

Authority: Ontario Land Tribunal Decision and Interim Order issued on November 5, 2021 and Order issued on August 12, 2022 in Case OLT-22-003370 (PL200550)

CITY OF TORONTO

BY-LAW 1162-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 95-131 and 155 Balliol Street.

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 OLT-22-003370 (PL200550), approved amendments to City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known as 95-131 and 155 Balliol Street; and

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, 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 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 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 Orders:

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 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 blacklines from a zone label of R (d2.0)(x917) to R (d2.0) (x137) and O, as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Exception Number R (137) to Article 900.2.10 so that it reads:

(137) Exception R (137)

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 95-131 Balliol Street, if the requirements of By-law 1162-2022(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with (B) to (O) below;
- (B) For the purposes of this exception:
 - (i) "lot" is defined as the lands outlined by black lines collectively comprising "Area A", "Area B" and the lands identified as "Parkland", as shown on Diagram 1 of By-law 1162-2022(OLT);
 - (ii) "Area A" and "Area B" are defined as the portions of the **lot** identified on Diagram 1 of By-law 1162-2022(OLT); and
 - (iii) "lot line" is defined to include the boundaries of "Area A" and "Area B", identified on Diagrams 3 and 4 of By-law 1162-2022(OLT).
- (C) Despite Regulations 10.5.60.50(2) and 10.10.40.40(1), the permitted maximum **gross floor area** on the **lot** is as follows:
 - (i) The total **gross floor area** of the **building** on "Area A" on Diagram 3 of By-law 1162-2022(OLT) must not exceed 32,000 square metres;
 - (ii) The minimum non-residential **gross floor area** of the building on "Area A" on Diagram 3 of By-law 1162-2022(OLT) is 135 square metres; and
 - (iii) The total **gross floor area** of the **building** on "Area B" on Diagram 3 of By-law 1162-2022(OLT) must not exceed 21,750 square metres.
- (D) Regulation 10.10.40.30(1)(B) regarding maximum permitted **building depth** does not apply;

- (E) Despite Clause 10.10.40.70, the required minimum **building setbacks** for **buildings** and **structures** within "Area A" and "Area B" are as shown in metres on Diagram 3 of By-law 1162-2022(OLT);
- (F) Despite (E) above, the following elements may encroach into the required minimum **building setbacks** for **buildings** within "Area A" and "Area B":
- (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.
- (G) Despite Regulation 10.5.40.10(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 154.90 metres and elevation of the highest point of the **building** or **structure**;
- (H) Despite Clause 10.5.60.40 and Regulation 10.10.40.10(1)(A), the permitted maximum height of a **building** or **structure** in "Area A" and in "Area B" is the number following the HT symbol in metres as shown on Diagram 4 of By-law 1162-2022(OLT), provided that the required **building setbacks** and stepbacks are complied with in accordance with Diagram 3 of By-law 1162-2022(OLT);
- (I) Despite (H) above, Regulations 10.5.40.10(3) and (4), and 10.10.40.10(8) and (9), equipment and **structures** may project beyond the permitted maximum height of a **building** for "Area A" and "Area B" as follows:
- (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.
- (J) Despite Regulation 10.10.40.50(1), a minimum of 1,050 square metres of indoor residential **amenity space** and 710 square metres of outdoor residential **amenity space** must be provided and maintained within "Area A" for the residents of the new building;
- (K) Despite Regulations 220.5.10.1(1) and (2), a minimum of one (1) Type "C" and one (1) Type "G" **loading spaces** must be provided and maintained on the **lot** for the shared use of **buildings** within "Area A" and "Area B", as shown on Diagram 1 of By-law 1162-2022(OLT);
- (L) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** as follows:
 - (i) A minimum of 0.46 **parking spaces** per **dwelling unit** must be provided and maintained for use by residential occupants;
 - (ii) A minimum of 0.04 **parking spaces** per **dwelling unit** must be provided and maintained for use by residential visitors;
 - (iii) A minimum of 2 **parking spaces** must be provided and maintained for a **day nursery**;
 - (iv) A minimum of 2 "car-share parking spaces" must be provided and maintained;
 - (v) 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** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
 - (vi) For the purpose of this exception, "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes.
- (M) The provision of **dwelling units** for "Area A" 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) An additional 15 percent of the total number of **dwelling units** will be any combination of two bedroom and three bedroom **dwelling units**, or

dwelling units that can be converted into any combination of two and three bedroom **dwelling units**;

- (iv) **Dwelling units**, as described in (M)(iii) above, may be converted using accessible or adaptable design measures such as knock- out panels; and
- (v) if the calculation of the number of required **dwelling units** in (M)(i) to (iii) above results in a number with a fraction, the number may be rounded down to the nearest whole number.

