

Authority: Local Planning Appeal Tribunal Order issued on September 24, 2018 and Ontario Municipal Board Decision issued on September 13, 2017 in Board File PL160519

CITY OF TORONTO

BY-LAW 551-2019(LPAT)

To amend former City of Toronto By-law 438-86, as amended, with respect to the lands municipally known in the year 2017 as 65, 71, 73, 75, 77, 79, 83, 85, 89 King Street East, 46 Colborne Street and Rodega Lane.

Whereas the Local Planning Appeal Tribunal, formerly Ontario Municipal Board, by its Order issued on September 24, 2018 and Ontario Municipal Board Decision issued on September 13, 2017 in File PL160519, approved amendments to former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known municipally as 65, 71, 73, 75, 77, 79, 83, 85, 89 King Street East, 46 Colborne Street and Rodega Lane; and

Whereas the Local Planning Appeal Tribunal has the 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 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, 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 and matters; and

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

Whereas the increase in the height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86, as amended, are 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 the land and the City of Toronto;

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 set out in Schedule A of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act and registered on title to the *lot*.

2. Upon execution and registration of an agreement or agreements between the City and 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 Schedule A of this By-law, 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 or a permit issued pursuant to the Ontario Heritage Act, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the *City* pursuant to Section 37 of the Planning Act, then once such agreement(s) 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. 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), 4(2), 4(4), 4(5)(b), 4(8)(b), 4(13), 4(14)(a), 4(17), 8(1), 8(2)(6), 8(3) Part I(1)(2) and (3), 8(3) Part III 1(a), 12(2)132, 12(2)380, and 12(2)397 of By-law 438-86 of the former City of Toronto, as amended, and By-law 1106-2016, as amended, shall apply to prevent the erection or use of a *non-residential building* on the *lot* provided that:
 - a. the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - b. the *non-residential gross floor area* shall not exceed 38,500 square metres;
 - c. a *dwelling unit* is not a permitted use;
 - d. a *commercial parking garage* is a permitted use if located below grade;
 - e. the only permitted uses on the ground floor facing King Street East or Colborne Street are *retail store, courier service, bake-shop, brew-on premises establishment, commercial school, dry-cleaner's distributing station, duplicating shop, public art gallery, private art gallery, showroom, tailoring shop, clinic, restaurant, take-out restaurant, personal grooming establishment, branch of a bank or financial institution, wellness centre, recreation use, automated banking machine, artist's or photographer's studio, massage establishment, day nursery* and office lobby, provided such uses located in the space facing King Street East are divided into a minimum of two units, not including the lobby for the office tower or any such uses within the office lobby;
 - f. the *non-residential gross floor area* of a *courier service* may exceed 150 square metres;
 - g. the *height* of any building or structure, including the mechanical penthouse, or portion thereof above *grade* shall not exceed those *heights* as specified in metres

by the numbers following HT in the locations shown on Map 2, subject to the following:

- i. Lightning rods may project above the height limits shown as 83.00 metres on Map 2;
 - ii. Guardrails, safety railings, elements of a green roof, roofing materials including elements of exterior flooring, parapets may project above the height limits shown on Map 2 by a maximum of 2.0 metres; and
 - iii. Vents, stacks, mechanical elements, heating/cooling towers, stair enclosures, lighting fixtures, elevator overrun, and window washing equipment may project above the height limits shown on Map 2 by a maximum of 5.0 metres;
- h. no portion of the building or structure erected on the *lot* or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
- i. Canopies, awnings, building cornices, lighting fixtures, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements, wind mitigation, architectural cladding and design features, window washing equipment and public art features may extend beyond the heavy lines shown on Map 2; and
 - ii. With the exception of elements permitted by 5(g) and 5(h)(i), a setback of at least 2.7 metres from the west side lot line adjacent to Leader Lane and a setback for at least 4.0 metres from the north lot line adjacent to King Street East is required within the Lower Setback Zone as illustrated on Map 2 for storeys 4 and 5 of the building, excluding the mezzanine level;
- i. a minimum of 2 *Loading Spaces – Type B* and a minimum of 3 *Loading Spaces – Type C* are required;
- j. *parking spaces* shall be provided in accordance with the following:
- i. A minimum of 125 *parking spaces*;
 - ii. A maximum of 211 parking spaces;
 - iii. A minimum of 6 accessible *parking spaces*; and
 - iv. A maximum of 11 parking spaces may have a minimum width of 2.6 metres when obstructed on one side;
- k. *bicycle parking spaces* must be provided and maintained on the lot in accordance with the following:

