

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 1273-2022(OLT)**

**To amend Zoning By-law 569-2013, 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 By-law 569-2013, as amended, for the City of Toronto 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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;

By-law 569-2013 is 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, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10 and applying the following zone label to these lands: RA (x125) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Lot Coverage Overlay Map in Section 995.30.1, and applying the lot coverage label of 35 percent, as shown on Diagram 3 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Section 995.10.1, Height Overlay Map in Section 995.20.1, Rooming House Overlay Map in Section 995.40.1, as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.7.10 Exception Number 125 so that it reads:

**Exception RA 125**

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 50-52 Neptune Drive, if the requirements of Schedule A of By-law 1273-2022(OLT) are complied with, an **apartment building** is permitted in accordance with Section 8 and (B) to (O) below;
- (B) For the purposes of this exception, **established grade** is the Canadian Geodetic Datum elevation of 184.10;
- (C) Regulation 15.5.50.10 (1) regarding **landscaping** does not apply;
- (D) The permitted maximum number of **dwelling units** is 164, and, a minimum of 10 percent of the **dwelling units** must have three or more bedrooms and a maximum of 5 percent of the units may be bachelor units, not including the rental **dwelling units**;
- (E) Of the permitted maximum number of **dwelling units**, the minimum **floor area** 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

- (F) Despite regulation 15.10.30.40(1) the permitted **lot coverage** does not apply;
- (G) Despite regulation 15.10.40.40(1) the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** must not exceed 12,350 square metres;
- (H) Despite regulation 15.10.40.10(1) the permitted maximum height, and **storeys** is specified by the numbers following the symbols "HT" and "ST" as shown on Diagram 5 of this By-law;
- (I) Despite regulation 15.5.40.10(2) and (3) the following may exceed the permitted maximum height as follows:
- (i) trellises, **green roof** elements and associated lighting, aircraft warning lights, window washing equipment, railings, outdoor amenity structures, and mechanical equipment and associated structures and screening, a maximum of 3.5 metres;
  - (ii) mechanical penthouses a maximum of 5.0 metres; and
  - (iii) parapets a maximum of 1.4 metres.
- (J) Despite Clause 15.10.40.70, the required minimum **building setbacks** are as shown on Diagram 5 of this By-law;
- (K) Despite Clause 15.5.40.60, the following elements of a **building** are permitted to encroach into the required minimum **building setbacks** as follows:
- (i) canopies, eaves, cornices, lighting fixtures, fences, safety railings, trellises, balustrades, barrier free ramps, exhaust and air intake vents, retaining walls, ornamental structures, stairs, stair enclosures associated with access to underground parking garage, stair landings, decks, planters, street and landscaping furniture, and underground garage ramps, a maximum of 1.5 metres;
  - (ii) balconies 1.65 metres; and
  - (iii) retaining walls and / or decorative landscaping walls, a maximum of 2.0 metres.

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- (L) Despite Regulation 15.10.40.50(1) **amenity space** must be provided and maintained on the **lot** as follows:
- (i) A minimum of 1.6 square metres per **dwelling unit** of indoor **amenity space** must be provided for in the **building**; and
  - (ii) A minimum of 1.5 square metres per **dwelling unit** of outdoor **amenity space** must be provided.
- (M) Despite Regulation 200.5.10.1(1), **parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) A minimum of 0.68 **parking spaces** per **dwelling unit** for residents;
  - (ii) A minimum of 0.09 **parking spaces** per **dwelling unit** for visitors;
  - (iii) A maximum of 4 visitor **parking spaces** may be provided above ground and will include one accessible **parking space**; and
  - (iv) 18 **parking spaces** must be reserved for the use of the residential rental replacement **dwelling units**.
- (N) Despite Regulation 230.5.10.1 **bicycle parking spaces** must be provided in common bicycle rooms on the first floor of the parking garage, or above ground, as follows:
- (i) A minimum of 0.6 long-term **bicycle parking spaces** per **dwelling unit**;
  - (ii) A minimum of 0.15 short-term **bicycle parking spaces** per **dwelling unit** for visitors; and
  - (iii) A maximum of 25 short-term visitor **bicycle parking spaces** may be permitted above ground.
- (O) Despite any severance, partition or division of the **lot** shown on Diagram 1, the regulations of this exception continue to apply to the whole of the **lot** as if no severance, partition or division occurred.

