

Authority: Etobicoke York Community Council Item EY33.4, as adopted by City of Toronto Council on July 19, 2022.

CITY OF TORONTO

Bill No. ~

BY-LAW No. ____-2022

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 900 to 940 The East Mall.

Whereas Council of the City of Toronto 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 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 pursuant to Section 39 of the *Planning Act*, as amended, 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; and

Whereas pursuant to Section 36 of the *Planning Act*, the Council of a municipality may in a by-law passed under Section 34 of the *Planning Act*, by the use of the holding symbol "H" in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law; and

Whereas the City of Toronto Official Plan contains provisions relating to the use of a holding symbol "H"; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increased in height and density of development; 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, 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 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 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, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

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 No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone labels on the By-law to the Zoning By-law Map in Section 990.10 respecting the lines outlined by heavy black line to CR 1.0 (H) (c0.5; r0.5) SS3 (x665) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number x665, so that it reads:

(x665) Exception CR 665

The lands are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 900 to 940 The East Mall, if the requirements of Section 9 and Schedule A of By-law XXXX-2022 are complied with, **buildings** and **structures** may be constructed in accordance with in compliance with (B) through (T) below;
- (B) For the purposes of this Exception:
 - (i) the **lot** is the lands outlined by heavy black lines on Diagram 1 of By-law XXXX-2022; and

- (ii) 'Area 1' and 'Area 2' are defined to include the corresponding area within the lot identified on Diagram 3 of By-law XXXX-2022.
- (C) Despite Regulation 40.5.40.10(1) and (2), the height of a **building** or **structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 145.15 metres and the highest point of the **building** or **structure**;
- (D) Despite Regulation 40.10.40.10(3), the permitted maximum height of a **building** or **structure** is the number, in metres, following the letters "HT" as shown on Diagrams 4A and 4B of By-law XXXX-2022;
- (E) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** of a **building** or **structure** is the number following the letters "ST" as shown in Diagram 4A and 4B of By-law XXXX-2022;
- (F) Despite Regulations 40.5.40.10(4), (5), (6), (7) and (8), 40.5.75.1(2)(A)(ii) and (D) above the following elements of a **building** or **structure** may project above the permitted maximum **building** heights shown on Diagrams 4A and 4B of By-law XXXX-2022:
- (i) **structures** and elements related to roofing assembly, safety railings, guard rails, elements of a pool, railings, parapets, terraces, planters, balustrades, bollards, stairs, retaining walls and ornamental features to a maximum of 2.0 metres;
 - (ii) elements on the roof of the **building** or **structure** used for **green roof** technology and related roofing material to a maximum of 2.0 metres;
 - (iii) mechanical penthouses to a maximum of 6.0 metres for Towers 1, 2 and 3 and to a maximum of 3.9 metres for Tower 4.
 - (iv) any equipment or **structures** used for the functional operation of the **building** including garbage chutes, vents, emergency generators, lighting fixtures, mechanical screening, heating/cooling towers and window washing equipment to a maximum of 2.0 metres;
 - (v) landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures, and fences to a maximum of 2.75 metres;
 - (vi) cabanas and trellises to a maximum of 3.6 metres;
 - (vii) wind mitigation features to a maximum of 4.0 metres;
 - (viii) photovoltaic solar energy devices and sunlight collection and distribution devices (sun beamers) to a maximum of 5.0 metres; and

