

Authority: Ontario Land Tribunal Decision issued on September 23, 2021 and its Order issued on August 15, 2022 in Tribunal Case PL200325

CITY OF TORONTO

BY-LAW 1149-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 60 Mill Street.

Whereas the Ontario Land Tribunal pursuant to its Decision issued on September 23, 2021, in file PL200325, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 60 Mill Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the height or 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 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 irrespective of the 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 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 Ontario Land Tribunal, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines as shown 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 black lines from a zone label of CR SS2 (x344) to a zone label of CR SS2 (x636) 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 [636] so that it reads:

(636) Exception CR 636

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) On 60 Mill Street, if the requirements of By-law 1149-2022(OLT) are complied with, a **building** or **structure**, may be constructed, used or enlarged in compliance with (B) to (M) below.
- (B) Despite Regulation 40.10.20.10(1) the only permitted uses are a **hotel, eating establishment, outdoor patio, personal service shop**, office uses, **place of assembly**, and **ancillary** uses.
- (C) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 77.9 metres and the elevation of the highest point of the **building** or **structure**.
- (D) Despite regulation 40.10.40.10(2), the permitted maximum height of a **building** or **structure** is the numerical value, in metres, following the letters "HT" as shown on Diagram 3 of By-law 1149-2022(OLT).
- (E) Despite Regulation 40.10.40.10 (7), the permitted maximum number of **storeys** in a **building** is the numerical value following the letters "ST" as shown on Diagram 3 of By-law 1149-2022(OLT):
- (i) for the purposes of this exception, a "mezzanine level" does not constitute a **storey** and is a level located between the first **storey** and the second full **storey**, provided that the **gross floor area** of the mezzanine level must not exceed 50 percent of the **gross floor area** of the first **storey** in the **building**.
- (F) Despite regulations 40.5.40.10(6) and (7) and (D) above, the following **building** elements and **structures** may exceed the permitted maximum height limits shown on Diagram 3 of By-law 1149-2022(OLT):
- (i) parapets, fences and safety railings, planters and elements or **structures** on the roof of the **building** used for outside or open air recreation, safety or wind protection purposes, and landscape features, by a maximum of 3.5 metres.
- (G) Despite Regulation 40.10.40.40(1), the permitted maximum non-residential **gross floor area** of all **buildings** and **structures** on the **lot** is 26,800 square metres.

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- (H) Despite Regulation 40.10.40.70(2) and Article 600.10.10, the required minimum **building setbacks** and separation distances are as shown in metres on Diagram 3 of By-law 1149-2022(OLT).
 - (I) Despite (H) above and Regulations 5.10.40.70(1) and (2), and Clauses 40.5.40.60 and 40.10.40.60, the following **building** elements and **structures** may project into the required minimum **building setbacks** as follows:
 - (i) cornices, lighting fixtures, architectural features, signs, ornamental **structures**, trellises, canopies, columns, window washing equipment, stairs, heritage features, mechanical fans, balustrades, safety or wind protection measures, and landscape features by a maximum of 1.8 metres.
 - (J) 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 of 0.29 **parking spaces** for each 100 square metres of non-residential **gross floor area**.
 - (K) Despite Regulation 200.15.10.10 (1), four (4) accessible **parking spaces** shall be provided.
 - (L) Despite Regulations 220.5.10 (3) and (6), one Type B **loading space** must be provided in accordance with regulation 220.5.1.10 (8)(B).
 - (M) Section 600.10, with regards to tall building setbacks in the downtown area of the City, does not apply.

Prevailing By-laws and Sections: None apply

- 5. Despite any existing or future consent, severance, partition or division of the **lot**, the provisions of this exception, apply to the lands, as identified on Diagram 1, as one **lot** as if no consent, severance, partition or division 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 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 or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Local Planning Appeal Tribunal Decision issued on September 23, 2021 and Ontario Land Tribunal Order issued on August 15, 2022 in File PL200325.

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 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 issuance of the first Above-Grade Building Permit for the Development, the Owner shall pay a cash contribution to the City in the amount of one million dollars (\$1,000,000 CDN), to be allocated toward community improvements in the vicinity of the Lands to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor.
2. The amount of the cash contribution in Section 1 above shall be indexed upwardly on an annual basis in accordance with the Construction Price Index from the date of the execution of the Section 37 Agreement to the date of payment.
3. In the event all or any portion of the cash contribution described in Section 1 above has not been used for the intended purpose upon the third anniversary of this By-law coming into force and effect, the remaining amount may at any time thereafter be redirected for other purposes at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor and the Owner, provided such purpose(s) are identified in the Official Plan and will benefit the community in the vicinity of the Lands.
4. The Owner shall design, construct and maintain a publicly-accessible Heritage Interpretation Area no less than 900 square feet located in the western portion of the ground floor within the Development in accordance with the terms and conditions in the Section 37 Agreement. The Heritage Interpretation Area shall remain open and accessible to the general public at least between the hours of 7:00 a.m. and 11:59 p.m., 365 days of the year, subject to the terms and conditions in the Section 37 Agreement.
5. Prior to any Site Plan Approval for any part of the lands shown on Diagram 1, the Owner shall:
 - (a) provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - (b) provide an Interpretation Plan to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement the Interpretation Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - (c) provide a cost estimate for the Interpretation Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - (d) provide a Heritage Lighting Plan that describes how the exterior of the building on the Lands will be sensitively illuminated to enhance its heritage character to

the satisfaction of the Senior Manager, Heritage Planning, and thereafter shall implement the Heritage Lighting Plan to the satisfaction of the Senior Manager, Heritage Planning; and

