

Authority: Local Planning Appeal Tribunal Decision issued on December 1, 2021 and Ontario Land Tribunal Order issued on August 12, 2022, effective date as of August 11, 2022, in File OLT-22-003798 and Legacy File PL180021

CITY OF TORONTO

BY-LAW 1267-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 30 Merton Street.

Whereas the Local Planning Appeal Tribunal pursuant to its Decision issued on December 1, 2021 and its Order issued on August 12, 2022, effective date as of August 11, 2022, in OLT Case OLT-22-003798 and Legacy Case PL180021 following an appeal pursuant to Section 34(11) the Planning Act, R.S.O. 1990, c. P.13, as amended deems it advisable to amend By-law 569-2013, as amended, of the City of Toronto with respect to lands municipally known as 30 Merton Street; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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 or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matter 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, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out in Schedule A of this By-law in return for the increase in height and density permitted on the aforesaid lands by By-law 569-2013, 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; and

Whereas pursuant to Section 39 of the Planning Act, the Council of a Municipality may, in a by-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law;

By-law 569-2013, as amended, of the City of Toronto is further amended by the Ontario Land Tribunal as follows:

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, as amended, 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 in heavy black line to CR 2.0 (c2.0; r2.0) SS2 (x525) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number 525 so that it reads:

(525) Exception CR 525

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 30 Merton Street, if the requirements of Section 7 and Schedule A of By-law 1267-2022(OLT) are complied with, a **building** or **structure** may be erected and used in compliance with (B) to (EE) below;
- (B) For the purpose of this exception, the **lot** comprises the lands outlined by heavy lines on Diagram 1, attached to By-law 1267-2022(OLT);
- (C) Despite Regulation 40.10.20.100(7), a **public parking** facility is permitted in an above-ground **parking garage**, provided such use is located on or below the **first floor** of a **building**;
- (D) For the purpose of this Exception, **first floor** means the floor of a **building** that is closest in elevation to the elevation of **established grade**, and may include an area used for a **parking space**;
- (E) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** for all uses on the **lot** is 33,000 square metres, of which:
 - i. the maximum permitted **gross floor area** for an above-ground **parking garage** is 8,250 square metres;
 - ii. the maximum permitted **gross floor area** for residential uses is 24,500 square metres;

- iii. the minimum required **gross floor area** for non-residential uses, other than a **public parking** facility, is 150 square metres and must be located on the **first floor**, facing to Merton Street;
- (F) In addition to the elements which reduce **gross floor area** listed in Regulation 40.5.40.40(3), the **gross floor area** of a **mixed use building** is also reduced by the area in the **building** used for:
- i. Indoor **Amenity space**, which may include pet wash, stroller/bicycle washing rooms, related storage or utility rooms, and multi-purpose spaces that are communal and available for use by the occupants of a **building** on the **lot**;
 - ii. A below-ground **public parking** facility and related vestibules and lobbies;
 - iii. Ground level **parking spaces** and associated **drive aisle** and **driveway** which are located in a **building**;
- (G) Despite Clauses 40.10.40.70 and 40.10.40.80, the required minimum **building** setbacks and the required minimum separation distances between **main walls** of **buildings** or **structures** is shown in metres on Diagram 3 of By-law 1267-2022(OLT);
- (H) Despite Regulation 40.10.40.70(2)(C) and (G) above, where the **main wall** of a **building** has windows, the **main wall** must be set back at least 12.5 metres from a **lot line** that is not adjacent to a **street** or **lane**, otherwise no **building setback** is required;
- (I) Despite Regulations 40.5.40.70(1)(A) and (G) and (H) above, and Clauses 40.5.40.60 and 40.10.40.60, the following elements of a **building** or **structure** may encroach into a required minimum **building setback** and a required minimum **main wall** separation distance as follows:
- i. Light fixtures, cornices, sills, eaves, window washing equipment, guardrails, parapets, and ornamental or architectural features by a maximum of 1.0 metre;
 - ii. Terraces, balconies, terrace or balcony platforms, by a maximum 2.0 metres;
 - iii. Canopies/awnings, which may project by a maximum 3.0 metres;
 - iv. Bollards, stairs and related enclosures, wheelchair ramps, retaining walls, air intakes and vents, ventilating equipment, screens and dividers, elements associated with outdoor recreation uses, landscape features, and art installations; and
 - v. **Structures**, elements and enclosures permitted by (L) below;

