

Authority: Ontario Land Tribunal Decision and Order
issued on November 1, 2022 (effective August 12, 2022) in
Tribunal Case OLT-21-001703 (formerly PL210193)

CITY OF TORONTO

BY-LAW 1263-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 50, 60 and 90 Eglinton Avenue West and 17 and 19 Henning Avenue and to repeal By-laws 825-2017 and 826-2017.

Whereas the Ontario Land Tribunal pursuant to its Orders issued on November 1, 2022, effective date of August 12, 2022, in respect of Tribunal Case OLT-21-001703 and Legacy Case PL210193, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 50, 60 and 90 Eglinton Avenue West and 17 and 19 Henning Avenue; and

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended to pass this 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 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 S.O. 2020., c. 18 ("COVID-19 Economic Recovery Act, 2020") came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, came into force, 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, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, 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 in Schedule A of this By-law in return for the increase in height and density permitted on the aforesaid lands by By-law 569-2013, as amended; and

Whereas Schedule A of this By-law requires the owner of the aforesaid lands to provide certain facilities, services or matters and enter into an agreement or agreements between the owner of the land and the City of Toronto prior to the issuance of a building permit; and

Where pursuant to Section 39 of the *Planning Act*, the council of a Municipality 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 by the By-law;

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law 569-2013 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 meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. By-laws 825-2017 and 826-2017 are repealed as they apply to the lands subject to this By-law.
4. 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 from a zone label of CR 3.0 (c3.0; r2.0) SS2 (x2237), CR SS2 (x2623) and R (d0.6)(x721) to a zone label of CR 3.0 (c3.0; r2.0) SS2 (x785) as shown on Diagram 2 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the Policy Areas Overlay Map in Section 995.10 for the lands subject to this By-law to Policy Area 3, as shown on Diagram 3 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 785 so that it reads:

(785) Exception CR 785

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 50, 60 and 90 Eglinton Avenue West and 17 and 19 Henning Avenue, if the requirements of By-law 1263-2022(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (CC) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 162.0 metres and the elevation of the highest point of the **building** or **structure**;

- (C) In addition to the elements which reduce **gross floor area** for a **mixed use building** listed in Regulation 40.5.40.40(3), the following items also reduce **gross floor area**:
- (i) areas used for **public parking**;
 - (ii) all areas used for required and surplus **bicycle parking spaces**;
 - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms, and locker rooms on a mezzanine level located immediately above the **first floor**;
 - (iv) residential uses located on the second floor of a **dwelling unit** located on the **first floor**; and
 - (v) surplus indoor **amenity space**;
- (D) **Public parking** is permitted, provided it complies with Regulations 40.10.20.100(7), (8), (9), (10) and (11);
- (E) Regulation 40.10.40.1(2), with regard to the location of commercial uses in a **mixed use building**, does not apply;
- (F) Despite Regulation 40.10.40.10(1) the permitted maximum height of a **building** or **structure** is the numerical value, in metres, following the letters 'HT' on Diagram 4 of By-law 1263-2022(OLT);
- (G) Despite Regulations 40.5.40.10(4), (5), (6), (7) and (8) and (F) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 4 of By-law 1263-2022(OLT):
- (i) equipment used for the functional operation of the **building** including electrical, utility, elevator overruns, mechanical and ventilation equipment, mechanical penthouse, enclosed stairwells, roof access, stair overruns, maintenance equipment storage, elevator shafts, chimneys, and vents, and **structures** and parts of a **building** that enclose, screen or cover this equipment, by a maximum of 6.5 metres;
 - (ii) guard rails, railings and safety railings, fences, parapet, roof drainage, thermal insulation or roof ballast, and roof construction assembly elements, by a maximum of 2.75 metres;
 - (iii) **structures** on the roof of any part of the **building** used for outside or open air recreation, **green roof** elements, wind mitigation elements, landscape features, architectural elements, public art features, telecommunications equipment and antennae, window washing equipment, life safety equipment, partitions dividing outdoor recreation areas, trellises, planters, landscape features, lightning rods, exhaust flues, swimming pools

(elevated or otherwise), **structures** housing pool or spa maintenance or operational equipment, to a maximum of 4.0 metres;

- (H) For the purpose of this exception, mechanical penthouses do not constitute a **storey**;
- (I) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 54,000 square metres, of which:
 - (i) the permitted maximum **gross floor area** for residential uses is 53,000 square metres;
 - (ii) the required minimum **gross floor area** for non-residential uses on the ground floor of the **building** is 1,000 square metres;
- (J) A minimum of 3,809 square metres of **interior floor area** for an office use must be provided in the **building**;
- (K) For the purposes of (J), an office use does not include an **education use**;
- (L) Despite Regulation 40.10.40.50(1)(A) and (B) **amenity space** shall be provided on the **lot** in accordance with the following:
 - (i) a minimum of 1,100 square metres of outdoor **amenity space**; and
 - (ii) a minimum of 1,400 square metres of indoor **amenity space**;
- (M) For the purpose of this exception, **amenity space** may also include guest suites;
- (N) Despite Regulation 40.10.40.70(2) and Clause 40.10.40.80, , the required minimum **building setbacks** and separation of **main walls** are as shown in metres on Diagram 4 of By-law 1263-2022(OLT);
- (O) Despite Regulations 40.5.40.60(1), Clause 40.10.40.60 and (N) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
 - (i) balconies, balcony platforms, and railings and guardrails associated with balconies, to a maximum of 2.0 metres;
 - (ii) cornices, lighting fixtures, awnings, canopies, parapets, ornamental or architectural elements, architectural features, architectural fins, eaves, balustrades, wind mitigation screens and features, public art, arbours, patios, decorative features, stair landings, supportive columns, vents, stacks, wind screens and features, acoustic screens and features, window sills, and bay windows to a maximum of 3.0 metres;

- (iii) wheel chair ramps, underground garage ramps and their associated **structures**, underground garage stair enclosures, retaining walls, stairs, stair enclosures, window washing equipment; and
 - (iv) terraces and terrace platforms, guards and guardrails, railings, parapets, privacy and wind screens and landscape planters, to a maximum extent of the **main wall** of the **storey** below;
 - (v) Despite (O)(i) to (iv) above, balconies are not permitted on the west face of the east tower labelled "HT 120.0" on Diagram 4 of By-law 1263-2022(OLT) and on the east face of the west tower labelled "HT 113.0" on Diagram 4 of By-law 1263-2022(OLT) above the Canadian Geodetic Elevation of 185.08 metres;
- (P) 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 0.3 **parking spaces** for each bachelor **dwelling unit**, one-bedroom **dwelling unit** or two-bedroom **dwelling unit**;
 - (ii) a minimum of 0.35 **parking spaces** for each three- or more bedroom **dwelling unit**;
 - (iii) all **parking space** requirements for residential visitors and non-residential uses shall be satisfied by the provision of a **public parking** garage referred to in (iv) below; and
 - (iv) a minimum of 65 **parking spaces**, shall be provided on the lot within a **public parking** garage operated on a non-exclusive basis;
 - (v) a maximum of 5 "car-share parking spaces" may replace **parking spaces** otherwise required, subject to the following:
 - a. a reduction of four (4) residential occupant **parking spaces** will be permitted for each car-share parking space provided;
 - b. 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 or the building for short-term rental, including hourly rental; and
 - c. for the purpose of this exception, "car-share parking space" means a parking space exclusively reserved and signed for a car used only for "car-share" purposes;

- (Q) Despite Regulation 200.5.1.10(2), 15 **parking spaces** may have a minimum width of 2.4 metres, a minimum length of 5.4 metres, and a minimum height of 1.7 metres with or without obstructions;
- (R) Despite Regulations 200.15.1(1) to (4), accessible **parking spaces** must be provided in accordance with the following:
- (i) an accessible **parking space** must have the following minimum dimensions:
 - a. a minimum width of 3.4 metres;
 - b. a minimum length of 5.6 metres; and
 - c. a minimum 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 as shown on Diagram 1 and Diagram 2 of By-law 579-2017; and
 - (iii) accessible **parking spaces** must be located within 30 metres of a barrier free entrance to the **building** or passenger elevator that provides access to the first **storey** of the **building**;
- (S) Despite Regulations 230.5.1.10(4)(A), (C) and (5), a **stacked bicycle parking space** may be provided and maintained on the **lot** in accordance with the following dimensions:
- (i) a minimum length of 1.6 metres;
 - (ii) a minimum width of 0.27 metres; and
 - (iii) a minimum vertical clearance of 1.0 metres;
- (T) Despite Regulations 230.5.1.10(6) and 230.40.1.20(1) and (2), both 'long term' and 'short term' **bicycle parking spaces** may be located in a secured room, enclosure or bicycle locker in a **building**;
- (U) Despite Regulation 230.5.1.10(7), no change or shower facilities are required on the **lot**;
- (V) In addition to the places 'long term' **bicycle parking spaces** may be located as per Regulations 230.5.1.10(9), 'long term **bicycle parking spaces** may also be located on any level of a **building** below ground;
- (W) Despite Regulation 230.5.1.10(10), both a 'short term' and 'long term' **bicycle parking space** may be provided in a **stacked bicycle parking space**;

- (X) Despite Regulations 220.5.10.1(2), (3), (4), and (5), **loading spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) a minimum of one Type 'G' **loading space**;
 - (ii) a minimum of two Type 'C' **loading spaces**; and
 - (iii) a minimum of one Type 'B' **loading space**;
- (Y) The provision of **dwelling units** is subject to the following:
- (i) a minimum of 15 percent of the total number of **dwelling units** must have two bedrooms;
 - (ii) a minimum of 10 percent of the total number of **dwelling units** must have three or more bedrooms; and
 - (iii) an additional 15 percent of the total number of **dwelling units** must be a combination of 2-bedroom and 3-bedroom units;
 - (iv) any **dwelling units** with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
 - (v) if the calculation of the number of required **dwelling units** with two or three bedrooms results in a number with a fraction, the number shall be rounded down to the nearest whole number;
- (Z) Regulation 40.10.50.10(3) regarding **landscaping** requirements if abutting a **lot** in the Residential or Residential Apartment Zone Category does not apply;
- (AA) Regulation 40.10.90.40(2) regarding loading restrictions if adjacent to a **lot** in a Residential Zone Category or Residential Apartment Zone category does not apply;
- (BB) Regulation 40.10.100.10(2) regarding access to parking areas if adjacent to a **lot** in a Residential Zone Category or Residential Apartment Zone Category does not apply;
- (CC) Clause 40.10.90.10 regarding the location of a **loading space** does not apply.

Prevailing By-laws and Provisions: (none apply)

7. 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.

8. Temporary Use(s):

- (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of a temporary construction office on the **lot** for a period of not more than 3 years from the date this By-law comes into full force and effect.

9. Section 37 Provisions

- (B) 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 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.
- (C) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters and enter into an agreement or agreements prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (D) 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.

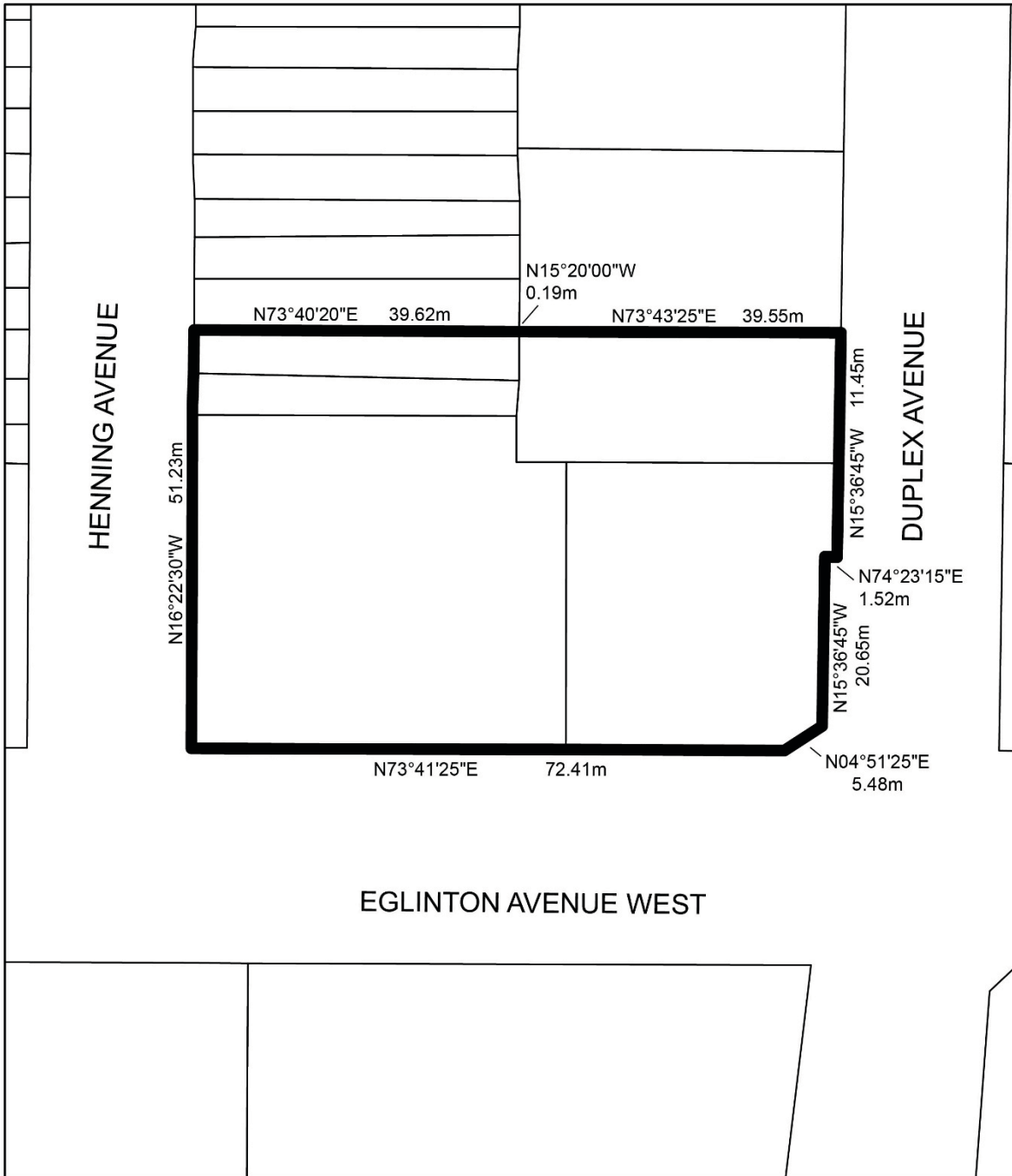
Pursuant to Ontario Land Tribunal Decision and Order issued on November 1, 2022 (effective August 12, 2022) in Tribunal Case OLT-21-001703 (formerly PL210193).

