

Authority: Ontario Land Tribunal Decision and Interim Order issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 15, 2022, effective August 11, 2022 in Tribunal Case OLT-22-002021 (formerly PL210319)

CITY OF TORONTO

BY-LAW 1160-2022(OLT)

To amend former City of North York Zoning By-law 7625, as amended, with respect to the lands municipally known in the year 2021 as 5203, 5205, 5211, 5213 and 5215 Yonge Street and 11 Parkview Avenue.

Whereas the Ontario Land Tribunal, in its Decision issued on August 5, 2022 and its Order issued on August 15, effective on August 11, 2022, in Tribunal Case OLT-22-002021 (formerly PL210319), 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 7625, as amended, with respect to the lands municipally known in the year 2021 as 5203, 5205, 5211, 5213 and 5215 Yonge Street and 11 Parkview Avenue; and

Whereas authority is given to the Ontario Land Tribunal by Sections 34 and 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas pursuant to Section 37 of the Planning Act, as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020., c. 18 ("COVID-19 Economic Recovery Act, 2020") came into force, 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 the North York Centre Secondary Plan and the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development in return for the mandatory provision of specified capital facilities expressly associated with those increases; and

Whereas subsection 37(3) of the Planning Act, as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, 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 hereinafter referred has elected to provide the facilities, services and matters hereinafter set out in return for the additional density thereby permitted by the North York Centre Secondary Plan; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 7625 as amended, is permitted in return for the provision of the

facilities, services and matters set out in this By-law which are to be secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal Orders as follows:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York are amended in accordance with Schedule 1 and Schedule RM6(291) attached to this By-law.
2. Within the lands shown on Schedule 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
 - a. all new public roads necessary to serve the building or structure have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - b. all water mains and sanitary sewers, and appropriate appurtenances, necessary to serve the building or structure are installed and operational.
3. Section 64.20-A of By-law 7625 of the former City of North York is amended by adding the following subsection: 64.20-A (291) RM6 (291):

64.20-A (291) RM6 (291)

DEFINITIONS

Notwithstanding the provisions of Section 2.0, for the purpose of this exception the following definitions will apply:

- (a) **Apartment House Dwelling** shall mean a building that has four or more dwelling units, with at least one dwelling unit entirely or partially above another, and each dwelling unit has a separate entrance directly from outside or through a common inside area.
- (b) **Bicycle Parking Space** shall mean a space, including any associated access corridor area, that is designed and equipped exclusively for the purpose of parking and securing one or more bicycles and is not located within a dwelling unit, balcony, or commercial suite. A bicycle parking space may be provided in any combination of horizontal, vertical or stacked positions, where a "long-term" bicycle parking space is for residents, occupants, lessees, owners or employees, whereas a "short-term" bicycle parking space is intended for visitors.
- (c) **Construction Office/Sales Office** shall mean buildings, structures, facilities or trailers, or portions thereof, used for the purpose of the administration and management of construction activity and/or for selling or leasing dwelling units or non-residential space on the lot.

- (d) **Established Grade** shall mean the Canadian Geodetic Datum elevation of 174.61 metres.
- (e) **Green Roof** shall mean an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code.
- (f) **Gross Floor Area** shall mean the aggregate of the areas of each floor of a building above and below established grade, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but shall exclude:
- (i) any unenclosed balconies or terraces;
 - (ii) parking, loading and bicycle parking below-ground;
 - (iii) loading spaces at the ground level and all bicycle parking spaces at or above-ground;
 - (iv) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (v) shower and change facilities for required bicycle parking spaces;
 - (vi) all indoor amenity space;
 - (vii) elevator shafts;
 - (viii) garbage shafts and garbage and recycling storage areas and rooms, excluding such features and areas located within a dwelling unit;
 - (ix) mechanical penthouse and any part of the building used for Mechanical Floor Area;
 - (x) exit stairwells in the building; and
 - (xi) the area of a void in a floor if there is a vertical clearance of more than 2.95 metres between the top of the floor below the void and the ceiling directly above it.
- (g) **Indoor Amenity Space** shall mean the indoor communal areas that are available for the exclusive use by the occupants of a building on the lot for recreational or social activities.
- (h) **Loading Space** shall mean an area for the loading or unloading of goods, commodities or personal possessions and effects from a vehicle.

