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act* and prior to any excavation for the development proposal, the *owner* shall provide studies and documentation demonstrating to the satisfaction of the Chief Building Official that de-watering and construction of the development proposal shall not produce any significant impact in relation to the soil stability of adjacent properties during and after the construction of the development proposal. The Chief Building Official may have such studies and documentation peer reviewed by a qualified engineer at the *owner's* expense.
7. The *owner* shall agree to provisions regarding environmental sustainability, wind mitigation, municipal services and street tree irrigation.
8. The *owner* shall complete the following transportation improvements, including providing a satisfactory detailed functional and engineering design, financial guarantees, engineering and inspection fees, and insurance to satisfaction of the City's Executive Director of Technical Services regarding:
 - (a) The Queensway/Windermere Avenue Intersection:
 - (i) Construction of any associated road widening (civil work) to increase the existing auxiliary southbound to eastbound left turn storage lane length at the north intersection approach to 40 metres with a 15 metre approach taper, and require the applicant to submit a cost estimate for the works to the satisfaction of the Executive Director of Technical Services; and
 - (ii) Payment to the City for the installation of pavement markings and signage to increase the existing auxiliary southbound to eastbound left turn storage lane length at the north intersection approach to 40 metres with a 15 metre approach taper. Notwithstanding any civil work, the City's Traffic Signs and Pavement Markings Unit will prepare a cost estimate and ultimately complete the pavement marking installation.
 - (b) South Kingsway/Ormskirk Avenue Intersection:
 - (i) Payment to the City for the installation of pavement markings and signage of an auxiliary westbound to southbound left turn storage lane at the west

intersection approach, providing 15 metre of vehicle storage with a 15 metre approach taper. This design shall be incorporated within the existing Ormskirk Avenue pavement cross-section by means of pavement markings. The City's Traffic Signs and Pavement Markings Unit will prepare a cost estimate and ultimately complete the pavement marking installation;

- (ii) Payment to the City for the installation of pavement markings and signage of an auxiliary southbound to eastbound left turn storage lane at the north intersection approach, providing 20 metres of storage and a 15 metre approach taper. This design shall be incorporated within the existing South Kingsway pavement cross-section by means of pavement markings. The City's Traffic Signs and Pavement Markings Unit will prepare a cost estimate and ultimately complete the pavement marking installation; and
- (iii) Payment to the City for the removal and relocation of the existing pedestrian crossover along South Kingsway just north of the approach of Ormskirk Avenue to incorporate the auxiliary southbound to eastbound left turn storage lane. The City's Traffic Plant Installation and Maintenance Unit will prepare a cost estimate and ultimately complete this installation.

9. Prior to Site Plan approval pursuant to Section 114 of the *City of Toronto Act*, the *owner* shall provide a Pedestrian Wind Assessment study to the satisfaction of the Director, Community Planning, Etobicoke York District, and implement any recommendations therein.
10. The *owner* shall satisfy the requirements of the Toronto Catholic District School Board and the Toronto District School Board regarding warning clauses and signage.
11. The *owner* shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Planning and Growth Committee Item 32.3.
12. The *owner* of the *lot* shall enter into and register on title to the *lot* one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix.