

Authority: Ontario Municipal Board Decision issued on November 24, 2016 and Order issued October 3, 2017 in Board File PL150732

CITY OF TORONTO

BY-LAW 1478-2017(OMB)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2016 as 53, 61 and 65 Ontario Street and 102 Berkeley Street.

Whereas the Ontario Municipal Board pursuant to its decision issued on November 24, 2016 and Order issued on October 3, 2017 in respect of Board File PL150732 after hearing the appeal under Section 34(11) of the *Planning Act*, R.S.O. c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013; 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/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 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/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* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height and/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 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 Ontario Municipal Board enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone labels on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CRE (x9) and CRE (x12) as shown on Diagram 3 attached to By-law 1478-2017(OMB).

4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.1 Exception CRE (x9) so that it reads:

Exception CRE 9

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions.

Site Specific Provisions:

- (A) On the lands identified as **Parcel A** on Diagram 1 of By-law 1478-2017(OMB), if the requirements of Section 6 and Schedule A of By-law 1478-2017(OMB) are complied with, none of provisions 5.10.40.70 (1) and (2), 50.5.40.10(1), 50.10.40.10 (1), 50.10.40.30 (1), 50.10.40.50(1)(A) and (B), 50.10.40.70 (1) and (5), 50.10.40.80 (1), 200.5.10.1 (1), 200.15.1.5(1), 220.5.10.1(3), 220.5.20.1 (1) (A) (ii), 230.5.10.1(2) and (5), 230.50.1.20 (2)(C) and 600.10.10 apply to prevent the erection and use of a **building, structure**, addition or enlargement permitted by (B) – (O) below;
- (B) The height of a **building** or **structure** is measured from the Canadian Geodetic Datum of 83.00 metres and no portion of a **building** or **structure** erected above the Canadian Geodetic Datum of 83.00 metres is to be located otherwise than wholly within the areas delineated by heavy lines on Diagram 2 of By-law 1478-2017(OMB), with the exception of the following:
- (i) Canopies, awnings, building cornices, parapets lighting fixtures, ornamental architectural elements, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, terraces, wheel chair ramps, vents, underground garage ramps, landscape and **green roof** elements and wind mitigation features which may extend beyond the heavy lines, except for the lot lines, shown on Diagram 2; and
- (ii) Balconies are permitted outside the heavy lines shown on Diagram 2, within the area illustrated by hatching and identified as balcony zones on Diagram 2 of By-law 1478-2017(OMB);
- (C) No portion of a **building** or **structure** erected above the Canadian Geodetic Datum of 83.00 metres may have a greater height in metres than the heights in metres specified by the numbers following the symbol H on Diagram 2, and the number of **storeys** following the symbol ST on Diagram 2, of By-law 1478-2017(OMB) except for the following:
- (i) Railings and guards, vents, exhausts, lightning rods, chimney stacks, pool equipment, retaining walls and planters, ornamental architectural elements, **green roof** elements, and roof assemblies including parapets which may project above the permitted height by a maximum of 1.5 metres;

- (ii) Wind remediation screens and dividers which may project above the permitted height by up to a maximum of 2.0 metres; and
 - (iii) **Landscape** features and elements including trellises, fences and outdoor amenity structures, window washing and **building** maintenance equipment, which may project above the permitted height up to a maximum of 3.0 metres;
- (D) Any **storey** above the 25th **storey** may only be used for the functional operation of the **building**;
- (E) The total **gross floor area** of all **buildings** and **structures** on **Parcel A** must not exceed 18,400 square metres of which:
 - (i) A maximum of 17,850 square metres may be used for residential uses; and
 - (ii) A maximum of 650 square metres may be used for non-residential uses;
- (F) **Amenity space** must be provided and maintained on **Parcel A** as follows:
 - (i) A minimum of 1.55 square metres of indoor residential **amenity space** for each **dwelling unit** must be provided and maintained and must include at least one multi-purpose room or rooms, at least one of which contains a kitchen and a washroom; and
 - (ii) A minimum of 1.85 square metres of outdoor residential **amenity space** for each **dwelling unit** of which, a minimum of 40 square metres must be in a location adjoining or directly accessible from a portion of the indoor residential **amenity space**;
- (G) Up to one guest suite having a maximum **interior floor area** of 45 square metres is permitted and will be calculated as **amenity space**;
- (H) **Parking spaces** must be provided and maintained on **Parcel A** as follows:
 - (i) A minimum of 110 **parking spaces** for residents; and
 - (ii) A minimum of 16 **parking spaces** for visitors;
- (I) Despite 200.5.1.10(2), a maximum of 4 obstructed **parking spaces** that are obstructed on one side only may have a minimum width of 2.6 metres;
- (J) Despite section 200.15.10(1)(C), accessible **parking spaces** provided on **Parcel A** will have minimum dimensions of 3.9 metres by 5.6 metres;
- (K) Despite section 230.5.1.10(9)(iii), **bicycle parking spaces** may also be located on any parking level below grade;

