

Authority: Toronto and East York Community Council Item TE31.5, as adopted by City of Toronto Council on April 24, 25, 26 and 27, 2018

CITY OF TORONTO

BY-LAW 1250-2018

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in 2017 as 234 Simcoe Street, 121 St. Patrick Street and part of 220 Simcoe Street.

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 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 pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize an increase in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted 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 and matters in return for an increase in the height or density of development, a municipality may require the *owner* to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the *owner* of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of development permitted in this By-law are permitted beyond that otherwise permitted on the lands shown on Map 1 attached to and forming part of this By-law in return for the provision by the *owner*, at the *owner's* expense of the facilities, services and matters set out in Appendix 1 of this By-law and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
2. Where Appendix 1 of this By-law requires the *owner* to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same.
3. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Appendix 1 of this By-law are satisfied.

4. District Map 50H-313 contained in Appendix A of By-law 438-86, "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:
 - a. re-designating to G the lands identified as G and as outlined by heavy lines on Map 1 attached to and forming part of this By-law.
5. None of the provisions of Section 2(1) with respect to the definition of *bicycle parking space, grade, height, lot, non-residential gross floor area and residential gross floor area*, and Sections 4(2)(a), 4(5)(b) and (h), 4(8)(b), 4 (12), 4(13), 8(3) Part I 1, 2 and 3, 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 8(3) Part XI 2(ii), 12(2) 132 and Section 12(2)380 of the aforementioned *Zoning By-law 438-86*, as amended, shall apply to prevent the erection or use of a *mixed-use building, commercial parking garage, car-share parking spaces* and uses *accessory* to the foregoing uses 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, except for the lands designated as G on Map 1 attached to and forming part of this By-law;
 - b. notwithstanding Section 4(17) of By-law 438-86, as amended, up to a maximum of 5 of the total *parking spaces* required by subsections j.i. and j.iii. below, may have the following minimum dimensions: 2.6 metres width, 5.2 metres length, and 2.0 metres height;
 - c. the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* shall not exceed 73,200 square metres of which:
 - i. The total *residential gross floor area* shall not exceed 66,100 square metres; and
 - ii. A minimum *non-residential gross floor area* of 7,100 square metres shall be provided, of which a minimum of 5,700 square metres shall be used for office purposes;
 - d. a minimum of 2 square metres of indoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *lot* in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom;
 - e. a minimum of 2 square metres of outdoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *lot*, a minimum of 40 square metres of which shall be in a location adjoining or directly accessible from a portion of the indoor *residential amenity space*;
 - f. no portion of any building or structure erected on the *lot* above *grade* shall be located otherwise than wholly within the heavy lines identified on Map 2 attached to and forming part of this By-law with the exception of the following:

- i. Balconies and terraces to a maximum horizontal projection of 2.8 metres beyond the heavy lines;
- ii. Canopies including support structures, awnings, building cornices, window washing equipment, lighting fixtures, covered walkways, privacy screens, planters, trellises, eaves, window sills, guards, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, ramps associated with an underground parking garage, bicycle parking facilities, ornamental and architectural features, landscape features, street furniture and art installations; and
- iii. Structures, elements and enclosures permitted by subsection g) below;

g. no portion of any building or structure erected on the *lot* shall have a greater *height* in metres than the *height* limits specified by the numbers following the letter H identified on Map 2 attached to and forming part of this By-law, with the exception of the following:

- i. Structures, elements, and enclosures permitted by subsection f. above;
- ii. The erection or use of structures on any roof used for outdoor *residential amenity space* or open air recreation, maintenance, safety, wind protection purposes, vestibules providing access to outdoor amenity or recreation space, pool deck, pool equipment, mechanical equipment associated with pools, pool access stairs, partitions dividing outdoor recreation areas, provided such projections are limited to a maximum vertical projection of 4.5 metres above the permitted building *heights* shown on Map 2 attached to and forming part of this By-law;
- iii. The erection or use of structures on the roof used for green roof purposes, roof assembly, air intakes, vents and ventilating equipment, chimney stacks, exhaust flues, parapets, elevator overruns and garbage chute overruns and elements associated with green energy and renewable energy facilities, provided such projections are limited to a maximum of 2.0 metres above the permitted building *heights* shown on Map 2 attached to and forming part of this By-law; and
- iv. Lightning rods and window washing equipment provided such projections are limited to a maximum of 6.0 metres above the permitted building *heights* shown on Map 2 attached to forming part of this By-law;

h. notwithstanding subsections f. and g. above, within the hatched areas shown on Map 3 attached to and forming part of this By-law, no part of any building shall be located between finished ground level and a minimum of 4.5 metres above finished ground level other than signage, lighting, canopies, structural supports and design features;

i. at least ten percent (10 percent) of all *dwelling units* shall have three or more bedrooms;

