

Authority: Local Planning Appeal Tribunal Decision
issued on September 11, 2018 and Order issued on
October 4, 2019 in Tribunal File PL171227

CITY OF TORONTO

BY-LAW 365-2020(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2018 as 489, 495, 499, 511, 519-529 and 539 King Street West.

Whereas the Local Planning Appeal Tribunal pursuant to its Decision issued September 11, 2018 and Order issued October 4, 2019, upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c. P.13, as amended, deems it advisable to amend By-law 438-86, as amended, for the City of Toronto with respect to lands municipally known as 489, 495, 499, 511, 519-529 and 539 King Street West; 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 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;

By-law 438-86, as amended, of the former City of Toronto is further amended by the Local Planning Appeal Tribunal as follows:

1. None of the provisions of Section 2 (1) of By-law 438-86, as amended, with respect to the definition of the terms "*bicycle parking space-occupant*", "*bicycle parking space visitor*", "*grade*", "*lot*", "*residential gross floor area*" and "*non-residential gross floor area*", and Sections 4(2)(a), 4(5)(b), (c), (d), (h) and, 4(8), 4(12), 4 (13), 7(3) Part II 1, 4, 5 and 8, 7(3) Part III 2, 7(3) Part IV 5, 12(2) 132, 12(2) 246 (a), (c) (e), and (f), 12(2) 260 and 12 (2)270 of Zoning 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, *commercial parking garage*, *car-share parking space* and *accessory* uses on the *lot*, provided that:

- (a) The *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
- (b) The total residential *gross floor area* and non-residential *gross floor area* erected or used on the *lot* shall not exceed 60,000 square meters, provided that the *gross floor area* of the building occupied by residential uses does not exceed 40,000 square metres;
- (c) At least 20 percent of all *dwelling units* on the *lot* must have two or more bedrooms, and at least 10 percent of all *dwelling units* must have three or more bedrooms;
- (d) No portion of any building or structure on the *lot* shall have a *height* in metres measured to the top of each *storey*, greater than the *height* limits specified by the numbers following the symbol HT on Maps 2 to 18 attached to and forming part of the by-law, except for:
 - (i) cornices, parapets, lighting fixtures, ornamental elements, chimneys, vents, stacks, railings, stairs, stair enclosures, planters, elements or structures used for outside or open air recreation, safety or wind protection purposes, terrace and balcony railings and dividers, elements of a green roof, cooling towers and lightning rods to a maximum of 3.5 metres;
 - (ii) window washing equipment and building maintenance equipment to a maximum of 6 metres;
 - (iii) utility enclosure to a maximum of 3 metres; and
 - (iv) public art in accordance with the terms of the Section 37 Agreement;
- (e) No portion of any building or structure above *grade* is located other than within the areas delineated on Maps 2 to 18;
- (f) The following elements may extend beyond the heavy lines shown on the attached Maps 2 to 18:
 - (i) awnings, canopies, ornamental elements, window sills, guardrails, balustrades, railings, stairs, stair enclosures, landscape features to a maximum of 1.5 metres;
 - (ii) utility enclosure; and
 - (iii) public art in accordance with the terms of the Section 37 Agreement;

- (g) *Residential amenity space* is provided in accordance with the following:
- (i) a minimum of 1.5 square metres of indoor *residential amenity space* per *dwelling unit* must be provided in a room or rooms, one of which shall contain a kitchen and at least one washroom; and
 - (ii) a minimum of 0.7 square metres of outdoor *residential amenity space* per *dwelling unit*.
- (h) A minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (i) a minimum of 0.3 *parking spaces* per *dwelling unit* must be provided for the exclusive use of residents;
 - (ii) no visitor *parking spaces* are required;
 - (iii) for each *car-share parking space* provided on the *lot*, the minimum number of *resident parking spaces* required pursuant to subsection (h)(i) above may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula: $4 \times (\text{the total number of } \textit{dwelling units} \text{ on the } \textit{lot} \text{ divided by } 60)$, rounded down to the nearest whole number;
 - (iv) for each five (5) *bicycle parking spaces* provided in excess of the minimum number of *bicycle parking spaces* required by this By-law, the minimum number of *resident parking spaces* required pursuant to subsection (h)(i) above may be reduced by 1 *parking space*, up to a maximum reduction of 20 percent of the minimum that would otherwise be required pursuant to subsection (h)(i) above;
 - (v) a minimum of 1 *parking space* must be provided for every 300 square meters of non-residential gross floor area and may be provided in a *commercial parking lot*;
 - (vi) a maximum of 40 *parking spaces* that are obstructed on one or two sides may be provided with a minimum width of 2.6 metres notwithstanding Section 4(17)(e) of By-law 438-86, as amended;
- (i) A minimum of one *loading space-type G*, three *loading spaces-type B*, and two *loading space-type C*, shall be provided and maintained on the *lot*;
- (j) *Bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:
- (i) occupant *bicycle parking spaces* are *bicycle parking space* for use by the occupants or tenants of a building;

- (ii) visitor *bicycle parking spaces* are for use by visitors to a building;
- (iii) a maximum of 12 required *bicycle parking spaces* bike may be provided as *bicycle-share parking spaces*;
- (iv) for *dwelling units*: a minimum of 0.9 *bicycle parking spaces* for each *dwelling unit*, allocated as occupant *bicycle parking spaces* and a minimum of 0.1 *bicycle parking spaces* for each *dwelling unit* allocated as visitor *bicycle parking spaces*;
- (v) for office uses: a minimum of 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as occupant *bicycle parking spaces* and 3 plus 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as visitor bicycle parking spaces;
- (vi) for retail uses: a minimum of 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as occupant *bicycle parking spaces* and 3 plus 0.3 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as visitor *bicycle parking spaces*;

2. For the purposes of this By-law, each word or expression in italics have the same meaning as defined in Section 2 of By-law 436-86, as amended, except for the following:

- (a) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle ring, bicycle stacker or bicycle locker for the purpose of parking and securing bicycles;
 - (i) where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and vertical dimension of at least 1.9 metres; and
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (iii) notwithstanding (a) and (b) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.8 metres by 0.6 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
- (b) "*bicycle-share*" means the practice whereby a number of people share the use of one or more bicycles that are owned by a profit or non-profit bicycle-sharing organization and such bicycle-share bicycles are made available to at least the occupants of the building for short-term rental, including hourly rental;

- (c) "*bicycle-share parking space*" means a bicycle parking space exclusively reserved and signed for a bicycle used only for bicycle-share purposes;
- (d) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
- (e) "*car-share parking space*" means a parking space exclusively reserved and signed for a car used only for car-share purposes;
- (f) "*grade*" means 87.18 metres Canadian Geodetic Datum;
- (g) "*lot*" means the lands outlined in the heavy lines on Map 1;
- (h) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of dwelling units to be erected on the *lot*;
- (i) "*gross floor area*" shall mean the sum of the total area of each floor level of a building or structure above and below ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - (i) parking, loading and a commercial parking garage, all as located below ground level;
 - (ii) required loading spaces at ground level;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below finished ground level;
 - (iv) facilities for bicycle parking, including but not limited to the area occupied by bicycle-share parking spaces and bicycle parking spaces and required shower and change facilities;
 - (v) residential amenity space required by this By-law;
 - (vi) elevator shafts, garbage shafts;
 - (vii) mechanical penthouse; and
 - (viii) exit stairwells in the building or structure;
- (j) "*interior floor area*" means the floor area of any part of a building measured to the interior side of a main wall or an interior wall, or as measured to a line delineating the part being measured, excluding areas for parking, commercial parking garage, loading and bicycle parking.

