

Authority: Local Planning Appeal Tribunal Decision
issued on May 1, 2019 and Ontario Land Tribunal Order
issued on November 1, 2021 in File PL171317

CITY OF TORONTO
BY-LAW 212-2022(OLT)

To amend Chapters 320 and 324 of the former City of Etobicoke Zoning Code, as amended by Zoning By-law 514-2003, with respect to the lands municipally known as 1001, 1007, 1011, and 1037 The Queensway.

Whereas the Local Planning Appeal Tribunal pursuant to a Decision issued on May 1 2019 and Ontario Land Tribunal Order issued on November 1, 2021 in File PL171317, 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 pass this 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 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 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 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 the density or height permitted beyond that otherwise permitted on the lands subject to this By-law are to be permitted in return for the provision of the facilities, services and matters set out in this By-law;

1. The Ontario Land Tribunal Orders: Zoning Map B12 of the former City of Etobicoke Zoning Code is hereby amended by changing the zoning category for the lands described in Schedule A of this By-law from Limited Commercial Avenues (AV) (514-2003) to Limited Commercial Avenues (AV) (212-2022) and Open Space (OS) (212-2022).
2. Where the provisions of this By-law conflict with the provisions of By-law 514-2003, as amended, or the former Etobicoke Zoning Code, the provisions of this By-law shall apply.
3. Despite Section 304-3 of the Etobicoke Zoning Code, the following definitions shall apply:
 - A. "grade" means 108.9 metres Canadian Geodetic Datum.

- B. "height" means the vertical distance measured from grade to the highest point of a building or structure.
 - C. "lands" means the lands described in Schedule A attached to this By-law.
 - D. "owner" means the registered owner(s) of the property municipally known as 1001, 1007, 1011 and 1037 The Queensway.
 - E. "Car share" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres drive, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable.
 - F. "Car share parking space" shall mean a parking space that is reserved and actively used for car-sharing, including by non-residents.
 - G. "Amenity Space" shall mean a common area which are provided for the use of residents of the building and their guests for recreational or social purposes.
 - H. "Mechanical Penthouse" shall mean a structure on the roof of the building used for the functional operation of a building containing major heating, cooling, plumbing and electrical equipment. For the purpose of this By-law a mechanical penthouse shall not constitute a storey.
 - I. "Mechanical Cooling Tower" shall mean a cylinder shaped structure partially integrated into the Mechanical Penthouse and partially rising above the Mechanical Penthouse, including a heat rejection device that dissipates heat into the atmosphere through the cooling of a water stream to a lower temperature.
 - J. "Building Envelope" shall mean building area permitted within the setbacks established in this By-law, as shown on Schedules A1 and A2 attached hereto;
4. The following development standards shall now be applicable to the (AV) (212-2022) lands described in Schedule A:
- A. Building Heights:
 - (i) The maximum building heights in metres and storeys permitted on the lands shall apply as shown following the letters HT and ST on Schedules A1 and A2 attached hereto.
 - (ii) The following elements shall be exempt from the maximum building height: awnings, lighting fixtures, trellises, stair enclosures, landscape and public art features, elevator overruns, lightning rods, parapets, eaves, balcony or terrace guardrails, railings, vents and ventilating equipment, landscape and green roof elements, outdoor recreation and amenity area elements, partitions dividing outdoor recreation and amenity areas, wind mitigation, noise mitigation, chimney stack, exhaust flues, and garbage

chute overruns and to a maximum projection beyond the permitted building height by no more than 2.5 metres.

- (iii) Angular Plane - No building or element of a building described in 4 A(i) and 4A (ii) of this By-law on the lands may penetrate into a 45 degree front angular plane from The Queensway, measured from a height of 80 percent of the right-of-way width of The Queensway (36 metres).

B. Building Setbacks and Tower Floor Plates:

- (i) For the purposes of this By-law, no buildings or structures within the lands shall be located other than within the Building Envelopes shown on Schedules A1 and A2 of this By-law;
- (ii) Minimum setbacks from building wall to the applicable lot lines shall apply as shown on Schedules A1 and A2 attached hereto except the following:
 - (A) bay windows, lighting fixtures, cornices, sills, eaves, awnings, art installations and the structures, elements and enclosures permitted by Section 4A(ii) of this By-law by a maximum projection of 0.6 metres;
 - (B) balconies, canopies and architectural features can extend beyond the minimum setback lines by no more than 2 metres provided the balconies, canopies and architectural features do not extend beyond the property lines or OS zone as shown on Schedules A, A1 and A2; and
 - (C) structural support columns for the 6th and 11th floor shall not be subject to the minimum setback requirements as provided in Schedules A1 and A2;
- (iii) Any portion of a building above a height of 35.9 metres must not exceed a floor plate area of 750 square metres.

