

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 1279-2022(OLT)**

**To amend Zoning By-law 569-2013, 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, in its Decision issued on March 2, 2022 and its Order issued on August, 16, 2022, effective as of August 12, 2022 in file OLT-21-001776 (formerly PL180431), in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 214-226 Soudan Avenue and 19-21 Brownlow Avenue; 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law;
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions;
3. Zoning By-law 569-2013, as amended, is further amended by 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 R (d0.6) (x218) and R (d0.6) (x914) to a zone label of (H) R (d0.6) (x218) as shown on Diagram 2 attached to this By-law; and
4. Zoning By-law 569-2013, as amended, is further amended by amending and replacing Article 900.11.10 Exception Number R (x218) so it reads:

**(218) Exception R 218**

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 214-226 Soudan Avenue and 19-21 Brownlow Avenue, if the requirements of By-law 1279-2022(OLT) are complied with, a **building or structure** may be constructed, used or enlarged in compliance with regulations (B) to (O) below;
- (B) Despite regulation 10.10.40.40, the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 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.
  - (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;
- (D) Despite regulation 10.5.40.10(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 160.5 metres and the elevation of 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" as shown on Diagram 3 of By-law 1279-2022(OLT);
- (F) Despite Regulations 10.5.40.10(3) and (4) and 10.10.40.10(9) and (10) and (E) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 3 of By-law 1279-2022(OLT) as follows:
- (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, architectural features ornamental elements, canopies, guard rails, 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 outside **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;
- (G) Regulation 10.10.40.30(1), with respect to **building depth**, does not apply;

- (H) Despite Clauses 10.5.40.70, 10.10.40.70, and 10.10.40.80 the required minimum **building setbacks** and minimum separation of **main walls** are as shown in metres on Diagram 3 of By-law 1279-2022(OLT);
- (I) Despite Clauses 10.5.40.50, 10.5.40.60 and 10.10.40.60 and (H) above, the following elements may encroach into the required minimum **building setbacks** and main wall separation distances as follows:
- (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;
- (J) Despite (I) above, the elements permitted in (I) above located above the 4th **storey** may only encroach to a maximum of 1.5 metres into the 9.5 metre minimum **building setback** from the north **lot line** as shown on Diagram 3 of By-law 1279-2022(OLT);
- (K) Regulations 10.5.50.10(4) and (5), with respect to **landscaping**, do not apply;
- (L) Despite clauses 10.5.40.50 and 10.10.40.50(1)(A), **amenity space** must be provided and maintained in accordance with the following:
- (i) A minimum rate of 4.0 square metres per **dwelling unit** is indoor **amenity space**; and
  - (ii) A minimum rate of 1.2 square metres per **dwelling unit** is outdoor **amenity space**, 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**;
- (M) Despite regulations 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained in accordance with the following:
- (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 to the **building**;
- (N) Despite Regulation 200.5.1.10(2), a maximum of 10% of the provided **parking spaces** may have minimum dimensions of:

- (i) length of 5.0 metres;
  - (ii) width of 2.4 metres;
  - (iii) vertical clearance of 1.9 metres;
- (N) Despite Regulation 200.5.10(1), and (M) above, "car-share parking spaces" may replace **parking spaces** otherwise required for residential occupants, subject to the following:
- (i) a reduction of four resident occupant **parking spaces** will be permitted for each "car-share parking space" provided and that the maximum reduction permitted be capped by the application of the following formula:
    - (a) four multiplied by the total number of **dwelling units** divided by 60, and rounded down to the nearest whole number;
  - (ii) 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
  - (iii) 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.

Prevailing By-laws and Prevailing Sections:

- (A) Section 12 (2) 227 of the former City of Toronto By-law 438-86
5. Despite any future severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division has occurred.
6. 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 sales 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, provided:
    - (i) The maximum height of the temporary sales office is 3 metres.
7. Holding Provisions
- (A) The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 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 Diagram 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.

## 8. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the **owner**, at the **owner's** expense of the facilities, services and matters set out in Schedule A 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 and enter into an agreement or agreements prior to the issuance of a building permit, the issuance of such permit shall be dependent on the satisfaction of the same; and
- (C) 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.

