

Authority: Ontario Municipal Board Decision issued on November 30, 2017 and Order issued January 5, 2018 in Board File PL170588

CITY OF TORONTO

BY-LAW 454-2018(OMB)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2017 as 75 The Esplanade.

Whereas the Ontario Municipal Board pursuant to its Order dated January 5, 2018 in Board File PL170588, upon hearing the appeal of Carhar 3-Esplanade GP Inc., under Section 34(11) of the Planning Act, R.S.O. c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013; 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, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

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

The Ontario Municipal Board orders:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law and for the purposes of this By-law shall include the lands shown as conveyances.
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 labels on the Zoning By-law Diagram in Section 990.10 respecting the lands outlined by heavy black lines to CR 4.0 (c4.0; r2.5) SS1 (x131), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569 -2013, as amended, is further amended by adding to Article 900.11.10 Exception Number 131 so that it reads:

Exception CR 131

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions.

Site Specific Provisions:

- (A) On 75 The Esplanade, if the requirements of Section 5 and Schedule A of By-law 454-2018(OMB) are complied with, none of the provisions of Clause and Regulations 40.5.40.10(1), 40.5.40.10(3), 40.5.40.10(4), 40.5.40.10(5), 40.5.40.10(6), 15.100.30.1(2), 40.10.40.50(1), 40.10.40.50(2), 40.10.40.60(1)(B), 40.10.40.80(1)(B), 200.5.10.1(1), 220.5.10.1(3), 220.5.10.1(4), 220.5.10.1(5), 230.5.10.1(1) apply to prevent the erection or use of a **building or structure** permitted by (B) to (N) below;
- (B) The total **gross floor area** of all **buildings** and **structures** on the **lot** must not exceed 23,500 square metres; and
 - (i) The total **gross floor area** for residential uses must not exceed 22,000 square metres;
 - (ii) The total **gross floor area** for non-residential uses must not exceed 1,300 square metres; and
 - (iii) The total **gross floor area** of non-residential uses must be at least 1,000 square metres;
- (C) Despite 40.5.40.10(1) and 40.5.40.10(2), the height of a **building or structure** is measured from the Canadian Geodetic Datum elevation 76.97 metres, and must not exceed the height in metres specified by the numbers following the symbol "H" as shown on Diagram 3 of By-law 454-2018(OMB) and also must not exceed 29 **storeys**, not including a mezzanine;
- (D) Despite (C) above, the elements listed in Table 1 of By-law 454-2018(OMB) may exceed the height indicated by the numbers following the letter H shown on Diagram 3 of By-law 454-2018(OMB) and may extend beyond the heavy lines shown on Diagram 3 of By-law 454-2018(OMB), by the length indicated on Table 1 of By-law 454-2018(OMB);
- (E) The total number of **dwelling units** must not exceed 308;
- (F) **Amenity space** for the **dwelling units** must be provided in accordance with the following:
 - (i) A minimum of 2.07 square metres per **dwelling unit** of indoor amenity space and must be provided and may be located in a series of separate rooms that are not adjoining, if:
 - (a) at least one of such rooms contains a kitchen;

- (b) at least one of such rooms contains a washroom;
 - (c) at least 150 square metres of the required indoor **amenity space** is located on the same floor; and
 - (ii) at least 1.63 square metres per **dwelling unit** of residential **amenity space** must be provided outdoors:
 - (a) at least 300 square metres of the required outdoor **amenity space** must be adjoining or directly accessible to at least one of the rooms used as indoor **amenity space** in (i) above; and
 - (b) no more than 25 percent of the outdoor amenity space may be a green roof;
- (G) **Parking spaces** must be provided and maintained on the **lot** in accordance with the following:
 - (i) A minimum of the greater of 114 **parking spaces** for residents of the **dwelling units** or 0.37 **parking spaces** per **dwelling unit** for residents;
 - (ii) A maximum of 5 **parking spaces** may be used for a car-share service;
 - (iii) No **parking spaces** are required for visitors of the **dwelling units** or for the non-residential use; and
 - (iv) Despite 200.15 of By-law 569-2013, 4 accessible **parking spaces** required in (G)(i) may have the following minimum dimensions:
 - (a) length of 5.6 metres;
 - (b) width of 3.9 metres;
 - (c) vertical clearance of 2.1 metres; and
 - (d) need not provide a 1.5 metre wide accessible access area adjacent to the accessible **parking space**;
- (H) **Bicycle parking spaces** must be provided and maintained on the **lot** in accordance with the following:
 - (i) A minimum of 0.90 long-term **bicycle parking spaces** per **dwelling unit** for the **dwelling units**;
 - (ii) A minimum of 0.14 short-term **bicycle parking spaces** per **dwelling unit** for the **dwelling units**;
- (I) At least one Type "G" **Loading Space** and one Type "C" **Loading Space** must be provided;
- (J) The requirements of this By-law prevail over the requirements of 600.10.10;

