

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 826-2017

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2016 as 90 Eglinton Avenue West and 17-19 Henning Avenue.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the by-law 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 the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

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

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, 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 by the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR (c3.0; r2.0) SS2 (x2237) and R (d0.6)(x721) as shown on Diagram 2 attached to this by-law.

4. 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:

On 90 Eglinton Avenue West and 17-19 Henning Avenue if the requirements of By-law 826-2017 are complied with, none of the provisions of Chapter 800.50 with respect established grade, 5.10.40.70, 10.10(x721), 40.10.401(1), 40.10.40.10(2), 40.10.40.40(1), 40.10.40.70(2), 40.10.40.50(1), 200.5.10.1(1), 200.5.10.1(2), 200.5.10.1(6), 220.5.10.1(5), 230.5.1.10(9) of By-law 569-2013, 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 **ancillary** uses thereto, including an underground **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 must not exceed 19,440 square metres provided that:
- (i) the maximum residential **gross floor area** shall be 15,640 square metres;
 - (ii) the maximum non-residential **gross floor area** shall be 3,800 square metres; and
 - (iii) the minimum office floor area on levels 1 through 3 shall be 2,785 square metres;
- (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 a building or structure above ground may be closer to a lot line than the distance shown between a main wall and the corresponding lot line as shown on Diagram 3 of By-law 826-2017;
- (D) The following elements of a building may encroach into the building setback required by (C):
- (i) cornices, lighting fixtures, window washing equipment, 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, stair enclosures, stair landings, supportive columns, 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; and

- (ii) 1.5 metres for canopies and balconies;
- (E) Except where a heavy line shown on Diagram 3 is contiguous with the boundary of the lot, nothing will prevent the following elements from projecting beyond the heavy lines shown on Diagram 3:
 - (i) fences and safety railings, trellises, balustrades, chimneys, vents, wheelchair ramps, retaining walls, landscape features, ornamental structures, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, stair landings, decks, planters, and public art features;
- (F) Despite regulation 10.5.40.10(1), the height of a building is measured from the Canadian Geodetic Datum elevation of 158.79 metres, including the mechanical floor, to the highest point of the building;
- (G) Excluding building elements identified in 10.5.40.10(2)(3)(4), no part of any building or structure may exceed the maximum height permitted by the numbers following the symbol "H" on Diagram 3 of By-law 826-2017;
 - (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; and
 - (iii) structures on the roof of the building used for outside or open air recreation, architectural elements, elevator overrun, 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 provided the maximum vertical dimension;
- (H) **Amenity space** must be provided and maintained as follows:
 - (i) A total of 455 square metres of indoor **amenity space**, which may include the 26 square metres for a lounge located in the residential lobby and 165 square metres for a recreational space in the below **grade** parking garage;
- (I) 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 below **grade 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; and
- (ii) no **parking spaces** shall be required for any portion of the **mixed-use building** that contains non-residential **gross floor area**; and
- (iii) a minimum of 5 **parking spaces** shall be required for the dedicated use of residential visitors to the **lot**, at no cost;

A minimum of 5 visitor parking spaces be provided on-site, at no charge;

- (J) The total number of parking spaces which do not comply with Section 200.5.1.10(2)(A) of Zoning By-law 569-2013 shall be not exceed 5;
- (K) **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;
- (L) **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;
- (M) **Bicycle parking spaces** shall be located within the below **grade parking garage** levels consisting of horizontal, vertical and/or **stacked bicycle parking space**;

- (N) None of the provisions of By-law 569-2013, 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;
- (O) Below **grade gross floor area** and underground parking levels may extend to the lot lines;
- (P) 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. Definitions

For the purposes of this By-law, the words highlighted in bold type have the meaning provided in By-law 569-2013, Chapter 800 Definitions, as amended, with the exception of the following:

- (i) **grade** shall mean 158.79 metres Canadian Geodetic Datum; and
- (ii) **height** shall mean the vertical distance between *grade* and the highest point of the roof, except for those elements prescribed in section 4g).

6. The lands zoned with the "(h)" symbol delineated by heavy lines on Diagram 1 attached to and forming part of this By-law shall not be used for any purpose 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 removed 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 to 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.

