

Authority: Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, Decision issued on July 9, 2019 and Order issued on October 4, 2019 in Board File PL180399

## CITY OF TORONTO

### BY-LAW 1613-2019(LPAT)

#### **To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 2306 St. Clair Avenue West.**

Whereas the Local Planning Appeal Tribunal, by its Decision issued on July 9, 2019 and Order issued on October 4, 2019, in Tribunal Case PL180399 approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands; 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 or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provisions of such facilities, services or matters as 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 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; and

Whereas the increase in height permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the lands and the City of Toronto;

Now therefore pursuant to the Order of the Local Planning Appeal Tribunal, By-law 438-86, as amended, is further amended as follows:

1. This by-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, continue to apply.
3. None of the provisions of Sections 2 with respect to the definitions of the terms *grade* and *lot* and Section 4(2)(a), 4(3)(a), 4(4)(b), 4(6), 4(12), 4(13), 8(3) Part I 1 and 3, 8(3) Part II 1(b)(ii), 8(3) Part III, all of Section 9 and Section 12(1)(487) (ii), (iii), (v) and

(xi)(b) of 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" apply to prevent the erection or use of a *mixed-use building* on the *lot* provided that:

- (a) the *lot* on which the proposed building is to be located comprises at least those lands delineated by heavy lines on Map 1, attached to and forming part of this By-law;
- (b) no above-grade portion of any building or structure 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, with the exception of the following:
  - i. balconies, balustrades, canopies, cornices, eaves, guardrails, landscape and green roof elements, lighting fixtures, ornamental elements, public art features, railings, stair enclosures, stairs, trellis, underground garage ramps, vents, wheelchair ramps, wind mitigation features and window sills to a maximum of 3.0 metres;
- (c) the height of any building or structure, as measured from *grade*, does not exceed the height in metres specified by the numbers following the symbol H on Map 2 attached to and forming part of this By-law, with the exception of the following:
  - i. balustrades, cornices, elevator overrun, guardrails, landscape and green roof elements, mechanical equipment, parapets, railings, stair enclosures, stairs, trellis, vents and wind mitigation features to a maximum of 3.0 metres;
- (d) no portion of the building may project into the required 45 degree angular plane other than balcony railings, parapets and terrace systems including the roof slab below;
- (e) no portion of a balcony or railing, may project beyond into the setback required for the frontage onto St. Clair Avenue shown on Map 2, unless it is a railing placed on a terrace located on a roof;
- (f) the total *gross floor area* erected on the *lot* must not exceed 18,800 square metres, of which:
  - i. a maximum of 18,416 square metres may be used for *residential gross floor area*; and
  - ii. a maximum of 500 square metres may be used for *non-residential gross floor area*;

- (g) *parking spaces* must be provided on the *lot* in accordance with the following minimum standards:
- i. 0.74 *parking spaces* for each *dwelling units*; and
  - ii. 0.15 *parking spaces* for each *dwelling unit* to be used by visitors to the *dwelling units*; and
  - iii. *parking space* for each 100 square metres of non-residential *gross floor area*;
- (h) a *minimum* of 5 *parking spaces* plus 1 *parking space* for every 50 *parking spaces* or part thereof in excess of 100 *parking spaces*, must comply with all regulations for an accessible *parking space*;
- (i) the minimum dimensions for an accessible *parking space* are:
- i. *length* of 5.6 metres;
  - ii. *width* of 3.4 metres;
  - iii. *vertical clearance* of 2.1 metres; and
  - iv. the *entire length* of an accessible *parking space* must be adjacent to a 1.5 metre wide accessible barrier free aisle;
- (j) 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*;
- (k) *bicycle parking spaces* must be provided and maintained on the *lot* in accordance with the following minimum standards:
- i. 0.9 *bicycle parking spaces* – *occupants per dwelling unit*;
  - ii. 0.1 *bicycle parking spaces* – *visitors per dwelling unit*; and
  - iii. *minimum dimensions* of a *bicycle parking space* are:
    - *minimum length* of 1.8 metres;
    - *minimum width* of 0.45 metres; and
    - *minimum vertical clearance* from the ground of 1.9 metres.
  - iv. the *minimum dimensions* of a *bicycle parking space* if placed in a vertical position on a wall, structure or mechanical device are:
    - *minimum height or vertical clearance* of 1.9 metres;