3. None of the provisions of By-law 438-86 shall apply to prevent a *temporary sales office* on the *lot*.
4. Despite any existing or future severance, partition or division of the lot as shown on Map 1, the provisions of this By-law and By-law 438-86 shall apply to the whole of the lot as if no severance, partition or division had occurred.
5. Within the lands shown as Map 1, attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provision is complied with:
 - (a) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. 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 Map 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 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.
7. Where Schedule A 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.
8. The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to the By-law unless all provisions of Schedule A are satisfied.

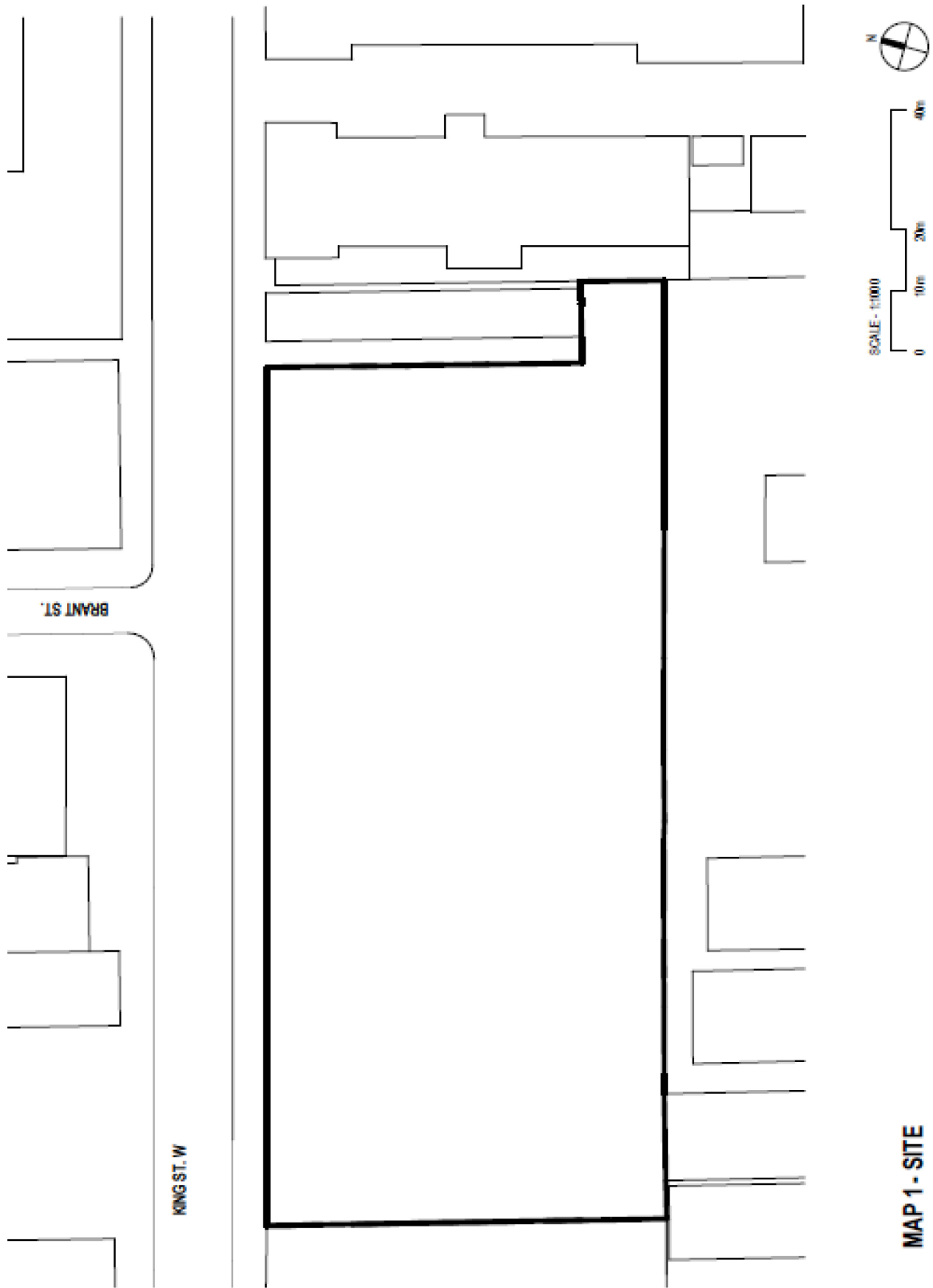
Local Planning Appeal Tribunal Decision issued September 11, 2018 and Order issued October 4, 2019 in Tribunal File PL171227.

