

Authority: Ontario Land Tribunal Decision and Interim Order issued on October 15, 2021 and Ontario Land Tribunal Order issued on August 12, 2022 in File OLT-22-004047 (formerly PL200215)

CITY OF TORONTO

BY-LAW 1255-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 40-44 Broadway Avenue.

Whereas the Ontario Land Tribunal, by its Decision/Order issued on October 15, 2021 and Order issued on August 12, 2022 in File OLT-22-004047 (formerly File PL200215) approved amendments to the City of Toronto Zoning Bylaw 569-2013, as amended, with respect to the lands municipally known as 40-44 Broadway Avenue; and

Whereas pursuant to Section 39 of the Planning Act, as amended, the Council of a Municipality or the Tribunal, as the case may be, may, in a By-law passed under Section 34 of the Planning Act, 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 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;

Pursuant to the Ontario Land Tribunal Decision/Order issued October 15, 2021 in Tribunal File PL200215, By-law 569-2013 of the City of Toronto, as amended, is further amended 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 same 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 black lines to R (d2.0) (x123) and O, 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 123 to so that it reads:

(123) Exception R 123

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 40-44 Broadway Avenue, if the requirements of Section 7 and Schedule A of By-law 1255-2022(OLT) are complied with, a **building or structure** may be constructed, used or enlarged in compliance with Sections (C) to (W) below;
- (B) In addition to the uses permitted by Regulation 10.10.20.10(1), the following uses are permitted within an **apartment building**:
 - (i) **Place of assembly**;
 - (ii) **Religious education use**;
 - (iii) **Religious residence**; and
 - (iv) **Place of Worship**;
- (C) Despite Regulations 10.10.40.40(1) and 10.10.20.20(1), the permitted maximum **gross floor area** for residential and non-residential uses is 29,600 square metres, of which:
 - (i) the permitted maximum **gross floor area** for residential uses is 27,000 square metres;
 - (ii) the required minimum **gross floor area** for non-residential uses is 2,600 square metres;
- (D) Despite Regulation 10.5.40.10 (1), the height of a **building or structure** is the distance between Canadian Geodetic Datum elevation of 165.25 metres and the highest point of the **building or structure**;

- (E) Despite Regulation 10.10.40.10(1), the permitted maximum height of a **building** or **structure** is the number in metres following the symbol "HT" on Diagram 3 of By-law 1255-2022(OLT);
- (F) Despite Regulations 10.5.40.10(2) to (4) and (F) above, the following **building** elements and **structures** may project above the permitted maximum height in Diagram 3 of By-law 1255-2022(OLT) as follows:
- (i) roof drainage, lightning rods, chimneys, and vents may project above the height limits to a maximum of 3.0 metres;
 - (ii) architectural features, light fixtures and parapets may project above the height limits to a maximum of 3.0 metres;
 - (iii) elevator overruns and associated enclosures, enclosed stairwell, roof access to a maximum of 4.0 metres;
 - (iv) window washing equipment may project above the height limits to a maximum of 3.0 metres;
 - (v) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace may project above the height limits to a maximum of 3.0 metres; and
 - (vi) trellises, pergolas, awnings and unenclosed **structures** providing safety or wind protection to rooftop **amenity space** may project above the height limits to a maximum of 3.0 metres;
- (G) Mechanical penthouse is contained below the maximum building height. A mechanical penthouse may be located on the storey at the top of the building on the same storey as dwelling units;
- (H) Despite Regulation 10.5.40.70(1) and Clauses 10.10.40.70 and 10.10.40.80, the required minimum **building setbacks** and **main wall** separation distances for all above ground portions of any **building** or **structure** are as shown on Diagram 3 of By-law 1255-2022(OLT);
- (I) Despite Regulations 5.10.40.70(1), 10.5.40.60(1), (2), (3), (5), and (8) and Section (H) above, the following may encroach into a required minimum **building setback** and **main wall** separation distance on Diagram 3 of By-law 1255-2022(OLT):
- (i) canopies, cornices, eaves, guardrails, landscape and public art features, lighting fixtures, minaret, ornamental or architectural elements, patios, parapets, planters, platforms, railings, screens, stairs, stair enclosures, stair landings, steeple, supportive columns, terraces, terrace guards, trellises, underground garage ramps and their associated structures, vents, wheel

