

Authority: Ontario Municipal Board Decision issued August 31, 2017 and Local Planning Appeal Tribunal Order issued December 31, 2018 in Tribunal File PL160615

CITY OF TORONTO

BY-LAW 396-2019(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 59-71 Mutual Street.

Whereas after hearing an appeal under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, the Ontario Municipal Board, by its decision issued on August 31, 2017 and Local Planning Appeal Tribunal by its Order issued December 31, 2018, in respect of Tribunal File PL160615, approved amendments to the former City of Toronto By-law 438-86, as amended, with respect to lands municipally known as 59-71 Mutual Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, 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 land 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 438-86 of the 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");

The Local Planning Appeal Tribunal orders:

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 all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 5(l) of this By-law.
2. 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 provision of the facilities,

services and matters set out in Appendix 1, 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 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.

3. The *owner* of the *lot* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *lot* have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below grade building permit.
4. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of Section 2(1) with respect to the definition of *grade*, *height* and Sections 4(2)(a), 4(5)(b), 4(5)(i)(ii), 4(10)(a), 4(12), 4(13)(a) and (c), 4(14), 4(16), 8(3) Part I 1. and 3, 8(3) Part II 1(a)(i) and (ii), 12(2)250, 12(2)380(1)(a),(b) and (c), 12(2)(380)(6) of By-law 438-86 of the former City of Toronto, 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, shall apply to prevent the erection or use of an *apartment building*, including *accessory* uses thereto on the *lot* provided that:
 - a. the *lot* on which the building is to be located comprises at least those lands delineated by a heavy line on Map 1, attached to and forming part of this By-law;
 - b. the *residential gross floor area* shall not exceed 18,100 square metres;
 - c. the *total floor area* shall not exceed 19,300 square metres;
 - d. the height of any building or structure, or portion thereof, including mechanical, shall not exceed those heights as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:
 - i. Parapets, guard rails, railings and dividers, pergolas, trellises, eaves, screens, roof drainage, window washing equipment, lightning rods, architectural features, **landscaping**, **roofing systems**, elements of a **green roof**, mechanical screens, antennae, and all of the elements for the functional operation of the building as listed in Section 40.5.40.10(4)(A), (B) and (C) of By-law 569-2013, extending to a maximum vertical projection of 2.0 metres above the 101.8-metre height limit shown on Map 2, subject to the maximum height permitted by Ontario Regulation 114/16;
 - ii. Parapets, terrace or balcony guards and dividers, planters and railings extending to a maximum vertical projection of 2.0 metres above the 5.0-metre and 15.5-metre height limits shown on Map 2;

- iii. Window washing equipment, landscape elements, lighting fixtures, vents, flues, pipes, access roof hatch, and structures located on the roof used for outside or open air recreation, safety or wind protection purposes may project above the 5.0-metre and 15.5-metre height limits shown on Map 2;
- e. no portion of any building or structure erected and used above *grade* is located otherwise than wholly within the areas delineated by heavy lines shown on Map 2 attached to and forming part of this By-law, subject to the following:
 - i. Cornices, eaves, guardrails, and vents may extend beyond the heavy lines shown on Map 2;
 - ii. Awnings, and canopies may extend beyond the heavy lines shown on Map 2 to a maximum of 2.0 metres beyond the wall to which they are attached;
 - iii. Balconies may extend beyond the heavy lines shown on Map 2 to a maximum of 2.0 metres, except for balconies on the east and west sides of the building up to a height of 33 metres; and
 - iv. No balcony is permitted to project beyond the edge of the area subject to a 15.5-metre height limit as shown on Map 2;
- f. the windows of a *dwelling unit* must be at least 4.0 metres from the windows of another *dwelling unit* on the third and fourth *storeys*;
- g. the windows of a *dwelling unit* may be set back up to 1.19 metres from the north lot line;
- h. *parking spaces* are required in accordance with the following:
 - i. A minimum of 38 *parking spaces* shall be provided for the residents of the *apartment building*;
 - ii. A minimum of 17 *parking spaces* shall be provided for visitors to the *apartment building*;
 - iii. *Car-share parking spaces* may be provided in addition to the *parking spaces* required in (i) and (ii) above;
 - iv. Despite Section 4(17)(b), a maximum of 6 *parking spaces* may have a minimum length 5.4 metres;
 - v. Despite Section 4(17)(b), a maximum of 4 *parking spaces* that are obstructed, as defined in Section 4(17)(b) hereof, may have a minimum width of 2.45 metres;
 - vi. All parking spaces that are not obstructed, as defined in Section 4(17)(a) and (b) hereof, shall have a minimum width of 2.6 metres; and

