

Authority: Local Planning Appeal Tribunal Decisions issued November 15, 2018, May 28, 2019 and August 26, 2019 and Ontario Land Tribunal Order issued on August 4, 2022 in Board File PL180391

CITY OF TORONTO

BY-LAW 222-2023(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 368 and 386 Eglinton Avenue East.

Whereas the Local Planning Appeal Tribunal Orders issued November 15, 2018, May 28, 2019 and August 26, 2019 in Board File PL180391, 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 569-2013, as amended, with respect to lands municipally known as 368 and 386 Eglinton Avenue East; 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;

The Ontario Land Tribunal orders:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of development permitted is permitted beyond that otherwise permitted on the lands 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 Appendix 1 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.

2. Where Appendix 1 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 same.
3. 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 Appendix 1 are satisfied.
4. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
5. None of the provisions of Section 2(1) with respect to the definition of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, and *height*, and Sections 4(4)(b), 4(6), 4(10), 4(12), 4(13), 4(16), 6(3) Part 1 (1), 6(3) Part II, and 6(3) Part III of Zoning 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 an *apartment building* on the *lot*, including the *existing building* and an addition to the *existing building*, on the lands municipally known as 368 and 386 Eglinton Avenue East in the year 2019, provided that:
 - (a) The *lot* consists of the lands delineated by heavy lines on Map 1 attached to this By-law;
 - (b) the 13-storey *apartment building* existing on the *lot* at the date of the passing of this By-law is permitted;
 - (c) The combined total *residential gross floor area* of all buildings erected or used on the *lot* for residential and non-residential uses shall not exceed 16,800 square metres;
 - (d) The maximum number of *dwelling units* permitted on the *lot* shall be 225, as follows:
 - (i) A maximum of 149 *dwelling units* shall be permitted in the *existing building*; and
 - (ii) A maximum of 76 *dwelling units* shall be permitted in the addition to the *existing building*.
 - (e) No part of the above *grade* portion of the *new building* on the *lot* is located otherwise than wholly within the areas delineated by the heavy lines on Map 2 attached to and forming part of this By-law, except for the following permitted projections into the required setback areas:

- (i) pilaster, decorative column, cornice, sill, belt course, eaves, lighting fixtures, vents and parapets may encroach a maximum distance of 0.5 metres;
 - (ii) vents, pipes, or utility equipment may encroach a maximum distance of 0.6 metres;
 - (iii) antenna, or a pole used to hold an antenna and satellite dishes may encroach a maximum distance of 0.9 metres; and
 - (iv) balconies, canopies, awnings, wind mitigation features, trellises, guardrails, balustrades, railings, stairs, wheel chair ramps, underground garage ramps, landscape and green roof elements, and public art features may encroach a maximum distance of 2.2 metres.
- (f) No portion of the addition to the *existing building* erected above *grade* on the *lot* shall be located above the maximum height in metres as indicated by the following letter "H" as shown on Map 2, attached to and forming part of this By-law, except for the following permitted projections into the permitted height:
- (i) Skylights, guardrails, elements of a green roof, parapets, elements of a photovoltaic solar energy device or a thermal solar energy device, wheelchair ramps, and roof assemblies may project above the permitted maximum height as shown on Map 2 to a maximum of 2.0 metres;
 - (ii) Structures or parts of the building used for the functional operation of the building, such as enclosed stairwells, roof access or hatches, maintenance equipment storage, elevator shafts, elevator overrun, stacks, chimneys, vents, and water supply facilities may project above the permitted maximum height as shown on Map 2 to a maximum of 2.5 metres;
 - (iii) Unenclosed structures providing safety or wind protection, acoustical barriers, privacy screens, and planters may project above the permitted maximum height as shown on Map 2 to a maximum of 3.0 metres;
 - (iv) Lightning rods, antennae, flag poles, satellite dishes, fencing, decorative screens, lighting features, may project above the permitted maximum height as shown on Map 2 to a maximum of 5.0 metres;
 - (v) Equipment used for the functional operation of the building, such as electrical, utility, heating/cooling towers, mechanical and ventilation equipment may project above the permitted maximum height as shown on Map 2 by no more than 2.5 metres; and
 - (vi) Structures that enclose, screen or cover the equipment, structures and parts of a building listed in (i) through (v) may project above the permitted maximum height as shown on Map 2 by no more than 2.0 metres.