- (ix) lightning rods and acoustical barriers to a maximum of 3.0 metres.
- (G) Despite Regulation 40.10.40.40(1), the total **gross floor area** of all **buildings** and **structures** on the **lot** must not exceed 72,500 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 66,200 square metres; and
 - (ii) the required minimum **gross floor area** for non-residential uses is 6,200 square metres.
- (H) Despite Regulations 40.10.40.70(3), (4) and 40.10.40.80(2), the required minimum **building setbacks** and above-ground separation distances between **main walls** are shown on Diagrams 4A and 4B of By-law XXXX-2022;
- (I) Despite Regulations 40.10.40.60(1) to (9) and (H) above, the following elements may encroach into the required **building setbacks** and **main walls** separation distances as follows:
- (i) balconies to a maximum of 2.1 metres;
 - (ii) cladding to a maximum of 0.25 metres; and
 - (iii) photovoltaic solar energy devices, wind mitigation features, canopies, awnings, **building** cornices, window washing equipment, light fixtures, ornamental elements, lightning rods, trellises, eaves, window sills, stairs, stair enclosures, air intakes and vents, ventilating equipment, landscape and **green roof** elements, partitions dividing outdoor recreation areas, privacy screens, acoustical walls, chimney stack, and exhaust flues to a maximum of 2.5 metres.
- (J) Despite Regulation 40.10.40.80(2) and (I) above, the separation distance between buildings as shown on Diagram 4A of By-law XXXX-2022 is:
- (i) a minimum of 28.5 metres between Tower 1 and Tower 2;
 - (ii) a minimum of 27.5 metres between Tower 1 and Tower 3;
 - (iii) a minimum of 27.5 metres between Tower 2 and Tower 3; and
 - (iv) a minimum of 27.5 metres between Tower 3 and Tower 4.
- (K) A minimum of 20 percent of the total number of **dwelling units** on the **lot** must contain a minimum of two bedrooms with a minimum **interior floor area** of 87 square metres for each **dwelling unit** and a minimum of 10 percent of the total

number of **dwelling units** must contain a minimum of three bedrooms with a minimum **interior floor area** of 100 square metres for each **dwelling unit**;

- (L) The permitted maximum **gross floor area** of the tower floor plate for Towers 1, 2, 3 and 4 as shown on Diagram 4A, as measured from the exterior of the **main wall** on each **storey**, is an average of 750 square metres, excluding balconies.
- (M) Despite Regulation 40.10.40.1(1), residential use portions of the **building** may be located on the same level as non-residential uses.
- (N) Despite Regulation 40.10.40.10(5), the required minimum height of the first **storey**, as measured between the floor of the first **storey** and the ceiling of the first **storey**, is 4.0 metres for non-residential uses and no minimum height requirement for residential uses;
- (O) Regulation 40.10.50.10(1)(B)(i) does not apply.
- (P) Despite Clause 200.5.10.1 and Table 200.5.10.1, **parking spaces** are to be provided in accordance with the following parking rates and the sharing of required **parking spaces** is permitted in accordance with the following parking occupancy rates:

Land Use	Parking Rate	Parking Occupancy Rate		
		AM	PM	Eve
Residential (Resident requirement)	(i) For a dwelling unit , parking spaces for residents must be provided at a minimum rate of 0.79 for each dwelling unit ;	100%	100%	100%
Residential (Visitor requirement)	(ii) For a dwelling unit , parking spaces for visitors must be provided at a minimum rate of 0.15 for each dwelling unit ;	10%	35%	100%
Retail Store	(iii) For a retail store , parking spaces must be provided at a minimum rate of 1.0 for each 100 square metres of gross floor area ;	20%	100%	100%
Office	(iv) For office uses, parking spaces must be provided at a minimum rate of 1.0 for each 100 square metres of gross floor area ; and	100%	60%	0%
Day Nursery	(v) For a day nursery , parking spaces must be provided at a minimum rate of 0.4 for each 100 square metres of gross floor area .	100%	100%	50%

Notes: AM = 6 a.m. to Noon. PM = Noon to 6 p.m. Eve = 6 p.m. to 6 a.m.

- (Q) Despite (P) above, the minimum required number of parking spaces for residents may be reduced by a maximum of 4 parking spaces for each "car-share" **parking space** that is provided and the maximum reduction permitted, irrespective of the number of "car-share" **parking spaces**, is $4 \times (\text{the number of dwelling units} / 60)$ rounded to the nearest whole number or 1 space, whichever is greater. For the purposes of this exception:
- (i) "car-share" or "car-sharing" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometres drive, and set membership requirements of the "car-sharing" organization, including payment of a membership fee that may or may not be refundable; and
 - (ii) "car-share" **parking space** means a **parking space** exclusively reserved and signed for a car used only for "car-share" purposes;
- (R) Despite Regulation 200.15.1(1) and (3), an accessible **parking space** must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 3.4 metres;
 - (iii) vertical clearance of 2.1 metres; and
 - (iv) 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**;
- (S) Despite Clause 220.5.10.1, the following is required:
- (i) a minimum of 1 Type "B" **loading space**, 2 Type "C" **loading spaces** and 1 Type "G" **loading space** is required for 'Area 1' as shown on Diagram 3 of By-law XXXX-2022; and
 - (ii) a minimum of 1 Type "C" **loading space** is required for 'Area 2' as shown on Diagram 3 of By-law XXXX-2022;
- (T) Despite Regulation 230.5.1.10(10), "long-term" and "short-term" **bicycle parking spaces** for **dwelling units** or for non-residential uses may be provided in any combination of vertical, horizontal or stacked positions.

