

Authority: Ontario Land Tribunal Decision issued on August 14, 2020 and Order issued August 11, 2022 in Ontario Land Tribunal File PL161152

## **CITY OF TORONTO**

### **BY-LAW 1165-2022(OLT)**

**To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2017 as 120, 122, 124, 126 and 128 Peter Street and 357 and 359 Richmond Street West.**

Whereas the Ontario Land Tribunal, formerly the Local Planning Appeal Tribunal, by its Order issued August 11, 2022 in File PL161152, approved amendments to amend City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands known municipally as 120, 122, 124, 126 and 128 Peter Street, 357 and 359 Richmond Street West; 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 Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) of the Planning Act as it read on the day before Section 1 of Section 17 to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37 (1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; and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, or **lot**, 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 black lines from a zone label of CRE to a zone label of CRE (x 51) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number 51.

(51) Exception CRE 51

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 120, 122, 124, 126 and 128 Peter Street and 357 and 359 Richmond Street West, if the requirements of By-law 1165-2022(OLT) are complied with, a **mixed use building or structure** may be constructed, used or enlarged in compliance with Regulations (B) to (DD) below;
- (B) Despite Regulations 50.5.40.10(1) and (2), the height of a **building or structure** is the distance between the Canadian Geodetic Datum of 88.30 metres and the elevation of the highest point of the **building or structure**;
- (C) In addition to the permitted uses listed in Regulations 50.10.20.10 (1) and 50.10.20.20 (1) the following additional uses are permitted:
  - (i) **public parking**;
  - (ii) car-share; and
  - (iii) temporary sales facility;
- (D) Despite Regulation 50.10.40.10 (1) and (2), the permitted maximum **height** of a **building or structure** is the number in metres following the letters "HT" as shown on Diagram 3 of By-law 1165-2022(OLT);
- (E) Despite Regulations 50.5.40.10 (3) to (8) and 50.10.40.10 (2) and (3) and (D) above, the following equipment and **structures** may project beyond the permitted maximum **height** shown on Diagram 3 of By-law 1165-2022(OLT):

- (i) **structures** and elements related to outdoor flooring and roofing assembly by a maximum of 0.5 metres;
  - (ii) **structures** and elements used for **green roof** purposes, mechanical elements, mechanical intake and exhaust ventilations, chimneys, garbage chutes, light fixtures, signage, lightning rods, green energy and renewable energy facilities (such as solar panels) by a maximum of 2.0 metres;
  - (iii) parapets, exterior cladding elements, ornamental or architectural features, dormers, planters, water features, bollards, fences, terrace dividers, privacy and architectural screens, outdoor furniture, artworks, by a maximum of 2.5 metres;
  - (iv) access to rooftops and terraces such as access hatches, stairs, ladders, ramps, elevator overruns, guardrails, railings and safety railings by a maximum of 3.0 metres;
  - (v) **structures** and elements for pool and pool accessories, cabanas, pergolas, trellises, by a maximum of 3.6 metres;
  - (vi) emergency generator and support **structures** by a maximum of 4 metres;
  - (vii) **structures**, elements and architectural features for wind mitigation and window washing equipment by a maximum of 5.5 metres; and
  - (viii) cooling tower and support **structures** by a maximum of 6.0 metres;
- (F) Despite (E) above and with the exception of wind mitigation features, safety railings, lightning rods and window washing equipment which may project vertically to the maximum extent described in (E) above, and flight warning fixtures, nothing can project beyond a maximum **height** of 123.55 metres on the north side of the **building** and a maximum **height** of 141.36 metres on the south side of the **building** in the area illustrated as 'Sloped Roof' on Diagram 3 of By-law 1165-2022(OLT);
- (G) Despite (E) above, only equipment used for the functional operation of the heritage **building(s)** such as, but not limited to, venting, mechanical elements generators, telecommunication infrastructure, and chimney stacks, and such elements provided as part of an approved conservation plan for the heritage **building(s)**, may project above the **height** limits of 11.5 metres and 12 metres illustrated on Diagram 3 of By-law 1165-2022(OLT);
- (i) For the purposes of interpreting this By-law, the 11.5 metre and 12 metre **height** limits apply to the extent of the heritage **buildings** illustrated on Diagram 4 of By-law 1165-2022(OLT);