C. Gross Floor Area/Dwelling Units

- (i) Gross floor area shall exclude the following areas:
 - (A) parking, loading and bicycle parking below-ground;
 - (B) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
 - (C) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (D) shower and change facilities required by this By-law for required bicycle parking spaces;

- (E) minimum amenity space required by this By-law;
 - (F) elevator shafts;
 - (G) garbage shafts;
 - (H) mechanical penthouse; and
 - (I) exit stairwells in the building;
- (ii) The maximum permitted gross floor area of all buildings and structures on the lands is 47,000 square metres, of which:
- (A) the residential gross floor area shall not exceed 43,269 square metres; and
 - (B) the non-residential gross floor area shall not exceed 3,841 square metres;
- (iii) The maximum permitted number of residential dwelling units on the lands is 545 units;
- (iv) A minimum of ten percent (10%) of all dwelling units on the lands shall be three bedroom units.

D. Amenity Space

Amenity space must be provided in accordance with the following:

- (i) a minimum of 2 square metres per dwelling unit of indoor amenity space must be provided; and
- (ii) a minimum of 2 square metres per dwelling unit of outdoor amenity space must be provided.

E. Required Parking Rates:

- (i) 0.7 parking spaces for each bachelor dwelling unit (a dwelling unit that combines the living room and bedroom in one room);
- (ii) 0.8 parking spaces for each one bedroom dwelling unit;
- (iii) 0.9 parking spaces for each two bedroom dwelling unit;
- (iv) 1.1 parking spaces for each three or more bedroom dwelling unit;
- (v) 0.15 visitor parking spaces for each dwelling unit; and
- (vi) 1 parking space per 100 square metres of gross floor area for all non-residential uses;

For the purposes of this by-law, residential visitor and commercial parking may be shared. The total number of residential visitor and commercial parking spaces shall be the greater of either the residential visitor parking requirement or the commercial parking requirement within the same building or structure;

- (vii) A parking space must have the following minimum dimensions:
 - (A) length of 5.6 metres;
 - (B) width of 2.6 metres;
 - (C) vertical clearance of 2.0 metres; and
 - (D) the minimum width must be increased by 0.3 metres for each side of the parking space that is obstructed;
- (viii) A maximum of 10 car-share parking spaces are permitted, which shall reduce the parking space requirement by 4 parking spaces for each car share parking space provided;
- (ix) All commercial and visitor parking spaces must be located on Level P1 of the proposed parking garage on the lands.

F. Accessible Parking

- (i) a minimum of 13 residential parking spaces plus 4 visitor parking space must comply with the minimum dimensions for an accessible parking space; and
- (ii) the minimum dimensions for an accessible parking space are:
 - (A) length of 5.6 metres;
 - (B) width of 3.4 metres;
 - (C) the entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle; and
 - (D) vertical clearance of 2.1 metres.

G. Bicycle Parking

- (i) Residential Uses:
 - (A) Short-term bicycle parking: minimum of 0.07 bicycle parking spaces per dwelling unit; and
 - (B) Long-term bicycle parking: minimum of 0.68 bicycle parking spaces per dwelling unit;

- (ii) Non-residential Uses:
- (A) Short-term bicycle parking: minimum of 3 plus 0.25 bicycle parking spaces per 100 metres of gross floor area in association with non-residential uses;
 - (B) Long-term bicycle parking: minimum of 0.13 bicycle parking spaces per 100 metres of gross floor area in association with non-residential uses;
 - (C) the minimum dimensions of a bicycle parking space are:
 - minimum length of 1.8 metres;
 - minimum width of 0.6 metres; and
 - minimum vertical clearance from the ground of 1.9 metres;
 - (D) the minimum dimensions of a bicycle parking space if placed in a vertical position on a wall, structure or mechanical device are:
 - minimum length of 1.9 metres;
 - minimum width of 0.6 metres; and
 - minimum horizontal clearance from the wall of 1.2 metres;
 - (E) the minimum dimensions of a bicycle parking space if placed in a stacked configuration are:
 - minimum length of 1.85 metres;
 - minimum width of 0.45 metres; and
 - minimum vertical clearance from the ground of 2.5 metres; and
 - (F) The terms "long-term" bicycle parking space and "short-term" bicycle parking space have the following meaning:

"long-term" bicycle parking spaces are bicycle parking spaces for use by the occupants or tenants of a building; and

"short-term" bicycle parking spaces are bicycle parking spaces for use by visitors to a building.