- chair ramps, wind protection, window sills, and window washing equipment to a maximum of 2.5 metres;
- (ii) balconies to a maximum of 2.0 metres, except as shown on Diagram 4; and
 - (iii) canopy over the residential entrance to a maximum of 5.0 metres;
- (J) Despite Regulation 10.5.40.60(1) and I(ii) above, balconies are permitted as follows and as shown on Diagram 4:
- (i) on north face, above 15 metres up to a height of 120.95 metres;
 - (ii) on south, east, west faces, above 13 metres up to a height of 120.95 metres;
- (K) For the purposes of this exception, a mezzanine level is not considered a **storey**;
- (L) A minimum of 15 percent of the total number of **dwelling units** on the **lot** must contain a minimum of two bedrooms and a minimum of 10 percent of the total number of **dwelling units** on the **lot** must contain a minimum of three or greater bedrooms;
- (M) Despite Regulation 10.5.50.10(4), the required **landscaping** area is 25 percent of the **lot area**, of which 30 percent of the required **landscaping** area must be comprised of **soft landscaping**;
- (N) Regulation 10.5.50.10(5) does not apply;
- (O) Clause 10.10.40.30 does not apply;
- (P) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained as follows:
- (i) a minimum of 0.20 **parking spaces** for each **dwelling unit**;
 - (ii) a minimum of 5 **parking spaces** for a **place of worship**;
 - (iii) a minimum of 58 **parking spaces** for residential visitors which may be shared with a **place of worship**; and
 - (iv) a minimum of 1 "car-share **parking space**";
 - (a) 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

- (b) for the purpose of this exception, "car-share **parking space**" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (Q) Despite Regulations 200.15.10 (1) and (2), accessible **parking space** must be provided as per following minimum requirement:
 - (i) of the required **parking spaces** in (L) above, a minimum of 5 **parking spaces** plus 1 **parking space** for every 50 **parking spaces** or part thereof in excess of 100 **parking spaces**, must be accessible **parking spaces**;
- (R) Despite Clause 220.5.10.1 (2), a minimum of one Type "G" **loading space** and one Type "C" **loading space** must be provided and maintained on the **lot**;
- (S) Despite Regulations 230.5.10.1(1), (3) and (5)(A):
 - (i) a minimum of 0.9 **bicycle parking spaces** per **dwelling unit** must be provided as "long-term" **bicycle parking spaces**; and
 - (ii) a minimum of 0.1 **bicycle parking spaces** per **dwelling unit** must be provided as "short-term" **bicycle parking spaces**;
 - (iii) the number of required **bicycle parking spaces** may be rounded down to the next whole number when the calculation results in a fraction;
- (T) Despite Regulation 230.5.1.10(4), a **bicycle parking space**:
 - (i) oriented in a horizontal position must have:
 - (a) a minimum length of 1.8 metres;
 - (b) a minimum width of 0.45 metres; and
 - (c) a minimum vertical clearance of 1.2 metres;
 - (ii) oriented in a vertical position must have:
 - (a) a minimum length or vertical clearance of 1.9 metres;
 - (b) a minimum width of 0.45 metres; and
 - (c) a minimum horizontal clearance from the wall of 1.2 metres;
- (U) Despite Regulation 230.5.1.10(9), "long-term" and "short-term" **bicycle parking spaces** for **dwelling units** may be located anywhere above or below-ground in the **building**;

- (V) Despite Regulation 230.5.1.10(10), "long-term" and "short-term" **bicycle parking spaces** for **dwelling units** may be provided in any combination of vertical, horizontal or stacked positions;
- (W) Despite Regulation 230.10.1.20(2), a "short-term" **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the **lot**. Short-term bicycle parking space cannot be in a secured room.

