

CITY OF TORONTO

BY-LAW No. 413-2009(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 319 Carlaw Avenue.

WHEREAS the Ontario Municipal Board, by way of Order issued on February 18, 2009, following an appeal pursuant to section 34(11) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, the General Zoning By-law, in respect of lands municipally known as 319 Carlaw Avenue; and

WHEREAS the owner of the lands municipally known in 2008 as 319 Carlaw Avenue has made an application to the City of Toronto for a Zoning By-law Amendment; and

WHEREAS an increase in density and height has been requested; and

WHEREAS subsection 37(2) of the *Planning Act* requires that a by-law under subsection 37(1) may not be enacted unless the Municipality has an Official Plan that contains provisions relating to the authorization of increase in height and density of development; and

WHEREAS the Official Plan for the City of Toronto, contains such provisions relating to the authorization of increases in height and density of development; 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 density or height of development, the municipality, or the OMB on appeal, may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the owners of the lands have elected to provide the facilities, services and matters hereinafter set out; and

WHEREAS the increases in density or height permitted beyond that 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 land 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 increase in height and density in connection with the aforesaid lands as permitted in this By-law; and

THEREFORE By-law No. 438-86, the General Zoning By-law of the former City of Toronto, as amended is further amended by the Ontario Municipal Board as follows:

1. District Map No. 52H-312 contained in Appendix "A" of 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", as amended, is further amended by redesignating the lands shown outlined with heavy lines on Map 1, attached to and forming part of this By-law, from I2 D3 to I1 D3.

2. None of the provisions of Sections 2(1) *grade, height, parking space*, 4(2)(a), 4(4)(b), 4(6)(b), 4(12), 9(1)(a) and (f) and 9(3) Part I 2 and 3 of By-law No. 438-86, as amended, or Section 2 of By-law No. 494-2007, shall apply to prevent the erection and use of a *mixed-use building* on the *lot* containing *live-work units* and non-residential uses, provided;
- (a) the *lot* is comprised of at least those lands shown outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - (b) the *mixed-use building* contains:
 - (i) not more than 9,075 square metres of *residential gross floor area*; and
 - (ii) not less than 2,349 square metres of *non-residential gross floor area*, provided that the total cumulative amount of *non-residential gross floor area* for *retail stores* shall not exceed 783 square metres and that no individual *retail store* shall exceed 300 square metres of *non-residential gross floor area*;
 - (c) the following residential uses are permitted in the *mixed-use building*:
 - (i) a maximum of 125 *live-work units*;
 - (d) the following non-residential uses are permitted in the *mixed-use building*:
 - (i) artist's or photographer's studio;
 - (ii) *bake-shop*;
 - (iii) *branch of a bank or financial institution*;
 - (iv) *caterer's shop*;
 - (v) *clinic*;
 - (vi) *commercial school*;
 - (vii) *communications and broadcasting establishment*;
 - (viii) community or social agency;
 - (ix) *courier service*;
 - (x) *custom workshop*;
 - (xi) *data processing establishment*;
 - (xii) *designer's studio*;

- (xiii) *dry-cleaning shop and dry-cleaning distribution station;*
 - (xiv) *duplicating shop;*
 - (xv) *newsstand;*
 - (xvi) *office;*
 - (xvii) *performing arts studio;*
 - (xviii) *personal grooming establishment;*
 - (xix) *premises of a charitable institution or non-profit institution;*
 - (xx) *private art gallery;*
 - (xxi) *public art gallery;*
 - (xxii) *publisher;*
 - (xxiii) *restaurant and take-out restaurant;*
 - (xxiv) *retail store;*
 - (xxv) *service, rental or repair shop;*
 - (xxvi) *showroom;*
 - (xxvii) *software design and development establishment;*
 - (xxviii) *tailoring shop;* and
 - (xxix) *trade school.*
- (e) no portion of the *mixed-use building* above finished ground level shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, with the exception of the following:
- (i) *cornices, light fixtures, awnings, ornamental elements, parapets, landscape features, trellises, eaves, window sills, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheel chair ramps and underground garage ramps and associated structures; and*
 - (ii) *balconies and canopies provided they extend no more than 1.8 metres beyond the areas delineated by heavy lines on Map 2;*

