

Authority: Ontario Municipal Board Decision issued on April 14, 2014 and Local Planning Appeal Tribunal Order issued on May 12, 2020, in Board File PL111277

CITY OF TORONTO

BY-LAW 448-2020(LPAT)

To amend Chapters 320 and 324 of the former City of Etobicoke Zoning Code respecting the lands municipally known as 361 The West Mall and 24 Eva Road.

Whereas the owner of the lands known municipally in the year 2013 as 361 The West Mall and 24 Eva Road, in the former City of Etobicoke, appealed a proposed zoning by-law amendment to the Ontario Municipal Board; and

Whereas the Ontario Municipal Board, by its Decision Order issued on April 14, 2014 and Local Planning Appeal Tribunal Order issued on May 12, 2020, in Board File PL111277, approved amendments to Chapters 320 and 324 of the former City of Etobicoke Zoning Code, as amended, with respect to said lands; and

Whereas pursuant to Section 37 of the Planning Act, the Council of a municipality may, in a By-law passed under Section 34 of the Planning Act, authorize increases in the height and density of development otherwise permitted by the By-law that will be permitted in return for the provision of such facilities, services, and matters as 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 lands referred to herein have elected to provide the facilities, services and matters as hereinafter set forth; and

Whereas the increase in density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands in Chapters 320 and 324 of the former City of Etobicoke Zoning Code, as amended, is to be permitted in return for the provision of facilities, services and matters set out in this By-law, which are to be secured by one or more agreements between the owner of such lands and the City of Toronto;

Pursuant to the Order of the Local Planning Appeal Tribunal, Chapters 320 and 324 of the former City of Etobicoke Zoning Code, as amended, are further amended as follows:

1. That the zoning map referred to in Section 320-5, Article II, of the Zoning Code, and originally attached to the Township of Etobicoke By-law 11,737, be and the same is hereby amended by changing the classification of the Lot from Fourth Density Residential Zone (R4) as amended by By-laws 716, 813 and 1683 to Sixth Density Residential Zone (R6), provided the following provisions shall apply to the development of the Lot.

2. Notwithstanding Section 320-77 of the Zoning Code, the following development standards shall apply to the Lot.

3. **Definitions**

For the purposes of this By-law the following definitions shall apply:

"Building Envelope" means the building area permitted within the setbacks established in this By-law, as delineated generally on Schedule B attached to this By-law;

"Established Grade" means 136.50 metres above sea level for Proposed Building 'C' and Proposed Building 'D', and 138.00 metres above sea level for Proposed Building 'E';

"Existing Apartment Building 'A'" means the apartment building shown as such on Schedule B attached to this By-law, constructed on the Lot as of the date of this By-law;

"Existing Apartment Building 'B'" means the apartment building shown as such on Schedule B attached to this By-law, constructed on the Lot as of the date of this By-law;

"Existing Apartment Buildings" means Existing Apartment Building 'A' and Existing Apartment Building 'B';

"Existing Parkade" means the partially enclosed above-grade parking area shown as such on Schedule B attached to this By-law, constructed on the Lot as of the date of this By-law;

"Floor Plate Area" means the gross floor area of a single floor measured from the exterior walls of a building or structure;

"Gross Floor Area" means the total area of all floors in a building between the outside faces of the exterior walls except that the following areas shall be excluded: Mechanical Floor Area; unenclosed balconies; all floor areas at least 0.6 metres below Established Grade; up to 2.0 square metres per dwelling unit for Indoor Amenity Areas; storage areas; all below grade, grade related and above-grade areas devoted to parking;

"Height" means the vertical distance between Established Grade as defined for each of the Proposed Buildings and the highest point of the roof surface of a building or structure, but such measurement shall exclude mechanical equipment, mechanical penthouses, parapets, architectural elements, stairs and stair enclosures, located on the roof of such building or structure provided the maximum height of the top of such elements is not higher than 5 metres above the roof surface of the said building or structure;