- (H) Despite Regulation 50.5.1.10 (3) and 50.5.40.40 (3) the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 23,100 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 22,800 square metres; and
  - (ii) the permitted maximum **gross floor area** for non-residential uses is 6,300 square metres, excluding the **gross floor area** associated with the **public parking** use;
- (I) In addition to the elements which reduce **gross floor area** listed in Regulation 50.5.40.40(3), the following elements also reduce the **gross floor area** of a **building**:
- (i) areas used to access **parking spaces** and **loading spaces**; and
  - (ii) open to below areas within the **building**, void space;
- (J) **Dwelling units** on the **lot** must include:
- (i) a minimum of 20 percent of the total number of **dwelling units** must contain two bedrooms;
  - (ii) a minimum of 10 percent of the total number of **dwelling units** must contain three bedrooms; and
  - (iii) in the event that the calculation of the number of proposed **dwelling units** with two or three bedrooms results in a number with a fraction, the number of **dwelling units** shall be rounded up to the next whole number;
- (K) Despite Regulation 50.10.40.50(1), **amenity space** on the **lot** must be provided at the following rates:
- (i) if the **building** contains a **hotel** use:
    - (a) at least 3.43 square metres for each **dwelling unit** as indoor **amenity space** of which a minimum of 1.4 square metres per **dwelling unit** is for the exclusive use of residents, and the balance may be accessible to **hotel** users; and
    - (b) at least 1.59 square metres for each **dwelling unit** as outdoor **amenity space** of which a minimum of 0.83 square metres per **dwelling unit** is for the exclusive use of residents, and the balance may be accessible to **hotel** users;
  - (ii) if the **building** does not contain a **hotel** use:

- (a) at least 2.1 square metres for each **dwelling unit** as indoor **amenity space**; and
  - (b) at least 1.9 square metres for each **dwelling unit** as outdoor **amenity space**;
  - (iii) when calculating the provision in square metres of indoor **amenity space**, the area is measured as the area bounded by the interior surface of demising walls separating **amenity spaces** from other spaces and the interior surface of all exterior walls, and includes areas within the **amenity space** occupied by mechanical/utility and structural columns;
- (L) Despite Clauses 50.10.40.70, 50.10.40.71, 50.10.40.80 and 50.10.40.81 the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 1165-2022(OLT);
- (M) A required minimum **building setback** of 10 metres from the north property line along Richmond Street West and 16 metres from the west property line must be provided at a **height** from 12 metres to 16 metres above the heritage **building** situated on the north portion of the **lot**, in the area of the dashed line as shown in metres on Diagram 4 of By-law 1165-2022(OLT);
- (N) A required minimum **building setback** of 11 metres from the east property line along Peter Street and 20 metres from the south property line must be provided at a **height** from 12 metres to 16 metres above the heritage **building** on the east portion of the **lot**, in the area of the dashed line as shown in metres on Diagram 4 of By-law 1165-2022(OLT);
- (O) Despite Clause 50.10.40.60 and (L), (M) and (N) above, the following elements may encroach into the required minimum **building setbacks** as follows:
- (i) lighting fixtures, signage and directory pylons, street furniture, fire hose connections, gas meters, canopies, including supporting structures, awnings, lighting trellises, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, ramps to underground parking areas and associated enclosures, piers and sun-shades, landscape and green roof elements, wind mitigation structures, covers over walkways, privacy screens, planters, fencing, bollards, safety railings, trellises, guards, retaining walls, bicycle parking facilities, ornamental or architectural features, and art installations, and cladding added to the exterior surface of a main wall;
  - (ii) balconies to a maximum of 1 metre;
  - (iii) cornices, sills and eaves to a maximum of 0.5 metres; and