Prevailing By-laws and Prevailing Sections: None

- 5. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 6. Section 37 Requirements:
 - (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, as amended, came into force, and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this By-law 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, as amended, came into force that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
 - (B) Where Schedule A attached to 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; and
 - (C) The owner shall not use, or permit the use of, a **building** or **structure** erected with an increase in height 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 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 Diagram 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 Diagram 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 Diagram 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;
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**.

Diagram 1

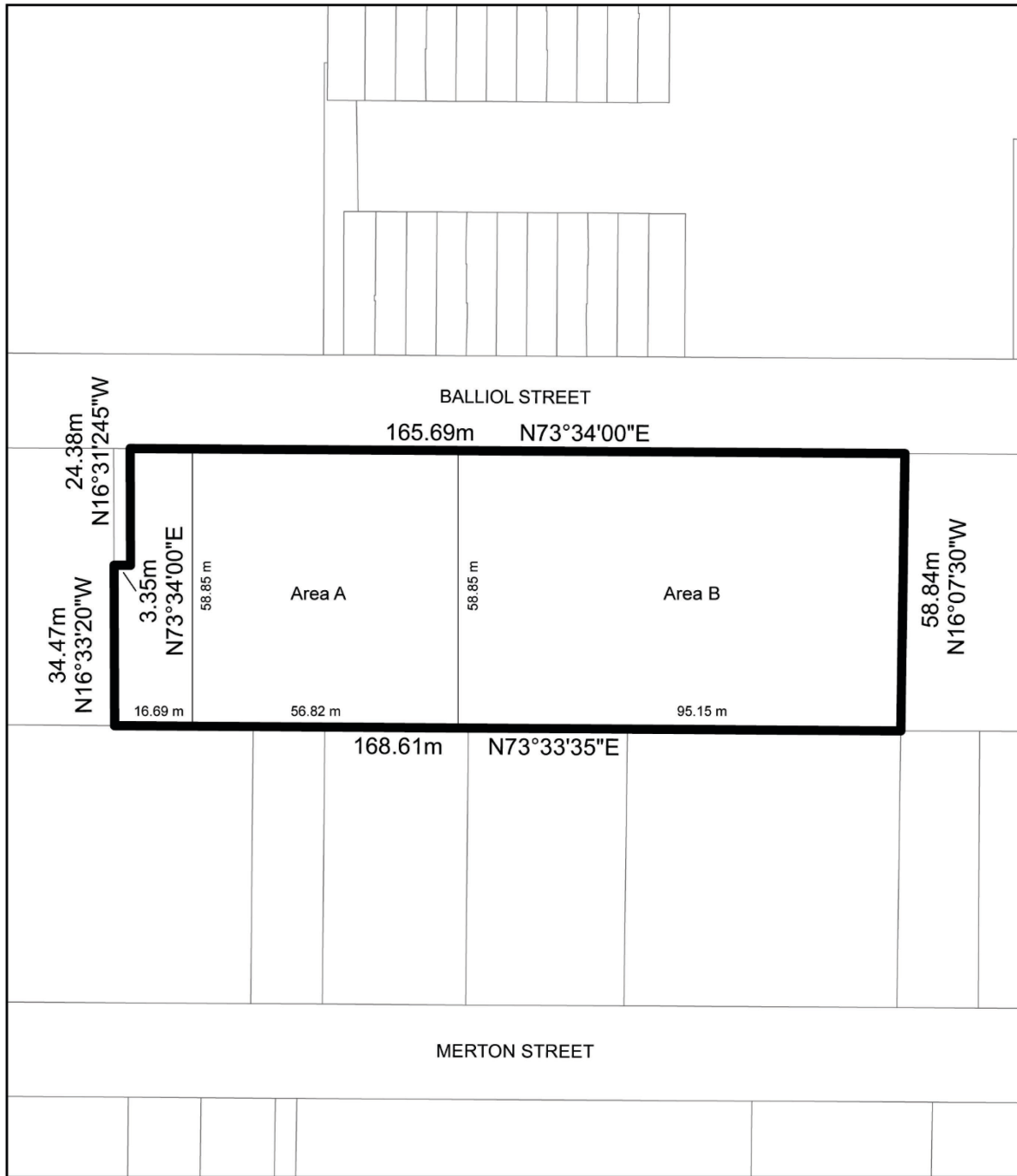


Diagram 2

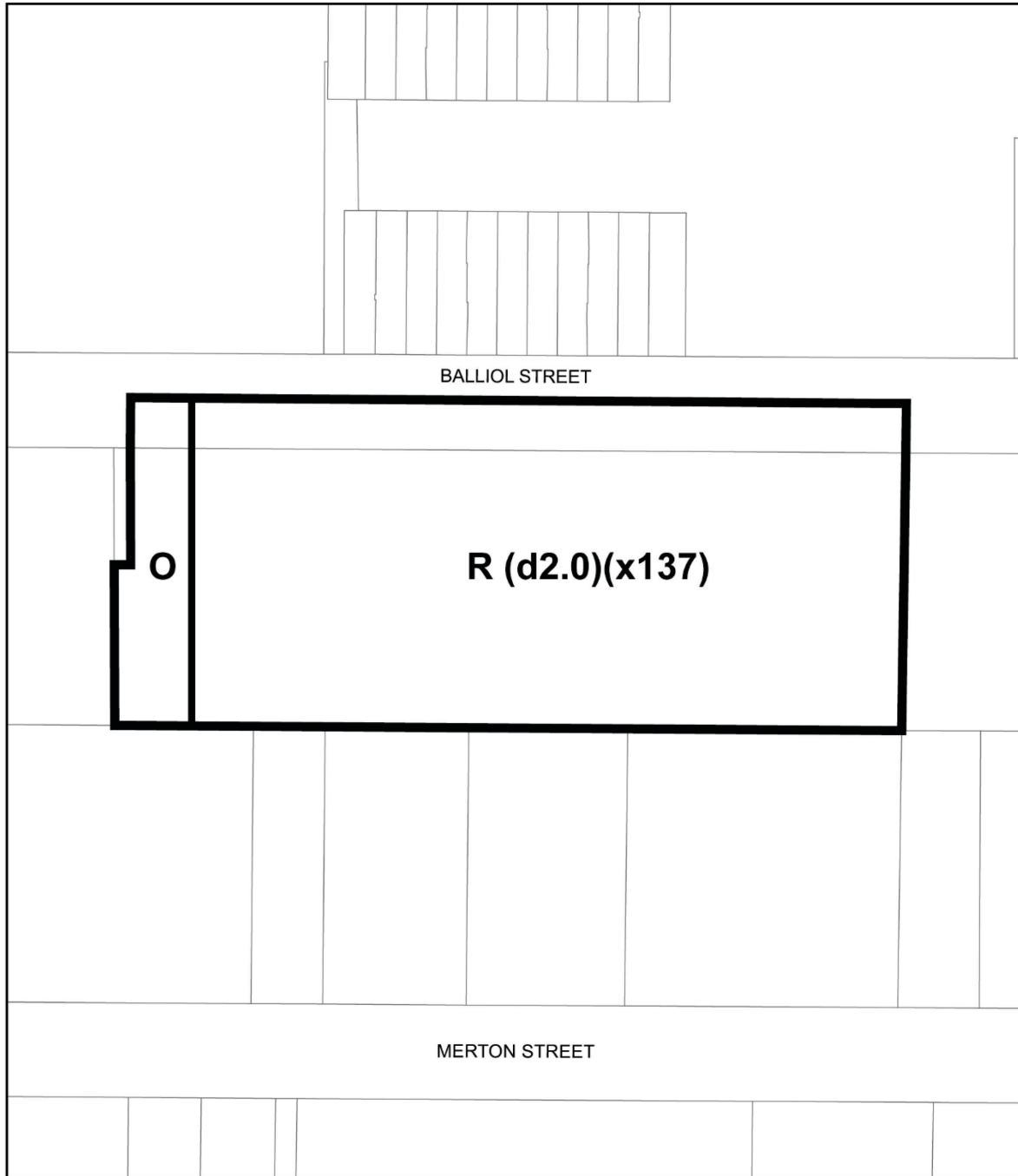


Diagram 3

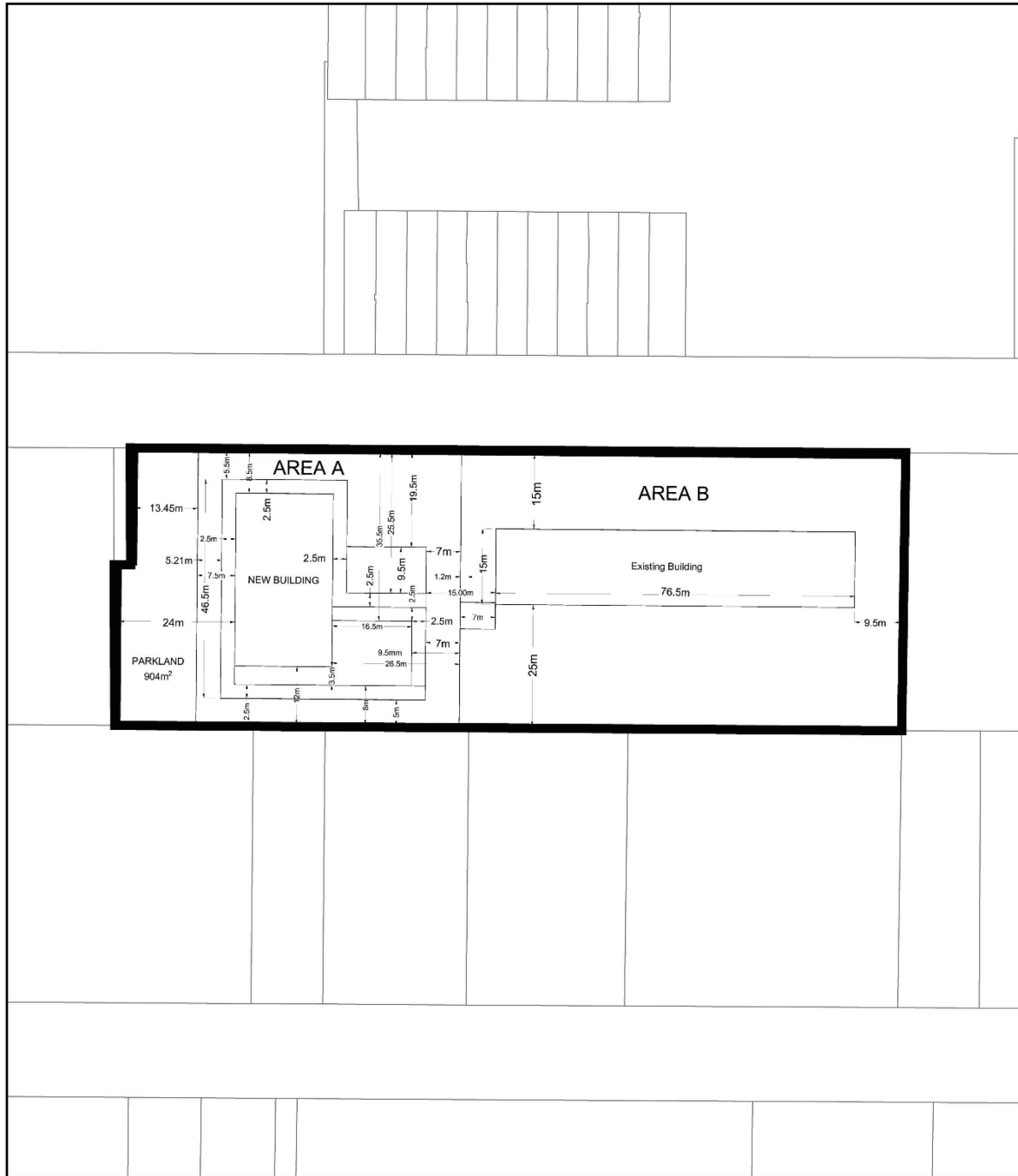


Diagram 4

