

Authority: Ontario Land Tribunal Decision issued on March 2, 2022 and Order issued on August 16, 2022, effective as of August 12, 2022 in OLT File OLT-21-001776 (formerly PL180431)

CITY OF TORONTO

BY-LAW 1278-2022(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands known as 214 Soudan Avenue (including 214-226 Soudan Avenue and 19-21 Brownlow Avenue).

Whereas the Ontario Land Tribunal held a public hearing on January 12, 2022 under Section 34 of the Planning Act; and

Whereas the Ontario Land Tribunal Decision issued on March 2, 2022 in the Tribunal File OLT-21-001776 (formerly PL180431), approved amendments to the City of Toronto Zoning By-law 438-86, as amended, under Section 34 of the Planning Act; and

Whereas authority is given to Council by Section 34 and Section 36 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law; 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 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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 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 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;

The Ontario Land Tribunal Orders:

1. The lands subject to this By-law are outlined by heavy black lines on Map 1 attached to this By-law.
2. Except as otherwise provided herein, the provisions of By-law 438-86, as amended, shall continue to apply to the *lot*.
3. None of the provisions of Sections 2 with respect to the definition of words *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, and *parking space*, and none of the provisions of Section 4(2)a, 4(4), 4(6), 4(10), 4(12), 4(16), 4(17), 6(1), 6(3), 12(2)118 and 12(2)119 of By-law 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to *buildings* and *structures* and to prohibit certain uses of lands and the erection and use of certain *buildings* and *structures* in various areas of the City of Toronto", as amended, shall apply to the *lot* provided that the following is complied with:
 - (a) the *lot* comprises the lands delineated by the heavy line on Map 1 attached to and forming part of this By-law;
 - (b) the total *residential gross floor area* of the *building* does not exceed 15,340 square metres;
 - (c) The provision of dwelling units is subject to the following:
 - (i) a minimum of 15 percent of the total number of dwelling units must contain two bedrooms;
 - (ii) a minimum of 10 percent of the total number of dwelling units must contain three or more bedrooms;
 - (iii) an additional 15 percent of the total number of dwelling units must be a combination of 2-bedroom and 3-bedroom dwelling units, or dwelling units that can be converted to 2-bedroom and 3-bedroom dwelling units through the use of adaptable design measures;

- (vi) 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;
- (d) No portion of a *building* or *structure* erected on the *lot*, including mechanical penthouses, shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol HT on Map 2 attached to and forming part of this By-law, except for the following:
- (i) Elevator shafts, elevator overrun, elevator machine room, enclosed stairwells, and access ladders to 6.0 metres;
 - (ii) Equipment used for the functional operation of the *building*, such as electrical, utility, mechanical and ventilation equipment; window washing equipment, cooling tower, air handlers, exhaust fans, *structures* used for the functional operation of the *building*, such as, maintenance equipment storage, chimneys, vents, and water supply facilities, and *structures* that enclose, screen or cover the elements listed above, by a maximum of 6.0 metres;
 - (iii) Parapets, railings, dividers, architectural features ornamental elements, canopies, guard rails, lightning rods, mechanical and privacy screens, insulation and roof surface materials, *building* equipment and noise and wind mitigation structures, by a maximum of 2.5 metres; and
 - (iv) Landscaping features and structures used for outdoor *residential amenity space* or open air recreation, terraces, noise and wind mitigation structures, and planting and other landscaping structures or elements of a green roof, by a maximum of 3.0 metres;
- (e) No portion of any *building* or *structure* shall encroach into the required minimum *building* setbacks shown on Map 2, except for the following:
- (i) Ornamental and architectural elements, window projections, window washing equipment, mechanical and privacy screens, mechanical equipment, fences, trellises, railings, landscape features and awnings, to a maximum of 2.0 metres;
 - (ii) Lighting fixtures, window sills, eaves, vents and stacks, to a maximum of 1.0 metres; and
 - (iii) Balconies to a maximum of 1.8 metres;