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

- 5. Despite any severance, partition or division of the lands the provisions of this By-law will apply as if no severance, partition or division occurred.
- 6. None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of a temporary sales office on the **lot**, used exclusively for the initial sale and/or initial leasing of **dwelling units** or non-residential units proposed on the same **lot**, for a period of not more than 3 years from the date this By-law comes into full force and effect, provided the temporary sales office is limited to a maximum height of 5.0 metres.
- 7. Section 37 Provisions
 - (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to 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 on satisfaction of the same.
 - (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

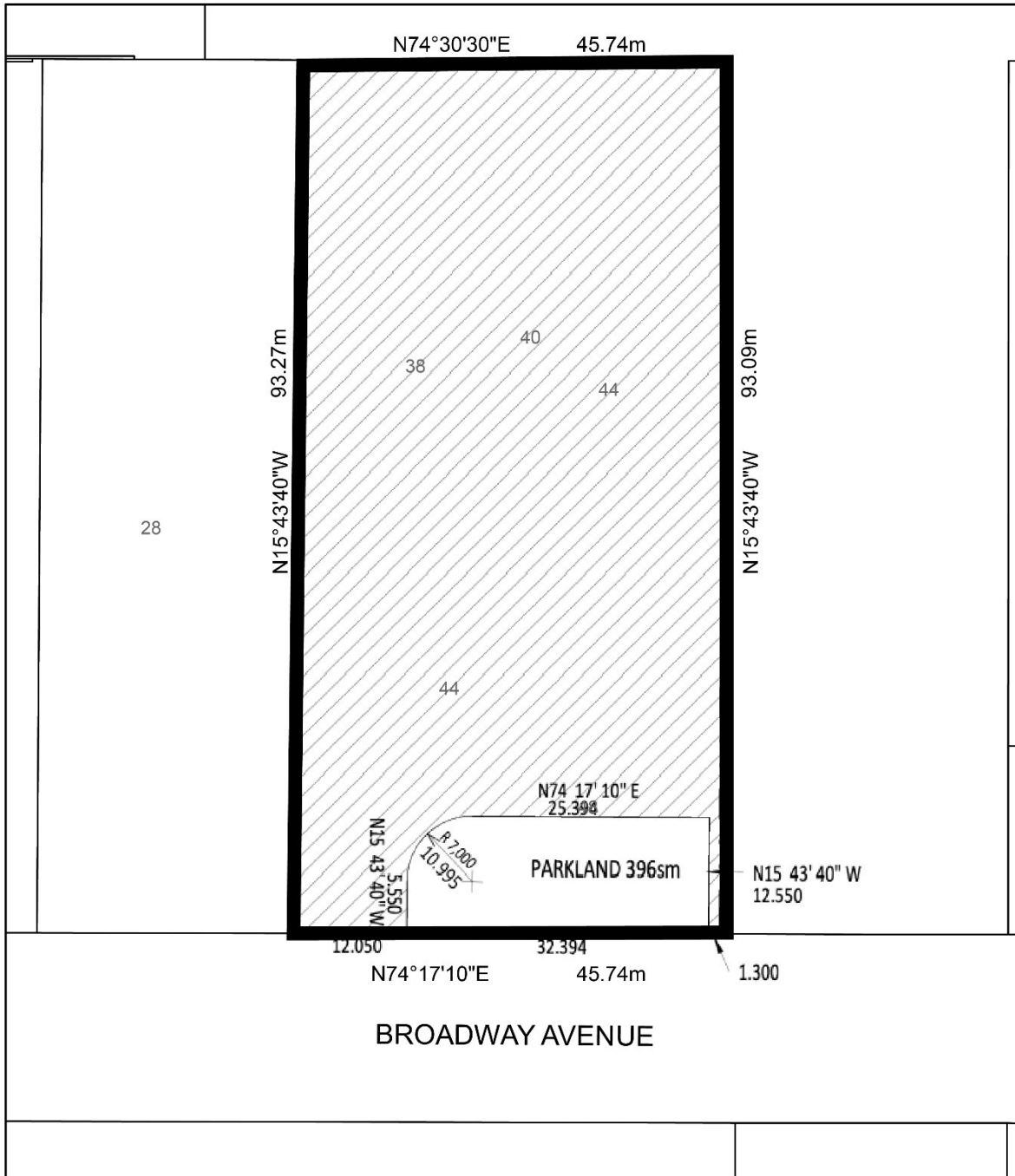
Ontario Land Tribunal Decision and Interim Order issued on October 15, 2021 and Ontario Land Tribunal Order issued on August 12, 2022 in File OLT-22-004047 (formerly PL200215).

