

Authority: Ontario Land Tribunal Decision issued on May 13, 2022 and Ontario Land Tribunal Order effective on May 13, 2022 in File OLT-21-001621

CITY OF TORONTO

BY-LAW 81-2023(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2022 as 241 Redpath Avenue.

Whereas the Ontario Land Tribunal, by its Decision issued on May 13, 2022 and its Order effective on May 13, 2022, in File OLT-21-001621, 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 former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2022 as 241 Redpath Avenue; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the 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 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 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 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 Ontario Land Tribunal Orders:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by 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 site of the facilities, services and matters set out in Schedule A of this By-law 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 site, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Schedule A of this By-law, the site 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 said requirements.

3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the lot.
4. None of the provisions of Section 2(1) with respect to the definitions of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, and *residential gross floor area* and Sections 4(2)(a), 4(4)(b), 4(12), 4(13), 4(16), 4(17), 6(3) Part 1 (1), 6(3) Part II, and 6(3) Part III, 12(2)118, 12(2)119, 12(2)193 and 12(2)212 of By-law 438-86, as amended, 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", apply to prevent the erection and use of a *residential building* and *accessory* uses on the *lot*, including a *temporary sales/leasing office* provided that all of the provisions of this by-law are complied with:
 - (A) The *lot* comprises all of the lands delineated by dashed lines on Map 1 attached to and forming part of this By-law;
 - (B) The total *residential gross floor area* on the *lot* shall not exceed 25,000 square metres;
 - (C) The provision of *dwelling units* on the *lot* is subject to the following:
 - (i) a minimum of 15 percent must be two-bedroom *dwelling units*; and
 - (ii) a minimum of 10 percent must be three-bedroom *dwelling units* or larger;
 - (iii) the provision of *dwelling units* in Provision (C)(i) and (ii) above excludes the requirement for any rental replacement *dwelling units*; and
 - (iv) if the calculation of the number of required *dwelling units* in Provision (C)(i) and (ii) above results in a number with a fraction, the requirement number of dwelling units may be rounded down to the nearest whole number;
 - (D) *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 maintained on the *lot* in a multi-purpose room or rooms ; and
 - (ii) a minimum of 2.0 square metres of outdoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *lot*.

- (E) 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) Chimneys, vents, air shafts, antennae, staircases or enclosures, roof accesses, elevator shafts and overruns, may project up to a maximum of 2.5 metres;
 - (ii) Architectural features, parapets, access hatches, skylights, elements and structures associated with green roof, may project above the *height* limits by a maximum of 1.2 metres;
 - (iii) Building maintenance units, storage, and window washing equipment, may project up to a maximum of 5.0 metres; and
 - (iv) Planters, trellises, pergolas, unenclosed structures, wind screens, noise and visual screens, landscape features, balustrades, railings, guardrails, dividers, fences, and privacy screens may project up to a maximum of 3.0 metres;
- (F) The permitted maximum number of storeys in a building is the number following the letters "ST" as shown on Map 2 of By-law 81-2023(OLT);
- (i) for the purposes of this exception, a mezzanine and mechanical penthouse must be within a wholly enclosed building envelope and does not constitute a storey;
- (G) 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 encroachments:
- (i) lighting fixtures, bay windows, canopies, pergolas, trellises, eaves, window sills, pilasters, screens, fences, parapets, vents, railings, guardrails, balustrades, stair enclosures, bollards, walkways, wheel chair ramps, underground garage ramps, window washing equipment, planters, landscape and public art features may encroach beyond the *building envelope* up to a maximum of 3.0 metres; and
 - (ii) awnings, architectural features, including mechanical penthouse structures, cornices, and privacy screens may encroach beyond the *building envelope* up to a maximum 2.0 metres;
 - (iii) on elevations facing the podium courtyard, balconies are permitted to encroach to a maximum of 1.5 metres within the area delineated by the dashed line on Map 3;