- (J) Despite Regulation 40.5.40.10(1) and (2) and 40.10.40.10(2), the permitted maximum height of a **building** or **structure**, measured from the average elevation of the ground along the **front lot line** to the highest point of the **building** or **structure** is the number in metres following the HT symbol as shown on Diagram 3 attached to By-law 1267-2022(OLT);
- (K) For the purpose of this Exception, the phrase "average elevation of the ground along the **front lot line**" and the term "**established grade**" mean the Canadian Geodetic Datum elevation of 152.78 metres;
- (L) Despite Clause 40.5.40.10(5), (6) and (7) and (J) above, the following elements may exceed the permitted maximum **building** height:
- i. **Structures**, elements and enclosures permitted by (I) above;
 - ii. Planters, parapets, guards, guardrails, roof drainage, fences, roof hatch and safety railings, by a maximum height of 2.0 metres;
 - iii. **Structures** on any roof used for outdoor **amenity space** or open air recreation, maintenance, wind mitigation or **green roof** purposes, vestibules providing access to outdoor **amenity space**, pergolas, ornamental and architectural features, art installations, trellises, screens and dividers, **structures** and elements associated with green energy and renewable energy facilities, **structures** and elements associated with carbon reduction technologies, window washing/**building** maintenance equipment, and landscape elements, elevator overrun, pipes, heating and cooling equipment, by a maximum of 4.0 metres;
 - iv. Planters, landscape elements, gas and hydro meters, bike share facilities, retaining walls, fences, lighting, vents, pipes, and ornamental and architectural features above the finished ground surface;
- (M) Despite (I) and (L) above, no portion of a **building** or **structure** may be located within the hatched area shown on Diagram 3 of By-law 1267-2022(OLT) from the finished ground surface to a vertical height of 3.0 metres, with the exception of the following elements:
- i. Lighting, canopies, bollards, sills, vents, pipes, ornamental and architectural features, and art installations which may project to a maximum of 0.1 metres;
- (N) Despite Regulation 40.10.40.10(5), the required minimum height of the first **storey**, measured between the floor of the first **storey** and the ceiling of the first **storey** is 3.6 metres;
- (O) Despite Regulation 40.10.40.50(1), **amenity space** must be provided in accordance with the following:

- i. A minimum of 1.9 square metres of indoor **amenity space** per **dwelling unit**;
 - ii. A minimum of 2.0 square metres of outdoor **amenity space** per **dwelling unit**; and
 - iii. No more than 25 percent of the outdoor **amenity space** may be a **green roof**;
- (P) Despite Regulation 40.10.40.1(6), a pedestrian access for an entrance to a **public parking** use may be within 12.0 metres of a **lot** in the Residential Zone;
- (Q) Despite Regulations 40.10.90.40(1) and 40.10.100.10(1), **vehicle** access to the **lot** and to a **loading space** must be from Merton Street;
- (R) Despite Regulation 200.5.1.10(12)(C), a **vehicle** entrance to or exit from the **building** must be a minimum of 4.0 metres from the **lot line** abutting the **street**;
- (S) Despite Regulations 40.5.80.1(1), 200.5.1(2), 200.5.10.1(1) and (2), 200.10.1(2), and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
- i. A minimum of 0.36 **parking spaces** per **dwelling unit** must be provided for residents;
 - ii. A minimum of 0.1 **parking spaces** per **dwelling unit** must be provided for residential visitors;
 - iii. No **parking spaces** are required for non-residential uses; and
 - iv. **Parking spaces** required in accordance with (ii) above and any **parking spaces** provided for non-residential uses may be provided on a non-exclusive basis within a **public parking** facility on the **lot**;
- (T) Within a **public parking** facility on the **lot**,
- i. A minimum of 121 **parking spaces**, in addition to the **parking spaces** required by (S)ii above, must be provided; and
 - ii. A maximum of 213 **parking spaces** are permitted, which may include the **parking spaces** required by (S)ii above;
- (U) Despite Regulation 200.5.1.10(2)(A)(i), a **parking space** located within the **public parking** facility must have a minimum length of 5.2 metres;
- (V) Despite Regulation 200.5.1.10(2)(A)(iv), the minimum required width of a **parking space** is 2.9 metres when one or both sides of the **parking space** is obstructed according to Regulation 200.5.1.10(2)(D);