"Indoor Amenity Area" means an indoor common area or areas which are provided for the use of residents and their guests, for recreational or social purposes, all as further described in Section 11 of this By-law;

"Landscaped Open Space" means a yard or court located at grade on the Lot, including land above an underground parking area, or an above ground parking deck, which is suitable for landscaping. It shall include any part of the lot occupied by recreational buildings/structures, surfaced walks, patios or similar areas, sports or recreational areas

and ornamental or swimming pools, but shall exclude driveways and ramps, and motor vehicle parking areas;

"Lot" means the lands delineated with a heavy dash-dot line as shown on Schedule A attached to this By-law;

"Mechanical Floor Area" means a room or enclosed area, including its enclosing walls, within a building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical equipment, elevator shafts, or telecommunications equipment that serves only said building;

"Minor Projections" means minor building elements which may project from the main wall of a building into required yards and beyond the Building Envelope, including roof eaves, window sills, railings, cornices, guard rails, balustrades, porches, balconies and bay windows, doors, canopies, exterior stairs and covered ramps, parapets and vents;

"On-Site Loading Spaces" means an outdoor loading space, as further described in Section 10(c) and Section 10(d) of this By-law, with a length of at least 13.0 metres, a width of at least 4.0 metres and a vertical clearance of at least 6.1 metres;

"Outdoor Amenity Area" means an outdoor common area or areas, which are provided for the use of residents and their guests, for recreational or social purposes, all as further described in Section 11 of this By-law;

"Owner" means the owner of the Lot;

"Proposed Building 'C'" means the building or structure which is comprised of Proposed Building 'C' Podium and Proposed Building 'C' Tower to be constructed on the portion of the Lot delineated as Phase 1 of the development, as shown on Schedule B attached to this By-law;

"Proposed Building 'C' Tower" means those portions of Proposed Building 'C' that are located 23 metres above Established Grade as defined for Proposed Building 'C';

"Proposed Building 'D'" means the building or structure which is comprised of Building 'B' Podium and Proposed Building 'D' Tower to be constructed on the portion of the Lot delineated as Phase 2 of the development, as shown on Schedule B attached to this By-law;

"Proposed Building 'D' Tower" means those portions of Proposed Building 'D' that are located 23 metres above Established Grade as defined for Proposed Building 'D';

"Proposed Building 'E'" means the building or structure which is comprised of Proposed Building 'E' Podium and Proposed Building 'E' Tower to be constructed on the portion of the Lot delineated as Phase 3 of the development, as shown on Schedule B attached to this By-law;

"Proposed Building 'E' Tower" means those portions of Proposed Building 'E' that are located 19.5 metres above Established Grade as defined for Proposed Building 'E';

"Proposed Buildings" means, collectively, Proposed Building 'C', Proposed Building 'D', and Proposed Building 'E'; and

"Zoning Code" means the former City of Etobicoke Zoning Code, as amended.

4. The provisions of Section 304-3 of the Zoning Code shall apply to the Lot unless inconsistent with the definitions contained in this By-law, in which case Section 3 of this By-law shall prevail.

5. Permitted Uses

Notwithstanding Section 320-76 of the Zoning Code, no uses shall be permitted and no buildings or structures shall be erected or used on the Lot, except for the following permitted uses:

- (a) apartment buildings;
- (b) accessory uses and accessory buildings/structures as defined in the Zoning Code and, for the purposes of this By-law, shall be deemed to include, but shall not be limited to, parking garages including the Existing Parkade, television antennae and private swimming pools and structures in conjunction with such swimming pools, covered ramps, exterior stairs, and garbage enclosures and ventilation shafts; and
- (c) a temporary sales office for the purpose of marketing the Proposed Buildings and sales of dwelling units located in the Proposed Buildings.

