

Authority: Ontario Land Tribunal Decision issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 12, 2022 in Tribunal File OLT-22-004181

CITY OF TORONTO

BY-LAW 1153-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 240 Markland Drive.

Whereas the Ontario Land Tribunal, in its Decision issued on August 5, 2022 and its Order issued on August 12, 2022 in file OLT-22-004181, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 240 Markland Drive; and

Whereas pursuant to Section 39 of the Planning Act, as amended, 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 in the by-law; 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 or 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 Land Tribunal, by Order, amends Zoning By-law 569-2013 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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10 and applying the following zone label to these lands: RA (f24.0; au116.0) (x186) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Article 995.10.1 and applying no value.
5. Zoning By-law 569 -2013, as amended, is further amended by adding the lands to the Lot Coverage Overlay Map in Article 995.30.1 and applying the following lot coverage label to these lands: 40, as shown on Diagram 3 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands to the Height Overlay Map in Article 995.20.1 and applying the following height label to these lands: HT 14.0, as shown on Diagram 5 attached to this By-law.
7. Zoning By-law 569-2013, as amended, as amended, is further amended by adding the lands to the Rooming House Overlay Map in Article 995.40.1 and applying no value.
8. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.7.10 Exception Number 186 so that it reads:

(186) Exception RA 186

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 240 Markland Drive, if the requirements of By-law 1153-2022(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (P) below;
- (B) For the purpose of this exception, the **lot** shall refer to those lands delineated by a heavy black line on Diagram 1 of By-law law 1153-2022(OLT);
- (C) The **buildings** and **structures** permitted on the **lot** include the "Existing Apartment Building" and "Building A" as shown on Diagram 4 of By-law 1153-2022(OLT) as follows, and:
 - (i) For the purpose of this exception, "Existing Apartment Building" means the existing **apartment building** on the lands municipally known as 240 Markland Drive and any **ancillary structures**, including an underground **parking garage** and enclosed garage entry ramp located on the lands in the year 2021;
 - (ii) For the purpose of this exception, "Building A" is the new **apartment building**;

- (D) Despite Regulation 15.10.30.40(1)(A), the permitted maximum **lot coverage** is 30 percent of the **lot area**;
- (E) Despite Regulation 15.10.40.40(1)(B), the permitted maximum **gross floor area** of "Building A" as shown on Diagram 4 of By-law 1153-2022(OLT) is 17,800 square metres and the permitted maximum **gross floor area** of the "Existing Apartment Building" is 12,800 square metres;
- (F) Despite Regulation 15.10.40.1(2), a maximum of 234 **dwelling units** are permitted in "Building A" and a maximum of 113 **dwelling units** are permitted in the "Existing Apartment Building".
- (G) Despite Regulation 15.5.40.10(1), the height of a **building** or **structure** is measured from the Canadian Geodetic Datum elevation of 127.75 metres to the highest point of the **building** or **structure**;
- (H) Despite Regulation 15.10.40.10(1)(A), the permitted maximum height for "building A" is shown in metres after the letters "HT" on Diagram 4 of By-law 1153-2022(OLT) and the permitted maximum height of the "Existing Apartment Building" is that which is existed on May 4, 2022;
- (I) Despite Regulations 15.5.40.10(2) to (6) and (H) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 4 of By-law 1153-2022(OLT) or the existing height of the "Existing Apartment Building":
- (i) Equipment for the functional operation of the **building** including but not limited to electrical, utility, heating, cooling or ventilation equipment mechanical equipment, stair enclosures, ladders, mechanical penthouses, elevator overruns, vents, stacks, thermal insulation, roof finishing materials and roof ballast, water supply facilities, flues, roof access, chimneys, maintenance equipment storage, solar panels or a fence, wall or **structure** enclosing such elements by a maximum of 6.0 metres.
 - (ii) Fences, wind or privacy screens, landscape elements (including **green roofs**), retaining walls, terraces, cornices, canopies, balconies, lighting fixtures, awnings, ornamental elements, parapets, trellises, eaves, window sills, ramp enclosures, guardrails, balustrades, safety railings, stairs, outdoor furniture, bollards and wheel chair ramps by a maximum of 2.0 metres;
 - (iii) Skylights by a maximum of 1.0 metre;
 - (iv) Window washing equipment on the roof in a stored position by maximum of 4.0 metres;
 - (v) Parapets and roofguards above the roofline of the mechanical penthouse permitted by (i) above by an additional maximum of 0.8 metres; and