- (K) Despite 40.5.40.60(1) of By-law 569-2013, canopies may encroach beyond the heavy lines in Diagram 3 of By-law 454-2018(OMB), if the encroachments occur no higher than 9 metres above Canadian Geodetic Datum elevation 76.97 metres;
- (L) Despite 40.10.40.70(1)(A) of By-law 569-2013, at least 75 percent of the **main wall** of the **building** facing a **front lot line** must be not more than 6.0 metres from the **front lot line**;
- (M) Despite 230.5.1.10(9)(A)(iii) of By-law 569-2013, at least 160 long-term **bicycle parking spaces** must be on the first storey, mezzanine or the first level of the **building** below grade;
- (N) Despite 40.5.40.40(3)(C), the **gross floor area** of a **mixed use building** is reduced by the areas used as electrical, utility, mechanical and ventilation rooms on any level above or below grade; and
- (O) Despite 40.5.40.40(3)(B), the **gross floor area** of a **mixed use building** is reduced by the area in the **building** used for required **bicycle parking spaces** below, at, or above-ground.

Prevailing By-laws and Prevailing Section: None Apply.

5. 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/or density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to subsection 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters 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/or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Table 1
Projections

Structures and elements projecting beyond the heavy lines on Diagram 3	Maximum Horizontal Projection	Maximum Vertical Projection
lightning rods, vents, satellite dishes, window washing equipment, antennae, flag poles within the area shown as MECH PENT on Diagram 3	0.6 metres	4 metres
Satellite dishes, eaves, screens, landscape and ornamental features, trellises, cabanas, lightning rods, window washing equipment, light fixtures, antennae, flag poles, provided none of these elements are within the area shown as EDGE on Diagram 3	None	4 metres
Terrace and balcony dividers, satellite dishes, wind mitigation, vents, roof access, window washing equipment, solar panels, mechanical exhausts, flues, fans, chimneys	None	2 metres
Guardrails, railings, retaining walls, wheelchair ramps, roofing assembly and drainage, elements of green roof, parapets, cornices, balustrades, bollards, landscape and ornamental features	None	1.5 metres
Canopies, awnings, screens, landscape and ornamental elements	3 metres	None
Balconies or platforms	2 metres	None
Cornices, lighting features, trellises, eaves, window sills, guardrails, balustrades, railings, vents, architectural, ornamental and landscape features	1.5 metres	None