6. Gross Floor Area

Notwithstanding Section 320-77 of the Zoning Code, the maximum Gross Floor Area permitted on the Lot shall be 75,200 square metres.

7. Maximum Density

Notwithstanding Section 320-77. of the Zoning Code, the maximum floor space index permitted on the Lot shall be 3.47 times the area of the Lot.

8. Maximum Height

Notwithstanding any provision of the Zoning Code, no portion of a building or structure erected on the Lot shall have a greater Height measured in metres than specified by the numbers following the letter "H" on Schedule B attached to this By-law.

9. Setbacks / Floor Plate Restrictions / Building Envelope

Notwithstanding Section 320-77 of the Zoning Code:

- (a) no building or structure on the Lot shall be located other than within the Building Envelope as shown on Schedule B attached to this By-law;

- (b) each of Proposed Building 'C' Tower, Proposed Building 'D' Tower, and Proposed Building 'E' Tower shall have a maximum Floor Plate Area of 750 square metres;
- (c) any portion of any building or structure which is located below the finished exterior ground level immediately adjoining such building or structure shall not encroach beyond the property lines of the Lot but may be located outside of the Building Envelope for that building or structure, however, in the case of Proposed Building 'C' and Proposed Building 'D' such buildings or structure located below the finished exterior ground level shall also be a minimum depth of 1.5 metres measured from finished grade;
- (d) ground floor canopies, wheelchair and covered ramps, exterior stairs, parapets and railings related to underground parking structures, vents, temporary sales offices, fences, safety railings and other landscape features shall not encroach beyond the property lines of the Lot but shall be permitted outside the Building Envelope, however, a temporary sales office shall not be permitted outside the Building Envelope fronting on Eva Road; and
- (e) minor Projections shall not be permitted to encroach beyond the property lines of the Lot but shall be permitted to project outside the Building Envelope to a maximum of 1.5 metres.

10. Parking and Loading Requirements

Notwithstanding the provisions of Section 320–18.B.(2) and Section 320–76.G of the Zoning Code, the following requirements shall apply to the Lot:

- (a) vehicle parking for Proposed Building 'C' and Proposed Building 'D', shall be provided within Part 1 of the Lot as shown on Schedule A attached to this By-law, and vehicle parking for Proposed Building 'E' shall be provided within Part 3 of the Lot as shown on Schedule A attached to this By-law, on the following basis:
 - (i) A minimum ratio of 0.8 parking spaces per dwelling unit for bachelor units;
 - (ii) A minimum ratio of 0.9 parking spaces per dwelling unit for units with 1 bedroom;
 - (iii) A minimum ratio of 1.0 parking spaces per dwelling unit for units with 2 bedrooms;
 - (iv) A minimum ratio of 1.1 parking spaces per dwelling unit for units with 3 or more bedrooms; and
 - (v) A minimum ratio of 0.2 parking spaces per dwelling unit shall be provided and reserved for the exclusive use of visitors;
- (b) vehicular parking shall be provided in the Existing Parkade for the Existing Apartment Buildings at a minimum ratio of 1.25 parking spaces per dwelling unit.

Of those spaces 0.15 parking spaces per dwelling unit shall be provided for the exclusive use of visitors and be clearly signed for that purpose;

- (c) two On-Site Loading Spaces shall be provided on Part 1 of the Lot as shown on Schedule A for Proposed Building 'C' and Proposed Building 'D', however, not less than one On-Site Loading Space shall be provided per phase of the development in the event the Owner constructs the aforesaid buildings in phases;
- (d) one On-Site Loading Space shall be provided on Part 3 of the Lot as shown on Schedule A for Proposed Building 'E'; and
- (e) long-term bicycle parking will be provided at a ratio of 0.7 spaces per dwelling unit for Proposed Building 'C' and Proposed Building 'D'. Short-term bicycle parking will be provided at a ratio of 0.08 spaces per dwelling unit for the Proposed Buildings. If the Proposed Buildings are constructed in phases the spaces provided will be in proportion to the number of dwelling units built per phase.