- (i) **Lot** shall mean the lands municipally known in the year 2021 as 5203, 5205, 5211, 5213 and 5215 Yonge Street ("5203-5215 Yonge Street " as indicated on Schedule 1 and is inclusive of the lane widening indicated on Schedule RM6(291).
- (j) **Mechanical Floor Area** shall mean floor area within a building or structure used exclusively for the accommodation of mechanical equipment including but not limited to heating, ventilation, air conditioning, electrical, plumbing, fire protection, elevator equipment and mechanicals, plumbing, ventilation and other service shafts and hoistways.
- (k) **Outdoor Amenity Space** shall mean the outdoor communal areas that are available for the exclusive use by the occupants of a building on the lot for recreational or social activities and may consist of hard or soft landscaping, and portions of a green roof.

PERMITTED USES

- (l) Permitted uses of the lot shall be as follows:
 - (i) RESIDENTIAL
 - (A) apartment house dwellings, including indoor and outdoor amenity spaces; and
 - (B) accessory uses thereto.
 - (ii) NON-RESIDENTIAL
 - (A) business, professional and administrative offices;
 - (B) clinics;
 - (C) professional medical offices;
 - (D) art galleries;
 - (E) automatic teller machines;
 - (F) car rental agencies;
 - (G) commercial galleries;
 - (H) commercial schools;
 - (I) construction office/sales office;

- (J) custom workshops making articles or products to be sold at retail on the premises;
- (K) day nurseries;
- (L) dry-cleaning and laundry collecting establishments;
- (M) information processing;
- (N) fitness centres;
- (O) outdoor patios and cafes;
- (P) personal service shops;
- (Q) public uses, including a public recreational facility;
- (R) restaurants, including take-out restaurants;
- (S) retail branches of banks and other financial institutions;
- (T) retail stores, including grocery stores, supermarkets and pharmacies;
- (U) service shops;
- (V) studios; and
- (W) accessory uses thereto.

EXCEPTION REGULATIONS

GROSS FLOOR AREA AND UNIT MIX

- (m) As provided for in the following subsections, the maximum gross floor area permitted on the lot shall be 18,700 square metres, such gross floor area being permitted by meeting the requirements herein pursuant to Section 37 of the Planning Act as described in Section 6 below, and provided:
 - (i) A minimum of 250.0 square metres of grade related non-residential gross floor area shall be devoted to retail, service commercial or commercial uses;
 - (ii) In addition to the retail and commercial space, a minimum of 900.0 square metres of non-residential gross floor area shall be provided; and
 - (iii) The maximum permitted residential gross floor area is 17,550.0 square metres.

- (n) Dwelling units are permitted on the lot, subject to compliance with the following:
- (i) The maximum number of dwelling units is 270.
 - (ii) A minimum of 10 percent of the total dwelling units provided must have three or more bedrooms;
 - (iii) A minimum of 15 percent of the total dwelling units provided must have two bedrooms; and
 - (iv) If either of the calculations as a percentage of total dwelling units pursuant to subsections (ii) and (iii) above results in a percentage with a decimal place, the percentage will be rounded up to the nearest whole number from 0.5 or above.

LOT COVERAGE

- (o) The maximum lot coverage shall be 100 percent.

BUILDING HEIGHT

- (p) The building height, measured from established grade, shall not exceed the maximum heights in metres shown on Schedule RM6(291), with the exception of the following:
- (i) Rooftop building elements and structures such as equipment used for the functional operation of a building including electrical, utility, mechanical penthouse, mechanical, ventilation and cooling equipment and features such as chimneys, stacks, flues, vents, air intakes, unenclosed heating equipment, cooling towers and power generators, structures that enclose, screen or cover equipment and devices, including electrical, utility, ventilation equipment, enclosed stairwells, indoor amenity space, washrooms, roof access, maintenance equipment storage, elevator shafts and overruns, solar panels and related equipment by a maximum of 6.5 metres;
 - (ii) Building elements and structures such as canopies, awnings, and related architectural elements, by a maximum of 7.0 metres;
 - (iii) Building elements and structures such as architectural features, parapets, planters, ornamental elements, art and landscape elements, buildings, structures and equipment used for outdoor amenity space or open-air recreation including pools and associated equipment, light monitors, light fixtures, pergolas, trellises, guard rails, screens, green roofs, seating areas, access ramps, retaining walls, divider screens, unenclosed structures providing safety or wind protection to rooftop amenity space and functional servicing elements, by a maximum of 4.0 metres;

