

26 Ernest Avenue – City-Initiated Zoning Amendment Final Report

Date:	January 9, 2018
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 18 – Davenport
Reference Number:	17 262635 STE 18 OZ

SUMMARY

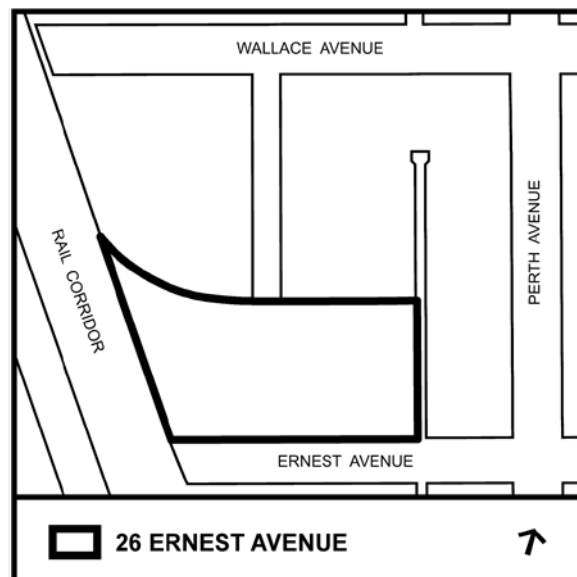
This City-initiated application proposes to make amendments to Site Specific By-law No. 729-2016, for a City Council approved 79-unit townhouse development at 26 Ernest Avenue. The amendments correct zoning standards and maps, and update the timing of securing obligations outlined in the Section 37 attachment. The proposed amendments maintain the intent of the proposed development described in the staff report dated January 16, 2016 considered by City Council on February 3 and 4, 2016.

This report recommends amending By-law No. 729-2016 with the draft Zoning By-law Amendment shown as Attachment No. 2 to this report, which reflects the approved proposal.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law No. 729-2016, substantially in accordance with Attachment No. 2 to the report dated January 9, 2018, from the Acting Director of Community Planning, Toronto and East York District.



2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Applications for Zoning By-law Amendment and Site Plan Control for 26 Ernest Avenue were received and deemed complete as of June 5, 2014. At its meeting on August 12, 2014, Toronto and East York Community Council considered a Preliminary Report recommending that staff schedule a community consultation meeting to discuss the proposal with area residents.

The Preliminary Report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.78>

At its meeting on January 19, 2016, Toronto and East York Community Council considered a Final Report recommending approval of a 79-unit townhouse development. Community Council sent the item to City Council without amendment. At its meeting on February 3, 2016, City Council adopted the item without amendments.

The Final Report and City Council decision can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE13.2>

At its meeting on July 15, 2016, City Council enacted By-law No. 729-2016.

By-law No. 729-2016 can be found in Attachment 1 of this report or accessed at:

<https://www.toronto.ca/legdocs/bylaws/2016/law0729.pdf>

Notice of Approval Conditions for the Site Plan Control application were issued by the Director of Community Planning, Toronto and East York District on September 11, 2017.

Proposal

At its meeting on February 3 and 4, 2016, City Council adopted Toronto and East York Community Council Item TE13.2 which amended Zoning By-law No. 438-86, to permit a 79-unit townhouse development at 26 Ernest Avenue.

The resulting By-law No. 729-2016 contains some technical errors. Provisions such as defined grade, the heights and setbacks shown in Map 2, and the required timing for the owner to complete construction of a private road within the development require revision by way of a City-initiated Zoning Amendment.

Community Consultation

City Planning staff, in consultation with the Ward Councillor, hosted a community consultation meeting on December 13, 2017 at Toronto City Hall (100 Queen Street West) to discuss the proposed amendments to Zoning By-law No. 729-2016. The meeting was attended by 1 resident. At the meeting, the discussion focused on site plan level details and construction. No concerns were raised with regard to the proposed zoning amendments.

