

Authority: Ontario Land Tribunal Decision/Order issued on August 21, 2019 and October 6, 2021 in Tribunal File PL170624

CITY OF TORONTO

BY-LAW 844-2021(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 18-32 Eastern Avenue, 1 Gilead Place, and 2 Sackville Street.

Whereas the Ontario Land Tribunal pursuant to its Decisions/Orders issued on August 21, 2019 and on October 6, 2021 in relation to Tribunal Case PL170624 determined to amend By-law 438-86 of the former City of Toronto; 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 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;

Pursuant to the Order of the Ontario Land Tribunal, former City of Toronto By-law 438-86 is amended as follows:

1. This By-law applies to the lands delineated by a dashed line and identified municipally as "18-32 Eastern Avenue, 1 Gilead Place, and 2 Sackville Street" as shown on Map 1 attached hereto.
2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
3. District Map 51G-232 contained in Appendix "A" of By-law 438-86, as amended, is further amended in accordance with Map 2 – Zoning, attached hereto and forming part of this By-law.

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4. Height and Minimum Lot Frontage Map District Map 51G-323 contained in Appendix "B" of By-law 438-86, as amended, is further amended in accordance with Map 3 attached hereto and forming part of this By-law.
5. None of the provisions of this By-law or By-law 438-86, as amended, shall prevent the erection and use of a *sales office* on the *lot* to be used exclusively for the initial sale and/or initial leasing of *dwelling units* or *non-residential gross floor area* on the *lot*.
6. None of the provisions of By-law 21930, By-law 1997-0422, By-law 1106-2016, or Sections 2(1) with respect to the definitions of "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*commercial parking garage*", "*front lot line*", "*grade*", "*height*", "*loading space – type B*", "*loading space – type G*", "*lot*", "*non-residential gross floor area*", "*residential gross floor area*" and "*sales office*", 4(2), 4(5), 4(5) Schedule 1, 4(8), 4(10)(a) and (d), 4(12), 4(13), 4(14), 4(16), 4(17), 7, 8(1)(f)(a) and (b), 8(2)(5), 8(2)(7)(b), 8(2)(11), 8(3) Part I, 8(3) Part II(1)(a), 8(3) Part III(1), 8(3) Part VIII, 8(3) Part XI, 9, 12(1)307, 12(2)132, 12(2)246, 12(2)270, 12(2)380, of By-law 438-86, being "A By-law and specific amending By-laws 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 *mixed use* building on the *lot*, provided:
- (a) permitted uses of the *lot* include:
- (i) RESIDENTIAL USES
- (a) HOUSING COMPRISING DWELLING UNITS
- Apartment building*
Townhouse
- (b) ASSOCIATED/ACCESSORY RESIDENTIAL USES
- Commercial Parking Garage*
Parking garage
- (ii) NON-RESIDENTIAL USES
- (a) RECREATION, PLACES OF AMUSEMENT AND ASSEMBLY, COMMUNITY SERVICES, CULTURAL AND ARTS FACILITIES
- Clinic*
Community centre
Community health centre
Day nursery
Performing arts studio
Place of amusement
Places of assembly

(b) GENERAL INSTITUTIONS

*Clinic**Post office**Private academic, philanthropic or religious school**Vocational school*

(c) RETAIL AND SERVICE SHOPS

*Bake shop**Branch of a bank or financial institution**Brew-on premises establishment**Caterer's shop**Courier service**Dry-cleaning shop**Personal grooming establishment**Pet shop**Private art gallery**Restaurant**Retail store**Service, rental or repair shop**Tailoring shop**Take-out restaurant**A patio associated with a bake shop, restaurant or take-out restaurant*

(d) WORKSHOPS AND STUDIOS

*Artist's or photographer's studio**Communications and broadcasting establishment**Custom workshop**Designer's studio**Software, design and development establishment*

(e) OFFICES

Office

(f) AUTOMOBILE RELATED USES

*Commercial parking garage**Parking garage*

(g) MISCELLANEOUS USES

*Animal hospital**Commercial bakery and food commissary**Commercial school**Fitness centre/studio*

