

Authority: Ontario Land Tribunal Decision issued on December 17, 2019 and Order issued on August 9, 2022 in File OLT-22-003479 and Legacy File PL120063

CITY OF TORONTO

BY-LAW 1266-2022(OLT)

To amend former City of North York Zoning By-law 7625, as amended, with respect to the lands municipally known in the year 2019 as 50 and 52 Neptune Drive.

Whereas the Ontario Land Tribunal (OLT) pursuant to its Decision issued on December 17, 2019 and Order issued on August 9, 2022, in OLT File OLT-22-003479 and Legacy File PL120063, upon hearing an appeal under Section 34(11) of the Planning Act R.S.O 1990, c. P.13, as amended, deems it advisable to amend the former City of North York Zoning By-law 7625, as amended, with respect to lands known municipally in the year 2019 as 50 and 52 Neptune Drive; and

Whereas pursuant to Section 39 of the Planning Act, the Council of the City of Toronto 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 by the by-law; and

Whereas the Official Plan for the City of Toronto contains such 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 Schedule 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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 in Schedule 1 of this By-law in return for the increase in height and density permitted on the aforesaid lands by the Etobicoke Zoning Code, as amended; and

Whereas Schedule A of this By-law requires the owner of the aforesaid lands to provide certain facilities, services or matters and enter into an agreement or agreements between the owner of the land and the City of Toronto prior to the issuance of a building permit;

Therefore the Ontario Land Tribunal orders that By-law 7625, as amended, of the former City of North York, is amended as follows:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York are amended in accordance with Schedules 1 and RM6(221) attached to this By-law.
2. 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(221) RM6(221)

A. DEFINITIONS

(a) APARTMENT HOUSE DWELLING

For the purpose of this exception "apartment house dwelling" must mean a building containing more than four (4) dwelling units, each having access either from an internal corridor system or direct access at grade, or any combination thereof.

(b) BICYCLE PARKING

For the purpose of this exception, "bicycle parking" means an area below established grade or at grade that is designed and equipped with bicycle racks, bicycle stackers or lockers exclusively for the purpose of parking and securing bicycles, but is not intended for general storage use.

(c) BICYCLE ROOM

For the purpose of this exception, "bicycle room" means one of three common indoor spaces located on the first level of the parking garage in close proximity to the elevators and stairs, which is designed and equipped exclusively for the purpose of parking and securing bicycles.

(d) ESTABLISHED GRADE

For the purpose of this exception "established grade" means 184.10 metres Canadian Geodetic Datum.

(e) GROSS FLOOR AREA

For the purpose of this exception, the "Gross Floor Area" is reduced by the area in the building used for:

- (i) Parking, loading and bicycle parking below Grade;
- (ii) Required loading spaces and required bicycle parking spaces at or above Grade;

- (iii) Storage rooms and lockers, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- (iv) Shower and change facilities required by this By-law for required bicycle parking spaces;
- (v) Indoor Recreational Amenity Area required by this By-law;
- (vi) Elevator shafts and elevator lobbies;
- (vii) Garbage shafts, garbage storage areas, and garbage rooms;
- (viii) Mechanical penthouses and mechanical and electrical rooms; and
- (ix) Exit stairwells in the building.

(f) INDOOR RECREATIONAL AMENITY AREA

For the purpose of this exception "indoor recreational amenity area" means an area set aside for social and/or recreational purposes such as indoor swimming pools, exercise or entertainment rooms, change rooms, library space, lounges, meeting or party rooms and other similar uses, which is common to all residents on the building.

(g) LANDSCAPING

For the purpose of this exception, "landscaping" means trees, shrubs, grass, flowers and other vegetation, decorative stonework, walkways, patios, screening or other horticultural or landscape architectural elements, or any combination of these, but not driveways or parking areas and directly associated elements such as curbs or retaining walls.

(h) MECHANICAL FLOOR AREA

For the purpose of this exception, "mechanical floor area" means floor area within a building or structure used exclusively for the accommodation of mechanical equipment necessary to physically operate the building, including but not limited to heating, ventilation, air conditioning, electrical, plumbing, fire protection and elevator equipment.

(i) OUTDOOR RECREATIONAL AMENITY AREA

For the purpose of this exception, "outdoor recreational amenity area" means an area(s) set aside for social and/or recreational purposes such as playgrounds, outdoor swimming pools and seating areas, which is common to all residents of the building.

