

Authority: Local Planning Appeal Tribunal  
Decision issued on June 28, 2019 and Order issued  
on December 2, 2020 in LPAT File PL171338

## **CITY OF TORONTO**

### **BY-LAW 65-2021(LPAT)**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known municipally as 306, 310, 314, 320 and 326 Davenport Road.**

Whereas the Local Planning Appeal Tribunal pursuant to its Decision issued on June 28, 2019 and Order issued December 2, 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 306, 310, 314, 320 and 326 Davenport Road; and

Whereas authority is given to Council of the City of Toronto by Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this 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 and 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 the enactment of this by-law as 306, 310, 314, 320 and 326 Davenport Road (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 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;

By-law 438-86, as amended, of the former City of Toronto is further amended by the Local Planning Appeal Tribunal as follows:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this exception, the increase in height and density of development on the lands is permitted in return for the owner's election to provide, at the owner's expense the facilities, services and matters set out in Schedule A of this By-law.
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 provisions of the following facilities, services and matters, the lands shall be subject to the provisions of this

exception, provided that in the event that 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. None of the provisions of Sections 4(2)(a), 4(5)(b)(g)(h) and (i), 4(8), 4(10)(a) and (d), 4(12), 4(13), 4(14)(a), 8(3), PART I 1 and 3, 8(3) PART II 1(a), and 8(3) PART XI 2 and 12(2)132 of Zoning By-law No. 438-86, as amended, and By-law 1106-2016, shall apply to prevent the erection and use of a *mixed-use building* and *accessory* uses thereto on the *lot* provided that:
- a. The *lot* on which the building is to be located comprises at least those lands within the heavy lines on Map 1, attached to and forming part of this By-law;
  - b. The maximum total aggregate non-residential *gross floor area* and residential *gross floor area* of any building or structure erected on the *lot* shall not exceed 24,320 square metres;
  - c. The maximum total aggregate residential *gross floor area* of any building or structure erected on the *lot* shall not exceed 22,000 square metres;
  - d. No portion of any building or structure on the *lot* shall have a *height* in metres greater than the *height* limits specified by the numbers following the symbol HT on Map 2 attached to and forming part of this By-law, except for:
    - i. Parapets, trellises, roof drainage, thermal insulation and roof ballast, terrace or balcony guards and dividers, terraces, balconies, planters, stairs, stair enclosures, wall or structure enclosing such elements and railings, window washing equipment, stair towers, partitions, ornamental elements, architectural elements, landscape elements, green roof elements, lighting fixtures, vents, elevator over-run, flues, screens, pipes, access roof hatch, outdoor furniture, heating, cooling or ventilating equipment or a fence, and structures located on the roof used for outside or open air recreation, safety or wind protection purposes, which are limited to a maximum vertical projection of 3.0 metres above the permitted building heights shown on Map 2 attached to and forming part of this By-law;
    - ii. Building maintenance units and associated screening, which are limited to a maximum vertical projection of 5.0 metres above the permitted building heights shown on Map 2 attached to and forming part of this By-law;
  - e. 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 "ST" on the attached Map 2;

