

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 30, 2021

CASE NO(S): PL200212

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Maitland Residences Corp.
Subject:	Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment
Existing Designation:	Mixed Use Areas
Proposed Designated:	Site Specific (To be determined)
Purpose:	To permit a 45-storey mixed use building
Property Address/Description:	20-26 Maitland Street
Municipality:	City of Toronto
Approval Authority File No.:	19 240160 STE 13 OZ; 19 240163 STE SA
LPAT Case No.:	PL200212
LPAT File No.:	PL200212
LPAT Case Name:	Maitland Residences Corp. v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Maitland Residences Corp.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of the City of Toronto to make a decision
Existing Zoning:	R3 Z 2.0
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a 45-storey mixed use building
Property Address/Description:	20-26 Maitland Street
Municipality:	City of Toronto
Municipality File No.:	19 240160 STE 13 OZ; 19 240163 STE SA
LPAT Case No.:	PL200212
LPAT File No.:	PL200213

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Site Plan
Property Address/Description:	20-26 Maitland Street
Municipality:	City of Toronto
LPAT Case No.:	PL200212
LPAT File No.:	PL200214

Heard: April 13, 2021 by Video Hearing

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Representative</u>
Maitland Residences Corp.	Mark Flowers* Zachary Fleisher*
The City of Toronto	Alexander Suriano* Ben Baena*
CentreCourt (Wellesley East) Limited Partnership	No one appearing

DECISION DELIVERED BY MARGOT BALLAGH AND ORDER OF THE TRIBUNAL

BACKGROUND

[1] This was the Settlement Hearing in the matter of appeals by the Applicant/Appellant, Maitland Residences Corp. ("Maitland"), pursuant to s. 22(7) of the *Planning Act* ("Act") from the failure of the City of Toronto ("City") to adopt the requested Official Plan Amendments ("OPAs"); and pursuant to s. 34(11) of the Act from the failure of the City to make a decision to approve the requested Zoning By-law Amendments ("ZBAs") related to Zoning By-law No. 438-86 and City-wide Zoning By-law No. 569-2013 (the "By-laws"); and pursuant to s. 41(12) of the Act from the failure of the City to make a decision to approve the Site Plan, within the prescribed timelines in the Act in order to permit the construction of a 45-storey mixed use building on the lands known in 2020, municipally as 20-26 Maitland Street (the "Subject Site").

[2] The hearing on the merits of these appeals was scheduled for eight days commencing April 13, 2021. Shortly before the hearing, the parties informed the Tribunal that, after several revisions to the proposed development, they had reached a settlement of the issues, and requested that the hearing on the merits be converted to a one-day settlement hearing.

[3] As a result, this settlement hearing was scheduled to provide an opportunity for the parties to satisfy the Tribunal that the latest development proposal (the “Settlement Proposal”) meets the legislative and policy requirements, is in the public interest and represents good planning.

THE SETTLEMENT HEARING

[4] Although no one appeared at the hearing for the CentreCourt (Wellesley East) Limited Partnership, counsel for the other parties advised that it was their understanding that all the parties consented to the Settlement Proposal.

[5] Stephanie McCracken attended the hearing on behalf of the only participant, Church-Wellesley Village Business Improvement Area (“CWBIA”). She had previously filed a written Participant Statement with the Tribunal for consideration in the appeals.

[6] Mark Flowers, counsel for Maitland, provided a brief overview to the Tribunal, explaining that Maitland had applied, pursuant to s. 22(7) of the Act for the OPAs, out of an abundance of caution but that the parties agree that no OPA is actually required for the Settlement Proposal. As a result, upon approval of the ZBAs in principle, Maitland intends to withdraw its appeal under s. 22(7) of the Act, in relation to the OPA. Mr. Flowers further advised that the parties agree that the Appeal pursuant to s. 41(12) of the Act should be adjourned *sine die* as the Site Plan will require revision to address the changes in the Settlement Proposal if it is approved. He noted that Maitland intends to withdraw its s. 41(12) appeal if the ZBAs to the By-laws are approved and the parties can agree on a revised Site Plan to reflect the Settlement Proposal.

[7] Mr. Flowers told the Tribunal that the more notable revisions to the original proposal that led to settlement (the Settlement Proposal) were the reduction of the height of the building and improvement to the residential unit mix for optimum range of sizes.

[8] Mr. Flowers noted that, in order to implement the Settlement Proposal, the parties were seeking approval in principle of the ZBAs, drafts of which can be found at Exhibits “F” and “G” to the Affidavit of Peter Smith, sworn April 8, 2021. These draft ZBAs are appended to this Decision and Order as Attachments 1 and 2, respectively. Mr. Flowers noted that approval of the final form of the draft ZBAs (Attachments 1 and 2) to the satisfaction of the City is required by the jointly proposed Conditions of Final Order, which Conditions were marked as Exhibit 2 at the hearing, and are appended to this Decision and Order as Attachment 3. Mr. Flowers said the proposed Conditions (Attachment 3) include other requirements as well, including terms for an Agreement under s. 37 of the Act related to community benefits and other matters of legal convenience, which will result in significant public benefit.

[9] Ben Baena, counsel for the City, concurred with Mr. Flower’s comments and further noted that the new Settlement Proposal resulted in reduced total gross floor area and sufficient setbacks. Mr. Baena asked the Tribunal to withhold any final order pending the satisfactory completion of the Conditions (Attachment 3). He reiterated that one of the conditions in Attachment 3 was that the City needed to review the draft ZBAs to ensure they were in a final form satisfactory to the City. He noted that the City was not calling any witness.

[10] Mark Flowers called the only witness at the hearing, Peter F. Smith, a land use planner, who was duly affirmed, and qualified without objection, by the Tribunal to provide expert opinion evidence in land use planning. Mr. Smith’s curriculum vitae and Acknowledgment of Expert’s Duty can be found at Exhibits “A” and “B” respectively, in his Affidavit sworn April 8, 2021, which Affidavit was marked Exhibit 1 at the hearing.

[11] Mr. Smith provided the Tribunal with a summary of his evidence, the details of which are provided in Exhibit 1, and he also answered questions from the City's counsel as well as from the Tribunal.

The Settlement Proposal

[12] Mr. Smith advised the Tribunal that Maitland had presented three development proposals to the City: the Original Proposal on October 23, 2019; a Revised Proposal on December 14, 2020; and the current Settlement Proposal on February 25, 2021. He prepared and provided at paragraph 22 of Exhibit 1 a statistical summary setting out a comparison of the Settlement Proposal to the Original Proposal and to the 2020 Proposal as reproduced in the table below:

Table 1:

	Original Proposal (October 23, 2019)	Revised Proposal (December 14, 2020)	Settlement Proposal (February 25, 2021)
Site Area	2,778 m ²	2,778 m ²	2,778 m ²
Public Park	0 m ²	0 m ²	279 m ²
Tower Height in Storeys	45	45	40 + partial 41 st
Overall Tower Height (to top of MPH)	144.9 m	144.9 m	129.2 m
<u>Gross Floor Area</u>	36,010 m ²	35,932 m ²	33,414 m ²
Residential	35,735 m ²	35,697 m ²	33,196 m ²
Retail	275 m ²	235 m ²	218 m ²
Density	12.96 FSI	12.93 FSI	12.03 FSI
Residential Units	527 units (100%) 38 bachelor (7%)	596 units (100%) 333 bachelor (56%)	532 units (100%) 297 bachelor (56%)
	306 1-bedroom (58%) 124 2-bedroom (24%) 59 3-bedroom (11%)	112 1-bedroom (19%) 90 2-bedroom (15%) 61 3-bedroom (10%)	100 1-bedroom (19%) 81 2-bedroom (15%) 54 3-bedroom (10%)
Total Units (If All Knock-out Panels Used)	507 units (100%) 18 bachelor (4%) 286 1-bedroom (56%) 144 2-bedroom (28%)	522 units (100%) 185 bachelor (35%) 112 1-bedroom (21%) 164 2-bedroom (31%)	466 units (100%) 165 bachelor (35%) 100 1-bedroom (22%) 147 2-bedroom (32%)

	59 3-bedroom (12%)	61 3-bedroom (12%)	54 3-bedroom (12%)
Amenity Space	2,152 m2 (4.08 m2/unit)	2,384 m2 (4.0 m2/unit)	2,128 m2 (4.0 m2/unit)
Vehicular Parking	125 spaces	114 spaces	103 spaces
Residential	81 spaces (0.15/unit)	89 spaces (0.15/unit)	80 spaces (0.15/unit)
Visitor	42 spaces (0.08/unit)	21 spaces (0.035/unit)	19 spaces (0.035/unit)
Commercial	0 spaces	2 spaces	2 spaces
Car Share	2 spaces	2 spaces	2 spaces
Bicycle Parking	533 spaces	602 spaces	537 spaces
Res. Long-Term	475 spaces	537 spaces	479 spaces
Res. Short-Term	53 spaces	60 spaces	53 spaces
Non-res. Long-Term	1 space	1 space	1 space
Non-res. Short-Term	4 spaces	4 spaces	3 spaces
Loading Spaces	1 Type 'C' 1 Type 'G'	1 Type 'C' 1 Type 'G'	1 Type 'C' 1 Type 'G'

[13] It was Mr. Smith's evidence that the Settlement Proposal before the Tribunal consists of a mixed-use/residential building with a reduced height of 40 storeys (from 45 storeys) plus a partial 41st floor with amenity space, for a total height of approximately 129.2 metres ("m") to the top of the mechanical penthouse (reduced from 144.9 m). The three-storey podium height is maintained.

[14] The Settlement Proposal includes a gross floor area ("GFA") of approximately 33,414 square metres ("sq m") (reduced from 35,932 sq m in the 2020 Proposal). The residential component of the proposal includes 532 dwelling units (reduced from 596), of which at least 10% will have three bedrooms and 15% will have two bedrooms. Mr. Smith described knock-out panels that are provided between 132 of the proposed bachelor units, providing the opportunity to increase the number of two-bedroom units by 66, resulting in 11.6% of the units having three bedrooms (due to the reduced overall unit count) and 31.5% of the units having two bedrooms. The proposal has a floor space index ("FSI") of 12.03, reduced from the 2020 Proposal FSI of 12.93.

[15] Mr. Smith told the Tribunal that, aside from height, the Settlement Proposal generally maintains the general built form of the Original Proposal and the 2020 Proposal.

