

Authority: Ontario Municipal Board Decision/Order issued on February 1, 2017 and Local Planning Appeal Tribunal Orders issued September 30, 2020 in File PL160220

CITY OF TORONTO

BY-LAW 864-2020(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally in 2019 as 420 Dupont Street and 275 Albany Avenue.

Whereas the Ontario Municipal Board/Local Planning Appeal Tribunal pursuant to its Decision/Orders issued on February 1, 2017 and September 30, 2020 in relation to LPAT Case PL160220 determined to amend By-law 438-86 of the former City of Toronto; and

Whereas the Official Plan for the former 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 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 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;

Therefore By-law 438-86, of the former City of Toronto, as amended, is further amended by 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 height and density of development on the *lot* contemplated herein is permitted in return for the provision by the *owner*, at the *owner's* expense, of the facilities, services and matters set out in Schedule 1 hereof subject to and as secured by one or more agreements pursuant to Section 37(3) of the Planning Act in a form, and registered on title to the *lot*, 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* 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 Schedule 1 are satisfied.
4. None of provisions of Zoning By-law 1011-2014 shall apply to the lands delineated by heavy dashed lines on Map 1 attached to and forming part of this By-law.
5. Except as otherwise provided herein the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
6. Map 50J-311 is amended to rezone the lands shown on Map 2 of this By-law from IC D2 N2 to MCR and IC D2.
7. None of the provisions of sections 4(2)(a), 4(3), 4(5), 4(8), 4(12), 4(13), 8(3) Part I 1 and 3, 8(3) PART XI (2), 9(1)(a) and (f), 9(3) Part I (2) and (3), 12(2)132, 12(2)270 and 12(2)380 of By-law 438-86, being "A by-law to regulate the use of land and the erection, use, bulk, height, spacing of land 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 or use of a *mixed-use building* within the *lot* which may contain *dwelling units* and non-residential uses and *accessory* uses thereto, including a *private parking garage* and a *commercial parking garage*, provided that:
 - (a) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* shall not exceed 26,500 square metres;
 - (b) the total *residential gross floor area* of buildings and structures shall not exceed 24,760 square metres;
 - (c) the total *non-residential gross floor area* of buildings and structures shall not exceed 2,750 square metres;
 - (d) the maximum number of *dwelling units* shall be 266;
 - (e) any new building or structure containing *dwelling units* shall be constructed to include a minimum of 10 percent 3-bedroom *dwelling units*, and a minimum of 20 percent 2-bedroom *dwelling units*;
 - (f) no portion of any building or structure erected or used on the *lot*, shall exceed the heights in metres specified by the numbers following the symbol "H" on the attached Map 3, or be erected closer to a *lot* line than the heavy lines indicated on Map 3, with the exception of the following structures and elements:
 - (i) Awnings, cornices, balustrades, underground garage ramps, landscape and public art features, lighting fixtures, trellises, eaves, window sills, wheel chair ramps, outdoor recreation and amenity area elements, partitions dividing outdoor recreation and amenity areas, outdoor furniture, outdoor

- fireplace, wind mitigation, noise mitigation, train derailment mitigation measures;
- (ii) Elevator overruns, cooling towers, screens, window washing equipment, lightning rods, parapets, guardrails, railings, stairs, stair enclosures, stair landings, vestibules, vents and ventilating equipment, landscape and green roof elements, planters, chimney stack, exhaust flues, garbage chute overruns, mechanical distributions, mechanical lifts, hot tubs;
 - (iii) an elevated rooftop pool and elevated pool deck may project to a maximum of 3 metres, and storage and mechanical/electrical rooms may be located beneath the elevated pool and elevated pool deck;
 - (iv) elevator overruns, an elevator access lobby, vestibules and washrooms may project to a maximum of 3 metres within the *height* area identified on Map 3 as MPH/LOBBY and 6 metres within the *height* area identified on Map 3 as MPH;
 - (v) balconies may project to a maximum of 1.6 metres subject to 8(i) and 8(l) below;
- (g) the building shall be located within a 45-degree angular plane measured from a height of 16.0 metres above the front *lot* line adjacent to Dupont Street (the "*45-degree angular plane*");
 - (h) notwithstanding 7(f) and (g) above, the height of the building within the 'stepback zone' identified on Map 3 may project above the *45-degree angular plane* by a maximum of 2.4 vertical metres, provided that the *building volume* located above the *45-degree angular plane* line is less than or equal to one-third of the *volume* below the *45-degree angular plane* line that is not occupied by buildings or structures;
 - (i) balconies, terrace guardrails, window washing equipment, and anchors are not subject to the provisions of 7(g) and 7(h) above;
 - (j) no portion of any building or structure erected or used on the *lot*, shall exceed the number of *storeys* specified by the numbers following the symbol "S" on the attached Map 3;
 - (k) within the *height* area identified on Map 3 as MPH H 35.0 and MPH H 38.0, the only permitted uses above the *height* of H 32.0 shall be the uses listed in 7(f)(ii) and 7(f)(iv) above;
 - (l) *dwelling units* and balconies shall be set back a minimum of 20.0 metres from the north *lot* line;
 - (m) within the IC zone, offices are not permitted;