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 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 the issuance of any Building Permit, the owner shall enter into an agreement or agreements to the satisfaction of the City Solicitor pursuant to 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 to secure the community benefits below.
2. The community benefits recommended to be secured in the Section 37 Agreement are as follows:
 - (i) Prior to the issuance of the first above grade building permit the Owner shall provide a financial contribution to the City in the amount of \$4,750,000.00 to be allocated towards capital improvements within Ward 8 and/or the vicinity of the application site, as listed below, all to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the local Ward Councillor:
 - a. \$2,000,000 to be used for improvements to local park improvements in Ward 8, including Eglinton Park;
 - b. \$1,500,000 to be used for public realm improvements in Ward 8 in the Yonge Eglinton Secondary Plan area; and
 - c. \$1,250,000 to be used for local area improvements in the vicinity of the subject site; and
 - (ii) The financial contributions referred to in Part 2(i) above shall be indexed in accordance with the Statistics Canada Apartment Building Construction Price Index for Toronto calculated from the date the by-law comes into force to the date of submission of the finds by the Owner to the City;
 - (iii) In the event that the cash contribution referred to in Part 2(i) above has not been used for the intended purpose within three (3) years of the Zoning 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 local Ward Councillor, provided that the purpose is identified in the Toronto Official Plan or the Yonge Eglinton Secondary Plan and will benefit the community in the vicinity of the subject site;
3. The following are also recommended to be secure in the Section 37 Agreement as a legal convenience to support development:

- (i) the conveyance by the Owner to the City of the off-site parkland dedication of the properties at 61 Montgomery Avenue and 58 Helendale Avenue as well the above base improvements for such off-site parkland and the related development charge credit and an indexed-cash-in-lieu contribution of \$900,000 payable upon the issuance of the first above grade building permit in satisfaction of the Applicant's required parkland contribution pursuant to Section 42 of the Planning Act, with the location and configuration of the off-site parkland to be to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Ward Councillor. The off-site parkland to be transferred to the City shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments and is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor.
- (ii) streetscape improvements by the Owner on Duplex Avenue, including a sidewalk widening of approximately 3 metres at the intersection of Eglinton Avenue West and Duplex Avenue, and additional above-base streetscape and landscaping treatments adjacent and in the vicinity of the subject Site to be provided at the Owners's sole cost, all to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (iii) the conservation of the designated Heritage Building, a former Toronto Hydro building, at 50 Eglinton Avenue West, substantially in accordance with the following: in situ retention of the heritage structure to maintain the three-dimensional integrity through retention of the street facing elevations of the Heritage Building, partial reconstruction of the north and west return walls, and the use of setbacks and stepbacks adjacent to these elevations and integration of a 3.0 metre wide colonnade into the Heritage Building along the Duplex Avenue and Eglinton Avenue West frontages, accessed from the north end of the Heritage Building adjacent to the Duplex Avenue sidewalk, to facilitate pedestrian access to the future retail space fronting Duplex Avenue and Eglinton Avenue West via an interior building walkway, to expand the public realm, and to ensure safe and adequate pedestrian passage while conserving the Heritage Building.
- (iv) The Owner shall provide, at its own expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, a public access easements over the east-west driveway connection running along the northern boundary of the subject Site and connecting Duplex Avenue and Henning Avenue as generally shown on the Revised Plans by Turner Fleischer Architects dated March 23, 2022 and included as Confidential Attachment 2 to the report dated May 2, 2022 from the City Solicitor (Item CC43.16); and specific size, location, configuration, and design of the public access connection shall be determined through the Site Plan approval process and shall be secured in a Site Plan Agreement with the City to the satisfaction of the Director, Community Planning, North York District, and the Owner shall own, operate, maintain, and repair the area of the public access easement, all at the Owner's own expense.

