

Authority: Ontario Land Tribunal Decision issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 12, 2022 in Tribunal File OLT-22-004181

CITY OF TORONTO

BY-LAW 1152-2022 (OLT)

To amend Chapters 320 and 324 of the former City of Etobicoke Zoning Code, as amended, with respect to the lands municipally known as 240 Markland Drive.

Whereas the Ontario Land Tribunal, in its Decision issued on August 5, 2022 and its Order issued on August 12, 2022 in file OLT-22-004181, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of the Etobicoke Zoning Code, as amended, with respect to the lands municipally known in the year 2021 as 240 Markland Drive; and

Whereas pursuant to Section 39 of the Planning Act, as amended, a by-law passed under Section 34 of the Planning Act, may authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law; 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 the density or height permitted beyond that otherwise permitted on the lands subject to this By-law are to be permitted in return for the provision of the facilities, services and matters set out in this By-law;

The Ontario Land Tribunal Orders:

1. The following development standards herein shall apply to the R4 lands identified on Schedule A attached to this By-law.
2. The provisions of the Etobicoke Zoning Code shall continue to apply to the Lot except as otherwise provided herein.

3. None of the provisions of Sections, 320-18, 320-23, 320-62 and 320-68 shall apply to prevent the erection or use of two residential buildings within the Lot, which may contain Dwelling Units and Accessory Uses thereto, including a underground parking garage provided all the provisions of this By-law are complied with. Where the provisions of this By-law conflict with the provisions of the Etobicoke Zoning Code, the provisions of this By-law shall apply.

4. Definitions

The words highlighted in bold type in this by-law have the meaning provided in Section 304-3 Definitions of the Etobicoke Zoning Code, unless inconsistent with the provisions of this By-law. For the purposes of this By-law, the following definitions will also apply:

- (a) "*Amenity Space*" shall mean indoor and outdoor space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities.
- (b) "*Bachelor Dwelling Unit*" shall mean a residential dwelling unit consisting of a self-contained living area in which culinary and sanitary facilities are provided for the exclusive use of the occupant but not including a separate bedroom.
- (c) "*Bicycle Parking Space*" shall mean an area used for parking or storing a bicycle.
- (d) "*Building Envelope*" shall mean a building envelope for each Height Area as shown by an "H" and as delineated by the heavy lines on Schedule B attached hereto;
- (e) "*Established Grade*" means 127.75 metres in Canadian Geodetic Datum;
- (f) "*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 exclusive of:
 - (i) parking, loading and bicycle parking below-ground, including enclosed garage ramps above-ground;
 - (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (iii) stair vestibules and elevator lobbies below-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 areas as required by this By-law;
 - (vii) elevator shafts;
 - (viii) garbage shafts;
 - (ix) mechanical penthouse; and
 - (x) exit stairwells in the building.
- (g) "*Lot*" shall mean the lands shown on Schedule A attached hereto.
- (h) "*Loading Space*" shall mean an area used for the loading and unloading of goods or commodities from a vehicle.
- (i) "*Front Lot Line*" is deemed to be Markland Drive.
- (j) "*Stacked Bicycle Parking*" shall mean 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.

5. Lot Coverage

A maximum Lot coverage of 40 percent (40%) is permitted.

6. Maximum Density

The maximum gross floor area of Building 'A' shown on Schedule B of By-law 1152-2022(OLT) shall not exceed 17,800 square metres.

7. No part of any Building or Structure erected within the Lot shall be located above Grade otherwise than wholly within the Building Envelopes as shown on Schedule B, except for the following:

- (a) awnings, canopies, balconies, terraces, lighting fixtures, wind screens, privacy screens, ornamental or architectural design elements, trellises, window sills, bay windows, roof overhangs and eaves, balustrades, safety railings, exterior stairways, stair enclosures, wheelchair ramps, underground garage ramps and associated structures, vents, pipes, utility equipment, solar panels, bollards, retaining walls, columns, cornices, landscape and public art features including a green wall, may extend to a maximum of 3.0 metres beyond the heavy lines shown on Schedule B.
- (b) Despite (a) above no balconies shall be permitted in the location shown hatched as "area of balcony restriction" on Schedule B where a balcony would extend from a terrace with a height of between 145 and 146.5 metres or from a terrace with a top of slab height between 151 and 152.5 metres.

