

Authority: Ontario Land Tribunal Decision and Order
issued on August 25, 2021 in File PL171281

CITY OF TORONTO

BY-LAW 768-2021(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2018 as 33 Rosehill Avenue and 44 Jackes Avenue.

Whereas the Ontario Land Tribunal, by its Decision and its Order issued on August 25, 2021, in OLT Case PL171281 approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2018 as 33 Rosehill Avenue and 44 Jackes Avenue; and

Whereas the Official Plan for the City of Toronto contains such 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 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 matter 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, a 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 569-2013, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas pursuant to Section 39 of the Planning Act, a by-law passed under Section 34 of the Planning Act, may authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Ontario Land Tribunal orders as follows:

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 lines to R (d2.0) (x107), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number 107 to so that it reads:

Exception R (x107)

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 lands municipally known in the year 2019 as 33 Rosehill Avenue and 44 Jackes Avenue, as shown on Diagram 1 to By-law 768-2021(OLT), if the requirements of Section 5 and Schedule A of By-law 768-2021(OLT) are complied with, a **building** or **structure**, may be erected and used in compliance with (B) to (LL) below;
- (B) The **lot** comprises the lands outlined by heavy lines on Diagram 1, attached to By-law 768-2021(OLT);
- (C) Despite Regulation 10.10.20.20(1), in a **building** that has existed on the **lot** since May 27, 1963, office is permitted if it is:
 - (i) A medical office;
 - (ii) An office of a professional person;
 - (iii) An office of a **non-profit organization**; or
 - (iv) A business administration office;
- (D) The **ancillary building** shown as Building B on Diagram 3 of By-law 768-2021(OLT) must be used only as **amenity space** for residents and visitors of the **lot**;
- (E) Any **buildings, structures** and uses, including the Existing Buildings and **structures** as shown on Diagram 3 to By-law 768-2021(OLT) existing on the **lot** at the time of the passing of By-law 768-2021(OLT), are permitted, subject to alterations and internal modifications subject to (I)(i) below;
- (F) Regulation 10.10.40.1(5) with respect to **building** orientation to a **street** does not apply;
- (G) Clause 10.10.40.30 with respect to **building depth** does not apply;

- (H) Clauses 10.5.60.70 and 10.10.60.70 with respect to **lot coverage** do not apply to Building B as shown on Diagram 3 of By-law 768-2021(OLT);
- (I) Despite Regulation 10.10.40.40(1) and Clause 10.5.60.50 the permitted maximum **gross floor area** of all **buildings** and **structures** is as follows:
- (i) The total **gross floor area** of the Existing Buildings as shown on Diagram 3 of By-law 768-2021(OLT) is as existing at the time of the passing of By-law 768-2021(OLT) plus any alterations and internal modifications thereto, up to a combined maximum **gross floor area** of 300 square metres; and
 - (ii) The total **gross floor area** of Building A and Building B as shown on Diagram 3 of By-law 768-2021(OLT) must not exceed 23,000 square metres;
- (J) In addition to the provisions of Regulation 10.5.40.40(4), the **gross floor area** of the Existing Buildings as shown on Diagram 3 By-law 768-2021(OLT) existing on the **lot** at the time of the passing of By-law 768-2021(OLT), may be further reduced by the area in each **building** used for a garbage chute room, including exterior walls enclosing such room, having a maximum area of 35.0 square metres;
- (K) The calculation of **gross floor area** does not include the areas occupied by any non-structural architectural grid system or ornamental features that are attached to and project from the **main wall** of a **building**, or any areas that are partially enclosed by such features;
- (L) A maximum of 265 **dwelling units** are permitted in Building A as shown on Diagram 3 of By-law 768-2021(OLT) of which:
- (i) A minimum of 50 percent of the total number of **dwelling units** in Building A must have two or more bedrooms; and
 - (ii) A minimum of 10 percent of the total number of **dwelling units** in Building A must have three or more bedrooms;
- (M) A maximum total of 629 **dwelling units** are permitted cumulatively in the two Existing Buildings as shown on Diagram 3 of By-law 768-2021(OLT);
- (N) Despite Regulations 10.5.40.10(1), (2), and (4), 10.5.60.40(1) and (2), and 10.10.40.10(1), (7), (9), and (10), the height of a **building, ancillary building or structure** on the **lot**, inclusive of mechanical penthouse, is the vertical distance between the Canadian Geodetic Datum elevation of 139.20 metres and the highest point of the **building or structure**, and must not exceed the height in metres as specified by the numerical value following the letters "HT" as shown on Diagram 3 of By-law 768-2021(OLT), with the exception of the following:

- (i) Lighting fixtures;
 - (ii) Awnings, canopies, parapets, chimneys, vents, ducts, stacks, pipes, guardrails, landscape and public art features, planters, trellises, decks, platforms, terraces, railings, retaining walls, screens, stairs, stair enclosures, ramps, underground garage ramps and their associated structures, bicycle racks, bollards, wind protection, and window washing equipment, all of which may project up to a maximum of 4.0 metres;
 - (iii) Despite (ii) above, a canopy or roof overhang which projects from the **main walls** of Building A as shown on Diagram 3 of By-law 768-2021(OLT) may project a maximum of 9.0 metres;
 - (iv) Elevator machine room and overruns, each of which may project up to a maximum of 6.0 metres;
 - (v) **Structures** on any roof used for outside or open air recreation, including **amenity space**, and for maintenance, safety, wind or **green roof** purposes, all of which may project up to a maximum of 3.0 metres; and
 - (vi) **Structures**, elements and enclosures permitted by (P) below;
- (O) Despite Clauses 10.5.40.70, 10.5.60.20, 10.10.40.70, and 10.10.40.80 the required minimum **building setbacks** and the required minimum separation distances between **main walls** of **buildings** or **structures** above finished ground are shown on Diagram 3 of By-law 768-2021(OLT);
- (P) Despite Clauses 10.5.40.50, 10.5.40.60, 10.5.60.60, and Regulations 5.10.40.70(1) and (O) above, the following elements of a **building** or **structure** may encroach into a required minimum **building setback** and a required minimum **main wall** separation distance as follows:
- (i) Awnings, canopies, roof over-hangs, cornices, eaves, elevator machine room and overruns, railings, stairs, stair enclosures, window sills, window washing equipment to a maximum of 4.0 metres;
 - (ii) Architectural or ornamental features/panels, and cladding, all of which may project up to a maximum of 0.5 metres beyond the **main walls** of Building A as shown on Diagram 3 of By-law 768-2021(OLT);
 - (iii) Balconies up to a maximum of 2.0 metres; and
 - (iv) **Structures**, elements and enclosures permitted by (N) above;
- (Q) Non-structural architectural grid system, architectural or ornamental features or panels, and cladding permitted by (P)(ii) above, including the areas that may be fully or partly enclosed by such features, are not **main walls**;

- (R) Despite Regulation 10.10.40.50(1), **amenity space** must be provided on the **lot** for **dwelling units** in Building A as shown on Diagram 3 of By-law 768-2021(OLT) in accordance with the following:
- (i) A minimum of 2.0 square metres of indoor **amenity space** per **dwelling unit** must be provided within Building A;
 - (ii) A minimum of 1.0 square metre of outdoor **amenity space** per **dwelling unit** must be provided of which a minimum of 40 square metres must be provided in a location directly accessible from an area containing indoor **amenity space** within Building A; and
 - (iii) Pet friendly amenities and bicycle/stroller wash rooms are included in the calculation of **amenity space**;
- (S) Despite Regulation 10.5.60.1(3) an **ancillary building** may have food preparation facilities and sanitary facilities if the **ancillary building** is used for indoor **amenity space**;
- (T) Despite Regulation 10.5.80.10(3), a maximum of two accessible **parking spaces** may be located in the yard abutting Jackes Avenue;
- (U) Despite Regulations 200.5.1(2), 200.5.10.1(1) and (2), and Table 200.5.10.1, off street **parking spaces** must be provided and maintained on the **lot** for Building A and the Existing Buildings as shown on Diagram 3 of By-law 768-2021(OLT) in compliance with the following:
- (i) A minimum of 0.39 **parking spaces** per **dwelling unit** for residents; and
 - (ii) A minimum of 0.1 **parking spaces** per **dwelling unit** for visitors;
- (V) Despite (U) above and Regulation 200.15.10(1), during the period following the issuance of the first building permit for Building A or Building B and prior to occupancy of Building A as shown on Diagram 3 of By-law 768-2021(OLT), of the **parking spaces** required in accordance with (U) above, up to 100 **parking spaces** may be provided on lands abutting the **lot**, as such **parking spaces** and access thereto exist on the abutting lands as of January 1, 2021;
- (W) Despite Regulation 200.5.1(3), any **drive aisles** on the **lot**, existing as of the date of the passing of this By-law, are deemed to comply;
- (X) Despite Regulation 200.5.1.10(12), any **vehicle** access to a **building** on the **lot** existing as of the date of the passing of this By-law, is deemed to comply;
- (Y) Despite Regulation 200.15.1(1), an accessible **parking space** must have a minimum width of 3.4 metres;

