

Authority: Local Planning Appeal Tribunal Order issued
on July 19, 2019 in Tribunal File PL160319

CITY OF TORONTO

BY-LAW 1219-2019(LPAT)

To amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in 2019 as 342, 344 and 346 Davenport Road.

Whereas the Local Planning Appeal Tribunal pursuant to its Order/Decision issued on July 19, 2019 in relation to Tribunal File PL160319 determined to amend By-law 438-86, as amended, with respect to the lands known municipally as 342, 344 and 346 Davenport Road; 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, may authorize increases 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 matter 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, the municipality, and the Ontario Municipal Board on appeal, 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;

By-law 438-86, as amended, is further amended by the Local Planning Appeal Tribunal:

1. None of the provisions of Sections 4(2), 4(5)(b), 4(8), 4(10), 4(12), 4(13), 4(14), 4(16), 4(17), 8(3) PART I 1 and 3, 8(3) PART II 1(a), 8(3) PART III (1), 8(3) PART IV 1, 8(3) PART XI (2), 12(2)270, and 12(2)380 of Zoning By-law 438-86, as amended, 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", shall apply to prevent the erection and use of a *mixed-use building* and *accessory* uses thereto on the *lot* provided that:

- a. the *lot* on which the building is to be located comprises at least those lands within the heavy lines on Map 1, attached to and forming part of this By-law;
- b. the total combined *non-residential gross floor area* and *residential gross floor area* of any building or structure erected on the *lot* shall not exceed 6,500 square metres;
- c. the *non-residential gross floor area* of any building or structure erected on the *lot* shall not exceed 800 square metres;
- d. no portion of any building or structure on the *lot* shall have a *height* in metres greater than the *height* limits specified by the numbers following the symbol H on Map 2 attached to and forming part of this By-law, except for:
 - i. Trellises, terrace or balcony guards and dividers, guards, guardrails, fences, retaining walls, landscape elements, elevated pool deck, and structures located on the roof used for outside or open air recreation purposes, which may project to a maximum of 2.75 metres;
 - ii. Planters, ornamental elements, outdoor furniture, elevated pool, which may project to a maximum of 1.7 metres;
 - iii. Elevator over run, cooling tower, stairs, stair enclosures, screens, architectural elements, heating, cooling or ventilating equipment, wall or structure enclosing elements, and partitions, which may project to a maximum of 4.6 metres;
 - iv. Cornices, eaves, parapets, roof drainage, thermal insulation and roof ballast, balustrades, window washing equipment, green roof elements, vents, flues, pipes, access roof hatch and safety railings, and structures located on the roof used for safety or wind protection purposes, which may project to a maximum of 5.7 metres;
 - v. Mechanical penthouse which may project up to a maximum of 3.5 metres above a *height* of 32.0 metres; and
 - vi. Notwithstanding 1(d)(v) above, any portion of the mechanical penthouse may project up to a maximum of 4.5 metres above a *height* of 32.0 metres if the elements of the mechanical penthouse that are more than 3.5 metres in height, above the permitted height of 32.0 metres, are set back a minimum of 1.0 metre from the edge of the main mechanical penthouse footprint below, and elements listed in 4(D)(iv) may also project above the permitted height of 32.0 metres and the mechanical penthouse areas;
- e. no portion of any building or structure erected and used above *grade* on the *lot* 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, except for:

- i. Cornices, light fixtures, ornamental elements, building cladding, parapets, art and landscape features, landscaping elements, architectural flutes, piers, pillars, pergolas, trellises, window sills, stair enclosures, stairs, site servicing features, retaining walls, wheel chair ramps and vehicular parking ramps, which may project to a maximum of 0.5 metres; and
 - ii. Columns, balcony exoskeleton structures and exoskeleton cladding, guardrails, terraces, balconies, terrace or balcony platforms, terrace or balcony guards, dividers and railings, screens, awnings and canopies, and balconies, which may project to a maximum of 3.1 metres;
- f. no indoor or outdoor *residential amenity space* is required;
- g. a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - i. 0.3 *parking spaces* for each *bachelor dwelling unit*;
 - ii. 0.5 *parking spaces* for each *one bedroom dwelling unit*;
 - iii. 0.8 *parking spaces* for each *two bedroom dwelling unit*;
 - iv. 1.0 *parking spaces* for each *three bedroom dwelling unit*;
 - v. No *parking spaces* shall be required for residential visitors;
 - vi. No *parking spaces* shall be required for retail, office, and commercial uses; and
 - vii. A maximum of 10 *parking spaces* may be obstructed which do not provide an increased width of 0.3 metres on either side;
- h. the accessible *parking spaces* will not be the closest parking spaces to the entrance of the building and will be a maximum of 26 metres from the passenger elevator that provides access to the first storey of the building;
- i. a minimum of one shared *loading space* shall be provided and maintained on the *lot* and must have a minimum length of 13.0 metres, a minimum width of 4.0 metres, and a vertical clearance of 5.4 metres; and
- j. *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:

- i. For residential uses, a minimum of 1.0 *bicycle parking space* for each *dwelling unit*, comprised of 0.87 *bicycle parking spaces - occupant* and 0.12 *bicycle parking spaces - visitor*;
 - ii. For non-residential uses, no *bicycle parking spaces* are required; and
 - iii. For the purposes of *parking space* calculations, if the calculation of the number of required *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than one *parking space*.
2. None of the provisions of By-law 438-86 shall apply to prevent a *sales office* on the *lot*, and a *sales office* shall be exempt from the requirements of By-law 438-86, as amended, and this By-law to provide *parking spaces*.
3. For the purpose of this By-law, all italicized words and expression have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
 - a. "*bicycle parking space - occupant*" has the same meaning as in the definition set forth in *By-law 438-86*, except that *bicycle parking spaces* may be provided in the form of a stacked bicycle parking space. A *stacked bicycle parking space* shall mean a horizontal bicycle parking space positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces* with a minimum vertical dimension of at least 1.0 metre and minimum horizontal dimensions of at least 0.3 metres width and 1.6 metres length;
 - b. "*grade*" shall mean 120.34 metres Canadian Geodetic Datum, measured at the two points where the projection of the required minimum front yard setback line is 0.01 metres past each side lot line;
 - c. "*gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level excluding:
 - i. Parking, loading and bicycle parking at and below-ground;
 - ii. Loading spaces and 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 for bicycle parking spaces;
 - v. Amenity space;
 - vi. Elevator shafts;
 - vii. Garbage shafts;

- viii. Mechanical penthouse; and
 - ix. Exit stairwells in the building;
 - d. "*height*" shall mean the vertical distance between *grade* and the highest point of the building or structure;
 - e. "*loading space*" shall mean an area used for the loading or unloading of goods or commodities from a vehicle, and shall have the following minimum dimensions: 13 metres of length and 4 metres of width;
 - f. "*lot*" means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - g. "*sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale and/or leasing of *dwelling units* and *non-residential gross floor area* to be erected on the *lot*; and
 - h. each other word or expression that is italicized in this By-law shall have the same meaning as that word or expression as defined in By-law 438-86, as amended.
4. 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.
5. Section 37 Provisions
- 1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 of this By-law, in return for the provision by the owner, at the owner's expense of the facilities, service and matters set out in Schedule 1 to 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 Schedule 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.
 - 3. The owner must not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to exceptions of By-law 438-86, as amended, unless the provisions of Schedule 1 of this By-law are satisfied.

SCHEDULE 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 lands shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the Owner agrees as follows:

1. Prior to the issuance of an above grade building permit (other than building permit for a temporary sales office/pavilion) for the proposed development, the owner shall provide a cash contribution of \$100,000 to improvements to the Designer Walk Lane to be indexed upwardly in accordance with the Statistics Canada Non-residential Construction Price Index for Toronto, calculated from the date of LPAT approval to the date the payment is made. These funds shall be used in accordance with Official Plan policy 5.1.1 and be determined in consultation with the Ward Councillor and to the satisfaction of Chief Planner and Executive Director, City Planning.

2. In the event the cash contribution referred to in paragraph 1 above has not been used for the intended purpose within three years of the amending Zoning 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 the purpose is identified in Official Plan policy 5.1.1 and will benefit the community in the vicinity of the lands.