- (n) within the IC zone, parking, loading, service, access and mechanical facilities accessory to residential uses are permitted;
- (o) *residential amenity space* shall be provided in accordance with the following:
 - (i) a minimum of 2 square metres of indoor *residential amenity space* for each *dwelling unit* shall be provided;
 - (ii) a minimum of 2 square metres of outdoor *residential amenity space* for each *dwelling unit* shall be provided;
 - (iii) the indoor *residential amenity space* shall include a kitchenette and a washroom;
 - (iv) a minimum of 50 square metres of indoor *residential amenity space* shall be accessible from the outdoor *residential amenity space*; and
 - (v) all *residential amenity space* shall be located above grade;
- (p) a minimum number of *parking spaces* shall be provided and maintained either at grade or below grade 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 1-bedroom *dwelling unit*;
 - (iii) 0.8 *parking spaces* for each 2-bedroom *dwelling unit*;
 - (iv) 1.0 *parking space* for each 3-bedroom *dwelling unit*;
 - (v) 0.1 visitor *parking spaces* for each *dwelling unit*;
 - (vi) 1.0 *parking space* per 100 square metres of *non-residential gross floor area*;
 - (vii) non-residential *parking spaces* and residential visitor *parking spaces* may be provided on a non-exclusive basis and shared whereby a non-residential *parking space* can also satisfy the residential visitor *parking space* requirement on the *lot*;
 - (viii) for each on-site *car-share parking space* provided on the *lot*, the minimum resident parking required shall be reduced by 4 *parking spaces*, up to a maximum of 1 *car-share parking space* per 60 dwelling units; and
 - (ix) 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*;

- (q) a minimum of one *loading space - Type "B"* and one *loading space - Type "G"* shall be provided and maintained on the *lot*;
- (r) a minimum number of *bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
 - (i) for residential uses, a minimum of 1.0 *bicycle parking space* for each *dwelling unit*, comprised of 0.9 long-term *bicycle parking spaces* and 0.1 short-term *bicycle parking spaces*;
 - (ii) for *non-residential* uses, a minimum of 0.2 long-term *bicycle parking spaces* per 100 square metres of non-residential *interior floor area* and 3 *bicycle parking spaces* plus 0.3 short-term *bicycle parking spaces* per 100 square metres of non-residential *interior floor area*;
 - (iii) for the purposes of *bicycle parking space* calculations, if the calculation of the minimum *bicycle parking spaces* for all uses results in a fraction of a *bicycle parking space* being required, the number of required *bicycle parking spaces* must be rounded up to the next whole number;
 - (iv) a *bicycle parking space* may be provided in a horizontal or vertical position, and/or in a rack, bicycle stacker or bicycle locker; and
 - (v) despite the definition of *bicycle parking space – visitor* in Section 2(1)(iii) of Zoning By-law 438-86, as amended, a *bicycle parking space* for visitors and non-residential uses may be provided within a secure room;
- (s) none of the provisions of By-law 438-86, as amended, 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 motor vehicle parking facilities.

8. 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) *car-share* means the practice where a number of people share the use of one or more motor vehicles. Such car-share motor vehicles shall be made available for short term rental, including hourly rental. Car-share operators may require that the car-share motor vehicles be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing operator, including the payment of a membership fee that may or may not be refundable;
- (b) *car-share parking space* shall mean a *parking space* that is reserved and use for the *car-share* purpose;

- (c) *grade* means 121.58 metres Canadian Geodetic Datum;
 - (d) *height* means the height above *grade* as shown on Map 3;
 - (e) *interior floor area* means the floor area of any part of a building, measured to: (A) the interior side of a main wall; (B) the centreline of an interior wall; or (C) a line delineating the part being measured;
 - (f) *lot* shall mean the parcel of land delineated by heavy dashed lines on Map 1 attached to and forming part of this By-law and known municipally as 420 Dupont Street and 275 Albany Avenue in the year 2015;
 - (g) *storey* means the number of storeys above grade as shown on Map 3 as marked with a "S" and does not include mezzanines and a portion of a building on the roof top used for washrooms, access lobby, storage rooms and the accommodation and storage of mechanical equipment do not constitute a *storey*;
 - (h) *volume* means the three-dimensional space calculated by multiplying the area shown as "stepback zone" on Map 3 by the height that is contained within the 45-degree angular plane;
 - (i) *building volume* means the *volume* defined in 8(h) above that is occupied by buildings and structures, exclusive of balconies and terrace guardrails; and
 - (j) *sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* and non-residential units to be erected on the *lot*.
9. Despite any existing or future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

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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 lot subject to and as secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