- j. *parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:
 - i. A minimum of 0.22 *parking spaces* per *dwelling unit*;
 - ii. A minimum of 75 *parking spaces* in a *commercial parking garage* on the *lot*;
 - iii. A minimum of 37 *parking spaces* for the residential and/or non-residential uses on the *lot*; and
 - iv. 4 of the required *parking spaces* shall be *car-share parking spaces*;
- k. notwithstanding Section 4(17) of By-law No. 438-86, *parking spaces* in a *commercial parking garage* may have minimum dimensions of 2.6 metres in width, 5.2 metres in length and 2.0 metres in height provided they are accessed by a drive aisle having a minimum width of 7.0 metres measured at the entrance to the *parking space*;
- l. a minimum of one *loading space type G* and three *loading spaces – type B* shall be provided and maintained on the *lot*;
- m. *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - i. A minimum of 0.9 *bicycle parking spaces-occupant* per *dwelling unit*;
 - ii. A minimum of 0.1 *bicycle parking spaces-visitor* per *dwelling unit* for visitors to the residential uses on the *lot*;
 - iii. A minimum of 0.2 *bicycle parking spaces-occupant* per 100 square metres of *non-residential gross floor area*, to be used by occupants of the non-residential uses on the *lot*; and
 - iv. A minimum of 3 *bicycle parking spaces-visitor* plus 0.3 *bicycle parking spaces-visitor* for every 100 square metres of *non-residential gross floor area* for visitors or patrons of non-residential uses on the *lot*;
- n. required *bicycle parking spaces – occupant* and *bicycle parking spaces – visitor* may be provided within a *bicycle stacker*; and
- o. a *privately-owned publicly accessible open space* with a minimum area of 500 square metres shall be provided on the ground level generally as shown within the shaded area on Map 3 attached to and forming part of this By-law;

6. None of the provisions of By-law 438-86, as amended, or this By-law shall apply to prevent a *temporary sales office* on the *lot*.
7. For the purposes of this By-law, all italicized words and expressions have the same meaning as defined in By-law 438-86, as amended, with the exception of the following:

"bicycle parking space" means an area used for parking or storing of bicycles having the following minimum dimensions:

- a. where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical clearance from the ground of at least 1.9 metres;
- b. where the bicycles are to be parked in a vertical position on a wall, structure or mechanical device, has a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.6 metres and a minimum horizontal clearance from the wall of 1.2 metres; and
- c. where the bicycles are to be parked in a *bicycle stacker*, has a minimum vertical clearance of 2.4 metres for each *bicycle parking spaces*;

"bicycle stacker" means a device where a *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device;

"car-share" means the practice whereby a number of people share the use of one or more cars that are owned and operated by a profit or non-profit car-sharing organization, and where such organization may require that the use of cars is reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;

"car-share parking space" means a *parking space* exclusively reserved and signed for a car used only for *car-share* purposes;

"grade" means 93.65 metres above sea level based on Geodetic Survey of Canada 1929 mean sea level vertical datum (1978 Southern Ontario Adjustment);

"height" means the vertical distance between *grade* and the highest point of the roof of any building on the *lot*, except for those elements prescribed by this By-law;

"lot" means the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;

"non-residential gross floor area" and *"residential gross floor area"* shall be as defined in By-law 438-86 except that the following areas will also be excluded from gross floor area:

- a. *bicycle parking spaces* and bicycle stackers located above or below *grade*;
- b. areas used as a *commercial parking garage* and uses *accessory* thereto;
- c. indoor *residential amenity space* required by this By-law;
- d. shower and change facilities that are required by this By-law for required *bicycle parking spaces*;

- e. elevator shafts;
- f. garbage shafts;
- g. mechanical penthouse; and
- h. exit stairwells in the building;

"privately-owned publicly accessible open space" means a space on the *lot* situated at ground level generally within the shaded area shown on Map 3, attached to and forming part of this By-law, that is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, seating areas, landscaped plazas, and ornamental structures and is used principally for the purpose of sitting, standing and other recreational uses; and

"temporary sales office" means a building or structure used exclusively for the sale and/or leasing of *dwelling units or non-residential gross floor area* to be erected on the *lot*.

8. 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 on the *lot* 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.

