

Authority: Toronto and East York Community Council Item 12.9,
as adopted by City of Toronto Council on February 6 and 7, 2012
Enacted by Council: February 7, 2012

CITY OF TORONTO

BY-LAW No. 147-2012

To amend Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 124 and 128 Pears 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*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of a municipality may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services or matters as are set in the by-law; and

WHEREAS Subsection 37(3) of the *Planning Act* provides that, where an owner of lands 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 lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

WHEREAS the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86 of the former City of Toronto, 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 (the "City"); 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; and

WHEREAS Council of the City of Toronto, at its meeting on February 6 and 7, 2012, determined to amend the former City of Toronto Zoning By-law No. 438-86 with respect to lands known municipally in the year 2011 as 124 and 128 Pears Avenue;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
2. None of the provisions of Sections 4(2)(a), 4(5), 4(7), 4(8), 4(13)(d), 4(14), 4(16), 4(17), 8(3) Part I, 8(3) Part II, and 8(3) Part III 1, 8(3) Part IV 1, 12(2) 132, 12(2) 270, and 8(3) Part XI of Zoning By-law No. 438-86, of the former City of Toronto, as amended, 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 or use of any buildings or structures on the *lot* provided that:

- (a) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) the aggregate of the *residential gross floor area* and the *non-residential gross floor area* erected or used on the *lot* does not exceed 6,450 square metres, of which:
 - (i) the *residential gross floor area* does not exceed 6,170 square metres; and
 - (ii) the *non-residential gross floor area* does not exceed 260 square metres;
- (c) the maximum number of *dwelling units* erected or used on the *lot* shall not exceed 45;
- (d) no portion of the building or structure erected or used above *grade* is located otherwise than within the *lot* and wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following which may extend beyond the areas delineated by such heavy lines:
 - (i) cornices, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps, vents, fences, screens, landscape and site servicing features, public art features, railings, awnings and canopies; and
 - (ii) balconies may extend up to 1.8 metres beyond the heavy lines shown on Map 2;
- (e) the *height* of any building or structure, or portion thereof including mechanical penthouse, does not exceed those *height* limits as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
 - (i) railings, parapets, balconies, cornices, window washing equipment, lighting fixtures, ornamental elements, stair towers, elevator shafts, elevator towers, trellises, planters, partitions dividing outdoor recreation areas, guard rails, stairs, stair enclosures, wheelchair ramps, vents, *parking garage*, fences, screens, architectural features, elements of a green roof, lightning rods, and exhaust flues, located above the *height* of each of the roof levels of the building;
 - (ii) the maximum height for chimney stacks and mechanical equipment shall be the sum of 3.95 metres and the applicable height limit shown on Map 2;

- (f) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) 0.3 *parking spaces* per each bachelor *dwelling unit*;
 - (ii) 0.5 *parking spaces* per 1-Bedroom *dwelling unit*;
 - (iii) 0.75 *parking spaces* per 2-Bedroom *dwelling unit*;
 - (iv) 1.2 *parking spaces* per 3-Bedroom *dwelling unit*; and
 - (v) 0.06 *parking spaces* per *dwelling unit* shall be provided for visitors.
 - (g) one *loading space – type "G"* shall be provided and maintained on the *lot*.
 - (h) no *restaurants* or *take-out restaurants* as allowed in Section 8(b) of the Zoning By-law No. 438-86, shall be permitted on the subject site.
3. A temporary *sales presentation centre* shall be permitted on the *lot*, and none of the other provisions of this By-law shall apply to such use.
4. Pursuant to Section 37(1) of the *Planning Act* the *heights* and *density* of the development permitted in the By-law are permitted subject to compliance with all 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* expense and in accordance with and subject to the agreement referred to in Section 4 of this by-law.
5. 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 provisions of the facilities, services and 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 of payment of any monetary contribution 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.
6. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:

"grade" means 112.9 metres Canadian Geodetic Datum;

"lot" means at least the lands delineated by heavy lines shown on Map 1;

"height" means the vertical distance between *grade* and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;

"parking space" means an unimpeded area having minimum dimensions of 5.6 metres in length and 2.6 metres in width which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another vehicle;

"*sales presentation centre*" shall mean an office provided for the marketing or selling of *dwelling units* located or to be located on the *lot*;