H. Loading

A minimum of three loading spaces shall be provided as follows:

- (i) 1 loading space at 11 metres x 3.5 metres with 4 metres clearance in Building 1 (Schedule A1); and
- (ii) 1 loading space at 13 metres x 4 metres with 6.1 metres clearance in each of Buildings 1(Schedule A1) and 2 (Schedule A2).

Use of the loading spaces will be shared amongst all non-residential and residential uses on the lands.

I. Mechanical Penthouse

Despite Section 3.B. (3) of By-law 514-2003 or the Etobicoke Zoning Code, Mechanical Penthouses shall have a maximum permitted height of 4 metres and shall not have an area greater than 60 percent of the floor area below. For the purposes of this By-law a mechanical penthouse is not permitted to encroach within the 45 degree angular plane of the lands as identified in 4A (iii) of this By-law.

- J. For the purposes of this By-law, a Mechanical Cooling Tower shall be permitted to project 2.5 metres above the maximum permitted height of the Mechanical Penthouse as identified above in 4. I of this By-law. For the purposes of this By-law, Mechanical Cooling Towers are not permitted to encroach within the 45 degree angular plane of the lands identified in 4. A. (iii) of this By-law.

K. Main Building Entrances

Despite Section 3.J. (2) of By-law 514-2003, main residential building entrances may be located off of a private driveway.

L. Miscellaneous – Sales/Rental Centre

None of the provisions of the Etobicoke Zoning Code, By-law 514-2003 or this By-law shall prevent the erection and use of a temporary sales office on the lands, meaning a building or structure or part thereof used of for the purpose of the sale or rental of dwelling units to be erected on the lands.

5. Nothing in this By-law shall prevent the phased construction of development of Buildings 1 & 2 on the lands, provided the requirements of this By-law are complied with for each phase of development. In addition, until the development of Buildings 1 and 2 and the conveyance of the parkland dedication as shown on Schedule A, nothing in this By-law shall prevent the continued use, addition, expansion or alteration of any building on the land existing as of the date of the enactment of this By-law in accordance with the Etobicoke Zoning Code and By-law 514-2003 as it applied to the site immediately prior to enactment of this By-law, including for greater certainty any lands zoned OS pursuant to this By-law.
6. Despite any severance, partition or division of the lands, the provision of this By-law apply to the whole of the lands as if no severance, partition or division occurred.