Prevailing By-laws and Prevailing Sections:

(A) (None Apply)

(B) By-law 1986-236 and the former City of Etobicoke Zoning Code shall not apply to the lands shown on Diagram 1 of By-law XXXX-2022.

5. Despite any future severance, partition or division on the lands shown as CR 1.0 (H) (c0.5; r0.5) SS3 (x665) on Diagram 2, the provisions of the By-law apply as if no severance, partition or division occurred.
6. Nothing in this By-law shall apply to prevent the phased construction of the development on the lot, provided that the requirements of the By-law are complied with upon the full development of the lot.
7. On the lands shown as CR 1.0 (H) (c0.5; r0.5) SS3 (x665) on Diagram 2 of By-law XXXX-2022, a temporary sales office is permitted for the purpose of the marketing, sale or rental of the dwelling units and non-residential uses on these lands, for a period of three (3) years from the date this By-law comes into full force and effect.

8. Holding Provisions

(A) The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 attached to and forming part of this By-law, must not be used for any purpose other than those uses and buildings existing on the site as of the date of the passing of this By-law until the "(H)" symbol has been removed. The "(H)" symbol shall be removed upon the satisfaction of the following conditions:

1. The owner shall address all outstanding issues raised by Engineering and Construction Services as they relate to the Zoning By-law Amendment application as set out in their memo dated January 17, 2022 or as may be updated in response to further submission(s) filed by the owner, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services;
2. The owner shall submit a Functional Servicing Report to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services. The report shall determine the storm water runoff, sanitary flow and water supply demand resulting from the proposed development and whether there is adequate capacity in the existing municipal infrastructure to accommodate the development; and

3. Through delivery of the above mentioned materials, the owner shall demonstrate that they are able to provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers By-law Chapter 68-10, with the precise location to be secured through site plan approval.

9. 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 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 to enter into an agreement 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.

Enacted and passed on [month] [day], 2022.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

SCHEDULE A

Schedule 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 1.0 (c0.5; r0.5) SS3 (x665) on Diagram 2 of this By-law.

1. Prior to the issuance of any building permit, the owner shall enter into an agreement 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 community benefits as follows

Financial Contribution

2. Prior to the issuance of the first above-grade building permit, the owner shall make a financial contribution to the City in the amount of \$1,000,000 by certified cheque to the Treasurer, City of Toronto, to be used towards park improvements for West Deane Park and/or other parks or capital improvements that would benefit the community in the vicinity of the lands, to the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
3. The cash contribution outlined above shall be indexed upwardly from the date this by-law is adopted by City Council to the date the payment is made in accordance with the 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.
4. In the event the cash contribution outlined above has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

Affordable Housing

5. The owner shall provide and convey at nominal charge at least eight Affordable Ownership Units with an approximate total net floor area of 460 square metres to Toronto Artscape Inc. or a similar non-profit housing provider for affordable ownership housing on the following terms:

- a. The Affordable Ownership Units will be comprised of studio, one- and two-bedroom units, provided that there is no more than one studio unit, and at least two two-bedroom units that have an average size of 82 square metres;
 - b. All of the Affordable Ownership Units will be constructed to a fully-finished condition, to a similar standard as the units in the remainder of the development;
 - c. The units will be constructed in the first phase of development and unit occupants will have access to all building facilities and amenities on the same terms and conditions as the all other residents;
 - d. There shall be no closing adjustments made with respect to the Affordable Ownership Units transferred to the Provider, other than adjustments for monthly occupancy fees or common expense fees and realty taxes for the year in which the final closing date occurs, adjusted and payable on either the interim occupancy or final closing date of the sale of each unit; and
 - e. The owner shall submit, in consultation with the Provider, the proposed layouts and locations of the units as part of the application for Site Plan Control approval, and the final design and location of the units shall be to the satisfaction of the Chief Planner and Executive Director, prior to Site Plan Control approval;
6. The owner shall enter into Agreements of Purchase and Sale ("the APS") for the Affordable Ownership Units with the Provider and/or the City prior to the issuance of the first above grade building permit for the first residential building on the lands pursuant to the above noted requirements and the APS will be assignable at no additional cost;
 7. The owner shall enter into and register a Section 118 restriction under the Land Titles Act prior to first above-grade building permit for the first residential building on the lands to enable the implementation of the affordable housing provisions of the Section 37 agreement to the satisfaction of the City Solicitor in consultation with Chief Planner and Executive Director, City Planning.

