

Authority: Local Planning Appeal Tribunal Decision
issued May 31, 2018 and Order issued August 18, 2020 in
File PL160941

CITY OF TORONTO

BY-LAW 973-2020(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2019 as 117 and 127 Broadway Avenue.

Whereas the Local Planning Appeal Tribunal pursuant to its Decision issued on August 18, 2020 in File PL160941 and Order issued August 18, 2020 upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c. P.13, as amended deems it advisable to amend By-law 438-86, as amended, for the City of Toronto with respect to lands municipally known as 117 and 127 Broadway Avenue; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; 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 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/or 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;

The Local Planning Appeal Tribunal orders:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is 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.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. The lands subject to the By-law are outlined by heavy lines on Map 1, attached to and forming part of this By-law.
5. None of the provisions of Section 2 with respect to *lot*, *residential gross floor area*, *non-residential gross floor area*, *grade*, *height*, *bicycle parking space- occupant*, *bicycle parking space-visitor* and Sections 4(2),4(4), 4(11), 4(12), 4(13), 4(17), 6(2)(11), 6(2)(12), 6(3) Part I 1, 6(3) Part II, and 6(3) Part III, 6(3) Part IV of By-law 438-86, 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", as amended, shall apply to prevent the erection and use of a residential *apartment building* containing *dwelling units* and a *day nursery* on the *lot* provided that:
 - a. the combined *residential gross floor area* and *non-residential gross floor area* of the residential *apartment building* does not exceed 62,341 square metres;
 - (i) a minimum of 692 square metres of *non-residential gross floor area* shall be used for a *day nursery* and a minimum of 290 square metres of exterior area adjacent to and accessible from the *non-residential gross floor area* shall be used for a *day nursery*;
 - b. No part of any *building* or *structure* on the *lot* erected or used above *grade* shall exceed the *height* limits shown in metres as indicated by the numbers following the letters "HT" in the areas delineated by heavy lines on Map 2, attached to and forming part of this By-law, except for the following;
 - (i) Roof drainage materials, thermal insulation, roof assemblies including decking and pavers or roof ballast to a maximum of 1.0 metres;
 - (ii) Structures on the roof at or above the 8th storey used for pool or spa maintenance or operational equipment and swimming pools (elevated or otherwise) to a maximum of 1.7 metres;
 - (iii) Parapets, safety railings, green roof elements, architectural elements and features, landscape elements and features, balcony and terrace partitions and dividers, telecommunications equipment and antennae, planters,

- lightning rods, exhaust flues, vents at each of the roof levels of the building to a maximum of 2.3 metres;
- (iv) Structures on the roof of any part of the **building** used for outside or open air recreation, mechanical equipment and associated screening structures, wind mitigation elements, elevator shafts and enclosed stairwells, window washing equipment to a maximum of 3.0 metres;
 - (v) Trellises, fencing and or canopies at or above the 7th and 8th storey to a maximum of 4.0 metres.
- c. No portion of any *building* erected on the *lot* above *grade* shall be 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 the following:
- i. A platform, mechanical penthouse or balcony attached to or within 0.3 metres of a building to a maximum of 2.1 metres;
 - ii. An entrance canopy, awning, or similar structure at the ground floor, with or without structural support, to a maximum of 3.8 metres, provided such encroachment is not located within the front yard;
 - iii. Exterior stairs, wheelchair access ramps, pedestrian access ramps, and elevating devices to a maximum of 3.0 metres;
 - iv. Architectural features including lighting to a maximum of 1.0 metres;
 - v. Parapets to a maximum of 1.0 metres;
 - vi. Roof projections covering a balcony or terrace to a maximum of 2.2 metres; and
 - vii. Vents, pipes, utility equipment, Siamese connections, satellite dishes, and antennas (including mounting poles) to a maximum of 1.0 metres;
- d. Notwithstanding sections 2 (b) and 2 (c) of this By-law, an *accessory* building or structure or stair enclosure is permitted to be located on the *lot*;
- e. A minimum of 1,448 square metres of indoor *residential amenity space* and 1,632 square metres of outdoor *residential amenity space* shall be provided and maintained on the lot;
- f. *Parking* spaces shall be provided and maintained on the *lot* in accordance with the following requirements:
- i. A minimum of 220 *parking spaces* for residential uses;
 - ii. A minimum of 32 *parking spaces* for residential visitors; and