- (iv) on the north and south elevations of the tower, balconies are permitted to encroach a maximum of 1.5 metres within the area delineated by the dashed line on Map 3; and
 - (v) balconies are not permitted to encroach on the east and west elevations of the tower, elevations facing the podium notch, or elevations facing tower notch;
- (H) For the purposes of this By-law, the mechanical penthouse may include *residential amenity space*;
- (I) *Parking spaces* must be provided and maintained on the *lot* in accordance with the following requirements:
 - (i) A minimum of 0.194 *parking spaces* per *dwelling unit* for residential use, of which a maximum of 5 parking spaces may be car-share parking spaces;
 - (ii) A minimum of 0.034 *parking spaces* for residential visitors;
 - (iii) A minimum of 5 accessible *parking spaces*;
 - (iv) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor *vehicles* and such "car-share" motor *vehicles* are made available to at least the occupants of the building for short-term rental, including hourly rental; and
 - (v) for the purpose of this exception, "car-share parking space" means a *parking space* exclusively reserved and signed for a *vehicle* used only for "car-share" purposes;
- (J) *Parking spaces* must have the following minimum dimensions:
 - (i) A minimum length of 5.6 metres;
 - (ii) A minimum width of 2.6 metres;
 - (iii) A vertical clearance of 2.0 metres; and
- (K) An accessible *parking space* must have the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) minimum of 3.4 metres;
 - (iii) vertical clearance of 2.1 metres;

- (iv) the entire length of an accessible *parking spaces* must be adjacent to a 1.5 metre wide accessible barrier free aisle or path; and
- (v) Accessible *parking spaces* must be the parking spaces closest to a barrier free:
 - a. entrance to a *building*;
 - b. passenger elevator that provides access to the first storey of the building; and
 - c. and shortest route from the required entrances in (K)(v)a. and b;
- (L) At least one *loading space-type G* shall be provided and maintained on the *lot*.
- (M) A minimum number of *bicycle parking spaces* must be provided and maintained on the *lot* in accordance with the following:
 - (i) For residential uses - a minimum of 0.9 *bicycle parking space – occupant per dwelling unit*; and
 - (ii) For residential visitors - a minimum of 0.1 *bicycle parking space – visitor per dwelling unit*,
 - (iii) Despite (i) and (ii) above, the number of required *bicycle parking spaces* may be rounded down to the next whole number when the calculation results in a fraction;
 - (iv) For the purposes of this exception, a *bicycle parking space* oriented in a horizontal position must have:
 - a. a minimum length of 1.8 metres;
 - b. a minimum width of 0.45 metres; and
 - c. a minimum vertical clearance of 1.2 metres;
 - (v) For the purposes of this exception, a *bicycle parking space* oriented in a vertical position must have:
 - a. a minimum length or vertical clearance of 1.9 metres;
 - b. a minimum width of 0.45 metres; and
 - c. a minimum horizontal clearance from the wall of 1.2 metres;
 - (vi) For the purposes of this exception, a *bicycle parking space* oriented in a stacked *bicycle parking space* position must have:
 - a. a minimum length or vertical clearance of 1.2 metres;
 - b. a minimum width of 0.4 metres; and
 - c. a minimum horizontal clearance from the wall of 1.8 metres;

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- (vii) For the purposes of this exception, "occupant" and "visitor" *bicycle parking spaces* for *dwelling units* may be:
 - a. located anywhere above or below-ground in the building;
 - b. may be provided in any combination of vertical, horizontal or stacked positions;
 - c. maybe located in a storage locker; and
 - d. may be located more than 30 metres from a pedestrian entrance or elevator lobby to the building on the *lot*;
 - (N) A driveway may have a maximum total width of 6.21 metres; and
 - (O) An unobstructed vehicle access shall be provided to the loading spaces and below ground parking spaces so that a vehicle can enter and leave the lands while driving forward in one continuous movement through the front main wall.
5. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
6. For the purposes of this By-law, every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid By-law 438-86, as amended, with the exception of the following:
- (A) "building *envelope*" means a building envelope as delineated by heavy lines on Map 2 attached to this By-law;
 - (B) "*grade*" means 158.4 metres Canadian Geodetic Datum;
 - (C) "*height*" means the vertical distance between *grade* and the highest point of a building or structure, subject to permitted projections expressed herein;
 - (D) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law;
 - (E) "*Residential Gross Floor Area*" means the aggregate of the areas of each floor within the new mixed use tower , measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding:
 - (viii) parking, loading and bicycle parking below grade;
 - (ix) required *loading spaces* at the ground level and *bicycle parking spaces* at or above *grade*;
 - (x) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*; Amenity space required by this by-law;

