

Attachment 5: Draft Zoning By-law Amendment (438-86)

Authority: Toronto and East York Community Council Item ~, adopted as amended by City of Toronto Council on ~

BY-LAW No. XXXX-2022

To amend the City of Toronto By-law No. 438-86, as amended, with respect to the lands municipally known in the year 2021 as 185 Balliol Street and 8 Pailton Crescent.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

Whereas pursuant to Section 39 of the *Planning Act*, as amended, the council of a municipality may, in a by-law passed under Section 34 of the *Planning Act*, 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*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c.18 came into force, a by-law under Section 34 of the *Planning Act* may authorize increases in the height or 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*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c.18 came into force, 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, 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 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 569-2013 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 Council of the City of Toronto enacts:

1. None of the provisions of Section 2(1) with respect to the definition of ‘*height*’, ‘*grade*’, ‘*lot*’, ‘*residential gross floor area*’, ‘*non-residential gross floor area*’ and ‘*landscaped open space*’ and Sections 4(2), 4(4), 4(6), 4(12), 4(13), 6(3) PART I 1, 6(3) PART II, 6(3) PART III, 12(2) 118, 12(2) 119, 12(2) 270 of Zoning By-law No. 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”, shall apply to prevent the erection and use on the *lot* of an *apartment building* and *accessory* uses thereto provided that:
 - (a) Notwithstanding the permitted uses in Section 6(1)(A), a *retail store* is also a permitted use;
 - (b) The total permitted maximum *gross floor area* shall not exceed 32,500 square metres, of which a minimum of 100 square metres and a maximum of 250 square metres shall be for a maximum of two *retail stores*;
 - (c) A minimum of one *retail store* must have access from the outside of the *apartment building*;
 - (d) No portion of any building or structure erected or used above *grade* shall exceed the *height* limits above *grade* in metres specified by the numbers following the symbol “H” as shown on Map 2 attached hereto, other than:
 - (i) parapets and elements of a green roof up to a maximum of 2.1 metres;
 - (ii) equipment and structures on the roof of a building used for the functional operation of the building, such as electrical, utility, mechanical, ventilation equipment, enclosed stairwells, stairs, stair landings, roof access hatches, maintenance equipment storage, transformer vaults, elevator shafts, stacks, chimneys, vents, water supply facilities and structures that enclose, screen or cover the elements listed above, up to a maximum of 3.0 metres.
 - (iii) elements or structures on the roof of a building used for outside or open air recreation, outdoor *residential amenity space*, fixed outdoor furniture, trellises, privacy screens, terrace or balcony dividers, railings, guardrails, fences, landscape elements or features, public art features, fire safety equipment and servicing, gas metres and associated privacy screens and window washing equipment up to a maximum of 3.0 metres; and
 - (iv) ramps or elevating device providing barrier free access up to a maximum of 3.0 metres;

- (e) No portion of any building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 2 attached hereto, other than:
- (i) terrace, platforms associated with a balcony or terrace, fences, canopies and awnings up to a maximum of 3.0 metres;
 - (ii) ornamental elements, exterior wall surfaces, , flues, chimneys, lighting fixtures, and fire safety equipment and servicing, gas meters and associated privacy screens up to a maximum of 2.0 metres;
 - (iii) ramps or elevating device providing barrier free access up to a maximum of 3.0 metres; and
 - (iv) railings, guardrails, architectural curtain wall projections, window projections by a maximum of 1.2 metres;
- (f) The provision of *dwelling units* is subject to the following:
- (i) a minimum of 15 percent of the total number of *dwelling units* must contain two or more bedrooms;
 - (ii) a minimum of 10 percent of the total number of *dwelling units* must contain three or more bedrooms;
 - (iii) a minimum of an additional 15 percent of the total number of *dwelling units* must have two or three bedrooms (or convertible to two or three bedrooms)
 - (iv) any *dwelling units* with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
 - (v) if the calculation of the number of required *dwelling units* with two or three bedrooms results in a number with a fraction, the number shall be rounded down to the nearest whole number;
- (g) *residential amenity space* shall be provided on the *lot* in accordance with the following:
- (i) a minimum of 2.0 square metres for each *dwelling unit* of indoor *residential amenity space*;
 - (ii) a minimum of 1.09 square metres for each *dwelling unit* of outdoor *residential amenity space*;
 - (iii) no more than 25% of the outdoor component may be a green roof;