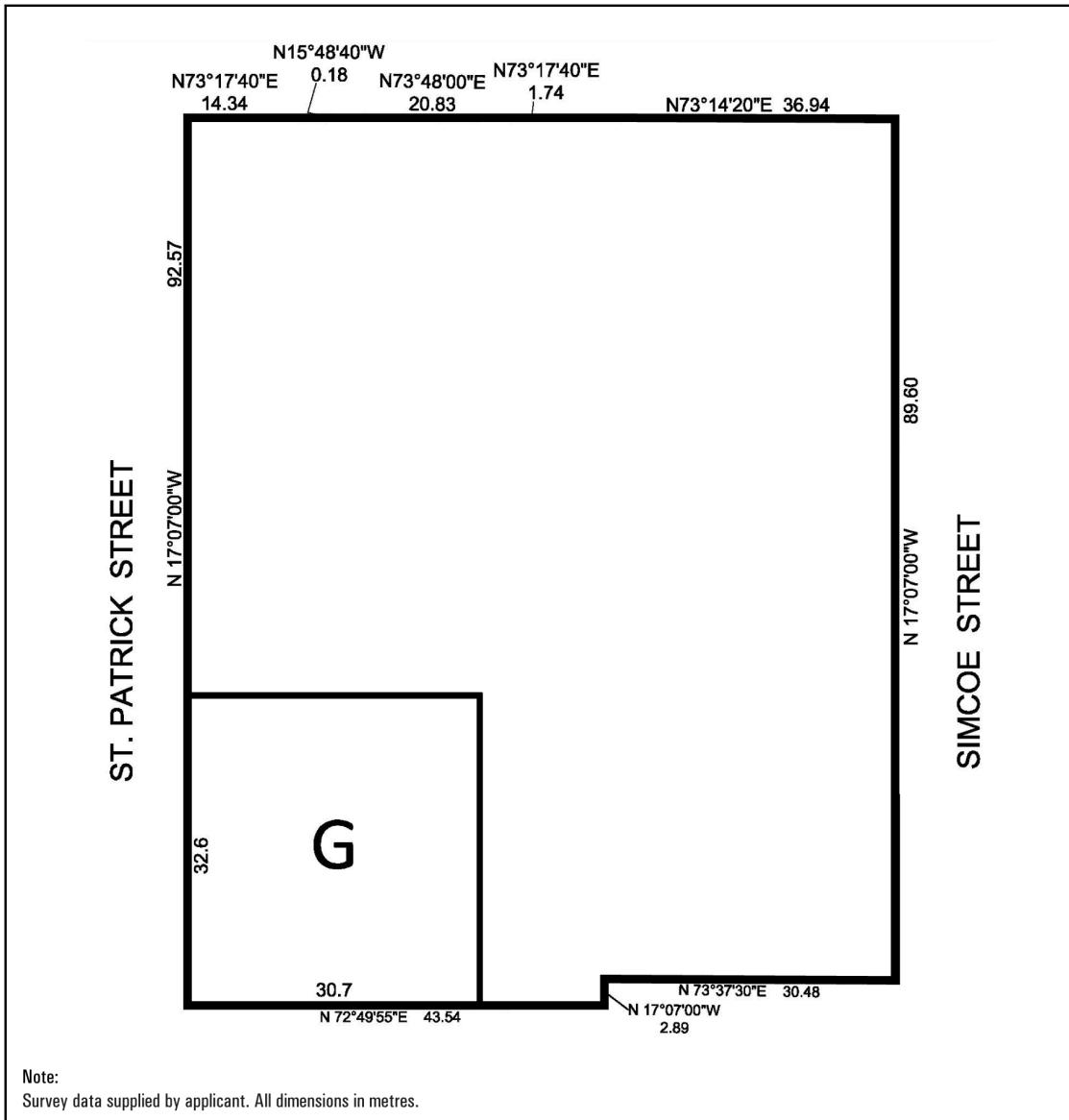
9. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

Enacted and passed on July 27, 2018.

Glenn De Baeremaeker,
Deputy Speaker

(Seal of the City)

