

**CITY OF TORONTO**

**BY-LAW No. 869-2008(OMB)**

**To amend the General Zoning By-law No. 438-86, as amended, for the former City of Toronto with respect to lands municipally known as 76 and 100 Davenport Road and “Block C” (formerly part of 26 McMurrich Street) and the public lane extending south from Blackmore Street.**

WHEREAS the Ontario Municipal Board in a decision issued on June 5, 2006 and by its Order issued on March 27, 2008, approved an Official Plan Amendment and Zoning By-law Amendment with respect to lands municipally known as 76 and 100 Davenport Road and “Block C” (formerly part of 26 McMurrich Street); and

WHEREAS the public lane extending south from Blackmore Street is in the process of being stopped up and closed as a public highway and conveyed to the owner of the lands municipally known as 76 Davenport Road; and

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 pursuant to Section 37 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 density of development beyond those otherwise permitted by By-law No. 438-86, as amended, 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 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 or matters; and

WHEREAS the owner of the land that is the subject of this by-law has elected to provide the facilities, services and matters as hereinafter set out; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by 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 are to be secured by one or more agreements between the owner of such lands and the City of Toronto; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law;

NOW THEREFORE pursuant to Decision/Order No. 1629 of the Ontario Municipal Board issued June 5, 2006 and Order issued on March 27, 2008 in Board Case No. PL050331, By-law No. 438-86, as amended, of the former City of Toronto, is amended as follows:

1. None of the provisions of Sections 2(1) “*grade*” and “*lot*”, 4(2)(a), 4(5), 4(12), 6, 8(3) Part I 1, 8(3) Part I 2, 8(3) Part I 3, 8(3) Part II 2, and 8(3) Part III 1 of Zoning By-law No. 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”, shall apply to prevent the erection and use of two *mixed-use buildings* with underground parking on the *lot* delineated by heavy black lines on Plan 1, provided that:

- (a) the *lot* upon which the proposed buildings and structures are erected or used comprise at least the lands shown outlined by heavy lines on the attached Plan 1;
- (b) no portion of the building above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Plan 2, including mechanical and roof top elements, except for:
  - 1. cornices, lighting fixtures, window washing equipment, vents, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, wheel chair ramps, underground garage ramps and their associated structures, underground garage stair enclosures, fences, retaining walls and landscape and public art features, all of which may extend beyond the heavy lines on the attached Plan 2;
  - 2. balconies and balcony piers, which can project to a maximum of 2.5 metres beyond the heavy lines shown on Plan 2;
  - 3. structures used for outside or open air recreation, safety or wind protection, provided the maximum height of the structure is not higher than the sum of three metres and the height limit applicable to the *lot*;
- (c) the land shown on Plan 1 and labeled “Lane” has been stopped up and closed as a public highway and conveyed to the owner of *Parcel 1*;
- (d) no less than 343 square metres of *landscaped open space* shall be provided;

For *Parcel 1*:

- (a) the combined *residential gross floor area* and *non-residential gross floor area* to be erected and used on *Parcel 1* does not exceed 19,100 square metres, with
  - 1. not more than 18,560 square metres of *residential gross floor area*; and
  - 2. not more than 540 square metres of *non-residential gross floor area*;
- (b) no less than 112 *parking spaces* for the uses on *Parcel 1* shall be provided and maintained on *Parcel 1* in accordance with the following:
  - 1. no less than 0.7 *parking spaces* for each one-bedroom dwelling unit;
  - 2. no less than 1.0 *parking spaces* for each two-bedroom dwelling unit;

3. no less than 0.06 *parking spaces* for every *dwelling unit* for visitor use; and
  4. no less than 1.0 *parking spaces* for each 100 square metres of *non-residential gross floor area*;
- (c) no less than one *loading space-type G* shall be provided and maintained on *Parcel 1*;
- (d) no less than 400 square metres of indoor *residential amenity space* and no less than 380 square metres of outdoor *residential amenity space* is provided on *Parcel 1*;

For *Parcel 2*:

- (a) the combined *residential gross floor area* and *non-residential gross floor area* to be erected and used on *Parcel 2* does not exceed 2,340 square metres, with
1. not more than 1,690 square metres of *residential gross floor area*; and
  2. not more than 2,340 square metres of *non-residential gross floor area*;
- (b) no less than 23 *parking spaces* for the uses on *Parcel 2* shall be provided and maintained on *Parcel 2* in accordance with the following:
1. no less than 0.7 *parking spaces* for each one-bedroom *dwelling unit*;
  2. no less than 1.0 *parking spaces* for each two-bedroom *dwelling unit*;
  3. no less than 0.06 *parking spaces* for every *dwelling unit* for visitor use; and
  4. no less than 1.0 *parking spaces* for each 100 square metres of *non-residential gross floor area*; and
- (c) no less than one *loading space-type G* shall be provided and maintained on *Parcel 2*;
- (d) no less than one *loading space-type C* shall be provided and maintained on *Parcel 2*, which is only required if an entirely non-residential building is erected on *Parcel 2*;
- (e) no less than 183 square metres of outdoor *residential amenity space* are provided on *Parcel 2*, which is only required if a *residential building* is erected on *Parcel 2*;

For *Parcel 3*:

- (a) no building will be erected on this parcel.
2. Pursuant to Section 37 of the *Planning Act*, the heights and density of development contemplated by this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the owner of the *lot* of the following facilities, services and matters to the City at the owner's sole expense:
- (a) the owner agrees to provide and maintain one or more works of art pursuant to a public art program in publicly accessible portions of the lands of a value not less than one per cent of the cost of construction of all new buildings, structures and additions erected thereon on or after the date of passing of this By-law, provided that the costs related to public art shall not be included in such valuation;
  - (b) the owner agrees to convey to the city, for a nominal cost and free and clear of all encumbrances, save and except for easements required for air intake and exhaust associated with a below grade parking garage on the *lot*, strata lands 1.4 metres wide to a depth of 0.5 metres from finished grade along the entire length of the northern boundary of Parcel 1 which is adjacent to Blackmore Street, as shown on Plan 2, for the purposes of widening the street for safety reasons;
  - (c) the owner agrees to improve the entire frontage of Davenport Road adjacent to the lands known as 76 and 100 Davenport Road with sidewalks and any other streetscape elements deemed satisfactory by the Chief Planner and Executive Director;
  - (d) the owner agrees to provide the entirety of Parcel 3, or an area of equivalent size in the same general location, and such other areas within Parcel 1 which have been agreed to, as publicly accessible landscaped open space areas;
  - (e) the owner agrees to provide and maintain a 2-metre pedestrian setback area at grade along Davenport Road in front of the building on Parcel 1;
  - (f) the owner agrees to acquire from the City the L-shaped dead end lane running south from Blackmore Street for the agreed to price subject to the following:
    - 1. that it meet Technical Services Division's standard requirements for the closure and sale of the laneway;
    - 2. that it will not be used to further increase the lot density permission;
    - 3. provision of the publicly accessible areas and the pedestrian setback area as outlined in Sections 2(d) and (e) above;
    - 4. that there be a public art installation along the easterly-most portion of the south elevation of the podium of the building on *Parcel 1* and that the public art approval process be followed as required by the Official Plan;

- (g) the phasing of the development of the lands and the timing of the contributions set out above shall be in a manner satisfactory to the Chief Planner and Executive Director; and
  - (h) the owner of the *lot* is required to enter into an agreement pursuant to Section 37 of the *Planning Act* satisfactory to the Chief Planner and Executive Director and the City Solicitor and that such agreement be registered against the title to the *lot* to secure all the facilities, services and matters referred to in this By-law, as well as those matters deemed appropriate for the orderly development of the lands.
3. For the purposes of this By-law:
- (a) “lot” means the lands on which is to be erected or used one or more buildings and structures, whether such buildings are erected simultaneously or at intervals and whether they are connected above or below the natural level of the ground;
  - (b) “grade” shall mean 116.85 metres Canadian Geodetic Datum;
  - (c) “Parcel 1”, “Parcel 2” and “Parcel 3” mean the areas identified as “Parcel 1”, “Parcel 2” and “Parcel 3”, respectively, on Plan 1; and
  - (d) Each other word or expression, which is italicized in this By-law, shall have the same meaning as each word or expression as defined in the aforesaid By-law No. 438-86, as amended.
4. Notwithstanding any 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 had occurred.

PURSUANT TO THE DECISION/ORDER NO. 1629 OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JUNE 5, 2006 AND ORDER ISSUED MARCH 27, 2008 IN BOARD FILE NO. PL050331.