- (vi) Mechanical vents and flues extending above the roofline of the mechanical penthouse permitted by (i) above by an additional maximum of 1.5 metres;
- (J) Despite Clauses 15.10.40.70 and 15.10.40.80, the required minimum **building setbacks** and **main wall** separation distances are as shown in metres on Diagram 4 of By-law 1153-2022(OLT);
- (K) Despite Clause 15.5.40.60 and (J) above the following elements of a **building** are permitted to encroach into the required minimum **building setbacks** and **main wall** separation distances shown on Diagram 4 of By-law 1153-2022(OLT), as follows:
 - (i) Balconies by a maximum of 2.5 metres;
 - (ii) Exterior stairways, roof overhangs and cornices, canopies, chimneys, wheelchair ramps, balconies, lighting fixtures, awnings, ornamental elements, cladding, parapets, trellises, eaves, window sills, window washing equipment, guardrails, balustrades, safety railings, stairs, bollards, vents, pipes, utility equipment, fences, wind or privacy screens, landscape elements (including **green roofs**), terraces, decorative architectural features, bay windows, ramps, parking garage ramps and associated **structures**, retaining walls, columns, cornices, heating and cooling and ventilating equipment, pilasters and sills, and porches and decks, either excavated or unexcavated;
 - (iii) Despite (i) above no balconies shall be permitted in the location shown hatched as 'area of balcony restriction' on Diagram 4 of By-law 1153-2022(OLT) where a balcony would extend from a terrace with a top of slab height of between 145 and 146.5 metres or from a terrace with a top of slab height between 151 and 152.5 metres.
- (L) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1 **parking spaces** must be collectively provided and maintained for "Building A" and the "Existing Apartment Building" on the **lot** in accordance with the following:
 - (i) a minimum of 0.8 **parking spaces** for each bachelor **dwelling unit**;
 - (ii) a minimum of 0.9 **parking spaces** for each 1-bedroom **dwelling unit**;
 - (iii) a minimum of 1.0 **parking spaces** for each 2-bedroom **dwelling unit**;
 - (iv) a minimum of 1.2 **parking spaces** for **dwelling units** with 3-bedrooms or greater; and
 - (v) a minimum of 0.2 **parking spaces** for each **dwelling unit** for the use of residential visitors.

- (M) Despite Regulation 220.5.10.1(2), a minimum of one Type 'G' **loading space** is required for "Building A" and the **loading space** in the "Existing Apartment Building" must be maintained;
- (N) Despite Regulation 220.5.20.1(1)(A) a **driveway** to a **loading space** must have a minimum width along its entire length of 5.0 metres;
- (O) Despite Regulation 230.5.10.1(1) and (5) **bicycle parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) A minimum of 0.68 "long-term" **bicycle parking spaces** for each **dwelling unit** within "Building A" ;
 - (ii) A minimum of 0.07 "short-term" **bicycle parking spaces** for each **dwelling unit** within "Building A";
 - (iii) A minimum of 77 "long-term" **bicycle parking spaces** for the "Existing Apartment Building";
 - (iv) A minimum of 8 "short-term" **bicycle parking spaces** for the "Existing Apartment Building";
- (P) Despite Regulation 15.10.40.50(1)(A) and (B), **amenity space** must be provided and maintained in accordance with the following:
- (i) A minimum of 2.0 square metres per **dwelling unit** in "Building A" must be provided as indoor **amenity space**;
 - (ii) A minimum of 2.0 square metres **per dwelling unit** in "Building A" must be provided as outdoor **amenity space** of which a minimum of 40 square metres must be provided in a location directly adjoining or directly accessible to an area containing indoor **amenity space**; and
 - (iii) The **amenity space** provided with Regulations (i) and (ii) above must be available and accessible to the residents of the "Existing Apartment Building"; and
 - (iv) No indoor or outdoor **amenity space** is required in the "Existing Apartment Building".