SCHEDULE A
Section 37 Provisions

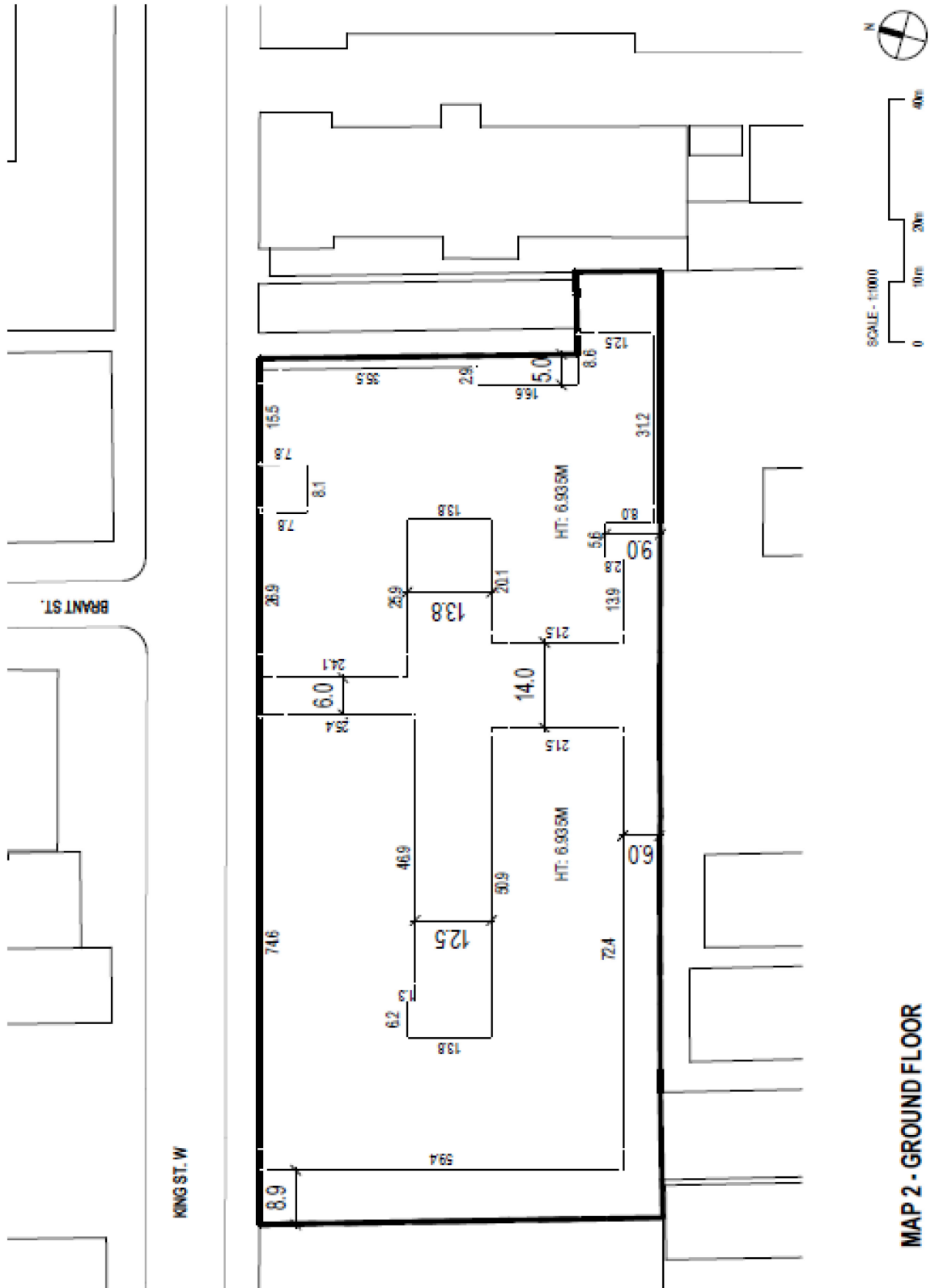
The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height of the proposed development on the lands as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, whereby the owner agrees as follows:

1. The owner shall enter into and register an agreement pursuant to Section 37 of the Planning Act securing the following community benefits as follows:
 - (a) The owner shall provide a minimum contribution of \$900,000.00 toward the commission of public art in a process in accordance with the City Planning Public Art Program.
 - (b) The owner shall provide a cash contribution of \$3,000,000.00 for above-base streetscape improvements on the north side of Wellington Street West between Spadina Avenue and Portland Street and/or public realm and streetscape improvements around St. Andrews Playground and/or Brant Street. Of this total contribution, a maximum of \$1,000,000.00 may also be used for the John Street Cultural Corridor, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
 - (c) The owner shall provide a cash contribution of \$1,100,000.00 for the provision of new affordable housing in Alexandra Park.
 - (d) In the event the cash contributions referred to in 1. (b) and (c) above have not been used for the intended purpose within three (3) years of this by-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
 - (e) The \$4,100,000.00 cash contribution referred to in 1. (b) and (c) above is to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment. All cash contributions will be payable prior to issuance of the first above-grade building permit.
 - (f) A minimum of ten percent of the residential units in the building having at least three bedrooms.
 - (g) Conveyance to the City a minimum 3.0 metre wide public pedestrian easement for the life of the building over the north-south mid-block pedestrian connection through the site between King Street West and the future public park at 456 Wellington Street West, to the satisfaction of the City Solicitor and Chief Planner and Executive Director, City Planning.

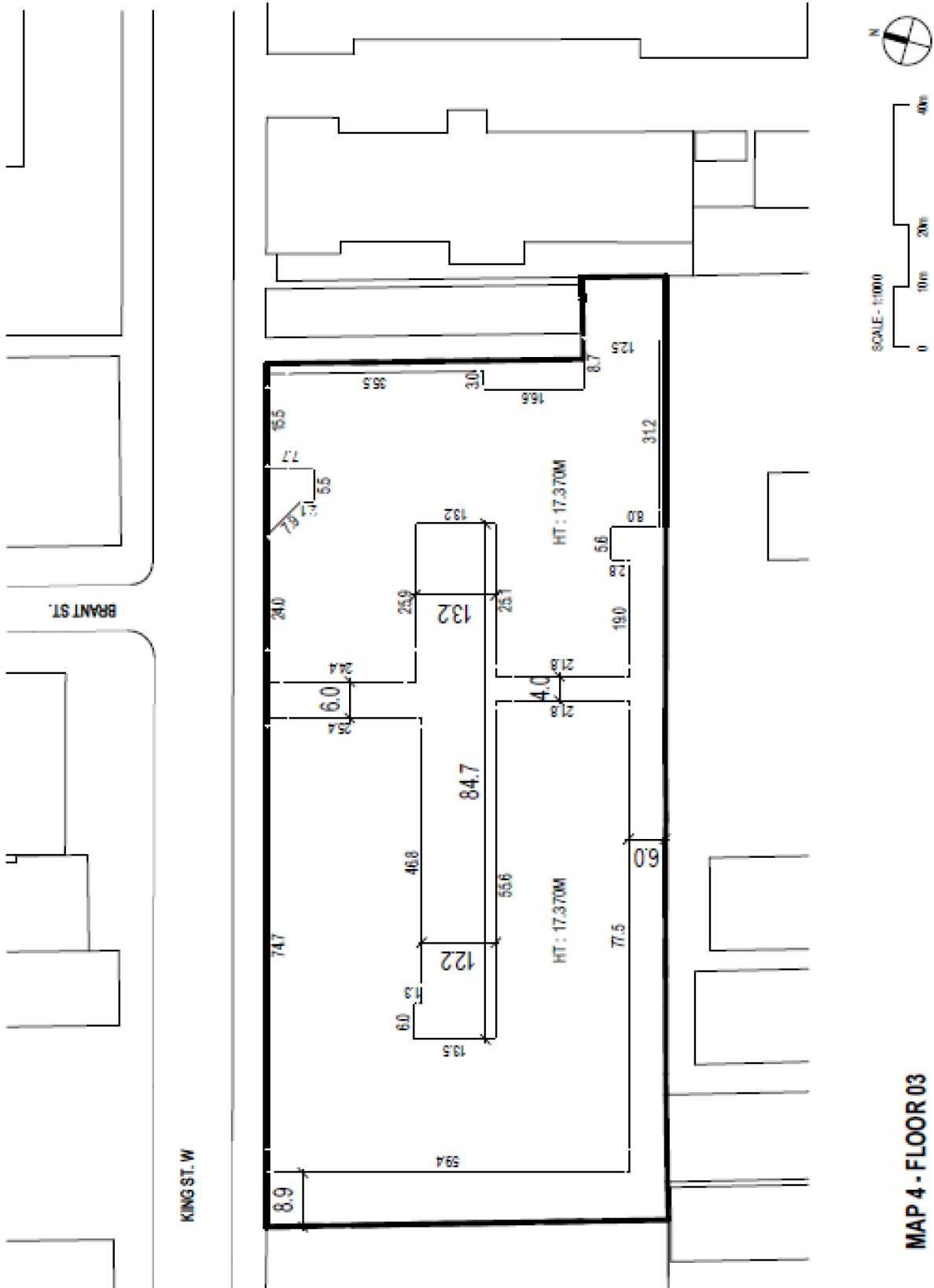
- (h) Implementation of any wind mitigation measures required as identified by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning, to be submitted as part of an application for Site Plan Approval.
- (i) Materials for the new building will be secured through Site Plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (j) A construction management plan shall be provided and thereafter implemented by the owner of 489-539 King Street West, to address such matters as wind, noise, dust, street closures, parking and laneway uses and access. Such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor and shall be completed prior to Site Plan approval.