11. Area Requirements

The following area requirements apply to the Lot:

- (a) a minimum 45 percent of the lot area shall be reserved for Landscaped Open Space;
- (b) a minimum 2.0 square metres per dwelling unit of Indoor Amenity Space will be provided for the Proposed Buildings;
- (c) 109 square metres of Indoor Amenity Space will be provided in Existing Apartment Building 'A';
- (d) 106 square metres of Indoor Amenity Space will be provided in Existing Apartment Building 'B';
- (e) a minimum 2.0 square metres per dwelling unit of Outdoor Amenity Space will be provided for the Existing Apartment Buildings; and
- (f) a minimum of 2.0 square metres per dwelling unit of Outdoor Amenity Space shall be provided for the Proposed Buildings.

12. Section 37

Pursuant to Section 37 of the Planning Act and subject to compliance with provisions of this By-law, the increase in height and density of development on the Lot is permitted in return for the provision by the Owner, at its sole expense, of the following facilities, services and matters to the City on the terms set out in an agreement pursuant to Section 37 of the Planning Act described in clause (b) below:

- (a) prior to:

- (i) The issuance of the first above-grade building permit for the development, the Owner shall provide to the City a Construction Mitigation Plan and Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (ii) The issuance of the first above-grade building permit for each of Proposed Building 'C', Proposed Building 'D', and Proposed Building 'E', the Owner shall provide to the City payments representing that part of the total sum of One Million, Seven Hundred Thousand Dollars (\$1,700,000.00) that represents the proportionate share for that building, together with any increases to reflect increases in the Construction Price Index from the date of this By-law to the date of the individual payments. For greater certainty, the proportionate share of monies payable at the time the first above-grade building permit is issued for each *Proposed Building* shall be equal to One Million, Seven Hundred Thousand Dollars (\$1,700,000.00) multiplied by the *Gross Floor Area* of that *Proposed Building* represented as a percentage of the total *Gross Floor Area* permitted in Section 6 of this By-law, but in any event, the payment required pursuant to this Section 12(a)(ii) shall not exceed One Million, Seven Hundred Thousand Dollars (\$1,700,000.00) subject to indexing. The monies referred to in this Section 12(a)(ii) shall be used by the City for the following purposes or such other allocation as may be determined by City Council:
 - (A) \$1,000,000.00 for parkland improvements to Dennis Flynn Park, including but not limited to improvements to accommodate additional recreation facilities such as mini-soccer fields, mini-basketball courts, as well as improved pedestrian walkways and improved tree planting and park lighting;
 - (B) a minimum of \$350,000.00 for public art to be located on the Lot and provided in accordance with the City's standard Section 37 Public Art provisions; and
 - (C) \$350,000.00 for capital improvements to existing non-profit childcare facilities in the area including, but not limited to, Eatonville Public School;
- (iii) Prior to any severance of the Lot and/or issuance of the first building permit for any of the Proposed Buildings, the Owner shall complete the following improvements to the Lot, and the Existing Apartment Buildings, to the satisfaction of the Chief Planner and Executive Director, City Planning:
 - (A) provide no less than One Hundred and Nine (109) square metres of residential indoor amenity space in Existing Apartment Building "A" in a location so that there is direct, barrier free access from the residential indoor amenity space to the roof of the Existing Parkade; and including suitable finishes, furnishings and