Prevailing By-laws and Prevailing Sections: (None Apply)

9. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.

10. Temporary uses:

- (A) None of the provisions of By-law 569-2013, as amended, prevent the reduction of the required **parking spaces, loading spaces, bicycle spaces, and landscaping and soft landscaping** required for the "Existing Apartment Building" during construction of "Building A" on the **lot** for a period of not more than three years from the date this By-law comes into full force and effect, provided:
 - (i) An interim parking plan is submitted to the satisfaction of the Chief Planner and Executive Director, City Planning.

11. Section 37 Requirements:

- (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 attached to 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 attached to this By-law 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 Schedule A attached to 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; and
- (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.

Ontario Land Tribunal Decision issued on August 5, 2022 and Ontario Land Tribunal Order issued on August 12, 2022 in Tribunal File OLT-22-004181.

SCHEDULE A
Section 37 Requirements

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 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:

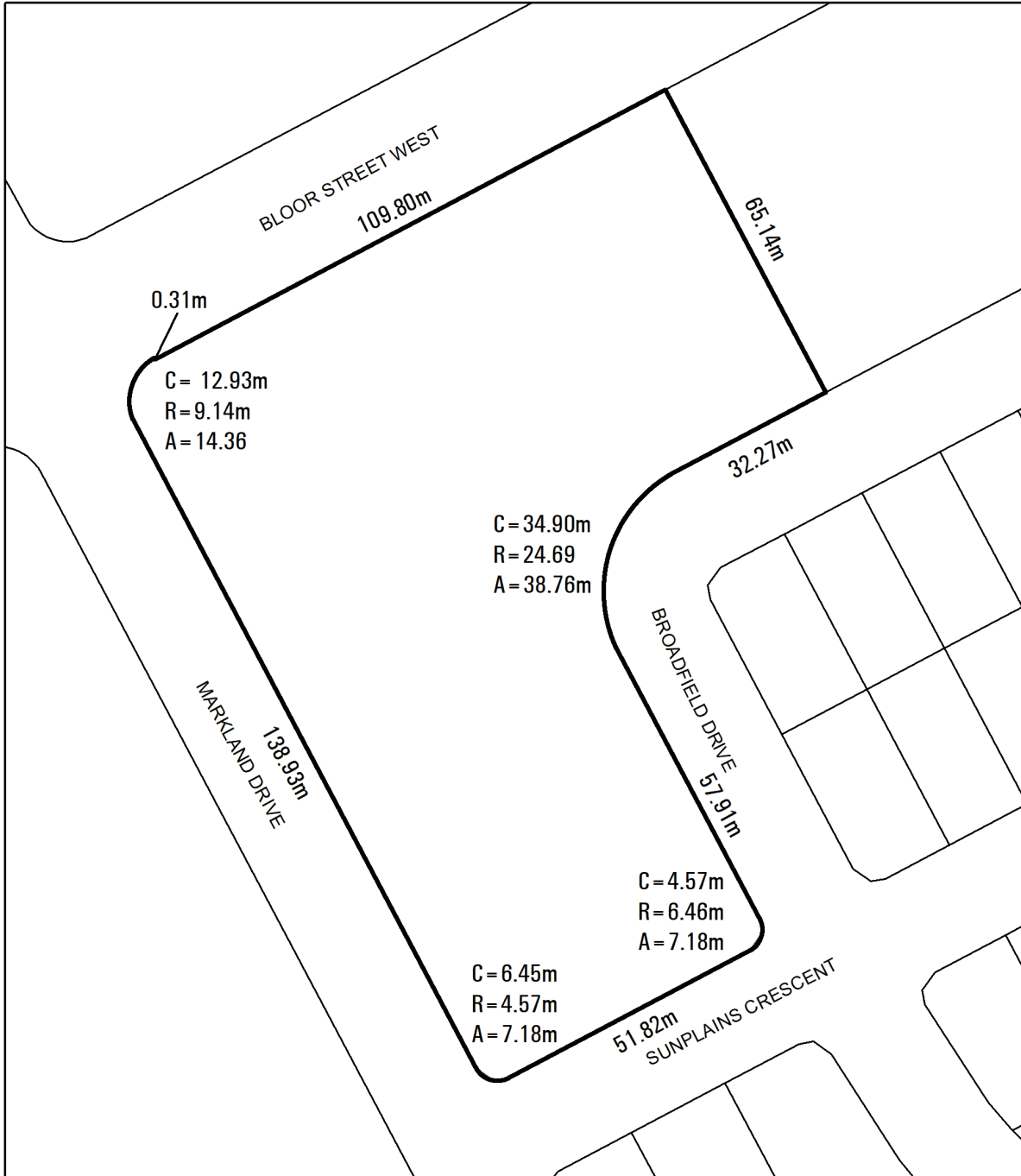
1. Prior to issuance of the first Above-Grade Building Permit for the New Residential Building, the owner shall make a cash contribution to the City in the amount of **ONE HUNDRED EIGHT FIVE THOUSAND DOLLARS [\$185,000.00]** (the "Cash Contribution") be allocated towards local park improvements.
2. The Cash Contribution set out in Clause 1 shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.
3. In the event the Cash Contribution in Clause 1 has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at 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 Official Plan and will benefit the community in the vicinity.
4. The Owner enters into an Agreement pursuant to Section 37 to secure as a legal convenience, the following matters to be addressed prior to Site Plan Approval, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the appropriate civic officials and the Ward Councillor
 - (A) As a condition of site plan approval and prior as a condition of site plan approval and prior to the issuance of any permits for this development, the owner shall prepare a Construction Management Plan with the City of Toronto and to the satisfaction of the Director Community Planning, along with the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - (B) Prior to final Site Plan Approval, the owner shall provide a Construction Mitigation Strategy which includes a communication strategy for adjacent property owners and the neighbourhood association and an interim parking plan for existing tenants and tradespeople during the construction period, and a Tenant Communication Plan to the satisfaction of the Chief Planner and Executive Director, City Planning and thereafter the owner shall implement such strategies and plans.
 - (C) Prior to final Site Plan Approval, the owner shall provide a construction management plan, in consultation with the Ward Councillor, which addresses