Prevailing By-laws and Prevailing Sections (None Apply)

7. On the lands outlined in Diagram 1 attached to this by-law, a temporary sales office is permitted for the purpose of the marketing and sales of the **dwelling units** on these lands, for a period of three years from the date this by-law comes into full force and effect.
8. 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 Diagram 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.

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 Diagram 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 Diagram 5.
- (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 Diagram 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.

Diagram 1

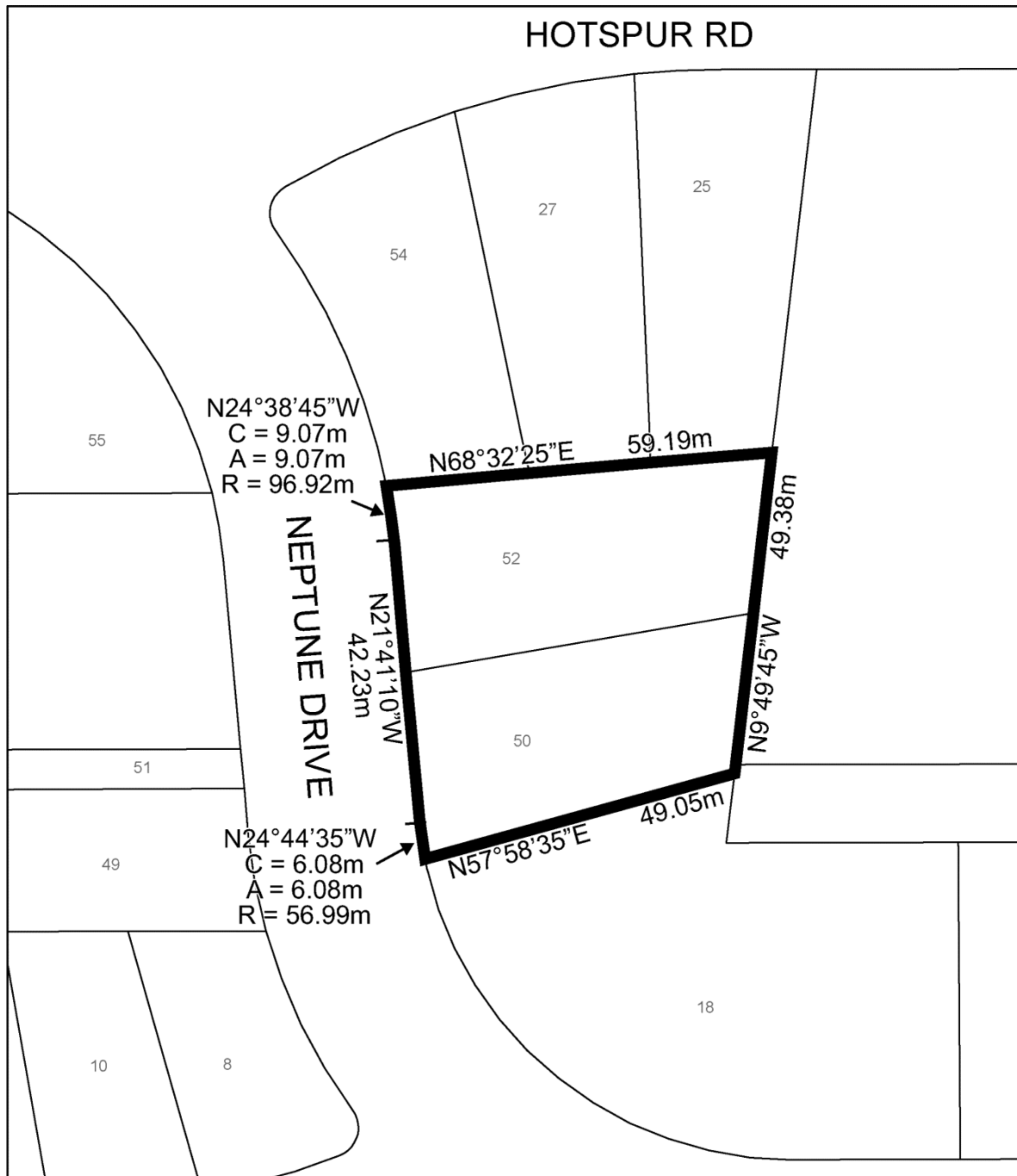
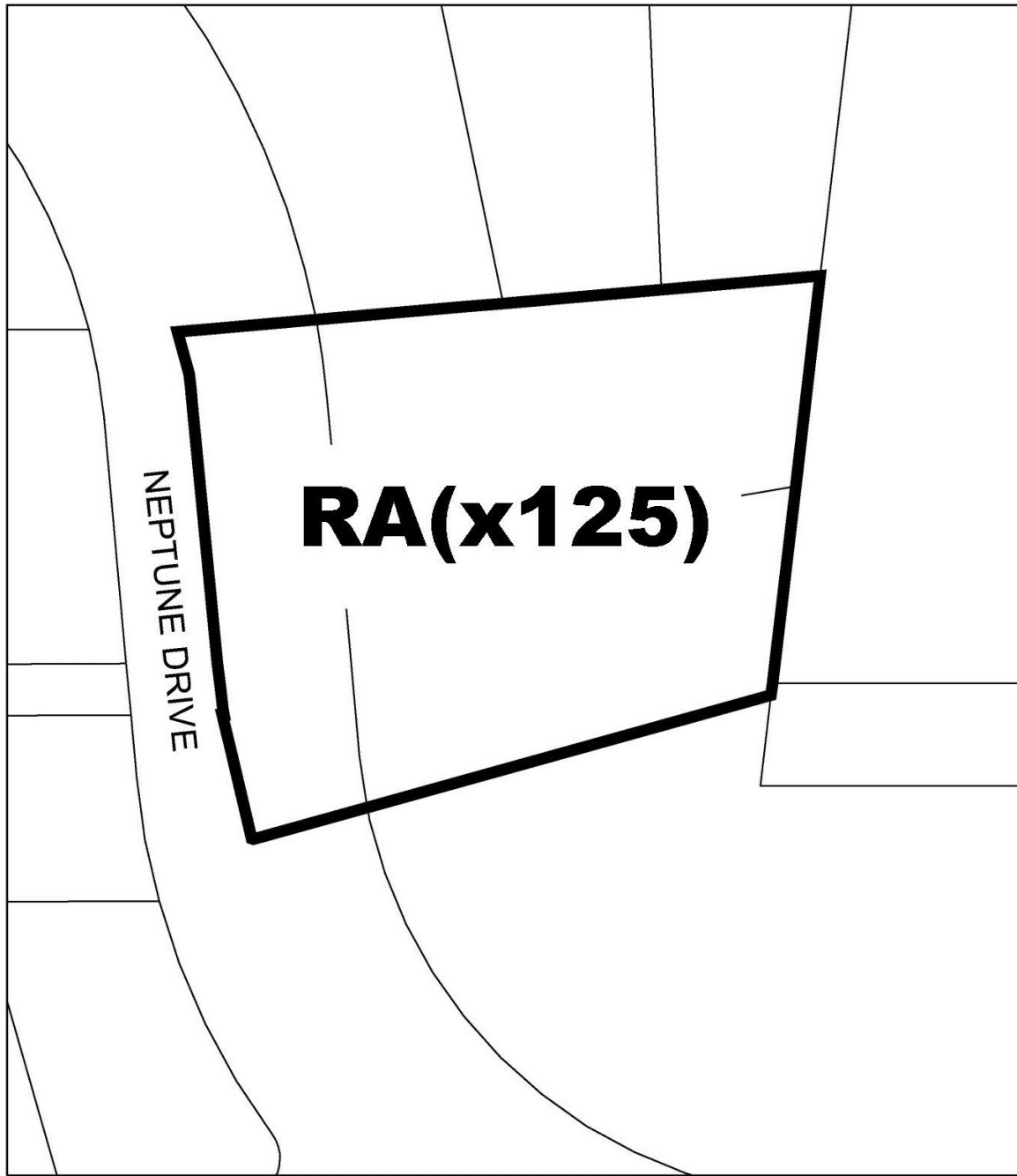
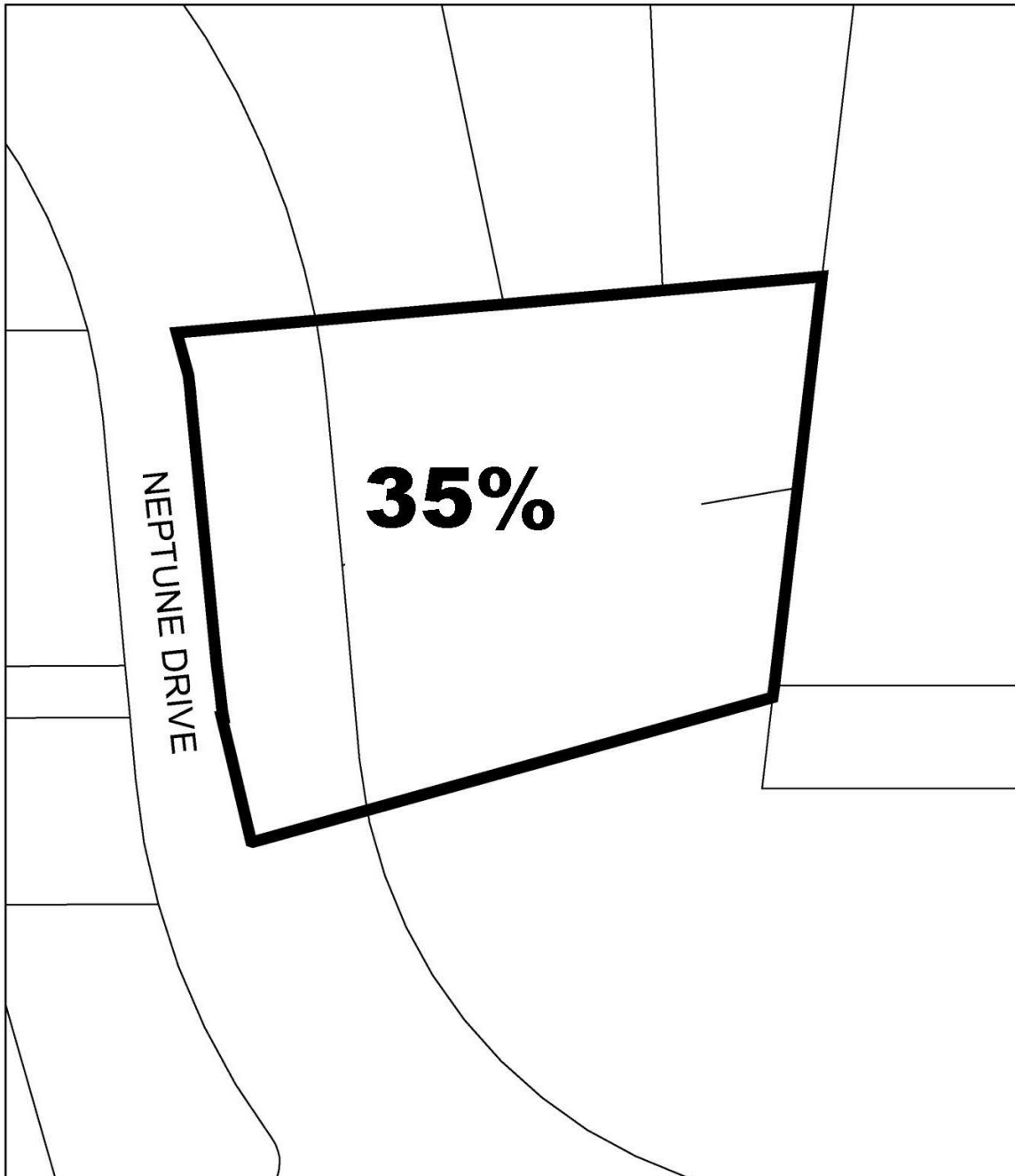