- i. A minimum of 85 *bicycle parking spaces - visitor*;
 - ii. A minimum of 78 *bicycle parking spaces - occupant*;
 - iii. The required *bicycle parking spaces* must be located either on the ground floor or on parking level 1 (P1);
 - iv. *Bicycle parking spaces – visitor* and *bicycle parking spaces - occupant* may both be provided in a vertical position, horizontal position, or within a bicycle stacker;
 - v. If provided in a bicycle stacker, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres; and
 - vi. *Bicycle parking spaces – visitor* may be provided in a secured room on the P1 level; and
 - l. a minimum of 159 square metres of outdoor amenity space for the use of all occupants of the building is required.
6. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- a. "*grade*" means 82.15 metres Canadian Geodetic Datum; and
 - b. "*non-residential gross floor area*" has the same meaning as provided in By-law 438-86 as amended, with the exception that the floor area occupied by a *commercial parking garage*, ramps, and uses accessory thereto shall be excluded from the calculation of *non-residential gross floor area* provided that the *commercial parking garage* is below grade.
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.
8. Within the lands shown on Map 1, 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:
- a. all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

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Schedule A
Section 37 Provisions

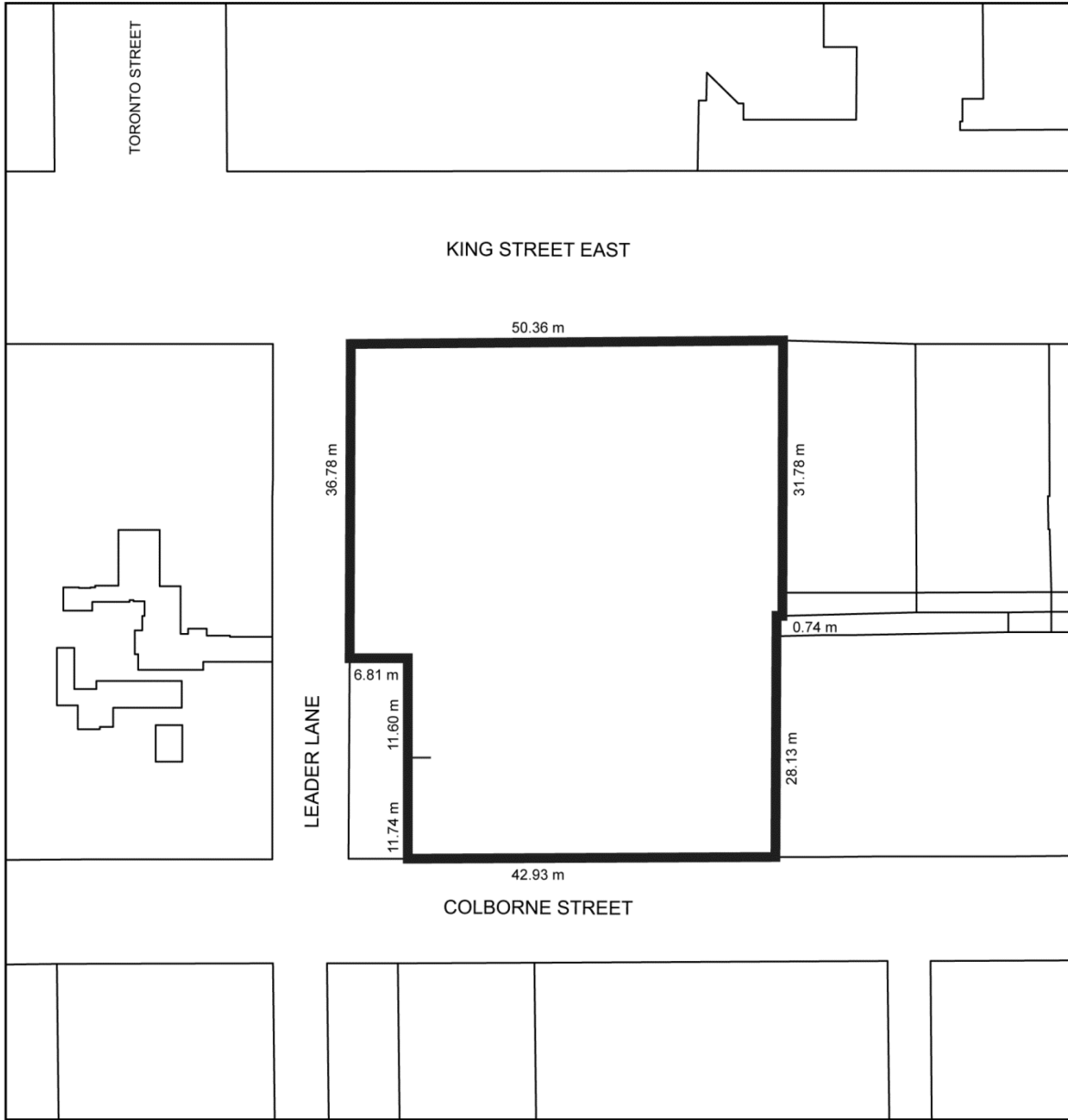
The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in accordance with this By-law and as further specified in one or more agreements pursuant to section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement in return for the increase in height and/or density of the proposed development on the *lot*, as follows, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division:

1. Prior to the issuance of the first above-grade building permit for all or any part of the *lot*, the owner shall pay to the City the sum of \$850,000.00 to be allocated towards local park and/or streetscape improvements within an area bounded by Yonge Street, Queen Street East, Parliament Street and the Metrolinx-Lakeshore rail corridor, in consultation with the Ward Councillor, in compliance with the Streetscape Manual or to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
2. Prior to the issuance of the first above-grade building permit for all or any part of the *lot*, the owner shall pay to the City the sum of \$1,350,000.00 to be allocated towards the preservation of off-site heritage resources that are designated and/or listed on the City of Toronto Heritage Register, including the North St. Lawrence Market property at 92 Front Street East and the First Parliament property at 271 Front Street East and 25 Berkeley Street, which may include a heritage lighting plan and/or heritage interpretation plan, within an area bounded by Yonge Street, Queen Street East, Parliament Street and the Metrolinx-Lakeshore rail corridor;
3. The payments required in item 1a and 1b above must be increased by upwards index in accordance with the Non-Residential Building Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of the Section 37 Agreement to the date each such payment is made;
4. In the event the cash contributions required in items 1a and 1b above have not been used for the intended purpose within three (3) years of the date of the issuance of the first above-grade building permit, the cash contribution may be directed to another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*;
5. Prior to the commencement of any excavation and shoring work, the owner will submit a Construction Management Plan which will include but not be limited to temporary street occupancy, lane closure and sidewalk closure on King Street and Leader Lane in order to install heritage façade retention structure, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor, and thereafter shall implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, the size and location of construction staging areas, location and function of gates, information on concrete pouring, lighting

details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, or the General Manager of Transportation Services, in consultation with the Ward Councillor;

