

Authority: Ontario Land Tribunal Decision and Interim Order issued on November 5, 2021 and Order issued on August 12, 2022 in Case No. OLT-22-003370 (PL200550)

CITY OF TORONTO

BY-LAW 1161-2022(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 95-131 and 155 Balliol Street in the year 2022.

Whereas the Ontario Land Tribunal, by its Decision and Interim Order issued on November 5, 2021, and its Order issued on August 12, 2022 in Case No. OLT-22-003370 (PL200550), approved amendments to former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 95-131 and 155 Balliol Street; 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 39 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, the Council of a Municipality may, in a by-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law; and

Whereas 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, 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, 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, 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, a 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 permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal Orders:

1. Except as otherwise provided herein, the provisions of By-law 438-86 shall continue to apply to the *lot*.

2. The *Lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
3. A portion of the *Lot* of the lands delineated by heavy lines on Map 1 shall be zoned from "R2 z2.0" to "G" as illustrated on Map 2.
4. None of the provision of Section 2 with respect to the definition of *grade*, *height*, *lot*, *residential amenity area*, and *residential gross floor area*, and Sections 4(2)(a), 4(4)(b), 4(6), 4(7), 4(10), 4(12), 4(13), 4(16), 4(17), 6(1), 6(3) Part I, 6(3) Part II, 6(3) Part III and 6(3) Part IV of Zoning By-law 438-86, as amended, shall apply to prevent the erection and use of *apartments buildings* on the lots and uses *accessory* thereto, including the *existing building* on the lands municipally know as 95-131 and 155 Balliol Street, provided that:
 - (a) The *Lot* consist of the lands delineated by heavy lines on Map 1 shall be zoned from "R2 z2.0" to "R2 z6.02" as illustrated in Map 2;
 - (b) The permitted *gross floor area* erected for the *new building* shall not exceed 32,000 square metres with a minimum non-residential *gross floor area* of 135 square metres on (*Area A*) as shown on Map 3;
 - (c) The permitted *gross floor area* erected for the *existing building* shall not exceed 21,750 square metres on (*Area B*) as shown on Map 3;
 - (d) No portion of the *new building* erected above grade on the *lot* shall exceed the maximum height in metres specified by the numbers following the symbol H on Map 4 attached to and forming part of this By-law;
 - (e) Notwithstanding Section 3(d) of this By-law, the following building elements, structures, and projections for the *new building* and the *existing building* are permitted to extend above the *heights* referred to therein:
 - i. elevator overruns, mechanical equipment, mechanical penthouse enclosures, and stair enclosures may project to a maximum of 6.0 metres;
 - ii. window washing equipment may project to a maximum of 8.0 metres;
 - iii. a ladder for maintenance purposes, terraces and balcony guards, elements of a green roof and insulation and roof surface materials, planters, railings, and parapets may project to a maximum of 1.2 metres;
 - iv. wind mitigation measures to a maximum of 2.1 metres; and
 - v. ornamental architectural features and public art to a maximum of 4.5 metres.

- (f) No part of the above *grade* portion of the *new building* and the *existing building* are located otherwise than wholly within the areas delineated by the heavy lines on Map 3 attached to and forming part of this By-law;
- (g) Notwithstanding Section 3 (f) of this By-law, the following structures and projections for the *new building* and the *existing building* are permitted to extend into the required setback areas:
 - (i) eaves, cornices, columns, landscape and wheelchair ramps, light fixtures, stairs and stair enclosures, balustrades, guardrails, bollards, awnings, arcades, canopies, raised planters, patios, retaining walls, fences, vents, screens, wind mitigation screens and features, underground parking ramp and associated structures, damper equipment, window washing equipment to a maximum of 2.5 metres;
 - (ii) balconies and bay windows to a maximum of 2.0 metres;
 - (iii) structures used for outside or open air recreation, safety or wind protection, to a maximum of 1.6 metres; and
 - (iv) ornamental, decorative or architectural elements and public art to a maximum of 3.1 metres.
- (h) *Parking spaces* shall be provided and maintained as follows:
 - (i) A minimum of 0.46 residential *parking spaces* per dwelling unit shall be provided and maintained;
 - (ii) A minimum of 0.04 visitor *parking spaces* per dwelling unit shall be provided and maintained;
 - (iii) A minimum of 2 *parking spaces* must be provided and maintained for a day nursery; and
 - (iv) A minimum of 2 car-share *parking spaces* must be provided and maintained.
- (i) 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 be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car sharing organization, including the payment of a membership fee that may or may not be refundable;
- (j) Car share parking means a parking space that is reserved and actively used for car-sharing;