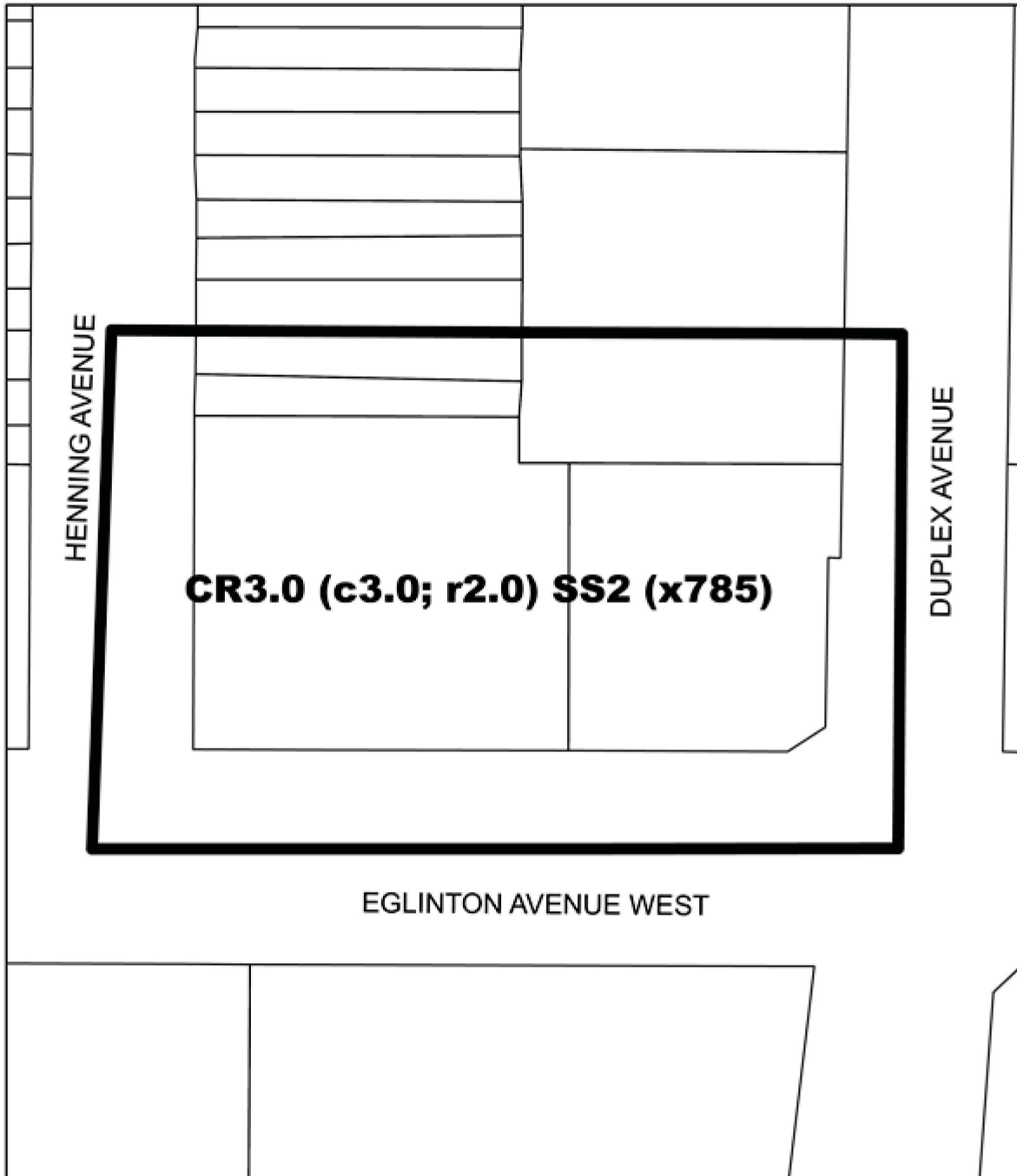


 **TORONTO**
Diagram 1

**50, 60 and 90 Eglinton Avenue West
and 17-19 