

Authority: Local Planning Appeal Tribunal Decision
issued on October 3, 2019 and Ontario Land Tribunal
Order effective on August 11, 2022 in File OLT-22-003829

CITY OF TORONTO
BY-LAW 1210-2022(OLT)

To amend City of Toronto Zoning By-law 569-2013, as amended, and to repeal of former City of Toronto By-law 650-91 with respect to the lands municipally known in the year 2021 as 400 Front Street West.

Whereas the Local Planning Appeal Tribunal, in its Decision issued on October 3, 2019 and Ontario Land Tribunal Order effective on August 11, 2022, in file OLT-22-003829, 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, and repeal of former City of Toronto By-law 650-91 with respect to the lands municipally known in the year 2021 as 400 Front Street West; and

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

Whereas Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; and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 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 Land Tribunal Orders:

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 and replacing the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines from a zone label of CRE (x72) to a zone label of CRE (x65) and OR (x43) as shown on Diagram 3 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number 65 so that it reads:

(65) Exception CRE 65

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 400 Front Street West, if the requirements of Section 6 and Schedule A of By-law 1210-2022(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (T) below;
- (B) For the purposes of this exception, reference to Block A, Block B, Block C, and the public **park** are as identified on Diagram 2 attached to By-law 1210-2022(OLT) and reference to Building A, Building B1, Building B2, Building C and Building D are the **buildings** within such Blocks as identified on Diagrams 4 and 5 attached to By-law 1210-2022(OLT);
- (C) Despite Regulations 50.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 84.15 metres in Block A and 85.10 metres in Block B and Block C and the elevation of the highest point of the **building** or **structure**;
- (D) The permitted maximum **gross floor area** for all **buildings** and **structures** on the lands is 147,000 square metres, of which:
 - (i) The required minimum non-residential **gross floor area** is 2,900 square metres; and
 - (ii) the residential **gross floor area** must not exceed 143,000 square metres, of which the permitted maximum residential **gross floor area** for each Block is:

- a. 32,338 square metres for Block A; and
 - b. 110,662 square metres for Block B;
- (E) Despite Regulation 50.10.40.10(1)(A), the permitted maximum height of a **building** or **structure** is the numerical value in metres following the letters "HT" as shown on Diagrams 4 and 5 attached to By-law 1210-2022(OLT);
- (F) Despite Regulation 50.10.40.10(4), the permitted maximum number of **storeys** for each **building** is the numerical value following the ST symbol on Diagrams 4 and 5 attached to By-law 1210-2022(OLT);
- (G) For the purpose of this exception, the following do not constitute a **storey**:
- (i) a mechanical penthouse, including any mechanical equipment or **amenity space**; and
 - (ii) a mezzanine floor, located immediately above the **first floor** and used exclusively for bicycle parking or mechanical rooms;
- (H) Despite Regulations 50.5.40.10(3) to (8) and 50.10.40.10(3) and (E) above, the following equipment and **structures** may project above the permitted maximum heights shown on Diagrams 4 and 5 attached to By-law 1210-2022(OLT), as follows:
- (i) access hatches, eaves, light fixtures, chimneys, vents, roof drainage, elements of a **green roof**, access ladders, by a maximum of 1.1 metres;
 - (ii) elements and **structures** associated with a **green roof**, architectural features, parapets, trellises, railing, screens, planters, **landscaping** features, solar panels and related equipment, satellite dishes, and guard rails, by a maximum of 3.0 metres;
 - (iii) lightning rods, by a maximum of 5.0 metres; and
 - (iv) window washing equipment, by a maximum of 7.0 metres;
- (I) Despite Regulations 50.5.40.70(1), 50.10.40.70(1), 50.10.40.70(5), 50.10.40.80(3) and Section 600.10, the required minimum **building setbacks** and required separation of **main walls** are as shown in metres on Diagrams 4 and 5 attached to By-law 1210-2022(OLT);
- (J) Despite Regulation 50.5.40.60(1), Clause 50.10.40.60 and (I) above, the following **building** elements may encroach into the required **building setbacks** and **main wall** separation distances as follows:
- (i) architectural features, cornices, light fixtures, ornamental elements, parapets, art and landscape features, patios, decks, pilasters, trellises,

terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, elevating devices, louvres, damper equipment, window washing equipment, and access ramps including underground garage ramps and associated **structures**, by a maximum of 2.0 metres;

- (ii) balconies, may encroach to a maximum of 1.5 metres;
 - (iii) despite (ii) above, on Building A no balconies are permitted in the required:
 - a. 1.8 metre **building setback** from the west **lot line**;
 - b. 9.0 metre **building setback** from the north **lot line**;
 - c. 2.5 metre **building setback** from the south **lot line**; and
 - d. 8.2 metre **building setback** from the north **lot line**;
 - (iv) despite (ii) above, balconies are not permitted within 3.0 metres of the corners of **main walls** of Building B1 and Building B2;
- (K) Despite Regulation 50.10.40.50(1), **amenity space** must be provided at a minimum rate of 3.25 square metres for each **dwelling unit**, of which:
- (i) 2.03 square metres for each **dwelling unit** is indoor **amenity space**;
 - (ii) 1.22 square metres for each **dwelling unit** is outdoor **amenity space**; and
 - (iii) no more than 25 percent of the outdoor component may be a **green roof**;
- (L) The provision of **dwelling units** located for **buildings** located on Block A and Block B are subject to the following:
- (i) a minimum of 35 percent of the total number of **dwelling units** must contain two or three bedrooms; and
 - (ii) of the requirement in (i) above, a minimum of 3 percent of the total number of **dwelling units** must contain three bedrooms, provided there a minimum of 60 **dwelling units** with three bedrooms;
- (M) Despite Regulation 50.10.90.40(1)(B), **vehicle** access to a **loading space** may be permitted from:
- (i) Front Street West for Building A; and
 - (ii) Blue Jays Way for Building B1, Building B2 and Building C;