The podium maintains a 3.4 m front yard setback, while the easterly setback has been reduced from 9.1 to 8.0 m, while continuing to accommodate the proposed vehicular access driveway. The rear yard setback of 8.0 m is maintained from the main podium, as is the one-storey ramp structure at the rear of the building which includes the underground garage entrance.

[16] Along the west lot line, Mr. Smith said the Settlement Proposal introduces a 279 sq m on-site public park (10 percent of the Subject Site), with a minimum frontage of 5.31 m on Maitland Street, which is to be conveyed to the City of Toronto and combined with a new public park on City-owned lands immediately to the west (15 Wellesley Street East). To accommodate the park, the west face of the proposed podium has been shifted east by 3 m to a total setback of approximately 8.3 m from the existing lot line, providing a 3 m setback to the park.

[17] According to Mr. Smith, the Settlement Proposal continues to provide at-grade retail space (218 sq m, a small reduction from 235 sq m), along with five live-work units along the west face of the podium.

[18] Above, the tower floor plate from Levels 4 to 40 will include an increased floor plate of 875 sq m (from 850 sq m) gross construction area (818 sq m GFA). The proposed tower has an increased setback from Maitland Street of 6.4 m (from 5.5 m) and maintains a rear tower setback of 12.5 m from the centreline of the private lane to the north and a tower setback of 12.5 m from the west lot line. To the east, the tower setback has been reduced from 15.9 m to 14.7 m, which Mr. Smith said, is still well in excess of the 12.5 m tower setback recommended by the Tall Building Design Guidelines.

[19] Mr. Smith referred the Tribunal to the draft ZBAs in his Affidavit, and appended as Attachments 1 and 2, to the By-laws, respectively, that he said provide for the redevelopment of the Subject Site in accordance with the Settlement Proposal.

Documents Relied Upon

[20] In arriving at his opinions and conclusions in the context of the proposed development, Mr. Smith indicated that he reviewed the following policy and regulatory documents and City of Toronto Staff Reports:

- a) Provincial Policy Statement (2020);
- b) Growth Plan for the Greater Golden Horseshoe (2019), as amended by Growth Plan Amendment No. 1;
- c) City of Toronto Official Plan (2006), as amended;
- d) Official Plan Amendment No. 183 (North Downtown Yonge);
- e) Official Plan Amendment No. 406 (Including the Downtown Secondary Plan);
- f) Official Plan Amendment No. 231;
- g) Official Plan Amendment No. 352, including By-law Nos, 1106-2016 and 1107-2016;
- h) City of Toronto Zoning By-law No. 438-86;
- i) City-wide Zoning By-law No. 569-2013;
- j) City of Toronto Tall Building Design Guidelines, including the Downtown Tall Building Guidelines;
- k) City of Toronto North Downtown Yonge Urban Design Guidelines;
- l) 20-26 Maitland Street – Official Plan Amendment, Zoning By-law Amendment and Site Plan Control Applications – Request for Directions Report (September 21, 2020); and
- m) 20-26 Maitland Street – Official Plan Amendment, Zoning By-law Amendment,
- n) and Site Plan Approval Applications – Request for Further Directions Regarding LPAT Hearing (March 2, 2021).

Description of Subject Site and Area

[21] The Subject Site is located on the north side of Maitland Street approximately 65 m east of Yonge Street. It is located 100 m southeast from the intersection of Yonge Street and Wellesley Street.

[22] The Subject Site is generally rectangular in shape, with a frontage of 53.36 m along Maitland Street and a depth of 51.95 m. The site area is approximately 2,778 sq m.

[23] At the time of the Original Proposal, the site was occupied by a three-storey converted house-form building that contained a law firm (20 Maitland Street) and a three-storey building, which was occupied by the Catholic Children's Aid Society ("CCAS") (26 Maitland Street). The 26 Maitland building was purpose-built for the CCAS in the early 1960s and had a GFA of approximately 2,648 sq m (28,500 square feet ("sq ft")), while the building at 20 Maitland Street had a GFA of approximately 372 sq m (4,000 sq ft). Both buildings were subsequently demolished following the issuance of a demolition permit.

[24] Mr. Smith told the Tribunal that there was no dispute that development should occur on this site as it is part of the Downtown Urban Growth Centre, near transit services and there are numerous tall buildings under construction in close proximity with approved heights of up to 60 storeys. He said the Subject Site is where tall buildings should be located. He said the Subject Site is relatively large and able to accommodate the 12.5 m setbacks and a podium. He said the Original Proposal just needed some fine tuning as set out in the above table showing the revisions resulting in the Settlement Proposal.

Policy and Regulatory Context

Provincial Policy Statement, 2020

[25] Mr. Smith gave his opinion that the proposed development, as reflected in the Settlement Proposal, is consistent with the Provincial Policy Statement, 2020 (the “PPS”), and in particular, the policies relating to intensification, the efficient use of land and infrastructure, and the provision of housing options. As compared with the 2014 PPS, which was analyzed in an October 2019 Planning Rationale, the 2020 PPS includes an increased emphasis on promoting transit supportive development, encouraging an increase in the mix and supply of housing, protecting the environment and public safety, reducing barriers and costs for development and providing greater certainty, and supporting the economy and job creation.

Growth Plan for the Greater Golden Horseshoe, 2019, as amended

[26] It was also Mr. Smith’s opinion that the proposed development, as reflected in the Settlement Proposal, conforms with the Growth Plan for the Greater Golden Horseshoe, 2019, as amended by Growth Plan Amendment No. 1 (the “Growth Plan”) as required by s. 3(5) of the Act.

[27] He noted that the Subject Site is located within a “strategic growth area” as defined by the Growth Plan, as it is located within the Downtown Toronto “urban growth centre”.

[28] Mr. Smith highlighted in detail the policy directions in the Growth Plan relevant to the proposed development in Exhibit 1 (including Policies 2.2.1(2)(c); 2.2.1(3)(c); 2.2.1(4); 2.2.2(3); 2.2.3(1); 2.2.3(2); 2.2.6(1); 3.2.3(1); 3.2.3(2); 4.2.7(1); and 5.2.5(6)).

City of Toronto Official Plan

[29] Mr. Smith also gave his opinion that the proposed development, as reflected in the Settlement Proposal, conforms with the City of Toronto Official Plan (“Official Plan”), in particular with the applicable *Mixed Use Areas* designation and the policies related to growth management, heritage and housing.

[30] He noted that the Subject Site is designated *Mixed Use Areas* on Map 18, Land Use, of the Official Plan. The *Mixed Use Areas* designation permits a broad range of commercial, residential and institutional uses in single use or mixed-use buildings, as well as parks and open spaces and utilities. The Official Plan envisions that development in *Mixed Use Areas* will create a balance of high quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community and will provide for new jobs and homes for Toronto’s growing population on underutilized lands in the *Downtown* and elsewhere.

[31] Policy 4.5(2) sets out criteria for development within *Mixed Use Areas*, including:

- locating and massing new buildings to provide a transition between areas of different development intensity and scale as necessary to achieve the objectives of the Official Plan, through means such as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale *Neighbourhoods*;
- locating and massing new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes;
- locating and massing new buildings to frame the edges of streets and parks with good proportion and maintaining sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces;
- providing an attractive, comfortable and safe pedestrian environment;

- providing good site access and circulation and an adequate supply of parking for residents and visitors;
- locating and screening service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and
- providing indoor and outdoor recreation space for building residents.

[32] The Subject Site is identified as part of the *Downtown and Central Waterfront* on Map 2, Urban Structure, of the Official Plan. The growth management policies of the Official Plan direct growth to those areas identified on Map 2, including the *Downtown*, where transit services and other infrastructure are available.

[33] Policy 2.2(2) provides that “growth will be directed to the *Centres, Avenues, Employment Areas* and the *Downtown* as shown on Map 2” and sets out objectives that can be met by this strategy, including:

- using municipal land, infrastructure and services efficiently;
- concentrating jobs and people in areas well served by surface transit and rapid transit stations;
- promoting mixed use development to increase opportunities for living close to work and to encourage walking and cycling for local trips;
- offering opportunities for people of all means to be affordably housed;
- facilitating social interaction, public safety and cultural and economic activity;
- improving air quality and energy efficiency and reducing greenhouse gas emissions; and
- protecting neighbourhoods and green spaces from the effects of nearby development.

[34] Mr. Smith referred to s. 3.1.2 and s. 3.1.3 of the Official Plan, which include built form policies and s. 3.2.3, which includes policies related to parkland dedication.

[35] Section 3.1.5 of the Official Plan includes heritage conservation policies. Policy 3.1.5(23) requires that a Heritage Impact Assessment will evaluate the impact of a proposed alteration to a property on the Heritage Register, and/or properties adjacent to a property on the Heritage Register. While the Subject Site is not a listed or designated property, it is adjacent to one property listed on the City of Toronto Heritage Register at 37 Maitland Street and is nearby listed properties at 36 and 42 Maitland Street, which are included on the Heritage Register. The Subject Site is also nearby the boundaries of the proposed Historic Yonge Street Heritage Conservation District. Based on the analysis of ERA Architects, Mr. Smith said the proposed development is not expected to result in negative impact on these heritage resources.

[36] Mr. Smith explained that the Official Plan's housing policies support a full range of housing in terms of form, tenure and affordability, across the City and within neighbourhoods, to meet the current and future needs of residents, including a full range of housing, which includes among other things, rental and affordable housing (Policy 3.2.1(1)). Policy 3.2.1(2) provides that new housing supply will be encouraged through intensification and infill that is consistent with the Official Plan.

Downtown Secondary Plan (Official Plan Amendment No. 406)

[37] Mr. Smith indicated that the Official Plan Amendment No. 406 ("OPA 406") included a new Downtown Secondary Plan and that, in his opinion, the proposed development, as reflected in the Settlement Proposal, conforms with the Downtown Secondary Plan.

[38] The Subject Site is designated *Mixed Use Area 1 – Growth* by the Downtown Secondary Plan. Section 4.1 encourages growth within the *Downtown*, and in particular, on lands designated *Mixed Use Areas 1*. Furthermore, the highest density of

development within the *Downtown* is to be directed to *Mixed Use Areas* in proximity to existing or planned transit stations.