- (k) One (1) loading space Type C and one (1) loading Type G shall be provided and maintained on the *lot*;
- (l) A minimum of 1,050 square metres of indoor residential amenity space and 710 square metres of outdoor residential amenity space shall be provided and maintained on the lot for the residents of the *new building*;
- (m) The provision of **dwelling units** is subject to the following:
- (i) a minimum of 15 percent of the total number of **dwelling units** must contain two or more bedrooms;
 - (ii) a minimum of 10 percent of the total number of **dwelling units** must contain three or more bedrooms;
 - (iii) a minimum of an additional 15 percent of the total number of **dwelling units** must have two or three bedrooms (or convertible to two or three bedrooms);
 - (iv) any **dwelling units** with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
 - (v) if the calculation of the number of required **dwelling units** with two or three bedrooms results in a number with a fraction, the number shall be rounded down to the nearest whole number.
- (n) For the purpose of this By-law, every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid By-law 438-86, as amended, with the exception of the following:
- (i) *"existing building"* means the existing apartment building municipally known as 155 Balliol Street and accessory structures, including an underground parking garage and garage entry ramp, locate on (*Area B*) in the year 2020 as shown on Map 3 and Map 4;
 - (ii) *"gross floor area"* means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level excluding the following:
 - (A) *parking, loading and bicycle parking below established grade;*
 - (B) *required loading spaces and required bicycle parking spaces at or above established grade;*
 - (C) *storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;*

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- (D) *shower and change facilities required by this By-law for required bicycle parking spaces;*
 - (E) *indoor amenity space required by this By-law;*
 - (F) *elevator shafts;*
 - (G) *garbage shafts;*
 - (H) *mechanical penthouse; and*
 - (I) *exit stairwells in the building.*
- (iii) *"new building"* means the apartment building on (*Area A*) as shown on Map 3 and Map 4 and municipally know as 95-131 Balliol Street in the year 2020;
 - (iv) *"height"* means the vertical distance between *grade* and the highest point of the building or structure;
 - (v) *"grade"* means the finished ground level with elevation of 154.90 metres;
 - (vi) *"Lot"* means those lands outline on Map 1 attached hereto;
 - (vii) *"(Area A)"* means the site of the new building municipally known as 95-131 Balliol Street;
 - (viii) *"(Area B)"* means the site of the existing apartment building municipally known as 155 Balliol Street; and
 - (ix) *"residential amenity space"* means indoor or outdoor space on a *lot* that is communal and available for use by the occupants of a building on the *lot* for recreational or social activities.
5. Despite any existing or future severances, partition, or division, of the *lot*, the provision of this By-law shall apply to the whole *lot* as if not severances, partition or division occurred.
6. Section 37 Provisions.
- (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 Map 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, 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, that is/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 and to enter into an agreement prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same; and
- (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 A are satisfied.

Pursuant to Ontario Land Tribunal Decision and Interim Order issued on November 5, 2021 and Order issued on August 12, 2022 in Case No. OLT-22-003370 (PL200550).

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 shown in Map 1 in this By-law. Prior to the issuance of any **building** permit, the owner shall enter into an agreement, on such terms and conditions, including upwards indexing, securities, details and requirements, 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*, S.O. 2020, C.18, as amended, came into force, (the "**Section 37 Agreement**") to secure the community benefits and matters required to support the development below, whereby the owner agrees as follows:

1. The owner shall provide the following mix of units in the new residential building located in Area A, as shown in Map 3 in this By-law (the "New Building"):
 - a. a minimum of 10 percent of "net new" three-bedroom units with an average size of 90 square metres;
 - b. a minimum of 15 percent of "net new" two-bedroom units with an average size of 74 square metres; and
 - c. an additional 15 percent of the units capable of being converted to two- or three-bedroom units with no average size requirement.
2. The owner shall dedicate to the City an on-site parkland dedication of 904 square metres – comprised of the statutorily required parkland dedication as per Section 42 of the Planning Act and a further over-dedication of 472 square metres (the value of which is appraised at approximately \$6.2 to \$7 million dollars in the year 2022) – in the general location as shown in Map 3 in this By-law;
3. The owner shall convey the parkland to the City, with base park and above base park improvements completed, prior to the earlier of three years following the issuance of the first above-grade building permit or the registration of the Plan of Condominium, and at no cost to the City, free and clear, above and below grade, of all easements, encumbrances and encroachments and in acceptable environmental condition, all to the satisfaction of the General Manager, Parks, Forestry and Recreation;
4. The owner shall ensure the parkland's completion and acceptance, including the design and construction of the base park and above base park improvements, on such terms and conditions as are set out in the Section 37 and 111 Agreement;
5. Prior to the issuance of the first above grade building permit for any portion of the development, the owner shall register a restriction pursuant to section 118 of the Land Titles Act on title to the portion of the Lands comprising the parkland, in a form and with priority to the satisfaction of the City Solicitor, restricting any transfer or charge of the portion of the Lands comprising the parkland without the written consent of the Chief

Planner and Executive Director, City Planning in order to secure the continued use of the space for parkland purposes;

6. The owner shall continue to provide and maintain the existing two hundred and sixty-seven (267) rental dwelling units in the existing building located at 155 Balliol Street (the "Existing Building"), as well as the 19 replacement rental units in the New Building, as rental housing, together with the new and retained associated facilities and amenities of the Existing Building, for a period of at least 20 years commencing from the date the Zoning By-law Amendments come into force and effect, with no applications for demolition or conversion from residential rental use during such 20-year period, without the replacement of the same, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;
7. The owner shall provide tenants of the existing two hundred and sixty-seven (267) rental dwelling units in the Existing Building with access to, and use of, all indoor and outdoor amenities on the **lot**, both within and adjacent to the New Building, on the same terms and conditions as any other resident, at no extra charge, and with no pass-through of costs to the tenants, including by way of an application to the Landlord Tenant Board or any successor tribunal with jurisdiction to hear applications made under the legislation governing residential tenancies in Ontario for the purpose of obtaining an increase in residential rent above the applicable guideline;
8. The owner shall provide, repair, operate, and/or maintain, at its sole expense, the following improvements to the Existing Building, all to the satisfaction of the Chief Planner and Executive Director, City Planning:
 - a. Within six (6) months of the Zoning By-law Amendments coming into force and effect:
 - i. the owner shall undertake improvements to the laundry rooms in the Existing Building, including the installation of new folding tables and new seating areas, the location and specifications of which shall be finalized prior to the issuance of Notice of Approval Conditions for Site Plan Approval; and
 - ii. the owner shall repair and undertake improvements to the automated entrance of the Existing Building to ensure the entrance is continuously accessible and in proper working condition for residents, the specifications of which shall be finalized prior to the issuance of Notice of Approval Conditions for Site Plan Approval.
 - b. prior to the issuance of the first above-grade building permit for the New Building:
 - i. the owner shall install a new air conditioning unit over/on the balcony of each of the two-hundred-and-sixty-seven (267) existing rental units in the Existing Building, or have central air conditioning installed in the Existing Building as a whole, and the owner shall not sub-meter utility costs to any

existing tenant whose utility costs are currently included in their monthly rent; the specifications of the new air conditioning units/system shall be finalized prior to the issuance of Notice of Approval Conditions for Site Plan Approval.