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- (f) Notwithstanding (d) above, the encroachments permitted in (d) above shall only be permitted to encroach a maximum of 1.5 metres into the 9.5 metre minimum *building* setback from the north *lot* line shown on Map 2
- (g) *Parking spaces* shall be provided and maintained in a below-grade *parking garage* to serve the residential *dwelling units* within the *building* with the following minimum and maximum rates:
- (i) A minimum of 56 *parking spaces* and a maximum of 0.48 *parking spaces* per *dwelling unit* for residents of the *building*;
- (ii) A minimum of 6 *parking spaces* and a maximum of 0.045 *parking spaces* per *dwelling unit* for visitors of the *building*;
- (h) Despite the total number of resident *parking spaces* provided pursuant to the above-noted ratios, *parking spaces* for residents on the *lot* may be reduced at a rate of 4 *parking spaces* for each *car-share parking space* provided on the *lot*, provided the maximum permitted reduction is calculated using the following formula:
- 4 x (total number of *dwelling units* ÷ 60), rounded down to the nearest whole number;
- (i) A total of one *loading space-type G* shall be provided and maintained;
- (j) A minimum of 217 *bicycle parking spaces - occupant* and a minimum of 25 *bicycle parking spaces - visitor* shall be provided and maintained.
- (k) In addition to subsection 6 of this By-law, *parking spaces* for residents on the *lot* may be reduced at a rate of 1 *parking space* for each 5 *bicycle parking spaces* provided in excess of the minimum number of required *bicycle parking spaces* for the *lot* based on the standards contained in By-law 569-2013, as amended, provided the reduction is not greater than 20 percent of the total minimum *parking spaces* required in subsection 8 of this By-law;
- (l) notwithstanding the requirements of Section 2(1) of By-law 438-86 regarding *bicycle parking space - occupant* and *bicycle parking space - visitor*, a *stacked bicycle parking space* is permitted.
- (m) no *building* or *structure* shall be erected unless a minimum *residential amenity space* is provided as follows:
- (i) at least 4.0 square metres of indoor *residential amenity space* for each *dwelling unit* in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom; and
- (ii) at least 1.2 square metres of outdoor *residential amenity space* for each *dwelling unit* of which a minimum of 40 square metres is to be provided in

a location adjoining or directly accessible from an area that comprises indoor *amenity space*;

- (n) notwithstanding any provisions of By-law 438-86 or any other provision of this By-law any portion of the *lot* may also be used for a sales office;

4. For the purposes of this By-law:

- (1) "*bicycle parking space-occupant*" means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles, located on the ground level or below *grade*, and:
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres, by 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (iii) where the bicycles are to be parked in a bicycle stacker, has a horizontal dimension of at least 0.45 metres, by 1.8 metres and has a combined vertical dimension for two *stacked bicycle parking spaces* of at least 2.4 metres;
- (2) "*bicycle parking space-visitor*" means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles and:
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.45 metres, by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (iii) where the bicycles are to be parked in bicycle stacker, has a horizontal dimension of at least 0.45 metres, by 1.8 metres and has a combined vertical dimension for two *stacked bicycle parking spaces* of at least 2.4 metres; and
 - (iv) may be located outdoors or indoors, on the ground level or below *grade*;
- (3) "*grade*" shall mean 160.5 metres Canadian Geodetic Datum;
- (4) "*height*" shall mean the vertical distance between *grade* and the highest point of the roof, except for those elements prescribed in sections 3(c);