construction vehicle routing, temporary parking and communications with neighbouring stakeholders, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Planner and Executive Director, City Planning and thereafter the owner shall implement such strategies and plans.

5. The Owner shall provide and maintain the following:
- (A) The owner shall provide and maintain the 113 existing residential rental units at 240 Markland Drive as rental housing for a period of at least 20 years, from the date of the Zoning By-Law coming into full force and effect and with no applications for demolition or conversion from residential rental use made during such 20 year period, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.
 - (B) The owner shall provide a dog run for the use of residents of the site as well as the surrounding community, to be located adjacent to the entrance of the existing building fronting Markland Drive, and this space shall be designed and furnished to the satisfaction of the Chief Planner and Executive Director, City Planning, up to a maximum cost of \$30,000.
 - (C) Improvements to the outdoor amenity space for use by the residents of the existing building and the new buildings on an equal basis in the form of:
 - (i) A children's play area, which shall be designed and furnished to the satisfaction of the Chief Planner and Executive Director, City Planning, up to a maximum cost of \$40,000;
 - (ii) At least 15 benches up to a maximum cost of \$22,000; and
 - (iii) At least 85 bicycle parking spaces/racks for tenants of the existing building, of which 77 will be long-term bicycle parking spaces located beneath the underpass of the existing building and 8 will be short-term bicycle parking spaces located close to the main entrance of the existing building.
 - (iv) Improvements to the existing laundry room facilities in the form of two new dryers.
 - (D) The final form and content of the draft Zoning By-laws are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.
 - (E) The City Solicitor confirms the execution and registration of a Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning to secure community benefits pursuant to Section 37 of the Planning Act. Such Section 37 Agreement will include a further agreement to provide for the shared access of and maintenance and easements with respect to the shared driveway, underground parking/bike parking, walkway, loading areas, servicing

areas or any other commonly accessed areas as illustrated on any approved drawing between the new development and the existing 10-storey rental apartment building to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