- (f) notwithstanding the building setbacks illustrated on Map 2, the building will be setback a minimum of 1.2 metres from the Carlaw Avenue frontage at the 1st and 2nd storeys only, except for building columns and piers;
 - (g) no portion of the *mixed-use building* shall have a greater *height* in metres than the *height* limits specified by the numbers following the symbol H on Map 2 attached to and forming part of this By-law, with the exception of the following:
 - (i) a structure used for outside or open air recreation, safety or wind protection purposes, elements of a green roof, a chimney stack or other heating, cooling or ventilating equipment, a screen around such equipment, window washing equipment, ornamental elements, landscaping elements, privacy walls, trellises, parapets, stairs, stair enclosures, guardrails and railings; and
 - (ii) balconies and canopies provided they extend no more than 1.8 metres beyond the areas delineated by heavy lines on Map 2;
 - (h) not less than 120 *parking spaces* are provided and maintained on the *lot*, of which at least 15 *parking spaces* are for the exclusive use of visitors, at least 78 *parking spaces* are for the exclusive use of residents of the *live-work units*, at least 9 *parking spaces* are for the exclusive use of the non-residential uses in the building and one *car-share parking space* shall be provided;
 - (i) each *parking space* shall have minimum dimensions of 2.6 metres in width by 5.6 metres in length; and
 - (j) not less than 2.0 square metres of indoor *residential amenity space* per *live-work unit* and not less than 2.3 square metres of outdoor *residential amenity space* per *live-work unit* shall be provided and maintained in the *lot*.
3. The density and height of the development permitted by this By-law is subject to the owner of the lands to which this by-law applies entering into, and registering against the title to such lands, one or more agreements with the City of Toronto, pursuant to Section 37 of the *Planning Act* R.S.O. 1990, c.P. 13, as amended, to ensure the following facilities, services and matters:
- (a) a cash contribution in the amount of \$40,000 for Park improvements at Hideaway Park;
 - (b) a cash contribution in the amount of \$10,000 for public realm improvements on the west side of Boston Ave, south of Dundas, within the area covered by the “Dundas Carlaw Quarter”;
 - (c) a cash contribution in the amount of \$25,000 for facilities improvements for Matty Eckler Community Centre;

- (d) a cash contribution in the amount of \$20,000 for Park bench beautification in the area of the site;
- (e) a cash contribution in the amount of \$50,000 for facility upgrades at Greenwood Park;
- (f) a cash contribution in the amount of \$30,000 for an local Off Leash Area Improvement Fund;
- (g) a cash contribution in the amount of \$35,000 for facilities improvements at Jimmie Simpson Community Centre;
- (h) a cash contribution in the amount \$65,000 for local parks, including playground shading and Community Message Boards; and
- (i) a cash contribution in the amount of \$25,000 for public realm improvements in the “Dundas Carlaw Quarter”, including design competition and installations for a signature marker;

All such payments to be paid to the City prior to the issuance of the first above-grade building permit.

4. For the purposes of this By-law:

- (a) “*car-share*” shall mean the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (b) “*car-share parking space*” shall mean a *parking space* that is reserved and actively used for *car-share* purposes;
- (c) “*grade*” shall mean 82.0 metres Canadian Geodetic Datum;
- (d) “*height*” shall mean the vertical distance between *grade* and the highest point of the building or structure on the *lot*;
- (e) “*live-work unit*” shall mean a *dwelling unit* which may be used for work purposes by the residents of the unit and which may also be used for work purposes by persons not residing in the unit; and
- (f) each other word or expression that is italicized shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended.

