

Authority: Toronto and East York Community Council Item 23.8,
as adopted by City of Toronto Council on May 7, 8, 9 and 10, 2013

CITY OF TORONTO

BY-LAW No. 623-2013

To amend Zoning By-law No. 438-86, as amended, of the former City of Toronto, with respect to the lands municipally known as 281 to 289 Avenue Road.

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 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 Subsection 37(3) of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted in return for the provision of such facilities, services and matters as are set out in the By-law; 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 increase in the density or height permitted hereunder, beyond that otherwise permitted on the land 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 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 the conditions set out in this By-law and in return for the provision by the *owner* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *site* 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 requirement.

3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. 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:
 - (1) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
5. Except as otherwise provided herein, the provisions of Zoning By-law No. 438-86 shall continue to apply to the *lot*.
6. None of the provisions of Section 2(1) with respect to "*grade*", "*height*", "*lot*", "*parking garage*", "*parking space*", "*residential gross floor area*" and Sections 4(2)(a), 4(4)(b), 4(6)(c), 4(10)(a), 4(12), 4(13), 4(16), 4(17), 6(3) Part I 1, 6(3) Part II 3(F)(II), 6(3) Part II 2(II), 6(3) Part II 4, 6(3) Part II 5, 6(3) Part II 8(B), 6(3) Part III 1(a) and (b), 6(3) Part III 3(c), and By-law No. 438-86 of the former City of Toronto, "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, shall apply to prevent the erection and use of an *apartment building* on the *lot* containing residential uses, provided that:
 - (1) for the purposes of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (2) no more than 61 *dwelling units* shall be permitted on the *lot*;
 - (3) the total *residential gross floor area* erected or used on the *lot* shall not exceed 6565 square metres;
 - (4) no portion of any building erected above finished ground level is located outside the areas delineated by heavy lines shown on Map 2 attached to and forming part of this By-law, with the exception of the following:
 - (a) lighting fixtures, cornices, sills, eaves, window washing equipment, parapets, railings, privacy screens, terraces, cabanas, planters, balustrades, bollards, stairs, stair enclosures, wheel chair ramps, ornamental or architectural features, landscape features, and art installations may extend beyond the heavy lines shown on Map 2; and
 - (b) canopies and balconies may extend a maximum of 2.5 metres beyond the heavy lines show on Map 2, as measured perpendicular to the exterior walls of the building;

- (5) no person shall erect or use a building or structure on the *lot* having a greater height, in metres, than the height in metres specified by the numbers following the symbol H on the attached Map 2, provided this does not prevent:
- (a) the erection or use of the structures, elements and enclosures permitted by subsection 6(4) of this By-law subject to the following additional requirements:
 - (i) a mechanical penthouse having a maximum height of 3.5 metres above the height limits shown on Map 2; and
 - (ii) parapets and railings to a maximum vertical projection of 1.5 metres above the height limits shown on Map 2;
 - (b) elements on the roof of the building or structure used for green roof technology or alternative roofing system, to a maximum vertical projection of 1.5 metres above the height limits shown on Map 2; and
 - (c) rooftop stacks and vents to a maximum vertical projection of 1.5 metres above the height limits shown on Map 2;

- (6) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:

Residents' Parking:

- (a) a minimum of 0.8 *parking spaces* per *bachelor dwelling unit*;
- (b) a minimum of 0.9 *parking spaces* per one *bedroom dwelling unit*;
- (c) a minimum of 1.0 *parking spaces* per two *bedroom dwelling unit*;
- (d) a minimum of 1.2 *parking spaces* per three *bedroom dwelling unit*;

Residential Visitor Parking:

- (e) a minimum of 0.20 *parking spaces* per dwelling unit for visitors;
- (7) notwithstanding subsection 6(6) of this By-law, a maximum of 25 *parking spaces* required to be provided are permitted to be located partially on the *lot* and partially on adjacent lands municipally known as 291 Avenue Road;
- (8) where the calculation of the number of *parking spaces* required to be provided by subsection 6(6) of this By-law results in a fraction of a *parking space*, the fraction if equal to or greater than 0.5 shall be taken to be 1.0 and added to the whole number of the *parking spaces* required to be provided, and if the fraction is less than 0.5 it shall be excluded from the determination of the number of *parking spaces* required to be provided;