- 8.** The Height of each portion of a building or structure erected above Grade within the Lot shall, in respect of each Building Envelope area, have a maximum Height in metres to the top of the structural slab as shown following the symbol "H" on Schedule B attached hereto for the corresponding Building Envelope area, except for the following:
- (a) Equipment for the functional operation of the building including but not limited to electrical, utility, heating, cooling or ventilation equipment mechanical equipment, mechanical penthouses, elevator overruns, vents, stacks, thermal insulation, stair enclosures, roof finishing materials and roof ballast, water supply facilities, flues, roof access, ladders, solar panels, chimneys, maintenance equipment storage, or a fence, wall or structure enclosing such elements by a maximum of 6 metres on the roof of the building;
 - (b) Fences, wind or privacy screens, landscape elements (including green roofs), retaining walls, terraces, cornices, canopies, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, ramp enclosures, guardrails, balustrades, safety railings, stairs, outdoor furniture, bollards and wheel chair ramps by a maximum of 2 metres;
 - (c) Skylights by a maximum of 1 metre;
 - (d) Window washing equipment on the roof in a stored position by maximum of 4 metres;
 - (e) Parapets and roofguards above the roofline of the mechanical penthouse by a maximum of 0.8 metres; and
 - (f) Mechanical vents and flues extending above the roofline of the mechanical penthouse by a maximum of 1.5 metres.
- 9.** Notwithstanding any provision to the contrary, below Grade structures intended for accessory parking facilities may be set back a minimum of 0 metres from a Lot Line.
- 10.** Vehicle Parking
- (a) Vehicle parking spaces provided as follows:
 - (i) a minimum of 0.8 parking spaces for each bachelor dwelling unit;
 - (ii) a minimum of 0.9 parking spaces for each 1-bedroom dwelling unit;
 - (iii) a minimum of 1.0 parking spaces for each 2-bedroom dwelling unit;
 - (iv) a minimum of 1.2 parking spaces for dwelling units with 3-bedrooms or greater;
 - (v) a minimum of 0.2 parking spaces for each dwelling unit for the use of residential visitors;

- (b) Despite the above, parking calculations resulting in fractions should be rounded down to the nearest whole number.

11. Despite the above (10), existing parking structures for the **Existing Apartment Building** shall be considered to be legal and non-conforming.;

12. Bicycle Parking

Bicycle parking spaces must be provided and maintained on the lot in accordance with the following:

- A minimum of 0.68 long-term bicycle parking spaces for each dwelling unit within Building 'A';
- A minimum of 0.07 short-term bicycle parking spaces for each dwelling unit within Building 'A';
- A minimum of 77 long-term bicycle parking spaces for the Existing Apartment Building;
- A minimum of 8 short-term bicycle parking spaces for the Existing Apartment Building;
- A bicycle parking space on the lot may be located in a stacked bicycle parking space or vertical bicycle parking space.

13. Loading Spaces

- (a) A minimum of one loading space, Type 'G' shall be provided on the Lands with dimensions of 13 metres in length, 4 metres in width and a vertical clearance of 6.1 metres.

14. Amenity Space

- (a) A minimum of 2.0 square metres per dwelling unit in **Building 'A'** must be provided as indoor **amenity space**; and
- (b) A minimum of 2.0 square metres per dwelling unit in **Building 'A'** must be provided as outdoor **amenity space** of which a minimum of 40 square metres must be provided in a location directly adjacent to an area containing indoor **amenity space**.
- (c) The **amenity space** provided with Regulations (b) above must be available and accessible to the residents of the **Existing Apartment Building**.

15. Temporary Uses

- (a) None of the provisions of Etobicoke Zoning Code, prevent the reduction of the required parking spaces, loading spaces, bicycle spaces, and landscaping and soft landscaping required for the **Existing Apartment Building** during construction of **Building 'A'** on the **lot** for a period of not more than three years from the date this By-law comes into full force and effect, provided:
- (i) An interim parking plan is submitted to the satisfaction of the Chief Planner and Executive Director, City Planning.

16. Section 37 Requirements:

- (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 lands shown on Schedule A attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 1 attached to this By-law 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 lands, to the satisfaction of the City Solicitor;
- (b) Where Schedule 1 attached to 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; and
- (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 1 are satisfied.