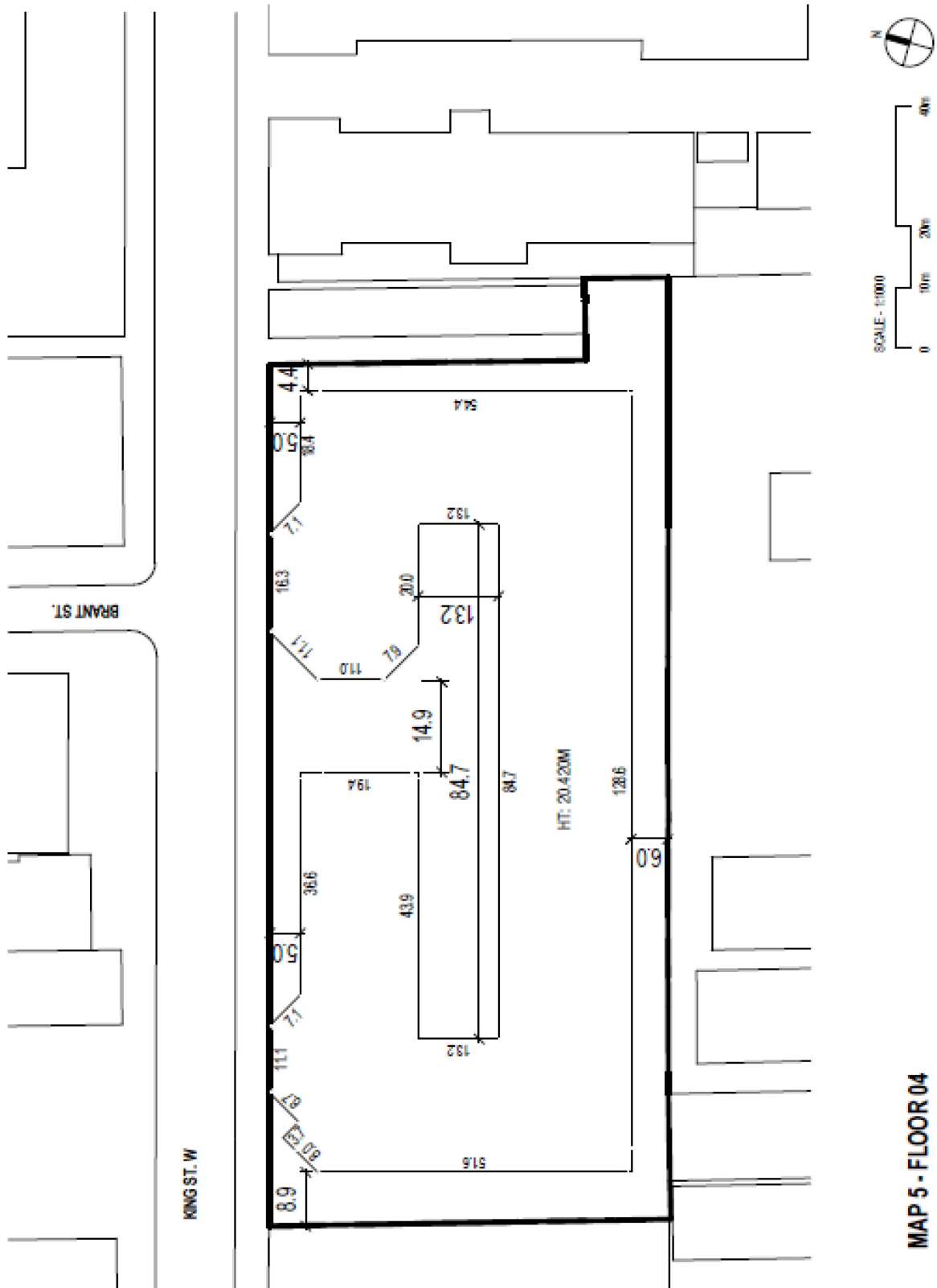
MAP 1 - SITE

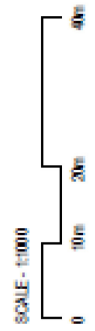
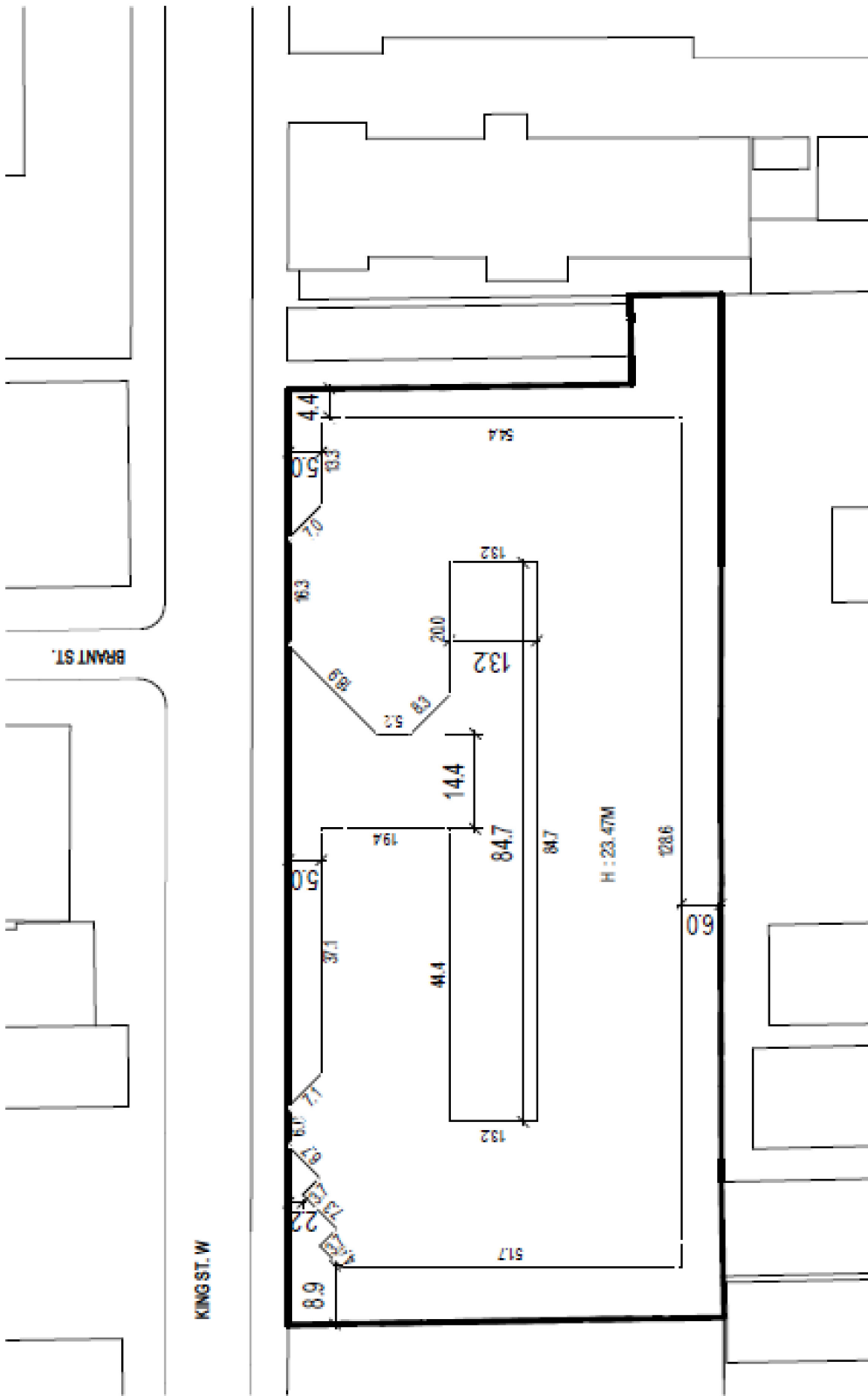