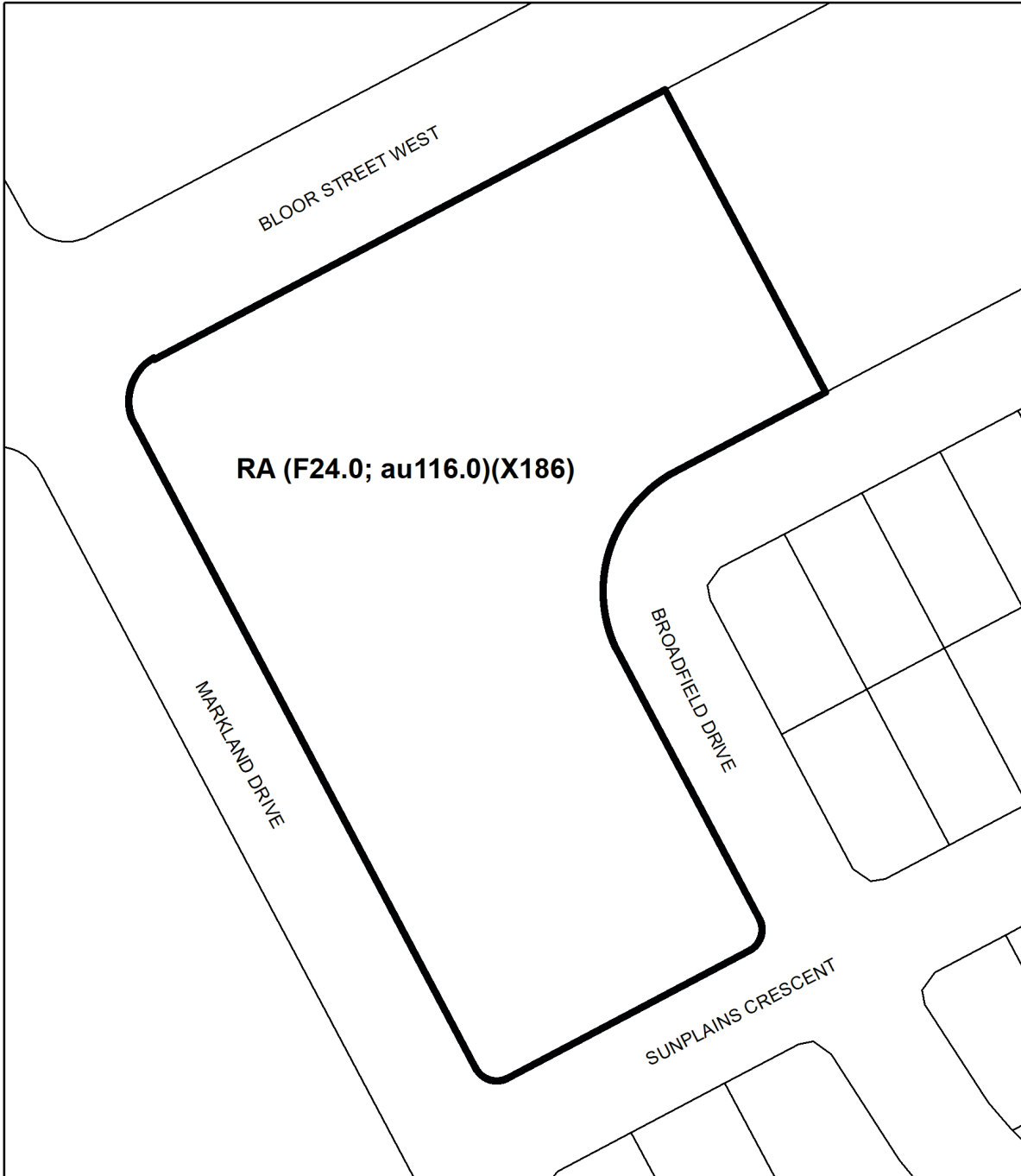
- (F) The owner shall address all outstanding issues raised by Engineering and Construction Services as they relate to the Zoning By-law Amendment application as set out in their memo dated August 10, 2021 or as may be updated in response to further submission(s) filed by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- (G) The Owner has submitted a Revised Transportation Impact Study and Parking Study, to the satisfaction of the General Manager, Transportation Services to demonstrate whether the existing road network can support the proposed development, whether road improvements of the existing municipal infrastructure are required and the provision of acceptable parking for the development.
- (H) Any improvements required to City services or facilities required to support the development as identified in revised engineering submissions from the Owner or the Revised Transportation Impact Study and Parking Study shall be secured in a financially secured agreement, with the Owner to construct such improvements at no cost to the City.