- (Z) Despite Regulation 200.15.1(3), the entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path, and such aisle or path may be shared by two accessible **parking spaces**;
- (AA) Despite Regulations 200.5.1.10(2) and (3), 200.15.1(1) and (Z) above, a **parking space** and an accessible **parking space** on the **lot**, existing as of the date of the passing of By-law 768-2021(OLT), that has dimensions that are lesser than the minimum required or greater than the maximum permitted dimensions is permitted and such **parking space** may satisfy the requirements of Regulations 200.5.10.1(1), 200.15.10(1), as well as (Y) and (Z) above;
- (BB) Despite Regulation 200.15.1(4), accessible **parking spaces** must be within 20 metres of a barrier free:
- (i) entrance to a **building**; or
 - (ii) vestibule entrance to a passenger elevator that provides access to the first storey of the **building**;
- (CC) Despite Regulation 220.5.10.1(1), a minimum of one Type "G" **loading space** must be provided for Building A as shown on Diagram 3 of By-law 768-2021(OLT);
- (DD) Despite Regulation 220.5.1.10(8), the **loading space** on the **lot** serving the Existing Buildings, existing as of the date of the passing of this By-law, that has dimensions that are lesser than the minimum required, such **loading space** is permitted and such **loading space** may satisfy the requirements of Regulations 220.5.1.10(6) and 220.5.10.1(1) and (2);
- (EE) Despite Regulations 220.5.20.1(1), (2) and (3), any **loading space** access and **driveway** access thereto on the **lot** as shown on Diagram 1 of By-law 768-2021(OLT), as existing at the time of the passing of this By-law are deemed to comply;
- (FF) Despite Regulation 230.5.1.10(4), the minimum width of a **stacked bicycle parking space** is 0.43 metres;
- (GG) Despite Regulations 230.5.1.10(9)(B)(iii), a required "long-term" **bicycle parking space** for a **dwelling unit** may be located on any or all levels of the **building** below-ground;
- (HH) Despite Regulation 230.5.10.1(1) and (5) and Table 230.5.10.1(1):
- (i) **Bicycle parking space** requirements for Building A as shown on Diagram 3 of By-law 768-2021(OLT) are as follows:
 - (a) a minimum of 0.9 "long-term" bicycle parking spaces per dwelling unit; and

- (b) a minimum of 0.1 "short-term" bicycle parking spaces per dwelling unit;
- (ii) A minimum of 150 "long-term" **bicycle parking spaces** must be provided for the Existing Buildings as shown on Diagram 3 of By-law 768-2021(OLT) prior to occupancy of Building A as shown on Diagram 3 of By-law 768-2021(OLT); and
- (iii) A minimum of 16 "short-term" **bicycle parking spaces** must be provided for the Existing Buildings as shown on Diagram 3 of By-law 768-2021(OLT) prior to occupancy of Building A as shown on Diagram 3 of By-law 768-2021(OLT);
- (II) Where there is a conflict between the provisions of this Exception and By-law 22195, the provisions of this Exception prevail;
- (JJ) None of the provisions of this Exception as amended, or By-law 569-2013, as amended, apply to prevent a temporary sales office on the **lot**, which means a **building, structure**, facility, trailer or portion thereof used exclusively for the purpose of the initial sale, lease or rental of **dwelling units** in Building A as shown on Diagram 3 of By-law 768-2021(OLT);
- (KK) Despite any existing or future consent, severance, partition or division of the lands as shown on Diagram 1 of By-law 768-2021(OLT), the provisions of this Exception and By-law 569-2013 shall apply to the whole of the lands as one **lot**, as if no consent, severance, partition or division occurred;
- (LL) If the requirements of Section 5 and Schedule A of By-law 768-2021(OLT) are complied with, Section 12(2) 262 of former City of Toronto By-law 438-86 and By-law 22195 do not apply as a Prevailing By-law and Prevailing Section;

