

Authority: Local Planning Appeal Tribunal Decision/Order
issued on February 25, 2019 in File PL160796

CITY OF TORONTO

BY-LAW 1090-2019(LPAT)

To amend Zoning By-law 438-86, as amended, with respect to the lands known municipally in the year 2018 as 89 and 101 Roehampton Avenue.

Whereas the Local Planning Appeal Tribunal pursuant to its Decision/Order issued on February 25, 2019 in File PL160796 upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c.P.13, as amended deems it advisable to amend By-law 438-86, as amended, for the City of Toronto with respect to lands known as 89 and 101 Roehampton Avenue; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and/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 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 by-law under Section 34 of the Planning Act, may authorize increases in the height and/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 and/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 and matters; and

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

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is 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, and subject to compliance with this By-law, the increase in the heights and density of development is permitted beyond that is otherwise permitted on the lands as 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 following 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 the same. The owner shall not use, or permit the use of a building on a structure erected with an increased height and density pursuant to this By-law unless all provisions of Appendix 1 of this By-law are satisfied.
3. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the lot.
4. The lands subject to this By-law are outlined by heavy lines on Map 1 attached to and forming part of this By-law.
5. None of the provisions of Section 2 with respect to the definitions of *lot*, *grade*, and *height* and Sections 4(2), 4(4), 4(12), 4(13), 4(17), 6(3) Part I 1, 6(3) Part II 2, 3, 4, 5 and 6, and 6(3) Part III 1 and 3 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 and use of an *apartment building* with underground parking on the *lot* delineated by heavy lines on Map 1, provided that:
 - (a) the maximum permitted *residential gross floor area* is 28,700 square metres;
 - (b) a maximum of 388 *dwelling units* are permitted of which a minimum of 20 *dwelling units* shall contain three-bedrooms;
 - (c) no part of any building or structure on the *lot* erected or used above *grade* shall exceed the *height* limits shown in metres and indicated by the numbers following the letter HT in the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law;
 - (d) nothing in Section 5(c) above shall prevent the following elements from projecting above the *height* limits shown on Map 2, as follows:
 - (i) A parapet, roof drainage, thermal insulation, roof assemblies, including decking and pavers or roof ballast, safety railings, and fences at each of the roof levels of the building green roof elements, provided the maximum vertical distance of any such does not exceed 1.8 metres beyond the **height** of each roof level of the building; and
 - (ii) Structures on the roof of any part of the building used for outside or open air recreation, wind mitigation elements, balcony and terrace partitions and dividers, landscape features, architectural elements, public art features, telecommunications equipment and antennae, window washing equipment, partitions dividing outdoor recreation areas, trellises or a fence, planters, landscape features, lightning rods, swimming pools (elevated or otherwise), structures housing pool or spa maintenance or

operational equipment, provided the maximum vertical distance of such does not exceed 3.0 metres;

- (e) no portion of any *apartment building*, including balconies, erected on the *lot* above *grade* is located otherwise than wholly within the areas delineated by heavy lines and building envelopes shown on Map 2;
- (f) nothing in Section 5(e) above shall prevent the following elements from projecting beyond the heavy lines shown on Map 2, as follows:
 - (i) Balconies to a maximum of 1.8 metres;
 - (ii) Canopies, awnings, and similar structures, with or without structural support to a maximum of 2.5 metres;
 - (iii) Exterior stairs, underground garage access ramps, wheelchair access ramps, pedestrian access ramps, and elevating devices to a maximum of 3.0 metres;
 - (iv) Architectural features including lighting and decorative screens to a maximum of 1.8 metres;
 - (v) Roof projections, including parapets to a maximum of 1.0 metres;
 - (vi) Building equipment including but not limited to vents, pipes, utility equipment, satellite dishes, and antennas (including mounting poles) to a maximum of 1.0 metres;
 - (vii) Equipment used for the functional operation of the building, such as electrical, utility, mechanical and ventilation equipment, structures or parts of the building used for the functional operation of the building such as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, vents and water supply facilities to a maximum of 5.0 metres;
 - (viii) Structures that enclose, screen, or cover the elements identified in Section 2(f)(vii); and
 - (ix) Window washing equipment to a maximum of 3.0 metres;
- (g) a minimum of 510 square metres of indoor *residential amenity space* and 510 square metres of outdoor *residential amenity space* shall be provided on the *lot* with the following requirements:
 - (i) At least 40 square metres of outdoor *residential amenity space* is to be provided in a location adjoining or directly accessible from the indoor *residential amenity space*; and