Henning Avenue**


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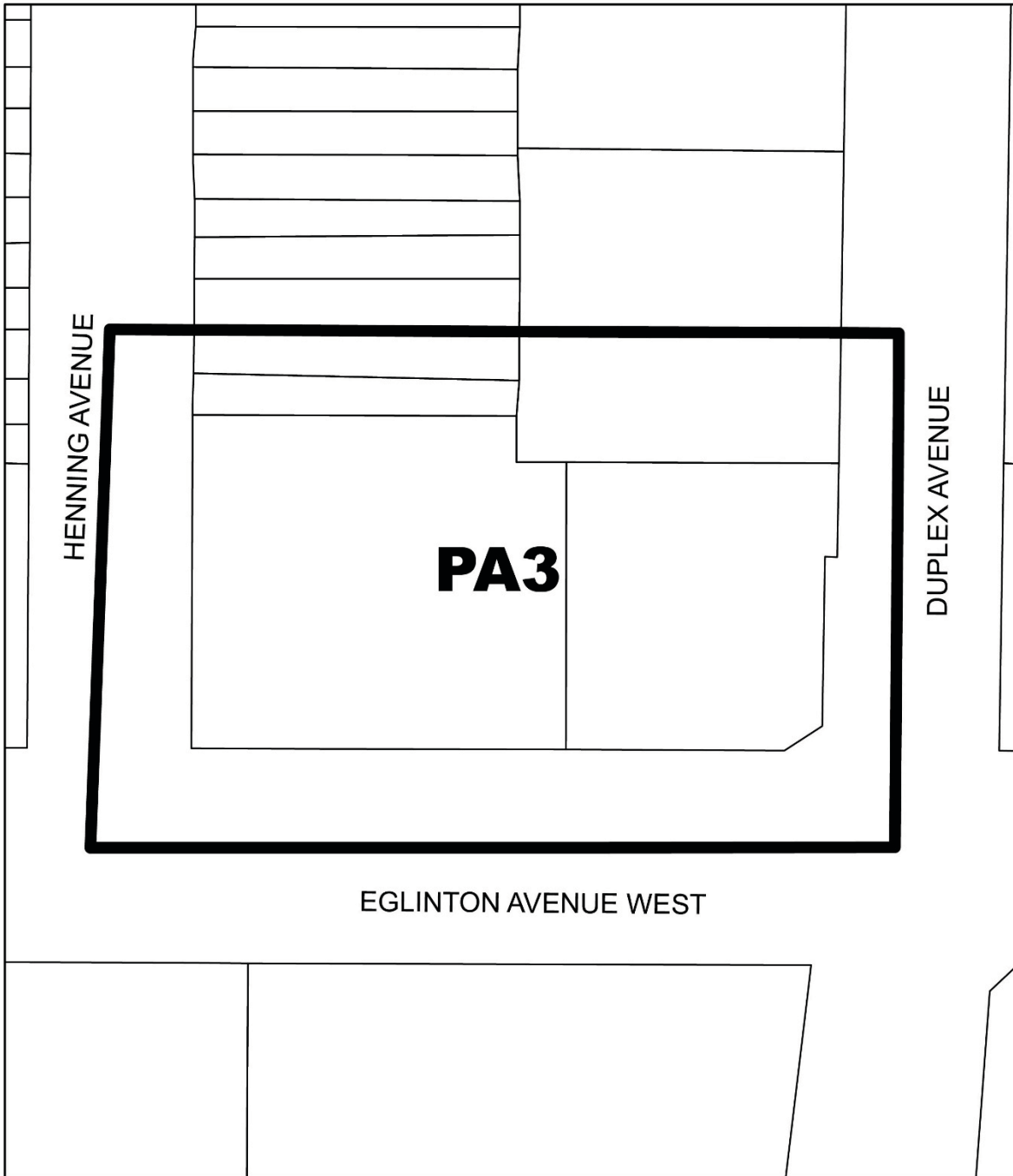