COMMENTS

The Zoning By-law for the proposed development was enacted by City Council at its meeting of July 12, 2016 and was not appealed to the Ontario Municipal Board. Since that time, it has been determined that some provisions to permit the construction of the townhouses are incorrect in the approved Zoning By-law.

The applicant has increased the number of below-grade resident parking spaces from 85 to 92 to be in compliance with Item 7(g)(i)(A) of the approved Zoning By-law, however, no further changes have been made to the drawings as approved.

Staff has determined that the following amendments should be made to Zoning By-law No. 729-2016 to allow the development as approved and are reflected in the Draft Zoning By-law Amendment shown as Attachment No. 2 to this report:

- inserting an exemption for Section 4(17) with respect to parking space dimensions;
- delete reference to Blocks 1, 2 and 3 from the zoning provisions and maps;
- update language with respect to height provisions for accuracy and clarity purposes;
- add the term "at grade" when describing specific parking length requirements for visitor parking that is expected to be in tandem along the west side of the private road, Elsie Lane;
- correct and consolidate the reference point for grade;
- correct the minimum required parking space length;
- revise the timing obligation for the construction of the private road in the Section 37 provisions from prior to first above-grade building permit to prior to first occupancy or any condominium approval;
- replace Map 1 to include the coordinates and measurements of the lot; and
- replace Map 2 to show revised building heights that are measured from one consistent grade, and to correct building setbacks and setbacks.

CONCLUSION

It is recommended that City Council determine that the proposed revisions made to the zoning by-law are technical in nature as the approved plans and development intentions have not changed substantially. It is recommended that City Council enact the Draft Zoning By-law as contained in Attachment 2 to this report to amend By-law No. 729-2016.

CONTACT

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SIGNATURE

Lynda H. Macdonald
Acting Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: By-law No. 729-2016
Attachment 2: Draft Zoning By-law Amendment

Attachment 1: By-law No. 729-2016

Authority: Toronto and East York Community Council Item TE13.2, as adopted by City of Toronto Council on February 3 and 4, 2016

BY-LAW No. 729-2016

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 26 Ernest 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 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 passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the By-law 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 or matters in return for an increase in the height or density of development, a 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 of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law No. 438-86, as amended, is 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 the Lands and the City of Toronto;

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 all the conditions set out in this By-law and in return for the provision by the *owner* of this *lot* of the facilities, services and matters to the City at the *owner's* sole expense as 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*.
2. Where Appendix 1 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.

3. 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 1 are satisfied.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. This By-law applies to the lands delineated by heavy lines as shown on Map 1, and municipally known as 26 Ernest Avenue, attached to and forming part of this By-law.
6. District Map 48J-312 contained in Appendices 'A' and 'B' of By-law No. 438-86, as amended, is further amended by re-designating the land outlined by heavy lines on Map 1, attached to and forming part of this By-law, from "I2" to "R3".
7. None of the provisions of Section 2(1) "*grade*", "*height*", "*parking space*", and "*lot*"; 4(2); 4(4); 4(6); 4(11); 4(12); 4(13); 6(1); 6(3) PART I, (1), PART II (2-8), PART III, PART IV (2-4), of By-law No. 438-86 of the former City of Toronto, being "A By-law and specific amending 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 or use of *row houses* and uses and structures *accessory* thereto 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) Gross Floor Area
 - (i) the maximum *residential gross floor area* of the *row houses* on the *lot* shall be 11,860.0 square metres, and must only be located on Blocks 1, 2 and 3, as shown on Map 2;
 - (c) Permitted Uses
 - (i) the permitted use on the *lot* shall be: *row houses* and *public park*;
 - (d) Density
 - (i) a maximum residential density of 1.66 Floor Space Index;
 - (e) Number of Units
 - (i) the maximum number of *row house(s) dwelling units* on the *lot* shall be 79;
 - (f) Height
 - (i) no portion of any *residential building* or *residential structure*, including all mechanical equipment, shall exceed the *height* measured in metres from *grade* as shown on Map 2;