- (N) Despite Clause 220.5.10.1, **loading spaces** must be provided on the lands as follows:
- (i) a required minimum of one (1) Type 'G' **loading space** and one (1) Type 'B' loading space must be provided for Building A; and
 - (ii) a required minimum of three (3) Type 'G' **loading spaces** and one (1) Type 'C' loading space as shared between Building B1, Building B2, Building C and Building D;
- (O) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
- (i) a minimum of 0.20 residential occupant **parking spaces** for each **dwelling unit**;
 - (ii) a minimum of 0.10 residential visitor **parking spaces** for each **dwelling unit**;
 - (iii) 1.0 **parking space** per 100 square metres of non-residential **gross floor area**;
 - (iv) a minimum of 4 "car-share parking spaces";
 - (v) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
 - (vi) for the purpose of this exception, a "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (P) Despite Regulation 200.5.1.10(12)(C), a **vehicle** access to a **building** must be at least 3.0 metres from the **lot line** abutting the **street**;
- (Q) Despite Regulations 200.15.1(1), (3) and (4), accessible **parking spaces** must be provided as follows:
- (i) An accessible parking space must have the following minimum dimensions:
 - a. length of 5.6 metres;
 - b. width of 3.4 metres; and
 - c. vertical clearance of 2.1 metres;

- (ii) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (iii) Accessible **parking spaces** must be the **parking spaces** closest to a barrier free:
 - a. entrance to a **building**;
 - b. passenger elevator that provides access to the first **storey** of the **building**; and
 - c. and shortest route from the required entrances in (Q)(iii)a. and b.
- (R) Despite Regulation 230.5.1.10(6), both "short-term" and "long-term" **bicycle parking spaces** may be located in a **building**;
- (S) Despite Regulation 230.5.1.10(10), "short-term" and "long-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space** arrangement;
- (T) Regulation 230.5.1.10(7), with regard to the provision of bicycle shower and change facilities, does not apply.

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

5. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.42.10 Exception Number 43 so that it reads:

(43) Exception OR 43

The lands, or a portion thereof as noted below, are subject to the following Site-Specific Provisions, Prevailing By-law and Prevailing Sections.

Site Specific Provisions:

- (A) A public **park**, with a required minimum area of 1,608 square metres, must be provided, as shown on Diagram 2 of By-law 1210-2022(OLT).

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

6. Section 37 Provisions:

- (A) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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 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 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 upon 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 applicable provisions of Schedule A are satisfied; and
 - (D) Once the agreement or agreements securing the facilities, services and matters set out in Schedule A have been executed and registered, the provisions of Schedule A shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
7. By-law 650-91, being a by-law to amend "By-law 438-86 respecting certain lands located on the northside of Front Street West extending east from Spadina Avenue" with respect to lands municipally known as 400 Front Street West is hereby repealed as it applies to the lands identified in Diagram 1 attached to this By-law on the effective date of this By-law.

Local Planning Appeal Tribunal Decision issued on October 3, 2019 and Ontario Land Tribunal Order effective on August 11, 2022 in File OLT-22-003829.

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 lot. The owner shall enter into an agreement, on such terms and conditions, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the Planning Act, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, C.18, as amended, came into force, to secure the community benefits below (the "**Section 37 Agreement**"), whereby the owner agrees as follows:

Community Benefits

1. Within thirty (30) days of the issuance of the Order of the Tribunal approving the Amending By-law, the Owner agrees to pay to the City, by certified cheque, the sum of six million dollars (\$6,000,000.00), indexed in accordance with the Section 37 Agreement (the "**Cash Contribution**"), to be allocated as follows:
 - (A) Three Million Dollars (\$3,000,000.00) towards new affordable housing in the Ward within proximity of the lands;
 - (B) One Million Five Hundred Thousand Dollars (\$1,500,000.00) towards improvements to Clarence Square Park to be determined by the General Manager, Parks, Forestry and Recreation and the Chief Planner and Executive Director, City Planning; and
 - (C) One Million Five Hundred Thousand Dollars (\$1,500,000.00) towards streetscape and right-of-way improvements to Clarence Square and/or Wellington Street West to be determined by the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services, in consultation with the General Manager, Parks, Forestry and Recreation.
2. The Cash Contribution shall be indexed upwards in accordance with the Construction Price Index, calculated from thirty (30) days from date of issuance of the Order of the Tribunal on this By-law to the date payment by the Owner of the Cash Contribution is made to the City.
3. In the event the Cash Contribution has not been used for its 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 Ward Councillor, provided that the purposes are identified in the City's Official Plan and will benefit the local community.
4. The Owner agrees that it will make a Public Art contribution having a minimum value of One Million Dollars (\$1,000,000.00), subject to upwards indexing in accordance with the Section 37 Agreement, calculated from the date of issuance of the Order of the Tribunal

on this By-law to the date of payment or delivery of Financial Security to the City, as the case may be, in accordance with the Public Art program.