- (iv) equipment used for the functional operation of the heritage **building(s)** and such elements provided as part of an approved conservation plan for the heritage **building(s)**;
- (P) Despite (L), (M), (N) and (O) above, balcony encroachments are not permitted within the balcony restriction zones on the east and west sides of the **building** in the area illustrated with the hatched lines on Diagram 4 of By-law 1165-2022(OLT);
- (Q) Despite Regulations 50.5.80.10 (1), 200.5.1 (2), and 200.5.10.1 (1) and (5), Clause 200.20.10, and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
  - (i) a minimum of 0.17 residential occupant **parking spaces** for each **dwelling unit**;
  - (ii) no residential visitor **parking spaces** are required;
  - (iii) 0.2 parking spaces per 100 square metres of floor area for **hotel** uses up to a maximum of 14 **parking spaces**;
  - (iv) with the exception of (iii) above and (v) below, no **parking spaces** are required for non-residential uses;
  - (v) if the **building** contains a **hotel** use a minimum of 2 **parking spaces** must be provided for pick-up and drop-off for the **hotel** use; and
  - (vi) up to 35 of the residential occupant **parking spaces** required in (Q) (i) above may be provided and maintained as off-site **parking spaces** on the lands municipally known in the year 2017 as 102-118 Peter Street and 350-354 Adelaide Street West and illustrated on Diagram 1 of By-law 1471-2017;
- (R) Despite Regulation 200.5.1.10(2)(A)(iv), five of the required **parking spaces** may be obstructed on one side as described in Regulation 200.5.1.10(2)(D) without being required to provide additional width for the obstructed side of the **parking space**;
- (S) Regulation 200.5.1.10(12)(C) with respect to the width of **driveways** and the location of a **vehicle** entrance or exit does not apply;
- (T) Despite Regulation 200.5.1.10(13), access to **parking spaces** may be from a **vehicle** elevator;

- (U) Car Share:
- (i) For the purpose of this exception, "car share" means the practice whereby a number of people share the use of one or more cars that are owned and operated by a profit or non-profit car-sharing organization;
- (V) Despite Regulations 220.5.1(2) and 220.5.1.10 (1) and Clause 220.5.10.1 one (1) Type "G" **loading space** must be provided and maintained on the **lot**;
- (W) Despite of Regulation 50.10.90.40, a **loading space** may be accessed from a major street;
- (X) Despite Regulation 230.5.1.10 (4)(A)(ii) and 230.5.1.10 (4)(B)(ii), minimum width of a **bicycle parking space** may be 450 mm;
- (Y) Despite Regulation 230.5.1.10 (9)(A) (iii) and (B) (iii) required "long term" **bicycle parking spaces** may be located on any level of the **building** below-ground regardless of how much floor area is occupied by **bicycle parking spaces**.
- (Z) Despite Regulation 230.5.1.10 (10) a "short term" **bicycle parking space** may also be located in a **stacked bicycle parking space**;
- (AA) A "privately owned publicly-accessible open space" with a minimum area of 100 square metres must be provided on the ground level generally as shown within the area identified on Diagram 4 of By-law 1165-2022(OLT);
- (i) for the purpose of this exception, "privately owned publicly-accessible open space" means a space on the **lot** situated at ground level that is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, seating areas, landscaped plaza, landscape elements, short term bicycle parking required by By-law 1165-2022(OLT), and is used principally for the purpose of sitting, standing and other recreational purposes.
- (BB) Section 600.10 Building Setback Overlay District Map does not apply;
- (CC) Regulation 50.10.40.30(1) does not apply;
- (DD) Regulation 50.10.40.1(4)(A) does not apply;