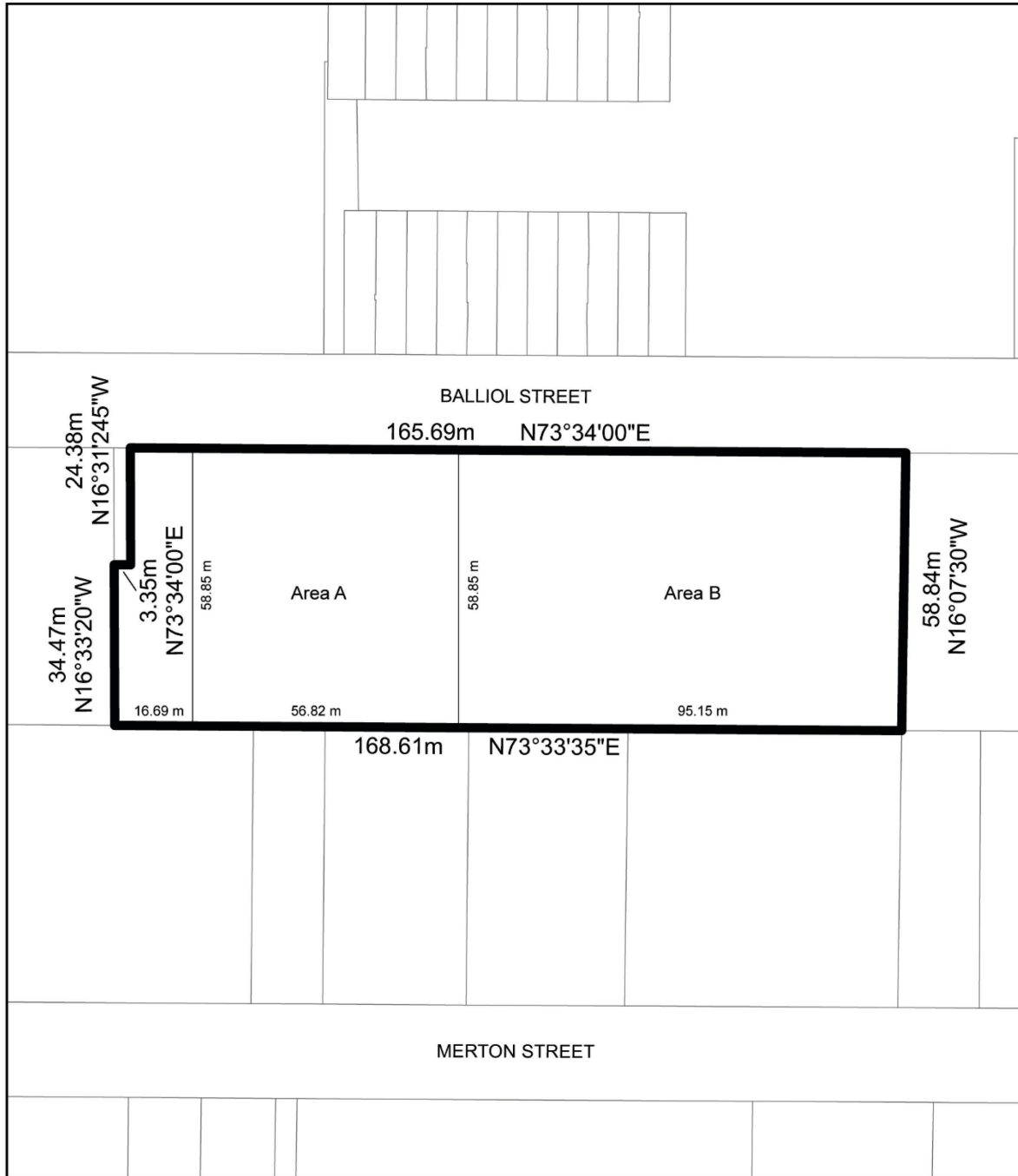
- c. prior to first occupancy of any new residential units, which is not a replacement rental unit, in the New Building:
 - i. the owner shall construct a new garbage and recycling facility and enclosure on the west side of the Existing Building, the layout and specifications of which shall be finalized prior to the issuance of Notice of Approval Conditions for Site Plan Approval; and
 - ii. the owner shall construct a new landscaped dog run and relief area to the rear of the Existing Building, the location, layout, and specifications of which shall be finalized prior to the issuance of Notice of Approval Conditions for Site Plan Approval;

the costs of the improvements to the Existing Building and all associated spaces within and outside the building, as described above, shall not be passed on to the tenants of the building in any form, including by way of an application to the Landlord Tenant Board or any successor tribunal with jurisdiction to hear applications made under the legislation governing residential tenancies in Ontario for the purposes of obtaining an increase in residential rent above the applicable guideline;

