



Town of Whitby

By-law # 8137-24

Zoning By-law Amendment

Being a By-law to amend By-law #2585, as amended, being the Zoning By-law of the Town of Whitby.

Whereas, on November 4, 2024, Council approved applications to amend the Town's Official Plan and Zoning By-law #2585 and to approve a draft plan of subdivision to permit the phased development of a mixed-use project situated within a Protected Major Transit Station Area on the Subject Land conditional on the approval of appropriate amendments to the Whitby Official Plan and Zoning By-law #2585;

And whereas, Amendment 140 to the Town of Whitby Official Plan was approved by Council on November 4, 2024, to permit the proposed development;

And whereas, a By-law to adopt Amendment #140 to the Town of Whitby Official Plan was passed on December 16, 2024;

And Whereas, the Council of the Corporation of the Town of Whitby now deems it advisable to amend By-law #2585.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

- 1.1. Schedule "A" to By-law #2585 is hereby amended by changing the zoning from M1A-LS-N and M1A-LS-N-1 to MX-LS-1, H-M1A-LS-N and H-M1A-LS-N-1, for the land shown as the Subject Land on Schedule "A-1" attached to and forming part of this By-law amendment
- 1.2. Section 25 Exceptions to By-law #2585, as amended, is hereby further amended by adding thereto the following Exception:

(275) MX-LS-1 – Mixed Use – Lynde Shores – Exception 1
Lands north of Victoria Street West, west of Jim Flaherty Street.

1. Defined Area

The lands located north of Victoria Street West, on the west side of Jim Flaherty Street and zoned MX-LS-1 shall be subject to the provisions as hereinafter contained. Matters not specifically dealt with in this By-law shall be governed by the relevant provisions of By-law #2585.

2. Uses Permitted

No person shall within any MX-LS-1 Zone use any lot or erect, alter or use any building or structure for any purpose except one or more of the following uses:

(a) Residential Uses

- apartment building
- mixed use building
- retirement home

(b) Non-Residential Uses

- animal care establishment
- art gallery
- bakeshop or confectionary shop
- clinic
- commercial school
- day care establishment
- eating establishment
- eating establishment, takeout
- financial institution
- food store
- office
- parking lot
- personal service establishment
- retail store
- school
- school, private
- studio

Each lot zoned MX-LS-1 must have a mix of residential and non-residential uses, and the uses may be integrated in the same building.

3. Zone Provisions

No person shall within any MX-LS-1 Zone use any lot or erect, alter or use any building or structure except in accordance with the following provisions:

(a) Determination of Lot

Notwithstanding the definition of Lot in Section 2 and any other provisions of By-law #2585, and notwithstanding the obtaining of any severance by way of a consent under the provisions of

the Planning Act, or the registration at any time of any Condominium Declaration, a Plan of Subdivision, or conveyance with respect to any portion of the said land, the whole of the land zoned MX-LS-1 shall be considered to be one lot

(b) Determination of Lot Lines

Notwithstanding any other provisions of By-law #2585, the lot line abutting Jim Flaherty Street shall be deemed the front lot line and the lot line farthest from and opposite the front lot line shall be deemed the rear lot line. The north lot line abutting the proposed new public street shall be deemed the exterior side lot line. All other lot lines shall be deemed interior side lot lines.

(c) Landscaped Open Space
Minimum

25%

(d) Front Yard
Minimum Depth

9.0m

(e) Rear Yard
Minimum Depth

7.5 m

(f) Interior Side Yard
Minimum Width

7.5 m

(g) Exterior Side Yard
Minimum Width

3.0 m

(h) Height of Buildings

- (i) The maximum height of Building A-1 situated closest to the proposed new public street to the north of the Subject Land shall be 33 storeys;
- (ii) The maximum height of Building A-2 situated south of Building A-1 shall be 38 storeys;
- (iii) The maximum height of any podium related to Buildings A-1 and A-2 shall be 6 storeys.

(i) Roof Top Appurtenances

The maximum height of any roof top appurtenances such as an elevator penthouse, mechanical room, stair tower, roof top access room, amenity space and any architectural features shall not exceed 8 metres.

(j) Distance Between Point Towers

Minimum	25.0m
---------	-------

(k) Floor Plate Area

Maximum Floor Plate Area of a Point Tower	900m ²
---	-------------------

(l) Projections

(i) Any ornamental or architectural structures such as a canopy or a colonnade, and any outdoor deck or patio related to a non-residential use may project to within 5.0m of the front lot line, 0.3m of the exterior side lot line and 0.0m of a visibility triangle.

(m) Non-Residential Provisions

(i) The minimum gross leasable area devoted to non-residential uses shall be 500m² excluding patios related to non-residential uses.

(ii) The minimum top of floor slab to top of floor slab height of the first storey for all non-residential uses shall be 4.5m.

(iii) No drive-through facilities are permitted.

(n) Parking and Loading Requirements

(i) There shall be no minimum parking space requirements for both residential and non-residential uses.

Where parking spaces are provided, all relevant parking provisions continue to apply.