MAP 2 - GROUND FLOOR

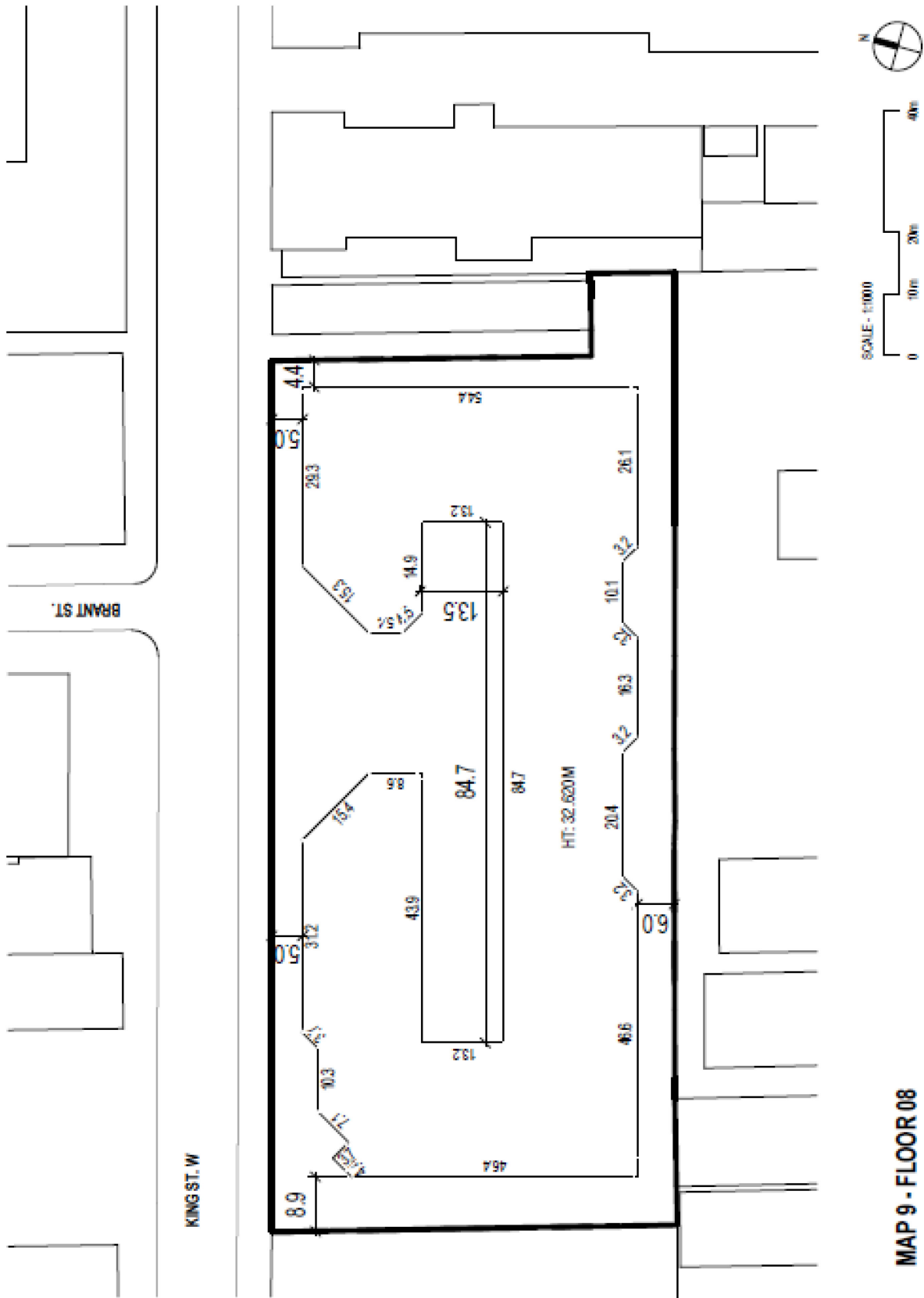


MAP 4 - FLOOR 03