- (W) Despite (V) above, a maximum of 14 percent of the total number of **parking spaces** provided within a **public parking** facility on the **lot** and a maximum of 11 percent of the total number of **parking spaces** required in accordance with (S)ii above, may have a minimum required **parking space** width of 2.6 metres with or without a fixed object or obstruction within 0.3 metres of the side of the **parking space**, measured at right angles;
- (X) Despite Regulations 200.15.1(1) and (3), accessible **parking spaces** must have the following minimum dimensions:
- i. Accessible **parking spaces** provided for residents:
 - a) Length of 5.6 metres;
 - b) Width of 3.4 metres; and
 - c) Vertical clearance of 2.1 metres;
 - ii. Accessible **parking spaces** provided in the **public parking** facility:
 - a) Length of 5.2 metres;
 - b) Width of 3.4 metres; and
 - c) Vertical clearance of 2.1 metres; and
 - iii. A 1.5 metre wide accessible barrier free aisle or path is required along the entire length of one side of an accessible **parking space**, and such aisle or path may be shared by two accessible **parking spaces**;
- (Y) Accessible **parking spaces** must be the **parking spaces** closest to a barrier free:
- i. Entrance to a **building**;
 - ii. Passenger elevator that provides access to the first **storey** of the **building**; and
 - iii. Shortest route from the required entrances in (i) and (ii);
- (Z) Despite Regulation 230.5.1.10(10), both a "short term" and "long-term" **bicycle parking space** may be located in a **stacked bicycle parking space**;
- (AA) Regulation 40.10.40.1(1) as it relates to the location of residential use portions of the **building** located above non-residential use portions does not apply;

- (BB) Regulation 40.10.50.10(3) as it relates to any **landscaping** requirement, if abutting a **lot** in the Residential Zone Category does not apply;
- (CC) Clause 40.10.80.20 as it relates to the minimum setback for a **parking space** on a corner **lot** does not apply; and
- (DD) Regulations 230.5.10.1(1) and Table 230.5.10.1(1) as they relate to the minimum number of "short-term" and "long-term" **bicycle parking spaces** to be provided for uses other than **dwelling units** do not apply; and
- (EE) Section 600.30, with regards to inclusionary zoning, does not apply.

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any existing or future severance, partition, or division of the **lot**, the provisions of this Exception shall apply to the whole of the lands, as identified on Diagram 1 of By-law 1267-2022(OLT), as one **lot** as if no consent, severance, partition or division occurred.
6. None of the provisions of this By-law, as amended, or By-law 569-2013, as amended, apply to prevent the erection and use of a **building** or **structure** used as a temporary sales and/or rental office for the purpose of the initial sale and or leasing of **dwelling units** or non-residential units on the **lot**, for a period of up to five years from the date this By-law comes into full force and effect.
7. 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 as CR (x525) on Diagram 2 of 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 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; and
 - (C) The owner must not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to Exception CR 525 of By-law 569-2013, as amended, unless the provisions of Schedule A of such By-law are satisfied.