Ulli S. Watkiss,
City Clerk



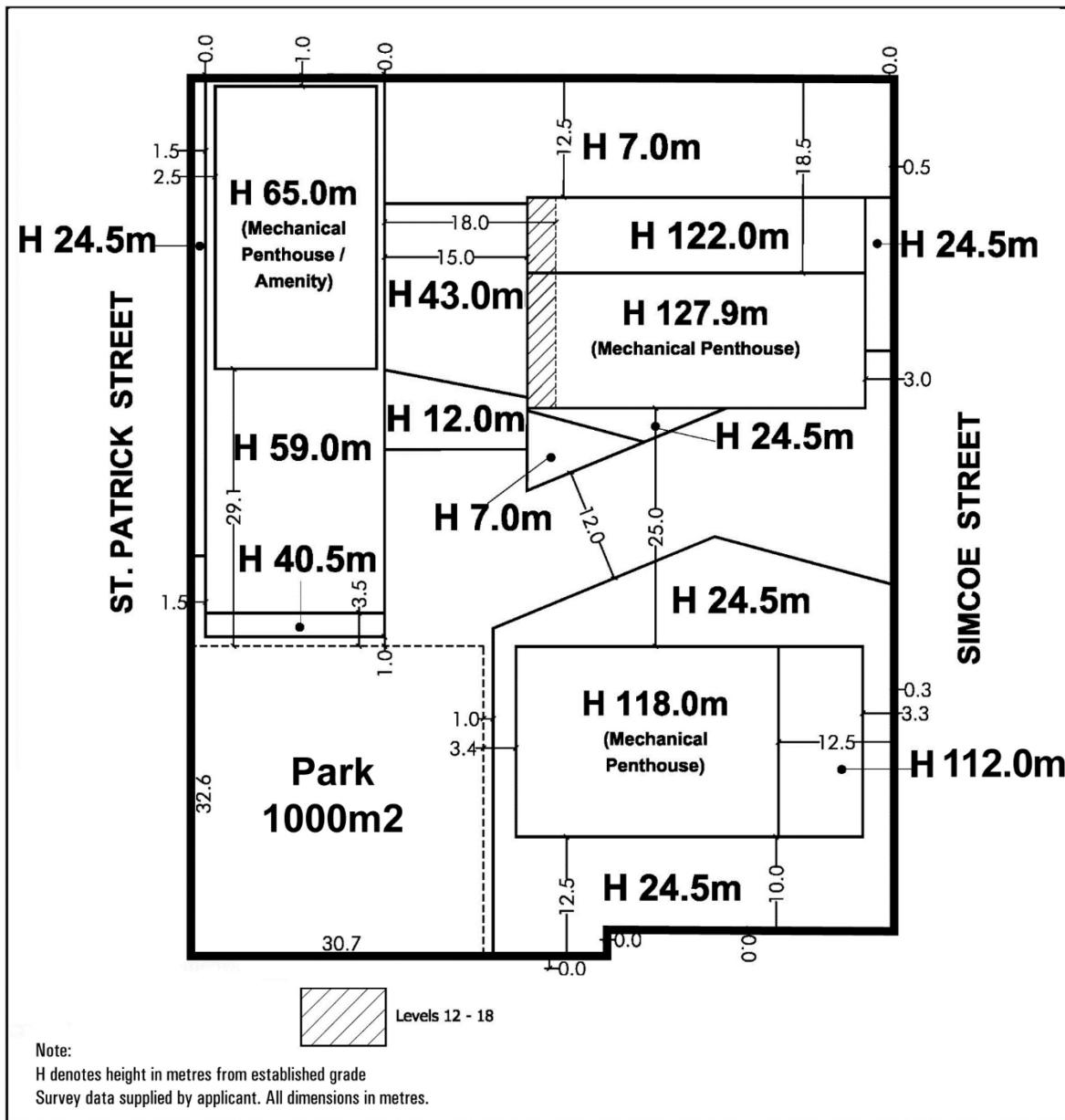
Map 1

220 and 234 Simcoe Street
121 St. Patrick Street

File # 15 218429 STE 20 0Z



City of Toronto By-Law 438-86
Not to Scale
03/14/2018



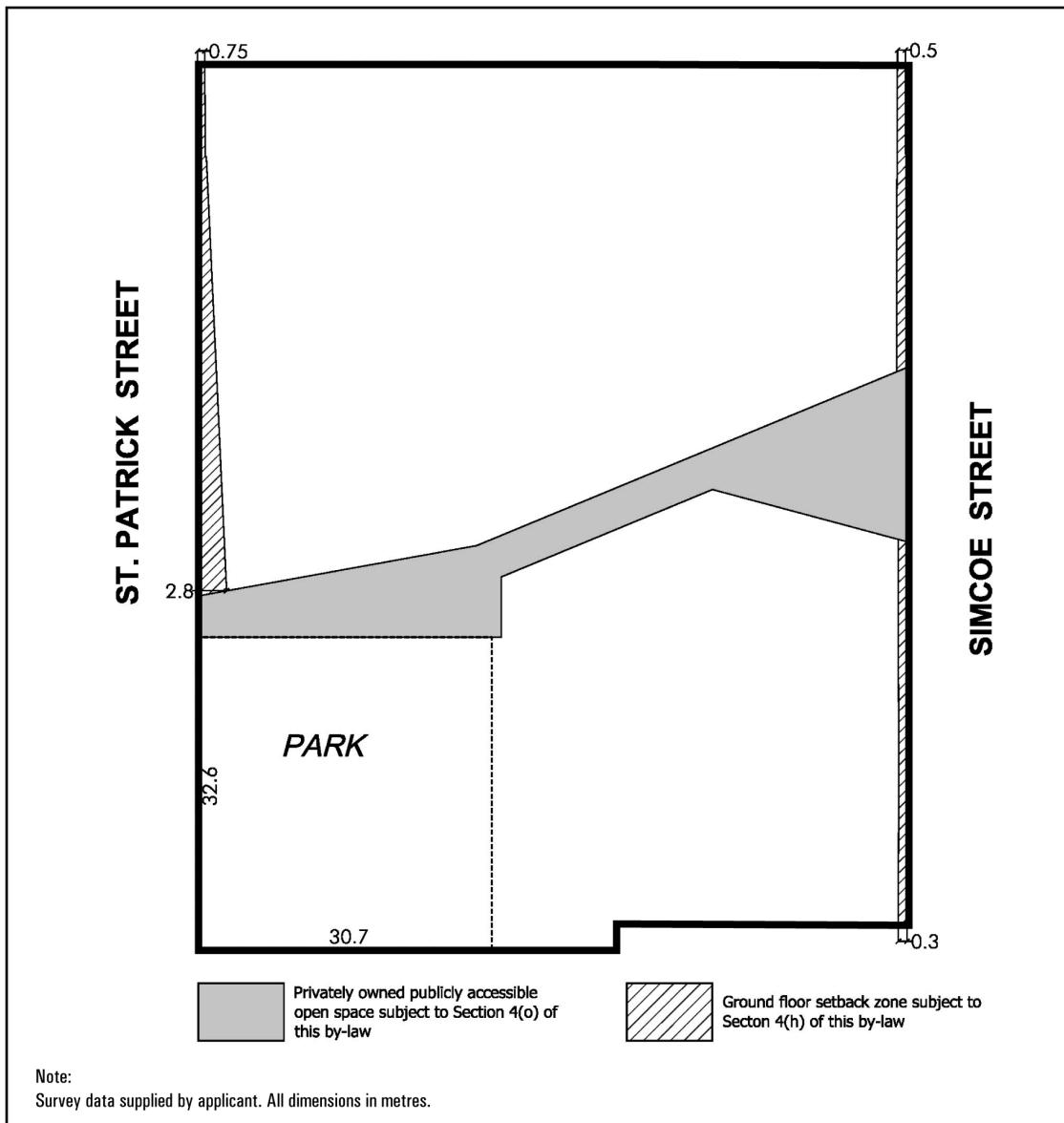
Map 2

220 and 234 Simcoe Street
121 St. Patrick Street

File # 15 218429 STE 20 0Z



City of Toronto By-Law 438-86
Not to Scale
07/18/2018



Map 3

220 and 234 Simcoe Street
121 St. Patrick Street

File # 15 218429 STE 20 0Z

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City of Toronto By-Law 438-86
Not to Scale
03/08/2018

APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot*, and secured in an agreement or agreements, pursuant to Section 37(3) of the Planning Act, whereby the owner agrees as follows:

Financial Contribution

1. Prior to the issuance of the first above-grade building permit, unless otherwise specified, the owner shall make a financial contribution in the amount of nine hundred thousand dollars (\$900,000 CAN) to be provided to the City for the following capital improvements, and to be allocated at the discretion of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor as follows:
 - a. \$300,000 for the provision of new affordable housing in Ward 20 and/or for capital repairs for the Toronto Community Housing revolving capital fund for repairs to Toronto Community Housing properties in Ward 20, payable by certified cheque to the Treasurer, City of Toronto;
 - b. \$500,000 for public art on the lands, in consultation with OCAD University, to be secured by a letter of credit in the City's standard form. The owner shall submit a Public Art Plan that is in accordance with the City's Percent for Public Art Guidelines to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and details of the public art process to the satisfaction of City Council; and
 - c. \$100,000 for improvements to the non-profit office space and community convening space in the development as outlined in Clause (4) of this Appendix, to be secured by a letter of credit in the City's standard form, or payable by certified cheque to the Treasurer, City of Toronto, to the satisfaction of the Director of Real Estate in consultation with the Acting Director, Community Planning, Toronto and East York District and the City Solicitor;

such amounts to be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto, calculated from the date of execution of the Section 37 Agreement to the day the payment is made.

2. In the event the financial contributions referred to in Clause (1) of this Appendix have not been used for the intended purpose within five (5) years of the By-laws coming into full force and effect, the financial contributions may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the *lot*.