7. Section 37 Provisions

- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense, facilities, services and matters set out in Appendix 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 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 satisfaction of the same.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Enacted and passed on July 7, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

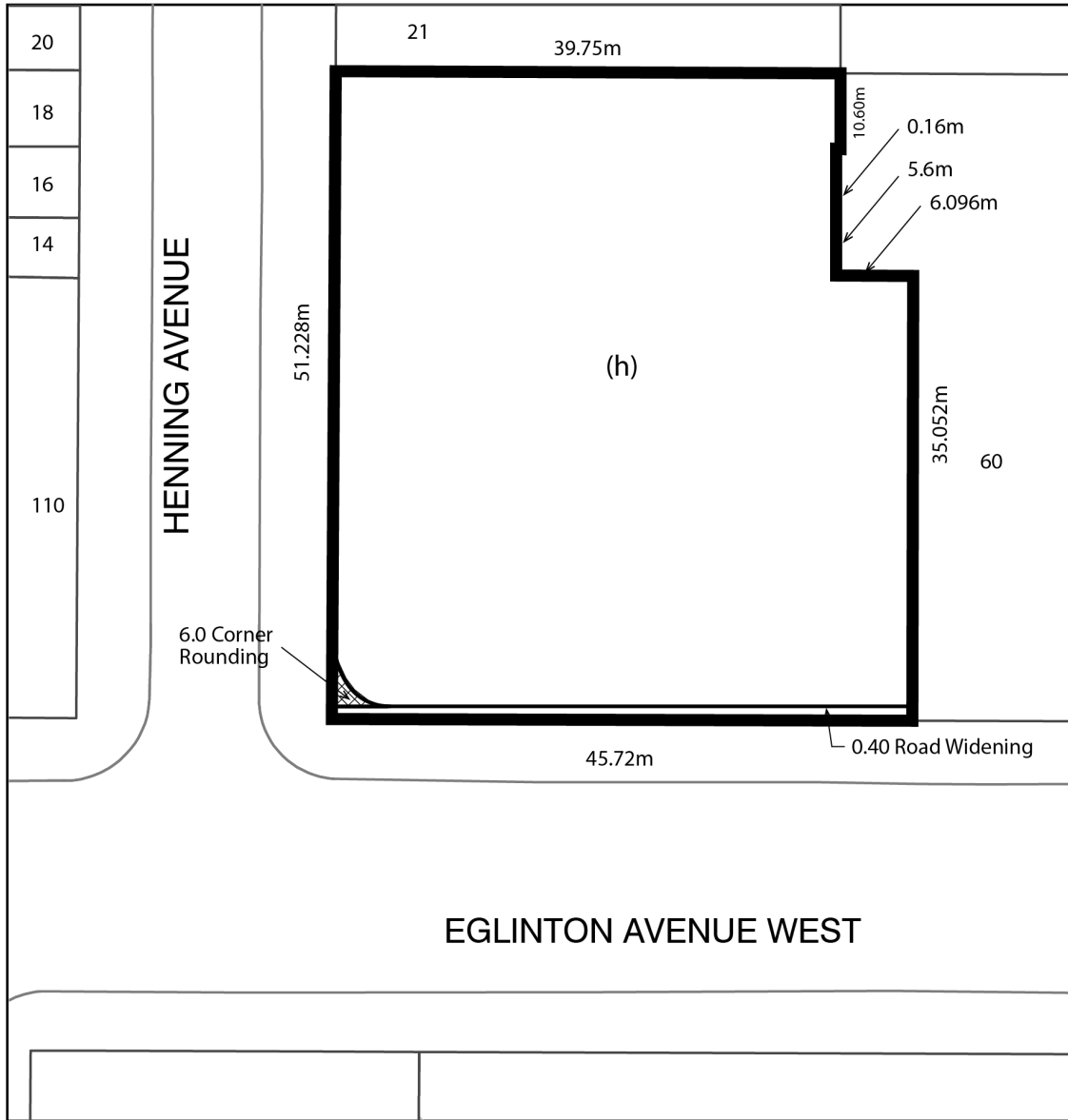
(Seal of the City)

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:

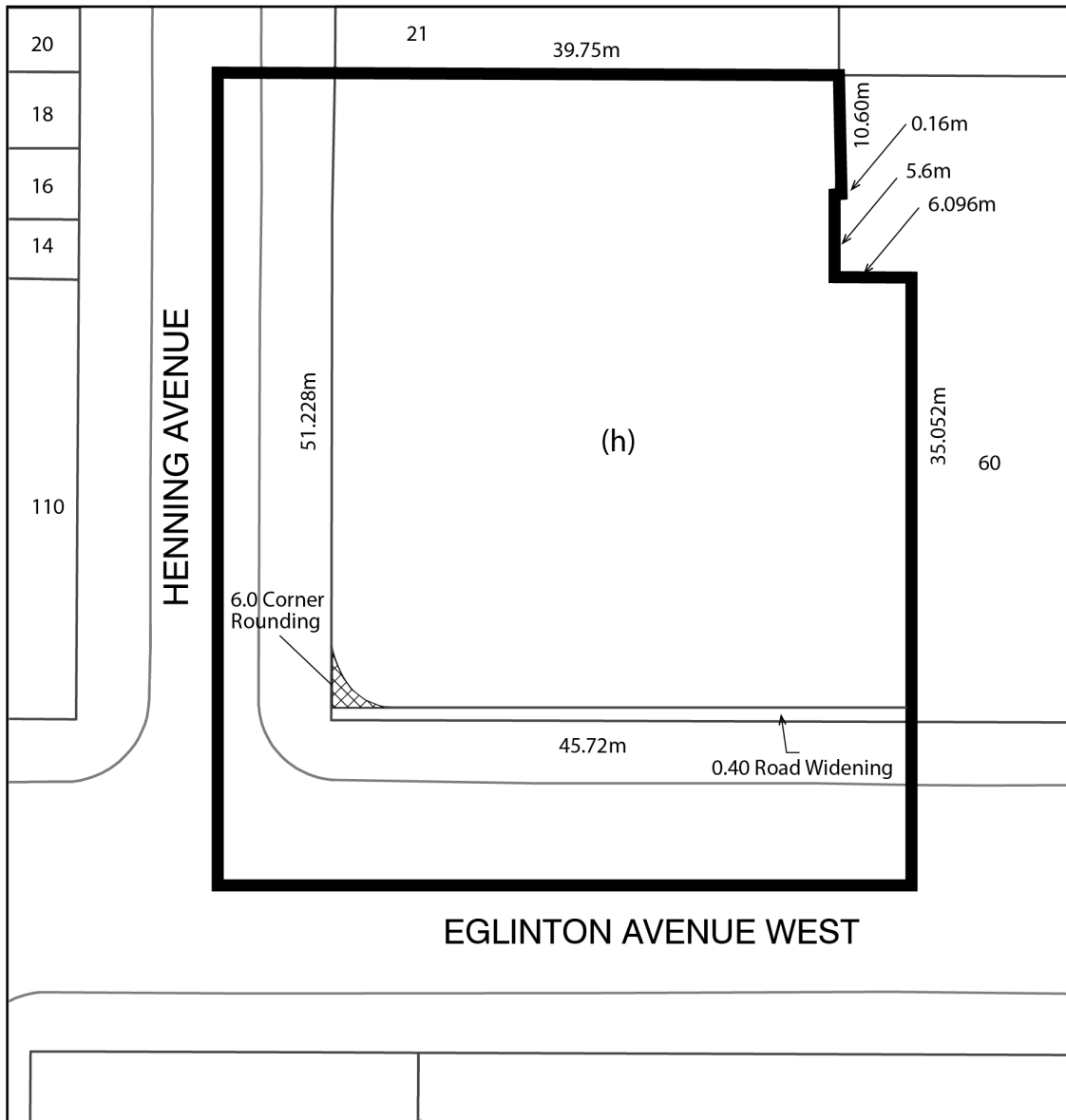
1. The community benefits to be secured in the Section 37 agreement is:
 - A. A cash payment of \$1,000,000 payable prior to the issuance of the first above grade building permit:
 - i. to be used by the City in its sole discretion for the purpose of improvements to Eglinton Park in accordance with the Midtown in Focus parks and Public Realm Plan.
 - ii. 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 prior from the date of the execution of the Section 37 Agreement to the date of payment.
2. The financial contribution 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.
3. 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