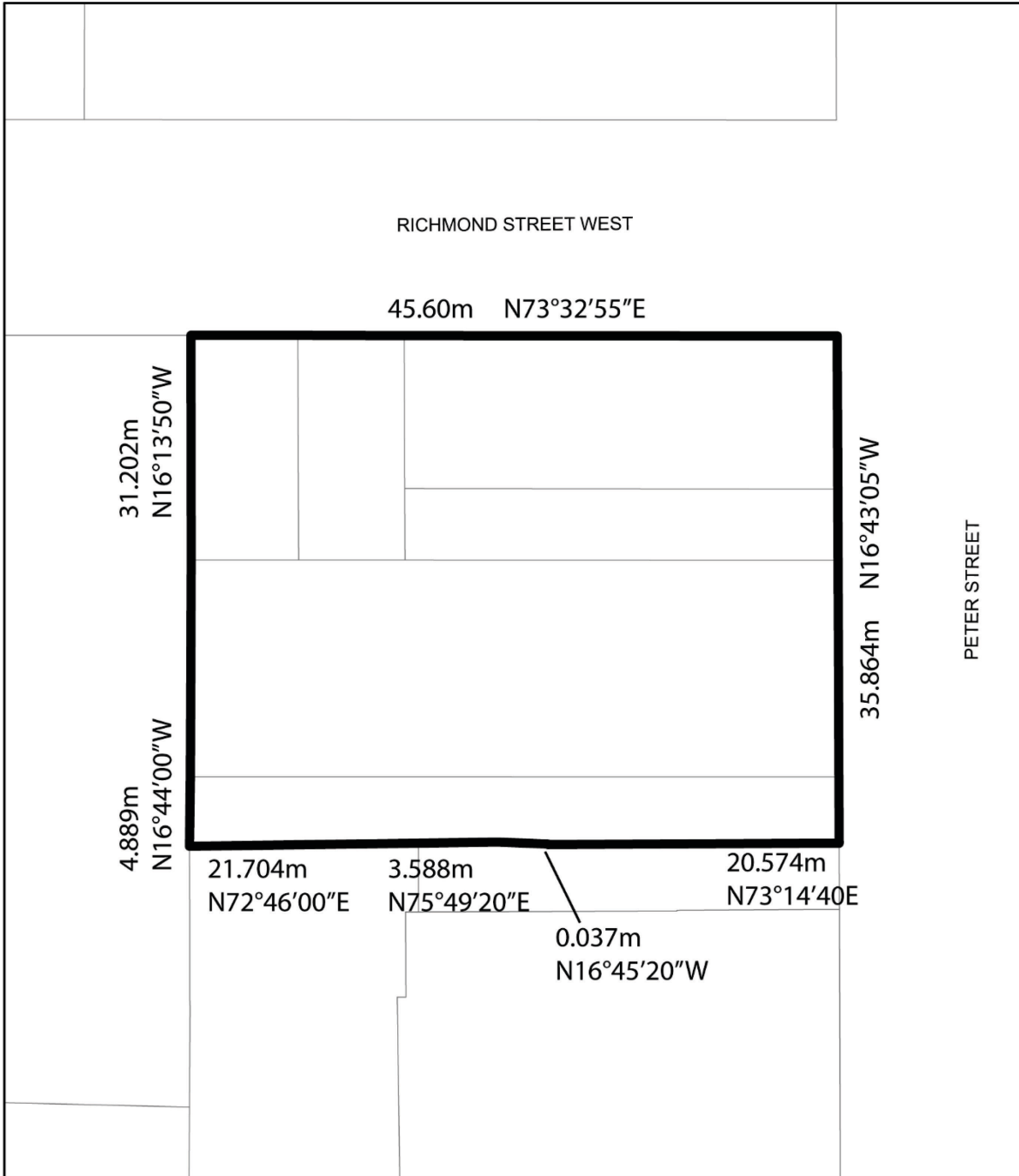
Prevailing By-laws and Prevailing Sections: None Apply

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. For the purpose of this exception "temporary sales facility means a **building** or **structure**, used exclusively for the sale/and or leasing of **dwelling units** or non-residential **gross floor area** to be erected on the **lot**;

7. Section 37 Requirements:

- (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 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 of this By-law 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 and enter into an agreement or agreements 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 and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