- (g) Parking and Loading
 - (i) a minimum of 100 *parking spaces* shall be provided, of which:
 - (A) 92 residential *parking spaces* must be located below *grade*; and
 - (B) 8 visitor *parking spaces* may be located at *grade*:
 - (1) visitor *parking spaces* shall have minimum dimensions of 2.6 metres in width by 7.3 metres in length;
 - (ii) the *parking spaces* required under subsection 7(g)(i)(A) may be accessed from:
 - (A) the *lot*; or
 - (B) from the adjacent property municipally known as 351 Wallace Avenue, subject to the appropriate legal easements for site access and use of the adjacent property;
 - (iii) a minimum of 1 *loading space - type 'G'*:
 - (A) may be provided on the *lot*; or
 - (B) may be provided on the adjacent property municipally known as 351 Wallace Avenue and shared with the *owner* of the *lot*, subject to the appropriate legal easements for site access and use of the adjacent property;
- (h) *Bicycle Parking Space*
 - (i) a minimum of 99 *bicycle parking spaces* shall be provided, of which:
 - (A) 79 shall be *bicycle parking space - occupant* and located below *grade*; and
 - (B) 20 shall be *bicycle parking spaces - visitor* and located at *grade*;
- (i) Landscaped Open Space
 - (i) a minimum of 40.0 percent of the area of the *lot* shall be provided as *landscaped open space*, excluding the on-site parkland dedication;