5. Prior to the issuance of the first **building permit** for any **building** or **structure** on the lands, the Owner shall prepare, at its sole cost and expense, a Public Art plan in accordance with the terms and conditions in the Section 37 Agreement.
6. Prior to the issuance of the any above-grade **building** permit for any **building** on the lands, the owner shall post financial security to secure the Public Art Plan in the amount of 120 percent of the value of the Public Art Contribution to the satisfaction of Chief Planner and Executive Director, City Planning on such terms and conditions as specified in the Section 37 Agreement.

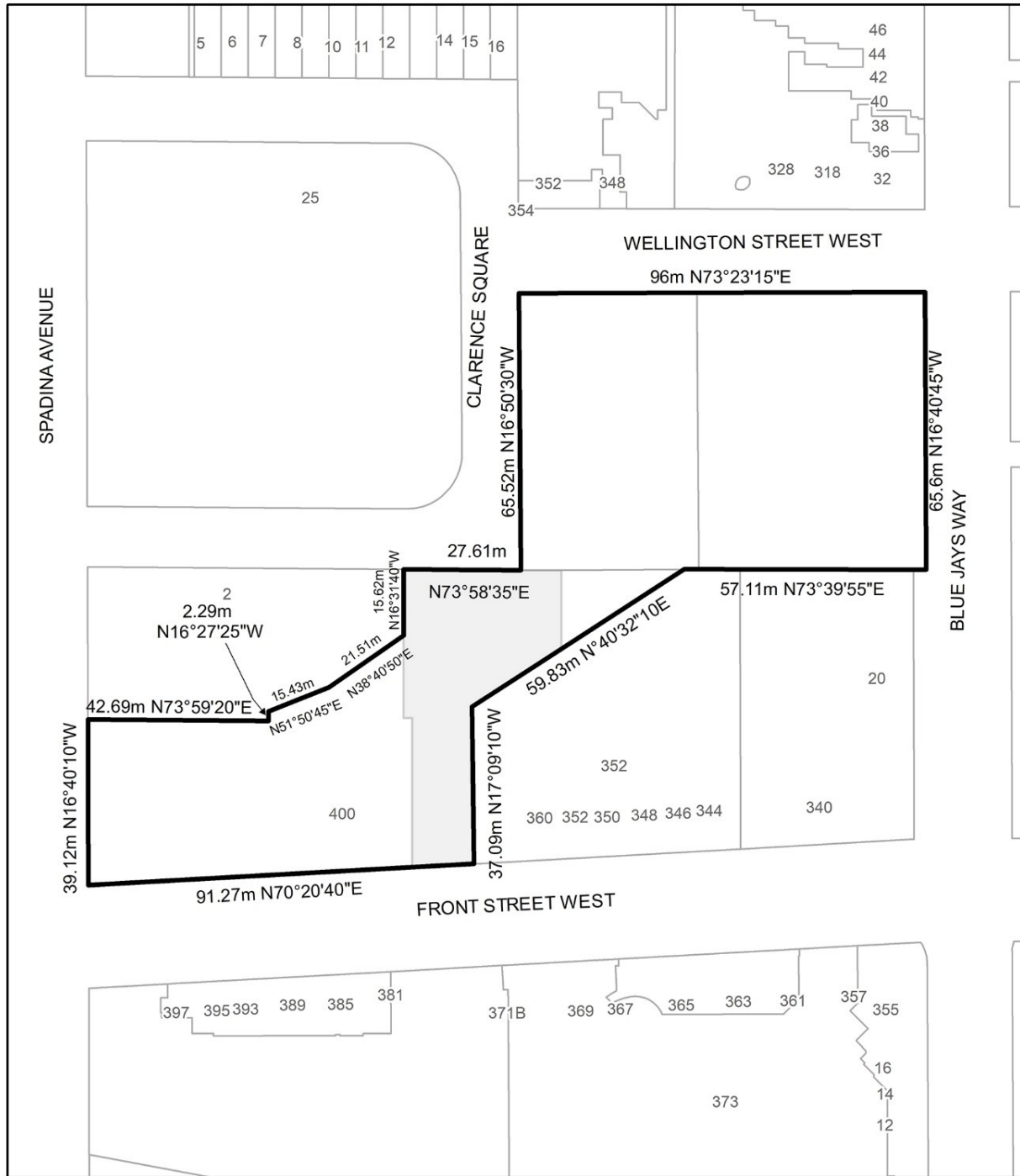
Matters Required to Support the Development