 **TORONTO**
Diagram 1

240 Markland Drive


File # 11 209308 WET 03 0Z

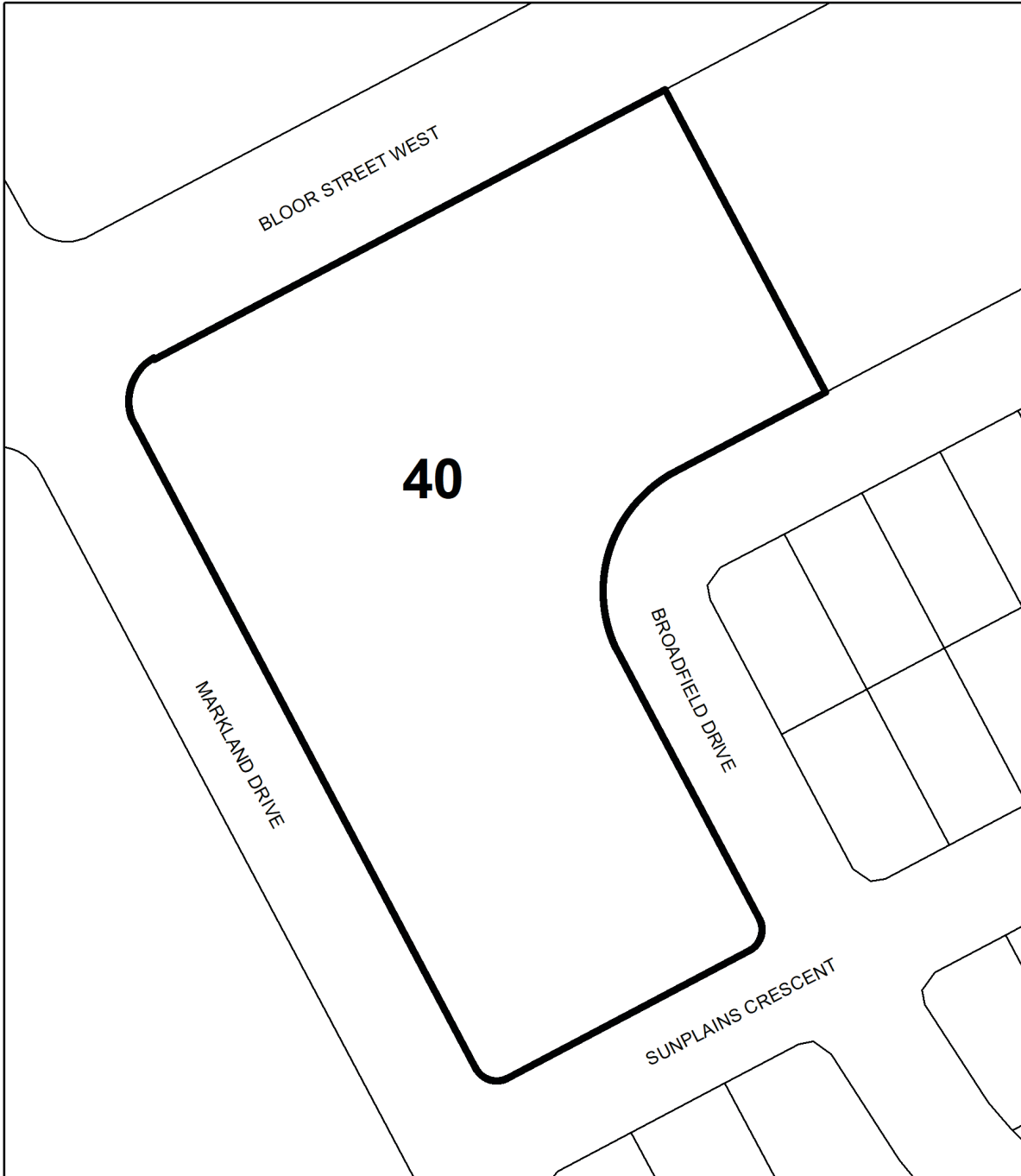


 **TORONTO**
Diagram 2

240 Markland Drive

File # 11 209308 WET 03 0Z

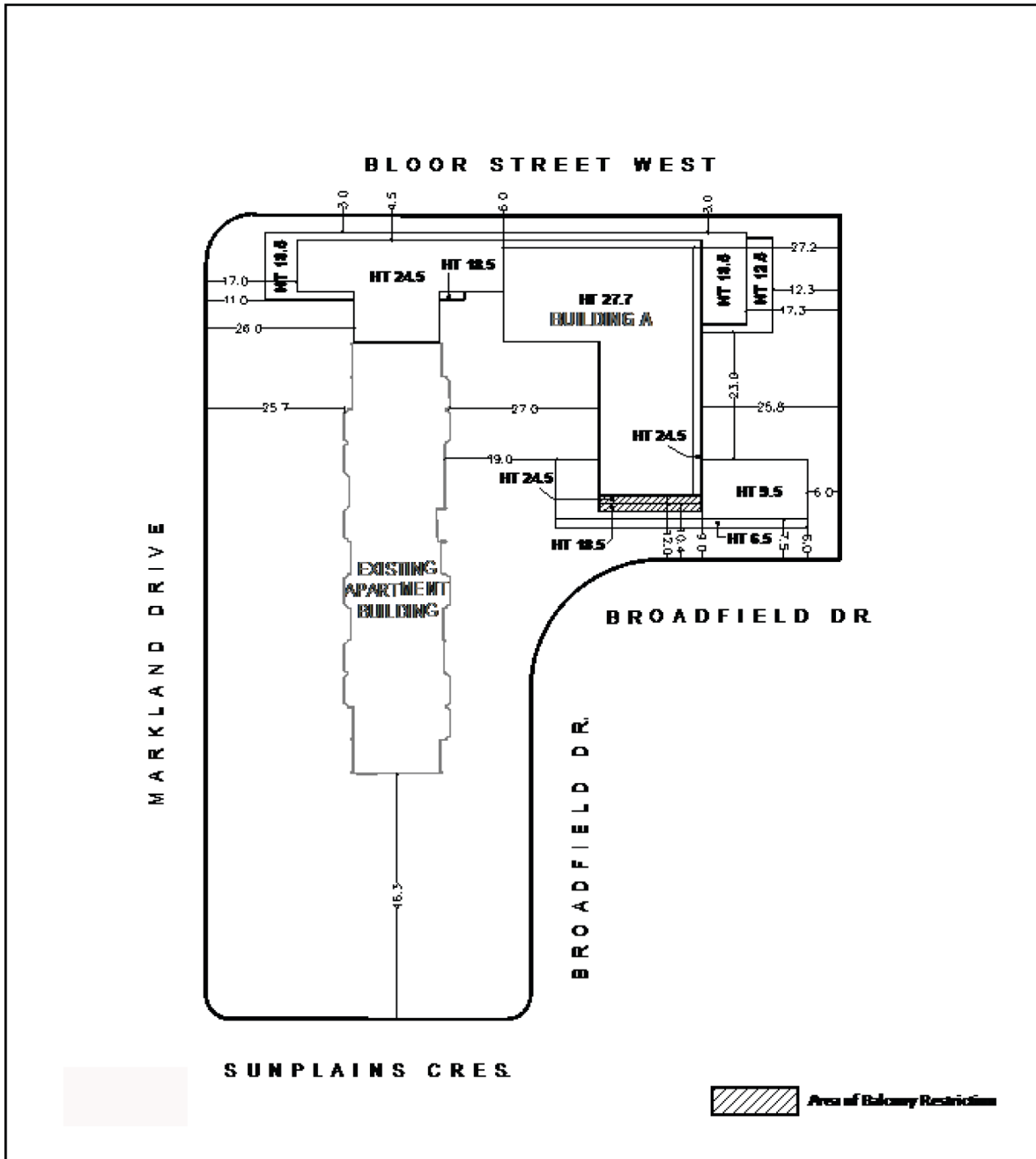

