

Authority: Scarborough Community Council Item SC8.25, as adopted by City of Toronto Council on September 30, October 1 and 2, 2015 and MM23.25, by Councillor Gary Crawford, seconded by Councillor David Shiner, as adopted by City of Toronto Council on December 13, 14 and 15, 2016

## CITY OF TORONTO

### BY-LAW No. 1276-2016

**To amend former City of Scarborough Birchcliff Community Zoning By-law No. 8786, as amended, with respect to the lands municipally known as 411 Victoria Park Avenue, 2510 and 2530 Gerrard Street East.**

Whereas Council of the City of Toronto has 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 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 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 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 or 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 hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

Whereas the increases in the height or density permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 8786, 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 (hereinafter referred to as the "City"); and

Whereas Council of the City of Toronto 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 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:

- SCHEDULE "A"** of the Birchcliff Community Zoning By-law 8786, as amended, is further amended for the lands outlined in the attached Schedule '1' by deleting the existing Agricultural Holding (AG) and Park (P) zoning and replacing them with the Apartment Residential (A), Park (P) and Railway Corridor (RWY) Zones and the Performance Standards as shown on Schedule '1', so that the amended zoning shall read as follows:

A – 19I – 108 – 136 – 152 – 205 – 208 – 231 – 274 – 295 – 299 – 301 – 356 – 357 – 358 – 359

A – 19J – 40L – 153 – 208 – 230 – 231 – 274 – 360 – 364 – 366 – 368 – 369

A – 19K – 82 – 136 – 154 – 208 – 231 – 274 – 361 – 365 – 367 – 368

A – 19L – 83 – 136 – 155 – 208 – 231 – 274 – 362 – 363 – 367 – 368

A – 19M – 40M – 59 – 156 – 186 – 230 – 231 – 274 – 362 – 365

A – 104

P

RWY

2. **SCHEDULE "B", PERFORMANCE STANDARD CHART**, is amended by adding the following Performance Standards:

**INTENSITY OF USE**

19I. Minimum 120 **dwelling units** and maximum 180 **dwelling units**, in which **dwelling units** are separated from each other horizontally, or both horizontally and vertically, and each of which has a separate entrance either through a common hallway or directly from outside.

Maximum **Gross Floor Area** 3.0 times the area of the lot or parcel.

19J. Maximum 69 **dwelling units**, in which **dwelling units** are separated from each other horizontally, or both horizontally and vertically, and each of which has a separate entrance directly from outside.

19K. Maximum 12 **dwelling units**, in which **dwelling units** are separated from each other horizontally, or both horizontally and vertically, and each of which has a separate entrance directly from outside.

19L. Maximum 24 **dwelling units**, in which **dwelling units** are separated from each other horizontally, or both horizontally and vertically, and each of which has a separate entrance directly from outside.

19M. Maximum 15 **dwelling units**.

**BUILDING SETBACK FROM THE STREET**

40L. Minimum 4.5 metres, except minimum 1.0 metres from the northerly street line. Garbage enclosures shall be set back a minimum of 10.0 metres from the northerly street line and a minimum of 26.0 metres from the easterly street line.

40M. Minimum 4.5 metres, except minimum 6.0 metres for the garage **main wall** containing the vehicular access and minimum 3.0 metres from the street line of a cul-de-sac bulb.

**BUILDING SETBACK FROM LOT LINES OTHER THAN STREET LOT LINES**

152. Minimum 7.5 metres.
153. Minimum 7.5 metres from a **side lot line** and minimum 15.5 metres from a **rear lot line**.
154. Minimum 9.0 metres, except minimum 7.5 metres from the north **side lot line**.
155. Minimum 8.0 metres, except minimum 7.5 metres from the south **side lot line**.
156. Minimum **rear yard** building setback of 7.5 metres on Part 'A' and minimum 6.0 metres on Part 'B'.