- f. For the purposes of determining the maximum number of *storeys* permitted in Regulation (e) above, a portion of the *building* used in conjunction with *dwelling units* below and not exceeding 295 square metres of *gross floor area* is not considered a *storey* if located within the following areas of Map 2 of By-law 65-2021(LPAT):
- i. The areas identified with an ST symbol; or
  - ii. The area within which a maximum height of 80.70 metres is permitted.
- g. No portion of any building or structure erected and used above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines shown on Map 1 attached to and forming part of this By-law, subject to the following:
- i. cornices, light fixtures, ornamental elements, parapets, art and landscape features, patios, decks, pillars, trellises, balconies, terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, mullions and mullion caps, awnings and canopies, and underground garage ramps and associated structures; and
- h. Despite Regulation (g) above, the following required minimum building setbacks, measured from the *lot* line to the exterior wall of a building or structure, are required at the elevations specified:
- i. A minimum building setback of 2.5 metres must be provided from the *lot* line along Davenport Road to the exterior wall, as measured at the surface of the ground;
  - ii. A minimum building setback of 2.0 metres must be provided from the *lot* line along Davenport Road to the exterior wall, as measured at a height of 5.5 metres;
  - iii. A minimum building setback of 1.5 metres must be provided from the *lot* line along Davenport Road to the exterior wall, as measured at a height of 9.0 metres;
  - iv. A minimum building setback of 1.5 metres must be provided from the *lot* line along Bedford Road to the exterior wall, as measured at the surface of the ground;
  - v. A minimum building setback of 1.0 metre must be provided from the *lot* line along Bedford Road to the exterior wall, as measured at a height of 5.5 metres;
  - vi. A minimum building setback of 0.5 metres must be provided from the *lot* line along Bedford Road to the exterior wall, as measured at a height of 9.0 metres.

- vii. No portion of the *building* may be located within the area identified as "STRATIFIED ABOVE GRADE LANE WIDENING" on Map 2 of By-law 65-2021(LPAT) unless it is located a minimum vertical distance of 1.2 metres below the ground through the area identified as "STRATIFIED ABOVE GRADE LANE WIDENING" on Map 2 of By-law 65-2021(LPAT).
- i. *Residential amenity space* is provided in accordance with the following:
  - i. A minimum of 2.1 square metres of indoor *residential amenity space* per *dwelling unit* shall be provided; and
  - ii. A minimum of 1.7 square metres of outdoor *residential amenity space* per *dwelling unit* shall be provided;
- j. *Parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
  - i. A minimum of 0.5 *parking spaces* per one bedroom *dwelling unit*, and a minimum of 0.80 *parking spaces* per two bedroom *dwelling unit*, and a minimum of 1.00 *parking spaces* per three bedroom *dwelling unit*; shall be provided for the exclusive use of the residents;
  - ii. A minimum of 0.10 *parking spaces* per *dwelling unit* shall be provided for visitors; and
  - iii. A minimum of 1.0 *parking spaces* for each 100 square metres of non-residential *gross floor area* shall be provided for any portion of the *mixed-use building* that contains non-residential *gross floor area*.
- k. The maximum parking rates of Schedule 1 of Section 4(5) do not apply.
- l. *Parking spaces* provided for the use of visitors or for permitted non-residential uses on the lot may be shared on a non-exclusive basis;
- m. 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 less than one *parking space*;
- n. Access to *parking spaces* and *loading spaces* shall be provided to and from a public lane;
- o. Accessible *parking space* shall be provided and maintained on the lot in accordance with the following:
  - i. An accessible *parking space* must have the following dimensions:
    - A. A length of 5.6 metres;

- B. A width of 3.9 metres; and
  - C. A vertical clearance of 2.1 metres;
  - ii. Accessible *parking spaces* must be parking spaces located:
    - A. Closest to a main pedestrian access to the building, and
    - B. At the same level as the pedestrian access to the building;
  - iii. If the required number of *parking spaces* is more than 100, a minimum of 4 *parking spaces* plus 1 *parking space* for every 50 *parking spaces* or part thereof in excess of 100 *parking spaces* must comply with the minimum dimensions for an accessible *parking space*;
- p. The minimum supply of *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following, and *bicycle parking spaces – occupant* may be provided in *bicycle* stackers:
- i. For dwelling units in a building on the lot, not less than 0.90 bicycle parking space – occupant per dwelling unit and 0.10 bicycle parking spaces - visitor per dwelling unit shall be provided; and
  - ii. For uses listed in Section 8(1)(f)(b)(iv), (v) and (vi) not less than 0.2 *bicycle parking space – occupant* for each 100 square metres and not less than 3 plus 0.3 *bicycle parking spaces - visitor* for each 100 square metres shall be provided;
  - iii. 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 required must be rounded up to the next whole number
- q. One *loading space – type G* and one *loading space – type B* shall be provided and maintained on the *lot*.
4. None of the provisions of By-law 438-86 shall apply to prevent a *sales office* on the *lot*.
5. 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 widened limits of public roads and of public lanes 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.