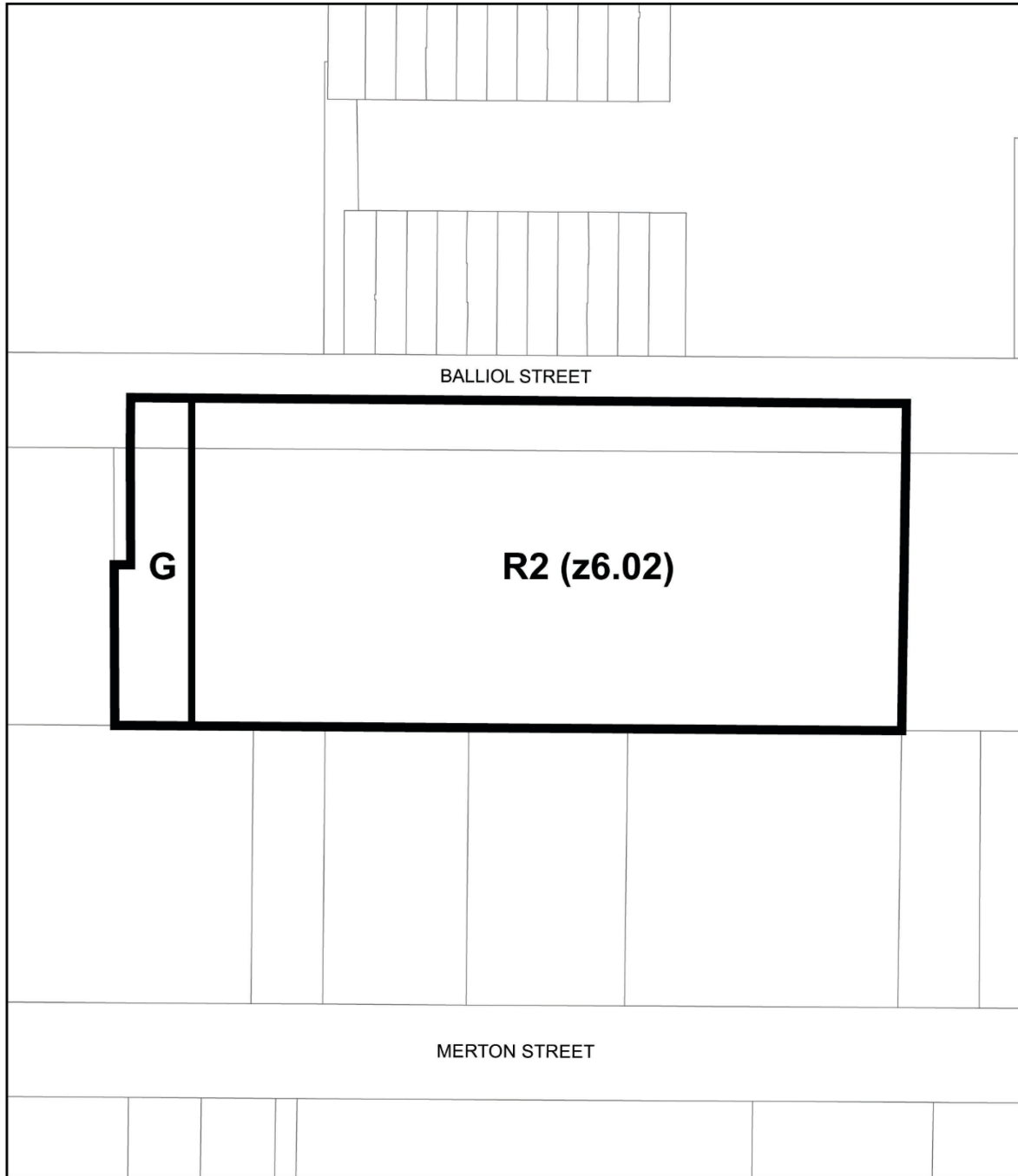
- 9. The owner shall ensure the provision of housing in the Existing Building and the New Building on such terms and conditions set out in the Section 37 and 111 Agreement;
- 10. The owner shall, at its sole expense, and to the satisfaction of the Chief Planner and Executive Director, City Planning, design, construct, program, operate and maintain as part of the development of the lands an at-grade mid-block pedestrian connection (the "Midblock Connection"), with a minimum width of 4.0 metres, to be secured by means of a non-exclusive surface pedestrian public easement which shall be granted prior to final Site Plan Approval. The specific location, configuration, design and width of the Midblock Connection shall be determined through the site plan approval process to the satisfaction of the Chief Planner and Executive Director, City Planning;
- 11. The owner shall construct a private daycare, and provide outdoor space contiguous to the private daycare, in and adjacent to the New Building, substantially in the form and location shown on the Ground Floor Plan dated June 22, 2021 by BDP Quadrangle. However, there shall be no obligation on the owner to maintain the private daycare should an operator not be found or the private daycare not be continued in the development;
- 12. As a condition of Site Plan Approval, the owner shall provide a pedestrian level wind study and shall thereafter implement any wind mitigation measures required therein, all to the satisfaction of the Chief Planner and Executive Director, City Planning;

13. The owner shall construct and maintain the development in accordance with Tier 1, Toronto Green Standard and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the Site Plan Control application for the development;
14. Prior to the issuance of the first building permit for the development, the owner shall provide and implement, at its sole cost and expense, a construction management plan and tenant communication strategy for the development of the site or any portion thereof, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services and the Ward Councillor; and
15. For greater clarity, a building permit as referenced in Schedule A shall not include a permit for the construction of a sales/rental office on the **lot**.