- (iv) Building elements and structures such as window washing and building maintenance equipment and devices, including cranes, and lightning rods, antennae, flagpoles, satellite dishes and cellular arrays, by a maximum of 9.0 metres; and
- (v) Building elements and structures such as acoustical screens and sound barriers and safety and wind protection/mitigation features by a maximum of 3.5 metres.

BUILDING AREA AND SETBACKS

- (q) The minimum yard setbacks for buildings and structures above established grade shall be as shown on Schedule RM6(291).
- (r) No portion of any building or structure erected and used on the lot above established grade shall be located other than wholly within the heavy lines identified on Schedule RM6(291) to this By-law.
- (s) The yard setbacks and building envelope shown with a heavy line on Schedule RM6(291) do not apply to the parts of a building or structure that are below-ground, and nothing in this By-law shall prevent underground parking or underground structures from extending to a boundary lot line.
- (t) Notwithstanding subsections (e) and (f) above, except where a building envelope heavy line on Schedule RM6(291) is contiguous with a boundary line of the lot, nothing shall prevent the following building elements or structures from projecting beyond the heavy lines on Schedule RM6(291):
 - (i) Building elements and structures such as bay windows, terraces, cornices, window sills, parapets, trellises, pillars, patios, decks, guardrails, balustrades and railings, ornamental elements, architectural features, art and landscape features, retaining walls, pilasters, belt cornices, eaves, light fixtures and standards, ornamental elements, window washing equipment, railings, stairs and steps, awnings, canopies and all vertical extensions of such awnings, canopies and related architectural elements, stair enclosures, doors, access ramps, fences, screens, site servicing features, air vents and air intakes, wind mitigation elements, underground garage ramps and associated structures; and
 - (ii) Balconies are permitted to project beyond the heavy lines on Schedule RM6(291), subject to the following:
 - (A) No balconies may project beyond the heavy lines on Schedule RM6(291) within 16.0 metres of established grade;
 - (B) Balconies on the building façades facing Yonge Street and Parkview Avenue may project a maximum of 1.5 metres into any required minimum yard setbacks; and

- (C) Balconies on the building façade facing the southern boundary of the lot may project a maximum of 1.0 metres into the required minimum yard setback.

PARKING AND LOADING REGULATIONS

- (u) Parking spaces must be provided in accordance with the following:
- (i) A minimum of 120 parking spaces shall be provided for residential uses, of which a minimum of 4 shall be accessible parking spaces; and
 - (ii) A minimum of 22 parking spaces shall be provided for residential visitors and non-residential uses.
- (v) Notwithstanding Section 6A(3)(a)(iii), Electric Vehicle Infrastructure, including electrical vehicle supply equipment, shall not constitute an obstruction to a parking space.
- (w) An accessible parking space required in (u)(i) above, must have the following dimensions and features:
- (i) A minimum length of 5.6 metres;
 - (ii) A minimum width of 3.4 metres;
 - (iii) A minimum vertical clearance of 2.1 metres;
 - (iv) The entire length of one side of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle or path; and
 - (v) An accessible parking space must be located within 30 metres of a barrier free entrance, main pedestrian access or a passenger elevator.
- (x) One (1) loading space shall be provided and maintained on the lot with the following minimum dimensions:
- (i) A minimum length of 13.0 metres;
 - (ii) A minimum width of 4.0 metres; and
 - (iii) A minimum vertical clearance from the ground of 6.1 metres.
- (y) Access to the loading space shall be provided by way of an unobstructed laneway with a minimum width of 4.8 metres.