7. Section 37 Provisions

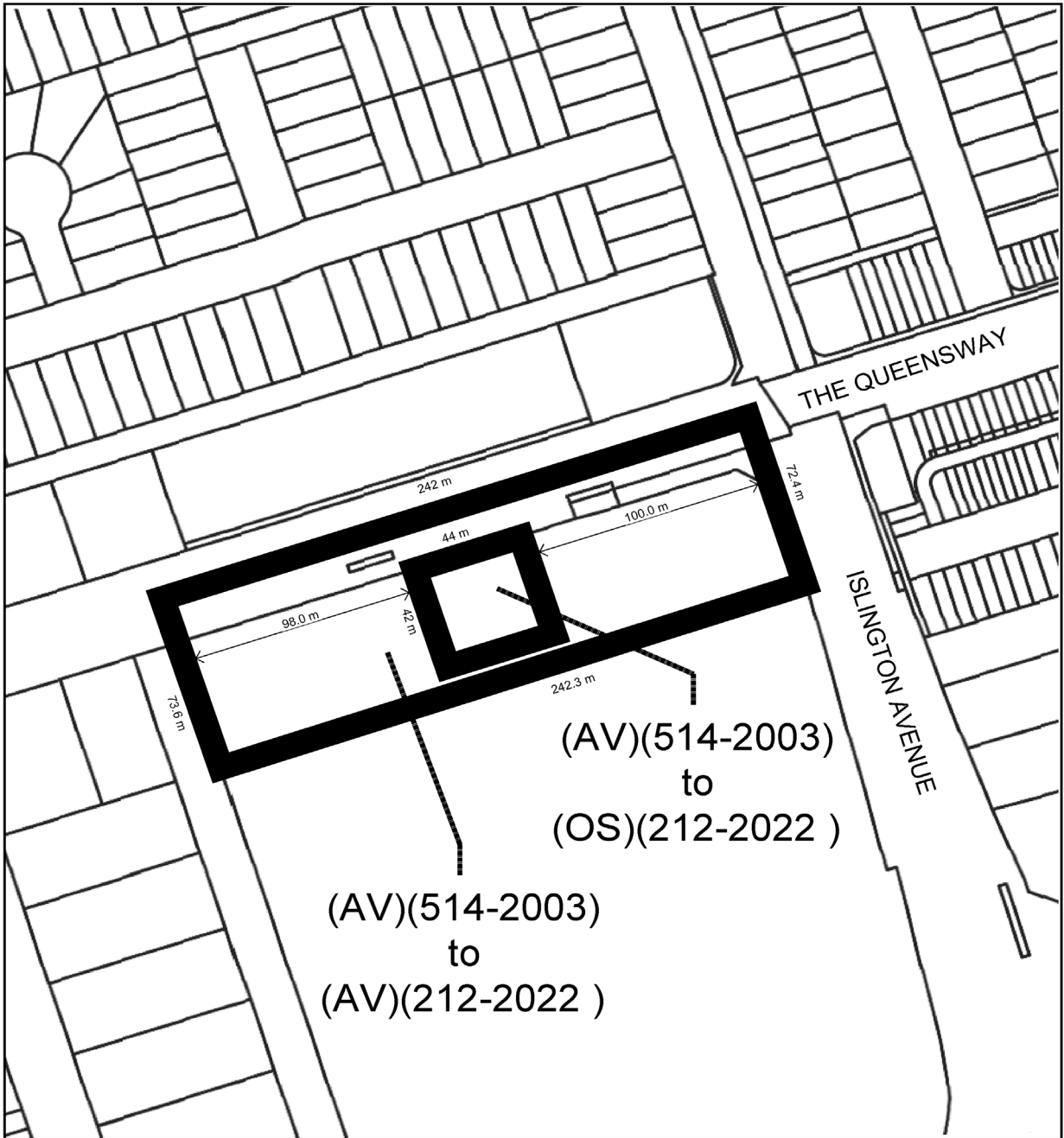
- A. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands zoned (AV) (212-2022) as shown on Schedule A, A1 and A2 and in return for the provision by the owner, at the owner's expense, providing the following cash contributions and other facilities, services and matters set out in Schedule B 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 B 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.
- 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 B are satisfied.

8. Chapter 324, Site Specifics, of the Zoning Code is hereby amended to include reference to the By-law by adding the following to Section 324.1, Table of Site Specific By-laws.