- (5) "*lot*" shall mean those lands delineated by heavy lines on Map 2 attached to and forming part of this By-law;
 - (6) "*residential gross floor area*" shall mean gross floor area as calculated by regulation 10.5.40.40(4) of By-law 569-2013;
 - (7) "*stacked bicycle parking space*" means a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*; and
 - (8) all terms appearing in italics shall have the same meaning as those terms have for the purpose of the aforesaid By-law 438-86, except as hereinbefore provided.
5. Notwithstanding any severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
6. Holding Provisions:
- (a) The lands zoned with the "(H)" symbol delineated by heavy lines on Map 3 attached to and forming part of this By-law must not be used for any purpose other than those uses and buildings existing on the site as of date of passing this By-law on the lands shown on Map 1 attached to this By-law until the "(H)" symbol has been removed.
 - (b) An amending by-law to remove the "(H)" symbol may be enacted by City Council with respect to lands when the following conditions have been fulfilled to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and Council:
 - (i) All outstanding engineering matters identified in the memorandum from Engineering and Construction Services dated August 18, 2020, including providing an updated Functional Servicing Report and Stormwater Management Report, have been addressed by the *owner* to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - (ii) The *owner* has entered into an agreement or agreements or otherwise secured the design, construction, and the provision of financial securities for any required upgrades or improvements to the existing municipal infrastructure should it be determined that improvements or upgrades are required to support the development as may be identified in the accepted Functional Servicing Report, Stormwater Management Report, and Hydrogeological Assessment, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Toronto Water; and

- (iii) The *owner* has provided to the City a letter from a qualified wind consultant confirming that the amendments to the west façade of the building will not result in adverse wind impacts, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
7. Pursuant to section 37 of the Planning Act and subject to compliance with this By-law, the increase in *height* of development on the *lot* contemplated herein beyond the otherwise permitted in By-law 438-86 is permitted in return for the provision by the *owner*, at the *owner's* expense of certain facilities, services and matters set out in Schedule A subject to and in accordance with an agreement pursuant to subsection 37(3) of the Planning Act that is in a form and registered on title to the *lot*, to the satisfaction of the City Solicitor.
8. 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 same; and
9. The *owner* shall not use, or permit the use of, a building or structure on the site 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 March 2, 2022 and Order issued on August 16, 2022, effective as of August 12, 2022 in OLT File OLT-21-001776 (formerly PL180431).

SCHEDULE A

Section 37 Provisions

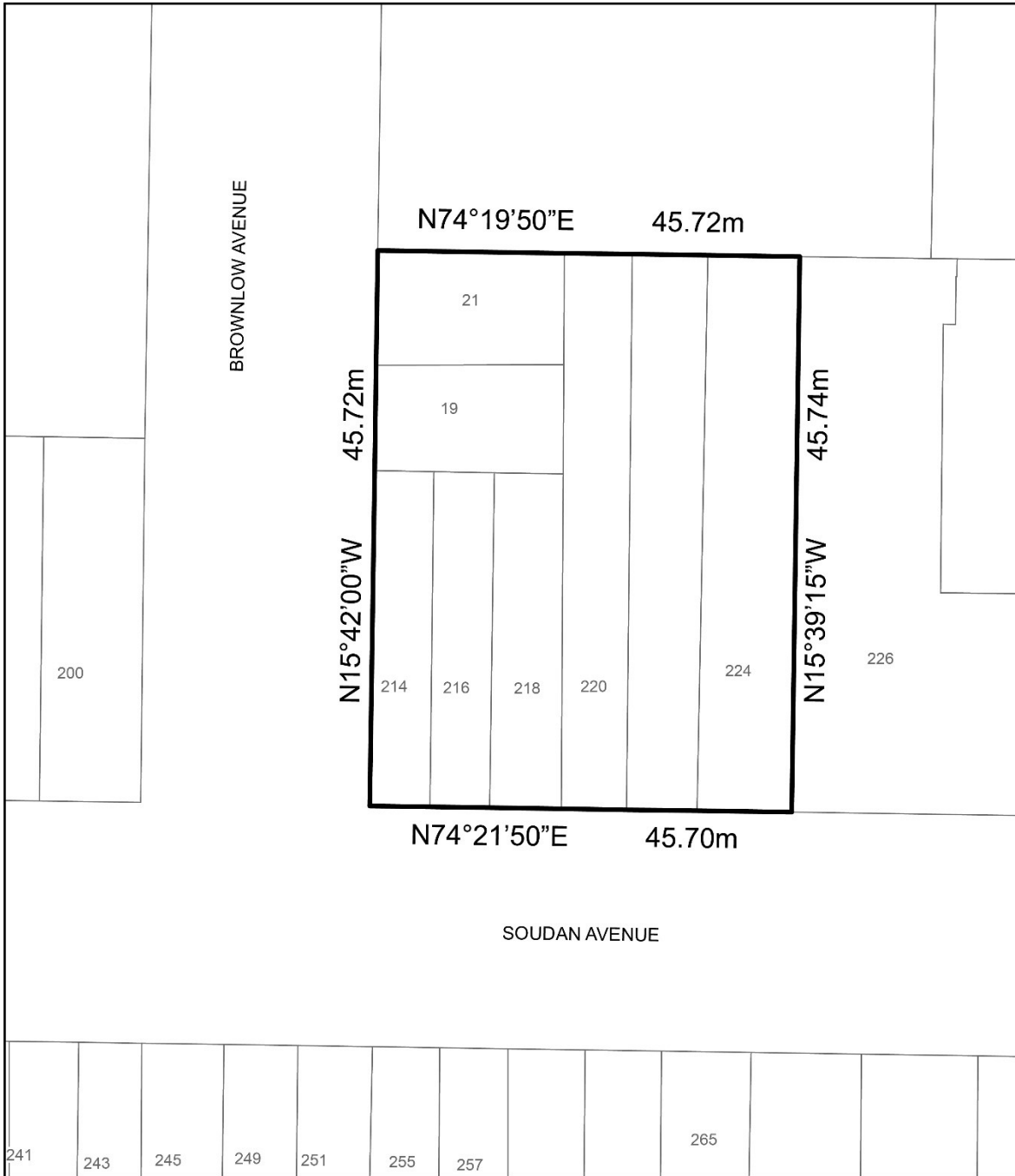
The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

