

Authority: Etobicoke York Community Council Item EY27.1, as adopted by City of Toronto Council on November 9, 10 and 12, 2021 and MM47.81, by Councillor Stephen Holyday, seconded by Councillor Mark Grimes, as adopted by City of Toronto Council on July 19, 20, 21 and 22, 2022

## CITY OF TORONTO

### BY-LAW 1039-2022

**To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2020 as 375-385 The West Mall.**

Whereas Council of the City of Toronto has the authority to 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; 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 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 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/or 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. 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 label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy lines to: CR 5.0 (c1.0; r4.6) SS3 (x408) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number (x408), so that it reads:

**Exception CR (x408)**

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

Site Specific Provisions:

- (A) On 375-385 The West Mall, only if the requirements in Section 6 and Schedule A of By-law 1039-2022 are complied with, a **building** or **structure** may be constructed in compliance with regulations (B) to (N) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the **height** of any **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 138.8 metres and the elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulations 40.5.40.10 (4) and (8) (A), the following elements of a **building** or **structure** may project beyond the permitted maximum **building height** limits within the area delineated by the symbol "MPH" as shown on Diagram 3 of By-law 1039-2022 as follows;
  - i. Mechanical penthouses, perimeter walls, equipment storage rooms, and elevator overruns up to a maximum of 6.0 metres; and
  - ii. Cooling towers up to a maximum of 7.0 metres;
- (D) Despite Regulation 40.5.40.10(5)(A), the area of equipment and structures on the roof of a building must not exceed 45 percent of the total roof area measured horizontally;
- (E) Despite Regulations 40.10.40.10(3) and (7), the **height** of any **building** or **structure** must not exceed the **height** limit of the numbers following the symbol "HT" and the number of **storeys** following the symbol "ST" on Diagram 3 of By-law 1039-2022;
- (F) Despite Regulation 40.10.40.10(7), a mezzanine within the **first floor** does not constitute a **storey**;
- (G) Despite Regulation 40.10.40.40(1), the maximum **gross floor area** for all **buildings** and **structures** is 50,500 square metres, of which;

- i. The **gross floor area** of **buildings** or **structures** occupied by residential uses must not exceed 46,400 square metres; and
  - ii. The **gross floor area** of **buildings** or **structures** occupied by non-residential uses must be a minimum of 4,100 square metres, of which a minimum 371 square metres for a **community centre** must be provided with frontage on a **street**;
- (H) A minimum of 10 percent of the total number of **dwelling units** on the **lot** must contain three or more bedrooms and a minimum of 35 percent of the total number of **dwelling units** on the **lot** must contain two bedrooms or more;
- (I) Despite Regulation 40.10.40.60(1)(B), the following horizontal elements of a **building** or **structure** may project beyond the minimum building setbacks:
- i. Balconies, which may include retractable glass screens, may encroach up to a maximum 2.75 metres beyond the **building's main wall**;
- (J) Balconies may cover a maximum of 60 percent of the **building's main wall**;
- (K) Despite Regulation 40.10.40.70(3), the portions of a **building** or **structure** must be located within the setbacks as delineated by the heavy lines on Diagram 3 of By-law 1039-2022;
- (L) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, parking spaces must be provided in accordance with the following:
- i. A minimum 0.8 **parking spaces** for each one-bedroom **dwelling unit**;
  - ii. A minimum of 0.9 **parking spaces** for each two-bedroom **dwelling unit**;
  - iii. A minimum of 1.1 **parking spaces** for each three-bedroom **dwelling unit**;
  - iv. A minimum of 0.15 visitor **parking spaces** for each **dwelling unit**; and
  - v. A minimum of 1.5 **parking spaces** for each 100 square metres of **gross floor area** for a **retail store** or a **community centre**; and
  - vi. A minimum of 2.5 **parking spaces** for each 100 square metres of **gross floor area** for a grocery store;
- (M) Of the **parking spaces** required by Regulation (L) of this By-law, the total minimum number of **parking spaces** required by subsections i., ii. and iii. may be reduced by four **parking spaces** per car share **parking space**, up to a maximum reduction as calculated by the following formula:  $4 \times (\text{total number of dwelling units} \div 60)$ , rounded to the nearest whole number. And for the purpose of this Exception:

"car-share" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the **building** or short term rental, including hourly rental;

"car-share **parking space**" means a **parking space** exclusively reserved and signed for a car used only for car-share purposes;

- (N) Despite Regulation 230.5.10.1(1), **bicycle parking spaces** must be provided on the lands in accordance with the following:
- i. A minimum of 0.68 "long-term" **bicycle parking spaces** for each **dwelling unit**;
  - ii. A minimum of 0.07 "short-term" **bicycle parking spaces** for each **dwelling unit**;
  - iii. A minimum 0.13 "long-term" **bicycle parking spaces** for each 100 square metres of **interior floor area** used for a **retail store** or a **community centre**; and
  - iv. A minimum of 3 plus 0.25 "short-term" **bicycle parking spaces** for each 100 square metres of **interior floor area** used for a **retail store** or a **community centre**.