Prevailing By-laws and Prevailing Sections:

- (MM) Section 12(2) 262 of former City of Toronto By-law 438-86, except as otherwise provided for in Site Specific Provision (LL) in Exception R(107); and
- (NN) Former City of Toronto By-law 22195, except as otherwise provided for in Site Specific Provision (LL) in Exception R(107).

Section 37 Provisions

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 density of the development is permitted beyond that otherwise permitted on the lands shown as R (d2.0)(x107) on Diagram 2 of this By-law, 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; and

- (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.

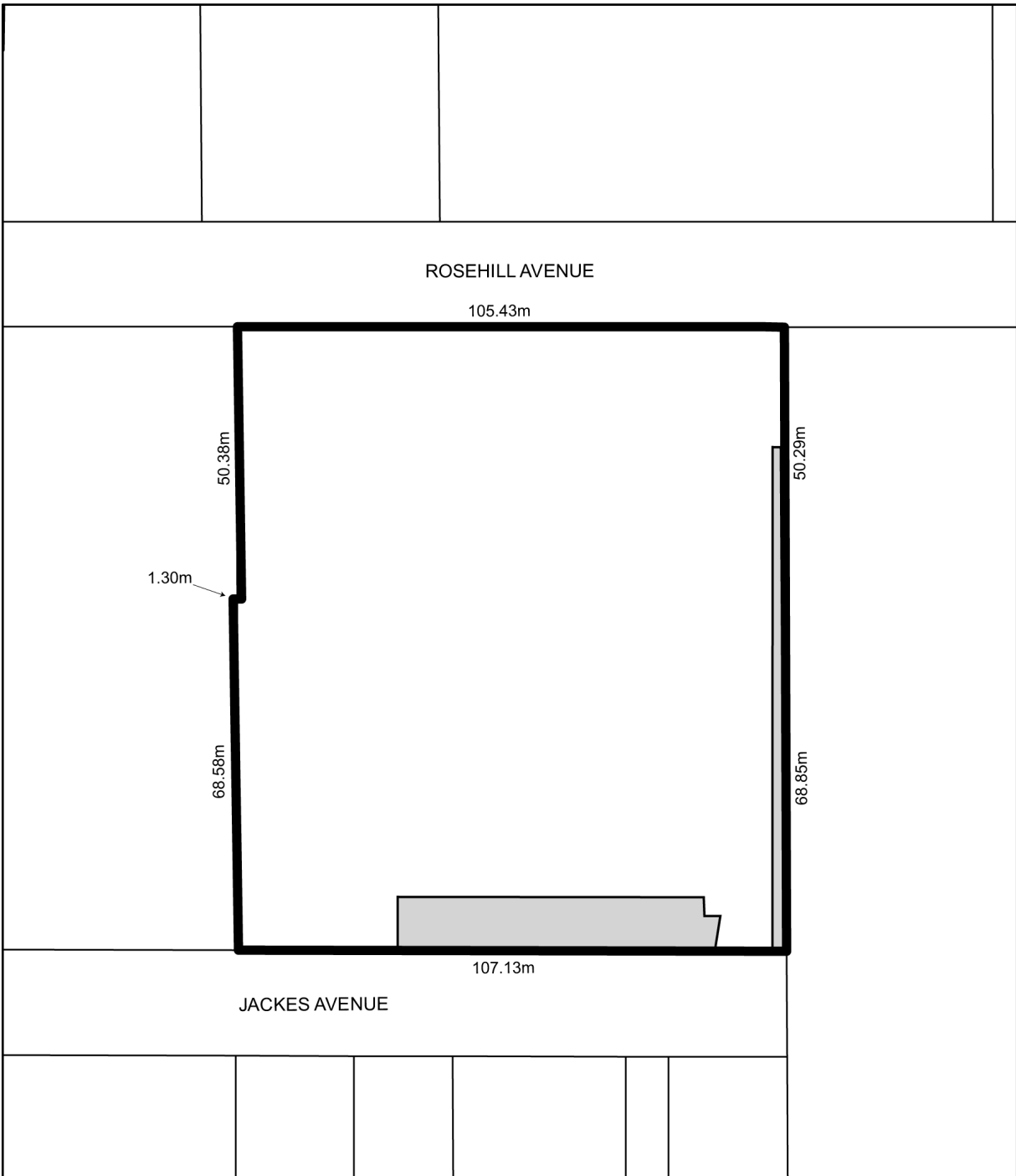
Pursuant to the Ontario Land Tribunal Decision and Order issued on August 25, 2021 in File PL171281.