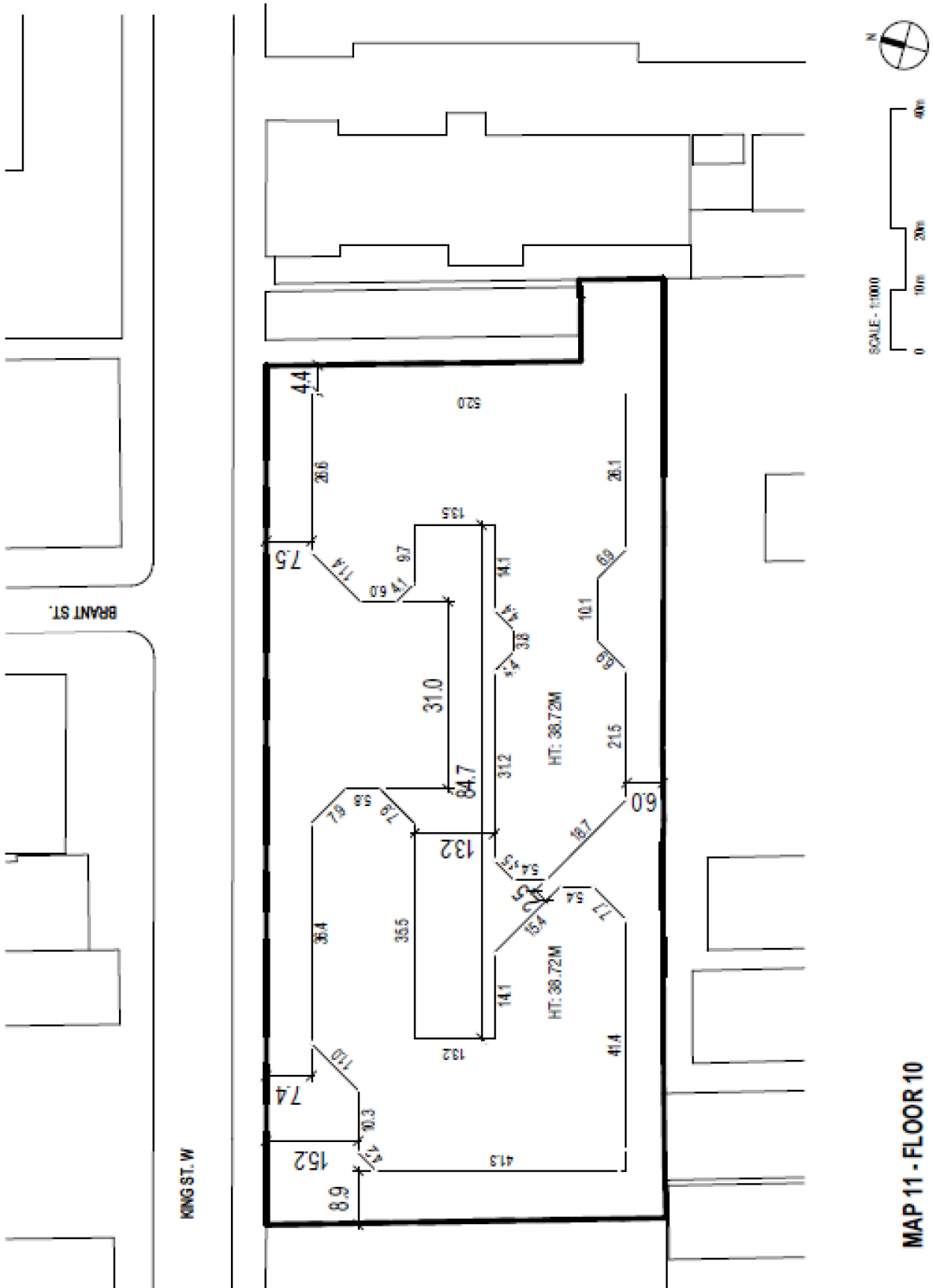


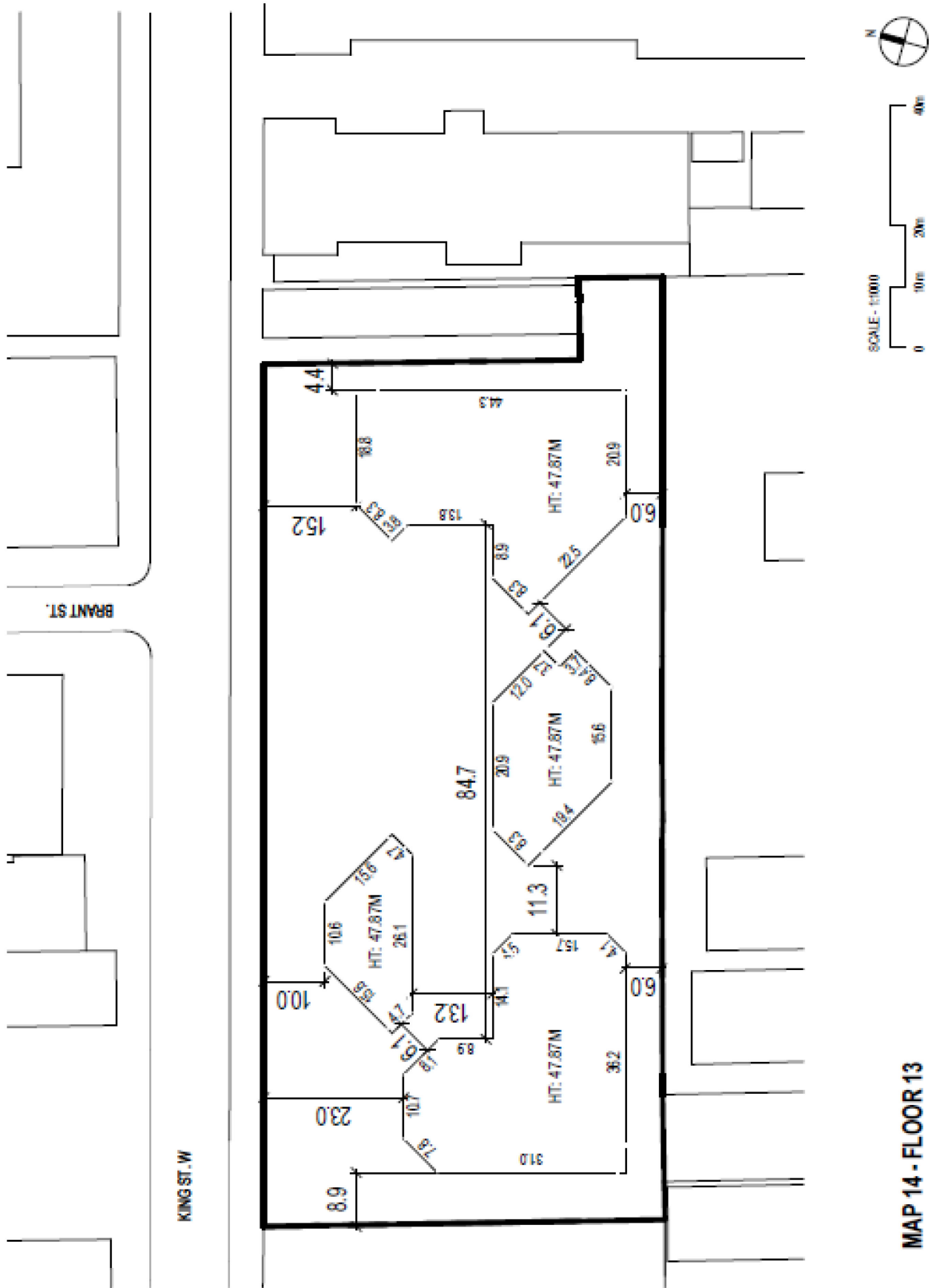


MAP 6 - FLOOR 05