- (j) Amenity Space
 - (i) a minimum of 2.0 square metres of outdoor *residential amenity space* shall be provided per *dwelling unit*;
- (k) Setbacks

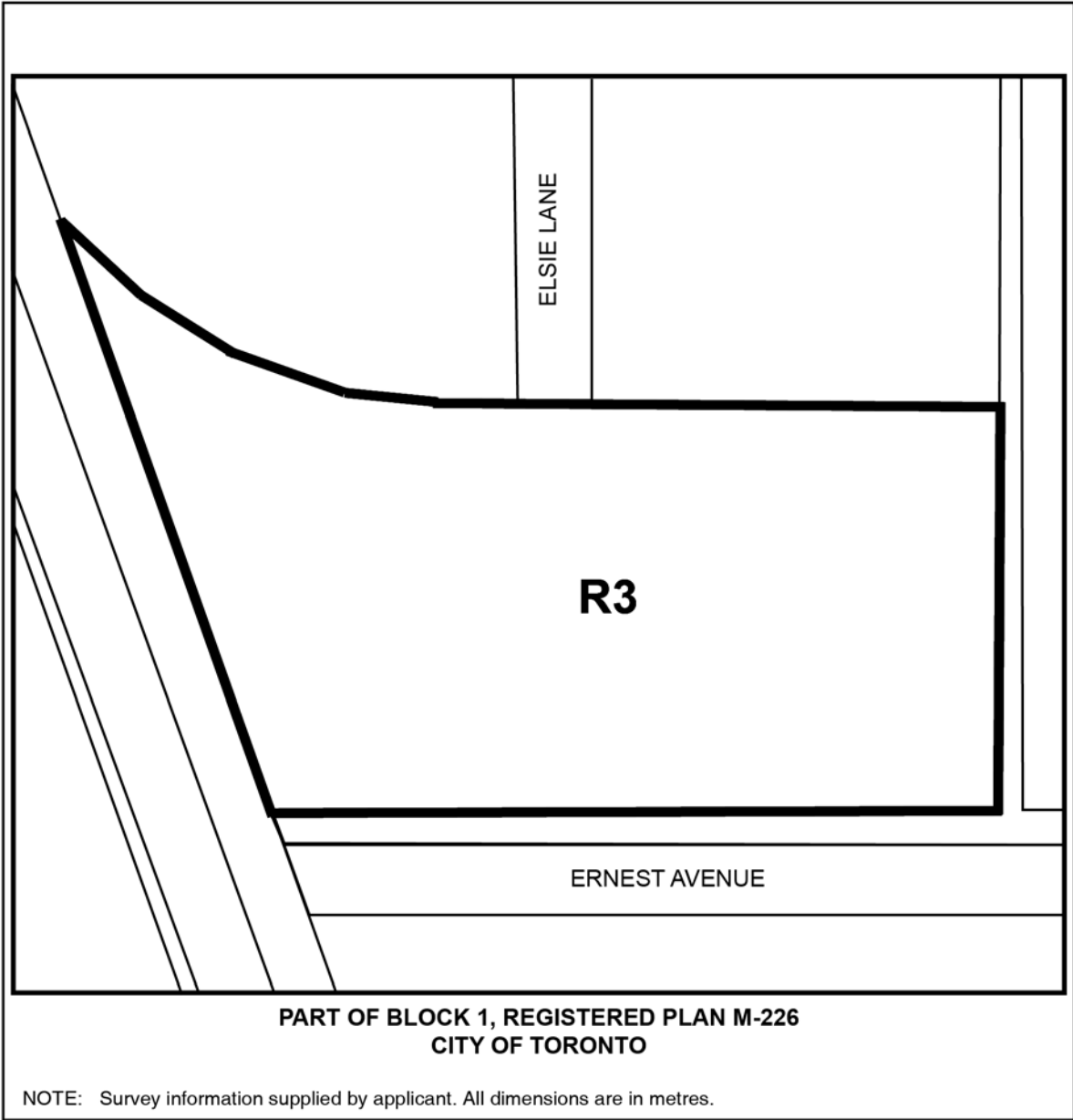
- (i) minimum setbacks are as shown on Map 2; and
 - (l) Projections
 - (i) despite Section 10 of this By-law, the following projections are permitted into the required setbacks up to a maximum of 1.2 metres:
 - (A) an entrance canopy, porch, exterior stairs and garbage chute.
- 8.** Notwithstanding any existing or future severances, 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 had occurred.
- 9.** Definitions
- For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as such word or expression as defined in By-law No. 438-86, as amended, except for the following:
- (a) "*grade*" for Blocks 1 and 3 means 114.13 metres above Canadian Geodetic Datum, and for Block 2 means 114.85 metres above Canadian Geodetic Datum;
 - (b) "*lot*" means of those lands delineated by heavy lines on Map 1;
 - (c) "*height*" means the vertical distance between *grade* and the highest point of the structure and is shown on Map 2; and
 - (d) "*parking space*" means an area that is readily available at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle, measuring a minimum of 6.5 metres in length and 2.6 metres in width.
- 10.** Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