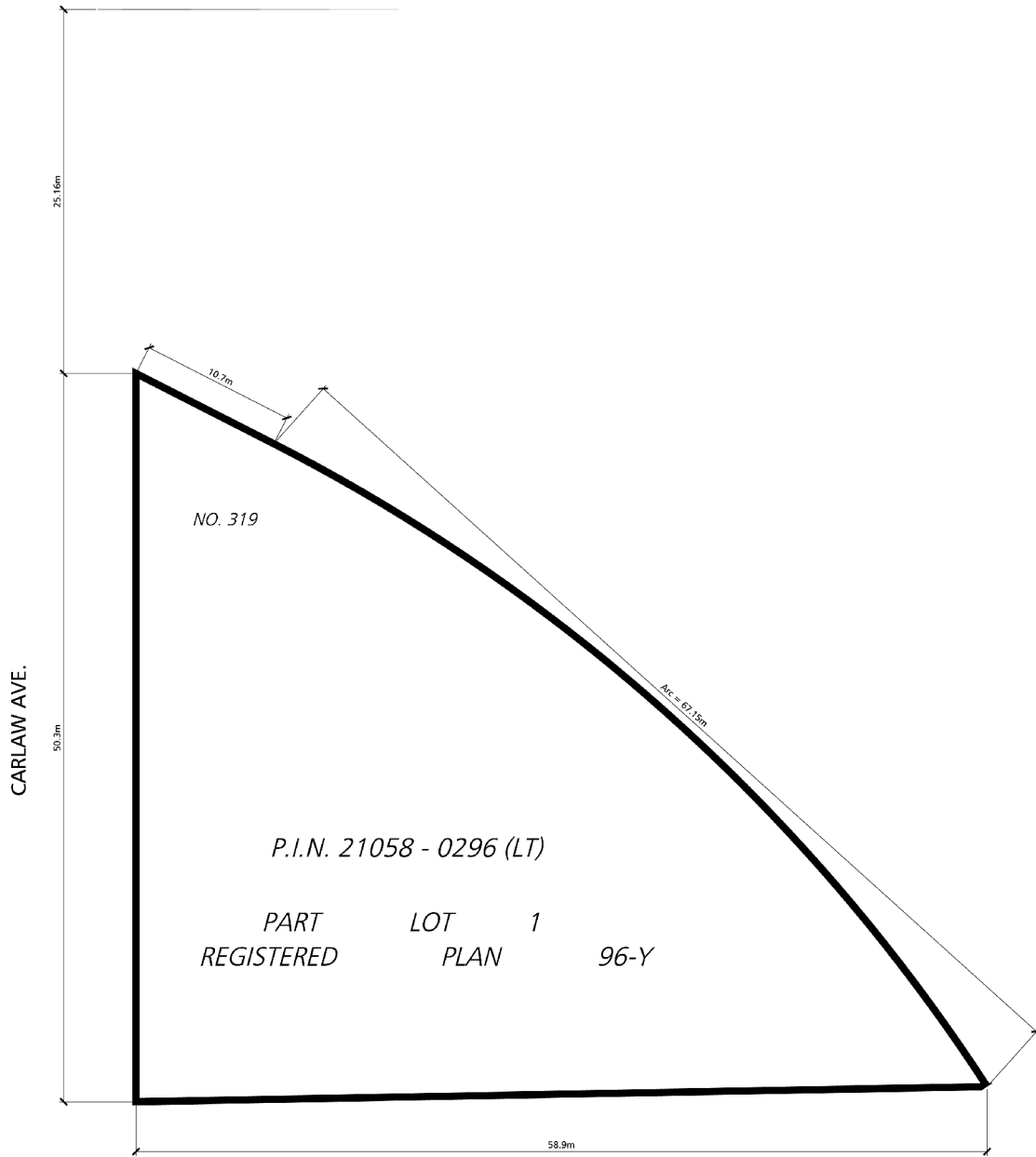
5. Despite any existing or future severance, partition or division of the *lot*, the provisions of this by-law shall apply to the whole *lot* as if no severance, partition or division occurred.

6. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
7. Within the lands shown outlined by heavy lines 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.

PURSUANT TO DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON FEBRUARY 18, 2009 IN BOARD CASE NO. PL080343.