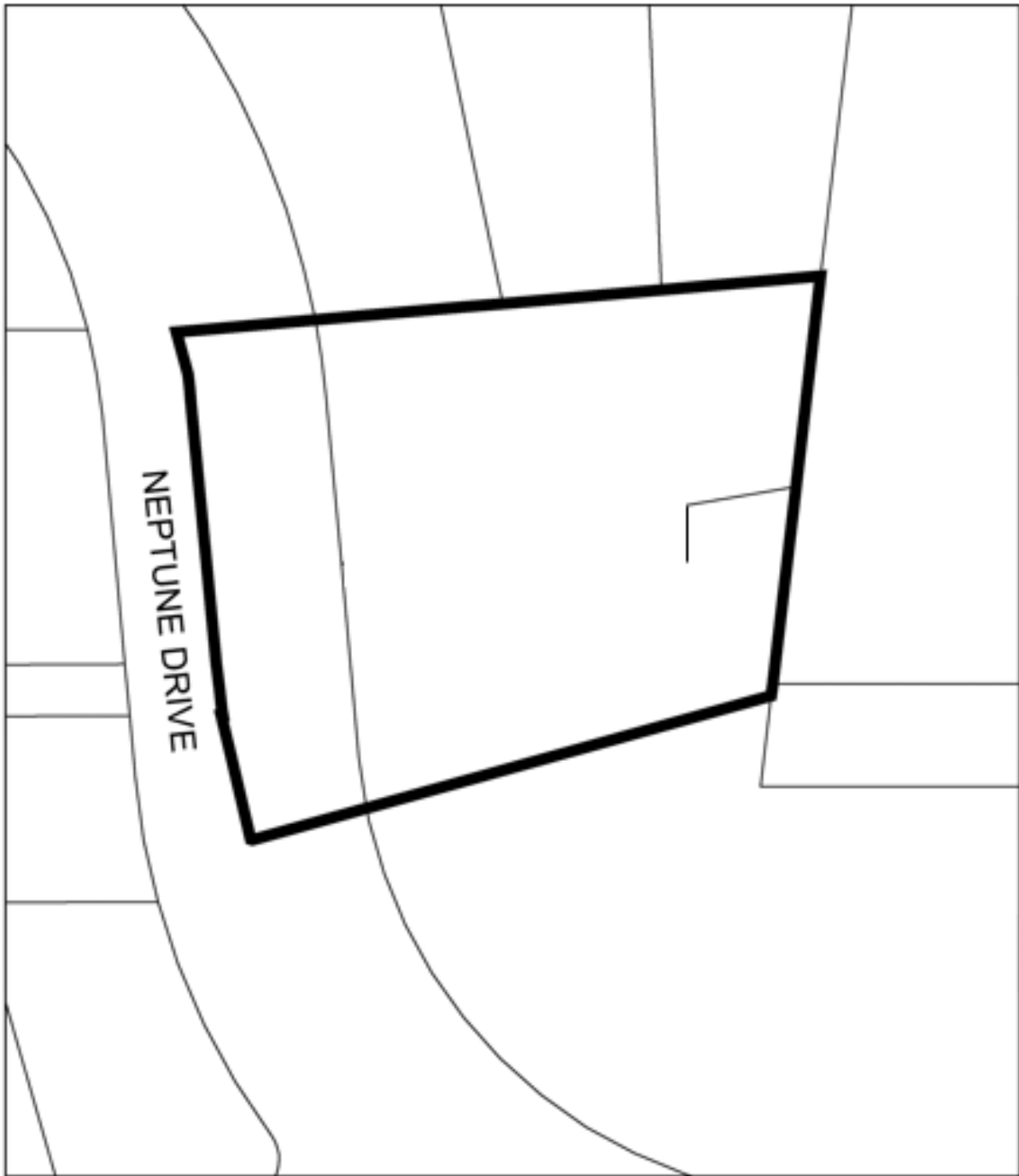
Diagram 2



**Diagram 3**



**Diagram 4**



 **TORONTO**  
Diagram 4

**50-52 Neptune Drive**

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