Enacted and passed on July 15, 2016.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)



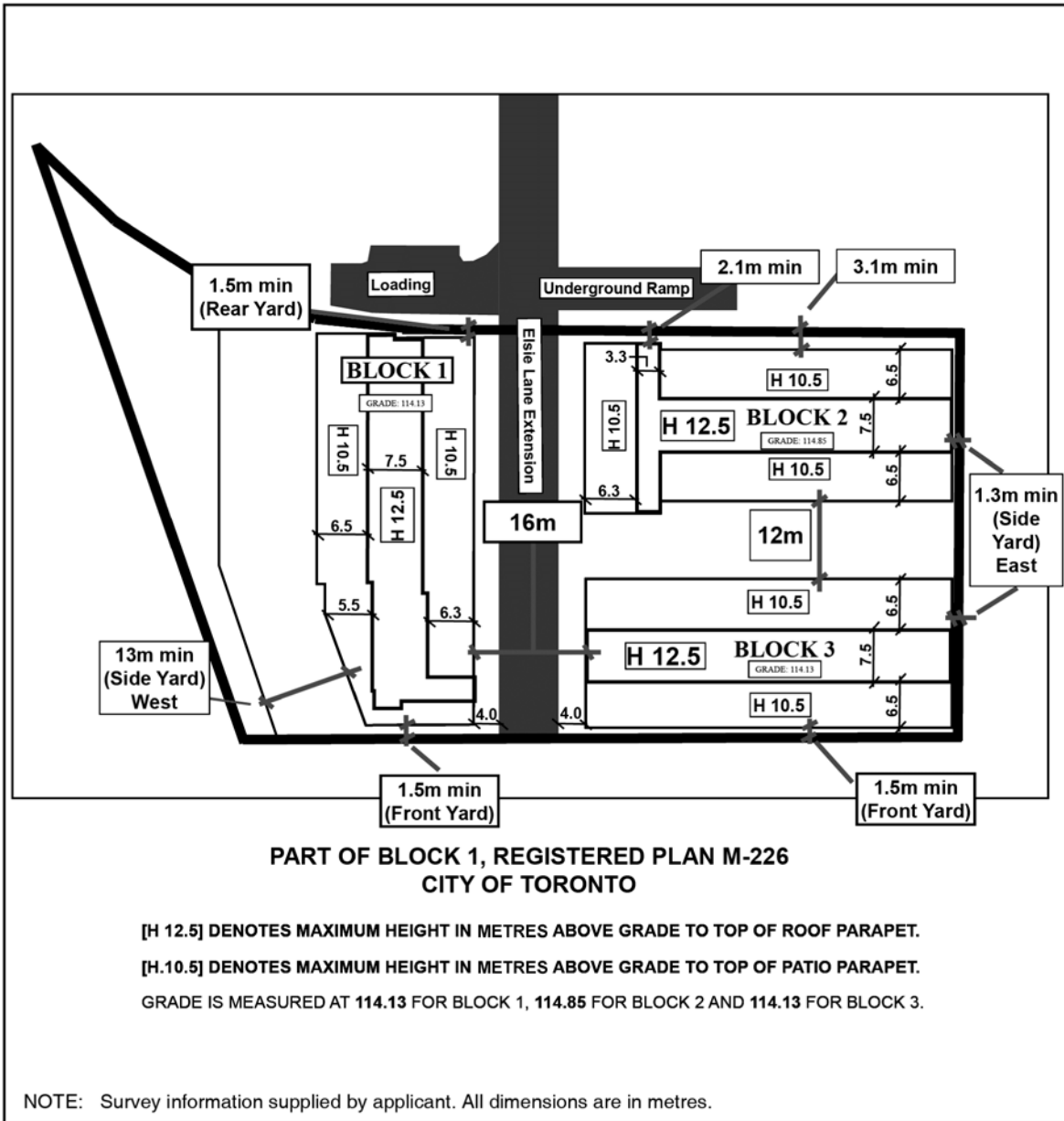
26 Ernest Avenue

Map 1

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APPENDIX 1
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 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 earlier of the issuance of site plan approval or the first building permit for the site, including a permit for excavation or shoring, the owner shall provide an indexed cash contribution to the City in the amount of \$100,000 to be allocated towards capital improvements at the City-owned community centre located at 362 Wallace Avenue, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor. The financial contribution shall be indexed upwardly in accordance 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 the Section 37 Agreement to the date the payment is made.
2. In the event the cash contribution has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
3. Prior to the earlier of site plan approval or the first building permit for the *lot*, including a permit for shoring or excavation, the *owner* is required to obtain and register on title all necessary easements and agreements over the lands municipally known as 351 Wallace Avenue to permit access to and use of the *loading space - type "G"*, driveway, and driveway ramp to the underground parking in favour of the *owner*, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the City Solicitor.
4. Prior to site plan approval, the owner is required to convey to the City at nominal cost, free and clear of encumbrances, a lane widening of 1.98 metres along the east property line to the satisfaction of the Executive Director, Transportation Services in consultation with the City Solicitor.
5. Prior to the earlier of the first above-grade building permit or any condominium approval for the development, the owner shall:
 - a. Construct and thereafter maintain an accessible extension of the private Elsie Lane on the *lot* from the north property line to Ernest Avenue which shall appear and function as if it is a City-owned and operated public road:
 - i. at the *owner's* sole cost and expense, this extension shall be constructed to City public road standards, with a minimum width of 16.0 metres and on similar terms and conditions as the construction of the portion of Elsie Lane constructed in 351 Wallace Avenue, with the specific location, configuration and design to be determined in the context of site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, as amended, and secured in a Site Plan Agreement

with the City, all to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the City Solicitor; and