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any future severance, partition or division of the lands shown on Diagram 1, the provisions of this By-law will apply as if no severance, partition or division has occurred.
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/or density of the development is permitted beyond that otherwise permitted on the lands shown 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.
  - (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and/or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Enacted and passed on July 22, 2022.

Frances Nunziata,  
Speaker

John D. Elvidge,  
City Clerk

(Seal of the City)

**SCHEDULE A**  
**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/or density of the proposed development on the lands as shown in Diagram 1 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:

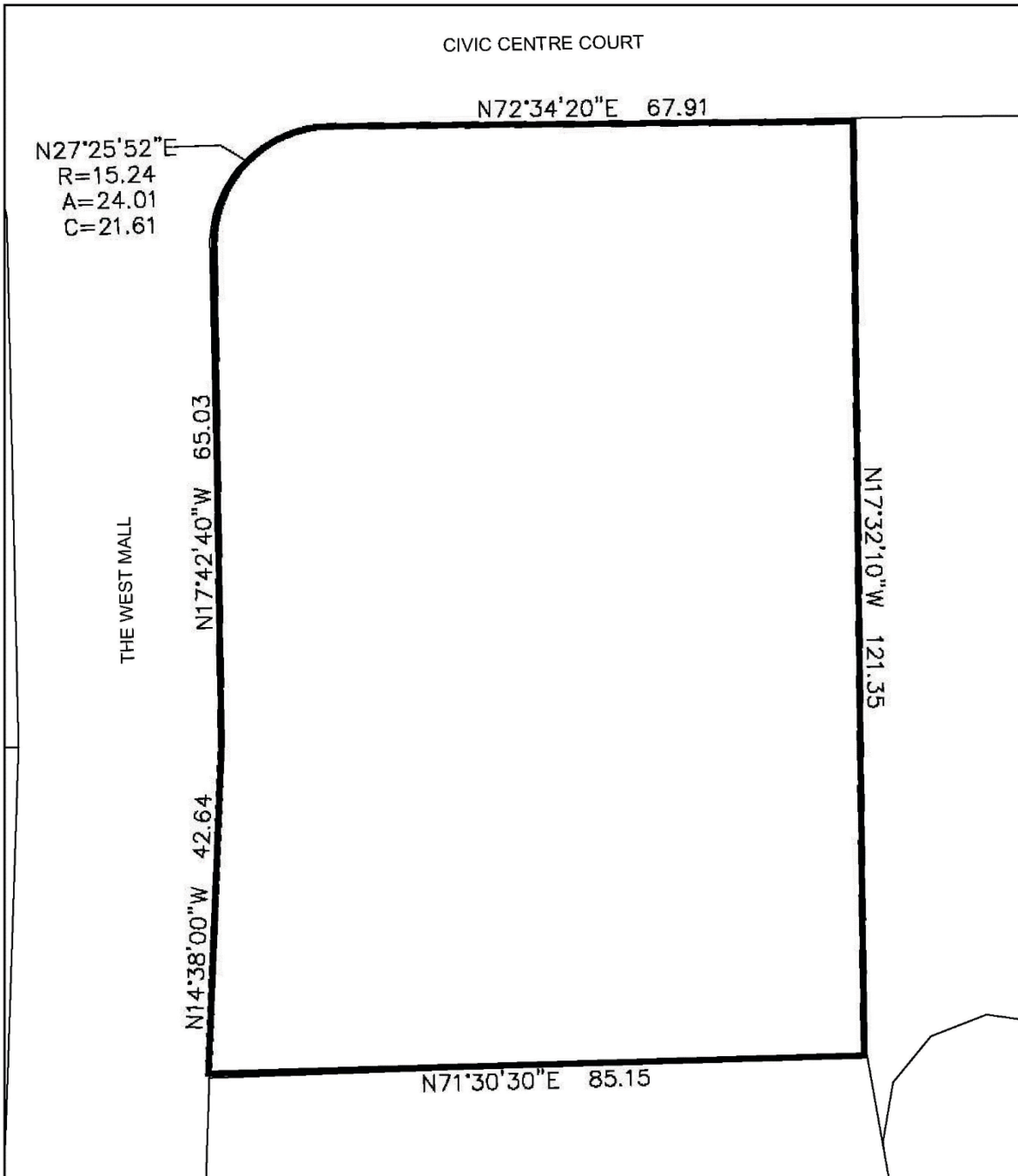
- (1) Prior to the earlier of condominium registration or first residential use of the building, the owner shall design, construct, finish and convey to the City, in an acceptable environmental condition, for nominal consideration and at no cost to the City, a minimum 372 square metres Community Agency Space located on the ground floor and/or mezzanine floor of the building and subject to the following:
  - a. The Community Agency Space shall be delivered to the City in accordance with the City's Community Space Tenancy Policy and finished to Base Building Condition, with the terms and specifications to be secured in the Section 37 Agreement, all satisfactory to the Executive Director, Social Development, Finance and Administration, the Executive Director, Corporate Real Estate Management, the Chief Planner and Executive Director, City Planning and the City Solicitor;
  - b. Prior to the issuance of the first above grade building permit, the owner shall provide a letter of credit in the amount sufficient to guarantee 120 percent of the estimated cost of the design, construction and conveyance of the Community Agency Space complying with the specifications and requirements of the Section 37 Agreement, to the satisfaction of the Executive Director, Corporate Real Estate Management, the Executive Director, Social Development, Finance and Administration, the Chief Planner and Executive Director, City Planning and the City Solicitor;
  - c. Prior to conveyance of the Community Agency Space to the City, the owner shall provide a one-time cash contribution in the amount of \$600,000 for future capital improvements to the Community Agency Space.
  - d. The cash contribution referred to in Subsection (1) b. shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of the Section 37 Agreement to the date the payment is made;
  - e. Concurrent with or prior to, the conveyance of the Community Agency Space to the City, the owner and the City shall enter into, and register on title to the appropriate lands, and Easement and Cost Sharing Agreement for nominal consideration and at no cost to the City, that is in a form satisfactory to the City Solicitor, the Easement and Cost Sharing Agreement shall address and/or provide