Other Matters in Support of the Development

8. The owner is required to pay for all costs associated with the following road improvements and install them in accordance with the approved plans to the satisfaction of the General Manager, Transportation Services, and will be a condition of Site Plan Control approval, including the approved signal drawings and the approved functional pavement marking and signage plans:
 - a. Modifications to the signal timing plan at the Eglinton Avenue West/The West Mall/Highway 427 Off-Ramp Intersection by introducing a protected

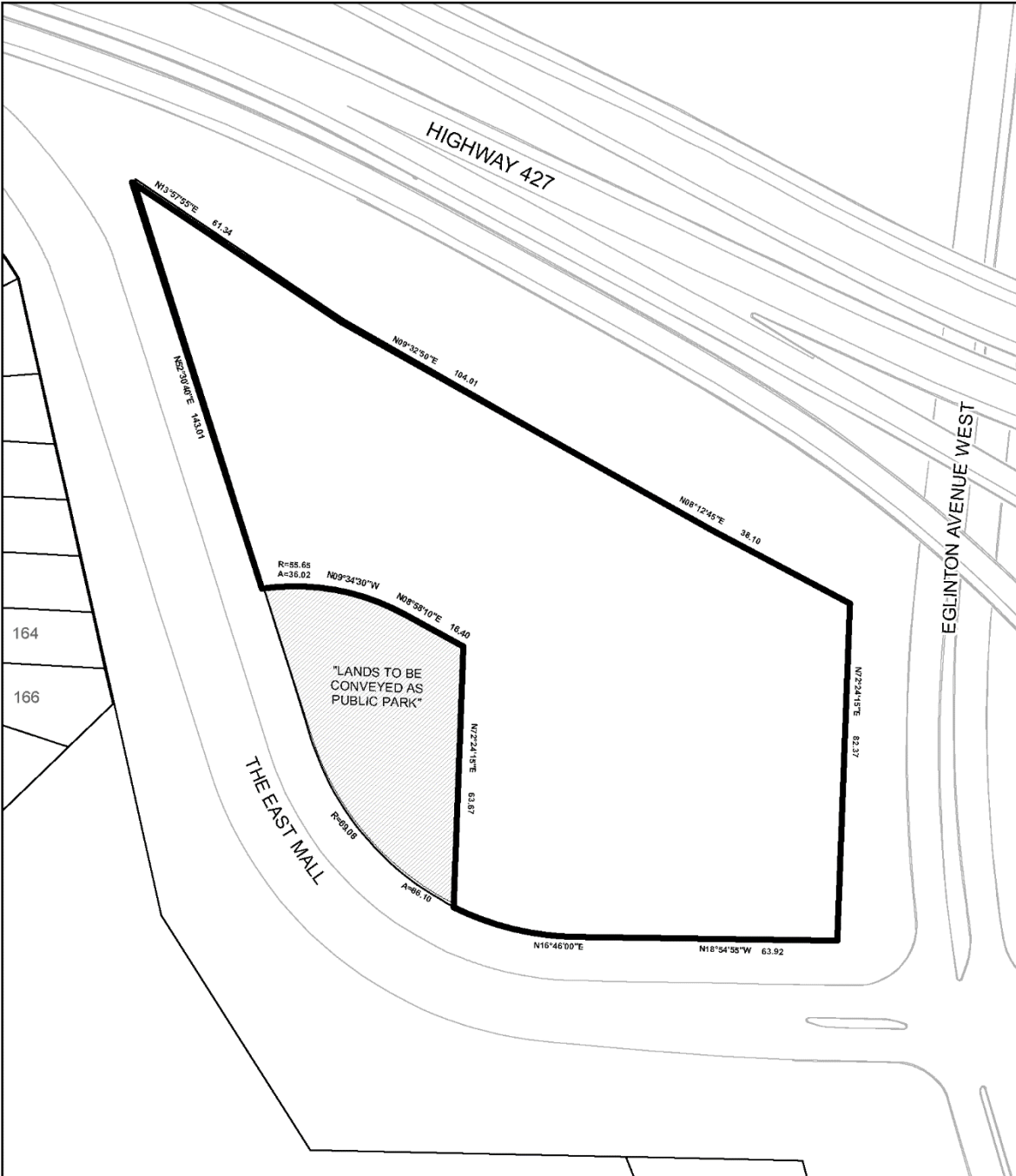
right-turn phase, which will operate in conjunction with the westbound left-turn phase and maintain the existing cycle lengths;