- g. A maximum of 15 *parking spaces* may have a minimum width of 2.4 metres, a minimum length of 5.3 metres and a minimum vertical clearance of 1.7 metres;
 - h. *Bicycle parking spaces –visitor* shall be provided at a rate of 0.1 *bicycle parking spaces per dwelling unit*;
 - i. *Bicycle parking spaces – occupant* shall be provided at a rate of 0.9 *bicycle parking spaces per dwelling unit*;
 - j. Notwithstanding Section 2(e) of this By-law the total minimum number of *parking spaces* required on the *lot* may be reduced at a rate of 1 *vehicle parking space* for each 5 *bicycle parking spaces* provided in excess of the minimum number of *bicycle parking spaces* required by Section 2(e) of this By-law if the reduction of *vehicle parking spaces* is not greater than 20 percent of the total minimum of *vehicle parking spaces* required;
 - k. In the event that the calculation of the number of required *parking spaces* or *bicycle parking spaces* results in a number with a fraction, the number shall be rounded down to the nearest whole number;
 - l. The maximum number of storeys shall be in accordance with the number following the symbol "ST" on Map 2 attached to and forming part of this by-law.
6. For the purposes of this By-law, all words, terms and phrases appearing in italics shall have the same meaning as they have for the purpose of the aforesaid By-law 438-86, as amended, except as herein provided:
- a. *Bicycle parking space-visitor* shall mean an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and may be within a secured room and/or within a *parking stacker - bicycle*, and;
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres;
 - ii. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres; and
 - iii. May be located indoors or outdoors including within a secured room or enclosure;
 - b. *Bicycle parking space-occupant* shall mean an area *that* is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles and may be within a secured room and/or within a *parking stacker - bicycle*, and;
 - i. Where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.5 metres by 1.8 metres;

- ii. Where bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.5 metres by 1.2 metres; and
- iii. May be located indoors or outdoors including within a secured room or enclosure
- c. "*parking stacked – bicycle*" means a *mechanical* bicycle parking facility with *bicycle parking spaces* which:
 - i. Positioned above each other or another *bicycle parking space*;
 - ii. The platform of such *bicycle parking space* may have dimensions of not less than 0.37 metres by 1.8 metres and a height allowance of 1.2 metres; and
 - iii. May not be readily accessible at all times without maneuvering another bicycle or device;
- d. *grade means* 158.80 metres Canadian Geodetic Datum;
- e. *non-residential gross floor area* shall mean the sum of the total areas of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level, reduced by the area of the building used for:
 - i. *Parking, loading and bicycle parking below ground*;
 - ii. *Commercial Parking Garage*;
 - iii. *Required loading spaces at the ground level and required bicycle parking spaces at or above ground*;
 - iv. *Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement*;
 - v. *Shower and change facilities required by this By-law for required bicycle parking spaces*;
 - vi. *Amenity space required by this By-law*;
 - vii. *Elevator shafts*;
 - viii. *Garbage shafts*;
 - ix. *Mechanical penthouse*; and
 - x. *Exit stairwells in the building*;
- f. *height* means the *vertical* distance between grade and the highest point of the building or structure;