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- (ii) At least one multi-purpose or contiguous room provided as *residential amenity space* shall contain a kitchen and a washroom;
 - (h) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:
 - (i) Minimum combined rate of 0.25 *parking spaces* per *dwelling unit* for residents and visitors;
 - (ii) For each *car-share parking space* provided on the *lot*, the minimum number of *parking spaces* required by (i) above shall be reduced by 4 *parking spaces*, up to a maximum of 6 *car-share parking spaces*;
 - (iii) In addition to the *parking spaces* required by (i) and (ii) above, up to 146 *parking spaces* are permitted for *public parking*;
 - (iv) Minimum of 6 accessible *parking spaces*; and
 - (v) *Parking spaces* may be provided within a *parking stacker*;
 - (i) a two-way drive aisle shall have a minimum width of 5.5 metres;
 - (j) a *parking space* shall have a minimum width of 2.6 metres, a minimum length of 5.6 metres, and a minimum height of 2.0 metres;
 - (k) notwithstanding Section 4(17) of By-law 438-86, a maximum 28 *parking spaces* may have a minimum width of 2.4 metres, a minimum length of 5.3 metres, and minimum height of 1.7 metres;
 - (l) a minimum of 30 percent of the area of the *lot* shall be used for *landscaped open space* and a minimum of 15 percent of the *lot* shall be used for *soft landscaping*;
 - (m) despite the definitions of *bicycle parking space*, *visitor* and *bicycle parking space-occupant* of Section 2(1) of By-law 438-86, the required *bicycle parking spaces* may be provided in a stacked position with a minimum vertical clearance of 1.2 metres or within or outside of a storage locker, maintained on the lot; and
 - (n) none of the provisions of By-law 438-86, as amended, or this By-law shall apply to prevent a *commercial parking garage* on the *lot* as of the date of passing of this By-law.
6. For the purposes of this By-law, all words, terms and phrases appearing in italics shall have the same meaning as they have for the purpose of the aforesaid By-law 438-86, as amended, except as herein provided:

- (a) *"bicycle parking space-visitor"* shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and maybe within a secured room and/or within a secure locker and:
- (i) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres;
 - (ii) Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres; and
 - (iii) May be located indoors or outdoors including within a secured room or enclosure;
- (b) *"bicycle parking space-occupant"* shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
- (i) Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
- (c) *"grade"* shall mean an elevation of 164.30 metres Canadian Geodetic Datum;
- (d) *"height"* shall be measured from *"grade"* to the highest point of the building;
- (e) *"car-share"* shall mean 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 kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or not be refundable;
- (f) *"car-share parking space"* shall mean a parking space that is reserved for car-sharing;
- (g) *"parking stacker"* means a mechanical motor vehicle parking facility with parking spaces which:
- (i) Are positioned above each other;
 - (ii) Have dimensions of not less than 2.6 metres by 5.6 metres, except that the platform of such parking space may have dimensions of not less than 2.4 metres by 5.4 metres; and

- (iii) May not be readily accessible at all times without manoeuvring another vehicle or a device;
- (h) "*public parking*" means premises having an area for the parking of one or more motor vehicles as a principal use and the parking of a vehicle is available for public use with or without a fee;
- (i) "*non-residential gross floor area*" shall mean the sum of the total areas of each floor level of a building, above grade, measured from the exterior of the main wall of each floor level, reduced by the area of the building used for:
 - (i) Parking, loading and bicycle parking below ground;
 - (ii) *Commercial Parking Garage*;
 - (iii) Required loading spaces at the ground level and required bicycle parking spaces at or above ground;
 - (iv) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (v) Shower and change facilities required by this By-law for required bicycle parking spaces;
 - (vi) Amenity space required by this By-law;
 - (vii) Elevator shafts;
 - (viii) Garbage shafts;
 - (ix) Mechanical penthouse; and
 - (x) Exit stairwells in the building;
- (j) "*residential gross floor area*" shall mean the sum of the total areas of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level, reduced by the area of the building used for:
 - (i) Parking, loading and bicycle parking below ground;
 - (ii) Required loading spaces at the ground level and required bicycle parking spaces at or above ground;
 - (iii) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (iv) Shower and change facilities required by this By-law for required bicycle parking spaces;

- (v) Amenity space required by this By-law;
 - (vi) Elevator shafts;
 - (vii) Garbage shafts;
 - (viii) Mechanical penthouse; and
 - (ix) Exit stairwells in the building.
7. 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.
8. Within the lands delineated by heavy lines on Map 1 attached to and forming part of 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.

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Appendix 1**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the owner of the *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 the agreement:

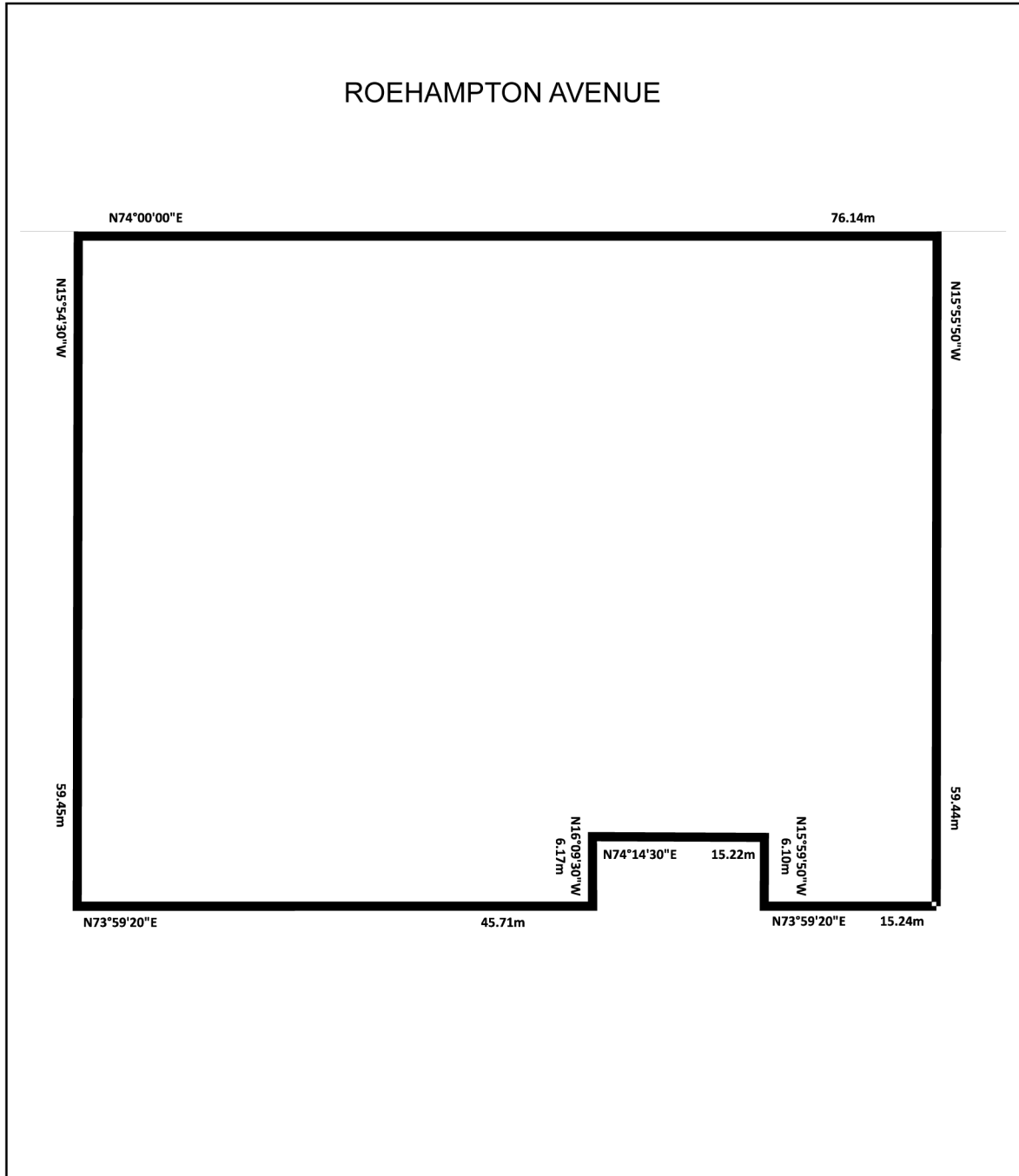
1. Prior to the issuance of the first above grade building permit, the owner shall provide a cash contribution to the City in the amount of NINE HUNDRED THOUSAND DOLLARS (\$900,000.00), and indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made, to be allocated towards community services and facilities in the Yonge-Eglinton Secondary Plan area in accordance with the emerging infrastructure priorities identified for the area through the Yonge-Eglinton Secondary Plan Review, to be determined by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. In the event the cash contributions referred to in Section 1 have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.
3. The owner shall provide and maintain on the *lot*:
 - (i) eighteen (18) reconfigured rental units, comprised of eighteen (18) one-bedroom units, on the subject site for a period of at least twenty (20) years;
 - (ii) one hundred and eight (108) retained rental units, comprised of eighteen (18) bachelor units and ninety (90) one-bedroom units, on the subject site for a period of at least twenty (20) years; and
 - (iii) six (6) new market rental units, comprised of five (5) one-bedroom units and one (1) two-bedroom units, on the subject site for a period of at least twenty (20) years,

all as generally shown on the plans submitted to the City Planning Division dated February 20, 2018. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning.

4. The owner shall provide tenants of the above-noted units with access to a new laundry room, visitor bicycle parking spaces on a first-come first-serve basis, resident bicycle storage locks on a first-come first-serve basis, visitor vehicle parking spaces on a first-

come first-serve basis, resident vehicle parking spaces on a first-come first-serve basis and all indoor and outdoor amenities.

5. The owner shall provide a tenant relocation and assistance plan to all eligible tenants, including the right to return to a replacement rental dwelling unit, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
6. Prior to the earlier of any residential use or occupancy, including interim occupancy pursuant to the *Condominium Act, 1998*, or any registration of any condominium on all or part of the *lot*, the owner shall, at its own expense, convey a north-south 3.8 metre wide public pedestrian walkway surface easement on the east side of the *lot*, together with support rights as applicable for use by the City and the general public, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City solicitor, and the owner shall construct, repair and maintain this walkway, to the satisfaction of the Executive Director, Engineering and Construction Services.



89-101 Roehampton Avenue

File # 16 112811 STE 22 0Z