 **TORONTO**
Diagram 2

**50, 60 and 90 Eglinton Avenue West
and 17-19 Henning Avenue**
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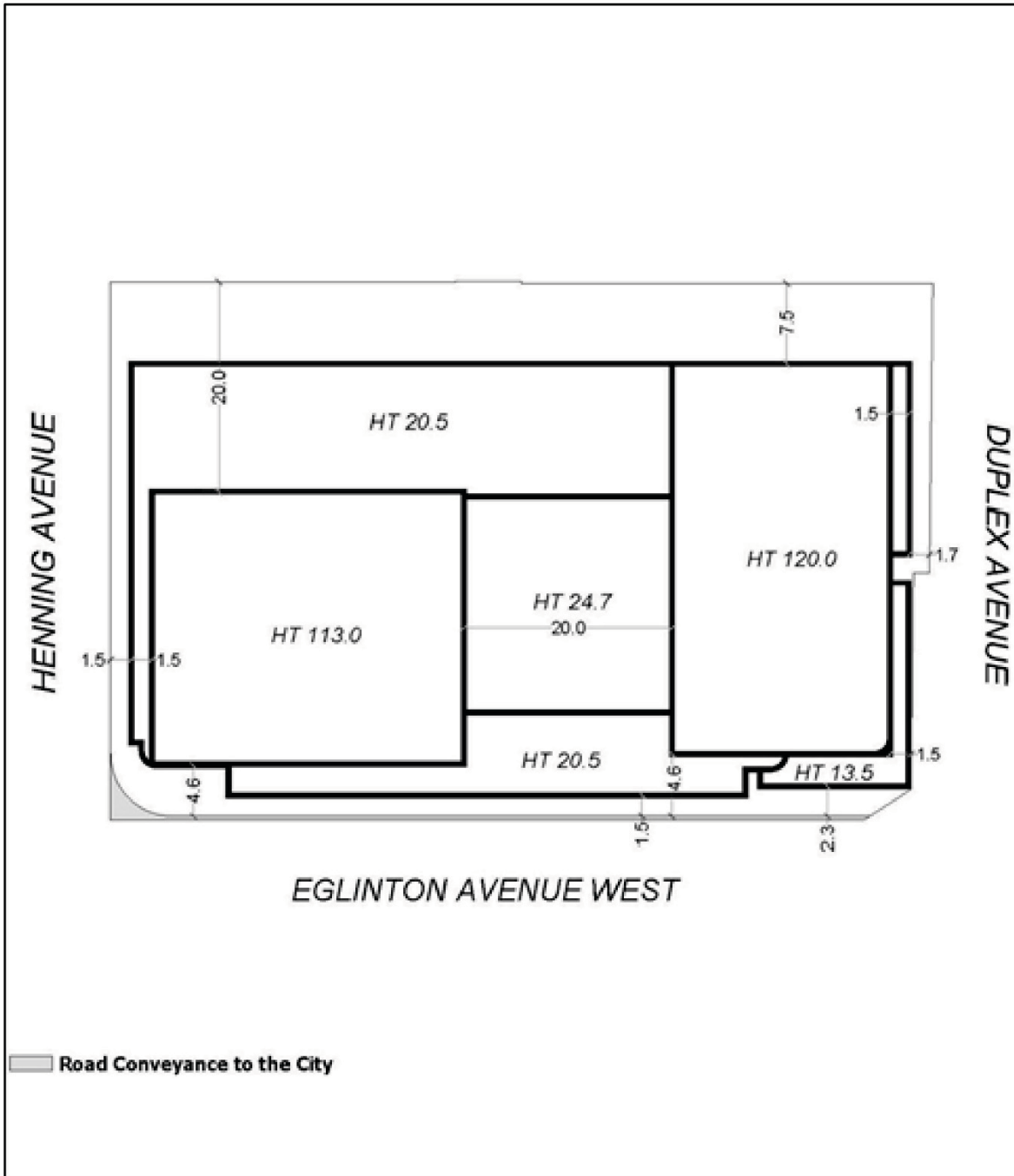

City of Toronto By-law 569-2013
Not to Scale
07/27/2022



 **TORONTO**
Diagram 3

**50, 60 and 90 Eglinton Avenue West
and 17-19 Henning Avenue**

File # 20 229115 NNY 08 02



 **TORONTO**
Diagram 4

50, 60 and 90 Eglinton Avenue West
and 17-19 Henning Avenue

File # 20 229115 NNY 08 02



City of Toronto By-law 569-2013
Not to Scale
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