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**SCHEDULE A****Section 37 Provisions**

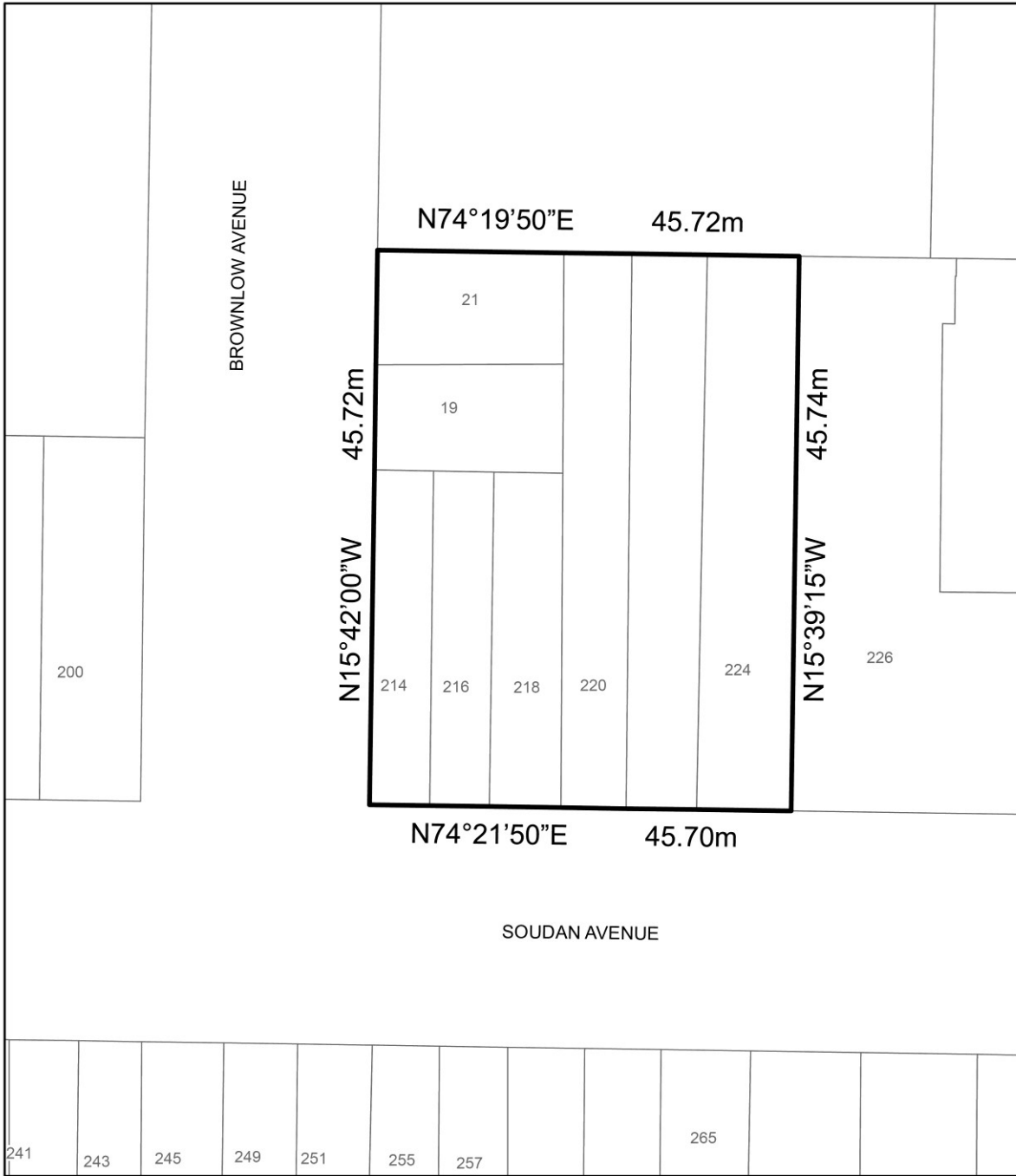
The facilities, services and matters set out below are required to be provided by the **owner** of the **lot** at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing 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 to City Council from the City Solicitor (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.

