

Authority: Ontario Municipal Board Order issued
February 22, 2018 in Board File PL141418

CITY OF TORONTO

BY-LAW 202-2020(OMB)

To amend former City of Toronto Zoning By-law 438-86 respecting the lands municipally known in the year 2015 as 143 Avenue Road.

Whereas the Ontario Municipal Board, by way of a Decision dated February 22, 2018, determined to amend the former City of Toronto Zoning By-law 438-86, as amended with respect to lands known municipally in the year 2015 as 143 Avenue Road; and

Whereas authority is given to the Ontario Municipal Board under Section 34 of the Planning Act, R.S.O. 1990, c.P. 13, as amended; and

Whereas pursuant to Section 37 of the Planning Act, a by-law passed under Section 34 of the Planning Act may authorize increases in the height or density of development beyond that otherwise permitted by the by-law 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 lands elects to provide facilities, services or matters in return for an increase in the height or 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 lands known at the date of enactment of this By-law as 143 Avenue Road (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law; and

Whereas the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the lands by Zoning 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 and to be secured by one or more agreements between the *owner* of the Lands and the City of Toronto;

The Ontario Municipal Board orders that By-law 438-86, as amended, of the former City of Toronto is amended as follows:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law the increase in height and density of development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the *owner*, at the *owner's* expense of the facilities, services and matters set out in Appendix 1 of this By-law as 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 a building permit shall be dependent on satisfaction of the same.

3. The *owner* shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
4. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the lands shown on Map 1 forming part of this By-law.
5. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*' and '*lot*' and Sections 4(2)(a), 4(5), 4(8)(b), 4(13), 4(17), 8(3) PART I, 8(3) PART II, 8(3) PART III, 12(2) 132, 12(2) 137 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 on the lands shown delineated by heavy lines on Map 1 attached to this By-law of a *mixed use building* and a *commercial parking garage*, including uses accessory thereto provided:
 - (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to this By-law;
 - (b) no portion of any building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 2 attached to this By-law;
 - (c) no portion of any building or structure erected or used above *grade* shall exceed the *height* limits above *grade* in metres specified by the numbers following the symbol "H" as shown on Map 2 attached to this By-law;
 - (d) notwithstanding Sections 5(b) and 5(c) of this By-law, the following elements may project beyond the heavy lines and above the heights shown on Map 2:
 - (i) eaves, canopies, cornices, lighting fixtures, awnings, fences and safety railings, architectural features, parapets, trellises, balustrades, window sills, window washing equipment, privacy screens, mechanical and architectural screens, guardrails, chimneys, vents, stacks, terraces, platforms, transformer vaults, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, underground garage ramps and their associated structures, stair landings, planters, and public art features, roof assembly material, elevator overruns and elements or structures on the roof of the building used for outside or open air recreation, green roof, safety or wind protection purposes; and
 - (ii) mechanical penthouse to a maximum height of 5.0 metres.

- (e) the total aggregate *non-residential gross floor area* and *residential gross floor area* of any building or structure erected on the *lot* shall not exceed 8,100 square metres;
- (f) the *residential gross floor area* of any building or structure erected on the *lot* shall not exceed 7,700 square metres;
- (g) the *non-residential gross floor area* of any building or structure erected on the *lot* shall not exceed 450 square metres;
- (h) *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.30 *parking spaces* per studio *dwelling unit*;
 - (ii) a minimum of 0.50 *parking spaces* per one bedroom *dwelling unit*;
 - (iii) a minimum of 0.75 *parking spaces* per two bedroom *dwelling unit*;
 - (iv) a minimum of 0.80 *parking spaces* per three bedroom *dwelling unit*; and
 - (v) a minimum of 0.06 *parking spaces* per *dwelling unit* for visitors to the building.
- (i) *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) a minimum of 0.90 *bicycle parking spaces* – *residential occupant*; and
 - (ii) a minimum of 0.10 *bicycle parking spaces* – *residential visitor*.
- (j) no *landscaped open space* shall be required;
- (k) one *loading space* shall be provided on the *lot* in accordance with the following:
 - (i) a minimum length of 11 metres;
 - (ii) a minimum width of 3.5 metres; and
 - (iii) a minimum vertical clearance of 4.00 metres.
- (l) 13 *parking space* shall have the following minimum dimensions when accessed from a drive aisle of 6.0 metres or less and obstructed on one side:
 - (i) a minimum width of 2.6 metres;
 - (ii) a minimum length of 5.6 metres; and

- (iii) a minimum height of 2.0 metres.
- (m) *2 parking space* shall have the following minimum dimensions when accessed from a drive aisle of 6.0 metres or more and obstructed on one side:
 - (i) a minimum width of 2.6 metres;
 - (ii) a minimum length of 5.6 metres; and
 - (iii) a minimum height of 2.0 metres.
- 6. None of the provisions of By-law 438-86 shall apply to prevent a temporary *sales office* on the *lot* as of the date of the passing of this By-law.
- 7. For the purpose of this By-law, the terms set forth in italics shall have the same meaning as such terms have for the purposes of By-law 438-86, as amended, except that the following definitions shall apply:
 - (a) "*height*" means the highest point of the roof above *grade*, except for those elements prescribed by this By-law;
 - (b) "*grade*" means 119.15 metres Canadian Geodetic Datum;
 - (c) "*lot*" means those lands identified on Map 1 attached to this Bylaw; and
 - (d) "*sales office*" means a temporary building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*.
- 8. 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.

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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 the *lot* at its expense to the *City* or as otherwise specified in this Appendix, in accordance with an agreement, 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:

1. Prior to the issuance of an above-grade building permit for any building, the *Owner* shall provide an (indexed to inflation) contribution of \$290,000.00 to the City of Toronto's Planning Act Reserve Fund for community type facilities, with such funds to be used in the discretion of the Chief Planner and Executive Director, City Planning for local area park and streetscape improvements in consultation with the Ward Councillor.