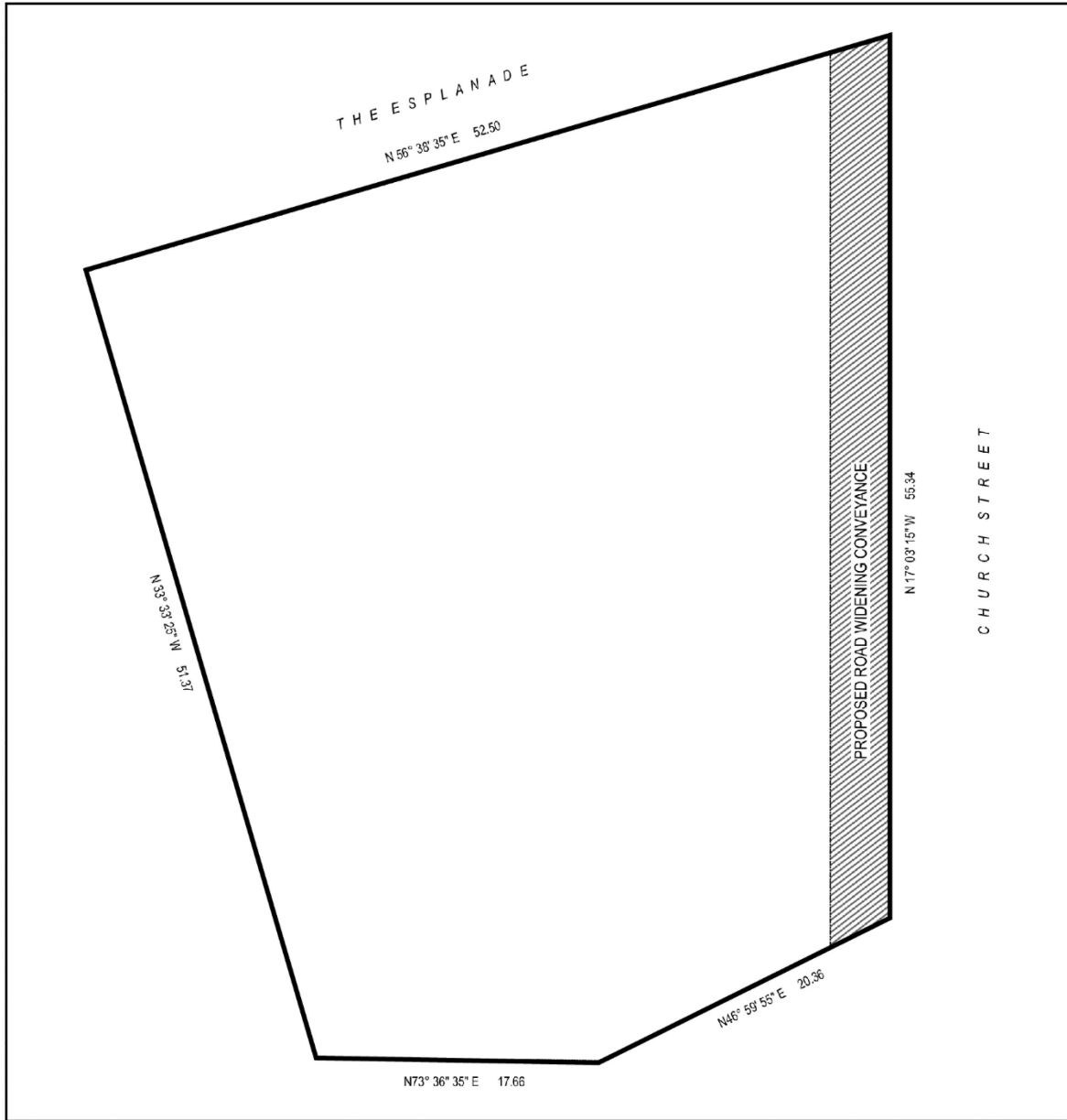
Schedule A
Section 37 Provisions

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 in accordance with an agreement or agreements, pursuant to subsection 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, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above-grade building permit, the owner shall pay to the City the sum of \$2,180,000 to be used for the following:
 - (a) \$160,000 towards at-grade exterior improvements to the Toronto Parking Authority/Toronto Community Housing building at 55 The Esplanade, which may include lands at 45 The Esplanade over which easements exist in favour of Toronto Community Housing and the City, in consultation with the Ward Councillor and Toronto Community Housing; and
 - (b) \$2,020,000 for any combination of the following:
 - (i) The development of a park located between Market Street, Wilton Street, The Esplanade and Parliament Street;
 - (ii) Implementation of the Heritage Interpretation Master Plan for Old Town Toronto and/or the Heritage Lighting Master Plan for Old Town Toronto;
 - (iii) North St. Lawrence Market redevelopment; and/or
 - (iv) Local streetscape improvements.
2. The payment amounts identified in 1. above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, 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.
3. In the event the cash contribution referred to in 1. above has not been used for the purposes set out in 1. above within three (3) years of the Zoning By-law Amendments coming into full force and effect, the cash contribution may be redirected for another purpose at the discretion of the Chief Planner in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community within the vicinity of the Site.

The following matters are to be secured in the Section 37 Agreement as a legal convenience to support development, all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with the appropriate civic officials and the Ward Councillor:

1. At least 10 percent of the total number of dwelling units to be constructed on the lot shall contain family-sized units with three or more bedrooms in compliance with the provisions of the Ontario Building Code.
2. Prior to condominium registration or first residential use of the site, the owner shall convey to the City a 3.8 metre road widening along the Church Street frontage, free and clear of all encumbrances and in environmental condition satisfactory to Engineering and Construction Services in consultation with City Legal.
3. Prior to site plan approval, the owner will provide a 3.0 metre pedestrian clearway of which 2.2 metres will be an easement in favour of the public over an at-grade setback along the Church Street frontage, in addition to the road widening described in 2. above.
4. Prior to site plan approval, the owner shall secure the design of the pedestrian weather protection along the Church Street and The Esplanade frontages as part of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division and will agree to construct it as a condition of site plan approval.
5. Prior to site plan approval, the owner shall provide a revised wind study to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
6. Prior to issuance of any above grade building permit, the owner be required to pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the Executive Director, Engineering and Construction Services should such Director determine that improvements to such infrastructure are required to support the development all to the satisfaction of the Executive Director, Engineering and Construction Services.
7. Prior to any site plan approval, the owner shall submit a revised noise and vibration study and pay all costs relating to peer review of same, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and any mitigation measures identified in the accepted noise and vibration study will be secured as a condition of site plan approval.
8. As a condition of site plan approval, the owner shall convey to the City at no cost a widening approximately 0.75 metres in width along the Esplanade frontage, the precise size and configuration to be determined at the time of site plan approval, free and clear of all encumbrances and in environmental condition satisfactory to Engineering and Construction Services in consultation with City Legal.