**PARKING**

208. Minimum 1.2 spaces per **dwelling unit**.

**MISCELLANEOUS**

356. Minimum 4 **storeys**, maximum 8 **storeys** not exceeding an overall **height** of 26.0 metres, excluding **basements** and rooftop mechanical penthouse.
357. Buildings shall not exceed a **45-degree angular plane** from a lot line abutting **Park "P" Zones**. Notwithstanding **CLAUSE V- INTERPRETATION, (f) Definitions**, **45-degree angular plane** means a plane extending at right angles to a line drawn at a 45 degree angle from horizontal measured from 10.5 metres above the mid-point of the required minimum side yard setback abutting a **"P" Zone**. The resulting plane shall extend above the width, breadth and/or length of the lot.
358. The **side yard** abutting a **"P" Zone** shall be used for **soft landscaping**, walkways, private patios for ground floor **dwelling units** and **amenity spaces** only.
359. For that portion of a building above 6 **storeys** and/or 20 metres in **height**, buildings shall be stepped back an additional 1.5 metres from the **main wall** abutting a street.
360. Minimum interior separation between end walls of buildings of 2.4 metres, except minimum 15.0 metres where buildings are separated by a driveway and/or easements.
361. Minimum interior separation between end walls of buildings: 4.1 metres.
362. Minimum interior separation between end walls of buildings: 2.4 metres.
363. A minimum of 25 percent of the site shall be maintained as **landscaping**.

364. A minimum of 30 percent of the site shall be maintained as **landscaping**.
365. A minimum of 40 percent of the site shall be maintained as **landscaping**.
366. A minimum of 2 garbage enclosures having minimum horizontal dimensions of 4.6 metres x 6.0 metres each shall be provided.
367. A minimum of 1 garbage enclosure having minimum horizontal dimensions of 3.6 metres x 3.6 metres shall be provided.
368. Maximum **height**: 4 storeys and 13.5 metres.
369. The following **CLAUSE VI – GENERAL PARKING REGULATIONS FOR ALL ZONES** requirements do not apply:
- i) Subsection 2.1.1: Street Yard Parking
3. **SCHEDULE "C", EXCEPTIONS MAP** is amended by deleting Exception No. 34 as it pertains to the subject lands.
4. **SCHEDULE "C", EXCEPTIONS LIST** is amended by deleting Exception No. 34.
5. **SCHEDULE "C", EXCEPTIONS MAP** and **EXCEPTIONS LIST** are amended by adding the following Exception No. 44:
44. On those lands identified as Exception No. 44 and 46 on the accompanying Schedule "2" map (the "Lands"), the following provisions shall apply and the density of development permitted by this By-law is permitted subject to the owner of the lands, at its expense and in accordance with and subject to the execution and registration of the agreements referred to in Section 44(d) herein, providing or funding the following facilities, services and matters pursuant to Section 37 of the *Planning Act*:
- (a) Community benefits relating to Above Base Park Improvements shall consist of \$500,000 for Above Base Park Improvements to the new Park Blocks 4 and 6 within the subdivision, to be provided on the following basis, with each installment set out below indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the owner to the City:
- i. \$300,000 prior to issuance of the first above grade building permit for 'Part A'; and
- ii. \$200,000 prior to issuance of the first above grade building permit for 'Part B';

- (b) Community benefits relating to affordable ownership housing:
- (i) The owner will provide land on the Lands for affordable ownership housing sufficient to construct 24 stacked townhouse units comprising 8 two-bedroom and 16 three-bedroom units (the "Townhouse Land") as follows:
- a. The Townhouse Land shall be provided to a non-profit housing provider at no cost, and with no additional fees for the owner's costs of land development and planning approvals, to the extent they are the owner's responsibility herein, including for subdivision and condominium registration, or for servicing and roads, provision of parkland or any other costs associated with developing the Lands;
- b. The non-profit provider shall be responsible for the construction of the affordable ownership units on the Townhouse Land provided by the owner. With respect to the affordable townhouse units, the owner shall be responsible for applying for site plan approval, including site plan approval fees, drawings, plans and studies. The non-profit provider shall be responsible for satisfying any conditions associated with site plan approval and shall be responsible for obtaining all approvals required pursuant to the Ontario Building Code. For clarity, the owner shall be permitted to authorize the non-profit provider to act as the applicant with respect to the site plan application, provided that the owner shall remain responsible for the cost of all site plan approval application fees, drawings, plans and studies. For greater clarity, the owner shall be responsible for all costs up until issuance by the City of notice of proposed site plan approval conditions;
- c. The Townhouse Land shall be delivered, ready and available for development, as follows:
- i. All planning and development-related approvals necessary to proceed with the construction are in place, save for final issuance of site plan approval conditions, subject to the owner's responsibilities in Section 44(b)(i)b., and save for approvals pursuant to the *Ontario Building Code Act*;
- ii. The Townhouse Land is serviced to the lot line and able to be connected to existing services; and