(j) **PUBLICLY ACCESSIBLE OPEN SPACE**

For the purpose of this exception, "publicly accessible open space" means space which is open and accessible to the public at all times.

(k) **TEMPORARY SALES OFFICE**

For the purpose of this exception, "temporary sales office" means an office located on the site in a temporary or existing building, structure, facility or trailer satisfactory to the City's Chief Planner used exclusively for the purpose of selling or leasing the residential dwelling units or the non-residential gross floor area to be erected within the site.

B. PERMITTED USES

(a) The only permitted uses shall be:

- (i) apartment house dwellings, and accessory uses including recreational amenity areas; and
- (ii) temporary sales office.

C. EXCEPTION REGULATIONS

LOT AREA

- (a) The provisions of Section 20-A.2.1 (Lot Area) do not apply. The Lot Area of the lands identified on Schedule 1 is 2,815.9 square metres.

LOT COVERAGE

- (b) The provisions of Section 20-A.2.2. (Lot Coverage) do not apply.

LOT FRONTAGE

- (c) The provisions of Section 20-A.2.3. (Lot Frontage) do not apply. The Lot Frontage of the lands identified on Schedule RM6(221) is shown on Schedule 1.

YARD SETBACKS

- (d) Notwithstanding Sections 20-A.2.4 (Yard Setbacks) of By-law 7625, the minimum yard setbacks for all buildings and structures above finished grade on the lands identified on Schedule 1 is shown on Schedule RM6(221).
- (e) The minimum yard setbacks shown on Schedule RM6(221) does not apply to canopies, window sills, railings, lighting fixtures, ornamental elements,

transformer vaults, exterior stairways and stairway enclosures, wheelchair ramps and decks, ramps, pergolas, gazebos, and balconies.

- (f) The minimum yard setbacks for structures below finished grade shall be 0 metres.

GROSS FLOOR AREA

- (g) The provisions of Section 20-A.2.5 (Gross Floor Area) shall not apply.
- (h) A maximum gross floor area of 12,350 square metres shall be permitted on the lands identified on Schedule 1.

NUMBER OF DWELLING UNITS

- (i) The maximum number of dwelling units is 164.

SIZE OF UNITS

- (j) Of the maximum number of dwelling units permitted in the "RM6(221)" zone, on the lands identified on Schedule 1, a minimum of 10 percent of the units must have three or more bedrooms.
- (k) Of the maximum number of dwelling units permitted in the "RM6(221)" zone, on the lands identified on Schedule 1, a maximum of 5 percent of the units may be bachelor units, not including the rental dwelling units.
- (l) Of the maximum number of dwelling units permitted in the "RM6(221)" zone, on the lands identified on Schedule 1, the minimum floor areas of the dwelling units, not including the replacement rental dwelling units, must be as follows:

Bachelor	A minimum of 41 square metres
1 Bedroom	A minimum of 46 square metres
1 Bedroom and Den	A minimum of 49 square metres
2 Bedroom	A minimum of 61 square metres
2 Bedroom and Den	A minimum of 68 square metres
3 Bedroom	A minimum of 70 square metres

BUILDING HEIGHT

- (m) Notwithstanding Section 20-A.2.6 (Building Height) of By-law 7625, on the lands identified on Schedule 1 the maximum number of storeys above

established grade and the maximum building height in metres for all buildings is shown on Schedule RM6(221). The number of storeys and measurement of building height excludes mechanical penthouses, parapets, outdoor recreational amenity area, any roof structures used only as ornaments, stairwells to access the roof and stair enclosures.

LANDSCAPING

- (n) The provisions of Section 15.8 (Landscaping) do not apply.

DISTANCE BETWEEN BUILDINGS AND/OR PORTIONS FORMING COURTS

- (o) The provisions of Section 20-A.2.4.1 (Distance between Buildings and/or Portions of Buildings Forming Courts) do not apply.

RESIDENTIAL RECREATIONAL AMENITY AREA

- (p) A minimum of 1.6 square metres per dwelling unit of indoor recreational amenity area must be provided for in the building.
- (q) A minimum of 1.5 square metres per dwelling unit of outdoor recreational amenity area must be provided in the building.
- (r) A minimum of 88 square metres of outdoor recreational amenity area must be provided at grade for all residential units of the building.
- (s) A maximum of 330 square metres of outdoor residential recreational amenity area may be located on the roof top terrace for all residential units of the building, but cannot include a passive or otherwise inaccessible green roof.