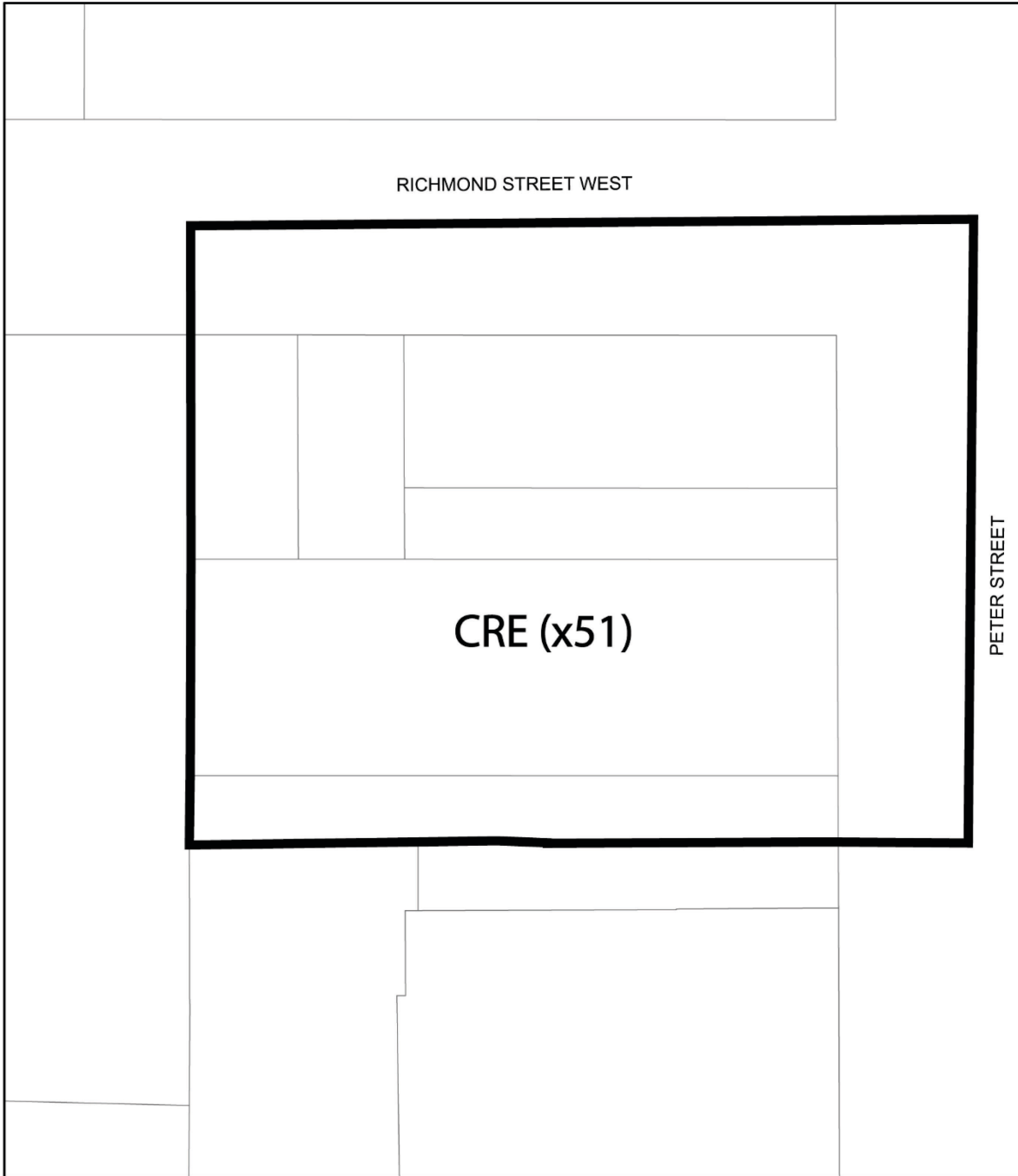
Ontario Land Tribunal Decision issued on August 14, 2020, and Order issued August 11, 2022.