Privately-Owned Publicly Accessible Open Space

3. Prior to the earlier of one (1) year following any non-residential or residential use or occupancy, including interim occupancy pursuant to the Condominium Act, 1998, and registration of a condominium on the *lot*, except as otherwise agreed by the Chief Planner and Executive Director, City Planning Division, due to unforeseen delays (e.g. weather), the owner shall:
 - a. construct and maintain an area of not less than 500 square metres at grade for use by the general public as *privately-owned publicly accessible open space* extending diagonally through the site and adjacent to St. Patrick Street and Simcoe Street in a location generally as shown on Map 3, with the specific configuration and design of the *privately-owned publicly accessible open space* to be determined in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor; and
 - b. prepare all documents and convey to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the City Solicitor, free and clear of encumbrances and for nominal consideration, a public access easement, including support rights, in perpetuity in favour of the City over the *privately-owned publicly accessible open space*, on terms set out in the Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning Division.

Non-Profit Office Space and Community Convening Space

4. The owner shall convey at no cost to the City, office and community space (the "Space") having a gross interior floor area of not less than 557 square metres within Building 2 of the development, as shown generally on the Site Plan drawing A202, prepared by Hariri Pontarini Architects, dated September 1, 2017, revision 3 dated September 20, 2017 subject to the following:
 - a. Specific Terms and Conditions regarding the Space will be outlined in a Term Sheet forming part of the Section 37 Agreement in addition to a separate Agreement of Purchase and Sale duly executed by the City and the applicant, to the satisfaction of the Director of Real Estate in consultation with the Acting Director, Community Planning, Toronto and East York District and the City Solicitor;
 - b. the Space is proposed to be leased to a non-profit organization; the Toronto Foundation, with approximately 464 square metres proposed for use by the Toronto Foundation for its offices and the remaining approximately 93 square metres to be shared by the Toronto Foundation and the City's preapproved community groups for convening uses;
 - c. should the Space not be occupied by the Toronto Foundation, the City will choose an alternate non-profit organization to occupy the Space to the satisfaction of the Director of Real Estate in consultation with the Acting Director, Community

Planning, Toronto and East York District and the City Solicitor, including the on-going provision of the shared community space; and

- d. if an appropriate non-profit organization cannot be secured for the Space, the City will have the right to sell the Space with the funds redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the lands.

Parkland

5. The owner shall convey to the City for nominal consideration, a public park having a minimum size of approximately 1,000 square metres, with such conveyance deemed to fully satisfy the parkland contribution requirements for the development as currently proposed, and in accordance with the following and on terms and conditions as are set out in the Section 37 Agreement:
 - a. prior to the issuance of the first above-grade building permit, the owner shall enter into an agreement of purchase and sale with the City for the on-site parkland dedication for nominal consideration, and register a Section 118 of the *Land Titles Act* restriction on title, with the form of the agreement of purchase and sale and the Section 118 restriction secured in the Section 37 Agreement;
 - b. the land to be conveyed as parkland shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation;
 - c. the owner is required to convey the parkland to the City no later than two (2) years following the issuance of the first above-grade building permit for the development, except for a demolition permit;
 - d. the owner is to pay for the costs of the preparation and registration of all relevant documents. The owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland;
 - e. prior to conveying the parkland to the City, the owner must:
 - i. Submit a Qualified Person Preliminary Statement Letter, that is dated and signed by the owner's Qualified Person, as defined in O. Reg. 153/04, as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's peer reviewer to support this conveyance; all environmental documentation consistent with O. Reg. 153/04 requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount

specified by the Chief Engineer and Executive Director, Engineering and Construction Services;

- ii. Pay all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City, and submit an initial deposit towards the cost of the peer review in the form of a certified cheque, to the Chief Engineer and Executive Director, Engineering and Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer (unused funds will be refunded to the applicant by the City);
- iii. Submit, to the satisfaction of the City's peer reviewer, all Environmental Site Assessment reports prepared in accordance with the Record of Site Condition Regulation (Ontario Regulation 153/04, as amended) describing the current conditions of the land to be conveyed to the City and the proposed Remedial Action Plan based on the site condition standards approach, to the Chief Engineer and Executive Director, Engineering and Construction Services;
- iv. At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person based on the submitted environmental documents, to the Chief Engineer and Executive Director, Engineering and Construction Services for peer review and concurrence, which states:

In the opinion of the Qualified Person:

 - A. it is either likely or unlikely that there is off-site contamination resulting from past land uses on the development site that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and
 - B. to the extent that the opinion in 5.e.iv.A. is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health;