- (9) a minimum of 1.0 bicycle parking spaces per unit shall be provided and maintained on the *lot*, of which:
 - (a) 0.8 bicycle parking spaces per unit shall be provided and maintained for the exclusive use of residents of the building, and shall be located on the parking levels below grade in the building; and
 - (b) 0.2 bicycle parking spaces per unit shall be provided and maintained for the exclusive use of visitors, and shall be located at ground level and accessed via the building vestibule or lobby;
- (10) notwithstanding subsection 6(9) of this By-law, a maximum of 25 bicycle parking spaces required to be provided are permitted to be located partially on the *lot* and partially on adjacent lands municipally known as 291 Avenue Road;
- (11) a minimum of 20% of the area of the *lot* shall be in the form of *landscaped open space*;
- (12) a minimum of 50% of the *lot's landscaped open space* shall be in the form of *soft landscaping*;
- (13) none of the provisions of this By-law or By-law No. 438-86, as amended, shall apply to prevent a *sales office* on the *lot*;
- (14) the definitions of "grade", "height", "residential gross floor area" and "sales office" in section 2(1)(iii) of By-law No. 438-86 shall not apply to the lands, and instead the following definitions shall apply:
 - (a) "grade" means 123.25 metres Canadian Geodetic Datum;
 - (b) "height" means the vertical distance between grade and the highest point of the roof except for those elements prescribed in subsection 6(5) of this By-law;
 - (c) "residential gross floor area" means the aggregate of the areas of each floor and the space occupied by walls and stairs, above *grade*, of a *residential building* or the residential portion of a *mixed-use building*, measured between the exterior faces of the exterior walls of the building or structure, exclusive of the following areas:
 - (i) a room or enclosed area, including its enclosing walls within the building or structure above or below *grade* that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that serves the building;
 - (ii) loading facilities required by this By-law or any other zoning by-law;

- (iii) a part of the building or structure that is used for the parking of motor vehicles or bicycles, storage, *residential amenity space* or other *accessory* use, provided the floor level, excluding any access ramp, is at least 0.9 metres below grade;
 - (iv) above *grade residential amenity space* required by this By-law; and
 - (v) above *grade bicycle parking spaces* required by this By-law; and
 - (d) "sales office" means a building or structure for the purpose of marketing and sales related to use(s) permitted on the *lot*;
- (15) this amendment shall continue to apply to all of the lands shown on Map 1 regardless of any future severance, partition or division.

Enacted and passed on May 10, 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 facilities, services and matters required to be provided by the *owner* of the *lot* 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 indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

The facilities, services and matters to be provided by the *owner*, and to be secured in the Section 37 agreement, are as follows:

- (a) Prior to the issuance of the first above grade building permit for any building on the lot, the *owner* shall pay to the City the amount of \$280,000 for improvements to local area City parks and/or the implementation of public realm/streetscape improvements located within Ward 22, to the satisfaction of the Chief Planner in consultation with the local Councillor.
- (b) Prior to the issuance of the first above grade building permit for any building on the lot, the *owner* shall provide the City with a Letter of Credit in the amount of \$220,000 in the form of a Letter of Credit to secure improvements to Robertson Davies Park to be constructed by the Owner to the satisfaction of Parks, Forestry and Recreation, in consultation with the local Councillor.
- (c) The *owner* shall make improvements to Robertson Davies Park to the satisfaction of the City and in accordance with approved Landscape Plans and Drawings, the details of which will be secured as part of the Site Plan Approval process for the Site, to an amount not exceeding \$220,000, as indexed in accordance with section (d) below. If the actual cost of the improvements to Robertson Davies, as confirmed by the City, exceeds or equals \$220,000 (as indexed), the Letter of Credit will be released upon completion of the improvements. If the actual cost of the improvements is less than \$220,000 (as indexed), the City will release the Letter of Credit which funds will be used by the City for the amount of work completed, and is authorized to draw on the balance of the Letter of Credit for other community benefits, to be determined in consultation with the local Councillor.
- (d) The amounts identified in paragraphs (a) and (b) shall be indexed annually so as to reflect any increase in 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 this Agreement to the date of payment of funds or submission of Letter of Credit by the Owner to the City.