BICYCLE PARKING

- (z) Residential bicycle parking shall be provided and maintained on the lot in accordance with the following minimum rates:
 - (i) 0.9 "long-term" bicycle parking spaces per dwelling unit; and
 - (ii) 0.1 "short-term" bicycle parking spaces per dwelling unit.
- (aa) Bicycle parking for non-residential uses shall be provided and maintained on the lot in accordance with the following minimum rates:
 - (i) 0.13 "long-term" bicycle parking spaces per 100 square metres of non-residential gross floor area; and
 - (ii) 3 "short-term" bicycle parking spaces plus 0.25 short-term bicycle parking spaces per 100 square metres of non-residential gross floor area.
- (bb) Bicycle parking spaces shall comply with the following:
 - (i) The minimum dimensions for a horizontal bicycle parking space shall be:
 - (A) A minimum length of 1.8 metres;
 - (B) A minimum width of 0.6 metres; and
 - (C) A minimum vertical clearance from the ground of 1.9 metres.
 - (ii) The minimum dimensions for a bicycle parking space if placed in vertical position on a wall, structure or mechanical device shall be:
 - (A) A minimum length or vertical clearance of 1.9 metres;
 - (B) A minimum width of 0.6 metres; and
 - (C) A minimum horizontal clearance from the wall of 1.2 metres.
 - (iii) The minimum dimensions for a stacked bicycle parking space shall be:
 - (A) A minimum length of 1.6 metres;
 - (B) A minimum width of 0.45 metres; and
 - (C) A minimum vertical clearance of 1.1 metres.

AMENITY SPACE AND LANDSCAPING

- (cc) The provisions of Section 15.8 (Landscaping) shall not apply.

- (dd) Amenity space shall be provided on the lot at a minimum rate of 4.0 square metres for each dwelling unit, of which:
 - (i) At least 2.0 square metres for each dwelling unit is indoor amenity space;
 - (ii) At least 40.0 square metres is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and
 - (iii) No more than 25 percent of the outdoor amenity space may be a green roof.

4. Section 64.37 of By-law 7625 of the former City of North York is amended by adding the following subsection: 64.37(56) O1(56):

64.37(56) O1(56)

DEFINITIONS

Notwithstanding the provisions of Section 2.0, for the purpose of this exception the following definitions will apply:

- (a) **Lot** shall mean the lands municipally known in the year 2021 as 5203-5215 Yonge Street indicated on Schedule 1.
- (b) **Property** shall mean the lands municipally known in the year 2021 as 11 Parkview Avenue indicated on Schedule 1.

PERMITTED USES

- (c) The only permitted uses of the property shall be: a public park, a public playground, a play lot, use accessory to any of the foregoing uses, and temporary construction staging in conjunction with erecting a building on the lot.

5. PROVISIONS NOT APPLICABLE, EXCLUSIONS AND ADMINISTRATION

- (a) Sections 6(6), 6(9), 6A(1), 6A(2)(a) and (c), 6A(6)(c) and (g), 6A(8), 6A(16)(a), 6A(16)(d)(i) and (iv), 15.6, 15.8, 20-A.1, 20-A.2.1, 20-A.2.2, 20-A.2.4, 20-A.2.4.1, 20-A.2.5, and 20-A.2.6 are not applicable.
- (b) Despite Section 6(2), no regulations of this By-law or of By-law 7625 shall apply to a construction office/sales office.
- (c) Sections 64.20-A and 64.37 of By-law 7625, as amended, are further amended by adding Schedule 1 and Schedule RM6(291) attached to this By-law.
- (d) Despite any existing or future severance, conveyance, partition or division of the lot or property shown on Schedule 1 and Schedule RM6(291), the provisions of

this By-law shall apply to the whole of the lot and the property as if no severance, conveyance, partition, or division occurred.

- (e) Except as provided herein, By-law 7625 of the former City of North York shall continue to apply.