- (L) **Bicycle parking spaces** must be provided and maintained on **Parcel A** as follows:
- (i) Short-term **bicycle parking spaces** must be provided at a minimum rate of 0.1 **bicycle parking spaces** per **dwelling unit**; and
 - (ii) Long-term **bicycle parking spaces** must be provided at a minimum rate of 0.9 **bicycle parking spaces** per **dwelling unit**;
- (M) A minimum of one Type "G" **loading space** must be provided and maintained on **Parcel A**;
- (N) A minimum of 18 percent of the **dwelling units** must have 2 or 3 bedrooms and no less than 10 percent of the **dwelling units** must have a minimum average **interior floor area** of at least 95 square metres; and
- (O) The regulations of By-law 1107-2016 do not apply.

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(2) 270 of former City of Toronto By-law 438-86.

5. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.1 Exception CRE (x12) so that it reads:

Exception CRE 12

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions.

Site Specific Provisions:

- (A) On the lands identified as **Parcel B** on Diagram 1 of By-law 1478-2017(OMB), the lawfully existing setbacks of the **building** existing on the lands on May 31, 2017 are the minimum **building setbacks** for that existing **building** and no **parking spaces, loading spaces** or **bicycle parking spaces** will be required for the non-residential uses existing on **Parcel B** on May 31, 2017.

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(2)270 of former City of Toronto By-law 438-86.