for the integrated support, use, operation, maintenance, repair, replacement and reconstruction of certain shared facilities, and the sharing of costs, in respect thereof, of portions of the subject lands to be owned by the City and the owner as they pertain to the Community Agency Space.

- (2) The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
- a. The owner is to provide a privately-owned publicly-accessible space (POPS) as generally shown on Drawing A004 by SvN dated January 25, 2021 with an area of not less than an area of 1,000 square metres to the satisfaction of the Chief Planner and Executive Director, City Planning. Prior to the issuance of final Site Plan Approval, the owner shall convey to the City, for nominal consideration, easement(s) along the surface of the lands, to the satisfaction of the City Solicitor, which shall constitute the POPS and any required public access easements to connect the POPS to adjacent POPS and/or public rights-of-ways, where necessary. The owner shall own, operate, maintain and repair the POPS and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the POPS at all times of the day and night, 365 days of the year; and the specific location, configuration and design of the POPS shall be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City;
  - b. The owner is to provide pet relief areas and pet washing stations as generally shown on Drawings A004, A107 and A112 by SvN dated January 25, 2021 and the specific location, configuration and design shall be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - c. The owner is to provide shower and change facilities as generally shown on Drawing A004 by SvN dated January 25, 2021 and the specific location, configuration and design shall be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - d. The owner will dedicate and construct a portion of a future east-west road with a right-of-way of 9.25 metres on the southern portion of the lot to the satisfaction of the Chief Planner, Executive Director, Planning Division, and General Manager, Transportation Services;
  - e. That 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, and as updated by Toronto City Council at its meeting held on December 5, 6 and 7, 2017 through the adoption of Item PG23.9 of the Planning and Growth

Management Committee, and as may be further amended by City Council from time to time;