Diagram 5

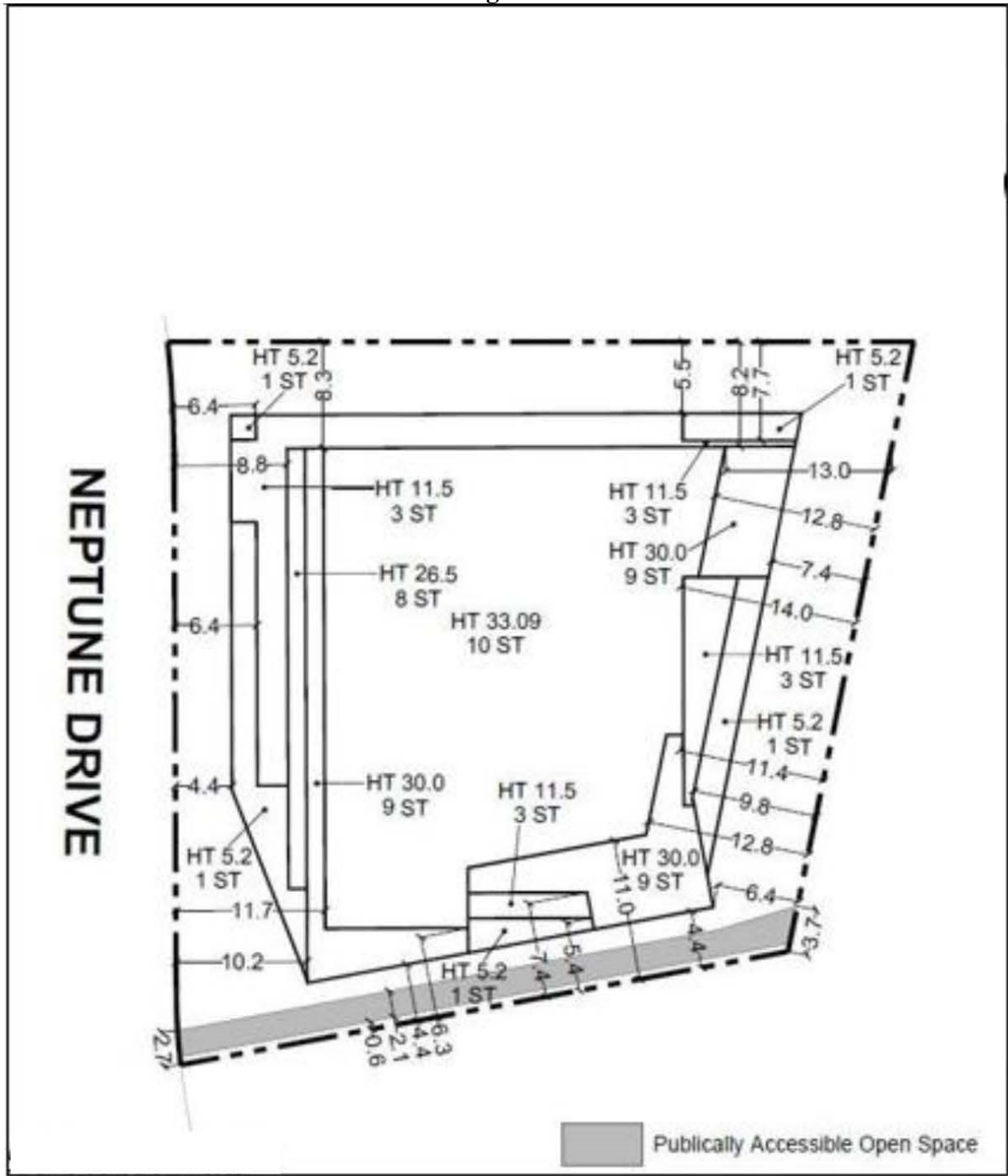


Diagram 5

50-52 Neptune Drive

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