Pursuant to Local Planning Appeal Tribunal Decision issued on December 1, 2021 and Ontario Land Tribunal Order issued on August 12, 2022, effective date as of August 11, 2022, in File OLT-22-003798 and Legacy File PL180021.

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 as CR (x525) on Diagram 2 and secured in an 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.

Section 37 Contribution

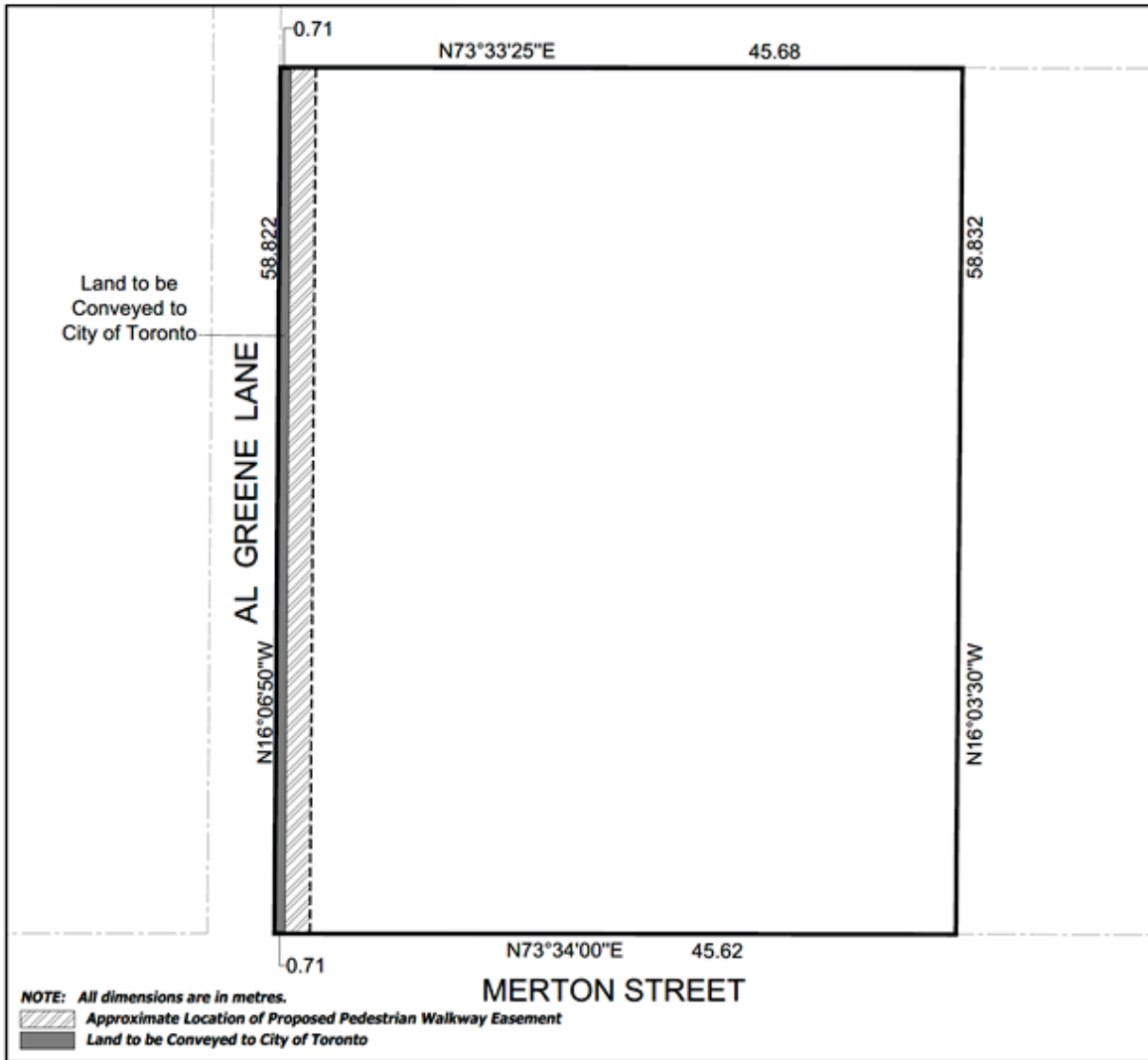
2. The Owner shall provide an indexed cash contribution to the City of \$4,100,000, prior to the issuance of the first above-grade building permit for the proposed development, to be directed at the discretion of the Chief Planner in consultation with the Ward Councillor, to capital improvements in the vicinity of the proposed development;
3. The Owner shall provide laneway improvements to Al Green Lane north of the proposed development to Balliol Street and south of Merton Street to the Kay Gardner Beltline Trail up to a maximum indexed cost of \$400,000; the details of such laneway improvements (including the location, dimensions, configuration, and design) shall be secured as part of and through the Site Plan Approval process for the proposed development to the satisfaction of the Chief Planner and Executive Director, City Planning; the design of the laneway improvements may include features such as lighting, public art, and paving; the Owner agrees to work with the City and the Ward Councillor, in consultation with the community, regarding the design of the laneway improvements through the Site Plan Approval process; and in the event that the Owner does not construct the Laneway Improvements in accordance with the agreement or agreements under Section 37(3) of the Planning Act, the Owner shall provide to the City an indexed cash contribution of \$400,000 prior to residential occupancy of the proposed development;

