

Authority: Ontario Municipal Board Decision issued
November 14, 2016 and Local Planning Appeal Tribunal
Decision/Order issued September 26, 2019 in
File MM150053

CITY OF TORONTO

BY-LAW 319-2020(LPAT)

To amend Railway Lands Central Zoning By-law 1994-0806 of the former City of Toronto, with respect to lands known as Block 22, municipally known in the year 2018 as 23 Spadina Avenue.

Whereas the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board), by way of a Decision in respect of Board File PL150792 issued on November 14, 2016 and a final order dated September 26, 2019 determined to amend the former City of Toronto Zoning By-law 1994-0806, as amended with respect to lands known municipally in the year 2018 as 23 Spadina Avenue; and

Whereas authority is given to the Local Planning Appeal Tribunal by Section 34 of the Planning Act, R.S.O 1990, c.P.13, as amended to approve the by-law; 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 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 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 lands known at the date of enactment of this by-law as 23 Spadina Avenue (the "Lands") has elected to provide the facilities, services and matters as 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 1994-0806, 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 Local Planning Appeal Tribunal orders that Railway Lands Central Zoning By-law 1994-0806 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 'Railway Lands Central'", as amended, as follows:

1. By-law 1994-0806, as amended, is further amended for *block 22* as shown on Map 1 by:
 - (a) amending Height and Minimum Lot Frontage Map 50G-322 Appendix "B" in respect of *block 22* as shown on Exception Map 2 attached to this By-law;
 - (b) the addition of Exception Map 3A (Block 22 Boundaries) amending Maps 3 (Build To Zones), 5 (Building Envelopes) and 7 (Zone for Colonnades or Canopies) in respect of *block 22* as shown on Exception Map 3A attached to this By-law;
 - (c) the addition of Exception Map 4A (Building Envelope Line From Grade to a Height of 9 metres) in respect of *block 22* as shown on Exception Map 4A attached to this By-law;
 - (d) the addition of Exception Map 4B (Building Envelope Line From a Height of 9 metres to 42 metres amending Map 4 (Building Envelope Line From Grade to Elevation 110.0 metres Canadian Geodetic Datum) in respect of *block 22* as shown on Exception Map 4B attached to this By-law;
 - (e) the addition of Exception Map 4C (Tower Location above a Height of 42 metres) in respect to *block 22* which delineates the location of two towers which may exceed a *height* of 42 metres above *grade*, known as Tower 'A' and Tower 'B' which are shown on Map 4C attached to this By-law; and
 - (f) the addition of Exception Map 5 (Privately Owned Publicly Accessible Open Space), in respect of *block 22* which delineates the boundary and minimum area of *privately owned publicly accessible open space* which, excluding any projections of the building envelope as shown on Exception Map 4B amending Map 4, shall be provided on the *lot* as shown on Exception Map 5 attached to this By-law.
2. Except as otherwise provided herein, the provisions of By-law 1994-0806, as amended, shall continue to apply to *block 22*.
3. Notwithstanding any severance or division of the lands subject to this By-law, the regulations of this by-law shall continue to apply to the whole of the lands.
4. Within the Lands shown on Map 1 attached to this By-law, 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 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.

5. For the purposes of this By-law, the following words and expressions shall have the following meanings, and each other word or expression which is italicized in this by-law shall have the same meaning as each such word or expression as defined by By-law 1994-0806.
- (a) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle stacker or locker for the purpose of parking and securing bicycles and:
 - (i) where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical clearance from the ground of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position on a wall, structure or mechanical device, has a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.6 metres and a minimum horizontal clearance from the wall of 1.2 metres; and
 - (iii) where bicycles are to be parked in a *bicycle stacker*, has a minimum vertical clearance of 1.2 metres for each *bicycle parking space*;
 - (b) "*bicycle stacker*" means a device whereby a *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device and each such area shall be deemed a *bicycle parking space* and the provisions of Section 2(1) "*bicycle parking space – occupant*" (i) and (ii) and the provisions of Section 2(1) "*bicycle parking spaces – visitor*" (i) and (ii) of By-law 1994-0806 shall not apply;
 - (c) "*car share*" means 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 the use of cars be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
 - (d) "*car share parking space*" means a *parking space* that is reserved and actively used for car-sharing;
 - (e) "*grade*" means 85.2 metres Canadian Geodetic Datum;
 - (f) "*office*" shall include but not be limited to a business or professional office, a medical office or clinic and a real estate leasing, sales and customer care management *office* and an *accessory* real estate showroom, and the administration of construction management services;
 - (g) "*parking garage*" means a portion of a building, located above or below *grade*, that is used for the temporary parking of motor vehicles and a *car share* operation as an *accessory* use to the principal use or uses on the *lot* except that, in the case where a *parking garage* or a portion thereof is located on a *lot* in an IC or CR