[39] Mr. Smith told the Tribunal that Policy 5.1 provides that development will support and contribute to the achievement of complete communities by providing for growth and through the provision of development charges under the *Development Charges Act, 1997* and/or as a community benefit under s. 37 of the Act, as may be applicable.

[40] In order to support the City, other levels of government and other public agencies in the delivery of community service facilities, parkland, green infrastructure and physical infrastructure in providing for complete communities, Policy 5.2 provides that a Complete Community Assessment will be required as part of “significant and large scale development applications” within *Mixed Use Areas 1* and other identified designations. Policy 5.4 provides that the Complete Community Assessment study area may include the site and block in which the development is located, as well as all of the surrounding blocks, and that a larger area of assessment may be required where the development intensity is greater than the planned context. Mr. Smith advised that as requested by City Planning staff, a Complete Community Assessment was prepared by Bousfields Inc. and submitted in support of the Application.

[41] Policy 6.18 provides that a wide range of commercial, residential and institutional land uses, and parks and open spaces, are permitted in the *Mixed Use Areas*. It goes on to say that the diverse mix of permitted uses within *Downtown Mixed Use Areas* will meet people's needs for daily living and working (Policy 6.18.1), enable live-work proximities such that people can walk and cycle to their destinations, reducing the need for longer trips (Policy 6.18.2), and provide an urban form that will optimize infrastructure, particularly within 500-800 m of existing or planned rapid transit stations (Policy 6.18.3).

[42] Policy 6.19 provides that *Mixed Use Areas* will contain development of varying scales and intensities, based on the existing and planned context. Mr. Smith said that Policy 6.20 provides that building heights, massing and scale of development will be

compatible between each of the four *Mixed Used Areas*, with the most intense development located in *Mixed Use Areas 1*.

[43] Policy 6.22 provides that not all sites can accommodate the maximum scale of development anticipated in each of the *Mixed Use Areas* while also supporting the liveability of the development and the neighbourhood, while other sites may be able to accommodate more than the anticipated scale. Mr. Smith said it provides that development will be required to address specific site characteristics, including lot width and depth, location on a block, on-site or adjacent heritage buildings, parks or open spaces, shadow impacts, and other sensitive adjacencies, potentially resulting in a lower-scale building.

[44] Policy 6.23 provides that development within *Mixed Use Areas 1* will include a diverse range of building typologies, including tall buildings, with height, scale and massing dependent on the site characteristics and “supportive of intensification suitable for a downtown growth area”. Policy 6.24 further provides that development within *Mixed Use Areas 1* will generally be encouraged to provide a significant proportion of non-residential uses within new mixed-use developments.

[45] With respect to development in proximity to existing and planned rapid transit stations, Policy 6.34 provides that development in such areas will prioritize mixed-use development, and that these areas will be planned to accommodate higher density development to optimize the return on investment and increase the efficiency and viability of existing and planned transit service levels.

[46] More specifically, Mr. Smith noted that Policy 6.35 provides that lands within 500-800 m of all existing or planned rapid transit stations within the *Downtown* will be planned to be transit-supportive and, where appropriate, to achieve multi-modal access to stations and connections to major trip generators. Development within such areas is to be supported, where appropriate, by planning for a diverse mix of uses of sufficient intensity to optimize support for existing and planned transit service levels; fostering collaboration

between public and private sectors; providing alternative development standards; and prohibiting built form that would adversely affect the optimization of transit infrastructure.

[47] Mr. Smith said that Policy 6.36 goes on to require that the highest density of development within the *Downtown* be directed to *Mixed Use Areas 1* in close proximity to existing or planned rapid transit stations.

[48] Policy 6.37 provides that a study may be undertaken by the City that will result in a Site and Area Specific Policy (“SASP”) for lands within 500-800 m of a planned rapid transit station for the purposes of implementing Policy 6.36, which will set out, among other matters, the appropriate land use mix; public realm improvements and priorities; contextually appropriate built form scale and type; and necessary infrastructure. However, Mr. Smith told the Tribunal that Policy 6.38 provides that development may proceed in advance of a study referred to in Policy 6.37, provided that the supporting documentation in the application includes consideration of the matters identified in Policy 6.37.

[49] Mr. Smith also considered s. 7, 8 and 9 of the Downtown Secondary Plan, which include public realm, mobility and built form policies.

[50] Policy 9.13 states that tall building floor plates should be designed to adequately limit shadow impacts of the tower on the public realm and neighbouring properties, and maintain adequate sky view from the public realm. Mr. Smith said to that end, Policy 9.15 provides that, in a tall building, a storey which contains residential units but does not form part of a base building will generally have a maximum floor plate size of 750 sq m above the base building. He said it goes on to say that increases to the 750 sq m floor plate size may be appropriate where the impacts of the larger floor plate, including but not necessarily limited to shadow, sky view and wind are addressed.

[51] Policy 11.1 provides that, in order to achieve a balanced mix of unit types and sizes and support, the creation of housing suitable for families, development containing more than 80 new residential units will include: a minimum of 15 per cent of the total

number of units as two-bedroom units; a minimum of 10 per cent of the total number of units as three-bedroom units; and an additional 15 per cent of the total number of units as a combination of two-bedroom and three-bedroom units, or units that can be converted to two- and three-bedroom units through the use of accessible or adaptable design measures. Mr. Smith told the Tribunal that the proposed unit mix in the Settlement Proposal conforms with this policy.

[52] Policy 14.1 provides that implementation plans, strategies and guidelines will be adopted to advance the vision, goals and policies of the Downtown Plan. In Mr. Smith's view, these implementation plans, strategies and guidelines, while they express Council policy, are not part of the Plan unless the Downtown Plan has been specifically amended to include them, in whole or in part, and do not have the status of policies in the Downtown Plan.

Official Plan Amendment No. 183 (North Downtown Yonge)

[53] Mr. Smith told the Tribunal that Official Plan Amendment No. 183 ("OPA 183") remains under appeal in its entirety as it applies to the Subject Site. He said OPA 183 was adopted by City Council on November 15, 2013 and was appealed to the Ontario Municipal Board (the "OMB") in its entirety. While portions of OPA 183 have now been approved with significant modifications by OMB decisions, other portions have not yet been approved and, accordingly, are not in force.

[54] Mr. Smith said OPA 183 resulted from the North Downtown Yonge Planning Framework ("NDYPF") study, which was initiated by Toronto and East York Community Council in 2011. The study was to consider mixed use sites in the area with potential for intensification and revitalization and recommend a framework for future redevelopment that City Council can use as a guide for consideration of individual redevelopment proposals within the area. In addition to OPA 183, the study resulted in the North Downtown Yonge Urban Design Guidelines.

[55] Mr. Smith explained that OPA 183 added a new site and area specific policy (SASP 382) applicable to the North Downtown Yonge area. Development policies in SASP 382 consist of specific character area policies and area-wide policies (e.g. heritage, parks and open space, public realm, urban design). In this regard, the North Downtown Yonge area is divided into eight character areas. Mr. Smith said the Subject Site falls within the Wellesley/Wood Character Area.

[56] The policies applying to Wellesley/Wood Character Area are included in s. 5.6 of SASP 382. The policies differentiate between those portions of the Character Area designated *Mixed Use Areas* (i.e. including the Subject Site) and those portions designated *Apartment Neighbourhoods* (i.e. generally to the south and east of the Subject Site).

[57] The introductory text states that the portion of the area designated *Mixed Use Areas* includes a mix of uses, including residential, office and retail along the north and south sides of Wellesley Street and also contains a transit node at the Wellesley subway station. The text states that this portion of the Character Area may be appropriate for limited infill growth, subject to the development policies set out in s. 5.6.

[58] In Mr. Smith's view, the only applicable policy is Policy 5.6.2, which provides that, where a tall building is proposed close to the Gloucester/Dundonald Character Area (i.e. to the north of Wellesley Street), the tower portion of the tall building will be set back a minimum of 20 m, excluding balconies, from any such abutting property line. Mr. Smith said that the Subject Site is considerably further than 20 m from the Gloucester/Dundonald Character Area.

[59] Mr. Smith told the Tribunal that to the west of the Subject Site, the lands fronting on Yonge Street comprise the Yonge Street Character Area, which is subdivided into a Height Transition Area (generally between Grenville Street/Wood Street and Grosvenor Street/Alexander Street) and a Height Core Area (generally north of Grosvenor Street/Alexander Street to Charles Street). A Height Peak Area, consisting of the blocks

between College/Carlton and Grenville Street/Wood Street, is included within the College/Carlton Street Character Area. The policies applicable to the Height Core Area specify that the maximum height will be in the range of 4 storeys (18 m) and that buildings taller than 18 m may only be permitted if they do not penetrate a 75 degree angular plane measured from a height of 18 m at the Yonge Street street line.

[60] Section 6 of SASP 382 contains area wide policies applicable to the entire North Downtown Yonge area, including policies addressing heritage, parks and open space, public realm and urban design.

[61] In any event, the parties took the common position that OPA 183 did not apply to the subject development in accordance with the decision in *Clergy Properties Ltd. v. Mississauga (City)*, [1996] O.M.B.D. No. 1840 (the “*Clergy* principle”). Based on the *Clergy* principle, Maitland and the City submit that the Settlement Proposal should be considered in light of the Official Plan policies that were in force and effect when the ZBA application was made. On this basis, and subject to approval of the Settlement Proposal, Maitland will withdraw its appeal of OPA 183.

[62] Based on the uncontroverted evidence of Mr. Smith and the consent submissions of the parties including the City, the Tribunal finds that the *Clergy* principle applies and the policies of OPA 183, which were not in force and effect at the time Maitland made its ZBA application, are not applicable to the subject development.

Official Plan Amendment No. 231

[63] Mr. Smith indicated that Official Plan Amendment No. 231 (“OPA 231”) was adopted by City Council and subsequently forwarded to the Minister of Municipal Affairs and Housing for approval on January 2, 2014. OPA 231 was appealed to the OMB by several parties. Subsequently, portions of OPA 231 have been approved by the OMB (now, the Tribunal) although portions remain under appeal and are not in force. According

to Mr. Smith, note should be taken that proposed Policy 3.5.1(9), as described below, remains under appeal and is not in force.

[64] OPA 231 contains new economic policies, and new policies and designations for *Employment Areas* as part of the Official Plan and Municipal Comprehensive Reviews. In addition to policies applying to *Employment Areas*, OPA 231 proposes to introduce policies with respect to office replacement in “transit-rich” areas. Mr. Smith told the Tribunal that the office replacement policies are not yet in force.