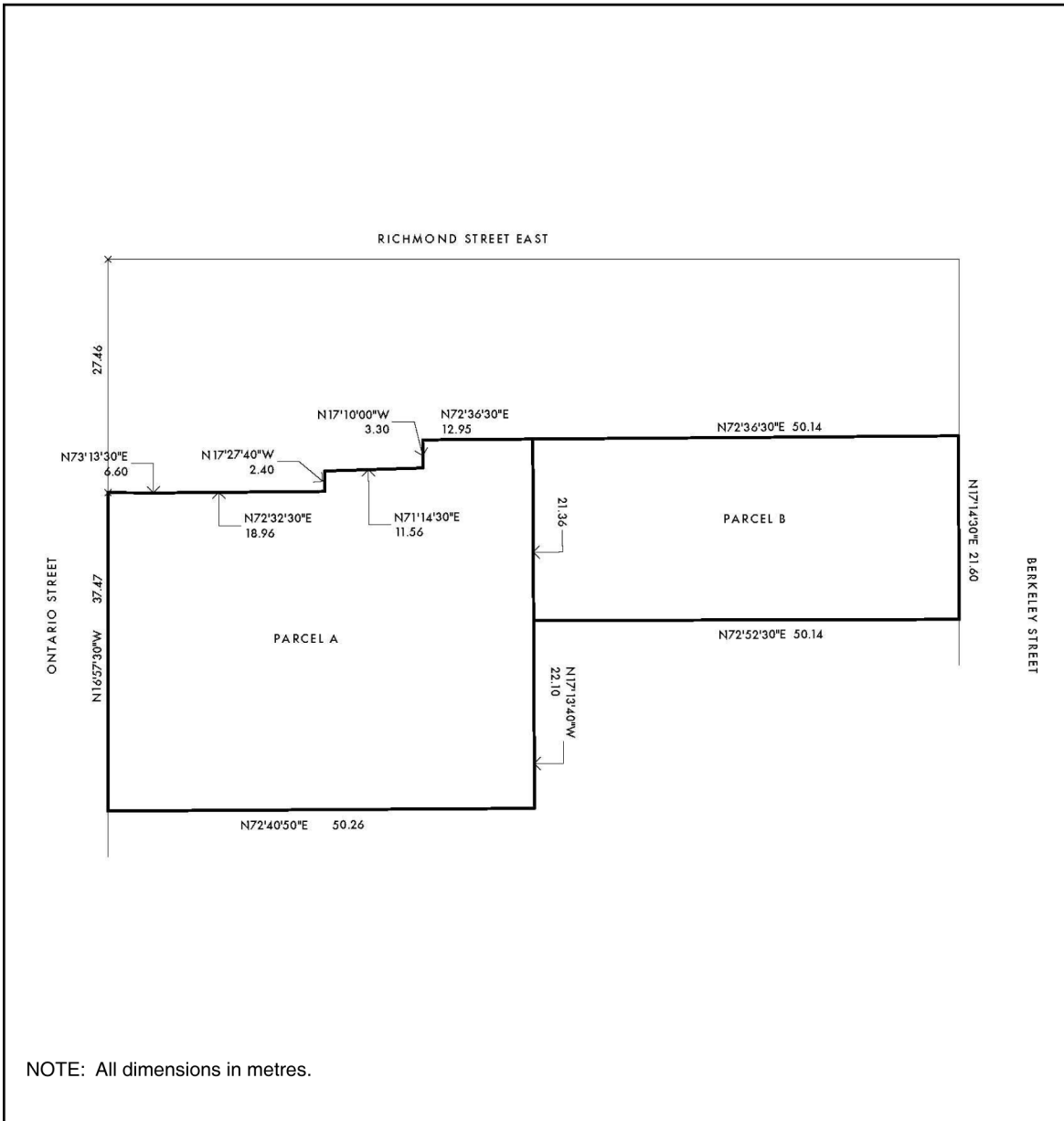
6. Section 37 Provisions

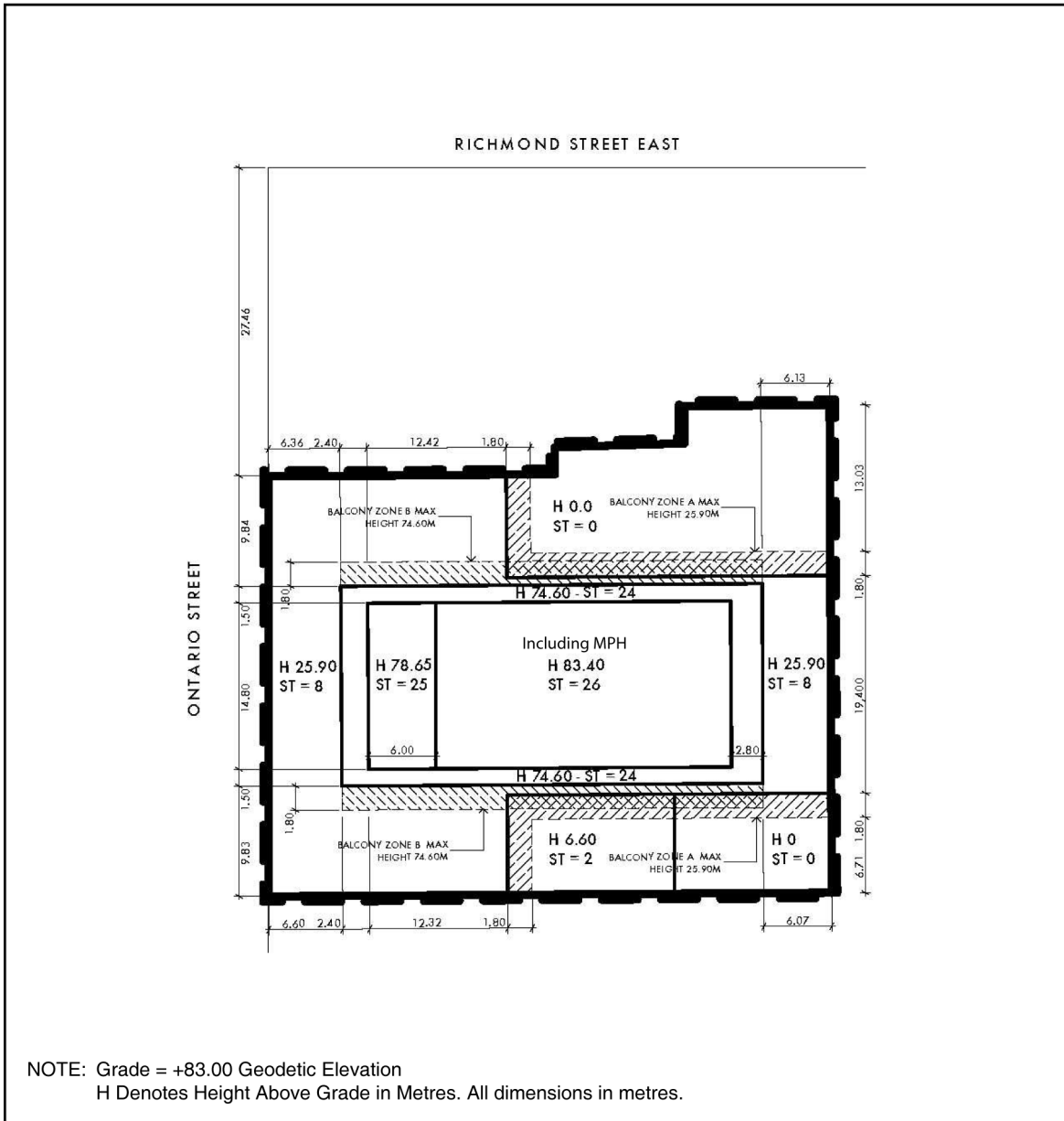
- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown as **Parcel A** on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more