17. Chapter 324, Site Specifics, of the Zoning Code is hereby amended to include reference to this By-law by adding the following to Section 324.1, Table of Site Specific By-laws

BY-LAW NUMBER AND ADOPTION DATE	DESCRIPTION OF PROPERTY	PURPOSE OF BY-LAW
1152-2022(OLT) August 9, 2022	Lands located on the south east side of the intersection of Bloor Street West and Markland Drive, municipally known as 240 Markland Drive.	To amend the R4 zoning of 240 Markland Drive to permit an infill residential development, subject to site specific development standards.

Ontario Land Tribunal Decision issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 12, 2022 in Tribunal File OLT-22-004181.

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 lands as shown in Schedule A 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:

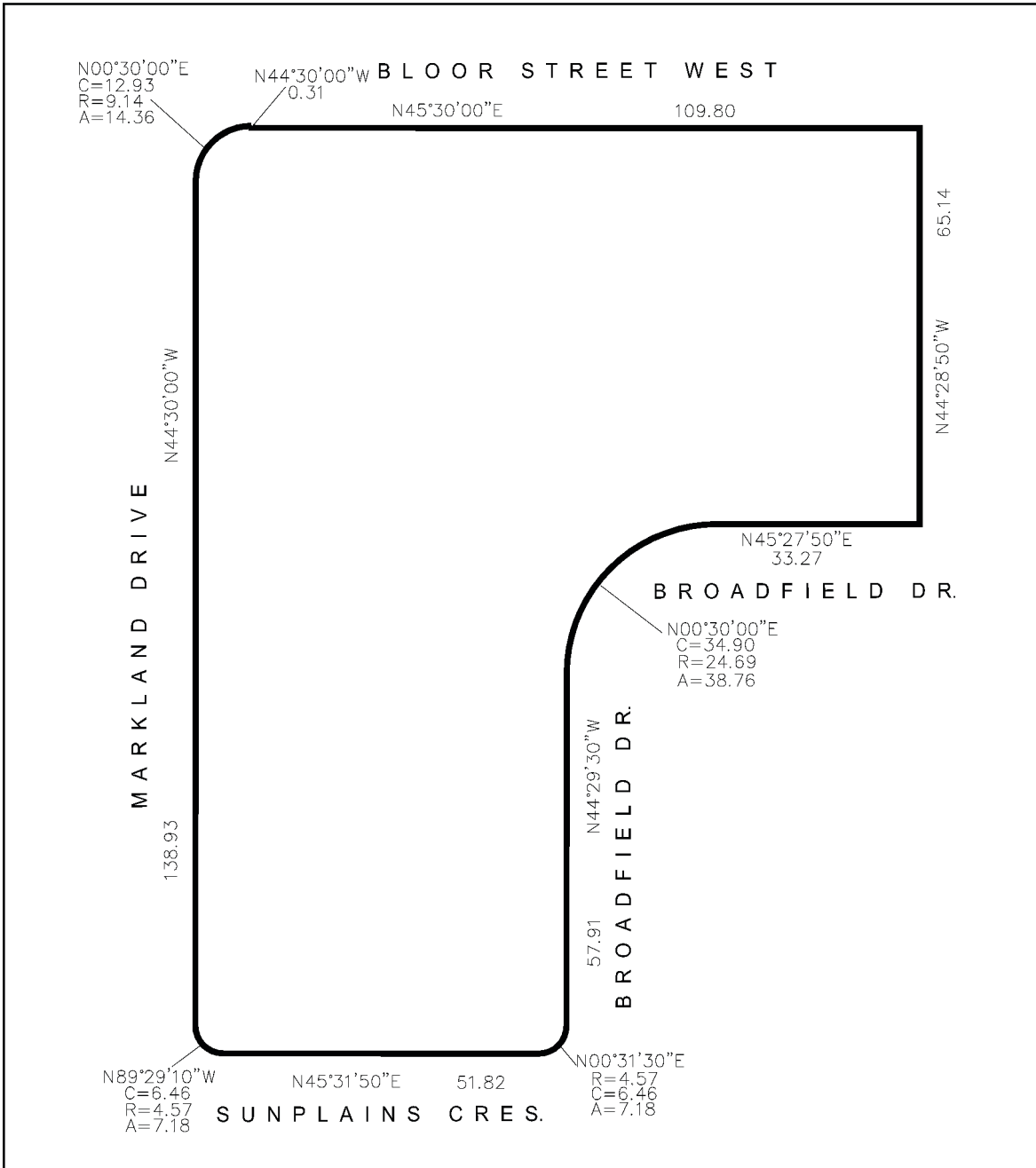
1. Prior to issuance of the first Above-Grade Building Permit for the New Residential Building, the owner shall make a cash contribution to the City in the amount of **ONE HUNDRED EIGHT FIVE THOUSAND DOLLARS [\$185,000.00]** (the "Cash Contribution") be allocated towards local park improvements.
2. The Cash Contribution set out in Clause 1 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 execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.
3. In the event the Cash Contribution in Clause 1 has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), 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.
4. The Owner enters into an Agreement pursuant to Section 37 to secure as a legal convenience, the following matters to be addressed prior to Site Plan Approval, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the appropriate civic officials and the Ward Councillor
 - (A) As a condition of site plan approval and prior as a condition of site plan approval and prior to the issuance of any permits for this development, the owner shall prepare a Construction Management Plan with the City of Toronto and to the satisfaction of the Director Community Planning, along with the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - (B) Prior to final Site Plan Approval, the owner shall provide a Construction Mitigation Strategy which includes a communication strategy for adjacent property owners and the neighbourhood association and an interim parking plan for existing tenants and tradespeople during the construction period, and a Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning and thereafter the owner shall implement such strategies and plans.
 - (C) Prior to final Site Plan Approval, the owner shall provide a construction management plan, in consultation with the Ward Councillor, which addresses