*Pet grooming and animal daycare
Accessory uses*

- (b) the total *gross floor area* on the *lot* shall not exceed 26,500 square metres, provided:
 - (i) the residential *gross floor area* shall not exceed 25,000 square metres; and
 - (ii) the non-residential *gross floor area* shall not exceed 1,500 square metres;
- (c) The maximum number of *dwelling units* shall not exceed 380;
- (d) The provision of *dwelling units* is subject to the following:
 - (i) a minimum of 15 percent of the total number of *dwelling units* shall contain two bedrooms;
 - (ii) a minimum of 10 percent of the total number of *dwelling units* shall contain three or more bedrooms; and
 - (iii) an additional 15 percent of the total number of *dwelling units* shall be any combination of two bedroom and three bedroom units;
- (e) no portion of any building or structure on the *lot* shall have a *height* in metres, above *grade*, that exceeds the *height* limits specified by the numbers following the symbol H on Map 3 attached to and forming part of this By-law;
- (f) notwithstanding the *height* limits specified on the attached Map 3, the following building elements may exceed the permitted maximum *height* limits shown on Map 3, in accordance with the following:
 - (i) mechanical equipment, solar panels and equipment, guardrails, railings, bollards, balustrades, eaves, roof drainage, balcony and terrace guards, fences, planters, cornices, and seating areas, retaining walls, balcony and terrace dividers, decorative screens, privacy screens, wheelchair ramps and ramps to underground, and safety and wind protection/mitigation features, may project a maximum of 3.0 metres above the *height* limits shown on Map 3 but must not exceed a *height* limit of 43.1 metres above *grade*;
 - (ii) exoskeleton structures, stairs and stair enclosures, elevator overruns, ornamental elements, landscape elements, structures used for outside or open-air recreation including pools and associated equipment, light monitors, light fixtures, pergolas, architectural features, trellises, awnings and canopies may project a maximum of 4.0 metres above the *height* limits shown on Map 3 but must not exceed a *height* limit of 43.1 metres above *grade*; and

- (iii) eaves, cornices, roof drainage, guardrails, railings, stairs, lightning rods, ventilation, heating or cooling related equipment such as chimneys, stacks, flues, vents, air intakes and exhausts, antennas, satellite dishes and cellular arrays, parapets, window washing equipment and elements of a green roof may project a maximum of 2.5 metres above the *height* limits shown on Map 3;
- (g) minimum building setbacks from the *front lot line*, interior and exterior *side lot lines* and *rear lot line(s)* are as specified on the attached Map 3;
- (h) no portion of any building or structure erected and used above *grade* on the *lot* shall be located otherwise than wholly within the areas delineated by heavy lines or within the required building setbacks shown on Map 3 attached to and forming part of this By-law, except for:
 - (i) at or on the level of the ground - planters, seating areas, light fixtures, decorative screens, privacy screens, ornamental elements, art and landscape features, landscaping, patios, decks, ventilation shafts, railings, fences, site servicing features, retaining walls, bollards, air shafts, wheel chair ramps and vehicular parking ramps, may project or encroach by a maximum of 5.5 metres;
 - (ii) above the level of the ground - balconies, balcony platforms, balcony guards and dividers, may project or encroach by a maximum of 1.8 metres;
 - (iii) awnings, canopies and all vertical extensions of such awnings and canopies and related architectural elements may project or encroach by a maximum of 5.0 metres; and
 - (iv) eaves, roof drainage, cornices, ornamental elements, light fixtures, parapets, window washing equipment, architectural flutes and window sills, may project/encroach by a maximum of 0.5 metres;
- (i) Notwithstanding subsection (7), nothing in this By-law shall prevent underground parking or structures from extending past the area of the building as delineated by heavy lines shown on Map 3 attached to and forming part of this By-law;
- (j) *residential amenity space* shall be provided in accordance with the following:
 - (i) a minimum of 2.0 square metres of indoor *residential amenity space* per *dwelling unit* shall be provided and may be provided in a multi-purpose room or rooms which are not contiguous, and which may not include washroom or kitchen facilities; and
 - (ii) a minimum of 2.0 square metres of outdoor *residential amenity space* per *dwelling unit* shall be provided and need not be located adjoining or directly accessible from the indoor *residential amenity space*;