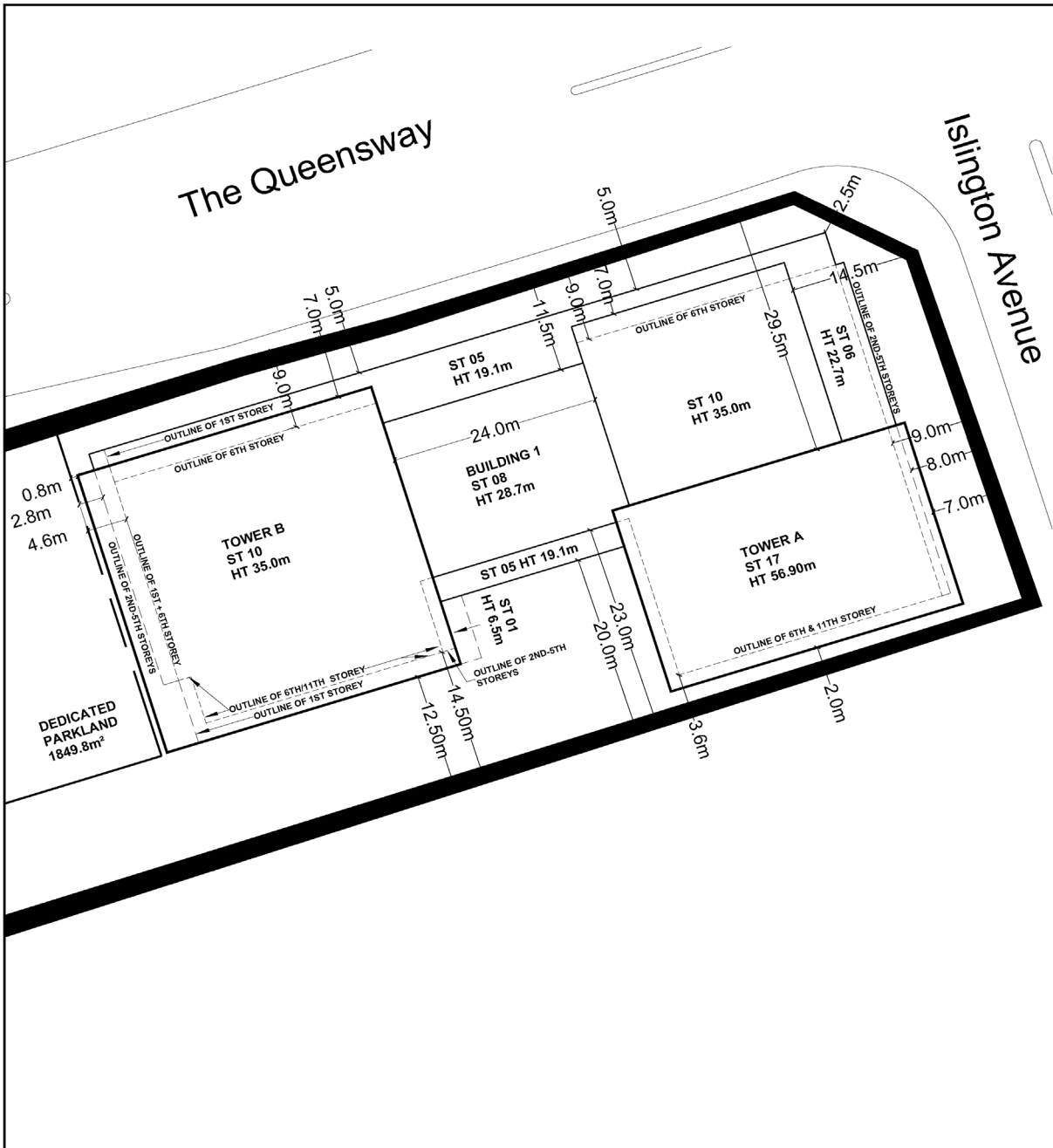
By-law Number and Adoption Date	Description of Property	Purpose of By-law
212-2022 November 1, 2021	1001, 1007, 1011 and 1037 The Queensway	To re-zone the lands to permit a mixed-use development with a maximum of 545 dwelling units, 3,841 square metres of non-residential uses and 1,850 square metres of public parkland.

Local Planning Appeal Tribunal Decision issued on May 1, 2019 and Ontario Land Tribunal Order issued on November 1, 2021 in File PL171317.