- iii. A Record of Site Condition suitable for residential development has been obtained, and any needed soil remediation has been undertaken or alternatively, provisions for the owner to pay for soil remediation have been secured;
- d. The entire parcel of Townhouse Land sufficient to accommodate all 24 stacked townhouse units shall be ready for conveyance to the non-profit provider no later than the date that above-grade building permits are issued that would permit the construction of more than 30 townhouse or stacked townhouse units, other than for the 24 affordable ownership units;
- e. The location, size and configuration of the Townhouse Land parcel for the 24 Affordable Ownership units shall be to the satisfaction of the Chief Planner and Executive Director, City Planning, as confirmed by the City's approval of the draft plan of subdivision, and shall be:
  - i. Sufficient to accommodate all related facilities, including resident and visitor parking, and for garbage and recycling; and
  - ii. Sufficient to accommodate the unit mix and minimum sizes and features set out herein and complying with all applicable Performance Standards of this By-law;
- f. The unit mix, minimum sizes and features of the 24 stacked townhouses shall be as follows:
  - i. 16 of the units shall be 3-bedroom units shall have at least 3-bedrooms, with a minimum unit size of 106.5 square metres;
  - ii. 8 of the units shall have at least 2-bedrooms, with a minimum unit size of 90.5 square metres;
  - iii. Each unit shall have one dedicated parking space provided; and
  - iv. Each unit shall have private outdoor recreation amenity space in the form of a patio, balcony or roof deck;

- (ii) The owner will provide for 6 Affordable Ownership units within the apartment building proposed on the Lands as follows:
- a. The 6 apartments, finished to the drywall stage of construction, prepared for priming, together with six (6) parking stalls and six (6) storage lockers, will be provided to a non-profit provider for individual conveyance to the initial homeowner, at the owner's cost of construction, with no costs for the land component of the units, and with no additional fees for the owner's costs of land development and planning approvals, including for condominium registration, or for servicing and roads, provision of parkland or any other costs associated with developing the Lands, or for the cost of design or building permit fees for the work undertaken by the owner to complete the construction of the apartment building;
  - b. The maximum purchase price payable to the owner by the non-profit provider and/or the City for the affordable apartment units, including any costs associated with sales closing, shall not exceed the lesser of:
    - i. The mid-point of the range, on a per square foot basis, identified in the Altus Canadian Cost Guide (the "Guide") published in the year in which each purchase agreement with respect to an affordable apartment unit is executed (or the immediately prior year if no such report has yet been published in the year in which the purchase agreement is executed) for residential condominiums/apartments in the greater Toronto area, with the number of storeys as are to be contained in the apartment building in which the affordable apartment units are situated, multiplied by the number of square feet in the affordable apartment unit. In the event the Guide is not published in the required year or is no longer available, the Chief Planner and Executive Director, City Planning and the Director, Affordable Housing Office shall select an alternate industry publication or report to be used in determining the amount above; and
    - ii. The affordable ownership housing price for a 1-bedroom apartment in the year in which the purchase agreement with respect to an affordable apartment unit is executed minus fifteen percent of the lesser of the amount determined in b.i. and b.ii. above, to acknowledge costs that will be incurred

by the non-profit provider, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the Director, Affordable Housing.

- c. The 6 apartments shall be one-bedroom apartments located so as to not be contiguous with one another, with a minimum unit size of 55.5 square metres. The unit owner shall be provided at no extra cost with a dedicated enclosed parking space, a private patio or balcony, and a storage locker;
- d. The 6 apartments shall be delivered to the non-profit provider, completed to the drywall stage of construction, prepared for priming, and ready for the non-profit provider to complete the finishing work, no later than the date that 80 percent of the remaining units in the apartment building are ready and available for occupancy;
- e. The owner shall apply for and obtain approved building permits necessary for the completion of the work to be completed by the owner pursuant to Section 44(b)(ii), that meet the requirements of Section 44(b)(ii). Prior to the issuance of the first above-grade building permit for the portion of the lands on which the affordable apartment units are to be constructed, the owner will, in consultation with the non-profit provider, submit the proposed unit layouts and Site Plan drawings identifying the location of the 6 apartment units and their related facilities for the approval of the Chief Planner and Executive Director, City Planning, and the Director, Affordable Housing Office, with any subsequent changes to be to Chief Planner's satisfaction;
- f. Each of the affordable apartment units shall be a unit within the meaning of the *Condominium Act*, and each individual purchaser and all other occupants of the affordable apartment unit shall:
  - i. Have the right to use the same means of access to the building and units as the market owners and occupants of the building; and
  - ii. Have the same rights and services as market owners and occupants of the building; and
  - iii. Have the same rights to use the common elements of the building as market owners and occupants of the building;