Matters Secured as a Legal Convenience

4. The Owner shall convey to the City a pedestrian easement with a minimum width of 1.7 metres and a minimum height of 3 metres along the west property line of the Subject Site abutting Al Green Lane, in accordance with the agreement or agreements under Section 37(3) of the Planning Act, to the satisfaction of the City Solicitor;
5. The Owner shall construct an upgrade to the Merton Street municipal watermain from Yonge Street to just east of 30 Merton Street at the hydrant; the watermain upgrade shall be secured through the site plan approval process, in accordance with the agreement or agreements under Section 37(3) of the Planning Act, including requiring the Owner to

enter into a Municipal Infrastructure Agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

6. The Owner shall provide laneway improvements to Al Green Lane immediately abutting the proposed development up to an indexed cost of \$250,000; the details of such laneway improvements (including the location, dimensions, configuration, and design) shall be secured as part of and through the Site Plan Approval process for the proposed development to the satisfaction of the Chief Planner and Executive Director, City Planning; the design of the laneway improvements may include features such as lighting, public art, and paving; the Owner agrees to work with the City and the Ward Councillor, in consultation with the community, regarding the design of the laneway improvements through the Site Plan Approval process; and in the event that the Owner does not construct the laneway improvements in accordance with the agreement or agreements under Section 37(3) of the Planning Act, the Owner shall provide to the City an indexed cash contribution of \$250,000 prior to residential occupancy of the proposed development;
7. The Owner shall convey to the City of a laneway widening along the west property line with a minimum width of 0.71 metres for the purpose of widening Al Green Lane, through the Site Plan Approval process;
8. The Owner shall use reasonable commercial efforts to provide for tree planting to replace the existing City street tree that is located proximate to the south-east corner of the Lands, to a maximum of three trees along the Merton Street boulevard, west of the proposed driveway for the proposed development. In the event the required approvals for the replacement street trees are not obtained, the Owner will make reasonable commercial efforts to provide alternative landscaping improvements to the public realm adjacent to the Lands on Merton Street, or provide cash-in-lieu of planting to the satisfaction of the Chief Planner; and
9. The Owner shall pay cash-in-lieu of parkland dedication to the City in satisfaction of the Owner's required parkland contribution pursuant to Section 42 of the Planning Act and the City's Parkland Dedication By-law, as amended.