- b. Modifications to the signal timing plan at the Eglinton Avenue West/Martin Grove Road Intersection to allow more green time for the east-west movements and maintain the existing cycle lengths;
 - c. An approximate 85-metre extension of the centre medium for the northbound approach at the Eglinton Avenue West/Highway 427 Off-Ramp Intersection;
 - d. The installation of a dedicated southbound right-turn deceleration lane at the proposed northerly site access driveway; and
 - e. An eastbound right-turn on red light restriction at Eglinton Avenue West/The East Mall/Highway 427 intersection, as required by the Ministry of Transportation.
9. The owner must submit the following to the satisfaction of the General Manager, Transportation Services prior to Site Plan Control approval:
- a. Acceptable functional pavement, signage plans, engineering drawings and cost estimates associated with the required road improvements identified above.
10. The owner shall construct and maintain the development of the site 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, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan control application for each building on the site, and the owner shall construct and maintain the development in accordance with Tier 1, to the satisfaction of the Chief Planner and Executive Director, City Planning.
11. The owner shall satisfy applicable signage requirements of the Toronto District School Board (TDSB) and the Toronto Catholic District School Board (TCDSB) and shall insert warning clauses in purchase and sale/tenancy agreements as required in connection with student accommodation.
12. The owner shall make satisfactory arrangements with Engineering and Construction Services and enter into the appropriate agreement(s) with the City for the design and construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support the development, according to the Functional Servicing Report accepted by the Chief Engineer and Executive Director of Engineering and Construction Services.

13. The following matters regarding the required parkland conveyance shall be secured, to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor, including:
- a. Conveyance of land to the City for public parkland, with a minimum size of 2,347 square metres as generally depicted in Diagram 1 of By-law XXXX-2022;
 - b. Securing the design and construction of the new public park to Above Base Park Improvements; and
 - c. All other conditions such as, but not limited to: Parkland Dedication; Limiting Distance; Environmental Assessment; Park Construction and Base Park Improvements; Temporary Fencing; Warranty; Above Base Park Improvements; and Credit Against Development Charges for Above Base Park Improvements as outlined in the memorandum from Parks, Forestry and Recreation dated August 12, 2021, to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor.
14. The owner shall, at its own expense address the following matters in any application for Site Plan Control approval for the development, which shall be determined and secured in a Site Plan Agreement(s) with the City, as applicable, all to the satisfaction of the Chief Planner and Executive Director, City Planning:
- a. Obtain all required permit(s) from the Ministry of Transportation (MTO) prior to any construction and for all signs visible to Highway 427. MTO permits can only be applied once Site Plan Control approval is granted;
 - b. Implement any required noise and vibration abatement measures or other recommendations, as detailed in the Noise and Vibration Impact Study, dated October 2019 and revised April 2022, prepared by J.E. Coulter Associates Ltd., as may be amended through a peer review process, undertaken through the Site Plan Control application process, at the expense of the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - c. Implement any required air quality, dust and odour abatement measures or other recommendations, as detailed in the Compatibility and Mitigation Study for Air Quality, Dust and Odour, dated February 2022, prepared by SLR Consulting (Canada) Ltd., as may be amended through a peer review process, undertaken through the Site Plan Control application process, at the expense of the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - d. Implement any wind control measures identified in the Pedestrian Level Wind Study, dated June 3, 2021, prepared by Gradient Wind Engineers,

and any future addendum, to the satisfaction of the Chief Planner and Executive Director, City Planning, to be secured through the Site Plan Control application review process;

- e. Satisfy the requirements of Metrolinx particularly regarding noise and vibration attention requirements, warning clauses in purchase and sale/tenancy agreements, and construction traffic management plan and schedules;
- f. Construction of a bus stop platform and associated connections on the Eglinton Avenue West frontage to the satisfaction of the Toronto Transit Commission;
- g. Incorporation in the construction of the building of exterior materials shown on 1:50 scale drawings as approved by the Chief Planner and Executive Director, City Planning and submitted as part of the Site Plan Control approval process;
- h. Reconstruction of the City sidewalks to City standards along the frontages of The East Mall and Eglinton Avenue West, to the satisfaction of the General Manager, Transportation Services; and
- i. The construction management plan include on-site contact during the construction process for residents and stakeholders to contact.