- (k) a minimum number of *parking spaces* shall be provided and maintained below *grade* on the *lot* in accordance with the following:
 - (i) a minimum of 0.3 *parking spaces* per *dwelling unit* shall be provided for the use of the residents of the building;
 - (ii) a minimum of 0.06 *parking spaces* per *dwelling unit* shall be provided on a non-exclusive basis, for the shared use of residential visitors and non-residential uses and may be provided within a *commercial parking garage*;
 - (iii) for each *car-share parking space* provided on the *lot*, the minimum required number of *parking spaces - occupant* shall be reduced by 4 *parking spaces*, exclusive of required accessible *parking spaces*; and
 - (iv) a maximum of 6 *car-share parking spaces* are permitted;
- (l) a maximum of 4 *parking spaces* on the *lot* may have a minimum length of 5.0 metres;
- (m) notwithstanding Section 4(17)(e), Electrical Vehicle Infrastructure, including electrical vehicle supply equipment, shall not constitute an obstruction to a *parking space*;
- (n) 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 shall be rounded down to the nearest whole number, but there may not be less than one *parking space*;
- (o) *accessible parking spaces* shall be provided in accordance with the following requirements:
 - (i) the entire length of an *accessible parking space* shall be adjacent to a 1.5 metres wide barrier free aisle or path on one side of the *accessible parking space*; and
 - (ii) the *accessible parking spaces* are not required to be the closest *parking spaces* to a barrier free entrance or a passenger elevator;
- (p) one shared *loading space - type B/loading space - type G* shall be provided on the *lot*;
- (q) *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) a minimum of 1.0 *bicycle parking space* for each *dwelling unit*, comprised of 0.9 *bicycle parking spaces-occupant* for each *dwelling unit* and 0.1 *bicycle parking spaces-visitor* for each *dwelling unit*;
 - (ii) a minimum of 3.0 *bicycle parking spaces* for non-residential uses; and

- (iii) a *bicycle parking space* may be provided in a horizontal or vertical position, and/or as a *stacked bicycle parking space*;