7. Prior to the issuance of the first above-grade **building** permit for any Building on any part of the Lands, the Owner shall convey, in fee simple to the City, a minimum of 1,608 square metres in the general location identified on Diagram 2 of this By-law and zoned OR (x43) on Diagram 3 of this By-law, in an acceptable environmental condition, free and clear above-grade and below-grade of all physical obstructions and easements, encumbrances, and free and clear of all title encumbrances including, but not limited to all easements, rights-of-way, leases, charges, and encroachments, including surface and subsurface easements, to the satisfaction of General Manager, Parks, Forestry and Recreation and the City Solicitor to the satisfaction of General Manager, Parks, Forestry and Recreation and, where applicable, make any required cash-in-lieu payment of the owners remaining parkland dedication requirement under Section 42 of the Planning Act and pursuant to Chapter 415, Article III of the Toronto Municipal Code.
8. Prior to the issuance of the first **building permit** for any part of the lands, the owner shall post separate financial security to secure the park improvements in the amount of 120 percent of the value of each of the base park improvements and the above base park Improvements to the satisfaction of General Manager, Parks, Forestry and Recreation. This financial security shall be held for the installation and warranty of the park improvements. No credit shall be given toward the parks and recreation component of the development charges for costs associated with the base park improvements.
9. As a pre-approval condition to any Site Plan Approval for the lands, the Site Plan Agreement will secure that:
 - (A) prior to the issuance of the first above-grade **building** permit for building A, the Owner shall convey in perpetuity for nominal consideration and at no cost to the City, one or more easements, including right of support, over the building A POPS, as defined in the Section 37 Agreement and as generally shown on Diagram 4 of this By-law, in favour of the City for use by the City and the general public as privately owned, publicly accessible space (the "**Building A POPS Easement**"), to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning. The Owner shall provide a draft

- reference plan(s) and easement documents with the Chief Planner and Executive Director, City Planning prior to Site Plan Approval;
- (B) prior to the issuance of the first above-grade **building** permit for building D, the Owner shall convey in perpetuity for nominal consideration and at no cost to the City, one or more easements, including right of support, over the building D POPS, as defined in the Section 37 Agreement and as generally shown on Diagram 5 of this By-law, in favour of the City for use by the City and the general public as privately owned, publicly accessible space (the "**Building D POPS Easement**"), to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning. The Owner shall provide a draft reference plan(s) and easement documents with the Chief Planner and Executive Director, City Planning prior to Site Plan Approval.
10. As a pre-approval condition to any Site Plan Approval for the Lands, the Site Plan Agreement will secure that:
- (A) prior to the issuance of the first above-grade **building** permit for building A, the Owner shall convey in perpetuity for nominal consideration and at no cost to the City, one or more easements, including right of support, over the Western Mid-Block Connection Lands, as defined in the Section 37 Agreement and as generally shown on Diagram 6 of this By-law, in favour of the City for use by the City and the general public as public access easement (the "**Western Mid-Block Easement**"), to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning. The Owner shall provide a draft reference plan(s) and easement documents with the Chief Planner and Executive Director, City Planning prior to Site Plan Approval;
- (B) prior to the issuance of the first above-grade **building** permit for building B or building C, the Owner shall convey in perpetuity for nominal consideration and at no cost to the City, one or more easements, including right of support, over the Eastern Mid-Block Connection Lands, as defined in the Section 37 Agreement and as generally shown on Diagram 6 of this By-law, in favour of the City for use by the City and the general public as public access easement (the "**Eastern Mid-Block Easement**"), to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning. The Owner shall provide a draft reference plan(s) and easement documents with the Chief Planner and Executive Director, City Planning prior to final Site Plan Approval.
11. Prior to Site Plan Approval for any **building**, the Owner shall, at its sole cost and expense, prepare and submit a functional servicing and stormwater management report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and secure any necessary improvements satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services.
12. The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance

standards of Toronto Green Standards applicable at the time of the site plan application for each building on the site.

13. Prior to the issuance of any **building** permit and as part of a Site Plan Application for any part of the lands, the Owner shall, at its sole cost and expense, provide a Noise and Vibration Feasibility study of surrounding rail and transportation corridors, including light rail transit, within 300 metres of the Lands to the satisfaction and acceptance by Metrolinx and the General Manager, Transportation Services.
14. Prior to the issuance of any **building** permit on the lands and as a pre-approval condition to Site Plan Approval on any part of the lands, the owner, at its sole cost and expense, shall:
 - (A) Retain an Archaeologist to carry out a Stage 4 Archaeological Mitigation through salvage excavation and documentation of the Duke of Cambridge site (AjGu-106) on the entire lands;
 - (B) Complete the Stage 4 Archaeological Mitigation and follow through on any recommendations from approved Archaeological Assessment reports on the Lands. Stage 4 mitigation strategies must be reviewed and approved by the Senior Manager, Heritage Planning prior to any works being commenced;
 - (C) Submit a copy of the relevant assessment report(s) to the Senior Manager, Heritage Planning in any such format as may be acceptable;
 - (D) Incorporate significant archaeological resources and findings into the development through either in situ preservation and interpretation, where appropriate and commemorate and interpret such resources on the lands; and
 - (E) Ensure that no demolition, construction, grading or other soil disturbances through any **building** permit take place on the lands prior to the Owner obtaining approval, in writing, from the Senior Manager, Heritage Planning and the Ministry of Heritage, Sport, Tourism and Culture Industries (the "**Ministry**") confirming that all archaeological licensing and technical review requirements have been satisfied. If partial clearance is obtained from the Ministry for a part of the Lands to proceed, Section 14(e) does not apply to those parts of the lands cleared by the Ministry and confirmed in writing to the Senior Manager, Heritage Planning, provided any partial clearance conditions are met for any such lands to the satisfaction of the Senior Manager, Heritage Planning, the Chief Building Official and Executive Director, Toronto Building, and the Ministry.
15. Prior to the issuance of the first **building** permit (excluding a demolition permit) for the Development or a portion thereof, including a conditional **building** permit, the Owner shall provide at its expense to the satisfaction of the Chief Planner and the Chief Engineer, in consultation with the Ward Councillor, a construction management plan including matters defined in the Section 37 Agreement.