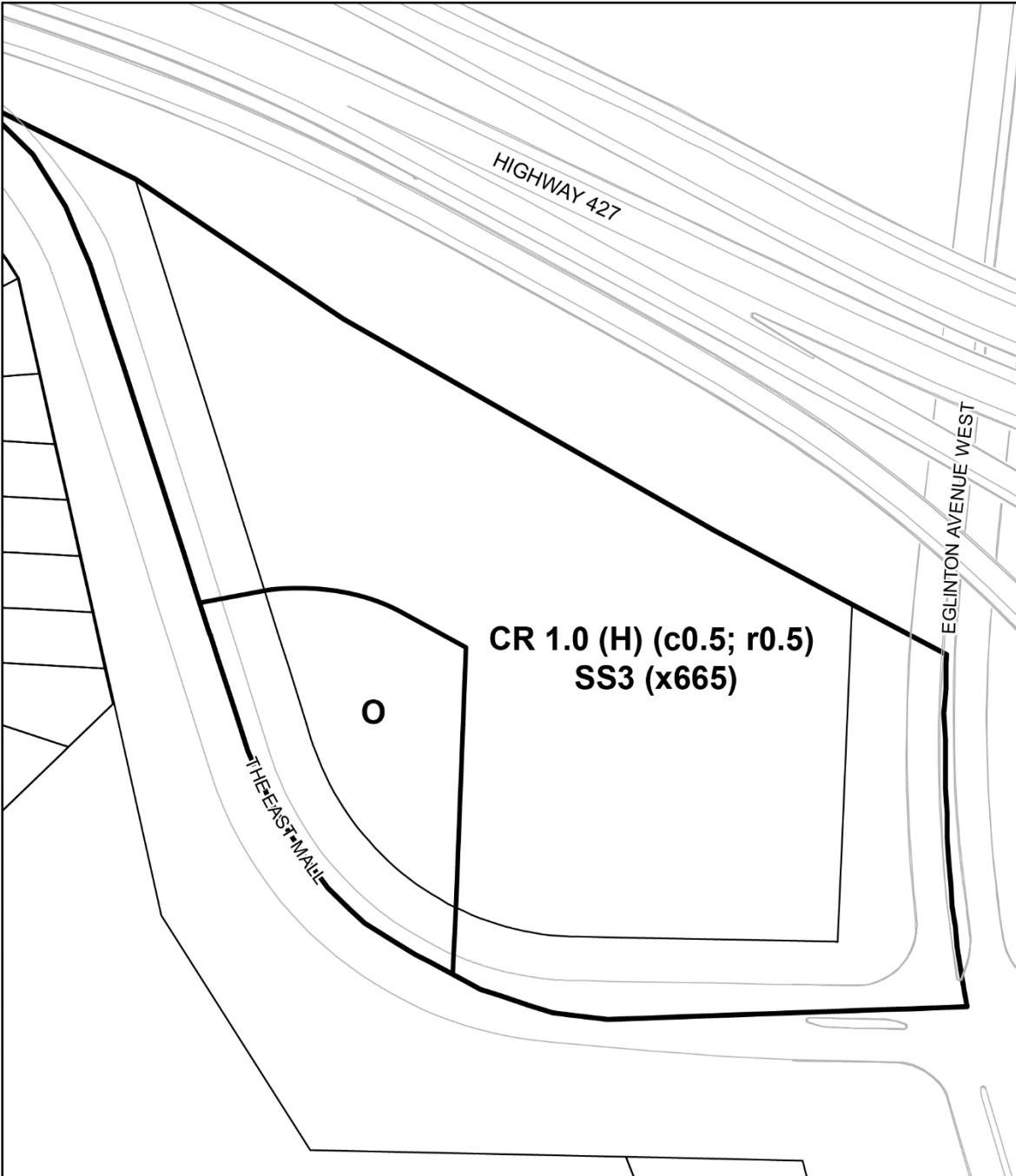


Toronto
Diagram 1

900-940 The East Mall

File # 19 236352 WET 02 02

City of Toronto By-law 569-2013
Not to Scale
06/03/2022