- ii. the *owner* covenants and agrees to dedicate the road to the City at nominal cost in the future in the event the City, at its sole discretion, elects to acquire the private Elsie Lane as a public road, on similar terms and conditions as those secured for Elsie Lane within the development municipally known as 351 Wallace Avenue;
 - b. At the *owner's* sole expense, prepare and convey a public access easement to the City over the private Elsie Lane on similar terms and conditions secured in the private Elsie Lane public access easement at 351 Wallace Avenue, all to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor.
6. Prior to the issuance of site plan approval, and secured through a Site Plan Agreement, the *owner* shall provide a letter of credit in a form and amount satisfactory to the Executive Director, Engineering and Construction Services, to secure the completion of the private lane required in Clause 4.

Attachment 2: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item No. TE29.5 adopted by City of Toronto Council on , 2018

BY-LAW NO. XXX-2018

To amend Zoning By-law No. 729-2016 with respect to lands municipally known as 26 Ernest Avenue.

WHEREAS authority is given to Council 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;

The Council of the City of Toronto enacts:

1. City of Toronto By-law No. 729-2016 is amended by:
 - a. inserting the words "4(17);" after "4(13);", in Item 7, such that it reads as follows:
 7. None of the provisions of Section 2(1) "*grade*", "*height*", "*parking space*", and "*lot*"; 4(2); 4(4); 4(6); 4(11); 4(12); 4(13); 4(17); 6(1); 6(3) PART I, (1), PART II (2-8), PART III, PART IV (2-4), of By-law No. 438-86 of the former City of Toronto, being "A By-law and specific amending 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 or use of *row houses* and uses and structures *accessory* thereto on the *lot*, provided that:
 - b. deleting the words ", and must only be located on Blocks 1, 2 and 3, as shown on Map 2", in Item 7(b)(i), such that it reads as follows:
 - (i) the maximum *residential gross floor area* of the *row houses* on the *lot* shall be 11,860.0 square metres;
 - c. replacing the words "*residential building or residential structure, including all mechanical equipment, shall exceed the height measured in metres from grade*" with "*building or structure, including all mechanical equipment, erected on the lot shall be located above the building heights shown in metres specified by the number following the symbol "H"*", in Item 7(f)(i), such that it reads as follows:
 - (i) no portion of any building or structure, including all mechanical equipment, erected on the lot shall be located above the building *heights* shown in metres specified by the number following the symbol "H" as shown on Map 2;

- d. inserting the words "at *grade*" before "visitor *parking spaces*" in Item 7(g)(i)(1), such that it reads as follows:
 - (1) at *grade* visitor *parking spaces* shall have minimum dimensions of 2.6 metres in width by 7.3 metres in length;
 - e. replacing the words "for Blocks 1 and 3 means 114.13 metres above Canadian Geodetic Datum, and for Block 2 means 114.85 metres" with "means 114.40 metres" in Item 9(a), such that it reads as follows:
 - (a) "*grade*" means 114.40 metres above Canadian Geodetic Datum;
 - f. replacing the words "6.5 metres" with "5.6 metres" in Item 9(d), such that it reads as follows:
 - (d) "*parking space*" means an area that is readily available at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle, measuring a minimum of 5.6 metres in length and 2.6 metres in width.
 - g. replacing the words "first above-grade building permit" with "first occupancy permit issued in accordance with the Building Code Act" in Appendix 1, Item 5, such that it reads as follows:
 - 5. Prior to the earlier of the first occupancy permit issued in accordance with the Building Code Act, or any condominium approval for the development, the owner shall:
 - h. replacing Map 1 with Map 1 attached hereto this By-law; and
 - i. replacing Map 2 with Map 2 attached hereto this By-law.
2. The provisions of By-law 729-2016 shall continue to apply except as otherwise provided in this By-law.