- (iii) The owner will enter into an agreement with the non-profit provider to the satisfaction of the Chief Planner and Executive Director in consultation with the Director, Affordable Housing Office, to implement the provisions of sub-clauses (b)(i) and (b)(ii) above, prior to the issuance of the first above-grade residential building permit for any purpose;
- (iv) The non-profit provider will enter into one or more delivery agreements with the City for the affordable ownership units, and will agree to:
  - a. Build the 24 stacked townhouse units in accordance with paragraph (b)(i) above, and to finish the construction of the 6 apartment units in accordance with subclause (b)(ii) above; and
  - b. Following application by the owner, obtain site plan approval and approved building permits for the stacked townhouse units that meet the requirements of sub-clause (b)(i) above; and
  - c. Apply for and obtain any required building permits to complete the construction of the 6 apartment units in accordance with subclause (b)(ii) above;
- (v) Each of the 30 *affordable ownership housing* units shall be provided and maintained as set out in clause (b) above and in accordance with the following provisions which shall be further set out in an agreement or agreements between the non-profit provider and the City as follows:
  - a. The *affordable ownership housing* units shall remain as *affordable ownership housing* for a period of at least 15 years; and
  - b. Provisions will be made to secure the affordability of the *affordable ownership housing* units upon resale during this 15 year affordability period, and after the expiry of the 15 year period, to ensure repayment upon resale or refinancing to the City in an amount of at least the value of the community benefit provided by the contribution of the land, increased by the percentage increase in the appraised market value of such unit; and
  - c. Affordable prices will be charged to the homeowners who purchase each of the 30 *affordable ownership housing* units during this 15 year affordability period such that the initial sale price shall not exceed the *affordable ownership*

*housing* price, and upon resale, the sale price shall not exceed the initial sale price increased by the percentage change in the appraised market value at the time of resale from the appraised market value at the time of the initial sale;

- (vi) Each of the *affordable ownership housing* units during this 15 year affordability period shall be sold only to households who will occupy the unit as their principal residence and who meet the eligibility criteria for minimum household sizes and maximum household incomes for that unit type as follows:
    - a. The minimum size of household for each unit type shall be 1 person per bedroom; and
    - b. The maximum household income for each unit type shall not exceed 4 times the payments for principle, interest and property taxes, with the principle and interest calculation based on the affordable ownership prices defined in the Site and Area Specific Policy 485 of the Official Plan;
  - (vii) After the expiry of the 15 year affordability period in (i), upon re-sale, the provisions in (iii) herein for the sale price of each of the *affordable ownership housing* units, and the provisions in (iv) herein for the eligibility criteria for purchasing households will no longer apply; and
  - (viii) A homeowner who purchased an *affordable ownership housing* unit during the 15 year affordability period and who sells or re-finances such unit after the expiry of the 15 year period, or no longer occupies it as their principal residence, will be required to meet the provisions for repayment in (v)b above herein; and
- (c) Community benefits relating to Tier 2 performance measures:
- (i) The Owner shall construct and maintain the development in accordance with Tier 2 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of item PG32.3 of the Planning and Growth Committee.
- (d) The owner of the lands shall enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters referred to in Section 44(a), (b) and (c) herein, which agreement shall be registered as a first priority on title to the lands to which this By-law applies.

6. **SCHEDULE "C", EXCEPTIONS MAP and EXCEPTIONS LIST** are amended by adding the following Exception No. 45:

45. On those lands identified as Exception No. 45 on the accompanying Schedule "C" map, the following provisions shall apply:

(a) Only retaining walls and security fencing associated with adjacent railway activities are permitted.