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 facilities, services or matters set out below.
2. The *owner* shall provide community benefits as follows:
 - (a) Prior to the issuance of the first above-grade building permit, the owner shall make a cash contribution to the City in the amount of \$1,500,000.00 to be directed towards the provision of local area improvements in the vicinity of the site to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - (b) the cash contributions referred to in Part 2(a) above shall be increased upwards by indexing in accordance with the Statistics Canada Construction Price Index for Toronto, calculated from the date the by-law comes into force and effect to the date the payment is made to the City;
 - (c) in the event the cash contributions referred to in Part 2(a) above has not been used for the intended purposes within three (3) years of the By-laws coming into full force and effect, the cash contributions 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 purpose is identified in the Toronto Official Plan and will benefit the community in Ward 12; and
3. The following matters are also to be secured in the Section 37 Agreement as a legal convenience to support development:
 - (a) 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 privately-owned, publicly accessible spaces located along the southern and western frontages of the Subject Property as generally shown on the Revised Plans by SRM Architects Inc. dated October 18, 2021, in Public Attachment 2 to the report dated November 2, 2021 from the City Solicitor to City Council (Item CC37.2) and have a minimum depth of not less than 9 metres from the property line along Soudan Avenue and not less than 5 metres from the property line along

Brownlow Avenue; prior to the issuance of site plan approval, the *owner* shall convey for nominal consideration an easement along the surface of the privately-owned, publicly accessible spaces lands to the City; the specific location, configuration, and design of the privately-owned, publicly accessible spaces area 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, Toronto and East York District; the *owner* shall own, operate, maintain, and repair the privately-owned, publicly accessible spaces and shall be required to install and maintain a sign stating that members of the public shall be entitled to use the privately-owned, publicly accessible spaces area, all at the *owner's* own expense;

- (b) the *owner* agrees to continue to work with the City through the Site Plan Approval process to refine the driveway design and consolidate the proposed curb cuts on Brownlow if possible, to the satisfaction of the General Manager, Transportation Services;
- (c) the *owner* agrees to implement through the Site Plan Approval process all wind mitigation measures identified in an updated report from a qualified wind consultant, including updated wind tunnel testing as may be required, all to the satisfaction of the Chief Planner and Executive Director, City Planning; and
- (d) prior to the issuance of Site Plan Approval, the *owner* shall provide a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning.