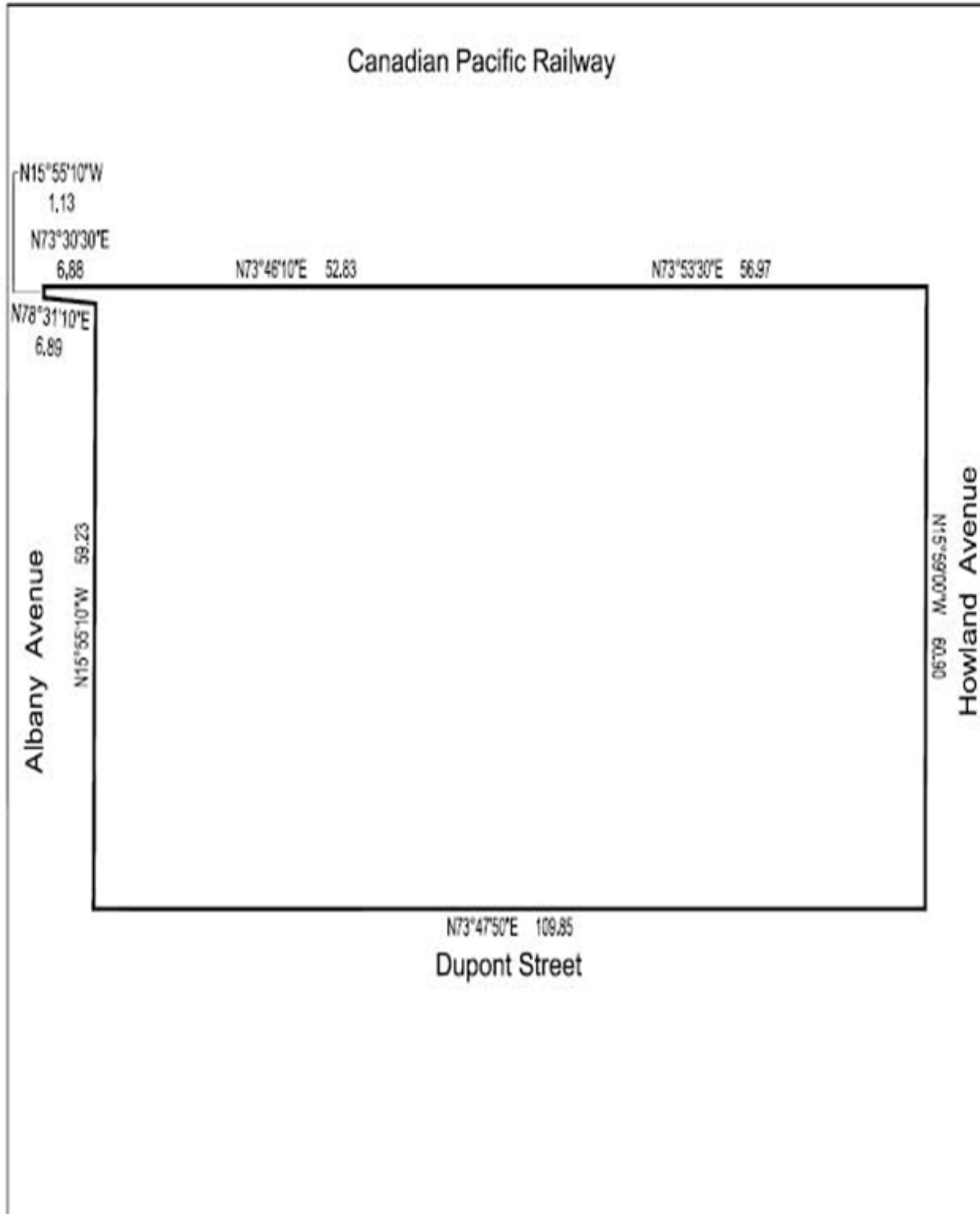
1. Prior to the issuance of the first above-grade building permit for the proposed development on the lot, other than a building permit for a temporary sales office/pavilion, the Owner shall pay to the City the sum of \$780,000 provided that:
 - a. 10 percent (\$78,000) to be allocated to the provision of new affordable housing in Ward 20, as Ward 20 then was on March 31, 2016;
 - b. 10 percent (\$78,000) to be allocated to capital improvements to existing Toronto Community Housing Corporation ("TCHC") buildings in Ward 20, as Ward 20 then was on March 31, 2016; and
 - c. 80 percent (\$624,000) be allocated to parkland improvements and/or public realm improvements, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Parks, Forestry and Recreation and/or the General Manager, Transportation Services, in consultation with the Ward Councillor and local community;

with such amounts to be indexed upwardly in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.

2. Prior to the issuance of the first building permit, the owner will 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, details regarding size and location of construction staging areas, dates and significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary.

Other matter to support the development of the lot:

3. As a condition of Site Plan Approval, the owner will provide, to the satisfaction of the City's Chief Planner and Executive Director of City Planning, detailed drawings which illustrate the proposed rail mitigation measures for the proposed development on the lot.



420 Dupont Street and 275 Albany Avenue, Toronto