district, the *parking garage* may be occupied by motor vehicles whose users are not occupants or customers of the building where the *parking garage* is located and where parking is provided in a *parking garage* at or above *grade*, it shall be considered *residential gross floor area*;

- (h) "*privately owned publicly accessible open space*" with respect to *block 22* means an area of horizontal space provided on the finished ground level of the *lot*, situated at the ground level, as shown on Exception Map 5, attached to this By-law, which is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, ornamental structures, retaining walls, seating areas, landscaped plazas, stairs and ramps and is used principally for the purposes of sitting, standing and other recreational uses, but it shall not be used for commercial purposes;
- (i) "*residential gross floor area*" has the same meaning as provided in By-law 1994-0806, as amended, except that all mechanical pipe chases and associated enclosing walls and all indoor *residential amenity space* shall be excluded from the calculation of *residential gross floor area*;
- (j) "*tandem parking space*" means, notwithstanding the definition of *parking space*, the configuration of *parking spaces* where it is intended that one *parking space* may be located behind another *parking space* and the only access for one *parking space* is through another *parking space*, provided that only one of the two *parking spaces* provided in a *tandem parking space* can be included in the calculation of *parking spaces* required by this by-law. The first *parking space* which is closest to the aisle will be the required *parking space*. The second *parking space* which is farthest from the aisle will not be included in the count of required *parking spaces*.

DENSITY

6. The table in Regulation 1 of Section 7 Part I entitled **MAXIMUM FLOOR AREA: MIXED USE, NON-RESIDENTIAL AND RESIDENTIAL BUILDINGS** is amended by replacing the figure 40,900 in **COLUMN B** with the figure 5,300, the figure 44,160 in **COLUMN C** with the figure 115,170, and the figure 46,000 in **COLUMN D** with the figure 120,470 as they apply to *block 22*.

7. **Section 7 Part I – DENSITY** is amended by the addition of Regulation 5.
EXCEPTION: RESIDENTIAL GROSS FLOOR AREA ON BLOCK 22 as follows:

5. EXCEPTION: RESIDENTIAL GROSS FLOOR AREA ON BLOCK 22

Notwithstanding Regulation 1 of Section 7 Part I, the maximum *residential gross floor area* erected or used on *block 22* shall not exceed 115,170 square metres of which a maximum 103,950 square metres may be used for residential uses and a maximum of 11,220 square metres may be used as a *parking garage* at or above *grade*;

SETBACKS

8. Regulation 3 of Section 7 Part II entitled **REQUIRED SETBACKS** is amended as follows:
- (a) Subsection 3(b) is replaced with the following:
 - (b) for *block 19, block 20/23, block 21* and *block 28* the distances shown on Map 4.
 - (b) Subsection 3(c) is added as follows:
 - (c) For *block 22*:
 - (i) the minimum required setback shall be as shown on Exception Map 4A, Exception Map 4B and Exception Map 4C, excluding:
 - A. signage, light fixtures, window washing equipment, columns and overhangs, structures used for wind protection purposes, partitions and children's play equipment or any wall or fence enclosing such equipment or children's play area;
 - B. balconies and canopies may project a maximum of 2.6 metres from the wall where it is attached; and
 - C. ornamental features may project a maximum of 0.5 metres from the wall where it is attached;

EXCEPTIONS

9. Exception (11)(c) in Section 10, entitled **BLOCKS 19, 20/23, 21, 22 & 28 – BUILDING TOWERS** is amended by replacing paragraph (c) with the following:

BLOCK 22

- (c)
 - (i) Despite Section 4(3)(a) no person shall erect or use a building or structure on *block 22* having a *height* limit of 42 metres other than:
 - A. mechanical shafts incorporated into landscape features, any structure used for open air recreation, safety or wind protection purposes, skylights, children's play equipment or any wall or fence enclosing such equipment or children's play area, and a maintenance equipment storage enclosure with dimensions of a maximum of 6.5 metres in length by a maximum of 5.5 metres in width provided the maximum height of such elements are not higher than 5 metres;