- v. Land to be conveyed to the City meets either:
 - A. the applicable Ministry Generic Site Condition Standards for the most environmentally sensitive adjacent land use; or
 - B. the Property Specific Standards as approved by the Ministry for a Risk Assessment/Risk Management Plan which was conducted in accordance with the conditions set out herein;
- vi. The Qualified Person's statement, referenced in 5.e.iv. above, will include a Reliance Letter that is dated and signed by the owner's Qualified Person,

as defined in O. Reg. 153/04, as amended, confirming that both the City and the City's peer reviewer can rely on the environmental documentation submitted, consistent with O. Reg. 153/04 requirements, and the Qualified Person's opinion as to the conditions of the site; all environmental documentation consistent with O. Reg. 153/04 requirements and opinions shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Chief Engineer and Executive Director, Engineering and Construction Services;

- vii. For conveyance of lands requiring a Record of Site Condition:
 - A. file the Record of Site Condition on the Ontario Environmental Site Registry; and
 - B. submit the Ministry's Letter of Acknowledgement of Filing of the RSC confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, as amended, to the Chief Engineer and Executive Director, Engineering and Construction Services;
- f. the owner, at their expense, will be responsible for base construction and installation of the parkland. The Base Park Improvements include the following:
 - i. Demolition, removal and disposal of all existing materials, buildings and foundations;
 - ii. Grading inclusive of topsoil supply and placement, minimum of 150 millimetres;
 - iii. Sod #1 nursery grade or equivalent value of other approved park development;
 - iv. Fencing to City standard (where deemed necessary);
 - v. All necessary drainage systems including connections to municipal services;
 - vi. Electrical and water connections (minimum 50 mm) directly to the street line, including back flow preventors, shut off valves, water and hydro meters and chambers;
 - vii. Street trees along all public road allowances, which abut future City owned parkland; and
 - viii. Standard park sign (separate certified cheque required);

- g. all work is to be completed to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- h. prior to the issuance of the first above-grade building permit, except for a demolition permit, the owner shall submit a cost estimate and any necessary plans for the Base Park Improvements, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- i. prior to issuance of the first above-grade building permit, except for a demolition permit, the owner shall post an irrevocable Letter of Credit in the amount of 120 percent of the value of the Base Park Improvements for the parkland to the satisfaction of the General Manager, Parks, Forestry and Recreation. No credit shall be given towards the Parks and Recreation component of the Development Charges for costs associated with Base Park Improvements;
- j. the construction of the Base Park Improvements to the park block shall be completed within three (3) years after the issuance of the first above-grade building permit, except for a demolition permit, to the satisfaction of the General Manager, Parks, Forestry and Recreation. Unforeseen delays (e.g. weather) resulting in the late delivery of the park block shall be taken into consideration and at the discretion of the General Manager, Parks, Forestry and Recreation when determining a revised delivery date for the park block;
- k. should the owner undertake Base Park Improvements on the park block following conveyance of the park block to the City, the owner must obtain a Park Occupation Permit from Parks, Forestry and Recreation's Park Supervisor for that Ward. The Park Occupation Permit will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, and duration to the satisfaction of the General Manager, Parks, Forestry and Recreation. The owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park;
- l. prior to conveyance of the parkland the owner shall be responsible for the installation and maintenance of temporary fencing around the parkland and its maintenance until such time as the development of the park block is completed;
- m. prior to conveyance of the parkland, the owner shall ensure that the grading and drainage for the parkland is compatible with the grades of the adjacent lands to the satisfaction of the General Manager, Parks, Forestry and Recreation and the Chief Engineer and Executive Director, Engineering and Construction Services;
- n. the owner must provide documentation from a qualified environmental engineer that any fill or topsoil brought onto the site meets all applicable laws, regulations and guidelines for use in a public park;
- o. the owner agrees to design and construct the Above Base Park Improvements to the new park for a development charge credit against Parks and Recreation component of the Development Charges to the satisfaction of the General

Manager, Parks, Forestry and Recreation. The development charge credit shall be in an amount that is the lesser of the cost to the owner of installing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of Development Charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time. The Owner is required to submit a design and cost estimate to be approved by the General Manager, Parks, Forestry and Recreation, and a letter of credit equal to 120 percent of the Parks and Recreation Development Charges payable for the development. The design, cost estimate and ultimately the letter of credit will be required prior to the issuance of the first above-grade building permit, except for a demolition permit;