6. INCREASED DENSITY

- (a) Matters that are to be provided pursuant to Section 37 of the Planning Act, 1990, c. P.13, as amended, in order to permit the increased maximum gross floor area authorized under Section 3(m) above, are as follows:
 - (i) The Owner shall enter into an Agreement pursuant to Section 37 of the Planning Act, that is executed by both the Owner and the City and registered on title, to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning, that secures the following:
 - (A) Community benefits that include:
 - (1) A minimum of 1.5 square metres of indoor recreational amenity space per dwelling unit;
 - (2) Mezzanine level bicycle parking that has a minimum area of 240 square metres;
 - (3) A minimum of 250 square metres of grade-related retail and commercial gross floor area; and
 - (4) An over-contribution of parkland in the amount of 374.01 square metres provided on the portion of the site known in the year 2021 as 11 Parkview Avenue.
 - (B) A monetary contribution payable prior to the issuance of the first above grade building permit for the proposed development (for clarity, this does not include any building permit for a construction office/sales office), toward the cost of acquiring or improving parkland servicing the North York Centre area, or constructing and furnishing a public recreational centre or social or community facility serving the North York Centre area, in an amount equal to \$4,000,000.00, indexed upwardly in accordance with Statistics Canada's Construction Price Index (being the 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 final approval of the zoning by-law amendment to the date of payment.

- (C) The dedication of the property municipally known as 11 Parkview Avenue as parkland in full satisfaction of the Owner's obligations under Section 42 of the Planning Act, subject to the following additional conditions:
- (1) The parkland shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition.
 - (2) The Owner shall convey the parkland to the City prior to the issuance of the first above grade building permit for the proposed development.
 - (3) The Owner shall complete all required park improvements prior to Condominium Registration.

7. SECTION 37

- (a) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, 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 Schedule 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 to be secured by one or more agreements pursuant to Subsection 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, 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 height and density pursuant to this By-law unless all provisions of Schedule A are satisfied, including the entering into and registration of an Agreement.

Pursuant to the Ontario Land Tribunal Decision and Interim Order issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 15, 2022, effective August 11, 2022, in Tribunal Case OLT-22-002021 (formerly PL210319).

SCHEDULE A

Section 37 Requirements

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 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, whereby the owner agrees to provide as follows:

1. The owner shall provide and maintain the following:
 - a) A minimum of 1.5 square metres of indoor recreational amenity space per dwelling unit;
 - b) Mezzanine level bicycle parking that has a minimum area of 240 square metres;
 - c) A minimum of 250 square metres of grade-related retail and commercial gross floor area; and
 - d) An over-contribution of parkland in the amount of 374.01 square metres provided on the portion of the site known in the year 2021 as 11 Parkview Avenue.

2. Prior to the issuance of the first above grade building permit for the proposed development (not including a permit for a temporary construction office or sales office) the owner shall provide:
 - a) A monetary contribution toward the cost of acquiring or improving parkland servicing the North York Centre area, or constructing and furnishing a public recreational centre or social or community facility serving the North York Centre area, in an amount equal to \$4,000,000.00, indexed upwardly in accordance with Statistics Canada's Construction Price Index (being the 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 final approval of the zoning by-law amendment to the date of payment.
 - b) The dedication of the property municipally known as 11 Parkview Avenue as parkland in full satisfaction of the Owner's obligations under Section 42 of the Planning Act, subject to the following additional conditions:
 - (1) The parkland shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition.
 - (2) The Owner shall complete all required park improvements prior to Condominium Registration.

3. The following are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development at the Owner's sole cost and expense:
 - a) As a condition of site plan approval, and prior to the issuance of the first above-grade permit, the Owner shall convey to the City a 1.17 metre strip of land along the rear of the Yonge Street Portion of the Site for the widening of the existing lane, to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services;
 - b) As a condition of site plan approval, and prior to the issuance of any building permit for the development, the Owner shall address the outstanding issues identified in the memorandum dated February 3, 2021 from the Manager, Development Engineering, Engineering and Construction Services, including an updated Functional Servicing and Stormwater Management Report that addresses staff's concerns, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - c) As a condition of site plan approval, and prior to the issuance of any building permit for the development [for clarity, this does not include any building permit for a construction office/sales office], the Owner shall design and provide financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Functional Servicing and Stormwater Management Report, and Geohydrology Report to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements or upgrades are required to support the development, according to the Functional Servicing and Stormwater Management Report, and Geohydrology Report, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services.
4. The owner shall enter into and register on title an agreement to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits and matters of legal convenience set out above.

Schedule 1