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 and density of the proposed development on the lands as shown in Diagram 1 of this By-law, subject to and as secured in a registered agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Payment of a cash contribution in the amount of \$3.7 Million prior to the issuance of the first above-grade building permit to be allocated to certain community benefits in the vicinity of the lands within the boundaries of Ward 12; with the allocation of such funds to be determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor;
2. In the event the cash contribution referred to above has 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 Division, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands;
3. The above noted cash contribution shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the agreement or agreements to the date of payment;
4. The following matters are to be secured in the agreement or agreements as a legal convenience to support development:
 - a. conveyance of 761 square metres to the City for public parkland purposes, prior to the issuance of the first above grade building permit for the residential development, not including building permits for the amenity pavilion, subject to conditions as set out in the agreement or agreements;
 - b. a minimum of 10 percent of the new residential dwelling units shall contain 3 or more bedrooms;
 - c. improvements to the lands to benefit the tenants of the existing buildings as set out below, and where the costs of the development shall not be passed on to the tenants by way of an Above Guideline Rent Increase application:
 - i. construct a new amenity pavilion with an indoor pool, steam room and change areas, (which may or may not include a hot tub as determined by the owner), having a minimum gross floor area of 520 square metres and substantially in accordance with the amenity pavilion plans prepared by Hariri Pontarini Architects dated May 3, 2019, as revised on December 1, 2020, prior to the issuance of the first above-grade building permit and, in the event that the existing outdoor pool is removed prior to the


- construction of the new amenity pavilion, the owner agrees that the existing pool shall only be removed for a maximum of one summer season and if such removal occurs, the owner shall make available swimming pool passes to existing tenants for such summer season at a local community pool;
- ii. renovate and expand the existing ground floor exercise/fitness room at 44 Jackes Avenue substantially in accordance with Drawing A311 prepared by Hariri Pontarini Architects, dated February 20, 2018, prior to the issuance of the first Above-Grade Building Permit;
 - iii. renovate the existing Ground Floor multi-purpose/party room and lobby at 44 Jackes Avenue, and renovate the existing lobby at 33 Rosehill Avenue, substantially in accordance with Drawing A311 prepared by Hariri Pontarini Architects, dated February 20, 2018, prior to the issuance of the First Above-Grade Building Permit;
 - iv. provide an accessible common laundry room at 44 Jackes Avenue, the provision of which is acknowledged to have been constructed; and
 - v. improve and enhance existing bicycle storage areas substantially in accordance with the plans prepared by Hariri Pontarini Architects, dated February 20, 2018;
- d. the owner shall provide and maintain the existing 629 dwelling units at 44 Jackes Avenue and 33 Rosehill Avenue as rental housing for the period 20 years, from the date of this By-law comes into full force and effect;
 - e. the owner shall develop a Construction Mitigation Plan prior to the issuance of the first below grade building permit for the proposed development of the lands to the satisfaction of the Chief Planner and Executive Director, City Planning; and
 - f. the owner shall develop a Tenant Communication Plan prior to the issuance of the first below building permit for the proposed development of the lands to the satisfaction of the Chief Planner and Executive Director, City Planning.