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- B. lightning rods, antennae, solar panels, satellite dishes or any fence, wall or structure, enclosing such elements, access stair towers, safety parapets or guards provided the maximum height of such elements are not higher than 4 metres;
 - C. window washing equipment provided the maximum height of such elements are not higher than 5.5 metres;
- (ii) Section (i) shall not apply to prevent the erection or use of a maximum two (2) building towers (Tower A and Tower B) within the heavy lines, as shown on Exception Map 4C attached to this By-law provided that:
- A. each floor in any tower located above a 42 metre *height* limit contains no more than 750 square metres of *non-residential gross floor area, residential gross floor area* or any combination thereof;
 - B. a minimum 25 metre separation distance shall be provided between portions of a tower above the 42 metre *height* limit measured perpendicular to the building face, excluding balconies;
 - C. no part of the tower exceeds the *height* limits permitted by Section 4(3)(a) other than:
 - (a) generators and cooling towers located on the top of the tower roofs provided the maximum height of such elements are not higher than 2 metres;
 - (b) antennae, solar panels, satellite dishes, access stair towers, provided the maximum height of such elements are not higher than 4 metres;
 - (c) window washing equipment provided the maximum height of such elements are not higher than 5.5 metres;
 - (d) safety parapets or guards, lightning rods, garbage chute exhausts provided the maximum height of such elements are not higher than 2 metres; and
 - D. notwithstanding subsection (i) and (ii) above, the projections identified in Section 8 (b) above may project beyond the heavy lines on Exception Map 4A, Exception Map 4B and Exception Map 4C attached to this By-law.
10. Exception (12) in Section 10, entitled **ABOVE GRADE PARKING – BLOCK 20/23** is amended by changing the title to **ABOVE GRADE PARKING – BLOCK 20/23 AND BLOCK 22**, and by the addition of paragraph (c) which reads as follows:

- (c) in respect of *block 22 parking spaces* may be provided above and below *grade* in a *parking garage* and provided that in the above *grade* portion of the *parking garage* no more than seven (7) storeys are used for parking and the area so used is either wrapped by residential or non-residential space or flanked by an abutting rooftop terrace;

11. Section 10(20) is deleted and the following is substituted therefore as Section 10(20):

(20) "ADDITIONAL REGULATIONS - BLOCK 22"

(a) Block 22 - RESIDENTIAL AMENITY SPACE

Notwithstanding subsection (7) of Section 4 entitled **RESIDENTIAL AMENITY SPACE**, a minimum of 1.5 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided in a multi-purpose room or rooms at least one of which contains a kitchen and a bathroom and a minimum of 1.5 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided on the *lot*. In addition:

- (i) *privately owned publicly accessible open space* with a minimum area of 110 square metres shall be provided as shown on Exception Map 5 attached to this By-law excluding any structural overhang projections permitted as shown on Exception Map 4B attached to this By-law.

(b) Block 22 - BICYCLE PARKING SPACES

Notwithstanding Subsection (8) of Section 4 entitled **BICYCLE PARKING SPACES AND SHOWER-CHANGE FACILITIES: WHEN REQUIRED, NUMBER, LOCATION AND TYPE**, the following regulations shall apply:

- (i) *bicycle parking spaces* are to be provided and maintained on the *lot* in accordance with the following minimum standards:
- A. a minimum of 0.9 *bicycle parking spaces* per *dwelling unit* for residents;
 - B. a minimum of 0.1 *bicycle parking spaces* per *dwelling unit* for residential visitors;
 - C. a minimum of 3 plus 0.3 short-term and 0.2 long-term *bicycle parking spaces* for each 100 square metres of interior floor area used for permitted retail uses; and

- D. a minimum of 3 plus 0.2 short-term and 0.2 long-term *bicycle parking spaces* used for each 100 square metres of interior floor area used for *office* uses.