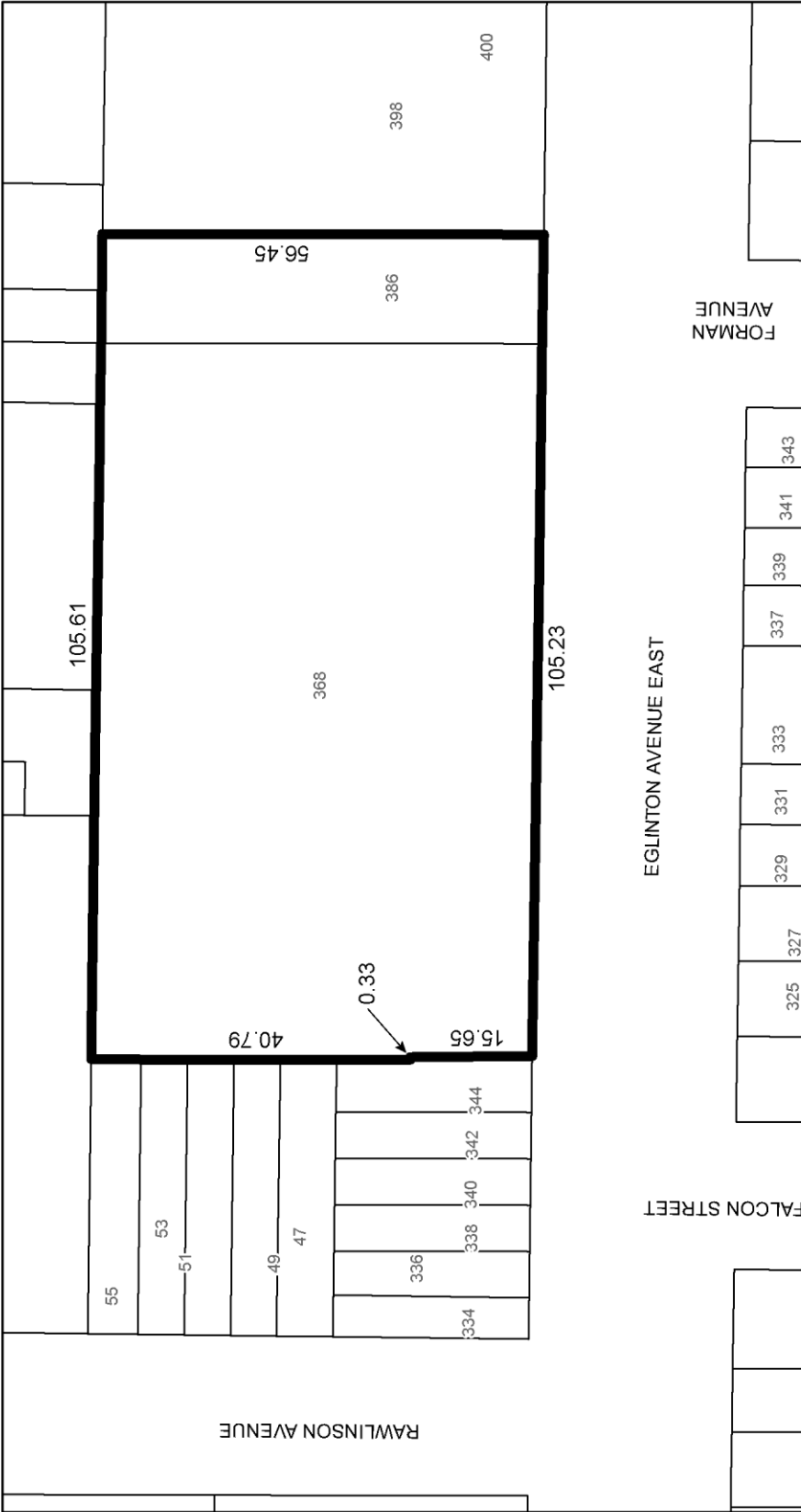
- (g) a minimum of one *loading space – Type "G"* shall be provided and maintained on the lot;
- (h) Any existing above or below *grade parking spaces* and existing parking *drive aisles* existing on the *lot* in the year 2019 are deemed to comply;
- (i) A total of 163 parking spaces on the *lot* must be provided and maintained on the in accordance with the following standards:
 - (i) 128 *parking spaces* shall be *occupant spaces*;
 - (ii) 35 *parking spaces* shall be *visitor spaces*; and
 - (iii) A minimum of 4 *car-share parking spaces* shall be permitted and a reduction of four *parking spaces* per *car-share parking space* is permitted.
- (j) *Car share parking spaces* are permitted on the *lot*;
- (k) A minimum of two *accessible parking spaces* must be provided.
- (l) *Bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the *existing building* and the addition to the *existing building* in accordance with the following:
 - (i) A minimum of 0.9 *bicycle parking spaces – occupant* per *dwelling unit* in the addition to the *existing building*; and
 - (ii) A minimum of 0.1 *bicycle parking spaces – visitor* per *dwelling unit* in the addition to the *existing building*.
- (m) The *bicycle parking spaces – occupant* noted in subsection (k) above may be located in a storage room and/or below-grade parking garage in a *building* on the *lot* and may or may not be in the stacked position;
- (n) *Residential amenity space* for the *existing building* and the *new building* shall be provided and maintained on the *lot* as follows:
 - (i) 145.0 square metres of indoor *residential amenity space* shall be provided in the addition to the *existing building* for use by the residents of the *dwelling units* in the *existing building* and the addition to the *existing building*; and
 - (ii) 160 square metres of outdoor *residential amenity space* for use by the residents of the *dwelling units* in the *existing building* and the addition to the *existing building*.
- (o) A minimum of 1,500 square metres of *landscaped open space* shall be provided and maintained on the *lot*;