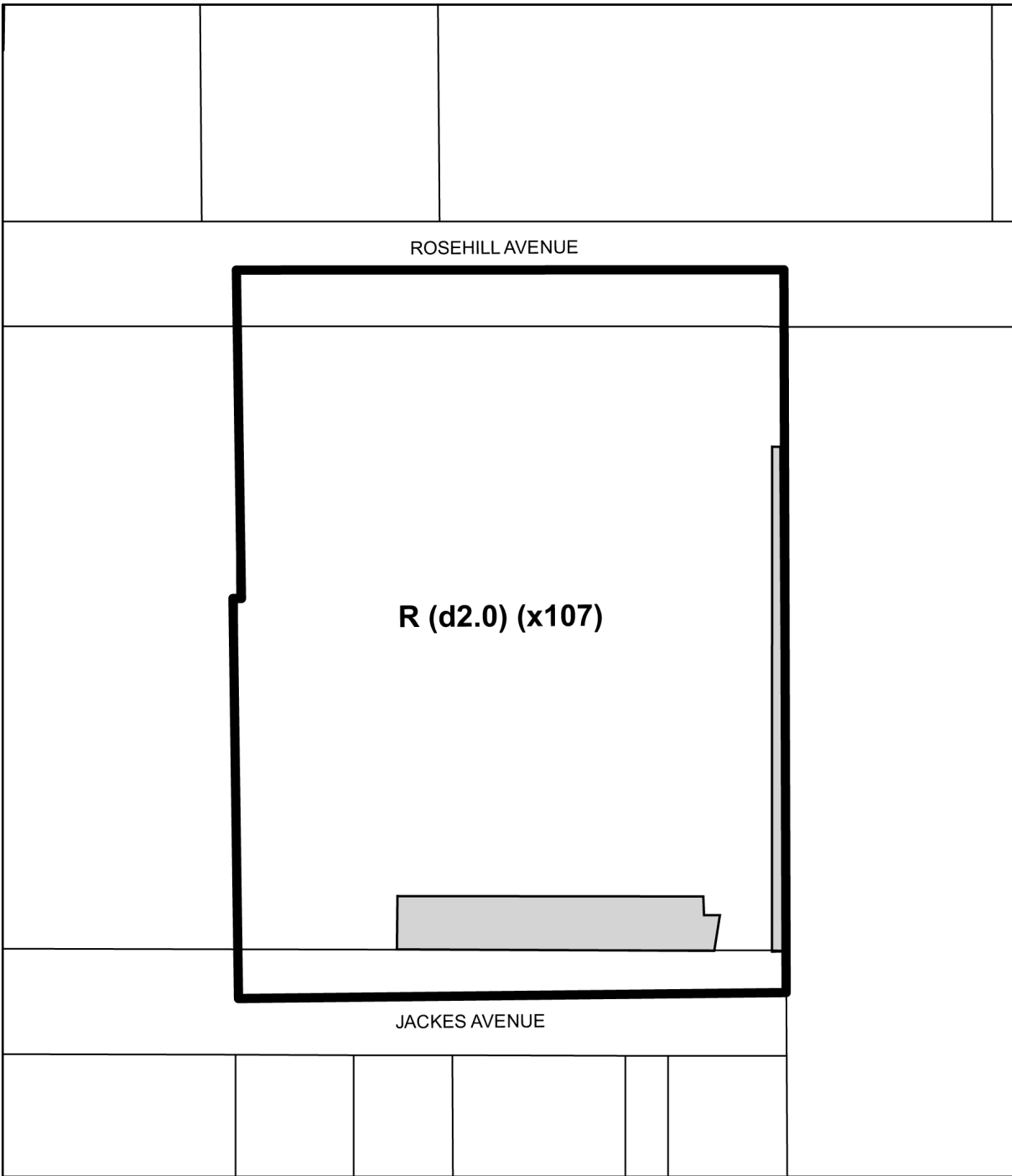
 **TORONTO**
Diagram 1

33 Rosehill Avenue & 44 Jackes Avenue

File #: 16 255319 STE 22 0Z

 Area Of Parkland Dedication



City of Toronto By-law 569-2013
Not to Scale
07/26/2021




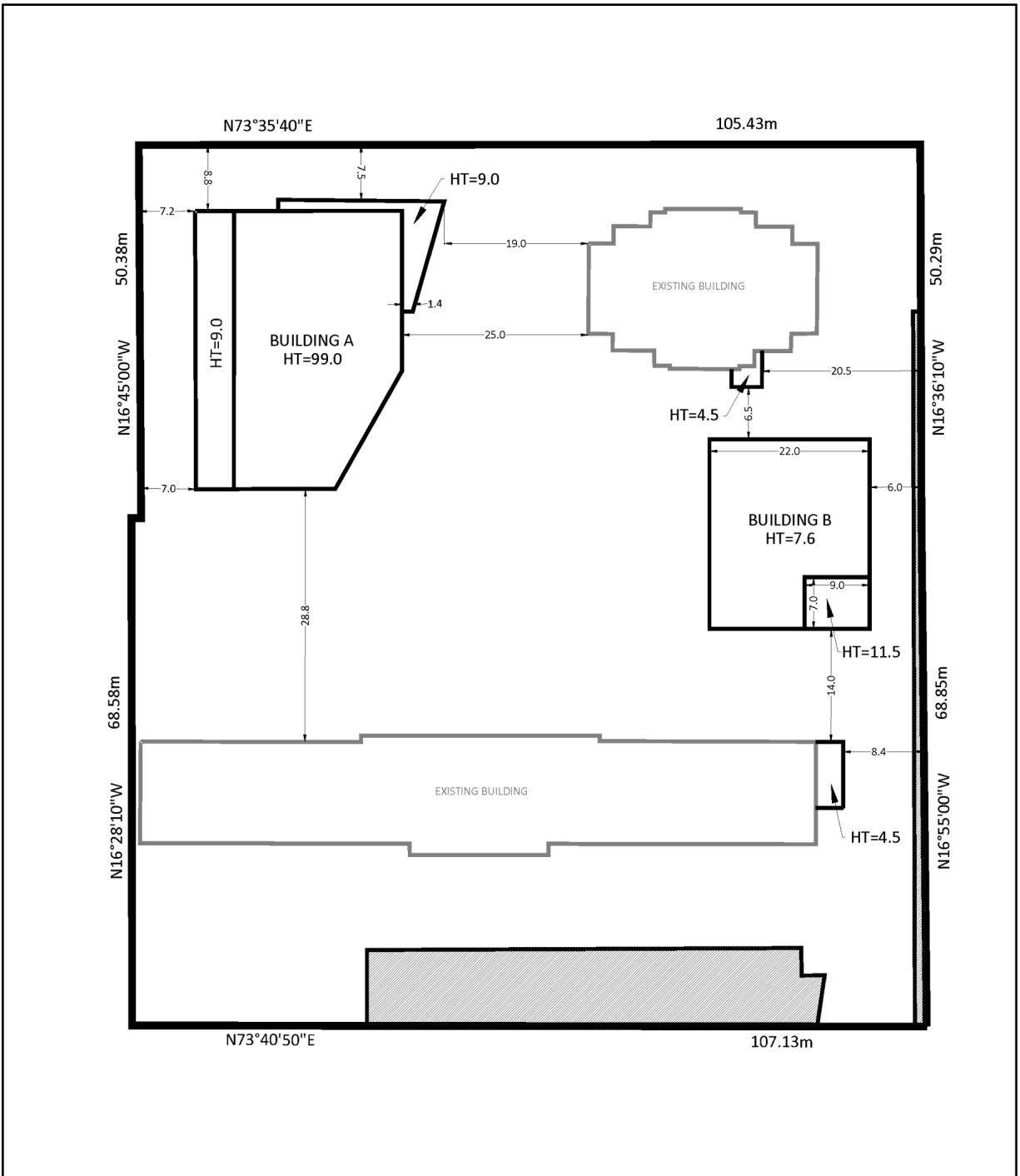
 **TORONTO**
Diagram 2

33 Rosehill Avenue & 44 Jackes Avenue

File #: 16 255319 STE 22 0Z

 Area Of Parkland Dedication



City of Toronto By-law 569-2013
Not to Scale
07/26/2021




 **TORONTO**
Diagram 3

33 Rosehill Avenue & 44 Jackes Avenue

File #: 16 255319 STE 22 OZ

 Area Of Parkland Dedication


City of Toronto By-law 569-2013
Not to Scale
07/26/2021