

Authority: North York Community Council Item NY22.4, as adopted by City of Toronto Council on July 4, 5, 6 and 7, 2017

CITY OF TORONTO

BY-LAW 825-2017

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2016 as 90 Eglinton Avenue West and 17-19 Henning Avenue.

Whereas authority is given to Council by 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 37 of the Planning Act, the Council of a municipality may in a By-law under Section 34 of the Planning Act, may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or 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 or matters in return for an increase in height and density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or 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 the density and height permitted beyond that otherwise permitted in the aforesaid lands by By-law 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements by the owner of such land and the City of Toronto (hereinafter referred to as the "City");

The Council of the City of Toronto enacts:

1. Maps 1, 2 and 3, attached, form part of this By-law.
2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
3. For the purpose of this By-law, the *lot* shall consist of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
4. None of the provisions of Sections 2 with respect to *bicycle parking space – occupant, bicycle parking space – visitor, grade, height, 4(2), 4(4)(b), 4(6), 4(12), 4(13)(a) and (c), 6, 8(3) PART I, 8(3) PART III, 8(3) PART XI, 12(2)118 and 12(2)119* of By-law 438-86, 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", as amended, shall apply to prevent the erection and use of a *mixed-use building* and uses *accessory* thereto, including an underground *parking garage* and a *commercial parking garage*, on the lands municipally known in the year 2016 as 90 Eglinton Avenue West and 17-19 Henning Avenue (hereafter referred to as the "*lot*") provided:

- A) The total combined *residential gross floor area* and *non-residential gross floor area* of the building does not exceed 20,300 square metres provided that:
- (i) the maximum *residential gross floor area* shall be 16,100 square metres;
 - (ii) the maximum *non-residential gross floor area* on levels 1 through 3 shall be 4,200 square metres;
 - (iii) the minimum office floor area on levels 1 through 3 shall be 2,785 square metres; and
 - (iv) below grade *non-residential gross floor area* is not included in the total calculation of the maximum permitted *non-residential gross floor area* on the *lot*.
- B) No person shall erect or use any building on the *lot* unless the first *storey* of the building, being the finished ground level *storey*, has a minimum floor-to-floor *height* of 6.0 metres.
- C) No part of any building above *grade* on the *lot* is located otherwise than wholly within the areas delineated by the heavy lines on Map 3 attached to and forming part of this By-law, except for the following permitted projections into the required setback areas:
- (i) cornices, balconies, lighting fixtures, window washing equipment, awnings, canopies, finials, parapets, terraces, terrace guards, platforms ornamental or architectural elements, trellises, eaves, window sills, bay windows, guardrails, balustrades, railings, wind mitigation screens and features, planters, monuments, arbours, patios, decorative features, stairs, stair enclosures, stair landings, supportive columns, wheel chair ramps, vents, stacks, underground garage ramps and their associated structures, underground garage stair enclosures, retaining walls, fences, screens, weather protection canopies, and landscape and public art features.
- D) No part of any building or structure erected on the *lot* shall be located above the building *heights* shown in metres specified by the number following the symbol "H" on Map 3 provided that this paragraph does not prevent the erection and use of:
- (i) safety railings and fences located at each of the roof levels of the building provided the maximum vertical distance of any such railing does not exceed 1.8 metres;