(c) **Block 22 – MOTOR VEHICLE PARKING**

Notwithstanding Subsection (5) of Section 4 entitled **PARKING SPACES: WHEN REQUIRED, NUMBER, LOCATION AND TYPE** and Schedule 1 thereto, the following regulations shall apply:

- (i) a minimum of 0.41 *parking spaces* per *dwelling unit* shall be provided for residents of the *dwelling units*;
- (ii) *parking spaces* shall be provided in a *parking garage* on a non-exclusive basis for the shared use of visitors to the *dwelling units* and non-residential uses permitted on the *lot* in accordance with the following parking requirements:

		Parking Occupancy Rate		
Type of Use	Minimum Required	AM	PM	Evening
Non-residential	1 <i>parking space</i> for each 300 square metres of <i>net floor area</i> , or fraction equal to or greater than one-half thereof	100 percent	60 percent	0 percent
Residential Visitors	0.06 <i>parking spaces</i> per <i>dwelling unit</i>	0 percent	35 percent	100 percent

- (iii) Notwithstanding the requirements of Section (c)(ii) above, no *parking spaces* shall be required for retail uses located on or below the ground floor of the building provided the total *non-residential gross floor area* does not exceed 5,785 square metres.
- (iv) Shared *parking spaces* are to be provided on the same *lot* as the building for which the parking is provided.
- (v) The following dimensions for parking spaces and drive aisles shall be provided:
- A. minimum *parking space* width of 2.6 metres;
- B. minimum *parking space* length of 5.9 metres; and
- C. minimum drive aisle width of 5.5 metres.
- (vi) *Tandem parking spaces* and *car-share parking spaces* may be provided.

(vii) Notwithstanding the requirements of Section (c)(i) above, a reduction in the minimum number of total residential *parking spaces* is permitted as follows:

A. a reduction of 4 residential *parking spaces* is permitted for each *car-share parking space* that is provided in the building and the maximum reduction permitted by this Exception shall be capped by the application of the following formula:

$4 \times (\text{total number of residential } \textit{dwelling units} / 60)$, rounded down to the nearest whole number.

(d) Block 22 – LOADING SPACES

Notwithstanding Subsection (6) of Section 4, entitled **LOADING AREAS: WHEN REQUIRED, SIZE AND LOCATION** and Schedule 1 of Subsection (5) of Section 4, one *loading space – type G*, one *loading space – type B* and two *loading spaces – type C* shall be provided on the *lot*.

(e) Block 22 – MIX OF DWELLING UNITS

On *block 22* a maximum of 1,397 *dwelling units* are permitted of which:

- (i) a minimum of 30 percent shall be two or more bedroom *dwelling units* and in addition a minimum of 10 percent shall be three or more bedroom *dwelling units* for a combined total of 40 percent of the *dwelling units* having 2 or more bedrooms;
- (ii) a minimum of 60 percent of the two bedroom *dwelling units* constructed shall have a minimum *residential gross floor area* of 65 square metres; and
- (iii) the average *dwelling unit* size of the three bedroom *dwelling units* will be 80 square metres, and 10 percent of the total number of three bedroom *dwelling units* shall have a minimum *residential gross floor area* of 90 square metres.

(f) Block 22 – WINDOW SEPARATION

Section 7 Part II 1(i) shall not apply on *block 22*.

(g) LOCATION AND SIZE OF BUILDING FACE

Section 7 Part II 4 entitled **LOCATION AND SIZE OF BUILDING FACE** and Section 10 (21) entitled **REQUIRED LOT FRONTAGE AND LOCATION OF BUILDING FACE** shall not apply on *block 22*.

(h) EXCEPTION: PERMITTED PROJECTIONS INTO REQUIRED SETBACK AREA

Section 7 Part II 5 entitled **EXCEPTION: PERMITTED PROJECTIONS INTO REQUIRED SETBACK AREA** shall not apply on *block 22*.

(i) COLONNADE AND CANOPY REQUIREMENTS

Section 7 Part II 6 entitled **COLONNADE AND CANOPY REQUIREMENTS** and Section 10(22) **TERRACES, COLONNADES AND CANOPIES – BLOCKS 21, 22 AND 28** shall not apply on *block 22*.

(j) COMMON OUTDOOR SPACE: NON-RESIDENTIAL AND MIXED USE BUILDINGS

Section 7 Part III 1 entitled **COMMON OUTDOOR SPACE NON-RESIDENTIAL AND MIXED USE BUILDINGS** shall not apply on *block 22*.

(k) Block 22 – ENTRANCE TO COMMERCIAL BUILDINGS

Section 7 Part IV 2 (ii) shall not apply on *block 22*.

