

Authority: Local Planning Appeal Tribunal Decision and Order issued on May 6, 2020, and Ontario Land Tribunal Order issued on August 12, 2022 in File OLT-22-004017 (PL171165)

## **CITY OF TORONTO**

### **BY-LAW 1257-2022(OLT)**

**To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 555 The West Mall.**

Whereas the Local Planning Appeal Tribunal, by its Decision and Order issued on May 6, 2020, and the Ontario Land Tribunal, by its Order issued on August 12, 2022, in Case OLT-22-004017 (PL171165), in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. c. P.13, as amended with respect to the lands municipally known in the year 2021 as 555 The West Mall; 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, 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, a by-law under Section 34 of the Planning Act may authorize increases in 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 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, as amended, came into force, provides that where an owner of land elects to provide facilities, services and matters in return for an increase in 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 the density or height permitted beyond that otherwise permitted on the lands subject to this By-law are to be permitted in return for the provision of the facilities, services and matters set out in this By-law;

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 provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending Article 900.7.10 Exception Number (84) so that it reads:

**Exception RA 84**

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 the lands municipally known in the year 2021 as 555 The West Mall, if the requirements of Section 5 and Schedule A of By-law 1257-2022(OLT) are complied with, a **building** or **structure**, addition or enlargement is permitted in compliance with (B) to (R) below;
- (B) The **buildings** identified as **Building A** and **Building B** are as shown on Diagram 2 attached to By-law 1257-2022(OLT);
- (C) For the purpose of this exception, **established grade** is 145.71;
- (D) Despite regulation 15.10.20.100(13), a **retail store** may have access from an exterior wall;
- (E) Despite regulation 15.10.30.10(2), the minimum **lot area** for each **dwelling unit** is 22 square metres;
- (F) Despite regulation 15.10.40.80(2), the required minimum separation distance between the **main walls** of **Building A** and **Building B** is 20.0 metres below a height of 15.5 metres and 26.0 metres above a height of 15.5 metres, measured above **established grade** as shown on Diagram 3 attached to By-law 1257-2022(OLT);
- (G) Despite clauses 15.10.40.70, the required minimum **building setbacks** are as shown on Diagram 3 attached to By-law 1257-2022(OLT);
- (H) Despite clause 15.5.40.60, and (F) above, balconies, terraces, canopies and vents are permitted to encroach into the minimum **building setbacks** to a maximum of 1.5 metres;
- (I) Despite regulations 15.10.40.10(1) and (2), the permitted maximum height of a **building** or **structure** is the numerical value, in metres, following the letters "HT" and the number of storeys following the letters "ST" shown on Diagram 3 attached to By-law 1257-2022(OLT);

- (J) Despite (H) above, and regulations 15.5.40.10(2) and (3), a parapet wall, safety railing, mechanical equipment, mechanical room, stairs, roof terrace access, terrace, trellis, wind mitigation features or privacy screen may project a maximum of 3.7 metres above the permitted maximum heights shown on Diagram 3 attached to By-law 1257-2022(OLT);
- (K) Despite (I) above, no part of any **building** or **structure** may be located higher than 67.2 metres above **established grade**, except an elevator overrun with a maximum area of 70 square metres may project up to 3.8 metres above a height of 67.2 metres;
- (L) Despite regulation 15.10.40.40(1), the permitted maximum **gross floor area** of the **buildings**, in total, is 30,500 square metres;
- (M) Despite (K) above, the permitted maximum **gross floor area** in **Building B** for each **storey** above a height of 15.5 metres above **established grade** is 750 square metres;
- (N) The permitted maximum number of **dwelling units** is 375;
- (O) A minimum of ten percent (10 percent) of all **dwelling units** must each have at least three bedrooms;
- (P) Despite regulation 15.5.50.10(2), a 1.5 metre **landscape** strip is required along the west property line, which may include a ventilation shaft;
- (Q) Despite regulation 230.5.1.10(4), if a horizontal or vertical Bicycle Parking Space is positioned in an offset overlapping configuration, the minimum width is 0.4 metres; and
- (R) If the calculation of the number of required parking spaces results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than one parking space.