- equipment to serve a variety of purposes (e.g. meeting rooms, fitness rooms and social gathering space), and a kitchenette;
- (B) provide no less than One Hundred and Six (106) square metres of residential indoor amenity space in Existing Apartment Building "B" in a location so that there is direct, barrier-free access from the residential indoor amenity space to the roof of the Existing Parkade, and including suitable finishes, furnishings and equipment to serve a variety of purposes (e.g. meeting rooms, fitness rooms and social gathering space), and a kitchenette;
 - (C) provide prior to site plan approval a more detailed landscape plan detailing the pedestrian connections to and from the outdoor amenity spaces based on the Conceptual Landscape Plan, as shown on Schedule C attached hereto, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (D) provide landscape improvements to the outdoor amenity space on the rooftop of the Existing Parkade as substantially in accordance with the Conceptual Landscape Plan to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (E) as part of ongoing maintenance, repaint common areas and lobbies, including hallways, stairwells, and doors in each of the Existing Apartment Buildings;
 - (F) install new carpeting in common areas in each of the Existing Apartment Buildings;
 - (G) repaint and, where necessary, replaster laundry rooms in each of the Existing Apartment Buildings;
 - (H) provide a new five foot long table together with four chairs and three pieces of landscape artwork for the laundry rooms in each of the Existing Apartment Buildings;
 - (I) install two sets of custom shelving in the laundry rooms in each of the Existing Apartment Buildings;
 - (J) remove existing gates around the lobby seating areas in each of the Existing Apartment Buildings;
 - (K) install video surveillance cameras in underground parking areas and new outdoor common areas;
 - (L) install a card access and/or fob access system for doors located in common areas in each of the Existing Apartment Buildings;

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- (M) convert an existing room to be located on Level A of the Existing Parkade to bicycle storage and install storage facilities for a minimum of 20 bicycles; and
 - (N) erect a fence made of pressure-treated wood to screen garbage containers located outdoors on the Lot.
- (b) the Owner shall enter into one or more agreements with the City pursuant to Section 37 of the Planning Act which shall be registered on title to the Lot by the City to secure:
- (i) Matters provided for in Section 12(a);
 - (ii) A Rental Housing Demolition Permit under Section 111 of the City of Toronto Act will be filed for the elimination of one second-floor residential rental unit in each of the Existing Apartment Buildings to enable the construction of the indoor amenity space and provide for tenant relocation assistance;
 - (iii) The implementation by the Owner of the Construction Mitigation Plan and Tenant Communication Plan;
 - (iv) The Owner's responsibility to ensure that none of the costs of the improvements to be made by the Owner that are provided for in Section 11(a)(ii) of this By-law are passed on in any form to the tenants of the Existing Apartment Buildings, including increases to the rents of tenants;
 - (v) The retention of the rental dwelling units within the Existing Apartment Buildings for a minimum period of 20 years from the date this By-law comes into force and effect, save an except for any rental dwelling units converted into *Indoor Amenity Area*; and
 - (vi) Notwithstanding the permissions granted pursuant to this By-law, an acknowledgement from the Owner that if any building or structure, including Minor Projections, are to be located within that area of the Lot subject to the jurisdiction of the Ministry of Transportation, (which is the area along the south property line of the Lot and which may affect the building in the south west corner of the Lot) then the Owner requires the Minister's permission, pursuant to Section 38.2 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, Chapter P.50, as amended, to construct said building or structure, including Minor Projections, prior to the issuance of a building permit as defined in the *Building Code Act*, 1992, S.O. 1992, Chapter 23, as amended.
- 13.** Prior to the elimination of one second-floor residential rental unit in each of the Existing Apartment Building, a Rental Housing Demolition Permit under Section 111 of the

City of Toronto Act will be filed to enable the construction of the indoor amenity space and provide for tenant relocation assistance.

14. Where the provisions of this By-law conflict with the provisions of the Zoning Code, the provisions of this By-law shall apply.
15. Nothing in this By-law shall apply to prevent the phased construction of the development, provided that the requirements of the By-law are complied with upon the completion of each phase.
16. Unless otherwise noted, this By-law shall apply to the Lot notwithstanding its future division into parcels or dedication of any portions of the Lot for future public roads or road widenings and the Lot shall be deemed to have an area of 22,576.6 square metres.
17. The provisions of this exception shall apply collectively to the lands notwithstanding their future severance, partition or division for any purpose.