Schedule A



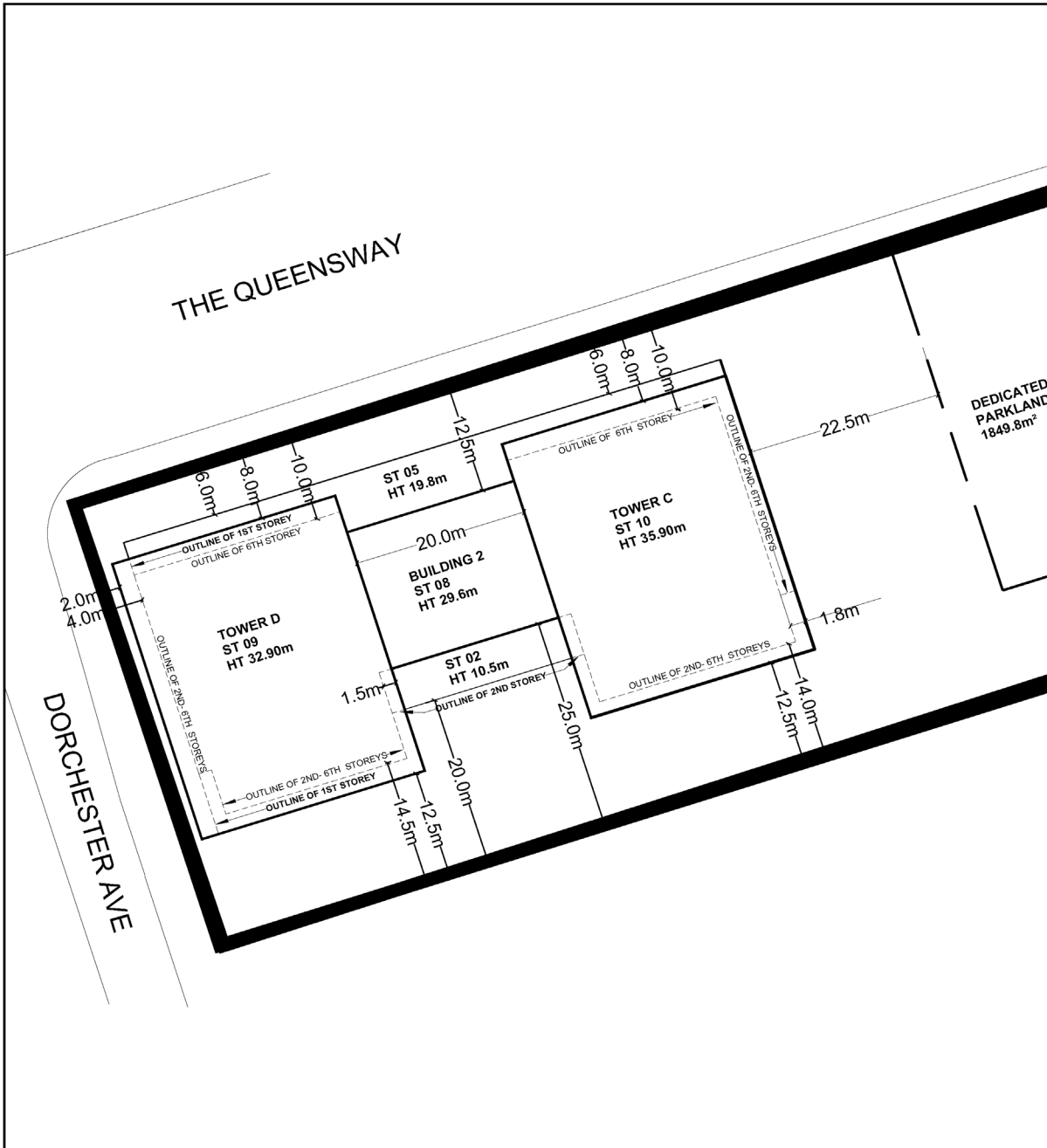
Schedule A1 (Building 1)



1001, 1007, 1011, 1037 The Queensway
 Schedule A1 (Building 1)

File # 15 264792 WET 05 0Z

Schedule A2 (Building 2)



Schedule A2 (Building 2)

1001, 1007, 1011, 1037 The Queensway

File # 15 264792 WET 05 02

SCHEDULE B

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Schedule A1 and Schedule A2 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

- (1) The height and density of development permitted by this By-law is subject to the owner of the land, at its expense, providing the following capital facilities and/or cash contributions toward specific capital facilities pursuant to Section 37 of the Planning Act as follows:
 - A. Prior to issuance of an above grade building permit (other than building permit for a temporary sales office for construction) for development of the lands, the owner shall submit an indexed cash contribution in the amount of \$1,500,000 to be directed in consultation with the Ward Councillor toward streetscape improvements in the area along The Queensway, connections to the Mimico Trail and other community improvements in the immediate vicinity. Such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made;
 - B. Prior to issuance of an above grade building permit (other than building permit for a temporary sales office for construction) for development of the lands, the owner shall submit an indexed cash contribution in the amount of \$750,000 to be directed in consultation with the Ward Councillor toward Public Art to be used to fund On-Site public art pursuant to a Public Art Plan. Such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made.
 - C. The owner shall design and construct twelve (12) affordable rental *dwelling units* within an approved development on the lands, substantially in accordance with the following and the terms set out in the Section 37 agreement:
 - i. The twelve (12) affordable rental *dwelling units* shall be provided and maintained as six (6) one-bedroom units, five (5) two-bedroom units and one (1) three-bedroom unit;
 - ii. The one-bedroom affordable rental *dwelling units* shall have a minimum average unit size of at least 52 square metres and a minimum unit size of at least 46.5 square metres;
 - iii. The two-bedroom affordable rental *dwelling units* shall have a minimum average unit size of at least 67.4 square metres and a minimum unit size of at least 60.4 square metres;