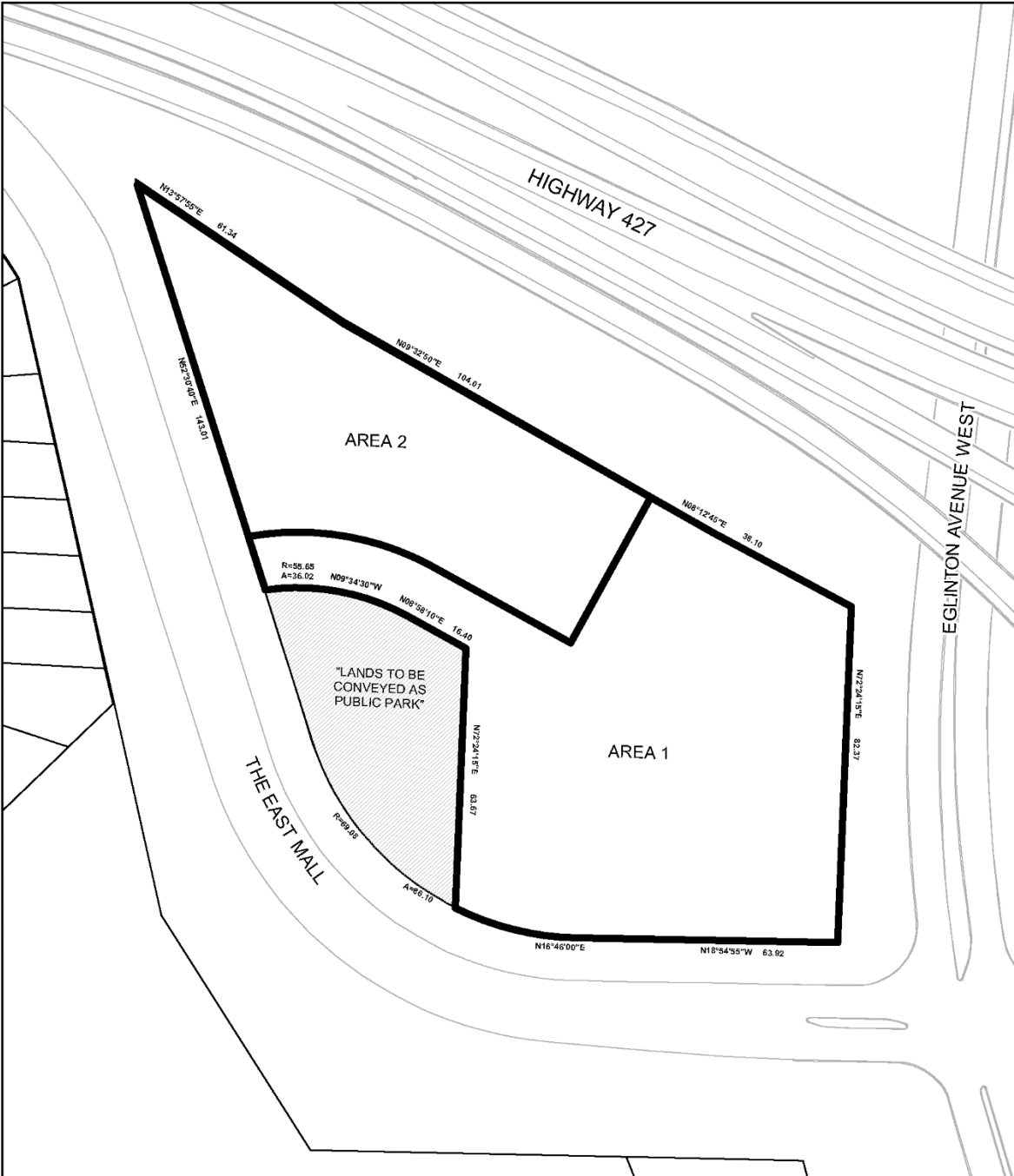


 **Toronto**
Diagram 2

900-940 The East Mall

File # 19 236352 WET 02 02

➤
City of Toronto By-law 569-2013
Not to Scale
06/03/2022

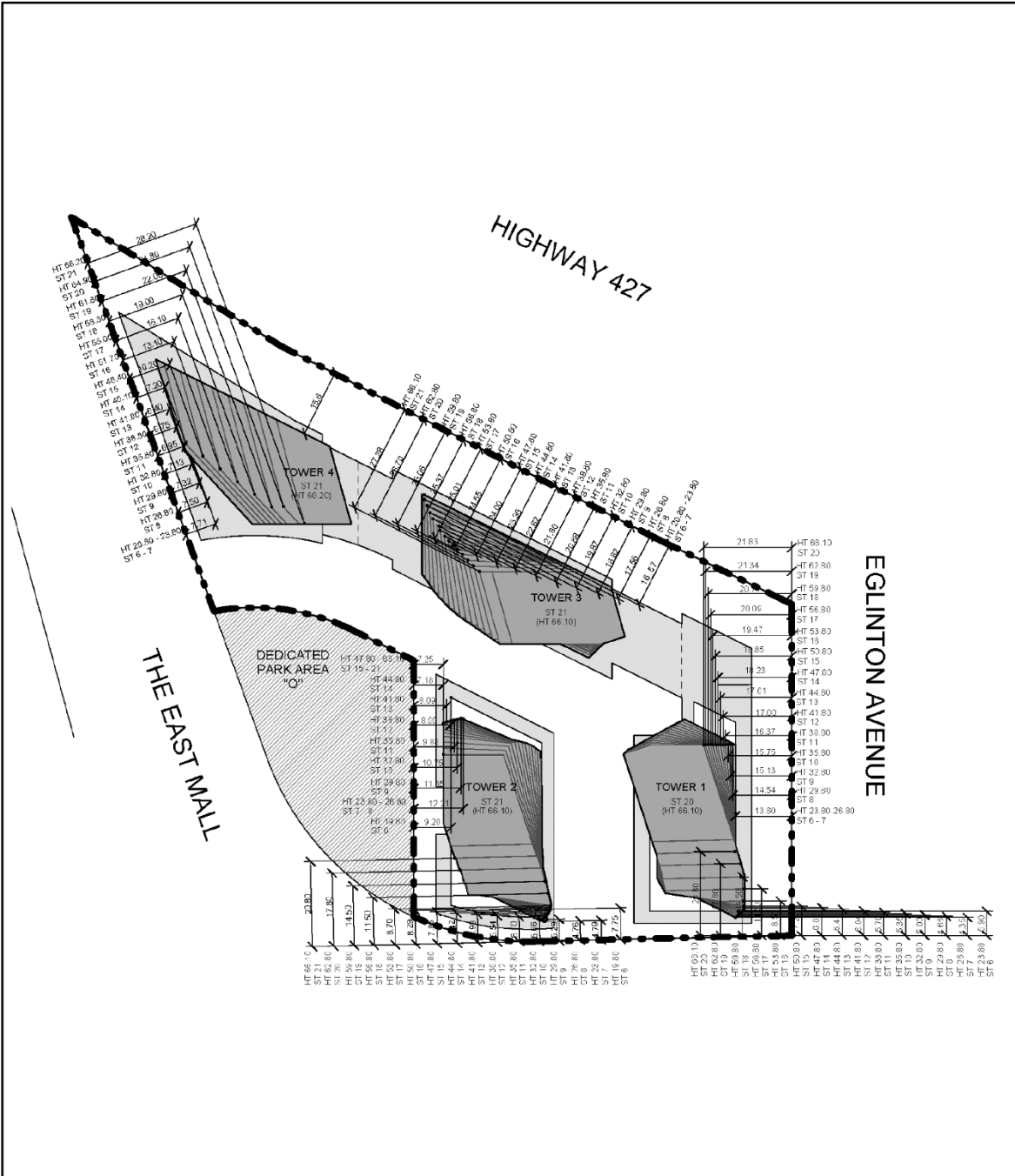


Toronto
Diagram 3

900-940 The East Mall

File # 19 236352 WET 02 02

City of Toronto By-law 569-2013
Not to Scale
06/03/2022



900-940 The East Mall

File # 19 236352 WET 02 02