[65] Proposed Policy 3.5.1(9), which Mr. Smith said was not yet in force, would require that new development that includes residential units on a property with at least 1,000 sq m of existing non-residential GFA used for office space must increase the non-residential GFA used for office purposes, where the property is located in a *Mixed Use Area* or *Regeneration Area* within the *Downtown and Central Waterfront* or a *Centre* or within 500 m of an existing or approved and funded subway, light rapid transit or GO train station.

[66] The policy goes on to provide that, where site conditions and context do not permit an increase in non-residential office GFA on the same site, the office floor space may be replaced on a second site, prior to or concurrent with the residential development. The second site will be within a *Mixed Use Area* or *Regeneration Area* in the *Downtown and Central Waterfront*; within a *Mixed Use Area* or *Employment Area* in the same *Centre*; or within 500 m of the same existing or approved and funded subway, light rapid transit or GO train station.

[67] As with OPA 183 above, the parties took the common position that OPA 231 did not apply to the subject development in accordance with the *Clergy* principle. Based on that principle, Maitland and the City submit that the Settlement Proposal should be considered in light of the Official Plan policies that were in force and effect when the ZBA application was made. On this basis, and subject to approval of the Settlement Proposal, Mr. Smith said that Maitland will withdraw its appeal of OPA 231 with respect to office replacement policies as it relates to the Subject Site.

[68] Based on the uncontroverted evidence of Mr. Smith and the consent submissions of the parties including the City, the Tribunal finds that the *Clergy* principle applies and the policies of OPA 231, which were not in force and effect at the time Maitland made its ZBA application are not applicable to the subject development.

Zoning By-law

[69] Mr. Smith told the Tribunal that the new City-wide Zoning By-law No. 569-2013, as amended, was enacted by City Council on May 9, 2013. It was appealed to the Tribunal in its entirety; however, substantial portions of the By-law have now been approved by the Tribunal and are in full force and effect. For portions of the By-law that have not yet been approved, City-wide Zoning By-law No. 438-86, as amended, of the former City of Toronto remains in force.

[70] Mr. Smith told the Tribunal that City-wide Zoning By-law No. 569-2013 zones the Subject Site R (d2.0) (x875), with a height limit of 30.0 m and includes it within Policy Area 1. The R (Residential) zone permits dwelling units in a wide range of residential building types, including an apartment building, and a limited range of commercial and institutional uses. Retail stores are permitted in apartment buildings with 100 or more dwelling units, subject to a number of conditions. Office uses are not permitted. The d2.0 zoning provision permits a maximum GFA equal to 2.0 times the lot area (2.0 FSI). Exception R x875 provides that s. 12(1) 434 and 12(2) 208 of former City-wide Zoning By-law No. 438-86 continue to prevail. However, Mr. Smith advised that s. 12(2) 208 does not apply to the Subject Site.

[71] Mr. Smith said that City-wide Zoning By-law No. 438-86 zones the Subject Site R3 Z2.0 with a maximum height of 30.0 m. The R3 Zone permits a wide range of residential uses, including apartment buildings, as well as a limited range of commercial and institutional uses. The R3 Z2.0 zoning permits a maximum GFA of 2.0 times the lot area. The R3 zone permits one retail store in an apartment building containing more than 100 dwelling units, provided that the floor area does not exceed 23 sq m, subject to a

provision to permitting an increase to up to 70 sq m based on the number of units. Office uses are not permitted in the R3 zone.

[72] Mr. Smith said the site is also subject to permissive and restrictive exceptions, including s. 12(1) 3(a), 12(1) 61, 12(1) 232, 12(1) 434 and 12(2) 132.

Urban Design Guidelines

[73] Mr. Smith told the Tribunal that on May 7, 2013, City Council adopted the City-wide Tall Building Design Guidelines (March 2013) ("City-wide Guidelines"), which update and replace the "Design Criteria for the Review of Tall Building Proposals" (2006) and consolidate the Downtown Tall Building Guidelines, which were originally adopted by Council in July 2012.

[74] He said the City-wide Guidelines include sections related to site context, site organization, tall building design and pedestrian realm. Among other matters, the Guidelines recommend a minimum separation distance of 25 m between towers (excluding balconies), a minimum setback of 12.5 m from side and rear property lines or centre line of an abutting lane, and a maximum residential tower floor plate of 750 sq m. A tower stepback of 3 m is specified above the face of the base building, including balconies.

[75] Mr. Smith said that within the Downtown Tall Building Guidelines, Maitland Street is not specifically identified.

[76] It was Mr. Smith's opinion that the proposed development, as reflected in the Settlement Proposal, has appropriate regard for the City-wide Guidelines and the Downtown Tall Building Guidelines.

[77] According to Mr. Smith, the North Downtown Yonge Urban Design Guidelines (September 2013) ("North Downtown Guidelines") were adopted by Council on October 8,

2013, in conjunction with approval in principle of OPA 183, which introduced SASP 382. As noted above, OPA 183 remains under appeal as it applies to the Subject Site.

[78] Mr. Smith said the goal of the North Downtown Guidelines is to provide appropriate built form and public space guidance, while being respectful of the integrity of the surrounding context.

[79] According to Mr. Smith, the North Downtown Guidelines identify the Subject Site as being within the Wellesley Wood Character Area. Section 4.9 states that the Character Areas are predominantly comprised of mid-rise and “tower in the park style” buildings with slab style floor plates. Most of these buildings have large setbacks from the front property line and adjacent properties, providing generous spaces for landscaping, as well as private suburban-style driveways that connect to the building’s main entrance. The North Downtown Guidelines state that a few listed and designated heritage low-rise buildings are located within these Character Areas and will be preserved and enhanced.

[80] Mr. Smith said the North Downtown Guidelines state furthermore that the special built form and open space configuration make the Character Areas unique, which results in large separation distances from adjacent properties and porosity through the block. The open spaces on these blocks are valuable and contribute to the quality of life for residents.

[81] Mr. Smith gave his overall opinion that the proposed development, as reflected in the Settlement Proposal, represents good planning and urban design and that the proposed ZBAs, appended as Attachments 1 and 2, are consistent with the 2020 PPS and conform with the Growth Plan and the Official Plan.

[82] He noted that the appeal of the Site Plan Approval application will be adjourned *sine die* as it will need to be revised to reflect the Settlement Proposal.

[83] Mr. Smith opined that the proposed development, as reflected in the Settlement Proposal, will appropriately intensify an underutilized site with a residential/mixed-use development within the *Downtown* Urban Growth Centre and, more specifically, the North Downtown Yonge area, in proximity to existing higher-order transit stations including the Wellesley subway station. The proposed development will create new housing and new retail uses in an area intended for intensification in keeping with the applicable *Mixed Use Areas* designation in the Official Plan, while also contributing to a new public park.

[84] Mr. Smith said the proposed development, as reflected in the Settlement Proposal, will result in additional housing supply. The development will create an additional 532 residential units, as well as five live-work units, 218 sq m of new retail/commercial space and a 279 sq m parcel to form part of a new public park. In his opinion, the proposed development, as reflected in the Settlement Proposal, will contribute to the achievement of a complete community within the existing and planned context of the area. He opined that the proposed development represents incremental growth on an infill site within an established but growing area, within a neighbourhood that has a range of jobs, stores, housing types, transportation options and public service facilities.

[85] In Mr. Smith's view, the proposed range of uses – residential, live-work, retail and parkland – will contribute to a mix of uses on a site, which is designated *Mixed Use Areas* in the Official Plan and *Mixed Use Areas 1 – Growth* in the Downtown Secondary Plan. He said the proposed development, as reflected in the Settlement Proposal, will reinforce the existing and planned scale of Maitland Street through the proposed tower stepback of 3 m above the three-storey podium, while achieving appropriate tower setbacks to the west, north and east that are equal to or in excess of 12.5 m.

[86] With respect to the participant statement prepared by the CWBIA, Mr. Smith acknowledged that the proposed development does not retain and/or increase existing office floor area on the site as is proposed by OPA 231 in Policy 3.5.1(9). However, in his opinion, Policy 3.5.1(9) is not applicable to the proposed development as indicated above.

[87] Mr. Smith reiterated that, nevertheless, an OPA had been applied for out of an abundance of caution in order to exempt the site from the proposed office replacement policies in OPA 231. He noted his understanding that if the proposed draft ZBAs are approved in principle, Maitland will withdraw its appeal of the OPA application.

[88] In response to questions by the City's counsel, Mr. Smith confirmed that the proposed development, as reflected in the Settlement Proposal, adequately addressed shadow impacts on Doctor Lillian McGregor Park, Barbara Hall Park and Paul Kane Parkette. He noted that the reduced height and the larger setbacks mitigate shadow impacts. Mr. Smith also confirmed for the Tribunal that policies relating to Heritage buildings had been adequately addressed.

[89] In conclusion, Mr. Smith provided his opinion that the proposed development, as reflected in the Settlement Proposal, will achieve an appropriate balance in implementing the full range of planning policies articulated above. He therefore recommended that the requested ZBAs be approved in principle, subject to the Conditions appended as Attachment 3, including the execution of a s. 37 agreement and the finalization of the form and content of the ZBAs as well as submission of a revised Functional Servicing Report, revised Stormwater Management Report, and Revised Transportation Impact Study and Parking Supply Justification Report.

ANALYSIS AND CONCLUSION

[90] The Tribunal accepts, in its entirety, the uncontroverted planning evidence provided by the only witness, Mr. Smith, a land use planning expert, in support of the proposed development, as reflected in the Settlement Proposal. Based on the evidence provided, and in the context of the Conditions of a Final Order (Attachment 3), the Tribunal is satisfied that the proposed Zoning By-law Amendments are consistent with the 2020 PPS and conform with the Growth Plan and the Official Plan. The Tribunal finds, upon the evidence provided, that the proposed development, as reflected in the

Settlement Proposal, represents good planning, good urban design and is in the public interest.