Prevailing By-laws and Sections: (None Apply)

4. Despite any existing or future severance, partition or division of the lot, the provisions of this By-law must apply to the lands identified on Diagram 1 of By-law 1257-2022(OLT) as if no severance, partitions or division occurred.
5. Despite regulation 200.5.10.1, a total of 134 **parking spaces** comprised of 126 resident **parking spaces** and 8 visitor **parking spaces** are required for **Building A**, which may be provided on the properties municipally known in the year 2021 as 350 The East Mall, 580 The East Mall, 475 Rathburn Road and 15 Eva Road or within a radius of 800 metres measured from the boundaries of 555 The West Mall for a period of not more than 4 years from the enactment of this By-law.

**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, as amended, 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 Diagrams 2 and 3 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, 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 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Local Planning Appeal Tribunal Decision and Order issued on May 6, 2020, and Ontario Land Tribunal Order issued on August 12, 2022 in Case OLT-22-004017 (PL171165).

**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. Prior to the issuance of the first Above-Grade Building Permit for a part of or all of the lands, the Owner shall make a cash contribution to the City in the amount of FIVE HUNDRED AND FIFTY THOUSAND DOLLARS (\$550,000.00) (the "**Cash Contribution**"), subject to upward indexing, to be used in the Ward within which the lands are situated and allocated towards the following community benefits to the satisfaction of the Chief Planner and Executive Director, City Planning (the "**Chief Planner**") in consultation with the Ward Councillor:
  - (a) Capital upgrades and improvements to existing community spaces within the vicinity of the lands and more particularly for the Toronto Community Housing Corporation property at 559 The West Mall, and the Etobicoke Olympium Community Centre located at 590 Rathburn Road, to the satisfaction of the Chief Planner in consultation with the Ward Councillor;
  - (b) Streetscape improvements within the vicinity of the lands and more particularly those lands along The West Mall in compliance with the City's Streetscape Manual and to the satisfaction of the Chief Planner in consultation with the General Manager, Parks, Forestry and Recreation (the "**General Manager, PFR**") and the Ward Councillor; and
  - (c) Local area park improvements within the Ward, to the satisfaction of the Chief Planner in consultation with the General Manager, PFR and the Ward Councillor.
2. The Cash Contribution described in 1. above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for the Toronto Census Metropolitan Area, reported by Statistics Canada in the Building Construction Price Indexes Table: 18-10-0135-01 from the date of the execution of the Section 37 Agreement to the date of payment.
3. In the event that the Cash Contribution described in 1. above has not been used for the intended purposes within three (3) years after this Zoning By-law comes into full force and effect, the Cash Contribution may be re-directed for other purposes at the discretion of the Chief Planner in consultation with the Ward Councillor, provided that the purposes

are identified in the Official Plan and will benefit the community in the vicinity of the lands.