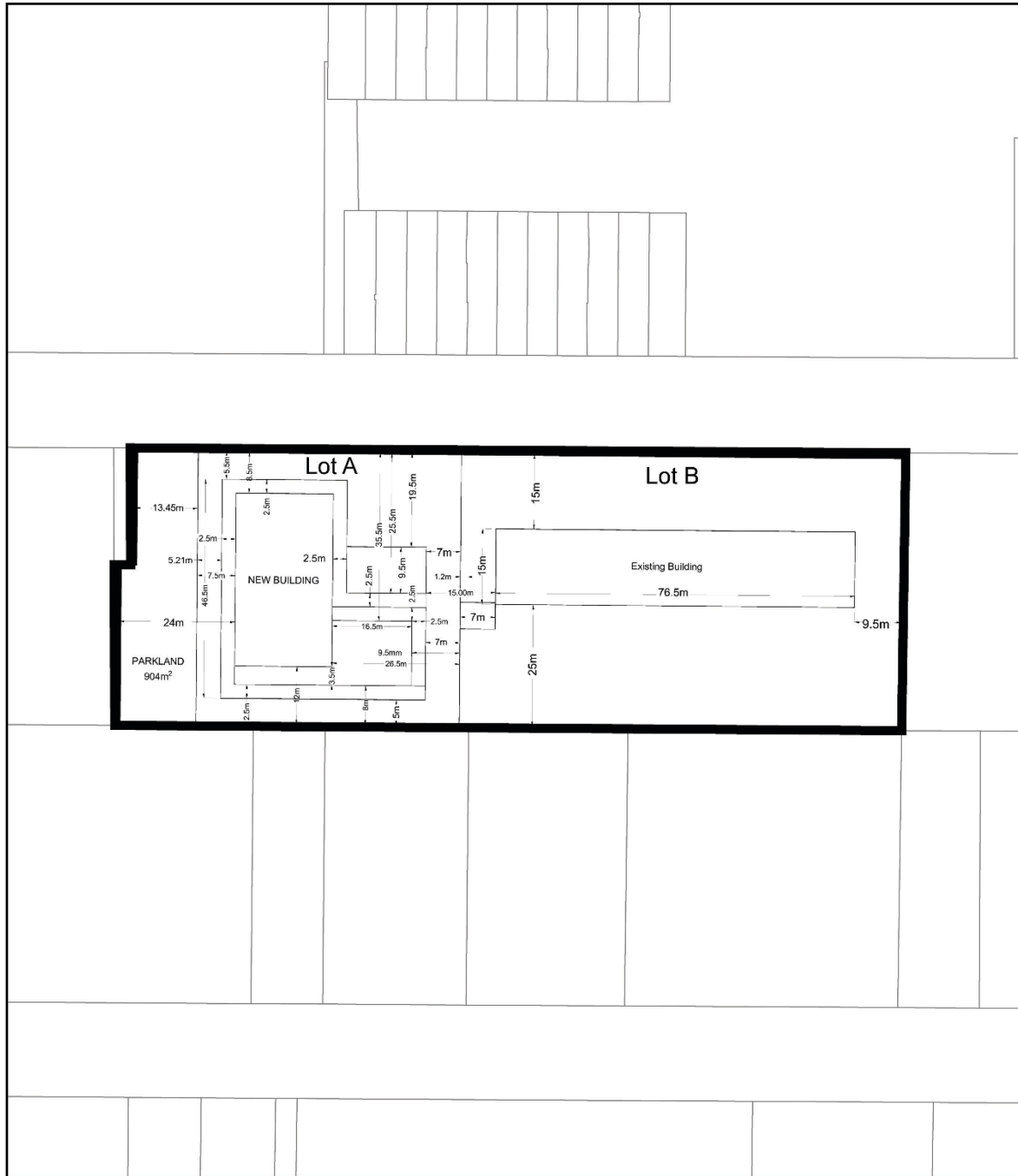
Map 1



Map 2



Map 3



Map 4