- (h) a minimum of 30 percent of the area of the *lot* must be *landscaped open space*, of which a minimum of 10 percent must be *soft landscaping*;
- (i) a minimum 0.5 metre wide strip of *soft landscaping* shall be provided along any part of a *lot line* abutting another *lot* in a residential zone;
- (j) for the purpose of (h) above, a fence may be located within *soft landscaping*;
- (k) *parking spaces* shall be provided and maintained in accordance with the following ratios:
 - (i) a minimum of 0.16 *parking spaces* per *dwelling unit* for residents of the building; and
 - (ii) a minimum of 0.02 *parking spaces* per *dwelling unit* for the combined use for residential visitors and non-residential uses;
 - (iii) no *parking spaces* are required for non-residential uses;
- (l) a minimum of 3 accessible *parking spaces* shall be provided and maintained on the *lot*, with the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 3.4 metres;
 - (iii) vertical clearance of 2.1 metres; and
 - (iv) the entire length of an accessible *parking space* must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (m) *bicycle parking spaces* shall be provided and maintained on the lot in accordance with the following ratios:
 - (i) a minimum of 0.9 *parking space – occupant* per *dwelling unit*;
 - (ii) a minimum of 0.10 *bicycle parking space – visitor* per *dwelling unit*;
- (n) notwithstanding the definition of *bicycle parking space – visitor* and *bicycle parking space – occupant* in Section 2(1) of Zoning By-law No. 438-86, as amended, a *bicycle parking space* may be provided in a *stacked bicycle parking space* having a minimum vertical clearance of 1.2 metres, a minimum width of 0.4 metres, and a minimum length of 1.6 metres;

2. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, with the exception of the following terms:
- (a) “*height*” means the vertical distance between *grade* and the highest point of the buildings or structures, excluding permitted projections identified this By-law;
 - (b) “*grade*” means 154.85 metres Canadian Geodetic Datum;
 - (c) “*landscaped open space*” means an area used for trees, plants, decorative stonework, retaining walls, walkways, or other landscape or architectural elements. Driveways and areas for loading, parking or storing of vehicles are not landscaping.
 - (d) “*lot*” means the parcel of land delineated by heavy lines on Map 2 attached to and forming part of this By-law.
 - (e) “*gross floor area*” means the aggregate of the areas of each floor and the spaces occupied by walls and stairs, above or below *grade*, of a *residential building* or a *mixed-use building*, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, exclusive of the following areas:
 - (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 *residential amenity space* required by this By-law;
 - (vi) elevator shafts;
 - (vii) garbage shafts;
 - (viii) mechanical penthouse; and
 - (ix) exit stairwells in the building.

- (f) “*soft landscaping*” means *landscaped open space* excluding hard-surfaced areas such as decorative stonework, retaining walls, walkways, or other hard-surfaced landscape-architectural elements.
 - (g) “*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.
3. 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.
4. None of the provisions of By-law No. 438-86 shall apply to prevent the erection and use of a temporary sales office for the purposes of marketing, rental, leasing and sale of dwelling units and non-residential uses for a period of not more than 3 years from the date this By-law comes into full force and effect, provided:
- a. The maximum height of the temporary sales office is 3 metres;
5. 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 lands shown on Diagram 1 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 A 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 A 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 A are satisfied.

Enacted and passed on ~ 2020.

SCHEDULE A
Section 37 Requirements

The facilities, services and matters set out below are required to be provided by the owner of the *lot* at its expense to the City in accordance with 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 came into force, 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. Prior to the issuance of any Building Permit, the owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits below.
2. City Council require the owner to enter into an Agreement pursuant to Section 37 of the Planning Act (the "Section 37 Agreement") to secure 654.1 square metres of additional land for parkland to be provided on the site above and beyond the requirements of Section 42 of the Planning Act, at nominal cost, to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor;
3. The following matters to be secured in the Section 37 Agreement as a legal convenience to support development:
 - a) the owner shall make reasonable efforts, to the satisfaction of the Chief Planner and Executive Director, City Planning, to promote the return of businesses and/or services displaced by the proposed development;
 - b) the owner shall provide a landscaped space with a minimum area of 370 square metres located along a section of the west property line of the new park;
 - c) Prior to site plan approval, the owner must work with City staff to determine the final design and dimensions of the landscaped space described above, to promote soft landscaping and pedestrian connectivity.