 **TORONTO**  
Diagram 1

120 - 128 Peter Street and 357 and  
359 Richmond Street West

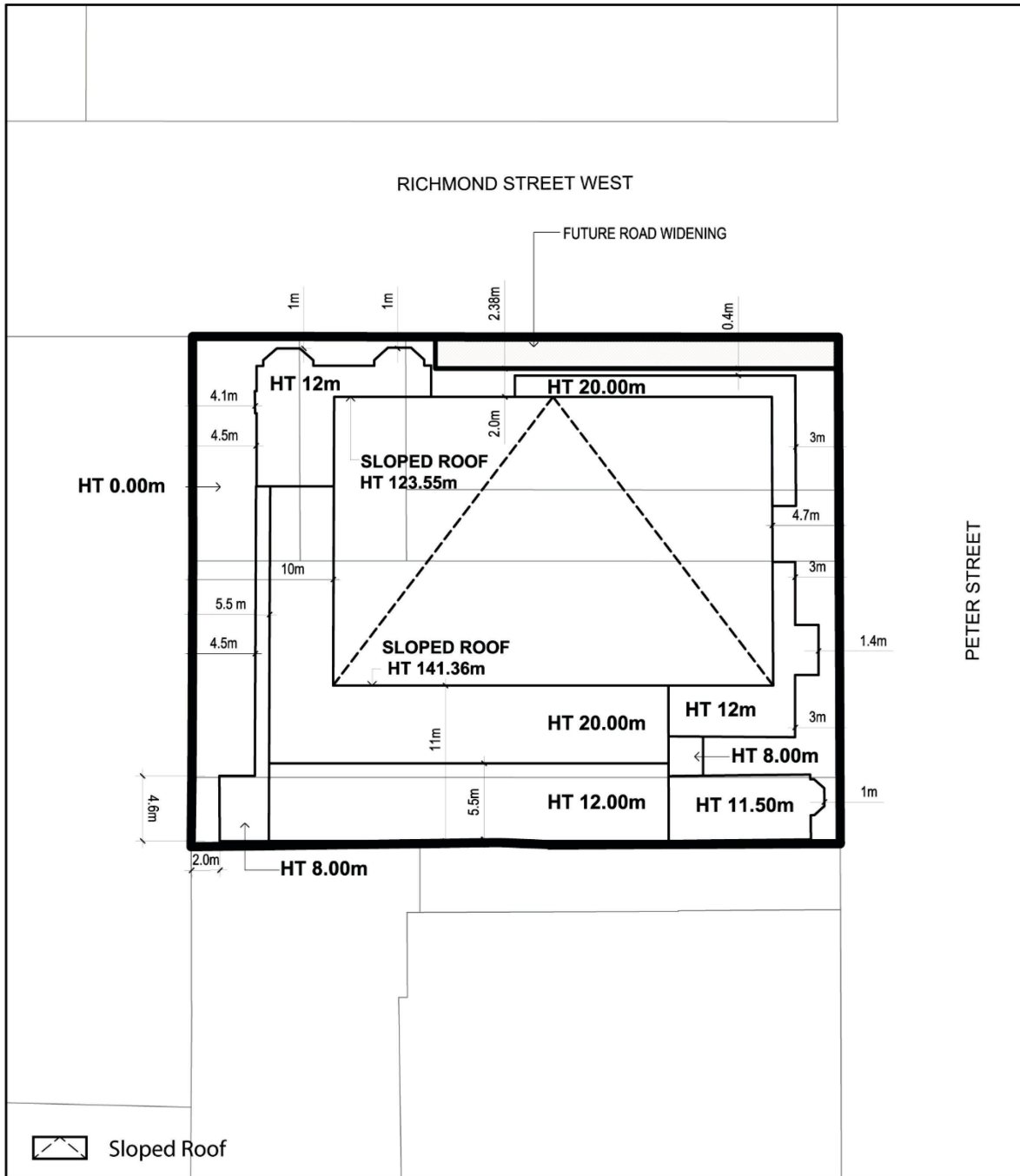
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 **TORONTO**  
Diagram 2