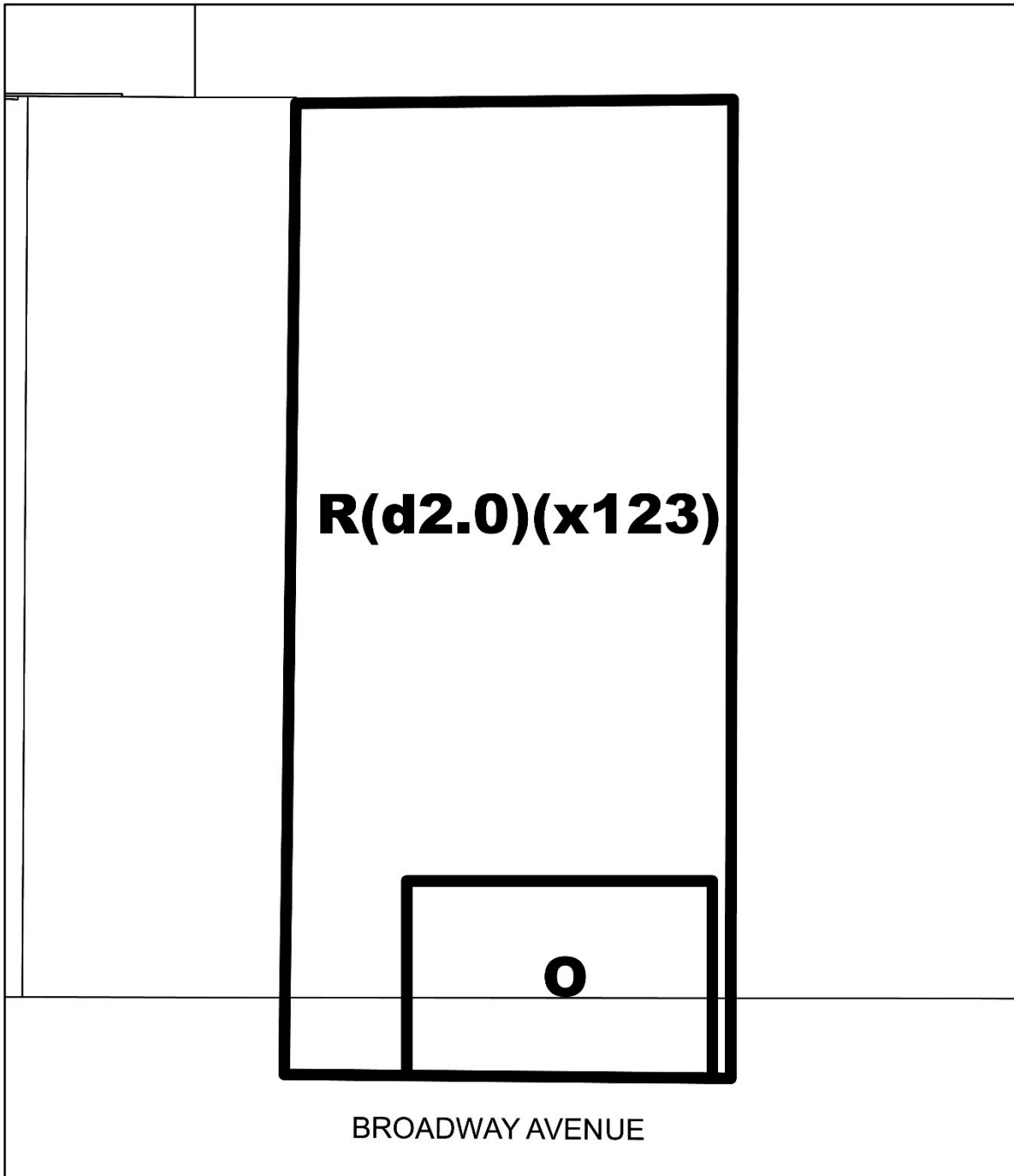
SCHEDULE A**Section 37 Provisions**

Prior to the issuance of the first permit issued under the Building Code Act, 1992 in respect of the lands shown on Diagram 1 attached to this By-law, the owner shall enter into an agreement under Section 37 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, and register same in priority, to the satisfaction of the City Solicitor, whereby the owner agrees to secure the facilities, services and matters set out below which are required to be provided to the City at the owner's expense as follows:

1. Prior to the issuance of the first above-grade building permit for the lands, a cash contribution of \$2,800,000.00 to be paid by the Owner and to be allocated toward community services and facilities, local parkland acquisition and improvements, and/or public realm improvements within the vicinity of the subject property, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
2. The \$2,800,000.00 cash contribution is to 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 Publication 327-0058, or its successor, calculated from the date of the Ontario Land Tribunal decision to the date of payment; all cash contributions will be payable prior to issuance of the first above-grade building permit;
3. In the event the cash contribution referred to in paragraph 1 above has not been used for the determined purpose within three years of the amending Zoning 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 the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands;
4. The Owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time;
5. Pursuant to the site plan control application process for the lands but in any event prior to final site plan approval of the proposed development, the owner shall design an at-grade privately-owned publicly accessible open space reflective of the vision for the Park Street Loop as directed by the Yonge-Eglinton Secondary Plan to be located on the lands abutting the Broadway Avenue frontage to a minimum width of 7.5 metres from the Broadway Avenue property line starting at the west property line of the subject lands and terminating at the west boundary of the on-site parkland dedication to be provided by the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning;