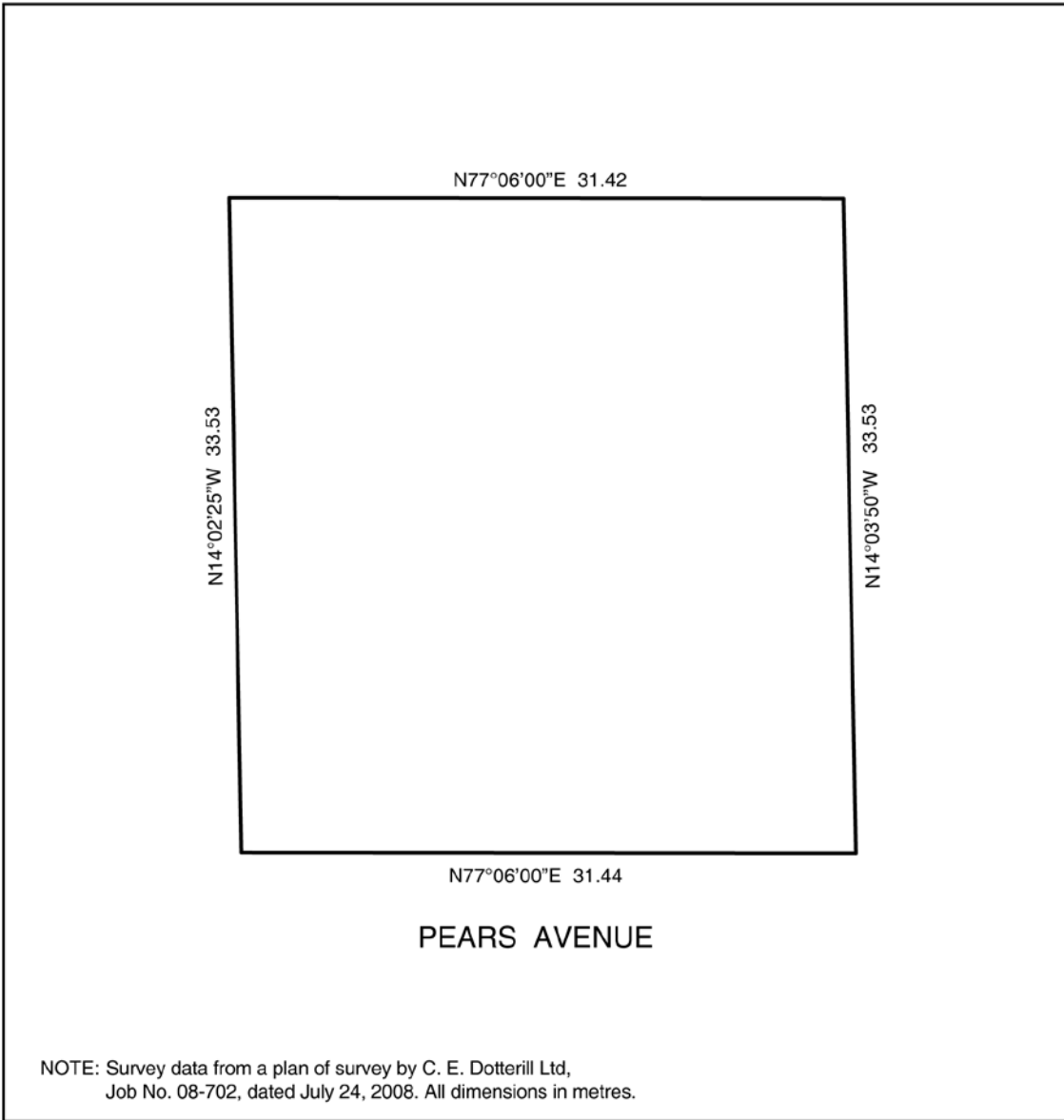
7. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