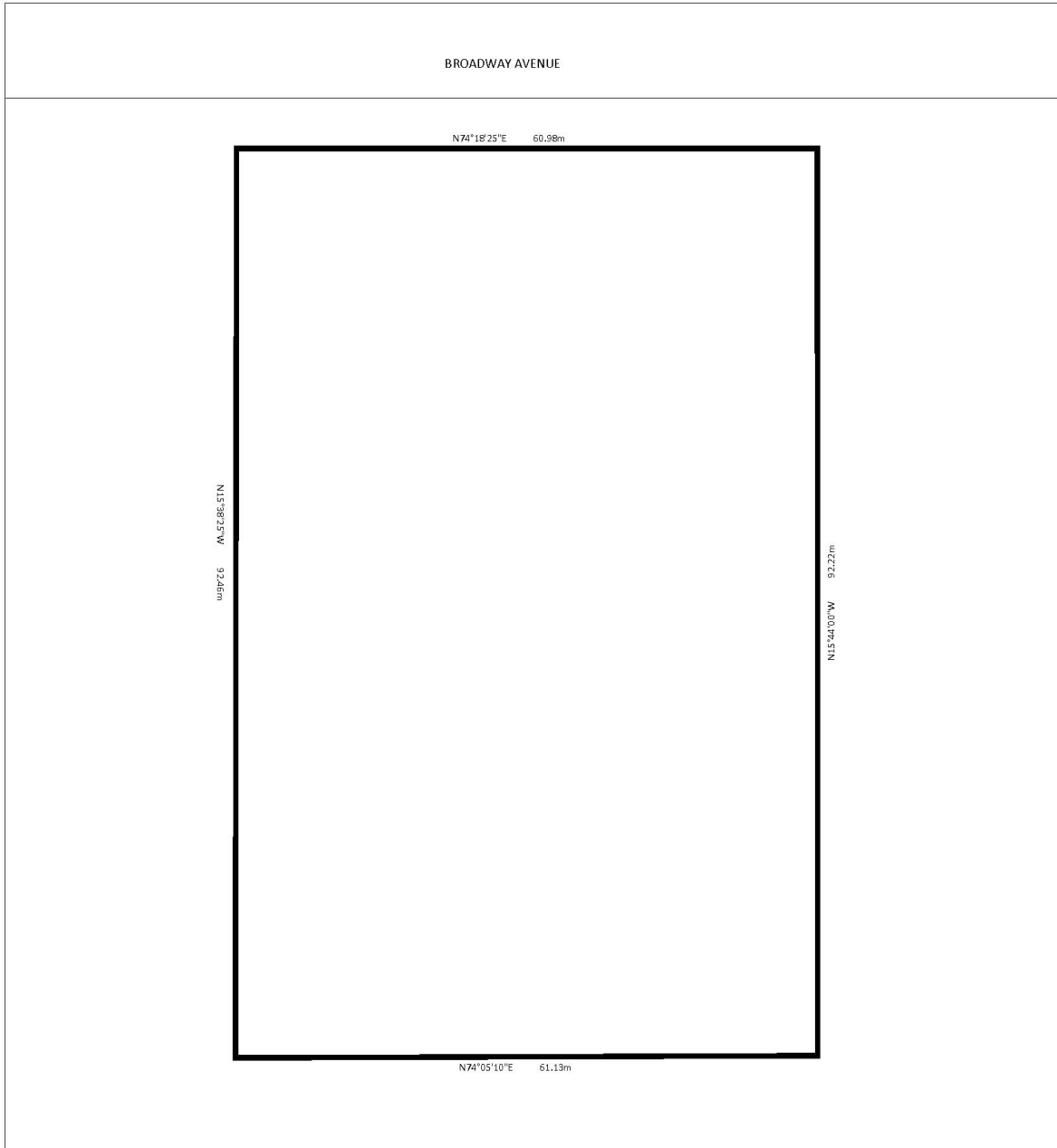
- g. *lot* means those lands identified within the heavy lines on Map 1 attached to and forming part of this By-law;
- h. *residential gross floor area* shall *mean* the sum of the total areas of each floor level of a building, above and below grade, measured from the exterior of the main wall of each floor level, reduced by the area of the building used for:
 - i. Parking, loading and bicycle parking below ground;
 - ii. Required loading spaces at the ground level and required 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 required by this By-law for required bicycle parking spaces;
 - v. Amenity space required by this By-law;
 - vi. Elevator shafts;
 - vii. Garbage shafts;
 - viii. Mechanical penthouse; and
 - ix. Exit stairwells in the building;
- 7. Nothing within this By-law or By-law 438-86 shall prevent the erection and maintenance of a *temporary sales office* on the *lot*.
- 8. Despite any existing or future severance, partition, division, dedication or conveyance of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition, division, dedication or conveyance occurred.

Local Planning Appeal Tribunal Decision issued May 31, 2018 and Order issued August 18, 2020 in File PL160941.

APPENDIX 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 as shown in Maps 1 and 2 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 issuance of the first above-grade building permit for the **building**, the Owner shall provide to the City, as security for the Child Care Facility, a Letter of Credit, which security shall be released when the Child Care Facility is operation, in accordance with the terms of the Section 37 Agreement and to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (2) The Owner, at its expense, shall construct, finish, furnish and equip a non-profit licensed child care facility, including the associated outdoor play area, in compliance with the requirements of applicable legislation in effect at the time of construction and no later than 12 months following occupancy of the **building**, with a minimum area of 692 square metres within the first **storey** of the proposed **building** and a minimum of 290 square metres of directly adjacent exterior space accessible from the interior area.