- (xi) elevator shafts;
 - (xii) garbage chutes;
 - (xiii) stair shafts;
 - (xiv) exit stairwells in the building;
- (F) For the purposes of this By-law, "*podium courtyards*" means the 7.1 metre setback area from north property line above 6.45 metres height on Map 2, and the 7.0 metre setback area from the south property line above 6.45 metres height on Map 2;
- (G) For the purposes of this By-law, "*podium notch*" means the 3.0 metre setback area from the north property line and 12.0 metre setback area from the west property line, excluding the *podium courtyards*, as shown on Map 2;
- (H) For the purposes of this By-law, "*tower*" means the portion of the building above 17.75 metres height on as shown on Map 2;
- (I) For the purposes of this By-law, "*tower notch*" means the 7.5 metre setback area above 17.75 metres height, forming a 2 metre by 2 metre step-back at the southeast portion of the tower as shown on Map 2; and
- (J) For the purposes of this By-law, "*mezzanine*" means a floor between the ground floor and second floor which is partly open to the floor below.

7. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18, as amended, came into force, 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 as on Map 1 of By-law 81-2023(OLT) 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*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18, as amended, came into force, that are in a form and registered on title to the lands, 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 upon 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 applicable provisions of Schedule A are satisfied; and
- (D) Once the agreement or agreements securing the facilities, services and matters set out in Schedule A have been executed and registered, the provisions of Schedule A shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

Ontario Land Tribunal Decision issued on May 13, 2022 and Ontario Land Tribunal Order effective on May 13, 2022 in File OLT-21-001621.

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 density of the proposed development on the lands shown in Map 1 in this By-law. Prior to the issuance of any building permit, the owner shall enter into an agreement, on such terms and conditions, including upwards indexing, securities, details and requirements, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the Planning Act, as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, C.18, as amended, came into force, (the "**Section 37 Agreement**") to secure the community benefits and matters required to support the development below, whereby the owner agrees as follows:

Community Benefits

1. Prior to the issuance of an above-grade building permit on the lands, the owner shall make a cash contribution to the City in the amount of three million and seven hundred and fifty thousand Canadian dollars (\$3,750,000.00) (the "**Cash Contribution**") allocated towards community services and facilities, local parkland acquisition and improvements, and/or public realm improvements within the vicinity of the lands, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. The Cash Contribution set out in Clause 1 shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135, or its successor, calculated from the effective date of this By-law 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 the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands.

Matters Required to Support the Development

4. The Owner shall provide and maintain forty-six (46) replacement rental dwelling units at 241 Redpath Avenue for a period of at least twenty (20) years, beginning from the date that each replacement rental unit is first occupied and, during which time, no application may be submitted to the City for condominium registration, or for any other conversion to a non-rental housing purpose, or for demolition without providing for replacement during the, at minimum, twenty (20) year period; the forty-six (46) replacement rental units shall be comprised of at least thirty-four (34) one-bedroom units and twelve (12) two-bedroom units as shown on the Floor Plans by architectsAlliance dated March 29, 2022 submitted to the City Planning Division with any revisions to the satisfaction of the Chief Planner and Executive Director, City Planning.

5. The Owner shall, as part of the forty-six (46) replacement rental dwelling units required above, provide at least thirty-four (34) one-bedroom units and twelve (12) two-bedroom replacement rental dwelling units at affordable rents, as defined in the City's Official Plan, as defined in the City's Official Plan, all for a period of at least ten (10) years, beginning from the date of first occupancy of each unit.
6. The Owner shall provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities in the proposed rental replacement building as shown on the plans satisfactory to the Chief Planner and Executive Director, City Planning at no extra charge; access and use of these amenities shall be on the same terms and conditions as any other building resident without the need to pre-book or pay a fee, unless specifically required as customary practices for private bookings.
7. The Owner shall provide all forty-six (46) replacement rental dwelling units with ensuite laundry.
8. The Owner shall provide tenants of the forty-six (46) replacement rental dwelling units with access to all bicycle parking, all vehicle parking, visitor parking and storage lockers on the same terms and conditions as any other resident of the building.
9. The Owner shall provide tenant relocation and assistance to all eligible tenants occupying the existing forty-six (46) rental dwelling units proposed to be demolished at 241 Redpath Avenue, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
10. The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner shall be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the Site Plan Control application.
11. The Owner shall erect a sign to the Toronto District School Board's specifications and satisfaction prior to issuance of any building permit.