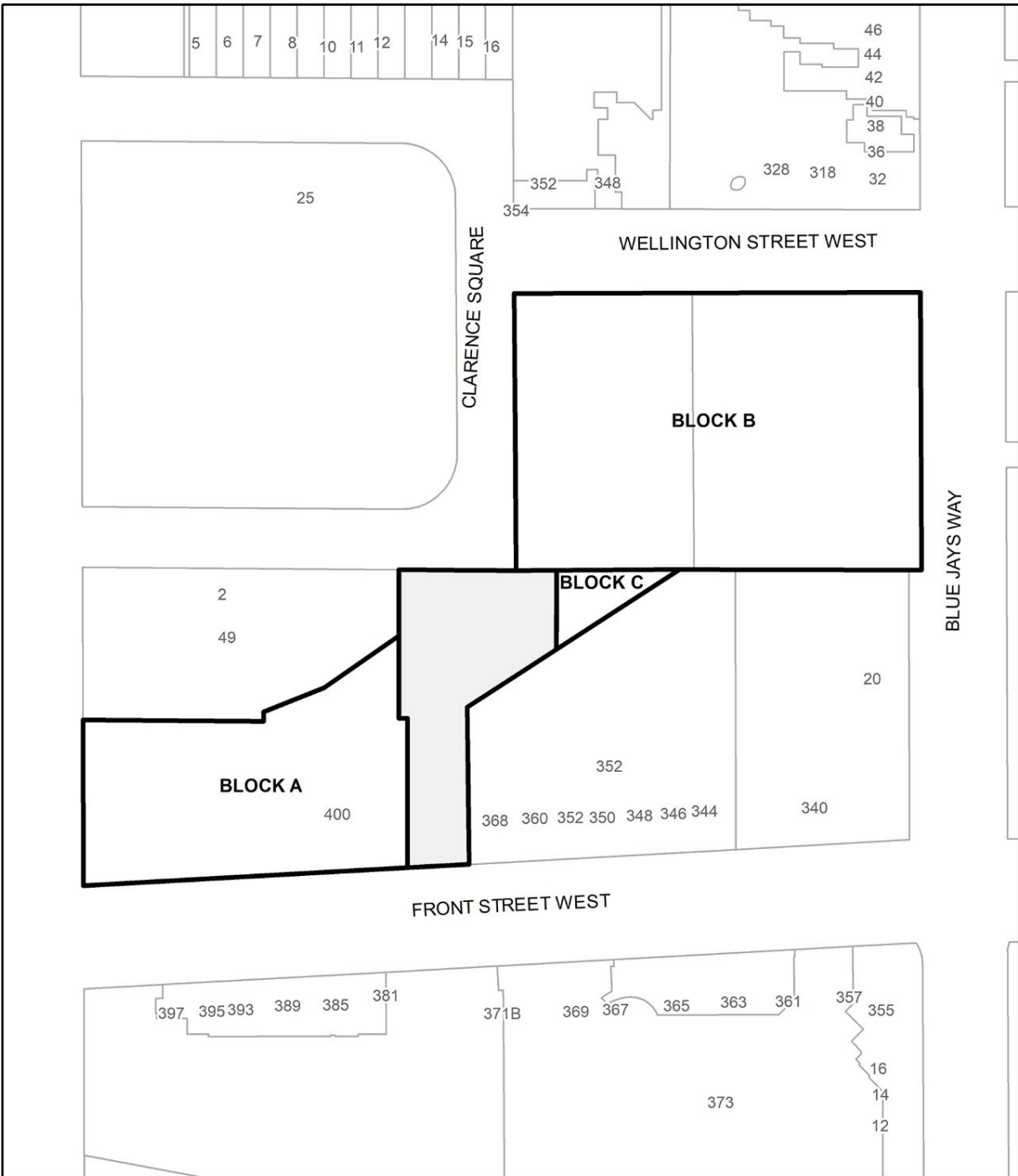
 **TORONTO**
Diagram 1

400 Front Street West

File # 15 136961 STE 20 OZ

 Parkland Dedication


City of Toronto By-law 569-2013
Not to Scale
08/02/2022




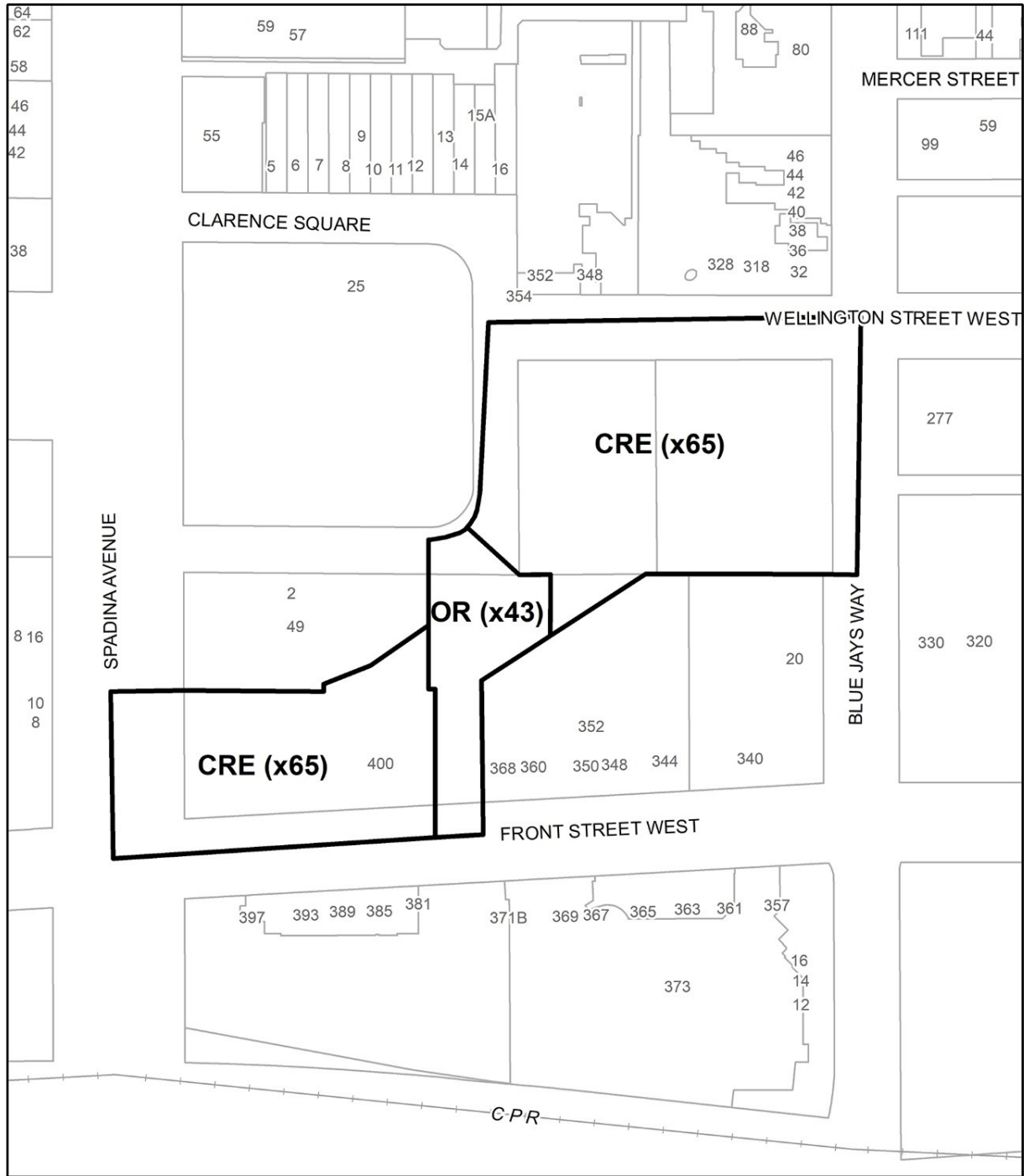
 **TORONTO**
Diagram 2

400 Front Street West