6. For the purpose of this By-law:
- a. "*bicycle stacker*" means an area that is equipped with a bicycle stacker for the purpose of parking and securing two bicycles each and has horizontal dimensions of at least 0.4 metres by 1.8 metres and a vertical dimension of at least 1.3 metres;
  - b. "*grade*" shall mean 119.8 metres Canadian Geodetic Datum, measured at the highest elevation of the sidewalk in front of the *lot*;
  - c. "*gross floor area*" means the sum of the total area of each floor level of building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
    - i. Parking, loading and bicycle parking below-ground;
    - ii. Required bicycle parking spaces at or above-ground;
    - iii. Required loading spaces at the ground level;
    - iv. Storage rooms, washrooms, electrical utility, mechanical and ventilation rooms in the basement;
    - v. Shower and change facilities required by By-law 569-2013 for bicycle parking spaces;
    - vi. Amenity space required by this By-law;
    - vii. Elevator shafts;
    - viii. Garbage shafts;
    - ix. Mechanical penthouse; and
    - x. Exist stairwells in the building.
  - d. "*height*" shall mean the vertical distance between *grade* and the highest point of the building or structure, excluding permitted projections identified in section 3.d. of this By-law;
  - e. "*lot*" means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
  - f. "*sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;
  - g. "*storey*" means the number of storeys above *grade* as shown on Map 2 as marked with a "ST", and for greater clarity, residential *gross floor area* located directly

above and associated with the dwelling units on the area marked with an "ST" shall not constitute a *storey*, provided that such residential *gross floor area* does not exceed 295 square metres;

- h. each other word or expression that is italicized in this By-law shall have the same meaning as that word or expression as defined in By-law No. 438-86, as amended.
7. None of the provisions of Section 12(2)380 of the former City of Toronto By-law 438-86 as amended, shall apply the *lot* as shown on Map 1.
  8. Despite any existing or future severance, partition or division of the *lot*, the provisions of this by-law shall apply to the whole *lot* as if no severance, partition or division occurred.
  9. Except as otherwise provided herein, the provisions of Zoning By-law 438-86, as amended, shall continue to apply to the lot.

Local Planning Appeal Tribunal Decision issued on June 28, 2019 and Order issued on December 2, 2020 in LPAT File PL171338.

**Schedule A**  
**Section 37 Provisions**

Contributions pursuant to section 37 of the Planning Act:

- (a) 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 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 of the Planning Act which are in a form satisfactory to the City Solicitor and registered on title to the lot;
- (b) 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 provisions of the following facilities, services and matters, the lot 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 provided Section 37 contributions in the amount of \$3,086,340 to be allocated as follows:
  - (i) Prior to the issuance of the first Above-Grade Building Permit a cash contribution of \$500,000 towards affordable housing in Ward 11.
  - (ii) Streetscape improvements to Designers Walk Lane (including costs of design and construction) for the portion of the lane that abuts the Site at a cost equal to \$1,000,140, to be completed no later than three years following the earlier of the first residential or commercial occupancy of the building.
  - (iii) Streetscape improvements to Designers Walk Lane (including costs of design and construction) for the balance of the lane way north to Dupont Street excluding the laneway lands which abut 346 Davenport Road at a cost equal to \$1,586,200 to be completed no later than three years following the earlier of the first residential or commercial occupancy of the building.
  - (iv) The provision and design of privately owned, publicly accessible walkways to connect Davenport Road to Designers Walk Lane to be completed no later than 18 months following the first residential occupancy of the building; and
  - (v) The amounts in (i), (ii) and (iii) above shall be indexed upwardly in accordance with the Statistics Canada Non-residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.