- p. the owner will be responsible to design and construct the Above Base Park Improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation. Areas to be addressed in the design of the Park are: park programming, sustainable design and plantings, community and public safety, ground surface treatments, seating, vandalism etc.. Final design and programming of the parkland shall be at the discretion of the General Manager, Parks, Forestry and Recreation;
- q. prior to the issuance of the first above-grade building permit, except for a demolition permit, the owner is required to submit working drawings, specification and landscape plans showing the scope and detail of the work for the Above Base Park improvements for review and approval by the General Manager, Parks, Forestry and Recreation;
- r. the construction of Above Park Improvements to the park block shall be completed within three (3) years after the issuance of the first above-grade building permit, except for a demolition permit, to the satisfaction of the General Manager, Parks, Forestry and Recreation. Unforeseen delays (e.g. weather) resulting in the late delivery of the park block shall be taken into consideration and at the discretion of the General Manager, Parks, Forestry and Recreation when determining a revised delivery date for the park block;
- s. should the owner undertake Above Base Park Improvements on the park block following conveyance of the park block to the City, the owner must obtain a Park Occupation Permit from Parks, Forestry and Recreation's Park Supervisor for that Ward. The Park Occupation Permit will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, and duration to the satisfaction of the General Manager, Parks, Forestry and Recreation. The owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park;
- t. the owner, upon satisfactory completion of the construction and installation of the Base and Above Base Park Improvements shall be required to guarantee such work and associated materials. The Owner shall provide certification from their Landscape Architect certifying that all work has been completed in accordance with the approved drawings. Should the cost to construct the Above Base Park

Improvements as approved by the General Manager, Parks, Forestry and Recreation be less than the Parks and Recreation component of the Development Charges for the development, the difference shall be paid to the City by certified cheque prior to a reduction of the Above Base Park Improvement Letter of Credit. Upon the City's acceptance of the certificate, the Letter(s) of Credit will be released less 20 percent which will be retained for the 2 year guarantee known as the Parkland Warranty Period;

- u. upon the expiry of the Parkland Warranty Period, the outstanding park security shall be released to the Owner provided that all deficiencies have been rectified to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- v. as-built drawings in print/hardcopy and electronic format, as well as a georeferenced AutoCAD file, shall be submitted to Parks, Forestry and Recreation. A complete set of "as built" plans shall be provided electronically on CD in PDF format, and two (2) sets full size bond hard copy the General Manager, Parks, Forestry and Recreation. The plans shall include, but not limited to specifications, locations of all hidden services, and all deviations from the design drawings, shop drawings, inspection reports, minutes of meeting, site instructions, change orders, invoices, certificates, progress images, warrantees, close out documentation, compliance letters (for any play structures and safety surfaces), manuals etc. The files are to be organized in folders, including a file index and submitted. Written warranties and related documents such as lists of contractor, sub-contractors together with contact persons, telephone numbers, warranty expiry dates and operating manuals;
- w. spare or replacement parts, special tools, etc. as provided by manufacturers, if any, are to be provided to Parks, Forestry and Recreation;
- x. the stockpiling of any soils or materials or use as an interim construction staging area on the conveyed parkland is prohibited unless an agreement, other than a Park Occupation Permit, has been obtained from the Manager of Business Services – Joanna Sweitlik, (416) 392-8578. The agreement, if approved, will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, duration, restoration plan and costs, and compensation to the satisfaction of the General Manager, Parks, Forestry and Recreation. The owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park. Any compensation accrued shall be applied to park improvements within the ward in consultation with the Ward Councillor;
- y. the owner will be required to provide an environmental assessment report, prepared by a qualified engineer, at the end of the permitted occupation to verify that the parklands continue to meet the applicable laws, regulations and guidelines respecting sites to be used for public park purposes. The owner will be required to provide an RSC after the staging period, prior to conveyance. The construction of the park shall commence after the occupation to the satisfaction of the General Manager, Parks, Forestry and Recreation. The owner will be responsible for

paying all costs associated with the City retaining a third-party peer reviewer for the environmental addendum;

- z. prior to the transfer of fee simple of the Park Block to the City, the Park Block shall nonetheless be deemed to be parkland in respect of the limiting distance requirements of the Ontario Building Code Act, 1992; and
- aa. Parks, Forestry and Recreation staff advises that the applicant must design the building to achieve Ontario Building Code setbacks related to fire separation on their own site on the portions of the building that abut the park. Prior to the issuance of any above-grade building permit, except for a demolition permit, the applicant will be required to demonstrate adequately that the Ontario Building Code requirements have been achieved to the satisfaction of the General Manager, Parks, Forestry and Recreation.

6. Construction Management Plan

Prior to the issuance of the first building permit, the owner shall submit a Construction Management Plan to the satisfaction of the General Manager of Transportation Services and the Chief Building Official and Executive Director, Toronto Building, in consultation with the Ward Councillor and thereafter in support of the development, will implement the Plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information and any other matters deemed necessary.