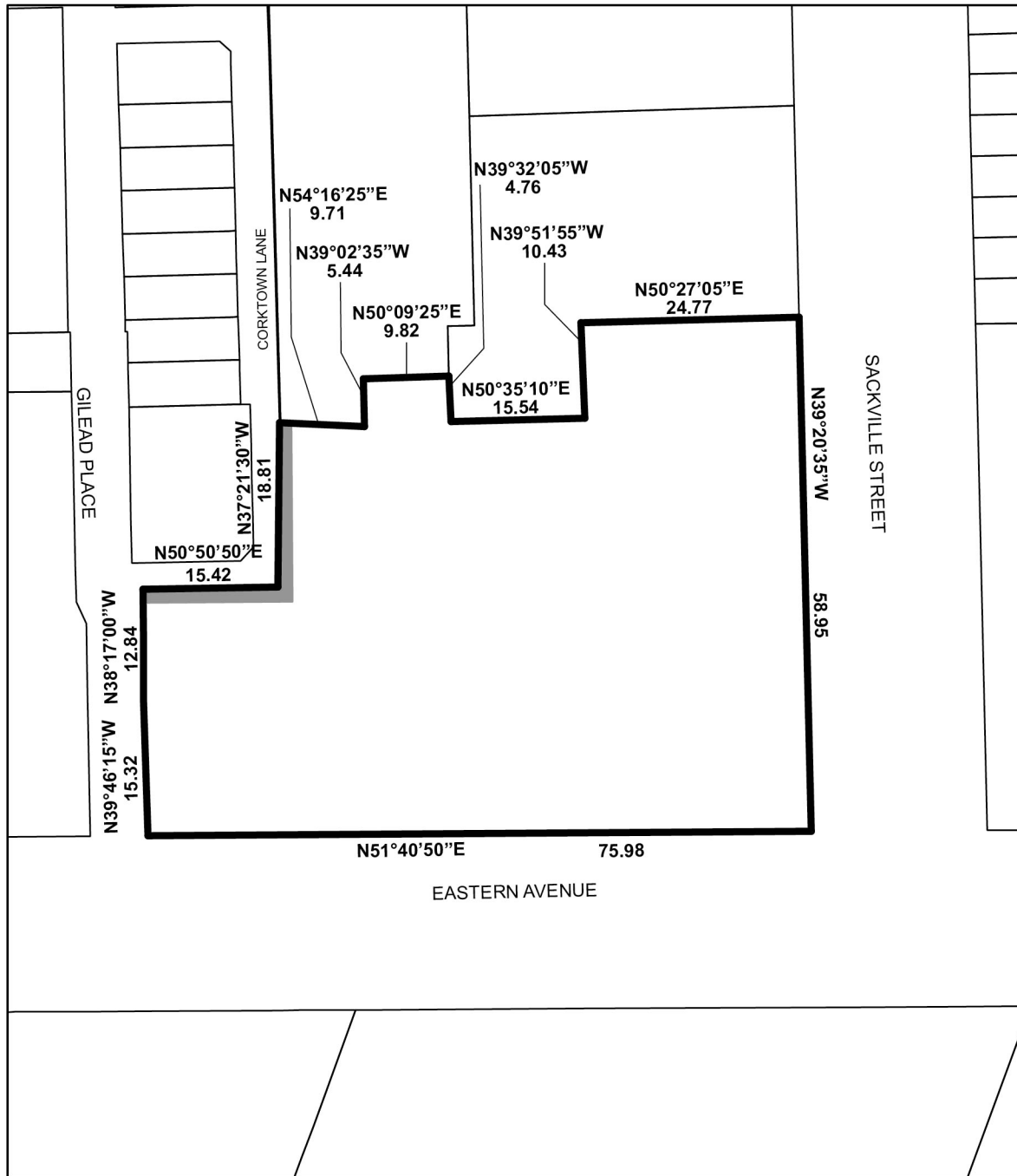
7. For the purpose of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:

- (a) "*accessible parking space*" means a *parking space* provided in accordance with the following requirements:
 - i. minimum length of 5.6 metres;
 - ii. minimum width of 3.4 metres; and
 - iii. minimum vertical clearance of 2.1 metres;
- (b) "*bicycle parking space – occupant*" means an area that is equipped for the purpose of parking and securing bicycles, and:
 - i. where the bicycles are stacked and parked horizontally such *stacked bicycle parking spaces* shall have horizontal dimensions of at least 0.4 metres by 1.6 metres and a vertical dimension of at least 1.1 metres;
 - ii. where bicycles are to be parked vertically, such *bicycle parking spaces* shall have horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - iii. such *bicycle parking spaces* may be located on any level below *grade* and on the ground and mezzanine levels and may be located within a secured room, enclosure or bicycle locker;
- (c) "*bicycle parking space – visitor*" means an area that is equipped with bicycle racks for the purpose of parking and securing bicycles and:
 - i. where the bicycles are stacked and parked horizontally such *stacked bicycle parking spaces* shall have horizontal dimensions of at least 0.4 metres by 1.6 metres and a vertical dimension of at least 1.1 metres;
 - ii. where bicycles are to be parked vertically, such *bicycle parking spaces* shall have horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - iii. such *bicycle parking spaces* may be located on any level below *grade* and on the ground and mezzanine levels and may be located within a secured room or enclosure;
- (d) "*car-share*" means a motor vehicle available for short-term rental, including an option for hourly rental, for the use of at least the occupants of the building(s) erected on the *lot*;
- (e) "*car-share parking space*" means a *parking space* that is *used* exclusively for the parking of a *car-share* motor vehicle;