- (ii) a parapet, including roof drainage, thermal insulation and roof ballast, at each of the roof levels of the building provided the maximum vertical dimension of any such parapet does not exceed 1.5 metres, and having a maximum combined vertical dimension with (i) above of 3 metres above the *height* of each of the roof levels of the building;
 - (iii) structures on the roof of the building used for outside or open air recreation, architectural elements, elevator overruns, public art features, mechanical equipment, window washing equipment, stair towers, partitions dividing outdoor recreation areas, trellises or a fence, planters, landscape features, wall or structure enclosing such elements, lightning rods and exhaust flues located above the *height* of each of the roof levels of the building.
- E) Amenity space must be provided and maintained as follows:
- (i) a total of 386 square metres of outdoor amenity space; and
 - (ii) a total of 427 square metres of indoor amenity space, which may include the following:
 - a. 26 square metres for a lounge located in the residential lobby at grade; and
 - b. 165 square metres for a recreational space in the below grade parking garage.
- F) The minimum number of *parking spaces* provided and maintained on the *lot* shall not be less than the number calculated in accordance with the following minimum ratios (calculation to include fractions to be rounded down to the closest whole number) and *parking spaces* shall be located in the *underground parking garage*:

Residential

- (i) 0.3 spaces per studio *dwelling unit*
- (ii) 0.3 spaces per 1-bedroom *dwelling unit*
- (iii) 0.3 spaces per 2-bedroom *dwelling unit*
- (iv) 0.35 spaces per 3-bedroom *dwelling unit*

Non-residential and Residential Visitor:

- (i) a *commercial parking garage* consisting of a minimum of 32 *parking spaces* shall be permitted below grade and shall be available on a first come, first serve basis, for residential visitors, general public, office and retail uses
- (ii) a minimum of 5 residential visitor parking spaces be provided on-site, at no charge.

- G) Parking spaces located within a commercial parking garage are permitted on the lot.
- H) The total number of *parking spaces* which do not comply with section 4(17)(e) of Zoning By-law 438-86 shall not exceed 5.
- I) In the event that the calculation of the number of required *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number.
- J) *Loading spaces* shall be provided and maintained on the *lot* in accordance with the following requirement:
- (i) one *loading space – type G* shall be provided; and
 - (ii) two *loading space – type C* shall be provided.
- K) Bicycle parking spaces will have the following minimum dimensions:
- (i) a *horizontal bicycle parking space* has a minimum length of 1.8 metres, a minimum width of 0.4 metres, and a minimum vertical clearance from the ground of 1.5 metres;
 - (ii) a vertical bicycle parking space has a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.4 metres, and a minimum horizontal clearance from the wall of 1.2 metres; and
 - (iii) a stacked bicycle parking space has a minimum length of 1.6 metres, a minimum width of 0.4 metres, and a minimum vertical clearance from the ground of 1.2 metres.
- L) Bicycle parking spaces will be provided and maintained on the *lot* and shall not be less than the number calculated in accordance with the following minimum ratios (calculation to include fractions to be rounded down to the closest whole number):

Residential

- (i) *bicycle parking spaces - occupant* – 0.9 spaces per *dwelling unit*
- (ii) *bicycle parking spaces - visitor* – 0.1 spaces per *dwelling unit*

Non-Residential

- (i) *bicycle parking spaces - occupant* – 0.2 spaces per 100 square metres of *non-residential gross floor area*
- (ii) *bicycle parking spaces -visitor* – 3 spaces plus additional spaces of which the quantity is calculated at a rate of 0.2 spaces per 100 square metres of *non-residential gross floor area*.

- M) Bicycle parking spaces shall be located within all levels of the *underground parking garage* consisting of horizontal, vertical and/or *stacked bicycle parking space* and which may or may not be located above a required *vehicle parking space*.
- N) A bicycle parking space may protrude into a required *parking space* provided it protrudes no more than 1.0 metre so as to reduce the length of the required *parking space*.
- O) In the event that the calculation of the number of required bicycle parking spaces results in a whole number with fraction, the number is rounded down to the nearest whole number.
- P) None of the provisions of By-law 438-86, as amended, or this By-law shall apply to prevent a *temporary sales office* on the *lot* as of the date of the passing of this By-law.
- Q) The provisions of this by-law shall continue to apply despite any future severance, partition, dedication or division of the *lot* for any purpose.
5. Pursuant to Section 37 of the Planning Act and subject to compliance with this By-law, the increase in height and density of development on the lot contemplated herein is permitted in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Appendix 1 hereof 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 lot, to the satisfaction of the City Solicitor.
6. Where Appendix 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 the satisfaction of the same.
7. 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 Appendix 1 are satisfied.
8. Definitions
- For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (i) "*bicycle parking space – occupant*" means a horizontal, vertical and/or *Stacked bicycle parking space* for use by the occupant of a building. The *bicycle parking space – occupant* may be located within an enclosed and/or secured area and may be positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*.
- (ii) "*bicycle parking space – visitor*" means a horizontal, vertical and/or *Stacked bicycle parking space* for use by visitors of a building. The *bicycle parking space – visitor* may be located within an enclosed and/or secured area and may be

positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*.

- (iii) "*stacked bicycle parking space*" means a horizontal bicycle parking space that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both bicycle parking spaces.
- (iv) "*temporary sales office*" shall mean a building, structure, trailer or facility on the *lot* used exclusively for the sales, marketing, and promotion of dwelling units to be erected on the *lot*.
- (vi) "grade" shall mean 158.79 metres Canadian Geodetic Datum.
- (vii) "*height*" shall mean the vertical distance between *grade* and the highest point of the roof, except for those elements prescribed in section 4 IV).

9. The lands zoned with the "(h)" symbol delineated by heavy lines on Map 1 attached to and forming part of this By-law shall not be used for any purposed other than those uses and buildings as existing on the site as of 2016 until the "(h)" symbol has been removed. An amending by-law to remove the "(h)" symbol shall be enacted by City Council when the following condition has been fulfilled to the satisfaction of Council:

- (i) The Owner must provide a revised functional servicing/storm water management study and design plans be submitted in support of a Site Plan Application, which demonstrates that the development of the site will not result in an increase in post-development flows to the combined sewer system beyond pre-development levels, in accordance with Ministry of the Environment and Climate Change Procedure F-5-5, and to the satisfaction of the Executive Director of Engineering and Construction Services and the General Manager of Toronto Water, and the Lifting of the Holding Symbol.

Enacted and passed on July 7, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