(ii) Tandem parking spaces shall be permitted and be counted as two parking spaces only where used by an owner or tenant of one dwelling unit

- (iii) The parking space dimensions for angled or perpendicular parking spaces shall be as per the Table below:

Type of Space	Min. Length	Min. Width	Min. Height
Angled and/or Perpendicular Parking Space	5.6m	2.6m	2.0m

- (iv) The parking space dimensions for an accessible parking space shall be as per the Table below:

Type of Space	Min. Length	Min. Width	Min. Height
Accessible Parking Space	5.8m	3.4m	2.4m

- (v) Where 50 or more parking spaces are provided on a lot the minimum parking space dimensions for up to 20% of any parking spaces supplied may be as per the Table below:

Type of Space	Min. Length	Min. Width	Min. Height
Small Vehicle Parking Space	5.1m	2.4m	2.0m

- (vi) Any parking structure either below finished grade or up to a height of 1.2m above finished grade may encroach into a required yard provided that the parking structure is located no closer than 0.0m to a street line or lot line. This provision shall also apply to ventilation shafts, stairways and other similar facilities associated with a parking structure.

4. Definitions

For the purpose of the interpretation of the various zone provisions set forth above, the following definitions shall apply and where there is a conflict between the definitions set forth hereunder and those set forth in Section 2 of By-law 2585, the following definitions shall apply:

- (a) **Animal Care Establishment** means a building or part of a building where pets and domestic animals are groomed and or cared for during the day and may include ancillary retail sales of

grooming products, but shall not include the breeding of animals, a kennel or the boarding of animals, or a veterinary clinic.

(b) **Day Care Establishment** means:

- (i) Premises where more than 5 children are provided with temporary care and/or guidance for a continuous period but does not provide overnight accommodation and are licensed in accordance with the applicable Provincial Act; or,
- (ii) Premises in which temporary care is provided or supplied on a regular schedule to adults for a portion of a day but does not provide overnight accommodation.

(c) **Floor Plate Area** means the total area of a floor of a building, measured from the exterior of the main wall of the floor level, including voids at the level of the floor, such as an atrium, mezzanine, stairwell, escalator, elevator, ventilation duct or utility shaft but shall not include any unenclosed private balcony or private terrace.

(d) **Food Store** means a building or part of a building having a gross leasable area of less than 2,000 square metres wherein various food, foodstuffs, groceries and other products used within the household are sold and may include specialty floor areas stores such as, but not limited in kind to health food, a vegetable market, or other specialty goods.

(e) **Landscaped Open Space** means open unobstructed space on a lot accessible by walking from the street on which the lot is located and which is suitable for the growth and maintenance of grass, flowers, bushes, and other landscaping or other common outdoor recreational activity space and includes any surfaced walk, patio and open space areas or other common outdoor recreational activity areas or similar landscaped space situated above grade such as on a podium or roof of a building, but does not include any driveway or ramp whether surfaced or not, nor any curb, retaining wall, parking area, private balcony or private terrace.

- (f) **Mixed Use Building** means a building containing residential uses and at least one other non-residential use.
- (g) **Podium** means the base of a building consisting of a base and a point tower above the base where the base is two storeys or greater.
- (h) **Point Tower** means the portion of a building above the podium of the building, where the tower portion of the building is at least 12 storeys.

5. **Zone Provisions That Do Not Apply**

The following provisions shall not apply to the lands zoned MX-LS-1 by this By-law amendment:

- 6(2) Accessory Uses
- 6(9) Height Exceptions
- 6(18) Sight Triangles
- 6(23) Yard Encroachments Permitted
- 7 General Provisions for Residential Uses

- 1.3. Subsection 25(205)(b) – M1A-LS-N – Prestige Industrial – Lynde Shores (Business Park) Node Zone to By-law #2585, as amended, is hereby further amended by adding thereto the following provision.

(d) **Holding Provisions**

- (a) No person shall use any lot or erect, alter or use any building or structure in any H-M1A-LS-N Zone except in accordance with the following uses:
 - (i) Uses existing at the date of the passing of this By-law amendment.
 - (ii) A residential sales office, notwithstanding any zone provisions to the contrary.
- (b) The “H” Holding symbol prefixed to the M1A-LS-N Zone may be removed from all or a portion of the lands but shall not be removed, in whole or in part, by amendment to this By-law until the following matters are fulfilled to the satisfaction of the Town of Whitby and the Durham District School Board:
 - (i) That an adequate and acceptable school site has been identified and protected for to the satisfaction of the Durham District School Board.

- 1.4. Subsection 25(273) – M1A-LS-N-1 – Prestige Industrial – Lynde Shore (Business Park) Node – Exception 1 Zone to By-law #2585, as amended, is hereby further amended by adding thereto the following provision.

(5) Holding Provisions

- (a) No person shall use any lot or erect, alter or use any building or structure in any H-M1A-LS-N-1 Zone except in accordance with the following uses:
 - (i) Uses existing at the date of the passing of this By-law amendment.
 - (ii) A residential sales office, notwithstanding any zone provisions to the contrary.
- (b) The “H” Holding symbol prefixed to the M1A-LS-N-1 Zone may be removed from all or a portion of the lands but shall not be removed, in whole or in part, by amendment to this By-law until the following matters are fulfilled to the satisfaction of the Town of Whitby and the Durham District School Board:
 - (i) That an adequate and acceptable school site has been identified and protected for to the satisfaction of the Durham District School Board.

- 1.5. By-law 8137-24 shall not come into force and effect until Amendment 140 to the Town of Whitby Official Plan has received final approval.

By-law read and passed this 16th day of December, 2024.

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk

Schedule A-1

To By-law # 8137-24

This is Schedule A-1 to By-law # 8137-24 passed by the
Council of the Town of Whitby this 16th day of December, 2024.

Clerk

Mayor