- (f) "*commercial parking garage*" means *premises* having an area for the parking of one or more vehicles as a principal use and the parking of a vehicle is available for public use with or without a fee;
- (g) "*front lot line*" means the line along *Eastern Avenue* that divides the *lot* from the *street* and the *lot lines* along *Gilead Place* and *Sackville Street* shall be termed the "*flanks*" of the *lot*;
- (h) "*grade*" means a Canadian Geodetic *Datum* elevation of 79.89 metres in 2020;
- (i) "*gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the *main wall* of each floor level reduced by the area in the building used for:
- i. parking, loading and bicycle parking below-ground and any access thereto;
 - ii. required *loading spaces* at the ground level, all *bicycle parking spaces* at or above-ground and any access thereto;
 - 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. all indoor *residential amenity space*;
 - vi. elevator shafts;
 - vii. garbage shafts
 - viii. mechanical penthouse; and
 - ix. exit stairwells in the building;
- (j) "*height*" means the vertical distance between *grade* and the highest point of the building or structures, excluding permitted projections;
- (k) "*loading space - type B/loading space - type G*" means a shared and combined loading space provided in accordance with the following requirements:
- i. minimum length of 13.0 metres;
 - ii. minimum width of 4.0 metres; and
 - iii. minimum vertical clearance of at least 6.1 metres;
- (l) "*lot*" means the whole of the lands delineated by them dashed line on Map 1, attached to and forming part of this By-law;


- (m) "*sales office*" means a *building*, structure, facility or trailer on the *lot* used for the purpose of the sale and/ or leasing of *dwelling units* or the *non-residential gross floor area* to be erected on the *lot*;
 - (n) "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*; and
 - (o) "*townhouse*" means a building or a portion of a building where direct access to a *dwelling unit* and/or to private outdoor amenity space associated with a *dwelling unit* is provided at ground level.
8. 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.
9. Section 37 Provisions:
- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in *height* and density of the development is permitted beyond that otherwise permitted on the *lot* 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 Schedule A hereof and which are 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 *lot*, to the satisfaction of the City Solicitor.
 - (b) Where Schedule A 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.
 - (c) 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 A are satisfied.


Ontario Land Tribunal Decision/Order issued on August 21, 2019 and October 6, 2021 in Tribunal File PL170624.