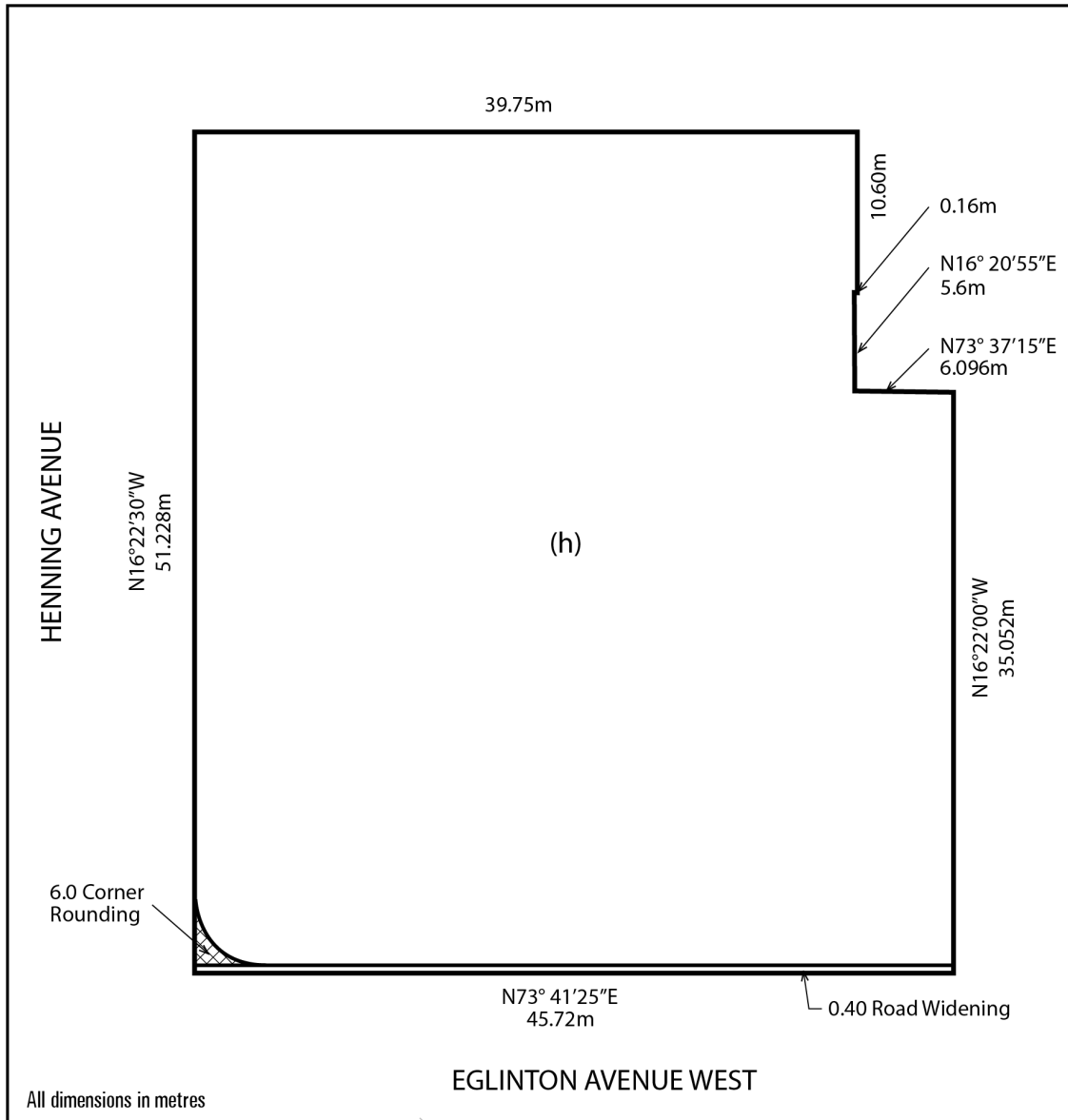
APPENDIX 1

Section 37 Provisions

The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* at its expense to the *City* or as otherwise specified in this Appendix, in accordance with an agreement, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* and the owner with conditions providing for indexing escalation of both the financial contributions, and letters of credit, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

The community benefits to be secured in the Section 37 agreement is:

- a. a cash payment of \$1,000,000 payable prior to the issuance of an above grade building permit:
 - i) be used by the City in its sole discretion for the purpose of improvements to Eglinton Park in accordance with the Midtown in Focus Parks and Public Realm Plan.
 - b. require that the cash amount identified shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the date of the execution of the Section 37 Agreement to the date of payment.
1. The financial contributions and letter of credit required in paragraph 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the date the payment is made and/or the letter of credit is provided.
 2. In the event that the above financial contribution has not been used for the intended purpose within three years of this By-law coming into full force and effect, said funds may be redirected for another purpose, in 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 *lot*.