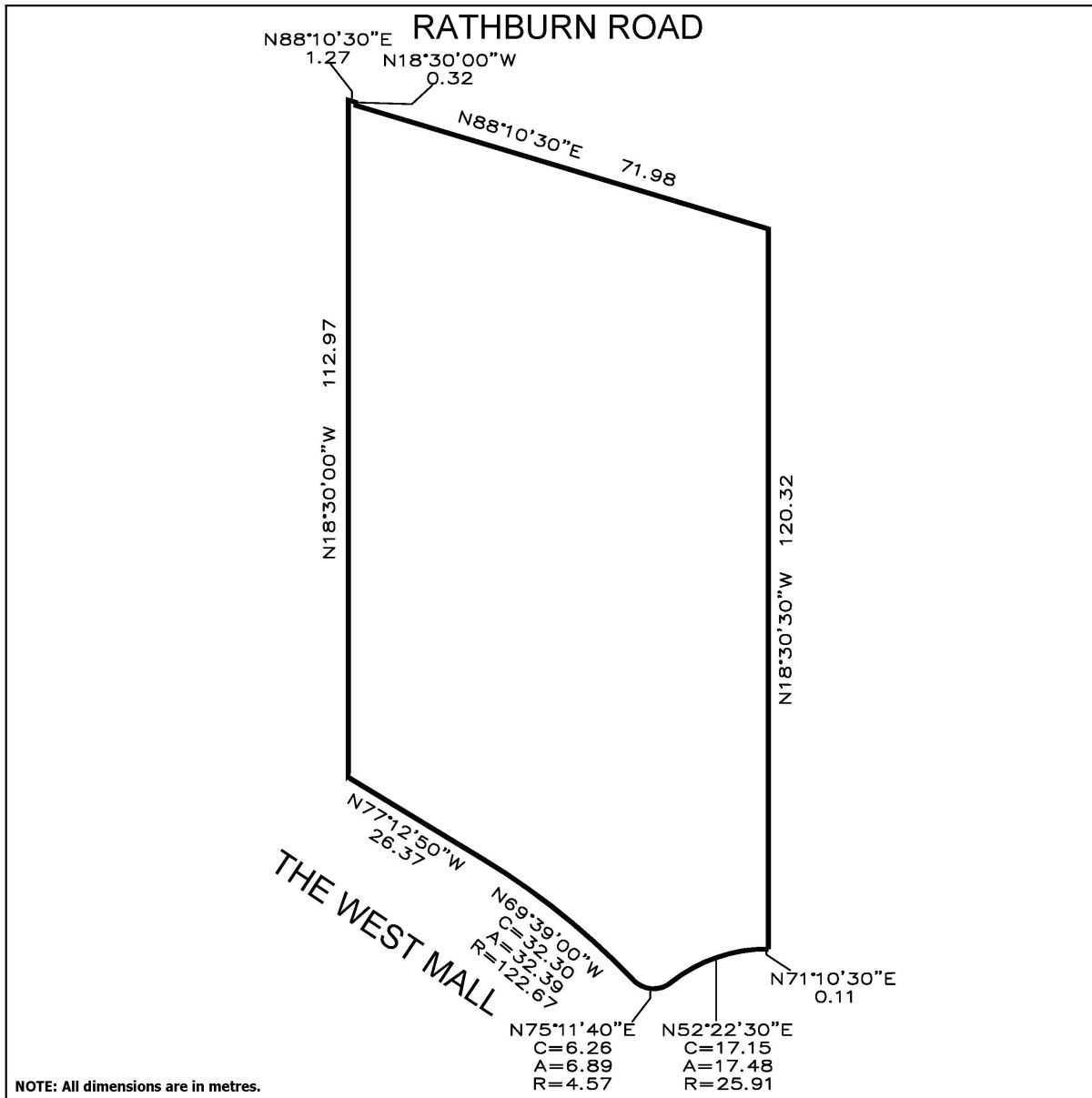
4. The Owner shall provide and maintain the 119 rental housing units currently existing in the existing building on the lands as rental housing for a period of at least 20 years from the date of this By-law coming into full force and effect, to the satisfaction of the Chief Planner and the City Solicitor (the "**Retained Rental Units**"). During the 20 year period, the Retained Rental Units shall not be registered as a condominium and no application may be submitted for condominium approval or for any such conversion to non-rental housing purposes, or for demolition without providing for replacement rental dwelling units.
5. Prior to the issuance of the first Building Permit for the lands, the Owner shall provide, and thereafter implement, at its own expense and to the satisfaction of the Chief Planner, a Tenant Communication and Construction Mitigation Strategy that includes a communication strategy for adjacent property owners and an interim parking plan for existing tenants and tradespeople during the construction period.
6. The Owner shall provide, repair, operate and/or maintain, at its own expense and to the satisfaction of the Chief Planner:
  - (a) At least 628 square metres of indoor amenity spaces on the ground floor of the new residential building on the lands, including but not limited to a furnished multi-purpose room with direct access to washrooms and a fully outfitted fitness and exercise room; and
  - (b) Outdoor amenity spaces as shown on the Landscape Plan prepared by MHBC dated July 9, 2021 that will include at least a children's play area with a minimum of two benches for seating.
  - (c) All indoor amenity spaces located on the ground floor of the new residential building and all at-grade outdoor amenity spaces located on the lands as generally illustrated on the Ground Floor Plan submitted by the Owner in the revised proposal shall be made available for casual and everyday use of the tenants of the Retained Rental Units at no additional charge and on the same terms and conditions as such amenities are made available to the residents of the new residential building. Tenants of the Retained Rental Units may be charged reasonable, ordinary and customary charges for private bookings provided that such amounts do not exceed the amounts charged to the residents of the new residential building.
7. Prior to Site Plan Approval, the Owner shall submit an updated Noise Feasibility Assessment/Addendum Letter to be further peer reviewed and resolved to the satisfaction of the City Solicitor and the Chief Planner. Further, the Owner shall construct and maintain any required noise mitigation measures, to be secured through the Site Plan review process, to the satisfaction of the Chief Planner.