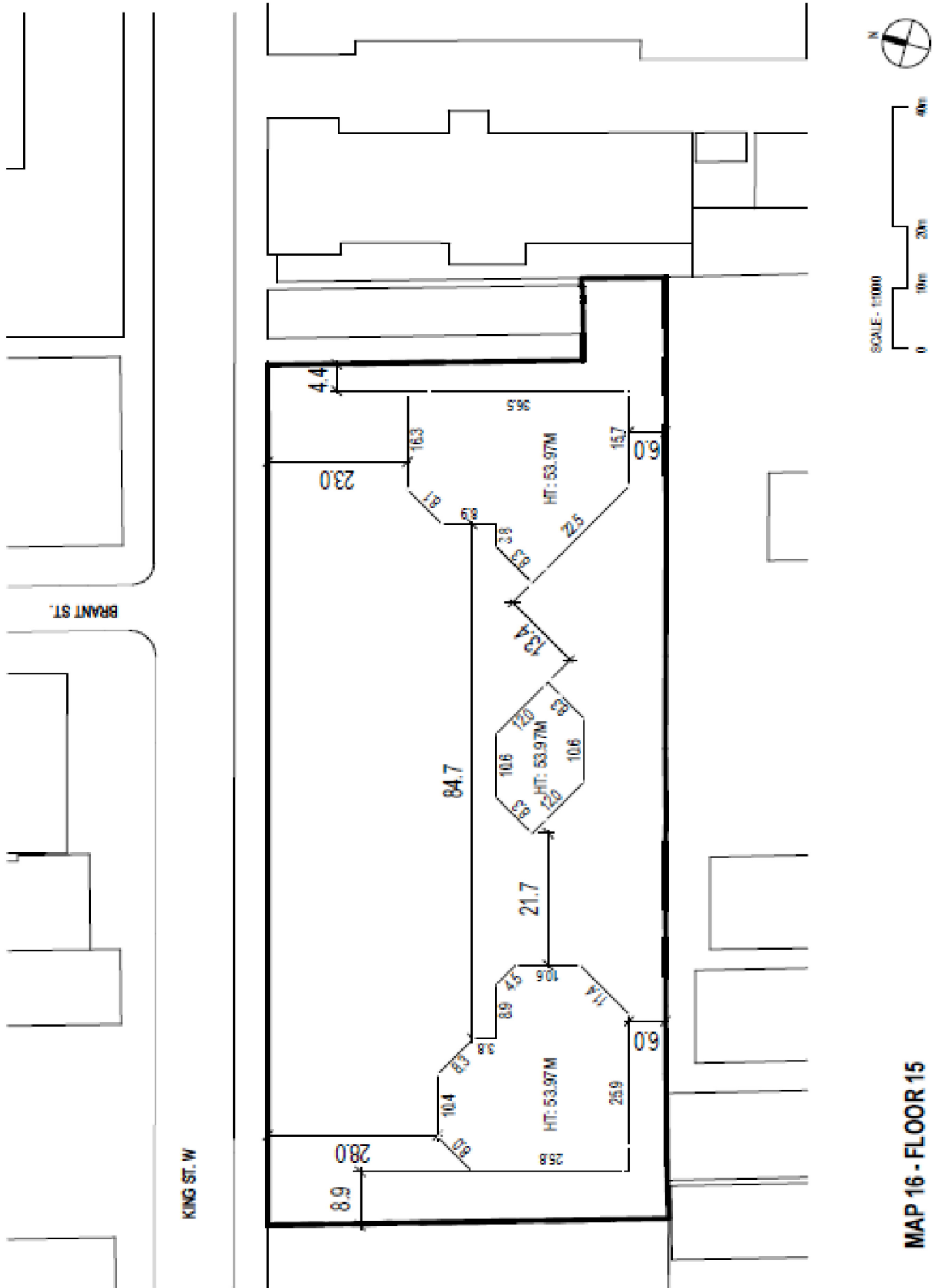


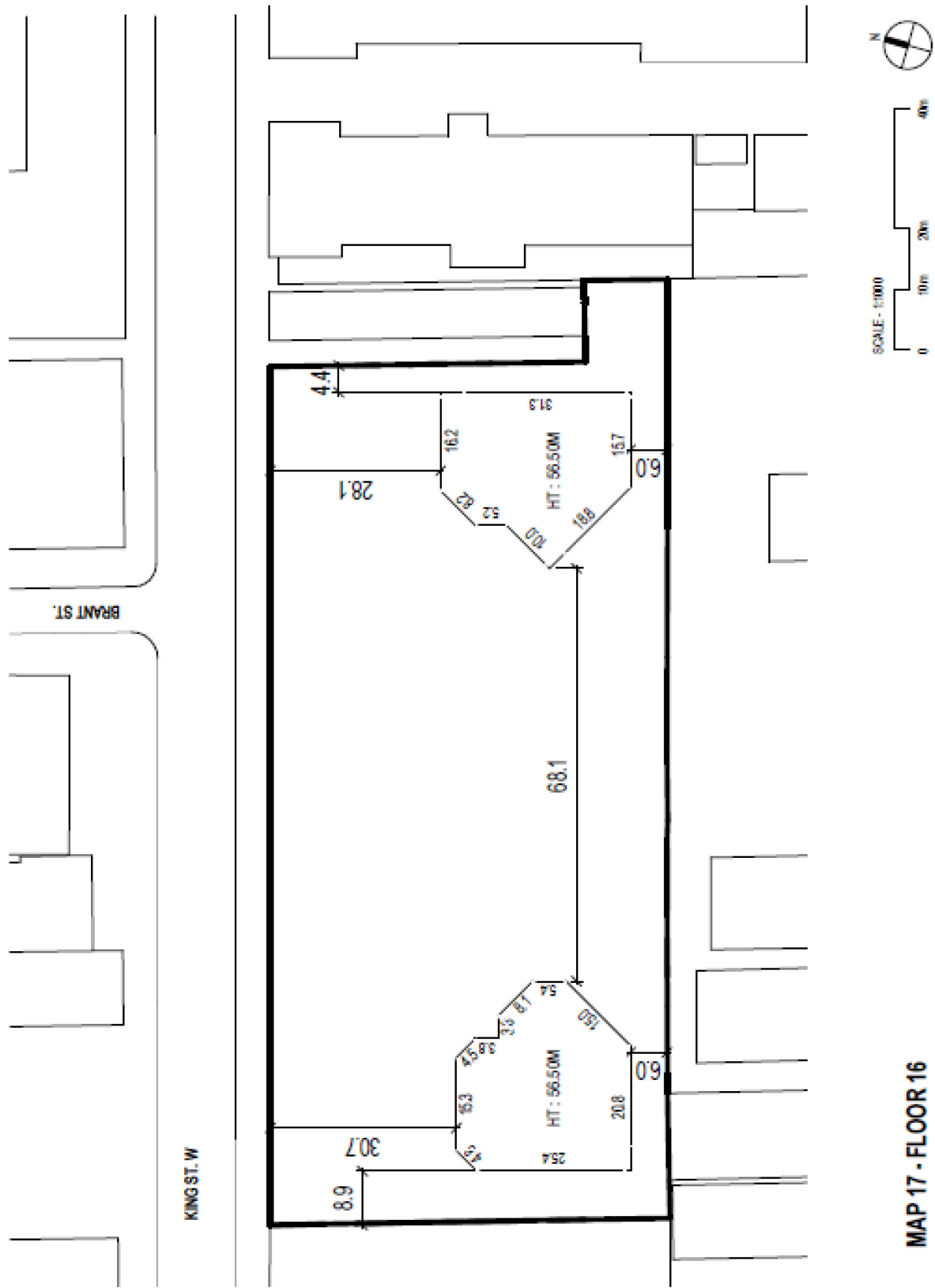
MAP 9 - FLOOR 08