- iv. The three-bedroom affordable rental *dwelling unit* shall have a minimum average unit size of at least 83.6 square metres and a minimum unit size of at least 83.6 square metres;
 - v. The affordable rental *dwelling units* shall be provided in contiguous groups of at least 6 rental *dwelling units*;
 - vi. The general configuration and layout of the twelve (12) affordable rental *dwelling units* on the lands shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - vii. The owner shall provide and maintain the twelve (12) affordable rental *dwelling units* as rental *dwelling units* for a minimum of 20 years, beginning with the date each such unit is first occupied. No affordable rental *dwelling unit* shall be registered as a condominium or any other form of ownership such as life lease or co-ownership which provide a right to exclusive possession of a *dwelling unit*, and no application for conversion for non-rental housing purposes, or application to demolish any affordable rental *dwelling unit* shall be made for at least 20 years from the date of first occupancy. Upon the expiration of the 20 year period, the owner shall continue to provide and maintain the affordable rental *dwelling units* as rental *dwelling units*, unless and until such time as the owner has applied for and obtained all approvals necessary to do otherwise; and
 - viii. The owner shall provide and maintain the twelve (12) affordable rental *dwelling units* at affordable rents for at least 15 years, beginning with the date that each such unit is first occupied. During the first 15 years of occupancy, increases to initial rents charged to tenants occupying any of the affordable rental *dwelling units* shall be in accordance with the *Residential Tenancies Act* and shall not exceed the Provincial rent guideline.
- (2) The cash contributions identified in (1)A and (1)B above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto from the date of execution of the Section 37 Agreement to the date of payment, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (3) In the event the cash contributions referred to in (1)A and (1)B above have not been used for the intended purposes within three (3) years of the By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, 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 the lands.
- (4) The following matters shall be secured in the Section 37 Agreement as a matter of legal convenience to support the development:

- A. An agreement and/or restriction registered on title to the abutting property to the south in a form satisfactory to the City solicitor, that will ensure that any future tower which may be built on the abutting property to the south will provide a separation distance of at least 25 metres between such tower and Tower A as shown on Schedule A1 at a height of 36 metres and above.
- B. A minimum of 10 percent of the total dwelling units on the lands shall be three bedroom units;
- C. A parkland dedication of an on-site unencumbered public park of 1,850 square metres, as shown on Schedule A attached hereto, shall be secured in the section 37 agreement on terms satisfactory to the General Manager, Parks, Forestry and Recreation (PF&R).
- D. The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time.
- E. The owner shall satisfy the requirements of the Toronto District School Board regarding warning clauses and signage with respect to school accommodation issues.
- F. The owner shall submit a detailed wind tunnel or computational study complete with a statistical wind analysis to the satisfaction of the Chief Planner and Executive Director, City Planning.
- G. The owner shall enter into a financially secured Development Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades and road improvements are required to support the development, according to the Transportation Impact Study accepted by the General Manager of Transportation Services and the Stormwater Management Study, Sanitary Sewer Analysis and Hydrant Pressure and Volume Test accepted by the Chief Engineer and Executive Director of Engineering and Construction Services as per the Memo from Engineering and Construction Services dated February 8, 2016.
- H. The owner shall submit a revised Stormwater Management Study that addresses how the stormwater management for the adjacent site to the south (the Cineplex Theatre lands) would be impacted, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services as per the Memo from Engineering and Construction Services dated February 8, 2016.
- I. [intentionally deleted]
- J. The owner shall submit a Sanitary Sewer Analysis to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services as per the Memo from Engineering and Construction Services dated February 8, 2016.

- K. The owner shall submit a Hydrant Pressure and Volume Test to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services as per the Memo from Engineering and Construction Services dated February 8, 2016.

- L. The owner shall provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, In accordance with the Chapter 681, Sewers, as per the Memo from Engineering and Construction Services dated February 8, 2016.