PARKING

- (t) All required parking must be provided within the lands shown on Schedule 1.
- (u) All required parking must be provided below established grade with the exception of surface parking spaces intended for short term parking and delivery which may be permitted on the lands shown on Schedule 1.
- (v) Notwithstanding Section 6A(2) (Parking Requirements) of By-law 7625, the minimum number of parking spaces is calculated as follows:
 - (i) 0.68 spaces per dwelling unit for residents;
 - (ii) 0.09 spaces per dwelling unit for visitors; and

- (iii) of which 18 spaces shall be for the use of the residential rental replacement dwelling units.
- (w) A maximum of 4 visitor parking spaces may be provided at grade within the lands shown on Schedule 1 and will include one universally accessible parking space.

BICYCLE PARKING

- (x) Bicycle parking must be provided in three common bicycle rooms on the first floor of the parking garage, or at grade, on the lands shown on Schedule 1 as follows:
 - (i) 0.6 bicycle parking spaces per dwelling unit for residents;
 - (ii) 0.15 bicycle parking spaces per dwelling unit for visitors; and
 - (iii) A maximum of 25 visitor bicycle parking spaces and may be permitted at grade within the lands shown on Schedule 1.

LOADING

- (y) Notwithstanding Section 6A(16) (Loading Requirements) of By-law 7625 do not apply and loading must be provided as follows:
 - (i) a minimum of one (1) Type G Loading Space must be provided on the lands shown on Schedule 1.

LAND DIVISION

- (z) Notwithstanding any severance, partition or division of the site, the regulations of this exception continue to apply to the whole of the site as if no severance, partition or division had occurred.

3. Section 37 Provisions

- (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 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 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.

- (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.
- 4. Section 64.20-A of By-law 7625 of the former City of North York is amended by adding Schedules 1 and RM6(221) attached to this By-law.
- 5. Within the lands shown on Schedule 1 attached to this By-law and zoned "RM6(221)", 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 have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway.
 - (b) All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

Ontario Land Tribunal Decision issued on December 17, 2019 and Order issued on August 9, 2022 in File OLT-22-003479 and Legacy File PL120063.

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 as shown in Schedule 1 of this By-law and secured in a registered agreement or agreements under Section 37(3) of the Planning Act, whereby the owner agrees as follows:

- (1) Prior to the issuance of any Building Permit, the Owner shall enter into an agreement or agreements to the satisfaction of the City Solicitor 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 came into force to secure the facilities, services or matters set out below.

Community Benefits

- (2) Prior to the issuance of the first above grade building permit, the Owner shall make an indexed cash contribution to the City in the amount of TWO HUNDRED AND TEN THOUSAND dollars (\$210,000) to be allocated as follows, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the local Ward Councillor:
 - (i) \$200,000 shall be used towards capital projects in Ward 8, which may include local parkland improvements and street enhancement projects; and
 - (ii) \$10,000 shall be used towards public art.
- (3) The Cash Contribution set out in Clause 2 shall be indexed upwardly in accordance with the Statistics Canada 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 the by-law comes into force to the date of payment of the Cash Contribution by the owner to the City.
- (4) In the event the Cash Contribution in Clause 2 has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity.

Matters of Legal Convenience

- (5) The owner must provide and maintain on the site a minimum of twenty-four (24) new replacement rental dwelling units, comprising at least twenty (20) affordable rental replacement dwelling units and four (4) mid-range rental replacement dwelling units, which units must be of a similar size as the existing units on the site as of the date of this

By-law, to the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, and subject to the following:

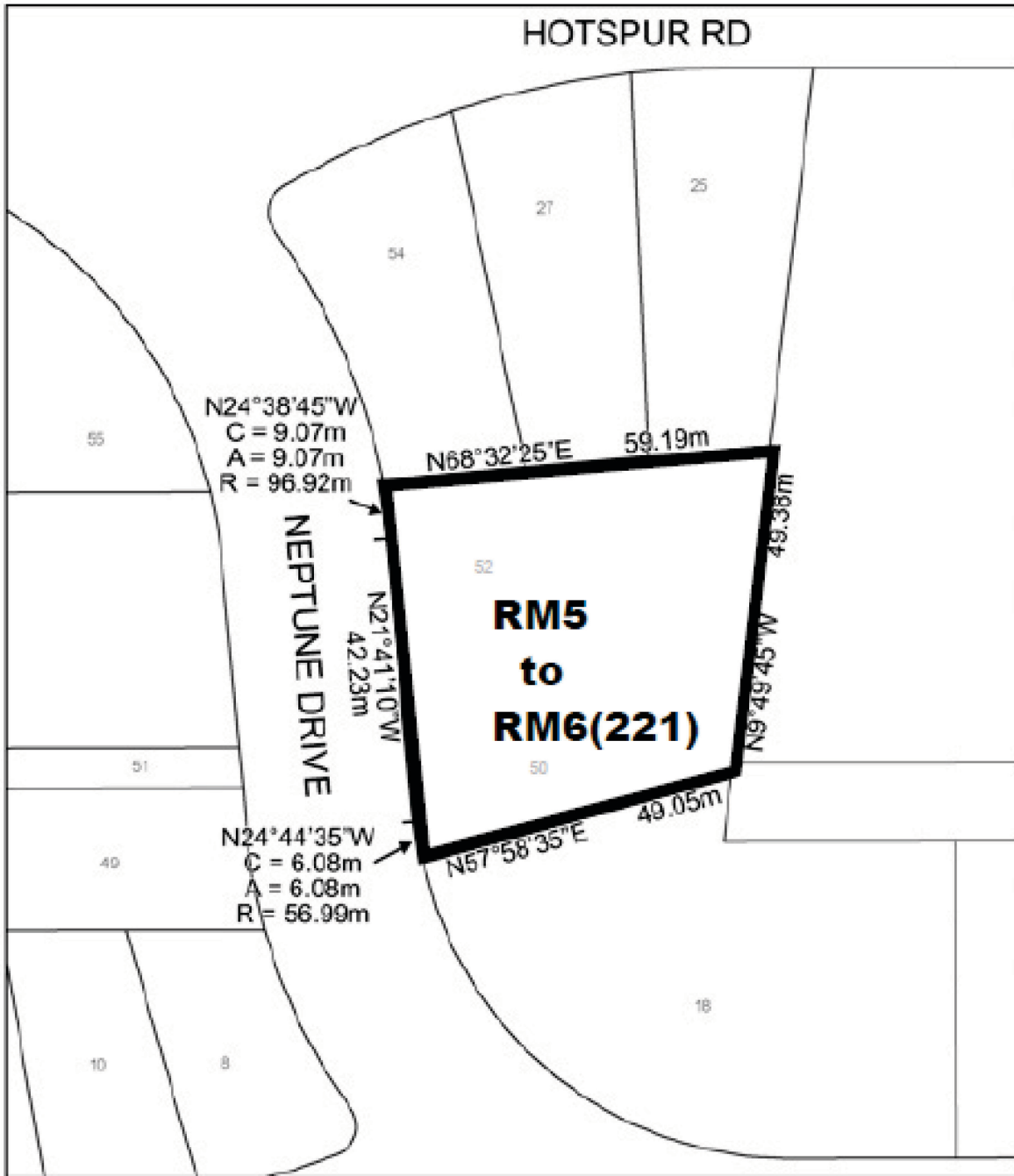
- (i) Twenty-four (24) rental dwelling units must be located on the site, comprised of twelve (12) one-bedroom dwelling units, of which no more than two may have interior bedrooms, and twelve (12) two-bedroom dwelling units.
- (ii) The twenty-four (24) rental dwelling units must be located within the building in contiguous groups of at least six (6).
- (iii) At least 16 rental dwelling units must have a private outdoor amenity space for the exclusive use of the unit's residents.
- (iv) The minimum floor areas of the rental dwelling units shall be as follows:
 - 1) There must be two (2) one-bedroom units of a minimum of 545 square feet, which may have interior bedrooms;
 - 2) There shall be three (3) one-bedroom units with a minimum size of 738 square feet;
 - 3) There shall be six (6) one-bedroom units with a minimum size of 750 square feet;
 - 4) There shall be one (1) one-bedroom unit larger than 760 square feet;
 - 5) There shall be two (2) two bedroom units of a minimum size of 878 square feet;
 - 6) There shall be two (2) two-bedroom units of a minimum size of 891 square feet;
 - 7) There shall be a two-bedroom unit with a minimum size of 925 square feet;
 - 8) There shall be four (4) two-bedroom units of a minimum size of 941 square feet;
 - 9) There shall be three (3) two-bedroom units of a minimum size of 967 square feet; and
 - 10) Tenants of the rental dwelling units must have access to all of the building facilities, including common amenity areas on the same basis as other residents of the building.
- (v) The replacement rental dwelling units must be maintained as rental units for at least twenty (20) years, beginning with the date that each unit is occupied and until the owner obtains approval for a zoning by-law amendment removing the

requirement for the replacement rental units to be maintained as rental units. No application may be submitted for condominium approval or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period.