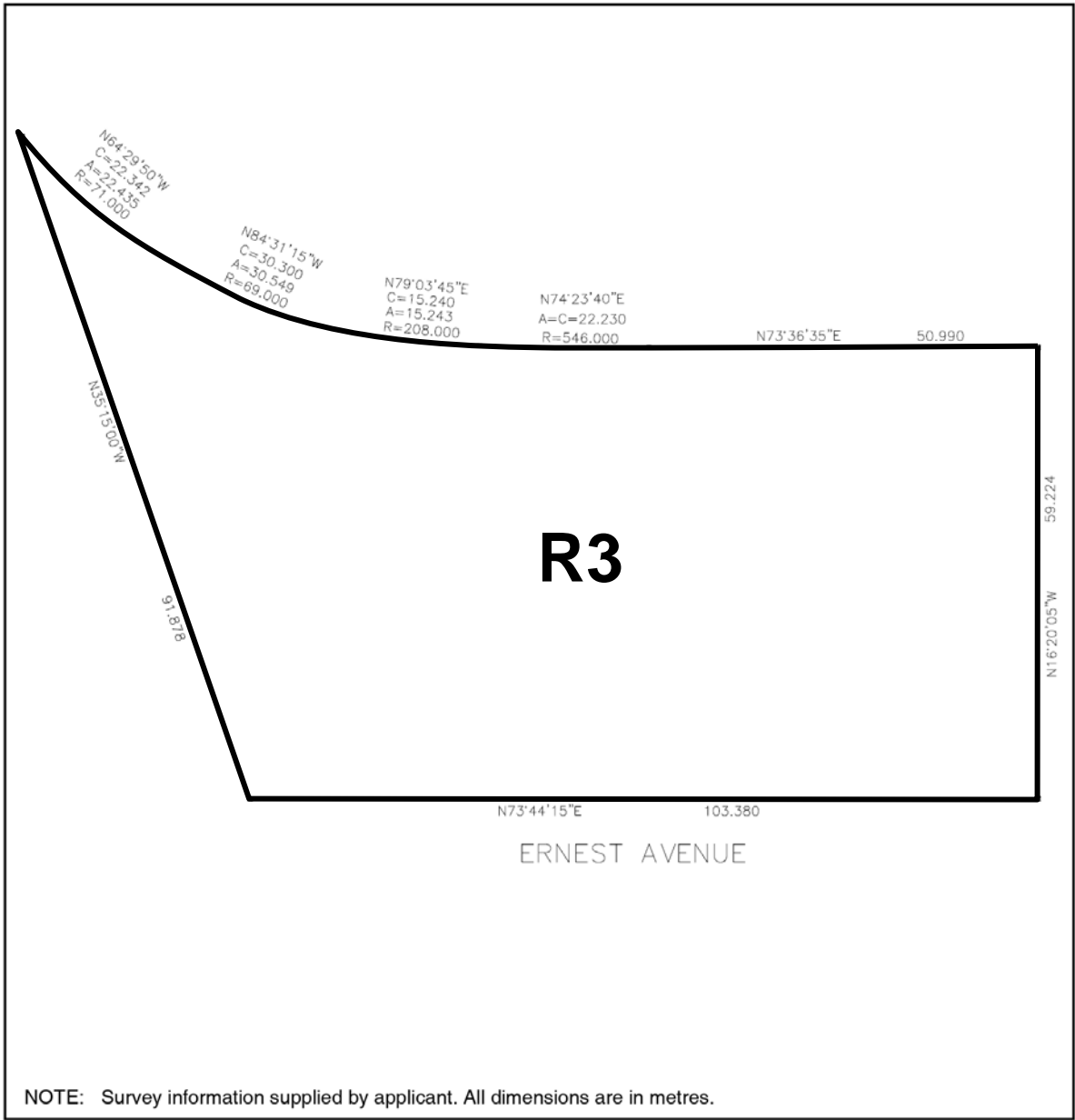
Enacted and passed on , 2018.

Frances Nunziata,
Watkiss,
Speaker

Ulli S.

City Clerk

(Seal of the City)



26 Ernest Avenue

Map 1

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1/9/2018