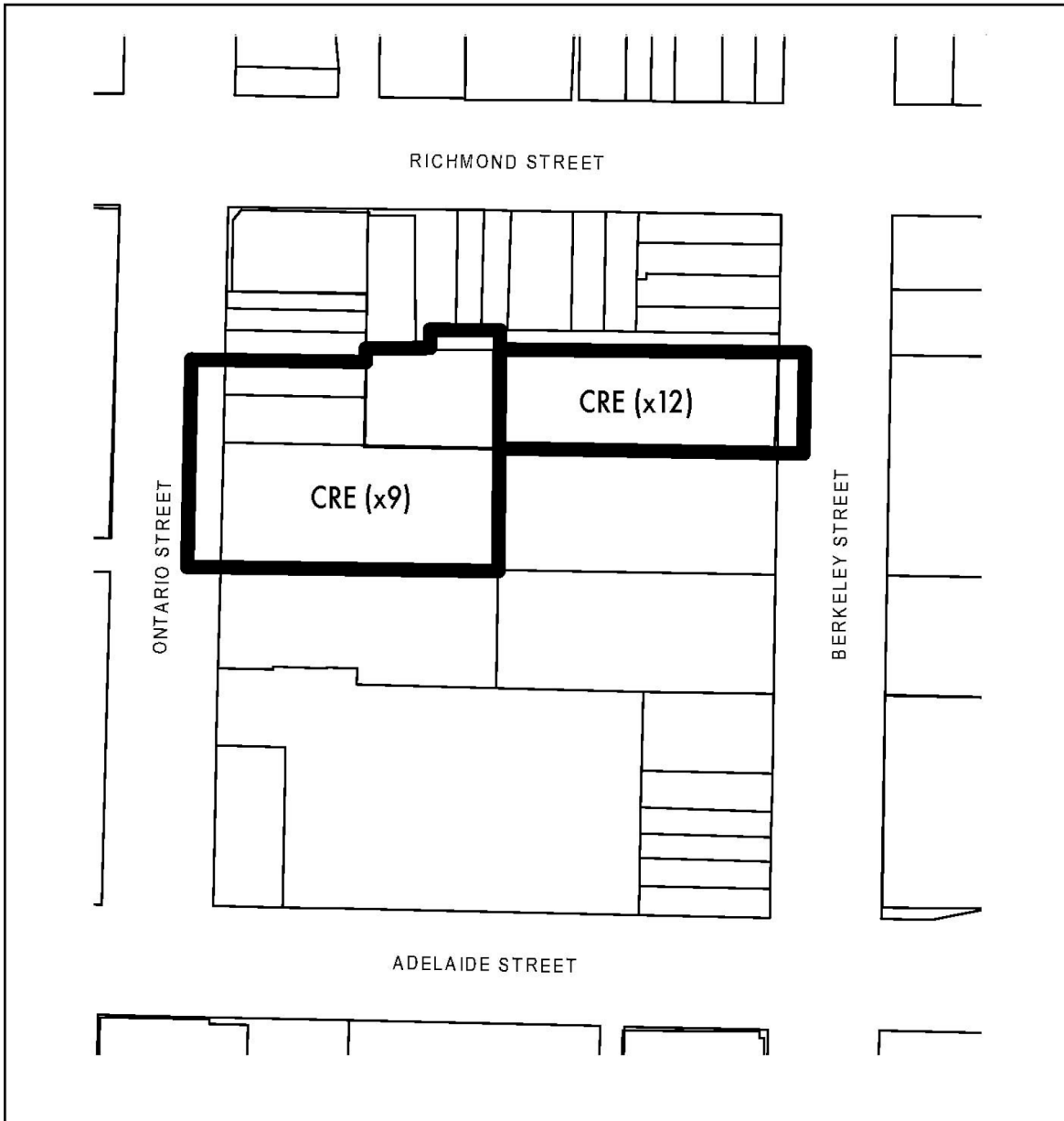
agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;

- (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 on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a **building** or **structure** on **Parcel A** erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Ontario Municipal Board Decision issued on November 24, 2016 and Order issued October 3, 2017 in Board File PL150732







SCHEDULE A
Section 37 Provisions

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

- (1) Prior to the issuance of the first above grade building permit the owner shall provide a cash contribution of \$750,000, and indexed upwardly in accordance with the Statistics Canada Non-residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made towards:
 - i. \$300,000.00 to be used towards the First Parliament Building site, municipally known in 2016 as 25 Berkeley Street, 265 Front Street East, and 271 Front Street East, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the Ontario Heritage Trust, in consultation with the Ward Councillor;
 - ii. \$300,000.00 to be used towards local streetscaping and/or park improvements in the vicinity of **Parcel A**, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
 - iii. \$100,000.00 to be used towards a Heritage Lighting Master Plan and/or Heritage Interpretation Master Plan Implementation to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor; and
 - iv. \$50,000.00 to be used towards the redevelopment of the North St. Lawrence Market, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.

- (2) In the event the cash contributions referred to in Section 1 have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of **Parcel A**.