8. The Owner shall implement the wind control measures identified in the Pedestrian Wind Study prepared by RWDI, dated October 31, 2018, and the updated Pedestrian Wind Conditions Addendum Letter prepared by RWDI, dated April 24, 2019, as amended, to the satisfaction of the Chief Planner. Such measures are to be secured through the Site Plan review process.
9. 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.
10. The Owner acknowledges and agrees that a minimum of ten (10) percent of all residential units shown on the plans for the entire lands shall be provided as three-bedroom units.
11. Prior to any construction, the Owner shall obtain all required permit(s) from the Ministry of Transportation.
12. After receiving Site Plan Approval, the Owner acknowledges and agrees that it will work with the City and make its best efforts to obtain a Ministry of Transportation Encroachment Permit for the proposed 2.1 metre access walkway between Rathburn Road and The West Mall. The Owner agrees that it will solely be responsible for any costs and/or fees associated with the Encroachment Permit.
13. The Owner shall notify NAV Canada of construction a minimum of ten (10) days prior to the commencement of construction of the development.
14. The Owner covenants and agrees to provide interim parking for the Development, to be secured through the Site Plan Approval process for the Development as a pre-approval condition, as follows:
  - (a) The Owner shall obtain any requisite relief from the applicable zoning by-laws to permit 134 parking spaces on a temporary basis for the use of the existing tenants of 555 The West Mall during the construction of Development on any one or combination of the following lands:
    - i. 580 The East Mall;
    - ii. 475 Rathburn Road;
    - iii. 350 The East Mall;
    - iv. 15 Eva Road; or
    - v. any other lands provided it is within 800 metres of 555 The West Mall (collectively, the "**Donor Sites**").
  - (b) The Owner shall provide a shuttle bus or alternative means of automotive vehicular transportation between 555 The West Mall and the Donor Sites on a