City of Toronto By-law 569-2013
Not to Scale
06/29/2022



 **TORONTO**
Diagram 3

240 Markland Drive

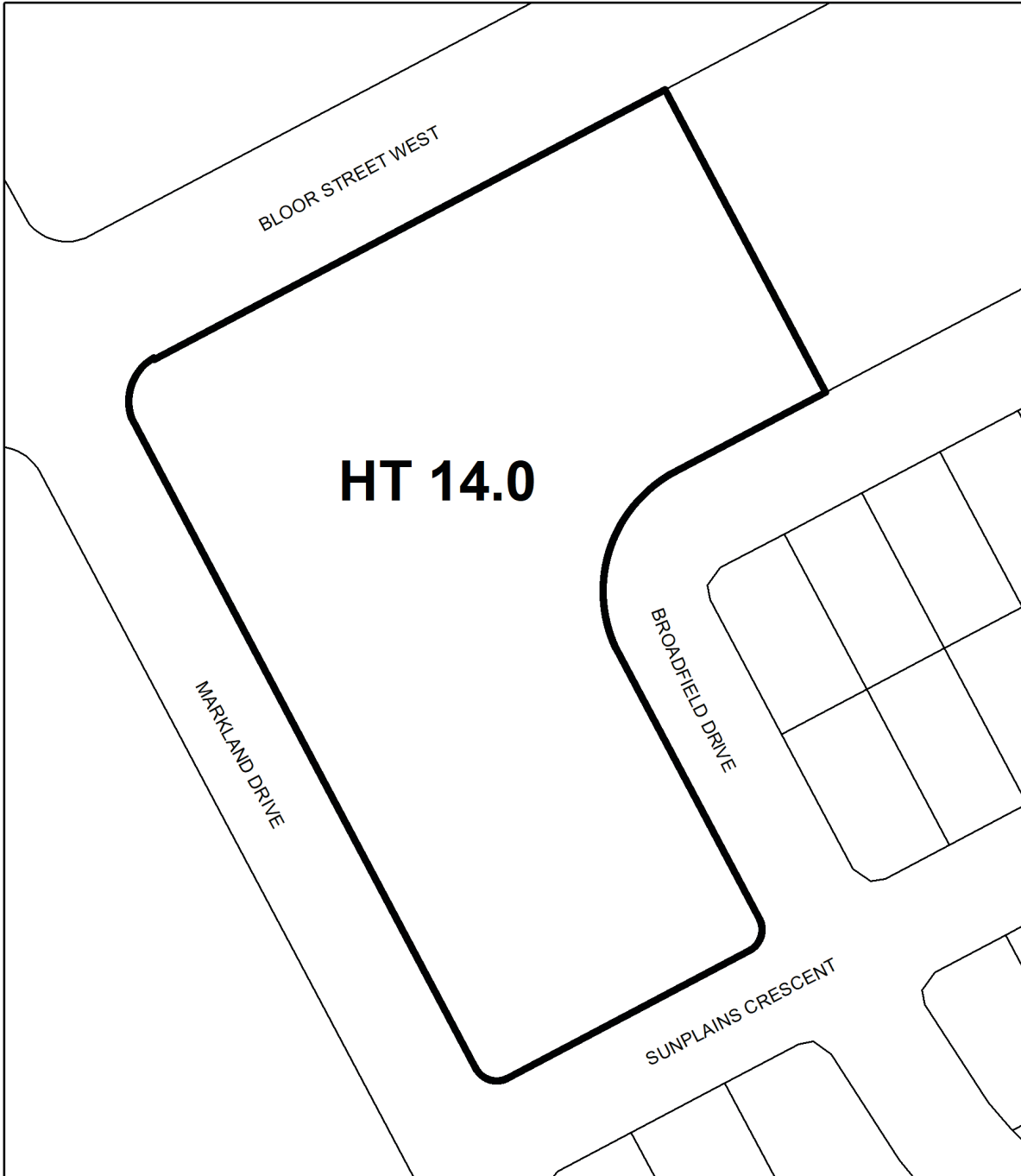
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 **TORONTO**
Diagram 4

240 Markland Drive


File # 11 209306 WET 03 02



 **TORONTO**
Diagram 5

240 Markland Drive

File # 11 209308 WET 03 0Z


City of Toronto By-law 569-2013
Not to Scale
06/29/2022