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- vii. The visitor *parking spaces* required to be provided and maintained on the *lot* pursuant to this By-law shall be reserved at all times for visitors to the residential portion of the building and shall be individually designated by means of clearly visible signs as being for the exclusive use of visitors to the building;
 - i. the driveway within six metres of the public lane may be lower than 0.3 metre below the elevation of the abutting public lane;
 - j. despite section 2(1) "*bicycle parking space – occupant*" and "*bicycle parking space – visitor*", a minimum of 0.9 *bicycle parking spaces* per *dwelling unit* be provided for residents and a minimum of 0.1 *bicycle parking spaces* per *dwelling unit* are provided for visitors;
 - k. the required bicycle parking for visitors may be located indoors including within a room with a closing door that is secured after hours, but excluding a secured room, enclosure or bicycle locker;
 - l. the required *bicycle parking spaces* must have a minimum width of 0.4 metre and a minimum height of 1.1 metres;
 - m. *residential amenity space* shall be provided on the *lot* as follows:
 - i. A minimum of 650 square metres of indoor *residential amenity space*; and
 - ii. A minimum of 350 square metres of outdoor *residential amenity space* in a location that is adjoining to or directly accessible from indoor *residential amenity space*; and
 - n. the owner of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the Planning Act, to secure the facilities, services and matters referred to in Appendix 1 attached to this By-law and that such an agreement be registered on title to the *lot*.
6. For the purpose of this By-law:
- a. "*car-share*" means 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 be 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;
 - b. "*car-share motor vehicle*" means a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the site;
 - c. "*car-share parking space*" means a parking space used exclusively for the parking of a *car-share motor vehicle*;

- d. "*grade*" shall mean the Canadian Geodetic Datum elevation of 88.25 metres;
 - e. "*height*" shall mean the vertical distance between *grade* and the highest point of the *building* excluding permitted projections identified in section 5(c) of this By-law; 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 438-86, as amended.
7. 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.

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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. Replacement rental units shall be provided and maintained on the lot in accordance with the following conditions:
 - i. the owner shall provide and maintain on the lot twelve (12) replacement rental units, comprised of three (3) one-bedroom units and nine (9) two-bedroom units for a period of at least twenty (20) years commencing with the first occupancy of each such unit, as generally shown on the plans submitted to the City Planning Division prepared by RAW Design, dated October 13, 2016 and September 28, 2016. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - ii. the owner shall provide and maintain:
 - a. at least two (2) of the three (3) required one-bedroom replacement rental units and at least five (5) of the nine (9) required two-bedroom replacement rental units at affordable rents; all for a period of at least ten (10) years commencing with the first occupancy of each such rental unit;
 - b. an additional one (1) of the three (3) required one-bedroom replacement rental units and an additional three (3) of the nine (9) required two-bedroom replacement rental units at rents not exceeding mid-range rents; all for a period of at least ten (10) years commencing with the first occupancy of each such rental dwelling unit; and
 - c. an additional one (1) of the nine (9) required two-bedroom replacement rental units at unrestricted rents;
 - iii. air conditioning will be provided in all replacement rental units;
 - iv. ensuite laundry will be provided in all replacement rental units;
 - v. in addition to access facilities, tenants of the replacement rental units shall have access to all indoor and outdoor amenities on the lot at no additional cost to such tenants, bicycle parking (occupant and visitor) and visitor parking on the lot, all on the same terms and conditions as other residents of the building; and
2. The owner shall provide tenant relocation and assistance to all eligible tenants of the buildings existing on the lot on the date of this By-law, including the right to return to a replacement rental unit on the lot, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

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 2016 as 59-71 Mutual Street, 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.