6. Prior to the earlier of (i) registration of a condominium in respect of any part of the lands, (ii) the division of the lands by severance, and (iii) the first residential occupancy of any part of the development, the owner shall register a grant of easement to the City, for nominal consideration, along, upon, over, and above the entirety of the privately-owned publicly accessible open space referred to in paragraph 5 above, in priority, to the satisfaction of the City Solicitor;
7. Pursuant to the site plan control application process for the lands but in any event prior to final site plan approval of the proposed development, the owner shall design an at-grade walkway on the lands between the on-site parkland dedication and the east property line of the lands with a minimum width of 1.3 metres and a minimum length of 12.5 metres, to the satisfaction of the Chief Planner and Executive Director, City Planning;
8. Prior to the earlier of (i) registration of a condominium in respect of any part of the lands, (ii) the division of the lands by severance, and (iii) the first residential occupancy of any part of the development, the owner shall register a grant of surface easement to the City, for nominal consideration, along, upon, over, and above the entirety of the walkway on the lands referred to in paragraph 7 above, in priority, to the satisfaction of the City Solicitor;
9. Pursuant to the site plan control application process for the lands but in any event prior to final site plan approval of the proposed development, the owner shall provide an illumination plan for the development, to the satisfaction of the Chief Planner and Executive Director, City Planning;
10. Prior to the issuance of the first above-grade building permit for any part of the lands, the owner shall convey to the City the fee simple interest in a part of the lands with an area no less than 396 square metres for the purpose of public parkland pursuant to Section 42 of the Planning Act and in accordance with the Toronto Municipal Code Chapter 415, Article III, at no cost to the City and the said parkland dedication shall be in a location and configuration and free and clear above and below grade, of all easements, encumbrances and encroachments and in acceptable environmental condition, to the satisfaction of the General Manager, Parks, Forestry and Recreation; and
11. The Owner shall erect a sign to the Toronto District School Board's specifications and satisfaction prior to issuance of any building permit.