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- minimum width of 0.45 metres; and
  - minimum horizontal clearance from the wall of 1.2 metres.
- v. if a stacked *bicycle parking space* is provided, the minimum vertical clearance for each *bicycle parking space* is 1.2 metres and the minimum width of a stacked *bicycle parking space* is 0.45 metres;
- vi. an area used to provide *bicycle parking spaces* must have a vertical clearance of :
- 2.4 metres if it is a stacked bicycle parking space; and
  - 1.9 metres for all other cases;
- (l) one *loading space – Type G* must be provided to serve both the *residential* and *non-residential uses* within the building on a non-exclusive basis;
- (m) a *minimum* of:
- i. 25 percent of all *dwelling units* on the *lot* must be 2- or more bedroom *dwelling units*; and
  - ii. 10 percent of all *dwelling units* on the *lot* must be 3- or more bedroom *dwelling units*;
- (n) *residential amenity space* must be provided on the *lot* in accordance with the following:
- i. 2.0 square metres of *residential amenity space* for each dwelling unit to be located indoors, which, for the purposes of this by-law may include guest suites; and
  - ii. 2.0 square metres of *residential amenity space* for each dwelling unit to be located outdoors in a location adjoining or directly accessible to the indoor amenity space;
- (o) *outdoor pet relief area* must be provided.
4. In the event of a conflict between this by-law amendment and any other by-law, the provisions of this by-law apply.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86 of the former City of Toronto, as amended, with the exception of the following:
- (a) "*lot*" means those lands outlined on Map 1 attached hereto.
  - (b) "*grade*" means 122.6 metres above Canadian Geodetic Datum.

- (c) "*gross floor area*" means the sum of the total area of each floor level of a *building*, above and *below* ground, measured from the exterior of the *main wall* of each floor level, excluding: parking, loading and *bicycle parking* below-ground; required loading spaces at the ground level and required *bicycle parking spaces* at or above-ground; storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement; shower and change facilities required for *required bicycle parking spaces*; *amenity space* required by this By-law; elevator shafts; garbage shafts; mechanical penthouse; and exit stairwells in the *building*.
- (d) "*outdoor pet relief area*" means an area with a surface designed specifically for animals to relieve themselves. Surface must be made of materials that can be treated to inhibit the spread of disease. The area devoted to the *pet relief area* must be a minimum of 5 square metres.
6. Within the lands shown on Map 1 attached to this By-law, no person may 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 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.
7. Section 37 provisions
- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the lands shown as Map 1 attached to this By-law, in return for the provisions by the owner, at the owner's expense of the facilities, service and matters set out in Schedule A hereof 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;
- (b) Where Schedule A 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 building permit is dependent on satisfaction of the same; and
- (c) The owner must not use, or permit the use of, a building or structure erected with an increase in the height pursuant to this By-law unless the provisions of Schedule A of this By-law are satisfied.

**SCHEDULE A****Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the owner of the *lot* at their expense to the *City* in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the *City*:

1. The owner must enter into a Section 37 Agreement to secure the following community benefits:
  - i. A cash contribution of \$800,000.00 to be paid to the City prior to the issuance of a first above-grade building permit, to be used towards local improvements within the vicinity of the site including parks, streetscape, cycling and pedestrian safety improvements;
  - ii. The cash contribution referred to in Part i. above must be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment; and
  - iii. In the event the cash contribution referred to in Part i. above has not been used for the intended purpose within three (3) years of the Bylaw 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 purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
  
2. The owner must enter into a Section 37 Agreement to secure the following matters, all to the satisfaction of the Chief Planner and Executive Director, City Planning, the Chief Engineer and Executive Director, Engineering and Construction Services and the City Solicitor:
  - i. The owner must provide a detailed noise study intended to address the design of the building façade and glazing construction to mitigate noise, including a peer review, all at the cost of the owner and to incorporate the recommendations in the site design;
  - ii. The owner must include in all offers of purchase and sale warning clauses to advise building occupants of the potential noise and odour impacts from surrounding facilities in accordance with the requirements of the noise and odour studies;
  - iii. The owner must include in all offers of purchase and sale warning clauses to advise building occupants that, despite best efforts, sufficient school accommodation may not be locally available and that students may have to be accommodated in schools outside the area until space within the area becomes available;

- iv. Require the owner to provide an on-site dog off-leash amenity with proper disposal facilities for the building residents or dog relief station within the building;
- v. Require the owner to design and construct upgraded streetscapes along the St. Clair Avenue West and Symes Road frontages of the site, providing a pedestrian walkway, upgraded pavement treatment and landscaping to be secured through the Site Plan Control review process;
- vi. Require the owner to convey to the City, at nominal cost, a 4.94 metre wide strip along the St. Clair Avenue West frontage abutting the site, such lands to be free and clear of all physical and title encumbrances, and subject to a right-of-way for access in favour of the owner until such time as said lands have been designed and dedicated for public highway purposes, all to the satisfaction to the Chief Engineer and Executive Director, Engineering and Construction Services in consultation with the City Solicitor;
- vii. As a condition of site plan approval and prior to the issuance of any permits, require a detailed construction management plan for the site; and
- viii. The owner must construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee, and as updated by Toronto City Council at its meeting held on December 5, 6 and 7, 2017 through the adoption of Item PG23.9 of the Planning and Growth Management Committee, and as may be further amended by City Council from time to time.