18. (H) Holding Symbol

The uses permitted in this By-law are not permitted in respect of Part 3 of the Lot as shown on Schedule A attached to this By-law which possesses an (H) holding symbol prefix immediately before the zone symbol until such time as the (H) holding symbol prefix is removed by amendment in accordance with Section 20 of this By-law.

19. (H) Holding Symbol - Removal

In accordance with the provisions of Section 36 of the Planning Act, the holding symbol (H) will be removed from Part 3 of the Lot as shown on Schedule A attached to this By-law upon fulfillment, to the satisfaction of the Director, Community Planning, Etobicoke York District and the Executive Director, Engineering and Construction Services Division, of the following:

- (a) dedication of that portion of the Lot as shown for a future public road on Schedule A attached to this By-law;
- (b) provision of detailed cost estimates and adequate financing for 50 percent of the cost of constructing the future public road from Eva Road to the extension of the northern boundary of the Lot;
- (c) the Owner enters into an agreement with the City that will provide for the landscaping and maintenance, at no cost to the City, of the portion of the Lot to be dedicated for a future public road as shown on Schedule A attached to this By-law until such time as the public road is constructed;
- (d) one of the following conditions being fulfilled:
 - (i) Permanent closure by the Ministry of Transportation of the ramps connecting Eva Road and Highway 427; or

- (ii) Provision of street access to either Civic Centre Court or the West Mall for vehicular traffic generated by the development of the Lot shown on Schedule A attached to this By-law with a zone symbol that possesses an (H) holding symbol prefix; or
- (iii) Other road alterations, traffic improvements and/or Transportation Demand Management measures being implemented satisfactory to the Executive Director of Engineering and Construction Services.

20. Servicing

No person shall erect or use any building or structure on Part 1 of the Lot as shown on Schedule A attached to this By-law unless the following municipal services are provided to the Lot line for said Part and the following provisions are complied with:

- (a) all watermains and sanitary sewers, and appropriate appurtenances, have been installed and are operational; and
- (b) all new public roads adjacent to said part have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway.