(l) CONTRIBUTIONS PURSUANT TO SECTION 37 OF THE PLANNING ACT

(i) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of development on *block 22* is permitted in return for the Owner's election to provide, at the Owner's expense the facilities, services and matters described below which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form satisfactory to the City Solicitor and registered on title to the *lot*;

(ii) Upon execution and registration of an agreement or agreements with the Owner of *block 22* pursuant to Section 37 of the Planning Act securing the provisions of the following facilities, services and matters, *block 22* shall be 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, the Owner may not erect or use such building until the Owner has satisfied the said requirements:

A. The Owner shall provide a cash contribution to the City pursuant to Section 37 of the Planning Act in the amount of

\$7,150,000.00, in addition to the provision of public art having a value of 1 percent of the gross construction cost of the project, such cash contribution to be allotted at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor as follows.

- (a) \$3,050,000.00 towards the multi-purpose community space within the shared community facility (Community Centre, Elementary Schools and Childcare Centre) proposed at 20 Brunel Court (Block 31 Railway Lands West) to the satisfaction of the Chief Planner and Executive Director, City Planning and General Manager, Parks Forestry and Recreation in consultation with the Ward Councillor;
 - (b) \$2,000,000.00 towards the YMCA Centre at 505 Richmond Street West to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Parks Forestry and Recreation in consultation with the Ward Councillor;
 - (c) \$700,000.00 to be directed to the Capital Revolving Fund for Affordable Housing to be allocated towards the provision of new affordable housing units as part of the Alexandra Park and Atkinson Housing Co-operative Revitalization in consultation with the Chief Planner and Executive Director, City Planning and the Ward Councillor;
 - (d) \$700,000.00 for capital repairs to existing Toronto Community Housing buildings in the Ward;
 - (e) \$700,000.00 toward parkland improvements: in the Southern Linear Park bridge over Spadina Avenue; in Canoe Landing Park; and/or for the Bentway (Project under the Gardiner) to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Parks Forestry and Recreation in consultation with the Ward Councillor; and
- B. the Owner agrees that the \$7,150,000.00 cash contribution referenced in Section (I)(ii)(A) above shall be payable as follows:

- (a) \$3,050,000.00 immediately upon this by-law coming into full force and effect;
 - (b) \$1,300,000.00 prior to the issuance of the first above *grade* building permit on the *lot*; and
 - (c) \$2,800,000.00 prior to any condominium registration.
 - C. The payments required in Sections (l)(ii)(A) and (l)(ii)(B) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of execution of the Section 37 Agreement to the day the payment is made.
 - D. In the event that the cash contribution referred to in Section (l)(ii)(A)(b) above has not been used for the intended purpose within five (5) years of the 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 purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands.
- (iii) Coming into effect on the first residential or non-residential occupancy, the Owner shall convey and register for nominal consideration a non-exclusive easement in perpetuity in favour of the City, over the space identified on Exception Map 5 attached to this By-law as '*Privately Owned Publicly Accessible Open Space*' for use by the general public, such easement to be to the satisfaction of the City Solicitor. The Owner shall be responsible to prepare, submit to the City for approval and deposit all required reference plans to describe the easement. The design of the *Privately Owned Publicly Accessible Open Space* to be determined to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor and local community, as part of site plan approval. The maintenance of this *Privately Owned Publicly Accessible Open Space* is to be the responsibility of the Owner.
 - (iv) Prior to site plan approval the Owner shall provide and the City shall secure as conditions of site plan approval a loading management plan which will address the hours of operation of the loading docks and frequency of use by type(s) loading trucks in the loading dock area. The plan will also set out arrangements which will be put in place for the accommodation of smaller delivery

vehicles within the *parking garage* that do not require a loading dock.

- (v) Prior to the issuance of a building permit the owner shall submit a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services and the Chief Building Official and Executive Director, Toronto Building in consultation with the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include but not limited to; details regarding the size and location of construction staging areas, dates and significant concrete pouring activities, measures to ensure safety lighting does not negatively impacts adjacent residence, construction vehicle parking locations, refuse storage, site supervisor contact information and any other matters deemed necessary.

Ontario Municipal Board Decision issued on November 14, 2016 and Local Planning Appeal Tribunal Decision/Order issued on September 26, 2019 in File MM150053.