120 - 128 Peter Street and 357 and  
359 Richmond Street West

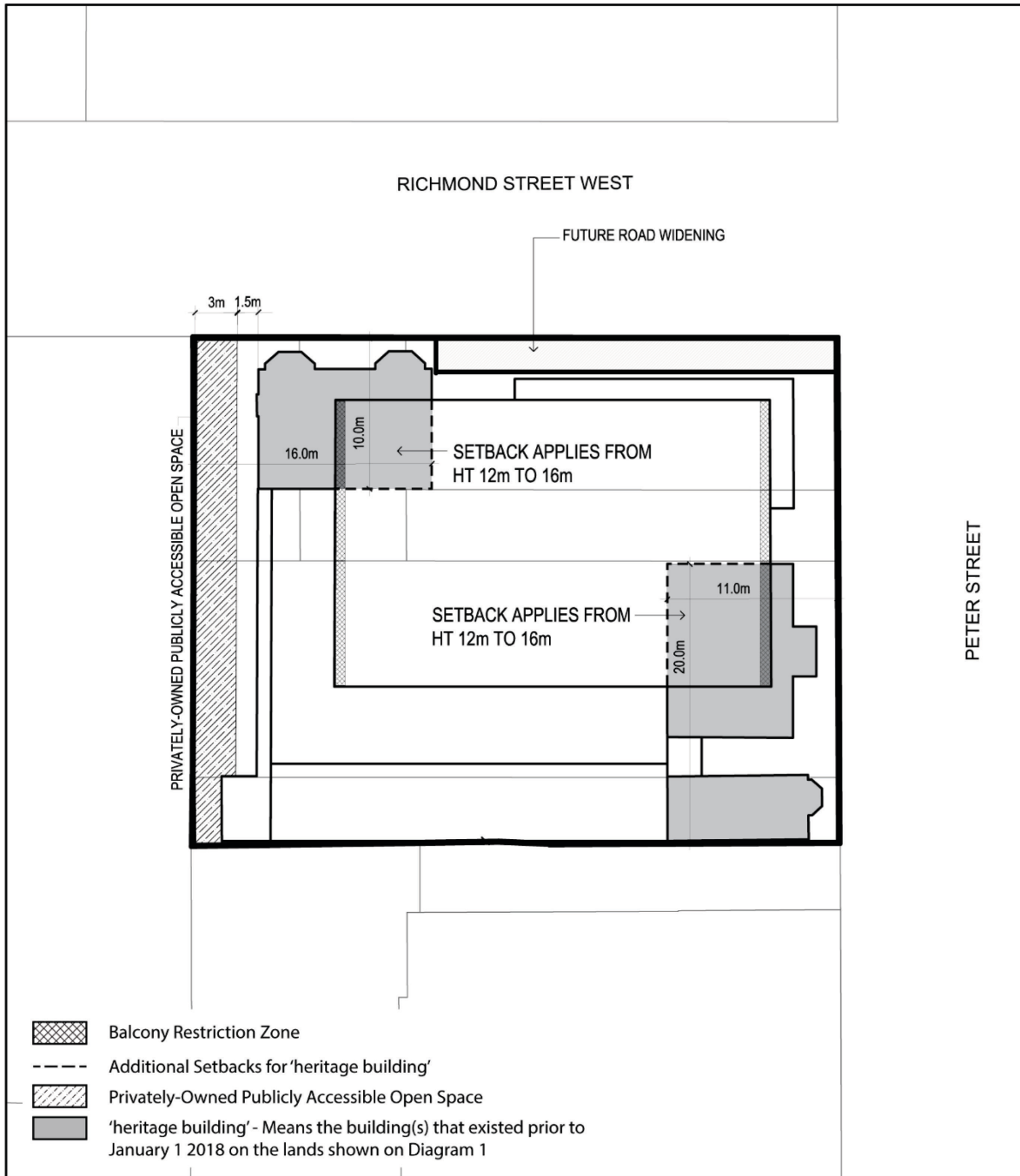
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 **TORONTO**  
Diagram 3

120 - 128 Peter Street and 357 and  
359 Richmond Street West

File # 15 255425 STE 20 0Z



 **TORONTO**  
Diagram 4

120 - 128 Peter Street and 357 and  
359 Richmond Street West

File # 15 255425 STE 20 0Z

**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 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:

**Financial Contribution**

- (1) On the date of the issuance of the Ontario Land Tribunal's final Order, the owner shall make a financial contribution in the amount of one million seven hundred thousand dollars (\$1,700,000.00 CAN) to be provided to the City for the following capital improvements payable by certified cheque to the Treasurer, City of Toronto, and to be allocated at the discretion of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor as follows:
  - a. \$1,360,000.00 towards public realm improvements within the block bounded by Spadina Avenue, Peter Street, Adelaide Street West and Richmond Street West;
  - b. \$170,000.00 towards the provision of new rental housing units in Ward 10, to be directed to the Capital Revolving Fund for Affordable Housing; and
  - c. \$170,000.00 towards the Toronto Community Housing revolving capital fund for repairs to Toronto Community Housing properties in Ward 10,

such amounts to be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto, calculated from the date of execution of the Section 37 Agreement to the day the payment is made.

- (2) In the event the financial contributions referred to in Clause (1) of this Schedule A have not been used for the intended purpose within five (5) years of the By-law coming into full force and effect, the financial contributions may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the **lot**.

The owner shall provide the following to support the development of the lands

**Privately-Owned Publicly Accessible Open Space**

- (3) Prior to the earlier of condominium registration of one (1) year following any non-residential or residential use or occupancy, including interim occupancy pursuant to the Condominium Act, 1998, on the **lot**, except as otherwise agreed by the Chief Planner and Executive Director, City Planning Division due to unforeseen delays (e.g. weather), the owner shall:

- a. construct and maintain an area of not less than 100 square metres at grade for use by the general public as privately-owned publicly accessible open space, along the west side of the site in a location generally as shown on Diagram 4 of this By-law with the specific design of the privately-owned publicly accessible open space to be determined in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor; and
- b. prepare all documents and convey to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the City Solicitor at no cost at an-grade public pedestrian access easement, including support rights, in perpetuity in favour of the City over the privately-owned publicly accessible open space, on terms set out in the Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning Division.