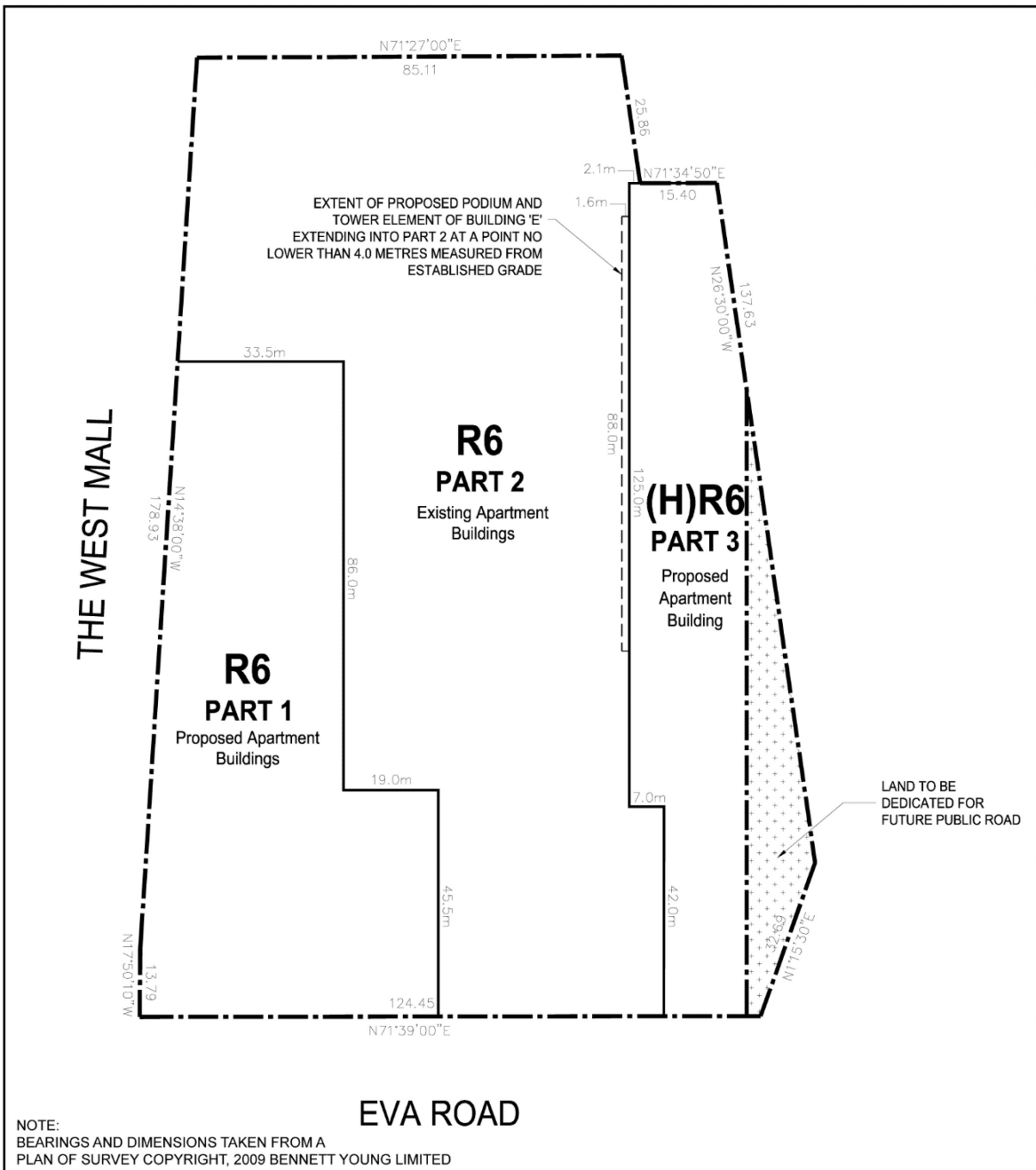
No person shall erect or use any building or structure on Part 3 of the Lot as shown on Schedule A attached to this By-law unless the following municipal services are provided to a lot line for said Part and the following provisions are complied with:

- (c) all watermains and sanitary sewers, and appropriate appurtenances, have been installed and are operational; and
- (d) all new public roads adjacent to said Part have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway.

21. Chapter 324, Site Specifics, of the Zoning Code, is hereby amended to include reference to this By-law by adding the following to Section 324-1., Table of Site Specific By-laws:

BY-LAW NUMBER ADOPTION DATE	DESCRIPTION OF PROPERTY	PURPOSE OF BY-LAW
448-2020(LPAT) May 12, 2020	Lands municipally known as 361 The West Mall and 24 Eva Road	To rezone the Lot from R4 to R6 to permit the construction of three new apartment buildings and the retention of approximately 280 existing rental apartment units on the property with a total maximum gross floor area limit of 75,200 square metres.

Pursuant to Ontario Municipal Board Decision issued on April 14, 2014 and Local Planning Appeal Tribunal Order issued on May 12, 2020, in Board File PL111277.



361 The West Mall & 24 Eva Rd

File # 10 217719 WET 03 0Z

PART OF BLOCK B PLAN M-865 AND ALL OF BLOCK C PLAN M-887
CITY OF TORONTO (FORMERLY CITY OF ETOBICOKE)

City of Etobicoke By-law 11,737
Not to Scale
10/04/2019

SCHEDULE C

CONCEPTUAL LANDSCAPE PLAN




361 The West Mall & 24 Eva Rd

Schedule C - Conceptual Landscape Plan

File # 10 217719 WET 03 02

Applicant Submitted Drawings.


 City of Etobicoke By-law 11,737
 Not to Scale
 10/04/2019