Map 1

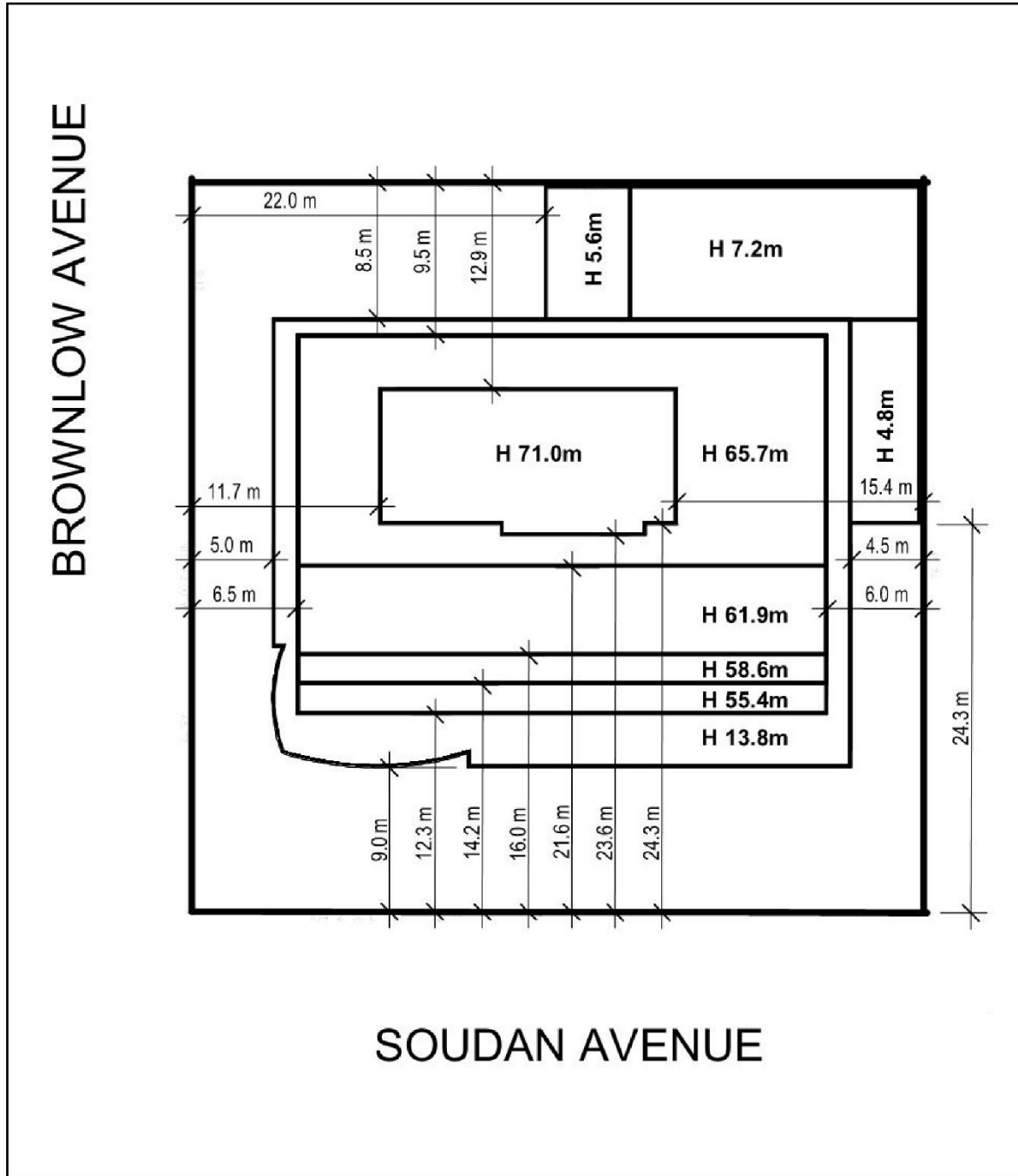


 **TORONTO**
Map 1

700-730 Mount Pleasant Road, 214-226 Sudan Avenue,
19-21 Brownlow Avenue

File # 17 257139 STE 22 0Z

Map 2



Map 3