construction vehicle routing, temporary parking and communications with neighbouring stakeholders, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Planner and Executive Director, City Planning and thereafter the owner shall implement such strategies and plans.

5. The Owner shall provide and maintain the following:
- (A) The owner shall provide and maintain the 113 existing residential rental units at 240 Markland Drive as rental housing for a period of at least 20 years, from the date of the Zoning By-Law coming into full force and effect and with no applications for demolition or conversion from residential rental use made during such 20 year period, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.
 - (B) The owner shall provide a dog run for the use of residents of the site as well as the surrounding community, to be located adjacent to the entrance of the existing building fronting Markland Drive, and this space shall be designed and furnished to the satisfaction of the Chief Planner and Executive Director, City Planning, up to a maximum cost of \$30,000.
 - (C) Improvements to the outdoor amenity space for use by the residents of the existing building and the new buildings on an equal basis in the form of:
 - (i) A children's play area, which shall be designed and furnished to the satisfaction of the Chief Planner and Executive Director, City Planning, up to a maximum cost of \$40,000;
 - (ii) At least 15 benches up to a maximum cost of \$22,000; and
 - (iii) At least 85 bicycle parking spaces/racks for tenants of the existing building, of which 77 will be long-term bicycle parking spaces located beneath the underpass of the existing building and 8 will be short-term bicycle parking spaces located close to the main entrance of the existing building.
 - (iv) Improvements to the existing laundry room facilities in the form of two new dryers.
 - (D) The final form and content of the draft Zoning By-laws are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.
 - (E) The City Solicitor confirms the execution and registration of a Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning to secure community benefits pursuant to Section 37 of the Planning Act. Such Section 37 Agreement will include a further agreement to provide for the shared access of and maintenance and easements with respect to the shared driveway, underground parking/bike parking, walkway, loading areas, servicing

areas or any other commonly accessed areas as illustrated on any approved drawing between the new development and the existing 10-storey rental apartment building to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

- (F) The owner shall address all outstanding issues raised by Engineering and Construction Services as they relate to the Zoning By-law Amendment application as set out in their memo dated August 10, 2021 or as may be updated in response to further submission(s) filed by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- (G) The Owner has submitted a Revised Transportation Impact Study and Parking Study, to the satisfaction of the General Manager, Transportation Services to demonstrate whether the existing road network can support the proposed development, whether road improvements of the existing municipal infrastructure are required and the provision of acceptable parking for the development.
- (H) Any improvements required to City services or facilities required to support the development as identified in revised engineering submissions from the Owner or the Revised Transportation Impact Study and Parking Study shall be secured in a financially secured agreement, with the Owner to construct such improvements at no cost to the City.



240 Markland Drive

File # 11 209308 WET 03 0Z