Diagram 1

File # 16 140393 NNY 16 QZ
File # 14 145916 NNY 16 QZ

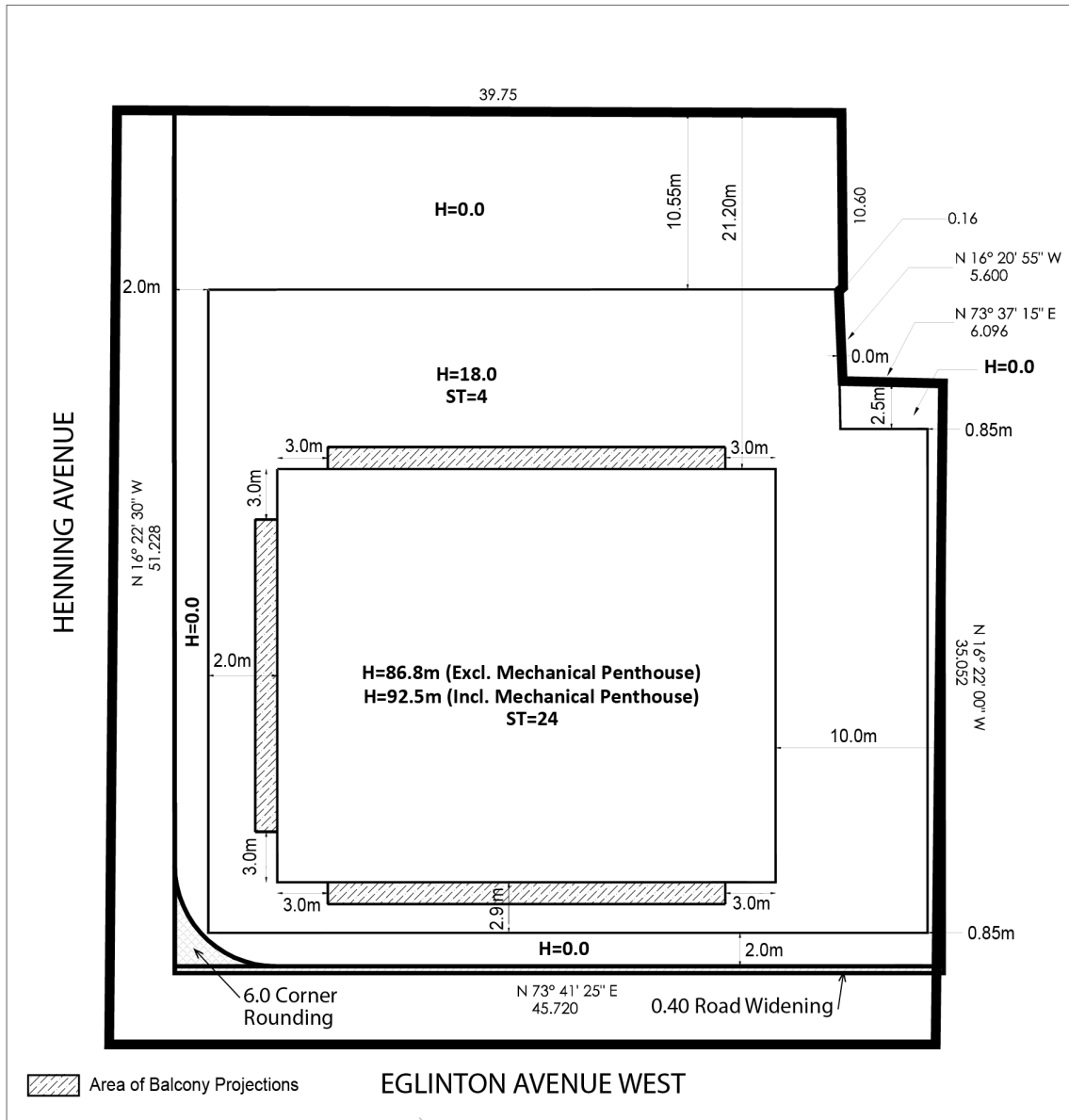


90 Eglinton Avenue West & 17-19 Henning Avenue

Diagram 2

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





90 Eglinton Avenue West & 17-19 Henning Avenue

Diagram 3

File # 16 140393 NNY 16 OZ
File # 14 145916 NNY 16 OZ