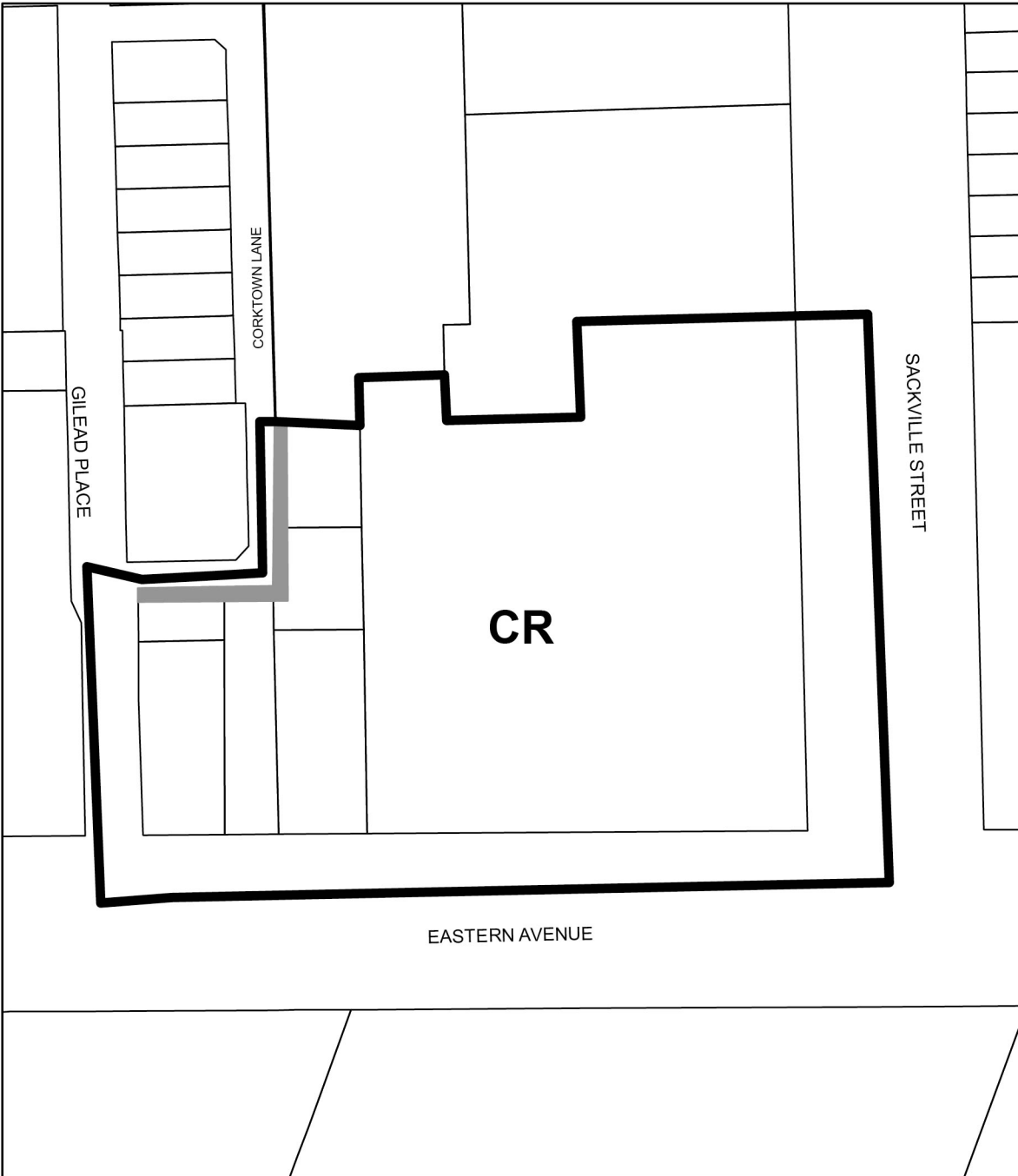


18-32 Eastern Ave., 1 Gilead Place & 2 Sackville St.