7. **SCHEDULE "C", EXCEPTIONS MAP and EXCEPTIONS LIST** are amended by adding the following Exception No. 46:

46. On those lands identified as Exception No. 46 on the accompanying Schedule "C" map, the following provisions shall apply:

(a) Only **townhouse dwelling units** are permitted.

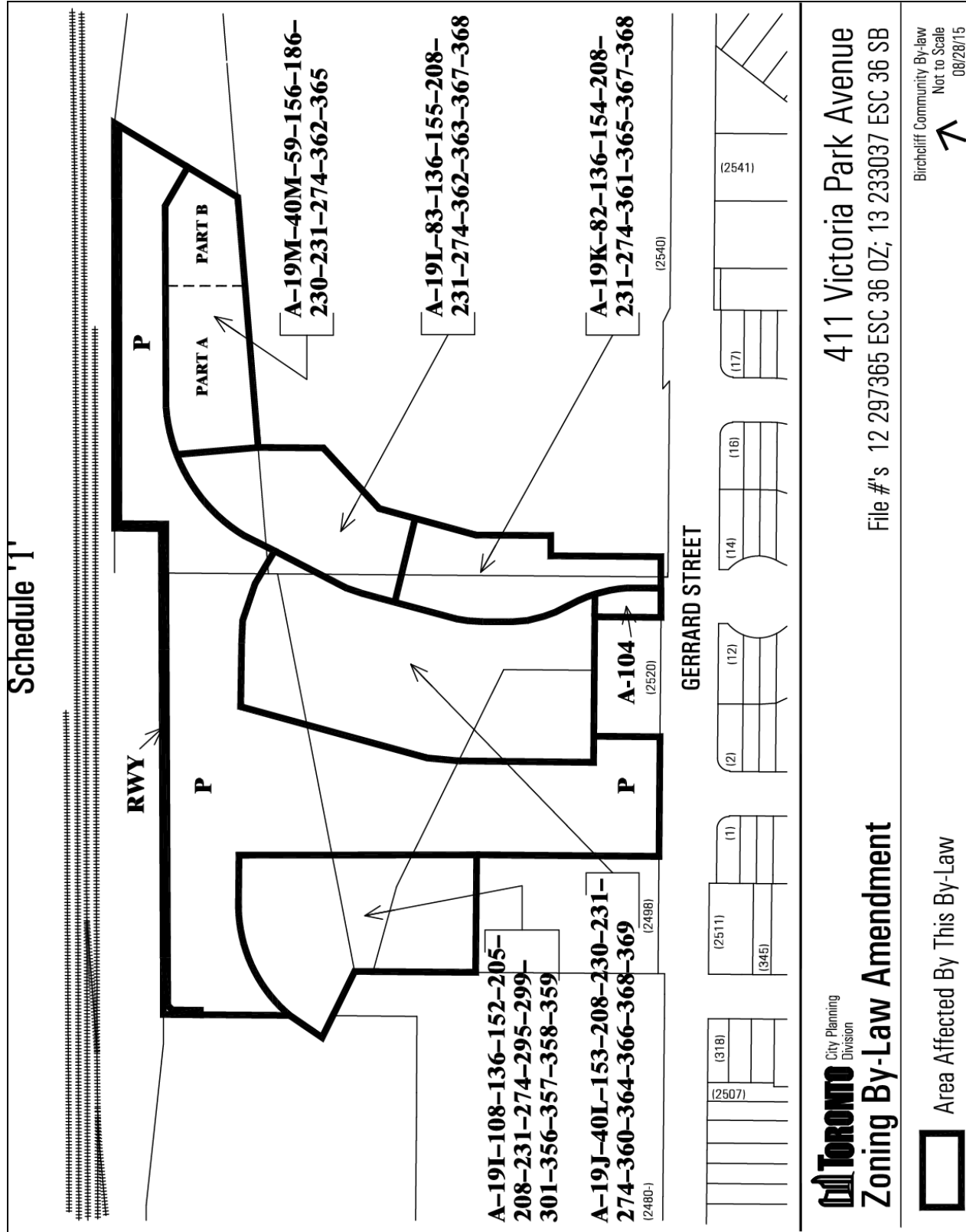
Enacted and passed on December 15, 2016.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)

Schedule 'I'