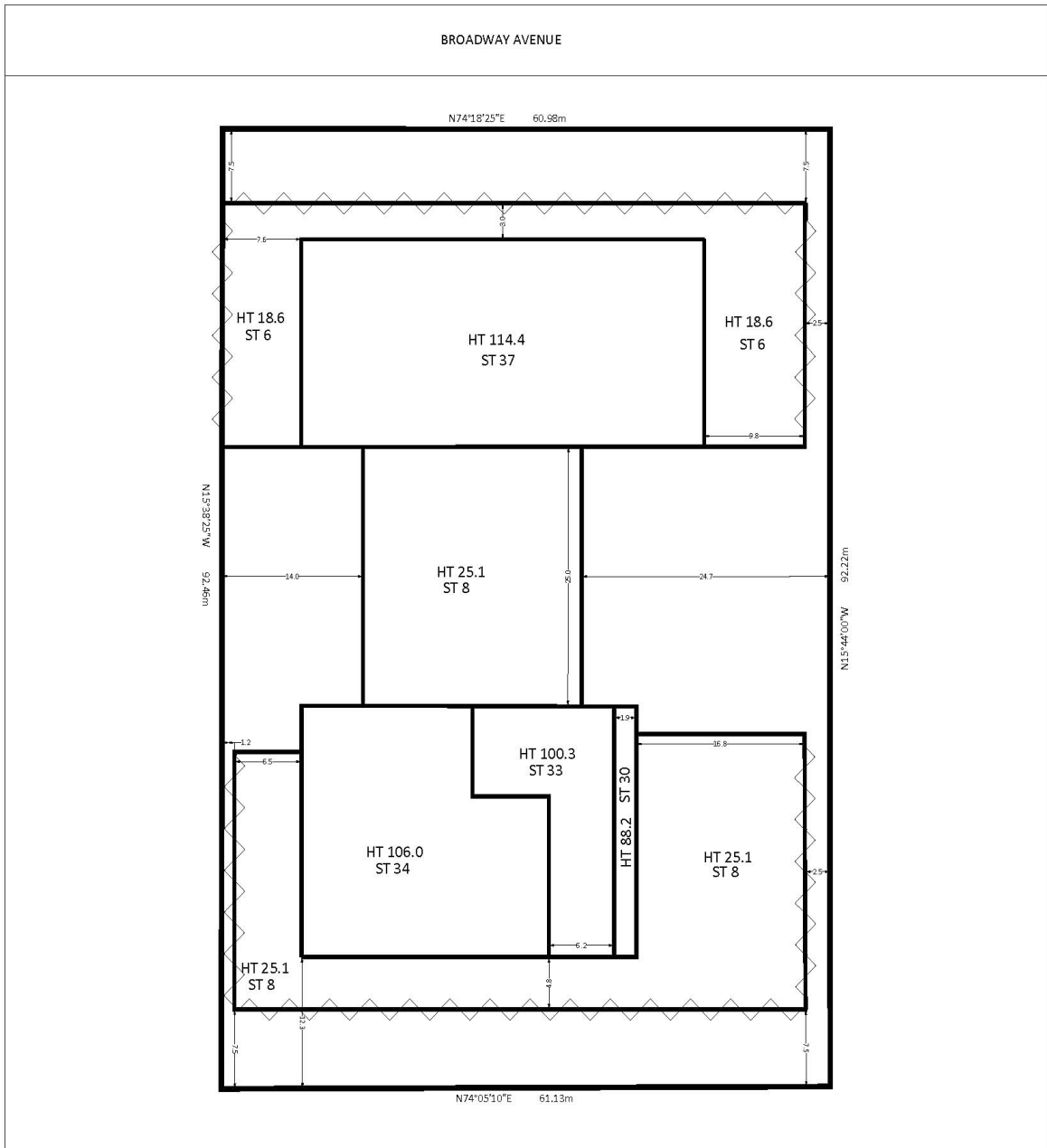
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MAP 1

Zoning By-law Amendment

117-127 Broadway Avenue
City of Toronto

 Area Affected By This Bylaw



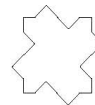
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MAP 2

Zoning By-law Amendment

117-127 Broadway Avenue
City of Toronto

 Area Affected By This Bylaw



Main Wall where balcony projections are not permitted