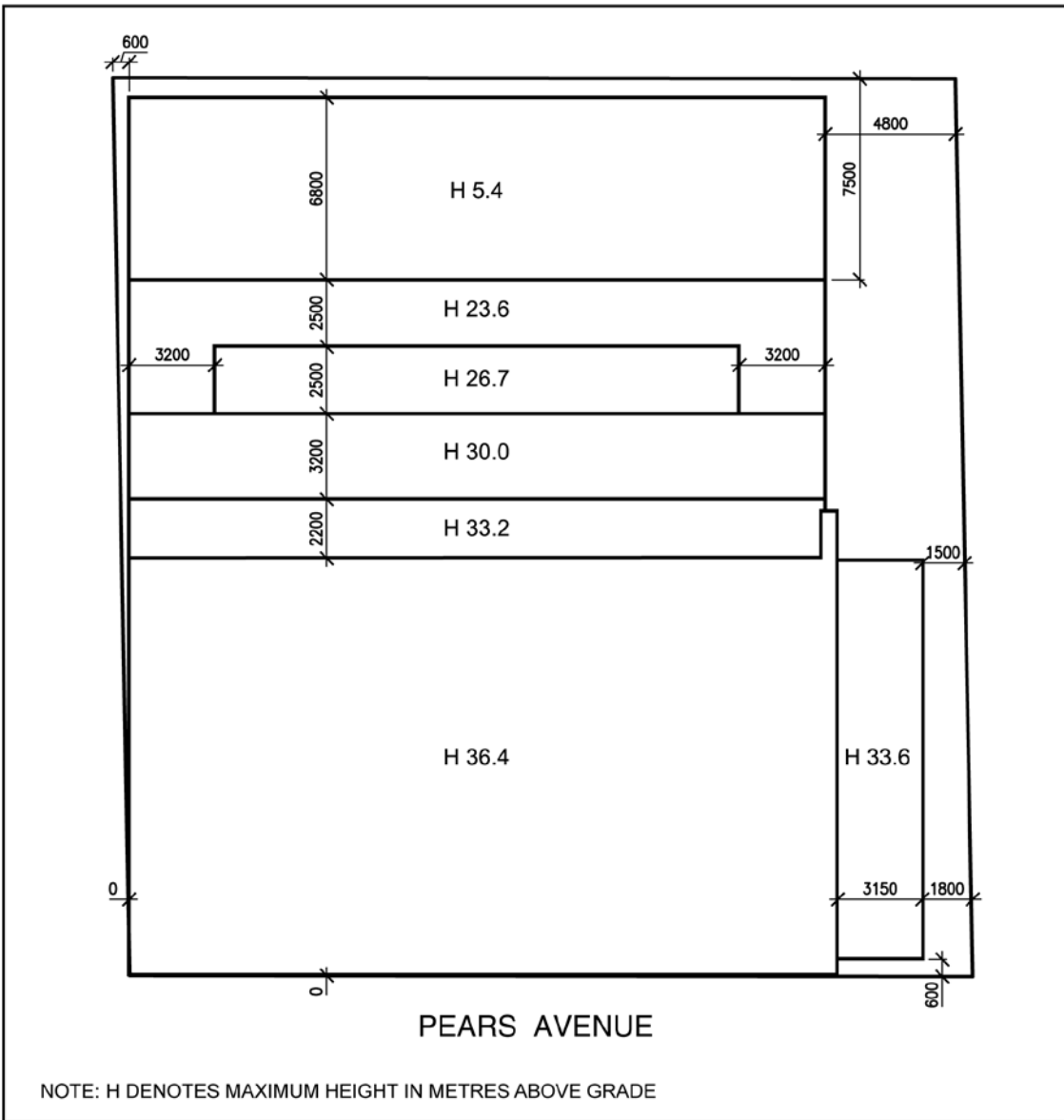
ENACTED AND PASSED this 7th day of February, A.D. 2012.

FRANCES NUNZIATA,
Speaker

ULLI S. WATKISS,
City Clerk

(Corporate Seal)





Appendix "1"

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of that *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* and the owner with conditions providing for indexing escalation of both the financial contributions and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. The *owner* shall pay to the City a payment of \$400,000 prior to the first above grade building permit. Such payment shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date the Section 37 Agreement to the date of payment.

Such payment will be deposited to the Planning Act Reserve Fund and may be used for the capital construction of, or capital improvements to, one or more of the following: \$60,000 will be for public housing improvements in Ward 20, \$170,000 will be for capital improvements to public housing at 250 Davenport, and \$170,000 will be for community improvements in Ward 20 in the vicinity of the site, which may include parks and public realm improvements.

2. The owner shall provide a minimum of 10% of the total number of units as three-bedroom dwelling units, with bedroom being defined as a habitable room which meets the requirements of the Ontario Building Code.
3. The *owner* of the *lot* shall enter into and register on title to the *lot* and on title to the lands known municipally in the year 2011 as 124 and 128 Pears Avenue, 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 Chief Planner and Executive Director, City Planning Division, to secure the facilities matters set forth in this Appendix.