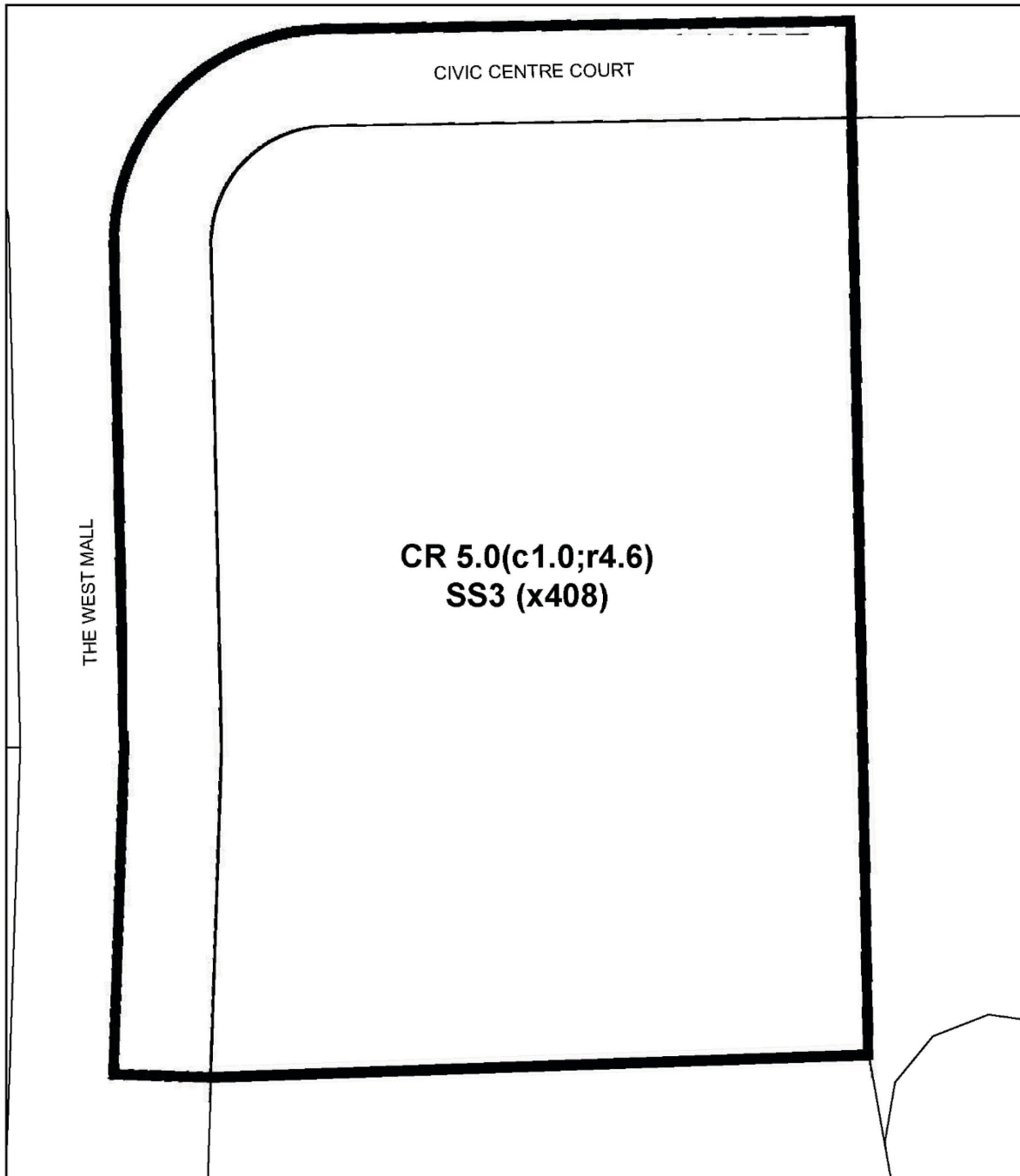
- f. The owner shall implement the mitigation measures identified in the peer reviewed Noise Impact Study and secured in a Site Plan Agreement with the City to the satisfaction of the Chief Planner and Executive Director, City Planning;
- g. The owner shall implement the mitigation measures identified in the peer reviewed Air Quality Study and secured in a Site Plan Agreement with the City to the satisfaction of the Chief Planner and the Executive Director, City Planning;
- h. The owner shall implement the mitigation measures identified in the Pedestrian Wind Study and addendum dated November 6, 2019 and January 25, 2021 respectively by RWDI, secured in a Site Plan Agreement with the City to the satisfaction of the Chief Planner and the Executive Director, City Planning;
- i. The owner convey a 0.4 metre wide right-of-way extension along The West Mall to the satisfaction to the General Manager, Transportation Services, prior to site plan approval;
- j. The owner shall satisfy applicable signage requirements of the Toronto District School Board and the Toronto Catholic District School Board and shall insert warning clauses in purchase and sale/tenancy agreements as required in connection with student accommodation; and
- k. Prior to final Site Plan Approval, the owner shall provide a construction management plan, in consultation with the Ward Councillor, which addresses construction vehicle routing, temporary parking and communications with neighbouring stakeholders, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Planner and Executive Director, City Planning and thereafter the owner shall implement such strategies and plans.



 **TORONTO**  
Diagram 1

**375-385 The West Mall**

File # 19 252363 STE 02 0Z



 **TORONTO**  
Diagram 2

**375-385 The West Mall**

File # 19 252363 STE 02 0Z