- (e) submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Planning.
6. Prior to the issuance of any Building Permit or Heritage Permit for all or any part of the lands shown on Diagram 1, but excluding permits for repairs, maintenance, and usual and minor works as are acceptable to the Senior Manager, Heritage Planning, the Owner shall:
- (a) provide Building Permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning;
 - (b) provide a Letter of Credit, including provision for upwards indexing in accordance with the Construction Price Index, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning, to secure all work included in the approved Conservation Plan, and approved Interpretation Plan; and
 - (c) provide full documentation of the existing heritage building on the Lands, including two (2) printed sets of archival quality 8" x 10" colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a USB flash drive in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Planning.

Diagram 1

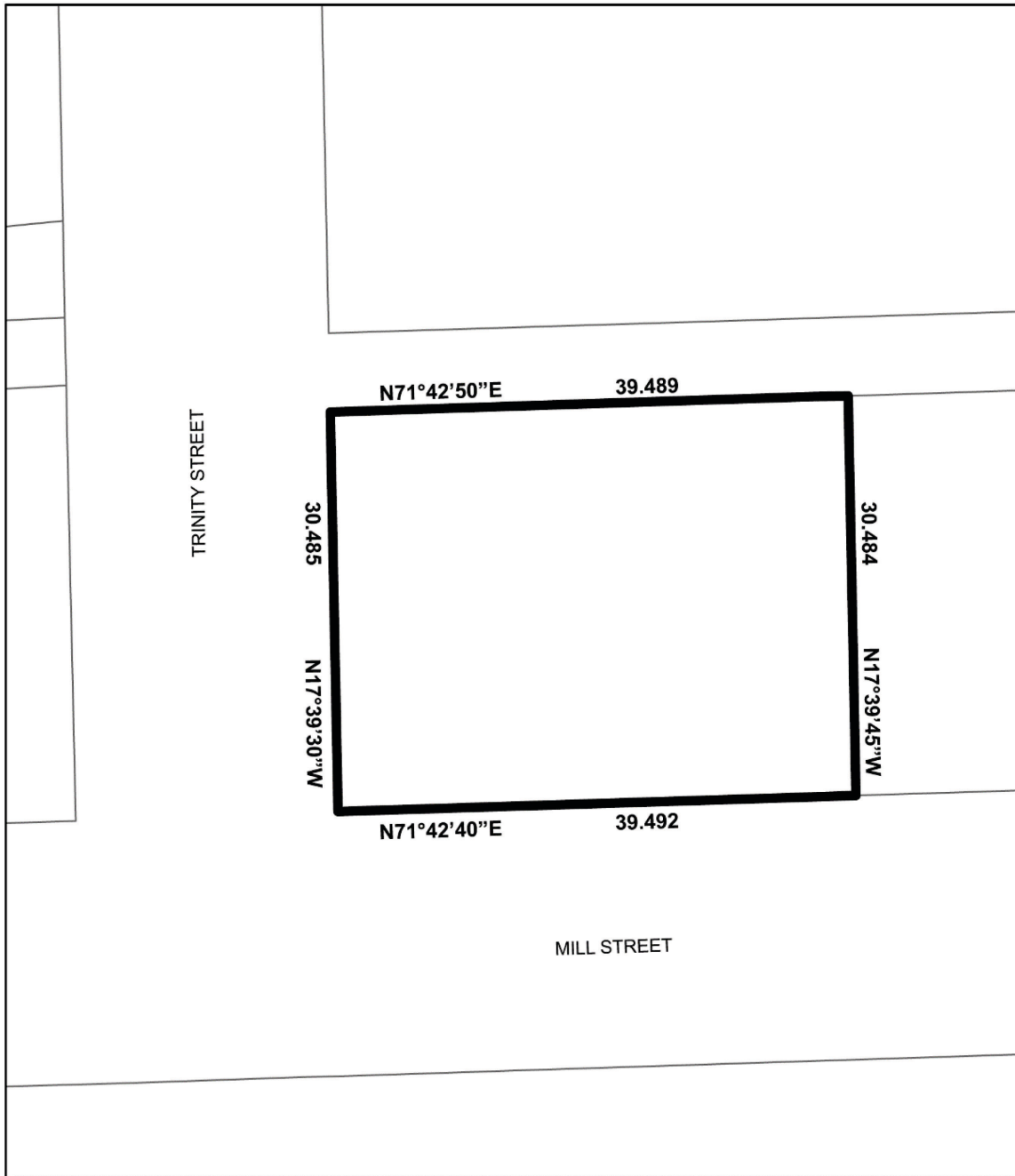


Diagram 2



Diagram 3