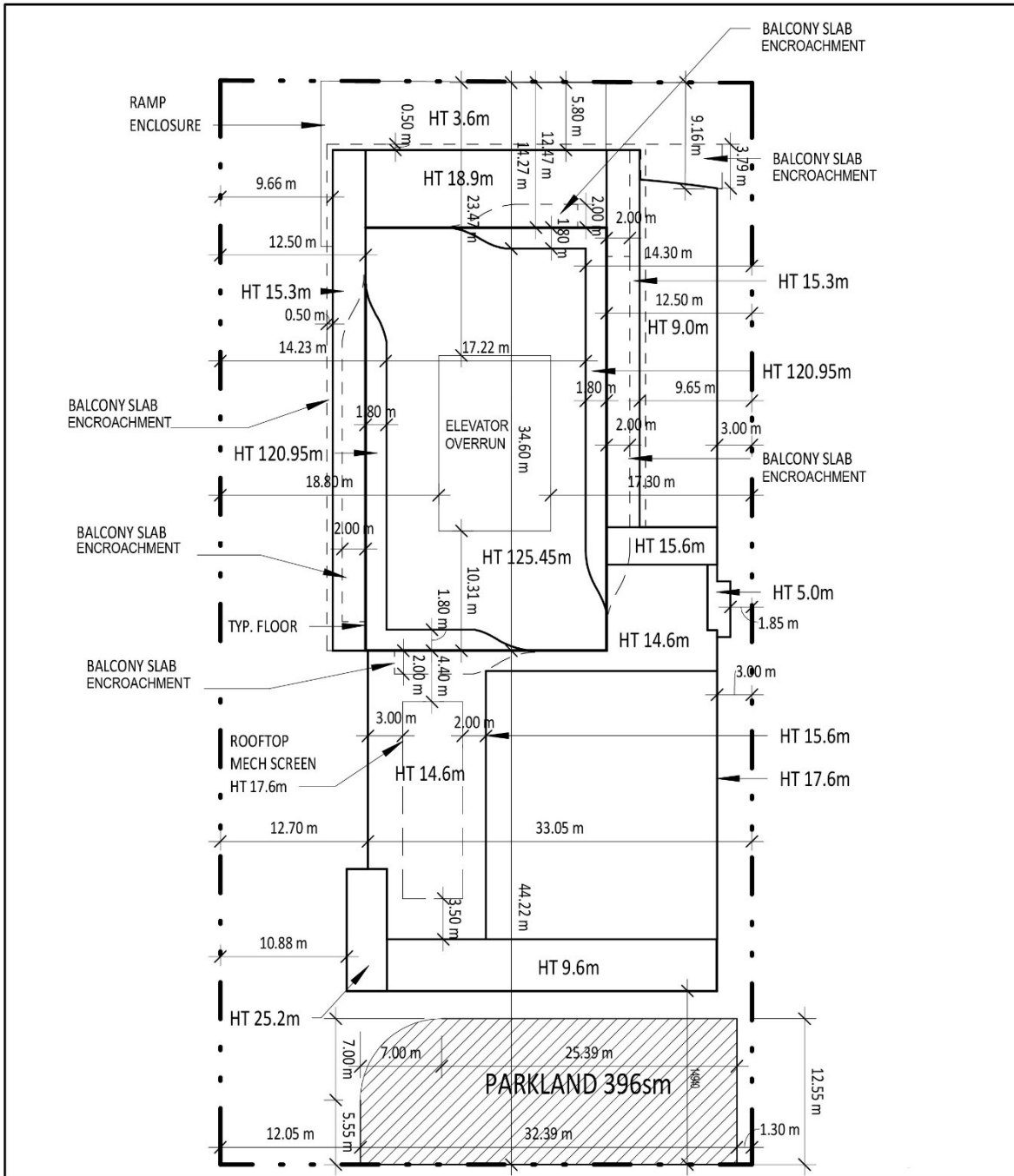




 **TORONTO**
Diagram 2

40 & 44 Broadway Avenue


File # 19 194902 NNY 15 OZ

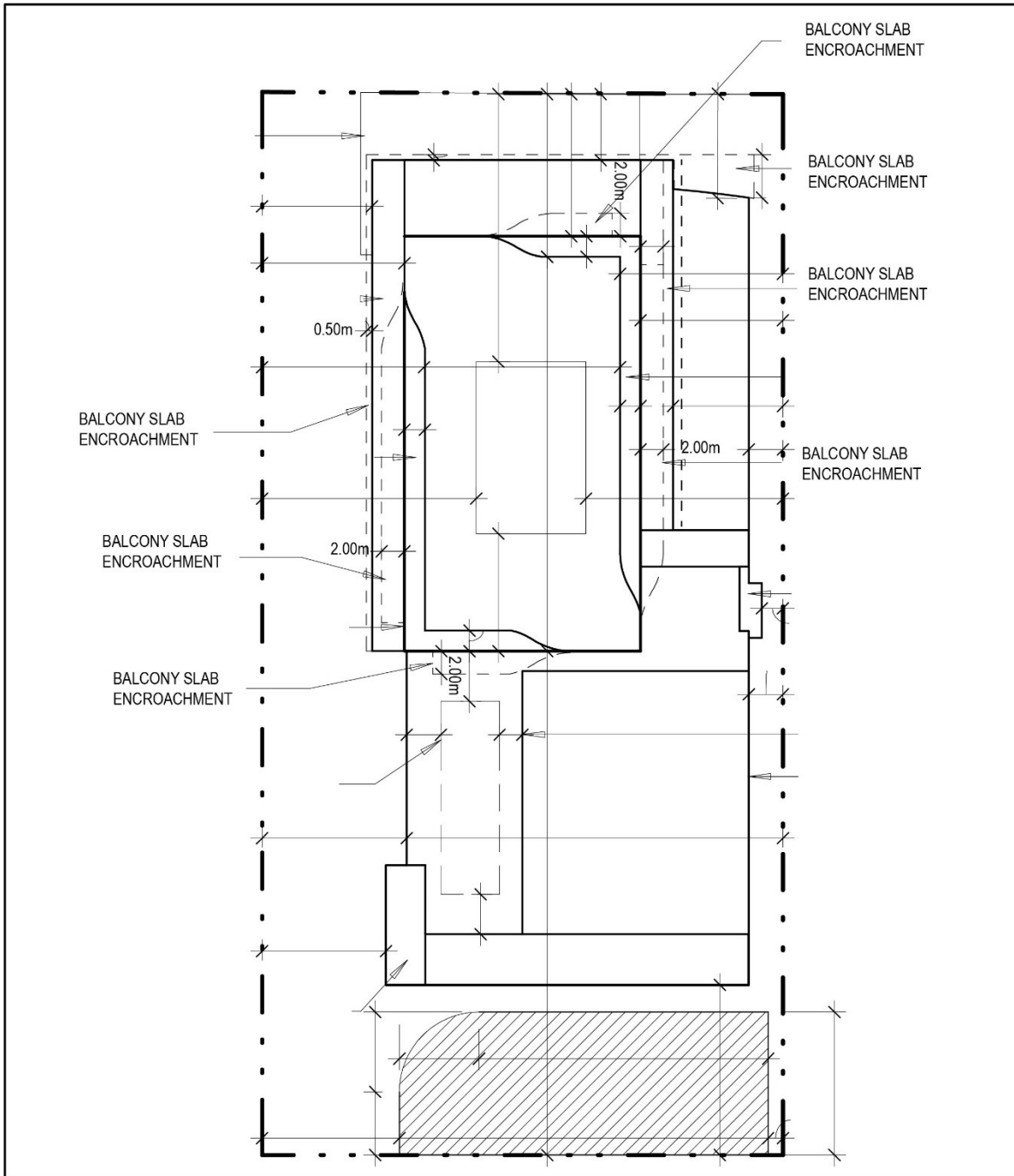


 **Toronto**
Diagram 3

40 & 44 Broadway Avenue

File # 19 194902 NNY 15 0Z


City of Toronto By-law 569-2013
Not to Scale
07/13/2022



 **TORONTO**
Diagram 4

40 & 44 Broadway Avenue

File # 19 194902 NNY 15 0Z