### **Heritage Matters**

- (4) Prior to the issuance of the final Order by the Ontario Land Tribunal, the owner shall:
  - a. provide a Conservation Plan, prepared by a qualified heritage consultant, that is consistent with the conservation strategy set out in the Heritage Impact Assessment 120, 122 and 124 Peter Street and 357 and 359 Richmond Street West prepared by GBCA Architects dated August 4, 2021, to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - b. enter into Heritage Easement Agreements with the City for the properties at 120, 122 and 124 Peter Street and 357 and 359 Richmond Street West, substantially in accordance with the plans and drawings prepared by BDP Architects Limited dated 2021-06-11, and on file with the Senior Manager, Heritage Preservation Services, and the Heritage Impact Assessment (HIA), prepared by GBCA Architects dated August 4, 2021, and in accordance with the approved Conservation Plan required in Clause (4) a. of this Schedule A to the satisfaction of the Senior Manager, Heritage Preservation Services, including execution of such Agreements, with such Agreements to be subsequently registered on title to the properties at 120, 122 and 124 Peter Street and 357 and 359 Richmond Street West to the satisfaction of the City Solicitor.
- (5) Prior to final Site Plan approval for the proposed development for the properties located at 120, 122 and 124 Peter Street and 357 and 359 Richmond Street West, the owner shall:
  - a. provide final site plan drawings including drawings related to the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - b. provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;

- c. provide a Heritage Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services;
  - d. provide a detailed Landscape Plan for the subject properties satisfactory to the Senior Manager, Heritage Preservation Services; and
  - e. submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (6) Prior to the issuance of any permit for all or any part of the properties at 120, 122, and 124 Peter Street and 357 and 359 Richmond Street West, including a heritage permit or a building permit, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Preservation Services, the owner shall:
- a. obtain final approval for the necessary by-law amendments required for the alterations to the properties at 120, 122 and 124 Peter Street and 357 and 359 Richmond Street West, such amendments to have come into effect in a form and with content acceptable to the Chief Planner, and the Executive Director, City Planning Division, in consultation with the Senior Manager, Heritage Preservation Services;
  - b. provide building permit drawings for the subject Heritage Conservation Work and the Permitted Alterations, 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 Preservation Services; and
  - c. provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan, Heritage Lighting Plan, Landscape Plan, and Interpretation Plan.
- (7) Prior to the release of the Letter of Credit the owner shall  
:
- a. have obtained final Site Plan approval for the proposed development, issued by the Chief Planner and Executive Director, City Planning Division;
  - b. provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work, required heritage lighting work, and the required interpretive work has been completed in accordance with the Conservation Plan, Lighting Plan, Landscape Plan, and Interpretation Plan and that an appropriate standard of conservation has been

maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and

- c. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (8) The owner shall not object to the designation of the properties at 120, 122, and 124 Peter Street and 357 and 359 Richmond Street West under Part IV, Section 29 of the Ontario Heritage Act.

### **Design Matters**

- (9) Prior to Site Plan approval, the owner shall provide architectural elevation drawings with building materials, colours and finishes illustrated and labelled that incorporates the following:
- a. the materiality for the podium component to be sympathetic and compatible to the heritage buildings to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - b. the materiality for the east and west elevations of the tower component to incorporate a curtain wall system or a hybrid wall system, or such alternative system to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - c. the materiality of the underside of the tower (soffit) to the satisfaction of the Chief Planner and Executive Director, City Planning Division; and
  - d. the design of the tower, inclusive of the mechanical penthouse, will ensure that shadows are not cast from the development on the north sidewalk of Queen Street West beyond 12:00 p.m., to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- (10) The owner shall incorporate in the construction of the building and thereafter maintain the Approved Design Details as set out in Clause (9) of this Schedule to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

### **Construction Management Plan**

- (11) Prior to the issuance of a building permit the owner shall submit a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager Transportation Services and the Chief Building Official and Executive Director Toronto Building, in consultation with the owner of the lands municipally known as 401 Richmond Street West and the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include but not limited to; details regarding the size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent

residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information and any other matters deemed necessary.