MAP 1

DUNDAS STREET EAST

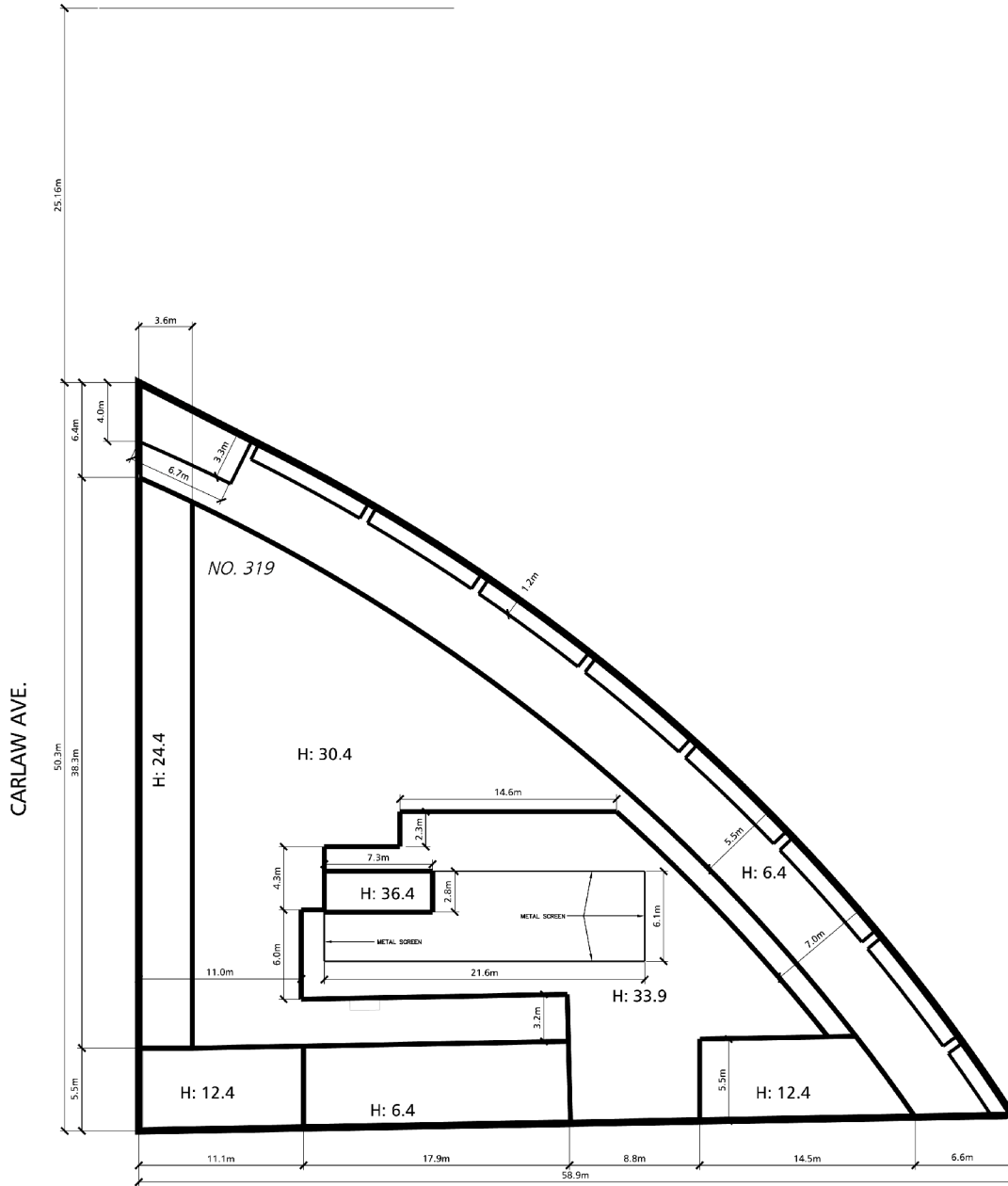


REZONED TO "I 1 D3"



MAP 2

DUNDAS STREET EAST



H: DENOTES MAXIMUM HEIGHT IN METERS ABOVE AVERAGE GRADE