File # 15 136961 STE 20 0Z

 Parkland Dedication

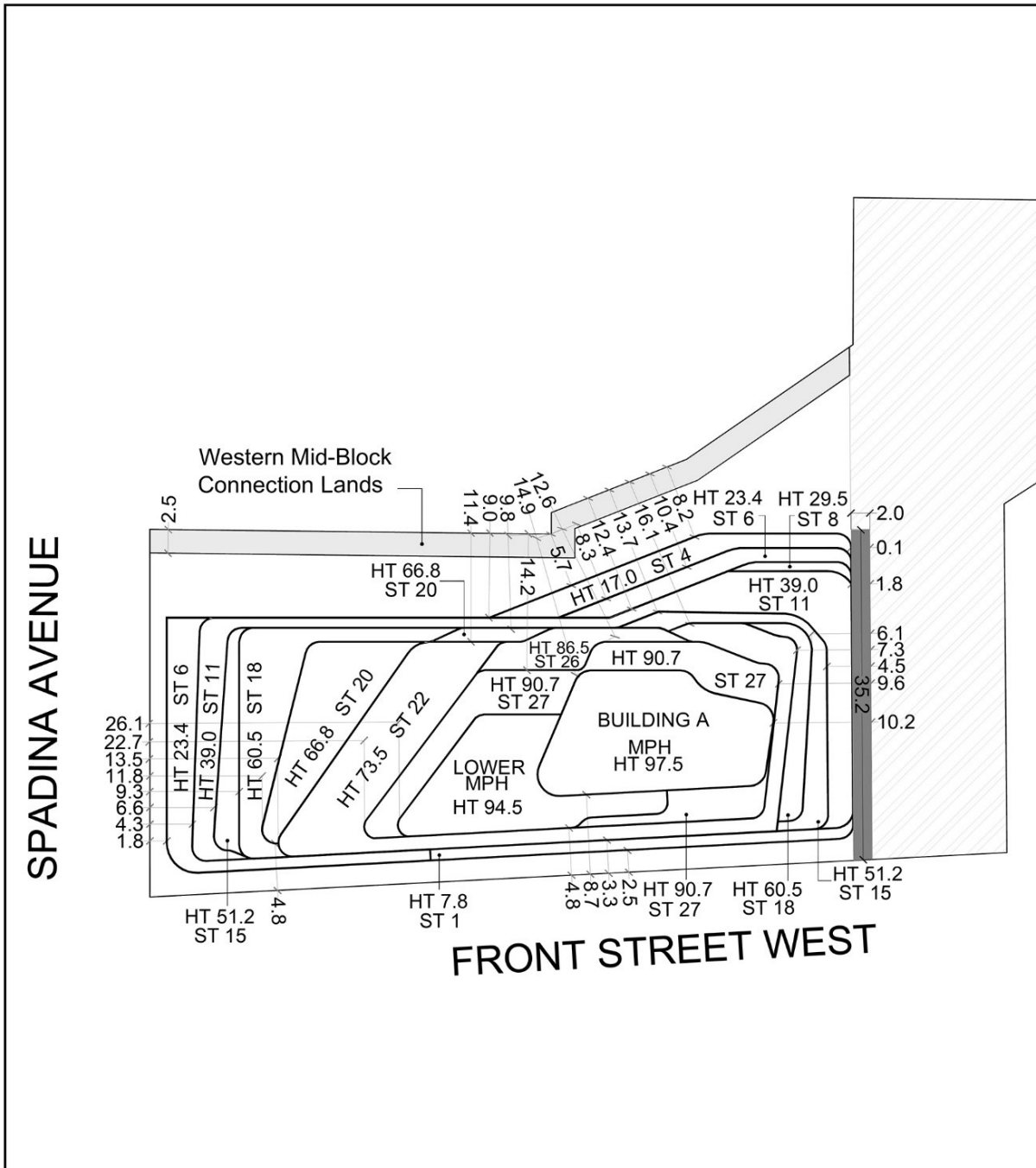

City of Toronto By-law 569-2013
Not to Scale
08/02/2022



 **TORONTO**
Diagram 3

400 Front Street West




File # 15 136961 STE 20 0Z



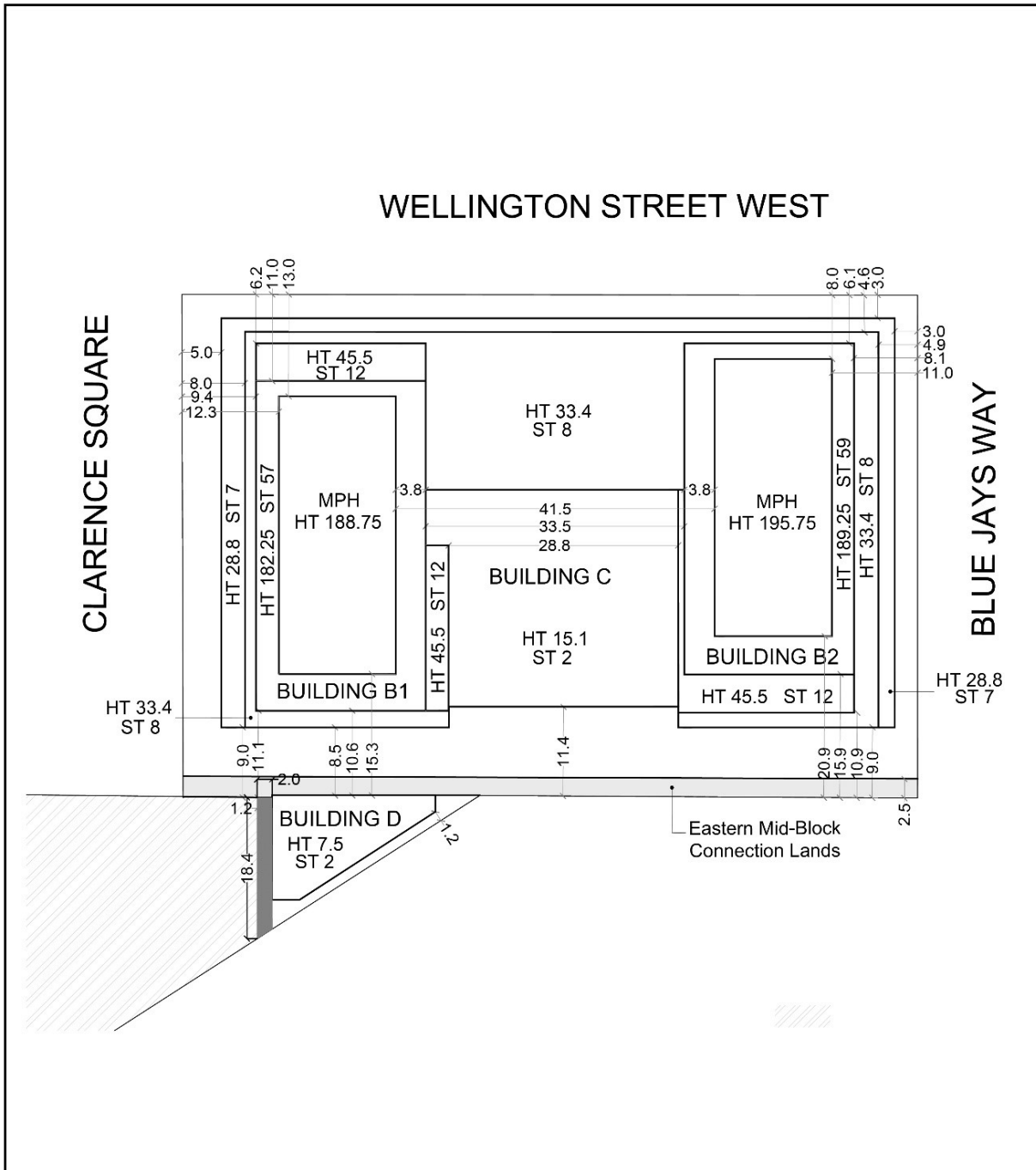
 **TORONTO**
Diagram 4