30 Merton Street, Toronto

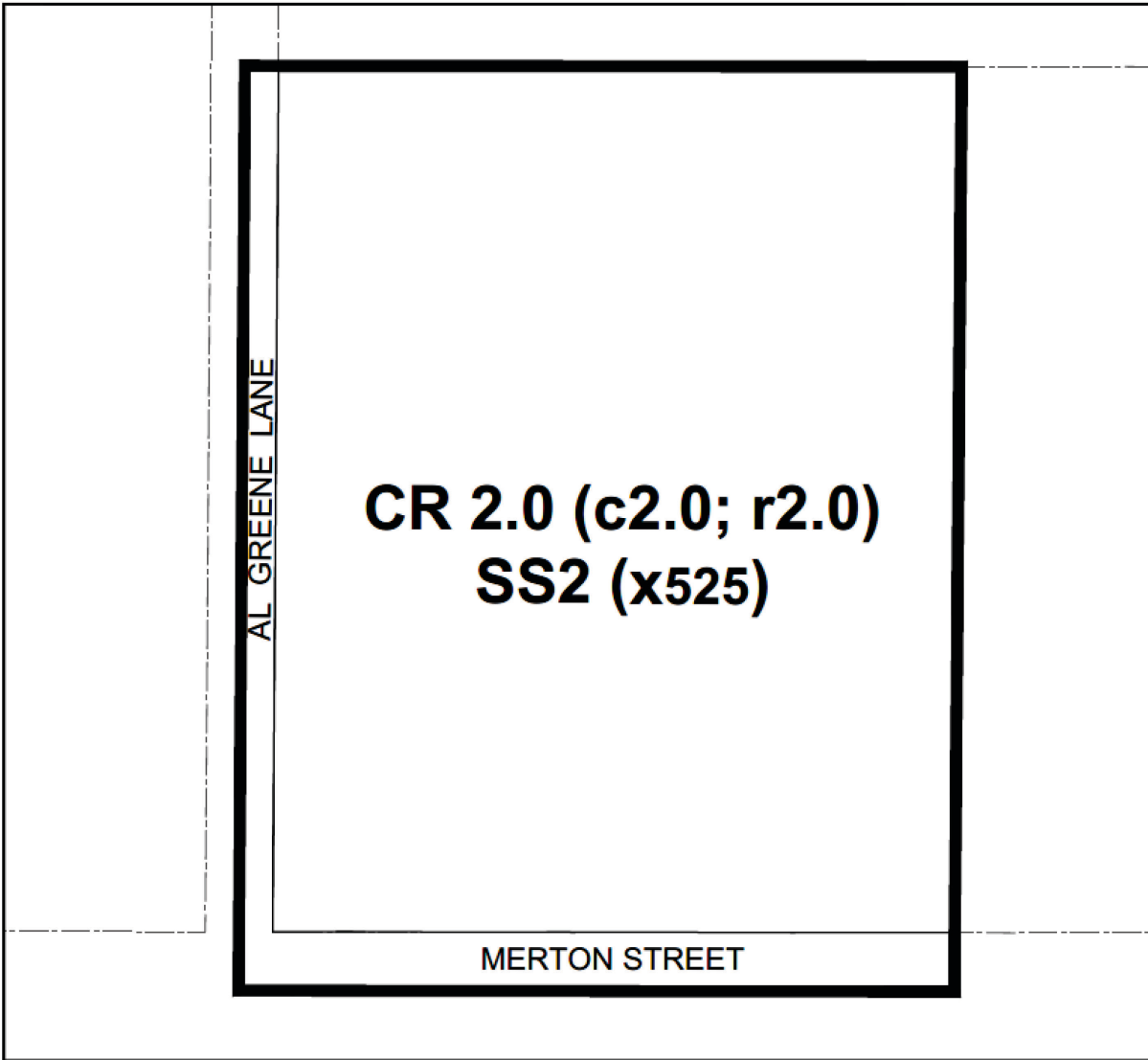
Diagram 1

File #17 173706 STE 22 OZ

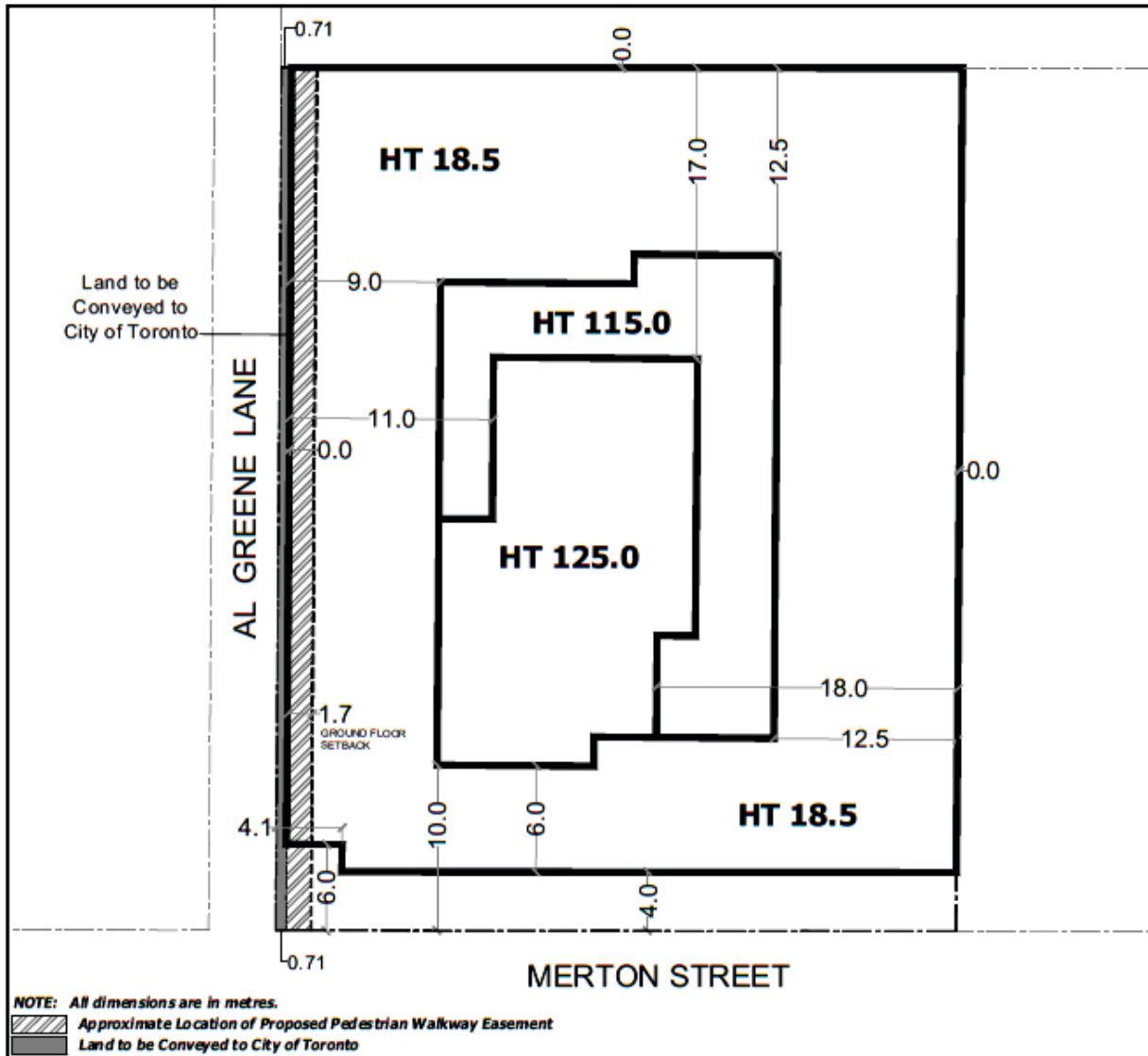


Not to Scale

City of Toronto By-law 569-2013



Not to Scale



30 Merton Street, Toronto

Diagram 3

File #17 173706 STE 22 02



Not to Scale

City of Toronto By-law 569-2013