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) "*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;
 - (b) "*car share parking space*" means a parking space exclusively reserved and signed for a car used only for *car share* purposes;
 - (c) "*existing building*" means the existing *apartment building* municipally known as 368 Eglinton Avenue East, including the underground *parking garage* and enclosed garage entry ramp located on the *lot* in the year 2017 as shown on Map 2;
 - (d) "*grade*" means 160.14 metres Canadian Geodetic Datum;
 - (e) "*height*" means the vertical distance between *grade* and the highest point of the building or structure, subject to permitted projections;
 - (f) "*lot*" means those lands outlined on Map 1 attached hereto; and
 - (g) "*residential gross floor area*" shall mean the sum of the total area of each floor level of a building with a floor elevation above *grade*, measured from the exterior main wall of each floor level. The gross floor area of an *apartment building* is reduced by the area in the building used for:
 - (i) parking, loading and bicycle parking below *established grade*;
 - (ii) required *loading spaces* and required *bicycle parking spaces* at or above *established grade*;
 - (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) indoor *amenity space* required by this By-law;
 - (vi) elevator shafts;
 - (vii) garbage shafts;
 - (viii) mechanical penthouse; and
 - (ix) exit stairwells in the *building*.

7. 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.
8. Except as otherwise provided herein, the provision of By-law 438-86, as amended, shall continue to apply to the *lot* as well as the buildings and structures on the *lot*.
9. 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 new public roads 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.

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Map 1



368 and 386 Eglinton Avenue East

File # 17 188558 STE 22 0Z

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City of Toronto By-law 438-86
Not to Scale
01/28/2020

Appendix 1**SECTION 37 PROVISIONS**

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. The *owner* covenants and agrees to maintain and secure the rental tenure of the 149 rental dwelling units, inclusive of the 11 reconfigured and renovated rental dwelling units in (2), to be retained in the existing rental apartment building municipally known as 368-386 Eglinton Avenue for a period of at least 20 years commencing from the date that the Zoning By-law Amendment comes into full force and effect. None of the rental dwelling units to be retained in the existing rental apartment building municipally known as 368-386 Eglinton Avenue shall be registered as a condominium, no application may be submitted for condominium approval or for any such conversion to non-rental housing purposes, or for demolition without providing for replacement rental dwelling units during the 20 year period;
2. The *owner* covenants and agrees to maintain and secure the rental tenure of the 11 rental dwelling units to be reconfigured and renovated in the existing rental apartment building municipally known as 368-386 Eglinton Avenue for a period of at least 20 years commencing from the date that each such unit is re-occupied by a returning tenant or new tenant. None of the rental dwelling units to be reconfigured and renovated in the existing rental apartment building municipally known as 368-386 Eglinton Avenue shall be registered as a condominium, no application may be submitted for condominium approval or for any such conversion to non-rental housing purposes, or for demolition without providing for replacement rental dwelling units during the 20 year period. The 11 rental dwelling units to be reconfigured and renovated shall be provided in accordance with the Architectural Plans dated October 26, 2018 and any revisions to such plans shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
3. The *owner* shall undertake the following needed building improvements and renovations to existing rental building at no extra cost to the tenants. These building improvements and renovations shall include, but not be limited to, at least the following:
 - a. Within six (6) months of issuance of the first above grade permit for the east addition, the owner shall provide a programmed outdoor amenity area on the two existing roof-top amenity areas on the existing building and renovate the existing washroom located adjacent to the existing eastern roof-top outdoor amenity area, as illustrated on the Landscape Plans dated December 20, 2019. All revisions to these Plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning. The proposed new programmed amenity area shall include outdoor furniture, weather protection, and barbeques;

- b. Within six (6) months of issuance of the first above grade permit for the east addition, the *owner* shall establish a new indoor amenity area within the basement of the existing building of at least 80 square metres, currently occupied by a mechanical/service area, as illustrated on the Floor Plans dated December 20, 2019. All revisions to these Plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - c. Prior to occupancy of the east addition, the *owner* shall locate all garbage, recycling, and composting storage for the new and existing building and locate a hand-delivered refuse drop-off area within the existing building;
 - d. Prior to occupancy of the east addition, the *owner* shall introduce secure long-term bike storage within the underground parking garage for residents of the existing and new buildings;
 - e. Prior to occupancy of the east addition, the *owner* shall introduce short-term visitor bike parking racks located at the front entrance of the existing building;
4. Prior to the issuance of the shoring and excavation permit for the east addition, the *owner* shall develop, in consultation with tenants of 368-386 Eglinton Avenue, a Tenant Communication Plan and Construction Mitigation Strategy to lessen adverse impacts on tenants due to the redevelopment proposal, to the satisfaction of the Chief Planner and Executive Director, City Planning;
5. The *owner* covenants and agrees to provide Tenant Relocation and Assistance to all eligible tenants residing in the existing rental dwelling units to be reconfigured and renovated, including the right to return, all to the satisfaction of the Chief Planner and Executive Director, City Planning; and
6. Prior to occupancy of the east addition, the owner *shall* reduce the number of vehicular driveways to and from the site from 4 to 1 and relocate the ramp to the underground parking garage to the rear of the site.