- (vi) The twenty-four (24) replacement rental dwelling units must be ready and available for occupancy no later than the date by which not more than seventy percent (70 percent) of the other dwelling units erected on the lot are available and ready for occupancy.
- (vii) The affordable rental units shall be a unit mix of nine (9) one-bedroom dwelling units and eleven (11) two-bedroom dwelling units.
- (viii) The owner must provide and maintain affordable rents charged to the tenants who rent each of the twenty (20) affordable rental replacement dwelling units during the first ten (10) years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline, and if applicable, permitted above-Guideline increases. Upon turn-over during the 10 year period, the rent charged to any new tenant shall not exceed an amount based on the initial rent, increased annually by the Provincial Rent Guideline, and any above-Guideline increase, if applicable.
- (ix) The two (2) one bedroom rental units that have interior bedrooms may not exceed the affordable rent limit for one (1) bedroom units.
- (x) The mid-range units shall be a unit mix of 3 one-bedroom dwelling units and 1 two-bedroom dwelling units.
- (xi) The owner shall provide and maintain rents no greater than midrange rents charged to the tenants who rent each of the four (4) mid-range rental replacement dwelling units during the first ten (10) years of its occupancy, with mid-range rents on the same basis as paragraph 4 except that the maximum mid-range rent shall not exceed an amount that is 1.5 times average market rent by unit type. For clarity, these rents, inclusive of heat and water, but not inclusive of hydro for separately metered units, shall not exceed the maximum rent by type for the unit based on the mid-range rent limit.
- (xii) Rents charged to tenants occupying a replacement rental dwelling unit at the end of the 10-year period set forth in paragraphs 4 and 5 and shall be subject only to annual increases which do not exceed the Provincial rent guideline, so long as they continue to occupy their dwelling unit or until the expiry of the rental tenure period set forth in paragraph 10, with a subsequent phase-in period of a least three years for rent increases to unrestricted market rents. Rents charged to tenants newly occupying a replacement rental dwelling unit after the completion of the 10-year period set forth in paragraphs 4 and 5 and will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.

- (xiii) The owner must provide tenant relocation assistance to the tenants of the existing units at 50 and 52 Neptune Drive affected by the demolition to the satisfaction of the Chief Planner and Executive Director, City Planning Division. The owner must provide assistance that shall include at least: an extended notice period before having to vacate for demolition, other financial assistance with relocation beyond the amounts required by provincial legislation based on special needs and a sliding scale related to the length of tenancy for each tenant household, and the right to return to a rental replacement unit.
- (6) Prior to condominium registration, the owner shall authorize and permit public access to the publicly accessible open space shown on Schedule RM6(221).
- (7) The owner shall provide for integrated landscaping with the site known municipally in 2019 as 3636 Bathurst Street to the satisfaction of the City.
- (8) The owner shall provide for integrated bicycle and pedestrian connectivity with the site known municipally in 2019 as 3636 Bathurst Street to the satisfaction of the City.
- (9) The owner shall secure a surface easement in favour of the City of Toronto, for the lands designated publicly accessible open space on Schedule 1 attached hereto.
- (10) The owner shall provide an easement in favour of the City of Toronto for public access between 50 and 52 Neptune Drive and the lands known municipally in 2019 as 3636 Bathurst Street to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- (11) The owner shall provide public access (including barrier free options) between the 50 and 52 Neptune Drive lands and the 3636 Bathurst Street lands across the publicly accessible open space. The design and grading of the open spaces on both properties will be coordinated.
- (12) The owner agrees to enter into an agreement with the City pursuant to Section 37 of the Planning Act, to secure the provision of said facilities, services and matters, in a form satisfactory to the City's Solicitor, with conditions providing for indexed escalation of financial contributions, no credit for development charges, termination and unwinding, and registration and priority of the agreement.
- (13) Notwithstanding any of the foregoing provisions, the owner and the City may modify or amend the said Section 37 agreement from time to time and, upon the consent of the City and the owner, without further amendment to those provisions of this By-law which indemnify the facilities, services and matters to be secured.

Schedule 1



 **TORONTO**
Schedule 1

50-52 Neptune Drive

File # 09 200486 NNY 15 OZ


Not to Scale
11/12/2018

Schedule RM6 (221)