INTERIM ORDER

[91] **THE TRIBUNAL ORDERS** that the Appeal pursuant to s. 34(11) of the *Planning Act* is allowed, and approves in principle the amendments to Zoning By-law No. 438-86, and Zoning By-law No. 569-2013, substantially in accordance with Attachments 1 and 2 respectively, the final order to be withheld pending satisfactory fulfilment of the Conditions set out in Attachment 3, including Maitland's withdrawal of its Appeals pursuant to s. 22(7) of the *Planning Act*, which relate to Official Plan Amendment No. 183 and Official Plan Amendment No. 231, as they relate to the Subject Site.

[92] **THE TRIBUNAL ORDERS** that the Appeal pursuant to s. 41(12) of the *Planning Act* is adjourned *sine die*, and Maitland Residences Corp. is to provide a written update to the Tribunal's Case Coordinator as to the status of this Appeal no later than six months from the date of issuance of this Order.

[93] The Tribunal may be spoken to should any issues arise related to matters discussed above.

"Margot Ballagh"

MARGOT BALLAGH
MEMBER

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

Draft Zoning By-law Amendment (dated October April 8, 2021)

Authority: Local Planning Appeal Tribunal Decision and Order issued on [DATE], and Order issued on [DATE] in Case PL200212

CITY OF TORONTO BY-LAW No. XXX-2021(LPAT)

To amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known in the year 2020 as 20 and 26 Maitland Street.

Whereas the Owner of the lands known municipally in the year 2020 as 20 and 26 Maitland Street appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Local Planning Appeal Tribunal, by its Decision issued on [DATE] and Order issued on [DATE], determined to amend Zoning By-law 438-86, as amended, with respect to lands known municipally as 20 and 26 Maitland Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the 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 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 density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in density permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal orders:

1. None of the provisions of Section 2(1) with respect to the definition of *grade*, *height*, and *lot*, and Sections 4(2)(a), 4(5), 4(12), 4(13), 4(16), 6(2)(8), 6(3) Part I, 6(3) Part II, 6(3) Part III and Section 12(2)132 of Zoning By-law 438-86, as amended of the former City of

Toronto being “A By-law to regulate the use of land and the erection, use, bulk, *height*, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto,” shall apply to prevent the erection or use of an *apartment building*, *mixed use building*, *live-work unit*, a *commercial parking garage*, retail and service shops listed in Section 8(1)(f)(b)(iv) of By-law 438-86, and uses *accessory* to the foregoing uses on the *lot* provided that:

- a. the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- b. no portion of any building or structure erected or used above *grade* shall exceed the *height* limits above *grade* in metres specified by the numbers following the symbol “H” as shown on Map 2 attached hereto, with the exception of the following:
 - i. mechanical equipment, parapets, architectural decorative elements, elevator overruns, cornices, canopies, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, window washing equipment, ramp enclosures, guardrails, balustrades, safety railings, stairs, stair enclosures, bollards, wheel chair ramps, vents, stacks, fences, wind or privacy screens, landscape elements (including green roofs), terraces, thermal insulation and roof ballast, skylights, flues, access roof hatch, outdoor furniture, chimneys, structures on the roof used for outside or open air recreation including an outdoor pool, retaining walls, heating, cooling or ventilating equipment or a fence, wall or structure enclosing such elements which may project above the *height* limits shown on Map 2 by no more than X metres;
- c. no portion of any building or structure erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 attached hereto, with the exception of the following:
 - i. architectural fins, exterior stairways, stair enclosures, roof overhangs and cornices, canopies, chimneys, wheelchair ramps, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, window washing equipment, guardrails, balustrades, safety railings, bollards, wheel chair ramps, vents, fences, wind or privacy screens, landscape elements (including green roofs), terraces, decorative architectural features, bay windows, retaining walls, elevator overruns, heating, cooling or ventilating equipment, pilasters and sills, and porches and decks, either excavated or unexcavated, which may project beyond the building envelope shown on Map 2 by no more than 1.7 metres;
- d. the total *gross floor area* on the *lot* shall not exceed 33,800 square metres, subject to the following:

- i. the *residential gross floor area* of the building shall not exceed 33,500 square metres; and
 - ii. the *non-residential gross floor area* of the building shall not exceed 300 square metres;
- e. in addition to the uses permitted in Section 6(1), retail and service shops listed in Section 8(1)(f)(b)(iv), *live-work units* and a *commercial parking garage* are also permitted;
- f. in addition to the uses permitted by Section 6(1), the work component of a *live-work unit* may include the following uses: office, workshop, studio, *personal grooming establishment* or *tailoring shop*;
- g. no provision of this by-law or By-law 438-86, as amended, shall limit a *live-work unit* from being occupied by a business that operates with multiple employees within that unit;
- h. no provision of this by-law or By-law 438-86, as amended, shall require the *live-work unit* to be the principal residence of the business operator;
- i. *residential amenity space* shall be provided and maintained on the *lot* at a minimum rate of 4.0 square metres for each *dwelling unit*, of which:
 - i. at least 2.0 square metres for each *dwelling unit* is indoor amenity space;
 - ii. at least 40.0 square metres is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and
 - iii. no more than 25% of the outdoor component may be a green roof;
- j. parking shall be provided and maintained on the *lot* in accordance with the following requirements:
 - i. a minimum of 0.15 *parking spaces* for each *dwelling unit* for residents;
 - ii. a minimum of 0.035 *parking spaces* for each *dwelling unit* for residential visitors;
 - iii. a minimum of 1 *parking space* for each 100 square metres of *non-residential gross floor area* for commercial uses;
 - iv. a minimum of 2 *parking spaces* shall be provided for non-residential uses; and
 - v. a maximum of 2 *car-share parking spaces* is permitted;
- k. despite Section (j) of this by-law, for each *parking space* exclusively reserved and signed for a car or cars used only for *car-share* purposes, the minimum number of resident *parking spaces* required may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula: 4 x (the total number of *dwelling units* on lands identified on Map 1 of this by-law divided by 60), rounded down to the nearest whole number;

- l. despite Section 4(17) of By-law 438-86, as amended, up to 10 percent of the *parking spaces* constructed following the passing of this by-law may have the following minimum dimensions:
 - i. length of 5.3 metres;
 - ii. width of 2.4 metres; and
 - iii. height of 1.8 metres;
- m. despite Section 4(17) of By-law 438-86, a maximum of 10 percent of the *parking spaces* constructed following the passing of this by-law may have a minimum width of 2.6 metres if they are obstructed on one or both sides;
- n. clearly identified off-street accessible *parking spaces* must be provided on the *lot* identified on Map 1 of this by-law, at a minimum of 5 *parking spaces* plus 1 *parking space* for every 50 *parking spaces* or part thereof in excess of 100 *parking spaces*, which must have the following minimum dimensions:
 - i. Length of 5.6 metres;
 - ii. Width of 3.4 metres;
 - iii. Vertical clearance of 2.0 metres; and
 - iv. The entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- o. a minimum of 1.0 bicycle *parking spaces* per *dwelling unit* will be provided on the *lot* for residential uses, of which:
 - i. 0.9 bicycle *parking spaces* per *dwelling unit* will be *bicycle parking space – occupant spaces*;
 - ii. 0.1 bicycle *parking space* per *dwelling unit* will be *bicycle parking space – visitor spaces*; and
 - iii. residential *bicycle parking spaces* may be located within a secured room, enclosure, or bicycle locker;
- p. a minimum of 4 *bicycle parking spaces – visitor* will be provided for non-residential uses;
- q. a minimum of 1 *bicycle parking space – occupant* will be provided for non-residential uses;
- r. *bicycle parking spaces – visitor* and *bicycle parking spaces – occupant* may be located in stacked *bicycle parking spaces*, which have the following minimum dimensions:
 - i. Minimum length of 1.8 metres;
 - ii. Minimum width of 0.6 metres; and

- iii. Minimum vertical clearance for each *bicycle parking space* of 1.2 metres;
 - s. one *loading space – Type G* and one *loading space – Type C* shall be provided; and
 - t. none of the provisions of this By-law shall apply to prevent a *temporary sales or rental office* on the *lot*.
2. For the purpose of this By-law:
- a. "*grade*" means 106.21 metres Canadian Geodetic Datum;
 - b. "*gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level. The *gross floor area* of an apartment building or mixed use building is reduced by the area in the building used for:
 - i. parking, loading and bicycle parking below ground;
 - ii. required loading spaces and required *bicycle parking spaces* at or above ground;
 - iii. storage rooms, 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. *residential amenity space* required by the By-law;
 - vi. elevator shafts;
 - vii. garbage shafts;
 - viii. mechanical penthouse; and
 - ix. exit stairwells in the building;
 - c. "*height*" means the vertical distance between *grade* and the highest point of the roof of any building on the *lot*, except for those elements prescribed by this By-law;
 - d. "*lot*" means the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - e. "*car-share*" 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 to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable; and
 - f. "*temporary sales or rental office*" means a building or structure used for the purpose of the sale or rental of *dwelling units* or *non-residential space* to be erected on the *lot*.

3. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

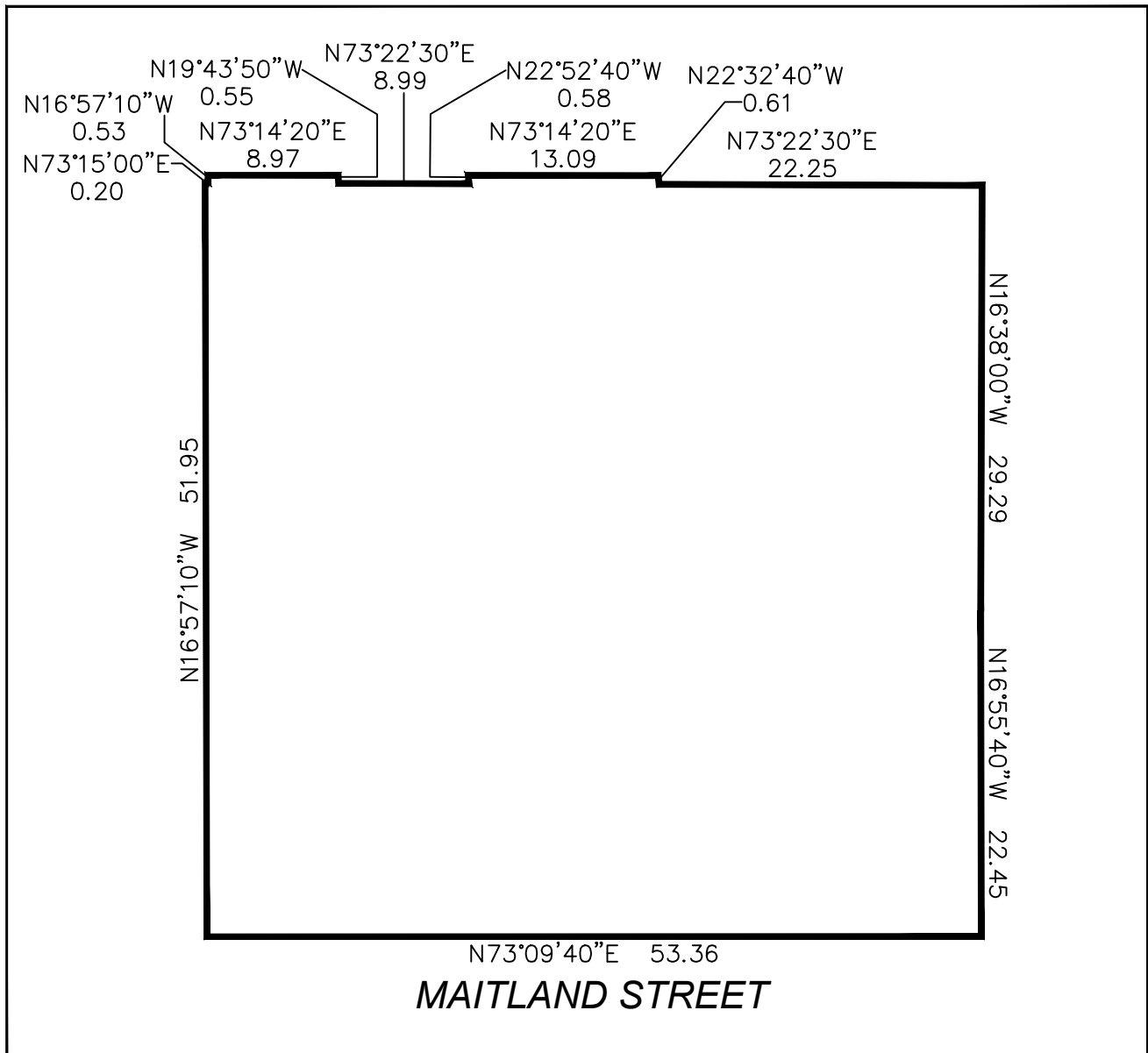
Local Planning Appeal Tribunal Decision issued [DATE] and Order issued [DATE] in Case PL200212.

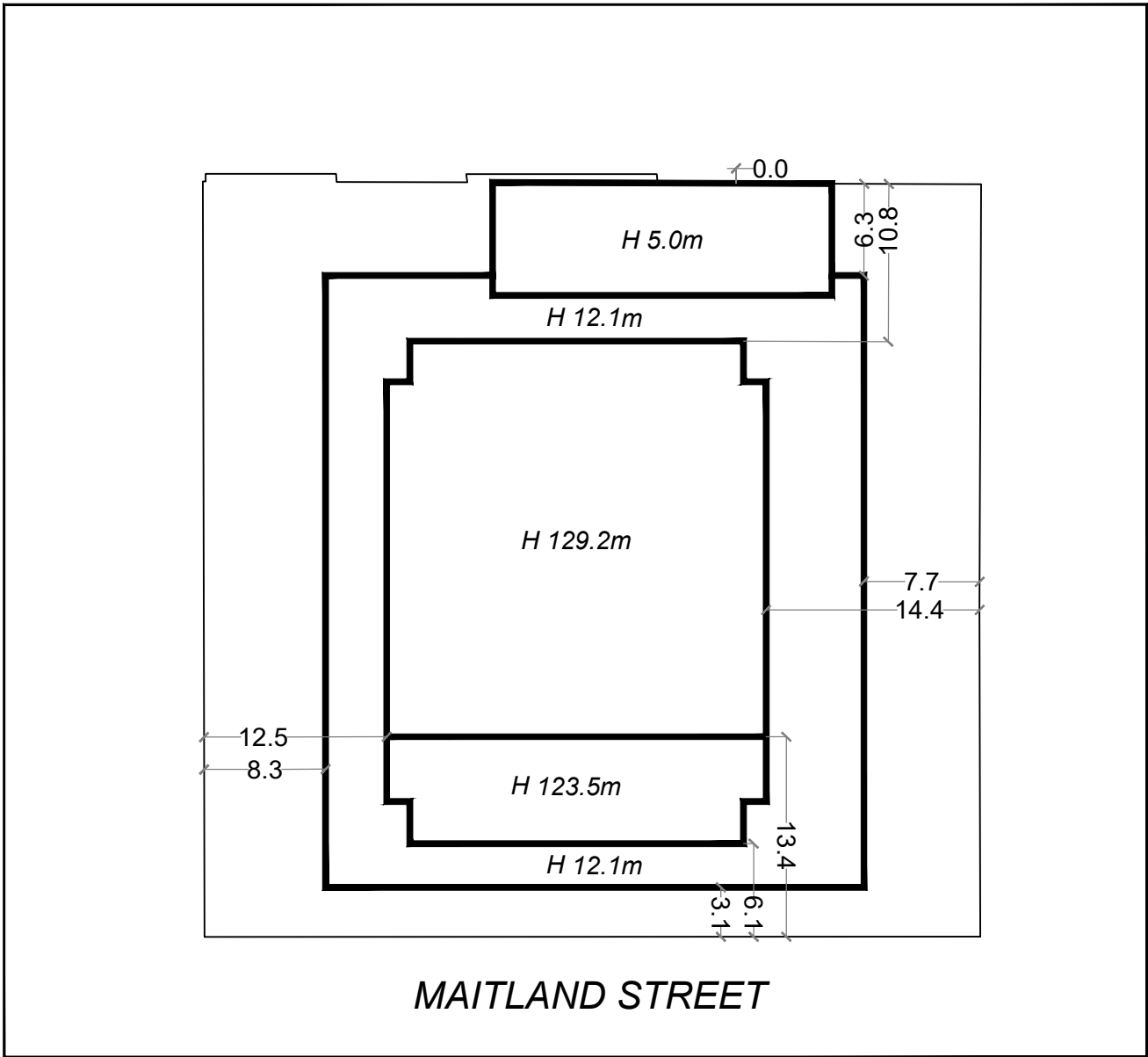
Schedule 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City by the owner at the owner's expense in return for the increase in *height* and density of the proposed development on the lands as shown on Map 1 of By-law [Clerks to insert by-law ##] in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for upward indexing in accordance with the Statistics Canada Residential or Non-Residential Construction Price Index, as the case may be, for Toronto of all financial contributions and letters of credit from the date of such agreement (the "Section 37 Agreement"), whereby the owner agrees as follows:

1. An indexed cash contribution by the Owner to the City in the amount of \$7,850,000.00, to be allocated as follows:
 - a. \$2,500,000.00 to be allocated towards new and existing capital improvements for City owned affordable housing in Ward 13;
 - b. \$2,500,000.00 to be allocated towards new and existing capital improvements in City owned community, cultural, and recreational centres in Ward 13;
 - c. \$2,500,000.00 to be allocated towards establishing a new non-profit City owned childcare centre in Ward 13; and
 - d. \$350,000 to be allocated towards local area streetscape and park improvements;'
2. The amount of the cash contribution in Paragraph 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the Owner to the City; and
3. In the event that the cash contribution in Paragraph 1 above has not been used for the intended purpose within three (3) years of the Zoning By-law Amendment 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 is identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site.





ATTACHMENT 2

Draft Zoning By-law Amendment (dated April 8, 2021)

Authority: Local Planning Appeal Tribunal Decision and Order issued on [DATE], and Order issued on [DATE] in Case PL200212

CITY OF TORONTO
BY-LAW No. XXX-2021(LPAT)

To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2020 as 20 and 26 Maitland Street.

Whereas the Owner of the lands known municipally in the year 2020 as 20 and 26 Maitland Street appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Local Planning Appeal Tribunal, by its Decision issued on [DATE] and Order issued on [DATE], determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 20 and 26 Maitland Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the 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 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 density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal orders:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.

2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Zoning By-law Map in Section 990.2, and applying the following zone label to these lands: "R d(2.0) (x#####)", as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by amending Article 900.2.10 Exception Number x##### so that it reads:

(#####) Exception R #####

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 land municipally known as 20 and 26 Maitland Street, if the requirements of By-law [Clerks to supply by-law ##], including Section # and Schedule A, together with (B) to (BB) below, are complied with, a **mixed-use building** may be constructed and used;
- (B) Despite Regulation 10.10.20.20(12), access to a **retail store** may be from the street, there may be outside display of goods, and the **interior floor area** of a **retail store** may not exceed 300 square metres;
- (C) Despite Regulations 10.10.20.100(6), 150.5.20.1(1) and (6), and Section 800.50(345), a **home occupation** within a **dwelling unit**:
 - a. may have employees in the **dwelling unit** who are not the business operator; and
 - b. does not have to be the principal residence of the business operator for the **dwelling unit**;
- (D) In addition to the permitted uses listed in Regulation 10.10.20, an **art gallery, artist studio, automated baking machine, education use, financial institution, massage therapy, medical office, personal service shop, day nursery, eating establishment, retail service, and take-out eating establishment**, are also permitted;
- (E) Despite Regulation 10.10.20.40(1) a **dwelling unit** may also be permitted within a **mixed use building**;
- (F) Despite Regulation 10.10.40.40(1), the permitted **gross floor area** on the lot calculated in accordance with Regulation 10.5.40. 40(4) shall not exceed

33,800 square metres, subject to the following:

- a. the residential **gross floor area** of the building shall not exceed 33,500 square metres; and
 - b. the non-residential **gross floor area** of the building shall not exceed 300 square metres;
- (G) Despite Regulation 10.10.40.10(1), the height of a building or structure must not exceed the maximum height in metres specified by the numbers following the “HT” symbol as shown on Diagram 3 of this by-law;
- (H) Despite Regulation 10.5.40.10(1), the height of a **building** or **structure** is measured from the Canadian Geodetic Datum elevation of 106.21 metres to the highest point of the **building** or **structure**;
- (I) Despite Regulation 10.5.40.10(2), (3), and (4), and 10.10.40.10(8) and (9) the following elements may exceed the permitted maximum height by no more than X metres:
- a. mechanical equipment, parapets, architectural decorative elements, elevator overruns, cornices, canopies, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, window washing equipment, ramp enclosures, guardrails, balustrades, safety railings, stairs, stair enclosures, bollards, wheel chair ramps, vents, stacks, fences, wind or privacy screens, landscape elements (including green roofs), terraces, thermal insulation and roof ballast, skylights, flues, access roof hatch, outdoor furniture, chimneys, structures on the roof used for outside or open air recreation including an outdoor pool, retaining walls, heating, cooling or ventilating equipment or a fence, wall or structure enclosing such elements;
- (J) Despite Regulation 10.5.40.50(2) and 10.5.40.60, the following elements are permitted to encroach into the required minimum building setbacks by no more than 1.7 metres:
- a. architectural fins, balconies, exterior stairways, stair enclosures, roof overhangs and cornices, canopies, chimneys, wheelchair ramps, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, window washing equipment, guardrails, balustrades, safety railings, bollards, wheel chair ramps, vents, fences, wind or privacy screens, landscape elements (including green roofs), terraces, decorative architectural features, bay windows, ramps, retaining walls, elevator overruns, heating, cooling or ventilating equipment, pilasters and sills, and porches and decks, either excavated or unexcavated;

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- (K) Despite Regulation 10.10.40.30(1), maximum building depth for an **apartment building** or **mixed use building** shall not apply;
- (L) Despite Regulation 10.5.40.70 (1) and 10.10.40.70(1), (2), and (3) the minimum **front yard setback**, **rear yard setback**, and **side yard setbacks** are shown on Diagram 3 attached to and forming part of this by-law;
- (M) Despite Regulation 10.5.50.10(4), a lot with an **apartment building** must have a minimum of 40% of the area of the **lot** for **landscaping** and a minimum of 40% of the **landscaping** must be **soft landscaping**;
- (N) Regulation 10.5.50.10(5), with respect to a 1.5 metre strip of **soft landscaping** along any part of a **lot line** abutting another **lot** in the Residential Zone category, does not apply;
- (O) Despite Regulation 10.5.80.40(3)(A), vehicle access to a parking space on the **lot** may be from the **street** on which the **lot** fronts;
- (P) Despite Regulation 10.5.100.1(4), a driveway may have a maximum total width of 8.0 metres;
- (Q) Regulation 10.5.100.1(5), with respect to an unobstructed **vehicle** access that allows a **vehicle** to enter and leave the **lot** while driving forward in one continuous movement, does not apply;
- (R) Despite Regulation 200.5.1.10(2), up to 10 percent of the parking spaces constructed following the passing of this by-law may have a minimum length of 5.3 metres;
- (S) Despite Regulation 200.5.1.10(2), a maximum of 10 percent of the parking spaces constructed following the passing of this by-law may have a minimum width of 2.6 metres if they are obstructed on one or both sides;
- (T) Despite Regulation 200.5.10.1(1), **parking spaces** must be provided and maintained on the lands in accordance with the following minimum requirements:
- a. 0.15 **parking spaces** for each **dwelling unit** for residents;
 - b. 0.035 **parking spaces** for each **dwelling unit** for residential visitors;
 - c. A minimum of 2 **parking spaces** shall be provided for non-residential uses; and
 - d. a maximum of two (2) dedicated **parking spaces** for car-share purposes;
- (U) Despite Regulation 200.5 and Section (P) of this by-law, for each **parking space** exclusively reserved and signed for a car or cars used only for car-share purposes, the minimum number of resident parking spaces required

may be reduced by four parking spaces, up to a maximum reduction as calculated by the following formula: $4 \times (\text{the total number of dwelling units on lands identified on Diagram 1 of this by-law divided by } 60)$, rounded down to the nearest whole number;

- (V) For the purposes of Subsection (T) and (U), car-share 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 carsharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the carsharing organization, including the payment of a membership fee that may or may not be refundable. Car-share parking space means a parking space that is exclusively reserved for car-sharing.
- (W) Despite Regulation 200.15.1(1) and 200.15.15.4(1), an accessible parking space must have the following minimum dimensions:
 - a. Length of 5.6 metres;
 - b. Width of 3.4 metres;
 - c. Vertical clearance of 2.0 metres; and
 - d. The entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (X) Regulation 200.15.1(4) and 200.15.1.5(1), with respect to the location of accessible **parking spaces**, does not apply;
- (Y) Despite Regulation 220.5.10.1(2), one Type “G” and one Type “C” **loading space** is required;
- (Z) Despite Regulation 230.5.1.10(6), “long-term” **bicycle parking spaces** for non-residential uses may be located outside;
- (AA) Regulation 230.10.1.20(2), with respect to the location of “short-term” **bicycle parking spaces**, does not apply; and
- (BB) Despite Regulation 230.5.1.10(10), “long-term” and “short-term” **bicycle parking spaces** may be located in a **stacked bicycle parking space**.

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 By-law shall apply to the whole of the lot as if no severance, partition or division occurred.
6. 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 3 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 1 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 1 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- c. The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule 1 are satisfied.

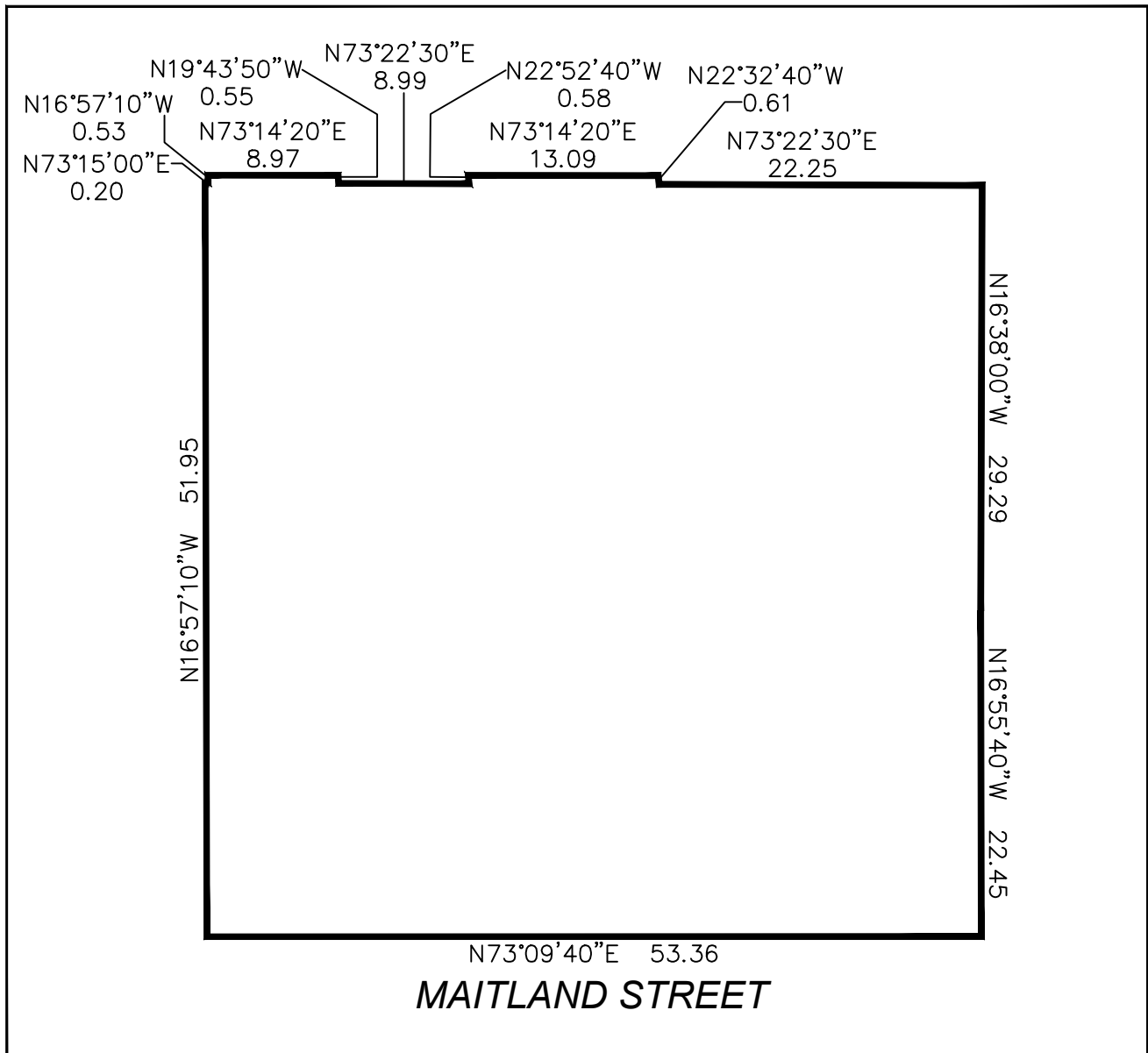
Local Planning Appeal Tribunal Decision issued on [DATE] and Local Planning Appeal Tribunal Order issued on [DATE] in File PL200212.