File #: 16 216777 STE 28 0Z


 Laneway widening to be conveyed to the City


Former Toronto By-law 438-86
Not to Scale
08/17/2021



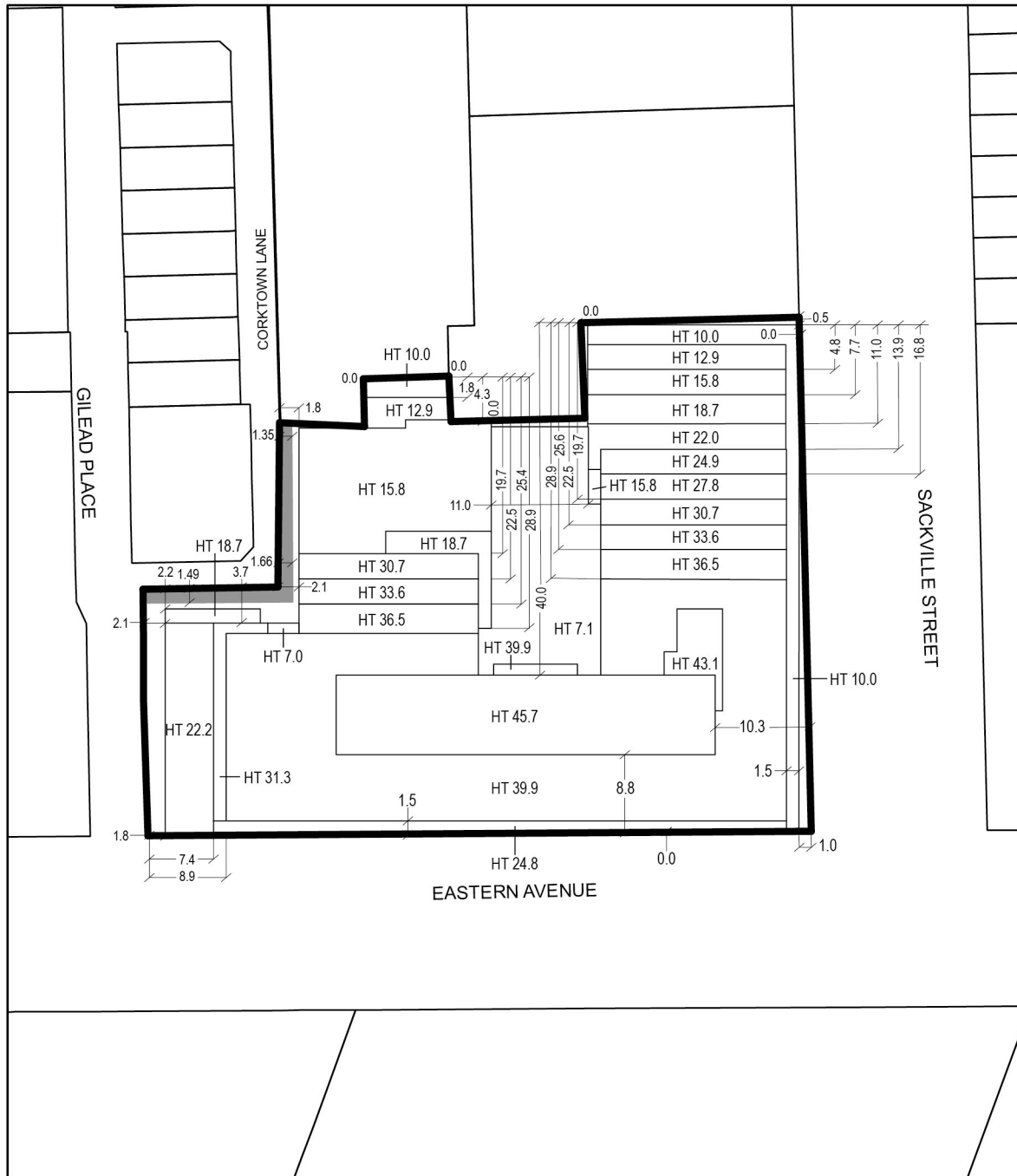
 **TORONTO**
Map 2

**18-32 Eastern Ave., 1 Gilead
Place & 2 Sackville St.**
File #: 16 216777 STE 28 OZ

 Laneway widening to be conveyed to the City



Former Toronto By-law 438-86
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SCHEDULE A
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/or density of the proposed development of the *lot* and 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, the owner shall provide a cash contribution of \$2,100,000 (the "Cash Contribution") to the City to be used by the City in its sole discretion for the provision of affordable housing and/or streetscape and parkland improvements in the vicinity of the *lot*; public realm or park improvements in the vicinity of the *lot*. The Cash Contribution shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor calculated from the date of the Section 37 agreement to the date of payment.
2. Prior to issuance of "notice of approval conditions" for site plan approval for the development of the *lot* the owner must have, in consultation with City Planning and any other City officials, created a working group and consulted with the local community, including the local residents association and other stakeholders to deal with the following matters:
 - a. A construction management plan, including noise and vibration studies and a traffic management plan;
 - b. Landscape and public realm plans;
 - c. Building materials and lighting; and
 - d. Other matters as may be identified by the Ward Councillor.
3. Prior to the issuance of the first above grade building permit, the owner shall submit a construction management plan to the satisfaction of the Chief Planner and Executive Director, City Planning, and the Ward Councillor.
4. In the event the Cash Contribution referred to in Section 1 above has not been used for the intended purpose within three (3) years of this 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 local Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.