City Planning Division

Zoning By-Law Amendment

411 Victoria Park Avenue

File #'s 12 297365 ESC 36 OZ; 13 233037 ESC 36 SB

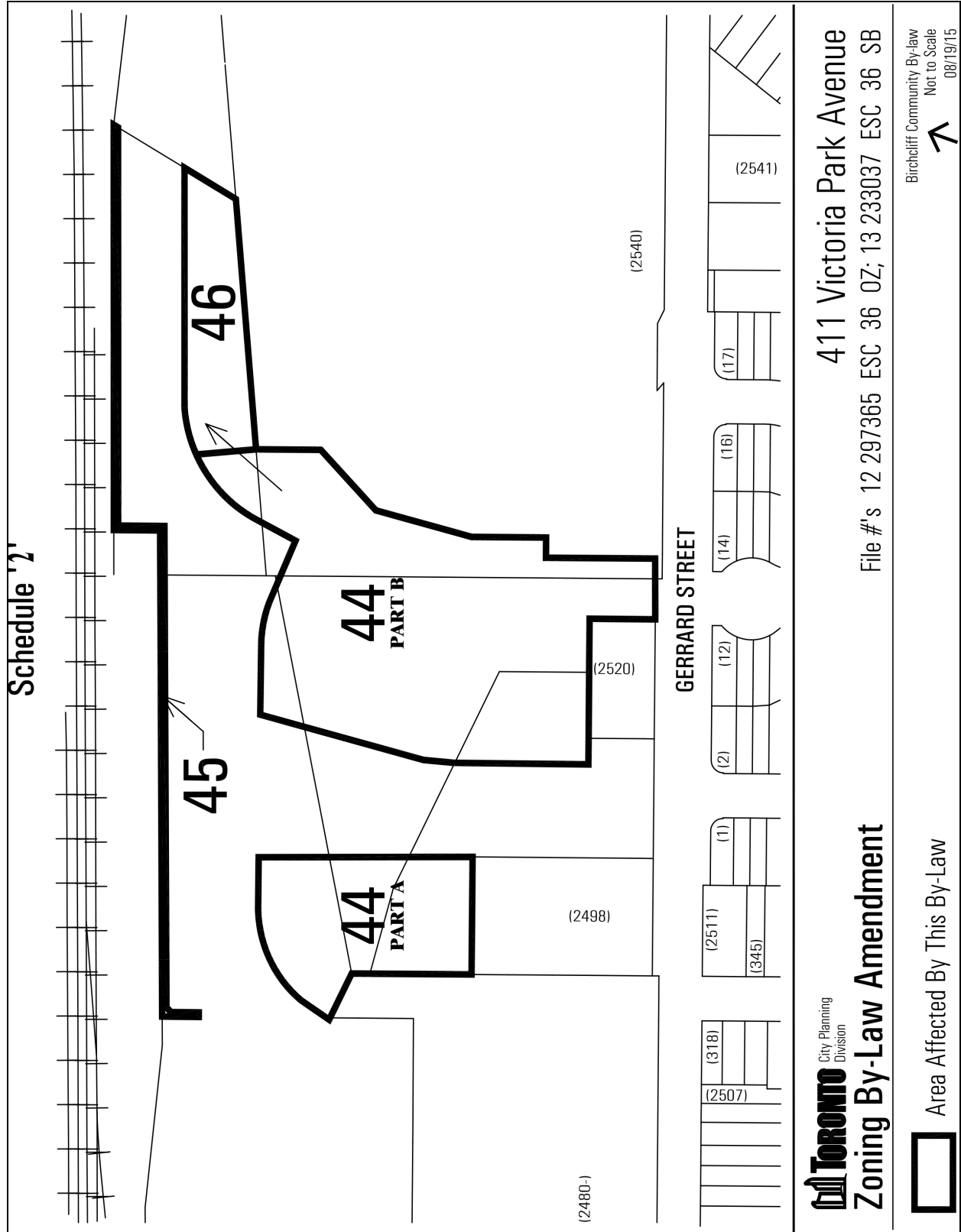


Area Affected By This By-Law

Birchcliff Community By-law  
Not to Scale  
08/28/15



Schedule '2'



**Toronto** City Planning Division  
**Zoning By-Law Amendment**  
 411 Victoria Park Avenue  
 File #'s 12 297365 ESC 36 OZ; 13 233037 ESC 36 SB

Area Affected By This By-Law  
 Birchcliff Community By-law  
 Not to Scale  
 08/19/15