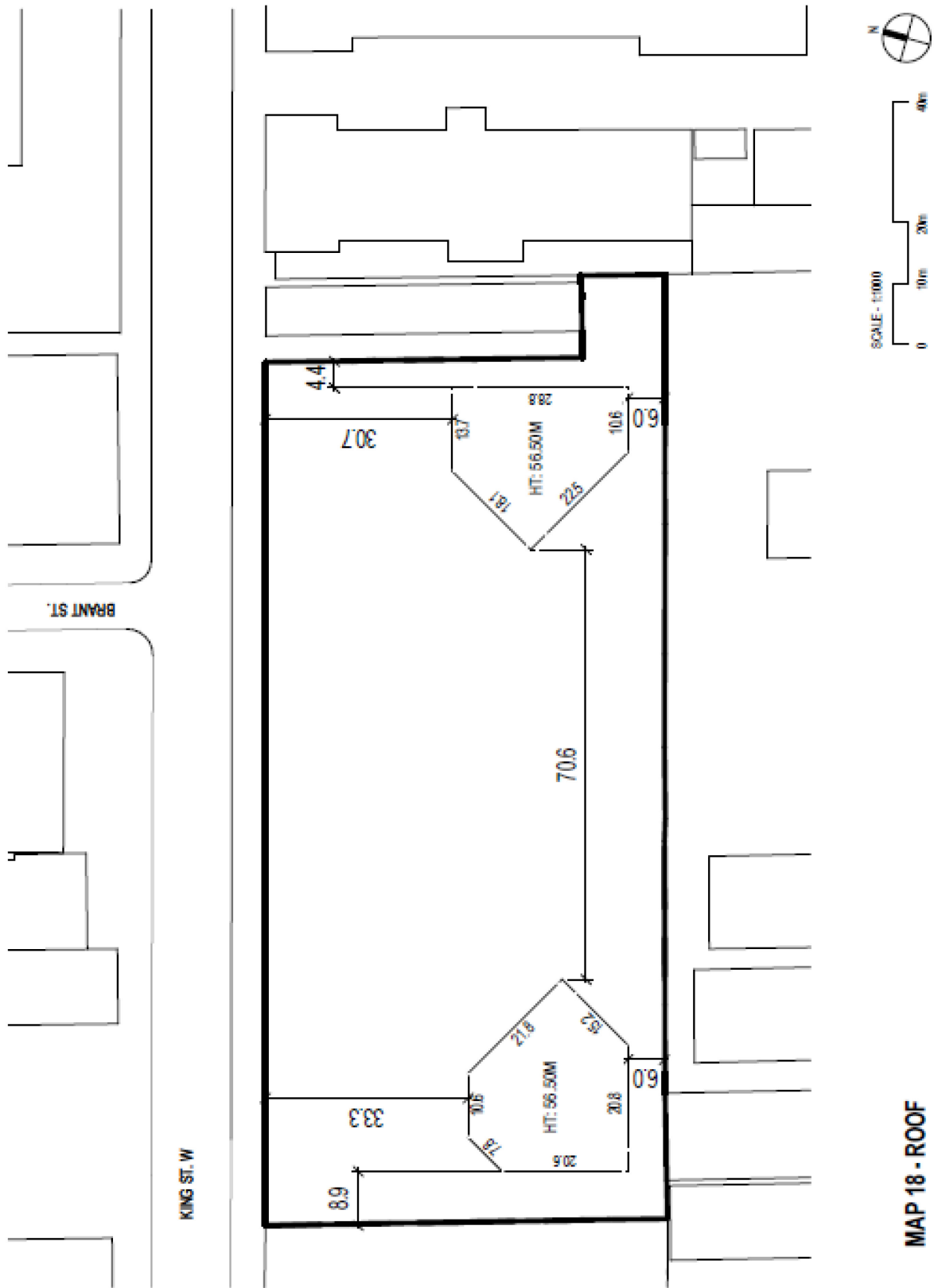


MAP 14 - FLOOR 13





MAP 17 - FLOOR 16



MAP 18 - ROOF