400 Front Street West

File # 15 136961 STE 20 OZ

-  Mid-Block Connection
-  POPS
-  Parkland Dedication





City of Toronto By-law 569-2013
Not to Scale
08/02/2022



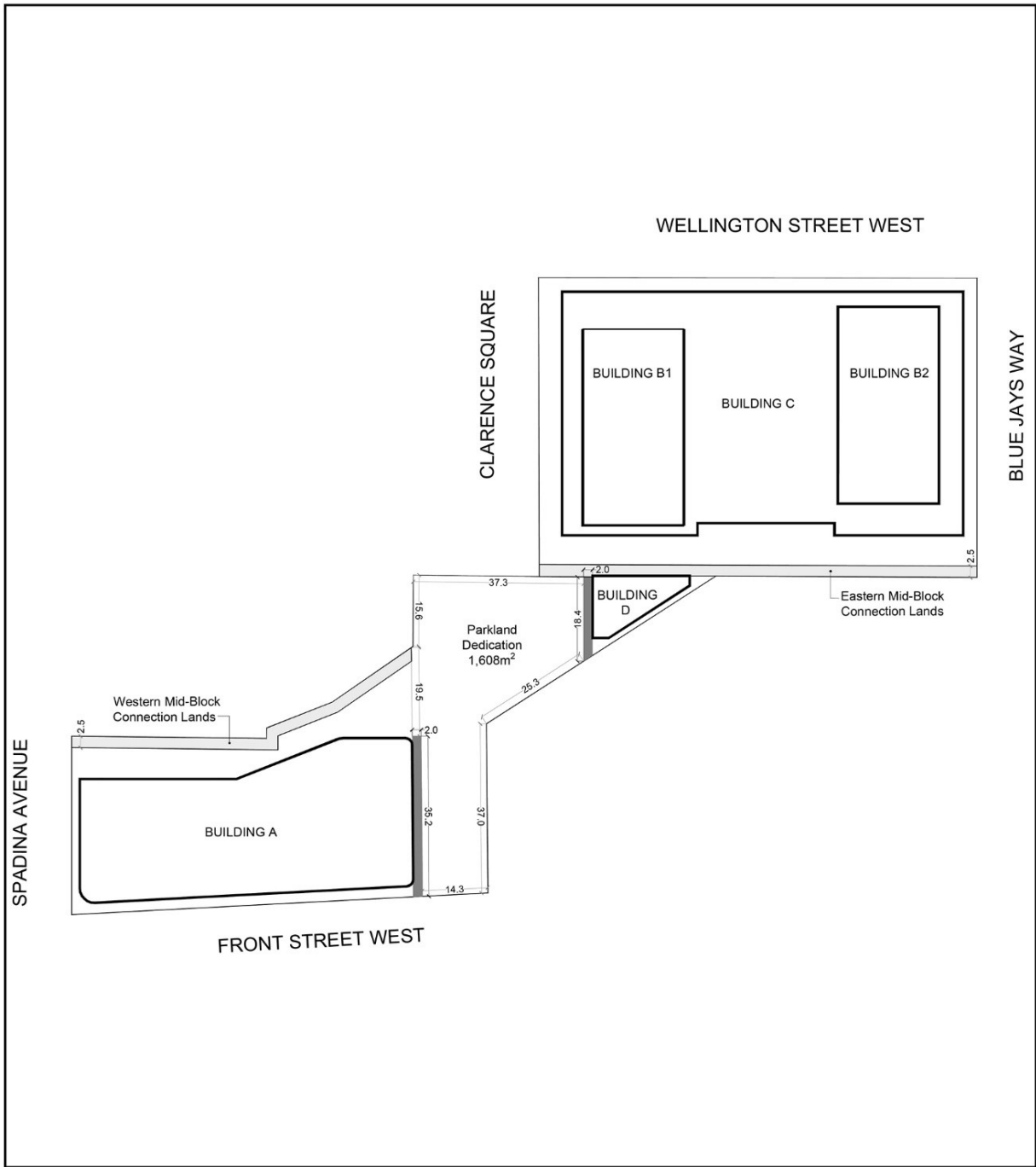
Toronto
 Diagram 5

400 Front Street West

File # 15 136961 STE 20 0Z

-  Mid-Block Connection
-  POPS
-  Parkland Dedication


 City of Toronto By-law 569-2013
 Not to Scale
 08/02/2022



TORONTO
 Diagram 6

400 Front Street West

File # 15 136961 STE 20 0Z

- Mid-Block Connection
- POPS
- Parkland Dedication


 City of Toronto By-law 569-2013
 Not to Scale
 08/02/2022