Diagram 1

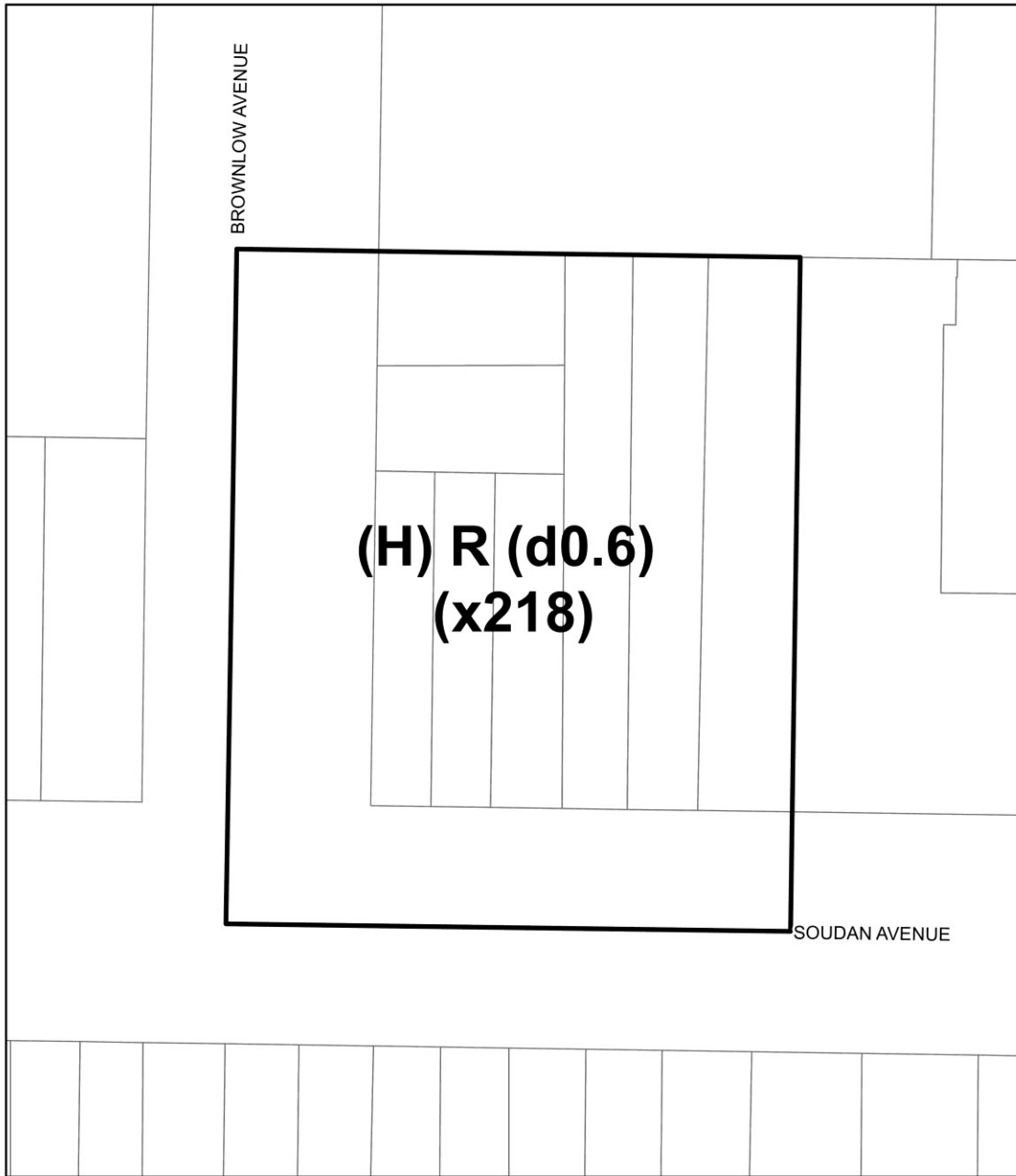


 **TORONTO**  
Diagram 1

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

File # 17 257139 STE 22 0Z

**Diagram 2**



 **TORONTO**  
Diagram 2

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

File # 17 257139 STE 22 0Z

Diagram 3