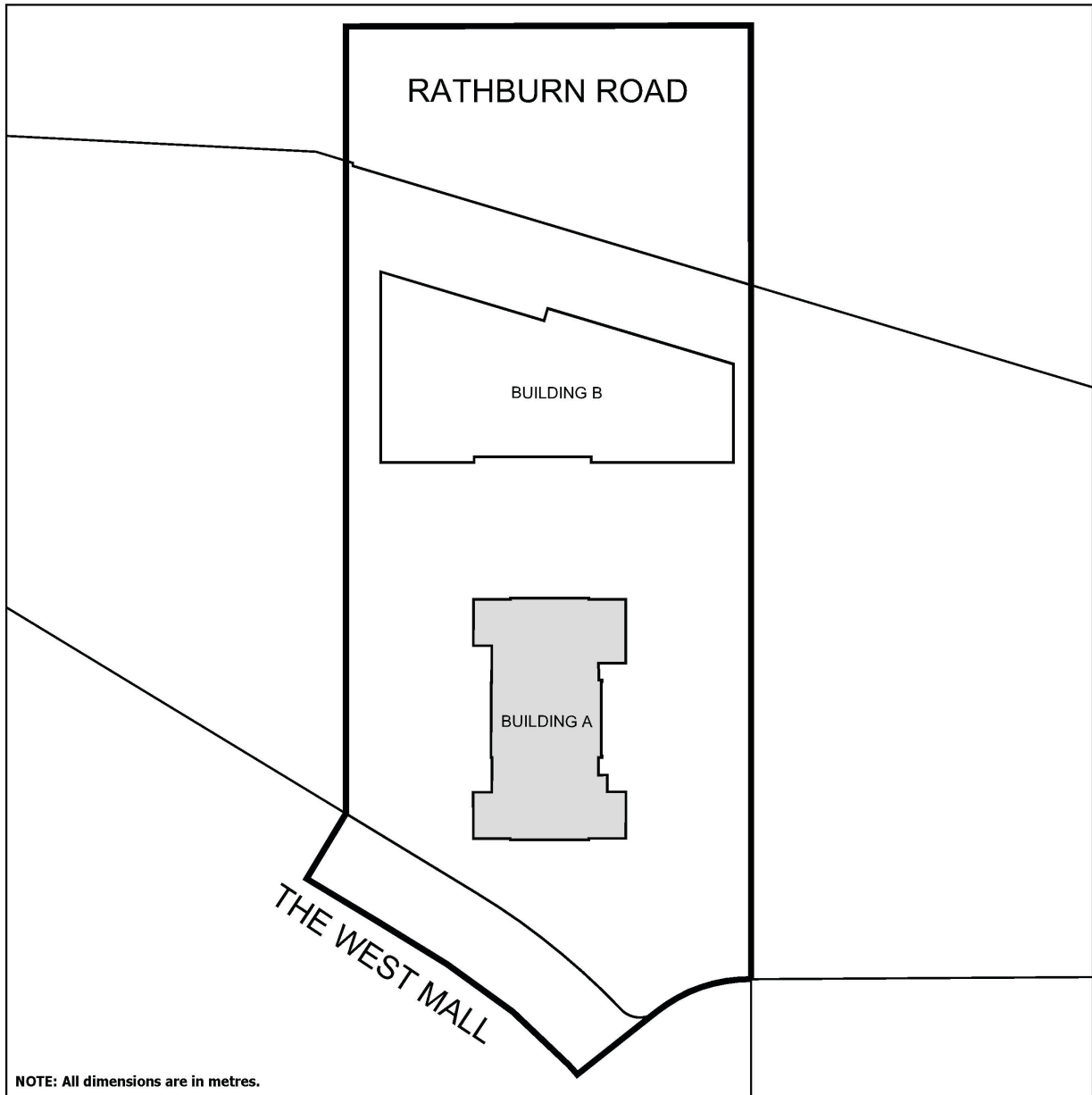
twenty-four (24) hour seven (7) days per week basis until such time as residents of the Retained Rental Building are permitted to resume daily access to the renovated parking facilities at 555 The West Mall;

- (c) The Owner shall not apply for any building permit, conditional or otherwise and including, without limitation, demolition permits and foundation permits, until such time as the Owner has satisfied the above-noted pre-approval conditions of Site Plan Approval found at Section 14(a) and 14(b) herein;
- (d) The Owner covenants and agrees that the requirements, obligations and restrictions identified in this Section shall also be incorporated into any Site Plan Agreement required to permit the Development; and
- (e) The Owner shall undertake the above to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Building Official.

Diagram 1



**Diagram 2**



NOTE: All dimensions are in metres.

Diagram 3