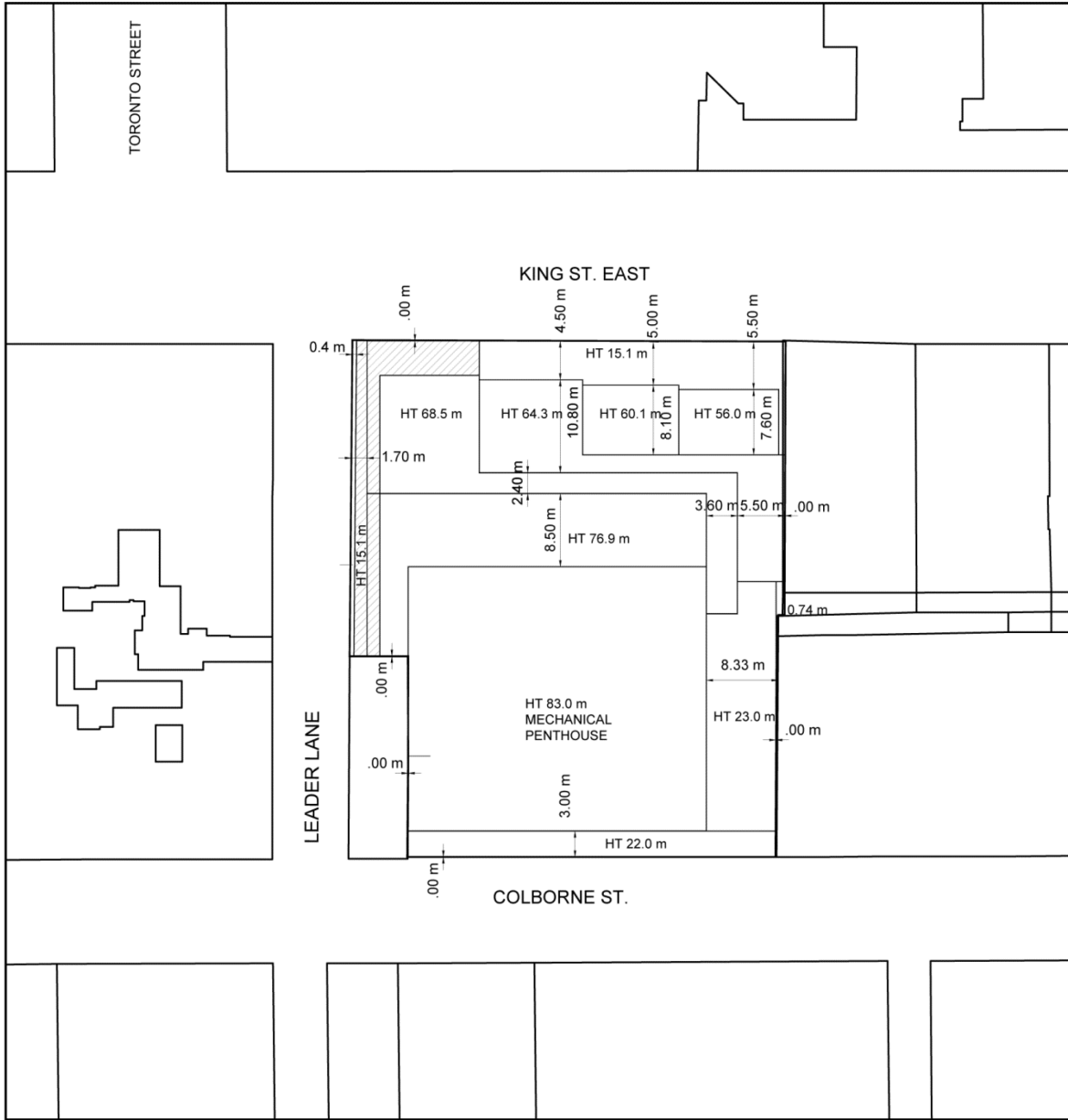
6. Prior to issuance of final Site Plan approval pursuant to section 114 of the City of Toronto Act, 2006 and section 41 of the Planning Act ("site plan approval") for all or any part of the *lot*, the owner shall:
 - a. provide final site plan drawings that are satisfactory to the Senior Manager, Heritage Preservation Services, including drawings related to a Conservation Plan approved by such Senior Manager that is satisfactory to such Senior Manager and is prepared by a qualified heritage consultant, and that is consistent with the conservation strategy set out in the Heritage Impact Assessment for 65 to 89 King Street East and 46 Colborne Street prepared by GBCA Architects dated November 8, 2017 (the "Approved Conservation Plan");
 - b. provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
 - c. provide a Heritage Lighting Plan that describes how the heritage properties on the **lot** will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services;
 - d. provide a detailed Landscape Plan for the *lot*, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such plan; and
 - e. submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Preservation Services.
7. Prior to the issuance of any permit for all or any part of the *lot*, including a heritage permit pursuant to the Ontario Heritage Act or a building permit, the owner shall:
 - a. obtain final approval for the necessary zoning by-law amendments required for the alterations to the properties at 71-89 King Street East, such that such amendments have been enacted by City Council and have come into full force and effect in a form and with content acceptable to City Council as determined by the Chief Planner, and the Executive Director, City Planning Division, in consultation with the Senior Manager, Heritage Preservation Services;
 - b. provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to the Approved Conservation Plan required in item 3a above, including a description of materials and finishes, to be

- prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services;
- c. provide a letter of credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the Approved Conservation Plan, the approved Heritage Lighting Plan, the approved Landscape Plan, and the approved Interpretation Plan. Prior to the release of the letter of credit, the owner shall:
- i. Have obtained final site plan approval for the proposed development, issued by the Chief Planner and Executive Director, City Planning;
 - ii. Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work, required heritage lighting work, and the required interpretive work has been completed in accordance with the Approved Conservation Plan, the approved Lighting Plan, the approved Landscape Plan, and the approved Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
 - iii. Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services; and
- d. provide full documentation of the existing heritage properties at 71-89 King Street East, including two (2) printed sets of archival quality 8" x 10" colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Preservation Services; and
8. The owner shall enter in to and register an agreement shall enter into and register on title to the lot 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 the Chief Planner and Executive Director, City Planning Division, to assist with securing the facilities, services and matters set forth in this Schedule A.



65-89 King Street East & 46 Colborne Street

File # 15 258720 STE 28 OZ



65-89 King Street East & 46 Colborne Street

File # 15 258720 STE 28 0Z

- 00.00 m PROPERTY DIMENSION (METRES)
- THE LANDS
- BUILDING ENVELOPE
- 00.00 m BUILDING ENVELOPE DIMENSION (METRES)
- HT 00.0 m BUILDING HEIGHT MEASURED FROM ESTABLISHED GRADE 82.15 (METRES)
- LOWER SETBACK ZONE

City of Toronto By-Law 438-86
Not to Scale
06/19/2018