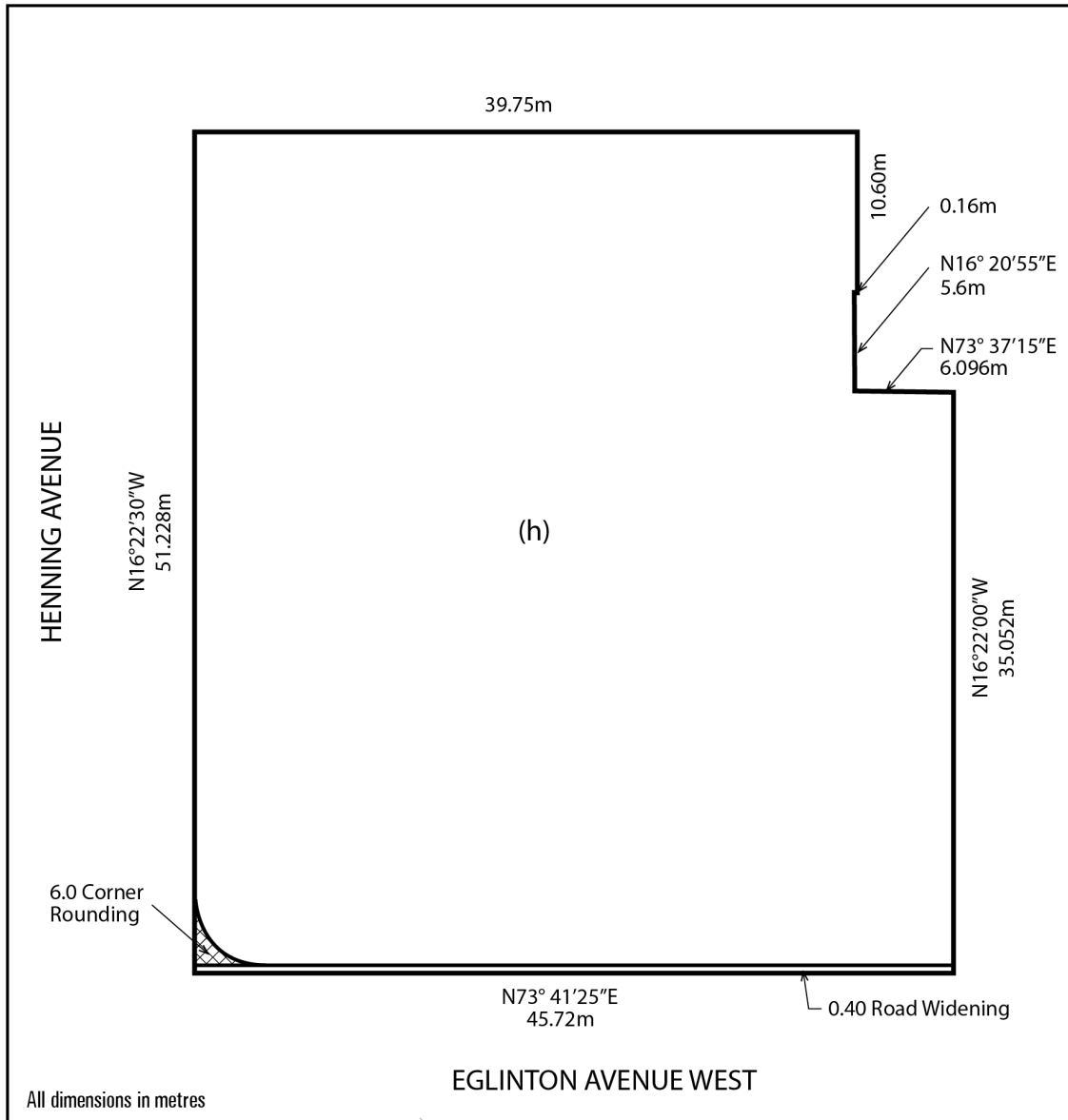
90 Eglinton Avenue West & 17 -19 Henning Avenue