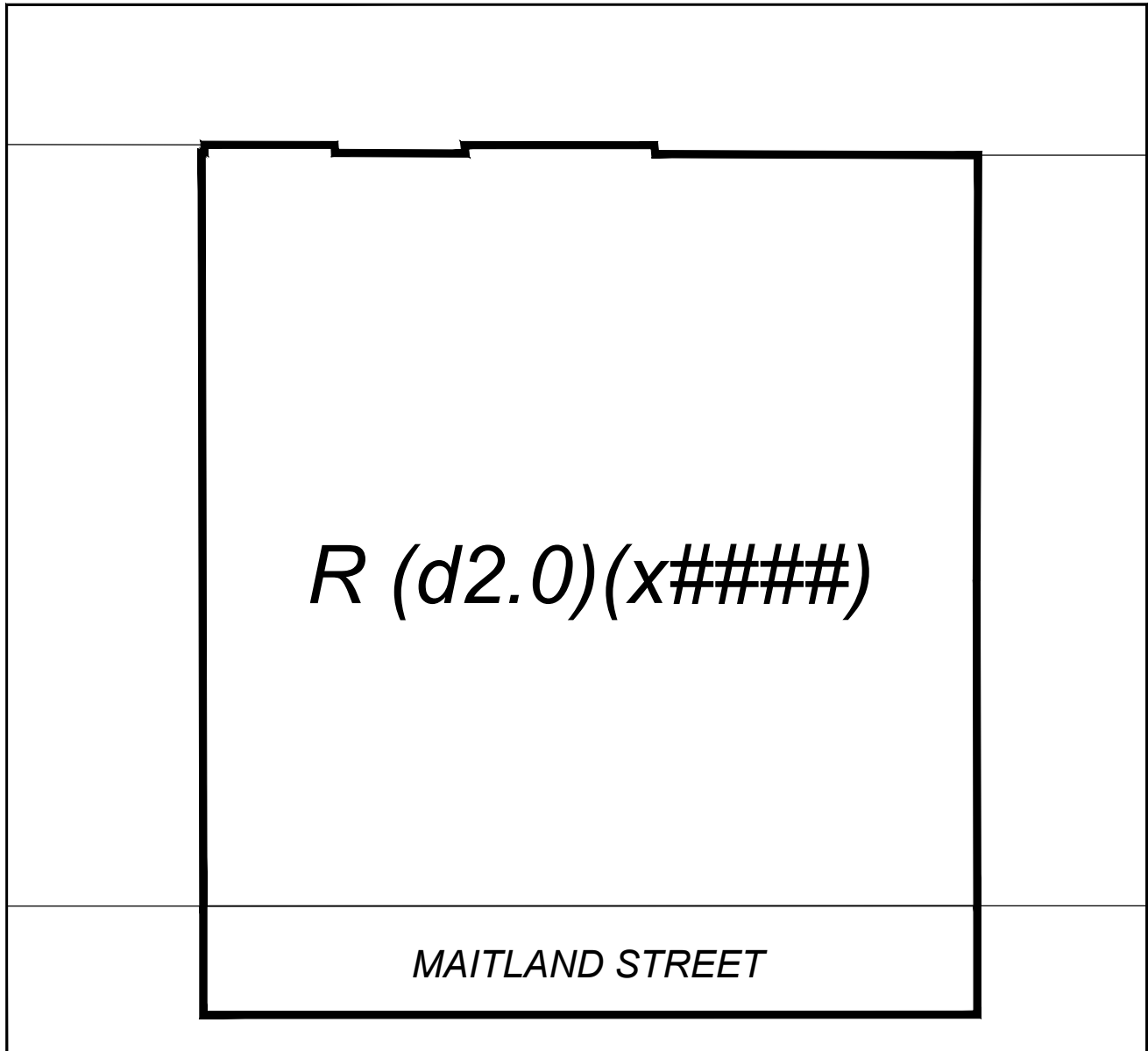
Schedule 1

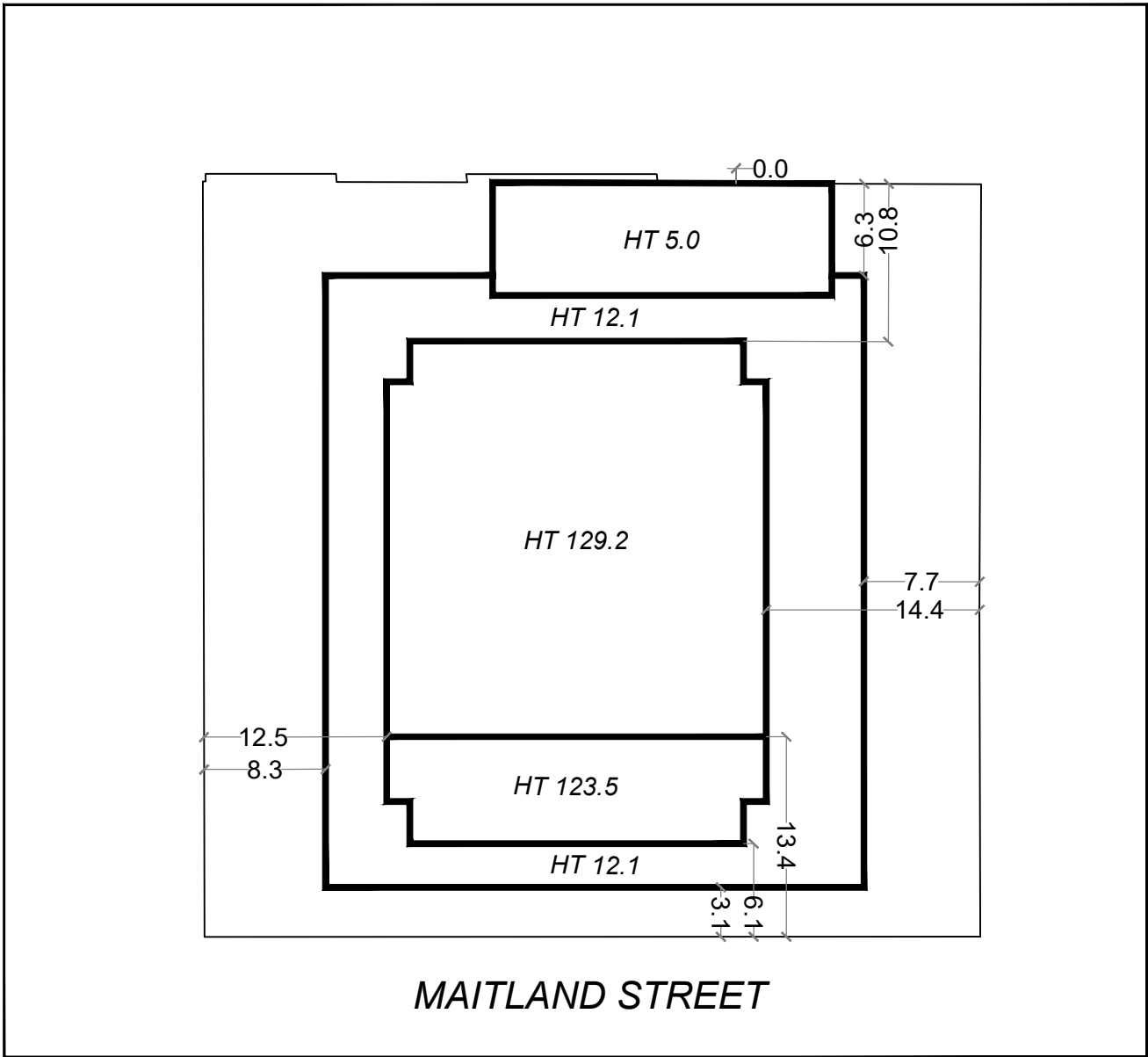
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City by the owner at the owner's expense in return for the increase in *height* and density of the proposed development on the lands as shown on Map 1 of By-law [Clerks to insert by-law ##] in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for upward indexing in accordance with the Statistics Canada Residential or Non-Residential Construction Price Index, as the case may be, for Toronto of all financial contributions and letters of credit from the date of such agreement (the "Section 37 Agreement"), whereby the owner agrees as follows:

1. An indexed cash contribution by the Owner to the City in the amount of \$7,850,000.00, to be allocated as follows:
 - a. \$2,500,000.00 to be allocated towards new and existing capital improvements for City owned affordable housing in Ward 13;
 - b. \$2,500,000.00 to be allocated towards new and existing capital improvements in City owned community, cultural, and recreational centres in Ward 13;
 - c. \$2,500,000.00 to be allocated towards establishing a new non-profit City owned childcare centre in Ward 13; and
 - d. \$350,000 to be allocated towards local area streetscape and park improvements;'
2. The amount of the cash contribution in Paragraph 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the Owner to the City; and
3. In the event that the cash contribution in Paragraph 1 above has not been used for the intended purpose within three (3) years of the Zoning By-law Amendment 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 is identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site.







ATTACHMENT 3

LPAT File No. PL200212

20-26 Maitland Avenue Conditions of Final Order

The LPAT shall withhold its Final Order on the Zoning By-law Amendment until such time as the Tribunal has been advised by the City Solicitor that:

1. the proposed Zoning By-law Amendment is in a final form satisfactory to the Chief Planner and Executive Director, City Planning, and the City Solicitor;
2. the Owner has submitted a revised Functional Servicing Report, including confirmation of water and fire flow, sanitary, and storm water capacity, and revised Storm Water Management Report to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
3. the Owner has entered into an agreement or agreements or otherwise secured the design, construction, and the provision of financial securities for any required upgrades or improvements to the existing municipal infrastructure should it be determined that improvements or upgrades are required to support the development as may be identified in the accepted Functional Servicing Report and Storm Water Management Report, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Toronto Water;
4. the Owner has submitted a revised Transportation Impact Study and Parking Supply Justification Report to the satisfaction of the General Manager, Transportation Services;
5. the Owner and the City have entered into and registered an Agreement under Section 37 of the Planning Act securing the following community benefits and other matters of legal convenience, all to the satisfaction of the City Solicitor:

Community Benefits

- a. an indexed cash contribution by the Owner to the City in the amount of \$7,850,000.00, to be allocated as follows:
 - i. \$2,500,000.00 to be allocated towards new and existing capital improvements for City owned affordable housing in Ward 13;
 - ii. \$2,500,000.00 to be allocated towards new and existing capital improvements in City owned community, cultural, and recreational centres in Ward 13;

- iii. \$2,500,000.00 to be allocated towards establishing a new non-profit City owned childcare centre in Ward 13; and
- iv. \$350,000 to be allocated towards local area streetscape and park improvements.

b. the amount of the cash contribution in 5.a above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the Owner to the City;

c. in the event that the cash contribution in 5.a above has not been used for the intended purpose within three (3) years of the Zoning By-law Amendment 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 is identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site;

Matters of Legal Convenience

d. that the Owner shall provide an on-site parkland dedication having a minimum area of 279 square metres and located on the western portion of the Site with a minimum 5.31 metre frontage on Maitland Street and a 3 metre setback from the west podium face of the development, in satisfaction of the Owner's required parkland contribution pursuant to Section 42 of the Planning Act. The on-site parkland dedication will be conveyed to the City in base park condition; and

e. that the Owner construct and maintain the development of the Site in accordance with Tier 1 performance measures of the Toronto Green Standard, and the Owner will be encouraged to achieve Toronto Green Standard, Tier 2 or higher, where appropriate.

6. the Owner has withdrawn their appeal of Official Plan Amendment 183 – North Downtown Yonge Site and Area Specific Policy 382 as it relates to the Site; and

7. the Owner has withdrawn their appeal in relation to Official Plan Amendment 231 with respect to office replacement policies as it relates to the Site.