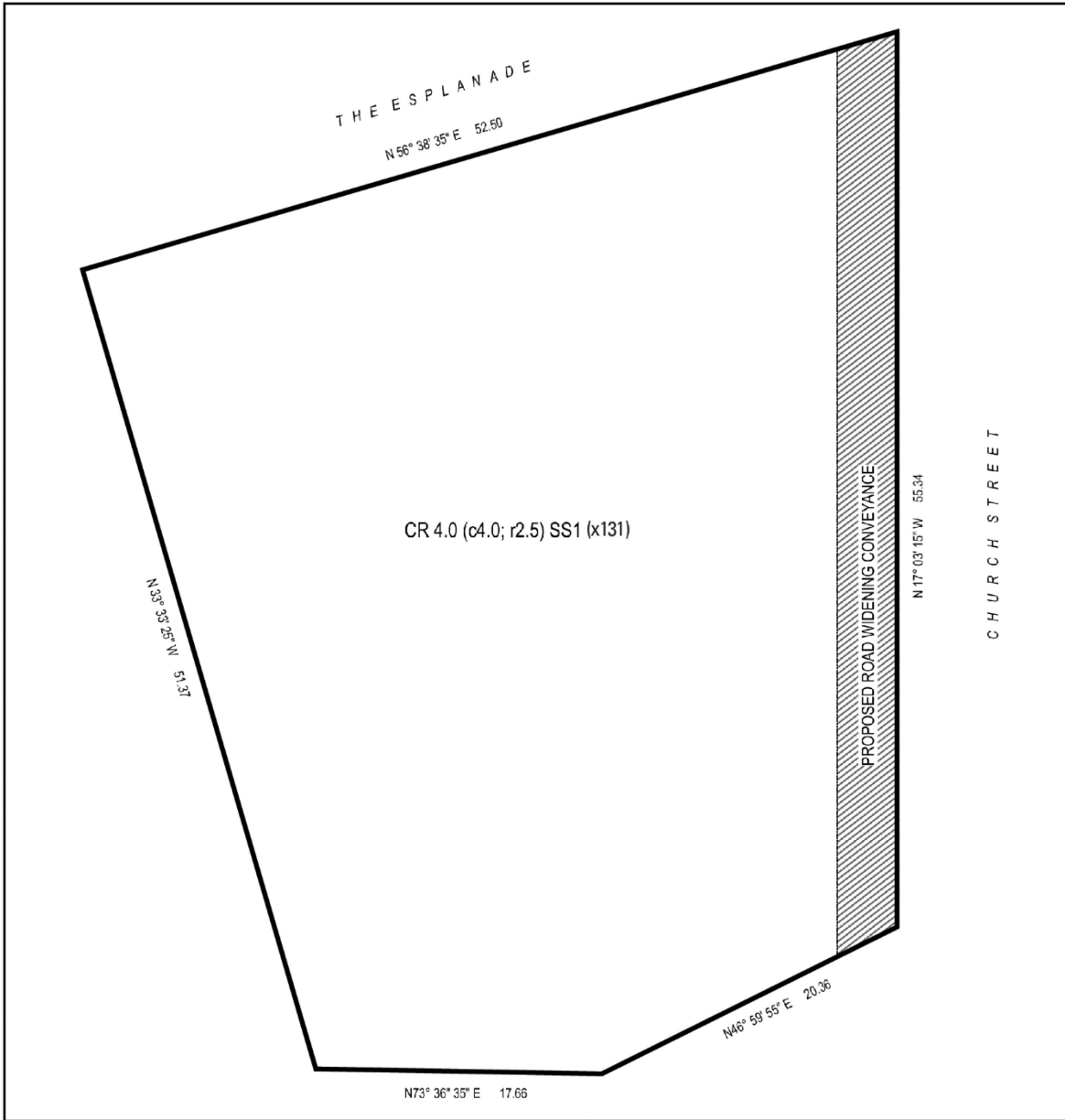


 **TORONTO**
Diagram 1

75 The Esplanade

File # 15 120727 STE 28 0Z


City of Toronto By-Law 569-2013
Not to Scale
09/05/2017

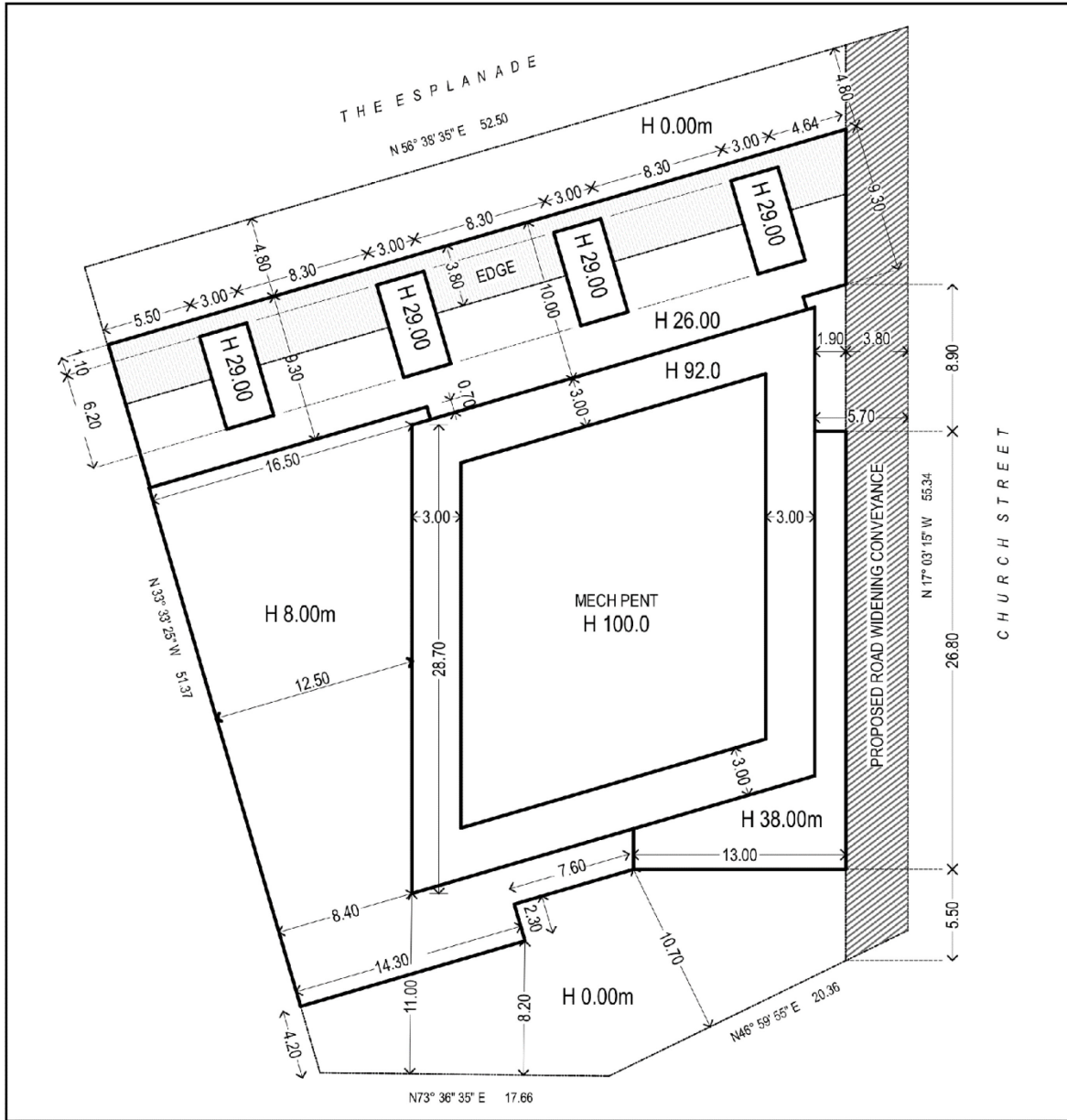


 **TORONTO**
Diagram 2

75 The Esplanade

File # 15 120727 STE 28 OZ


City of Toronto By-Law 569-2013
Not to Scale
09/05/2017



TORONTO
 Diagram 3

75 The Esplanade

File # 15 120727 STE 28 0Z