Map 1

File # 16 140393 NNY 16 02
File # 14 145916 NNY 16 02



Former Toronto By-Law 438-86
Not to Scale
04/11/2017



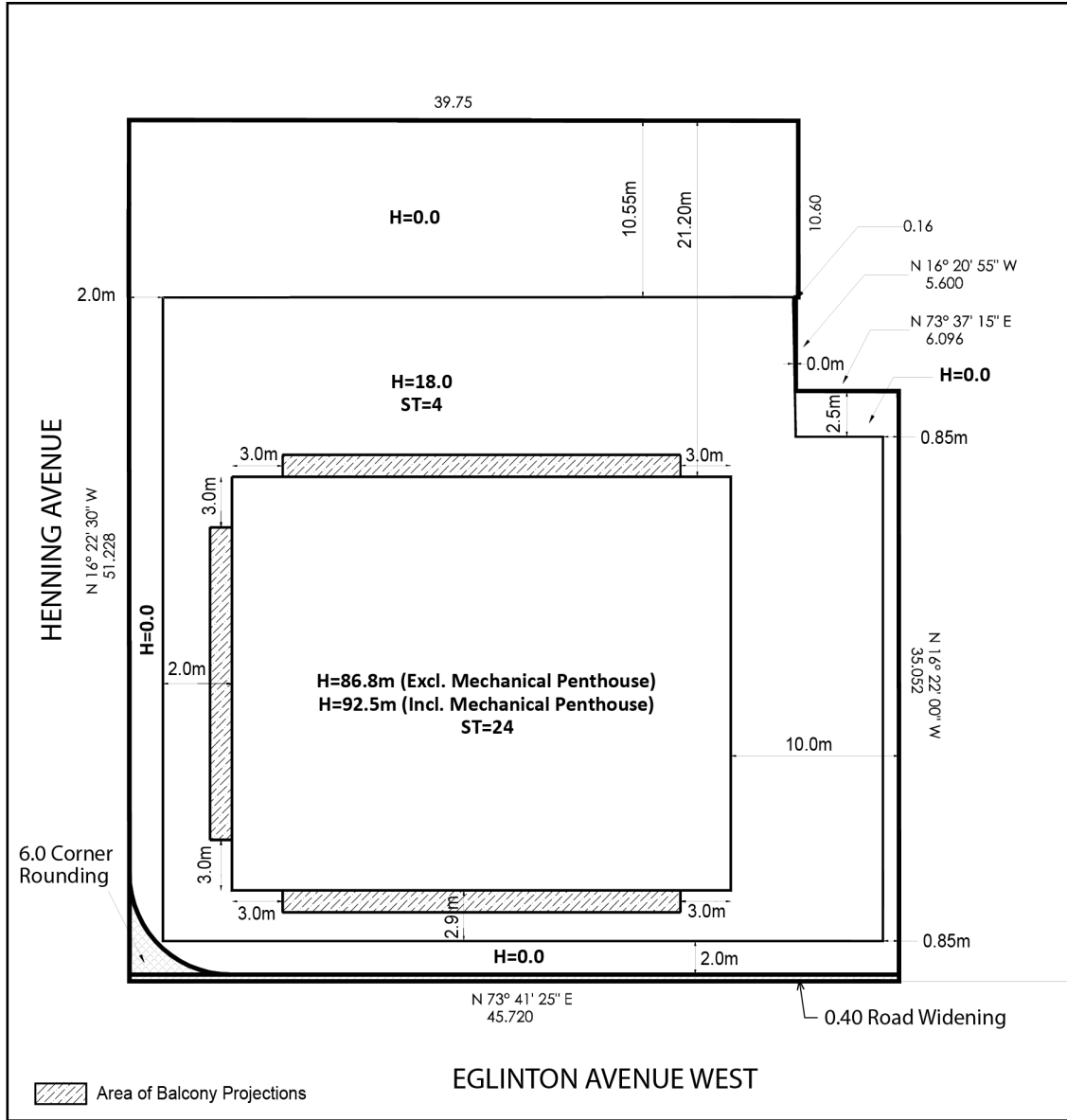
90 Eglinton Avenue West & 17 -19 Henning Avenue

Map 2

File # 16 140393 NNY 16 02
File # 14 145916 NNY 16 02



Former Toronto By-Law 438-86
Not to Scale
04/11/2017



90 Eglinton Avenue West & 17 -19 Henning Avenue

Map 3

File # 16 140393 NNY 16 02
File # 14 145916 NNY 16 02



Former Toronto By-Law 438-86
Not to Scale
09/12/2016