

Authority: Ontario Land Tribunal Decision/Order issued on August 5, 2022, effective July 26, 2022 in Case OLT-22-003344

CITY OF TORONTO
BY-LAW 87-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands known municipally in the year 2021 as 301-319 King Street West.

Whereas the Ontario Land Tribunal, pursuant to its Decision/Order in respect of Case Number OLT-22-003344 issued on August 5, 2022 upon hearing an appeal under Subsection 34(11) of the Planning Act, R.S.O. c. P.13, as amended, deems it advisable to amend By-law 569-2013, as amended, for the City of Toronto with respect to lands known as 301-319 King Street West; and

Whereas pursuant to Section 36 of the Planning Act, Council may, in a by-law passed under Section 34 of the Planning Act, by the use of a holding symbol "(H)" in conjunction with a use designation, set out the use to which lands, buildings or structures may be put prior to and following the removal of the holding symbol "(H)"; and

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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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

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 CRE (x80) to a zone label of (H)CRE (x54), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number 54 so that it reads:

(54) Exception CRE 54

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 301-319 King Street West, if the requirements in Section 7 and Schedule A of By-law 87-2023(OLT) are complied with a **building** or **structure** may be constructed, used or enlarged in compliance with (B) to (N) below.
- (B) The combined residential **gross floor area** and non-residential **gross floor area** on the **lot** shall not exceed 32,000 square metres, provided that:
 - (i) The residential **gross floor area** on the **lot** does not exceed 28,600 square metres; and
 - (ii) The non-residential **gross floor area** of the **building** shall not exceed 3,400 square metres.
- (C) Despite Regulation 50.10.40.1(1), the elevation of the first **storey** of the **building** must be at or within 0.75 metres above the height of the public sidewalk abutting the site.
- (D) Despite Regulations 50.5.40.10(1) and 50.5.40.10(2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 85.68 metres and the elevation of the highest point of the **building** or **structure**.
- (E) Despite Clauses 50.5.40.10 and 50.10.40.10, the height of each portion of a **building** or **structure** must not exceed the height in metres as specified by the numbers following the symbol HT as shown on Diagram 3 of By-law 87-2023(OLT) except for the following projections:

- (i) Antennae, architectural features, bollards, canopies, chimneys, cornices, eaves, fences, **green roof**, guardrails, landscape and public art features, lighting fixtures, ornamental elements, parapets, pipes, planters, railings, retaining walls, screens, soffits, stacks, stairs, stair enclosures, terraces, trellises, vents, wind protection, window sills, window washing equipment, and the erection or use of **structures** on any roof used for outside or open air recreation, including **amenity space**, and for maintenance, safety, wind or **green roof purposes**, to a maximum of 2.0 metres; and
 - (ii) Enclosures housing mechanical elements and ducts, elevators, elevator enclosures and overruns and associated **structures** to a maximum of 5.0 metres.
- (F) Despite Regulation 50.5.40.70(1), Clause 50.10.40.70 and Section 600.10, the required minimum **building setbacks** above ground are as shown in metres on Diagram 3 of By-law 87-2023(OLT); and
- (i) where **building setbacks** are shown as "Average" on Diagram 3 of By-law 87-2023(OLT), the average **building setback** must be equal to or greater than the required minimum **building setback** shown on Diagram 3.
- (G) Despite Clauses 50.5.40.70 and 50.10.40.70 and Section 600.10, the following **building** elements and **structures** are permitted to encroach into the required minimum **building setbacks** shown on Diagram 3 of By-law 87-2023(OLT):
- (i) Architectural features, awnings, bicycle racks, canopies, cornices, decks, eaves, landscape and public art features, lighting fixtures, ornamental elements, planters, platforms, porches, retaining walls, signage, soffits, stairs, stair enclosures, terraces, underground garage ramps and their associated **structures**, walkways, wheel chair ramps, wind protection, window sills, window washing equipment, and the erection or use of **structures** on any roof used for outside or open air recreation, including **amenity space**, and for maintenance, safety, wind or **green roof** purposes, to a maximum of 2.0 metres;
 - (ii) Enclosures housing mechanical elements and ducts, elevators, elevator enclosures and associated **structures** to a maximum of 5.0 metres; and
 - (iii) Balconies and enclosed balconies are permitted to project beyond the heavy lines shown on Diagram 3 for **the main walls** as indicated on Diagram 3.
- (H) Clause 50.10.50.80 regarding the separation of **main walls** does not apply.
- (I) Despite Regulation 200.5.10.1(1), **parking spaces** must be provided in accordance with the following:

- (i) a minimum of 0.15 **parking spaces** per **dwelling unit** for residents;
 - (ii) a minimum of 0.07 **parking spaces** per **dwelling unit** for residential visitors; and
 - (iii) a minimum of 7 **parking spaces** for non-residential uses.
- (J) Despite Regulation 200.15.1(4) accessible **parking spaces** must be located on the same level as a barrier free passenger elevator that provides access to the first **storey** of the **building**.
- (K) Despite Regulation 220.5.10.1(1), a minimum of 1 Type "B" **loading space** and a minimum of 1 Type "G" **loading space** must be provided.
- (L) Despite Regulation 230.5.1.10(7), shower and change facilities are not required.
- (M) Despite Regulation 230.5.10.1(1), **bicycle parking spaces** must be provided in accordance with the following:
- (i) the minimum number of "short-term" **bicycle parking spaces** to be provided is 3 plus 0.2 **bicycle parking spaces** for each 100 square metres of non-residential **gross floor area**; and
 - (ii) the minimum number of "long-term" **bicycle parking spaces** to be provided is 0.2 **bicycle parking spaces** for each 100 square metres of non-residential **gross floor area**.
- (N) Section 600.20 regarding priority retail streets does not apply.

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

5. Holding Symbol

- (A) Despite Regulation 3. (A) of this By-law, until such time as Diagram 2, attached to this By-law has been amended to remove the "h" HOLDING SYMBOL from all or any part of the **lot**, only the following uses shall be permitted:
- (i) those uses and existing **building(s)** on the **lot** on the date of the passing of this By-law; and
 - (ii) those uses permitted within the CRE category of Zoning By-law 569-2013, as amended.
- (B) Lands zoned with an "h" HOLDING SYMBOL shall not be used for any purpose other than as provided in Regulation 5 (A) of this By-law until the "h" HOLDING SYMBOL has been removed. Any amending by-law to remove the "h" HOLDING SYMBOL in whole, or in part, shall be enacted by City Council when the following matters have been provided, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor:

- (i) the City and the owner have entered into and registered on title to the Subject Site a Section 37 Agreement securing as a community benefit an indexed cash contribution of \$3,200,000.00 to be paid by the owner prior to the issuance of the first above-grade building permit for the proposed development which is to be allocated for community services and facilities in Ward 10 at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, and securing other matters of legal convenience, all to the satisfaction of the City Solicitor;
 - (ii) the City and the owner have entered into and registered on title to the Subject Site a Heritage Easement Agreement for the properties at 301-303, 305, 309, and 311, 315, and 319 King Street West substantially in accordance with the architectural plans dated October 28, 2019 included as Public Appendix 1 to Public Attachment 1 to the City's Report for Action with Confidential Attachment dated December 11, 2019 and in accordance with the Conservation Plan prepared by P. Goldsmith dated March 5, 2021, to the satisfaction of the Senior Manager, Heritage Preservation Services, all to the satisfaction of the City Solicitor;
 - (iii) all outstanding comments set out in Section A of the memorandum dated February 9, 2018, from the Manager, Development Engineering, Toronto and East York District, have been addressed at no cost to the City and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - (iv) the owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing and Stormwater Management Report, as may be recommended in the accepted Functional Servicing and Stormwater Management Report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
6. Despite any existing or future consent, severance, partition, division or municipal conveyance of the lot, the provisions of 87-2023(OLT), shall apply to the lands, as identified on Diagram 1, as if no consent, severance, partition, division or conveyance occurred.
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 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; and

- (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.

Ontario Land Tribunal Decision/Order issued on August 5, 2022, effective July 26, 2022 in Case OLT-22-003344.

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 shown on Diagram 1 of this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act to be registered on title to 301-319 King Street West, whereby the owner agrees as follows:

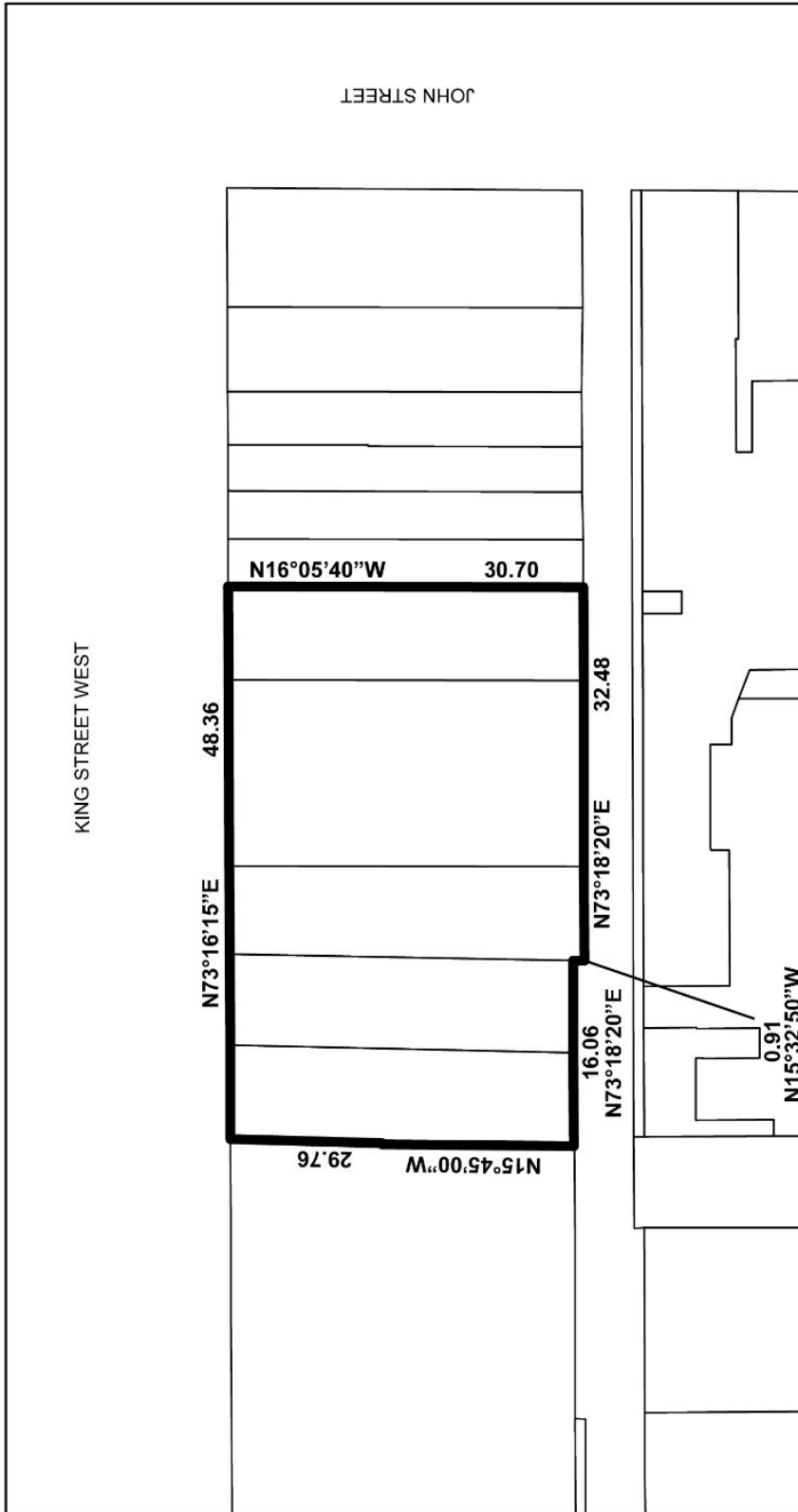
1. Prior to the issuance of any Building Permit, the owner shall enter into an agreement or agreements to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the facilities, services or matters set out below.

Financial Contribution

2. Prior to issuance of the first above-grade building permit, the owner shall make a cash contribution to the City in the amount of three-million- two-hundred thousand dollars [\$3,200,000.00 CAN] (the "Cash Contribution") be allocated towards Community Services and Facilities in Ward 10 at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
3. The Cash Contribution set out in Clause 2 shall 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 Table: 18-10-0135-01, or its successor, calculated from the date the by-law comes into force to the date of payment of the Cash Contribution by the owner to the City.
4. In the event the Cash Contribution in Clause 2 has not been used for the intended purpose within three (3) years of the 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 Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity.
5. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support the development:
 - (A) Prior to final site plan approval, the conveyance to the City for nominal consideration of the required 0.87 metre strip of land between the existing commercial lane to the south of the subject site and the proposed building face for a lane widening to be dedicated to the City at no cost to the City, free and clear, above and below grade, of all easements, encumbrances and encroachments and in acceptable environmental condition, all to the satisfaction of the General Manager, Transportation Services; and

- (B) The owner shall make the best commercial efforts to provide at least three commercial restaurant uses on the ground floor of the subject site, all to the satisfaction of the City Solicitor.

Diagram 1



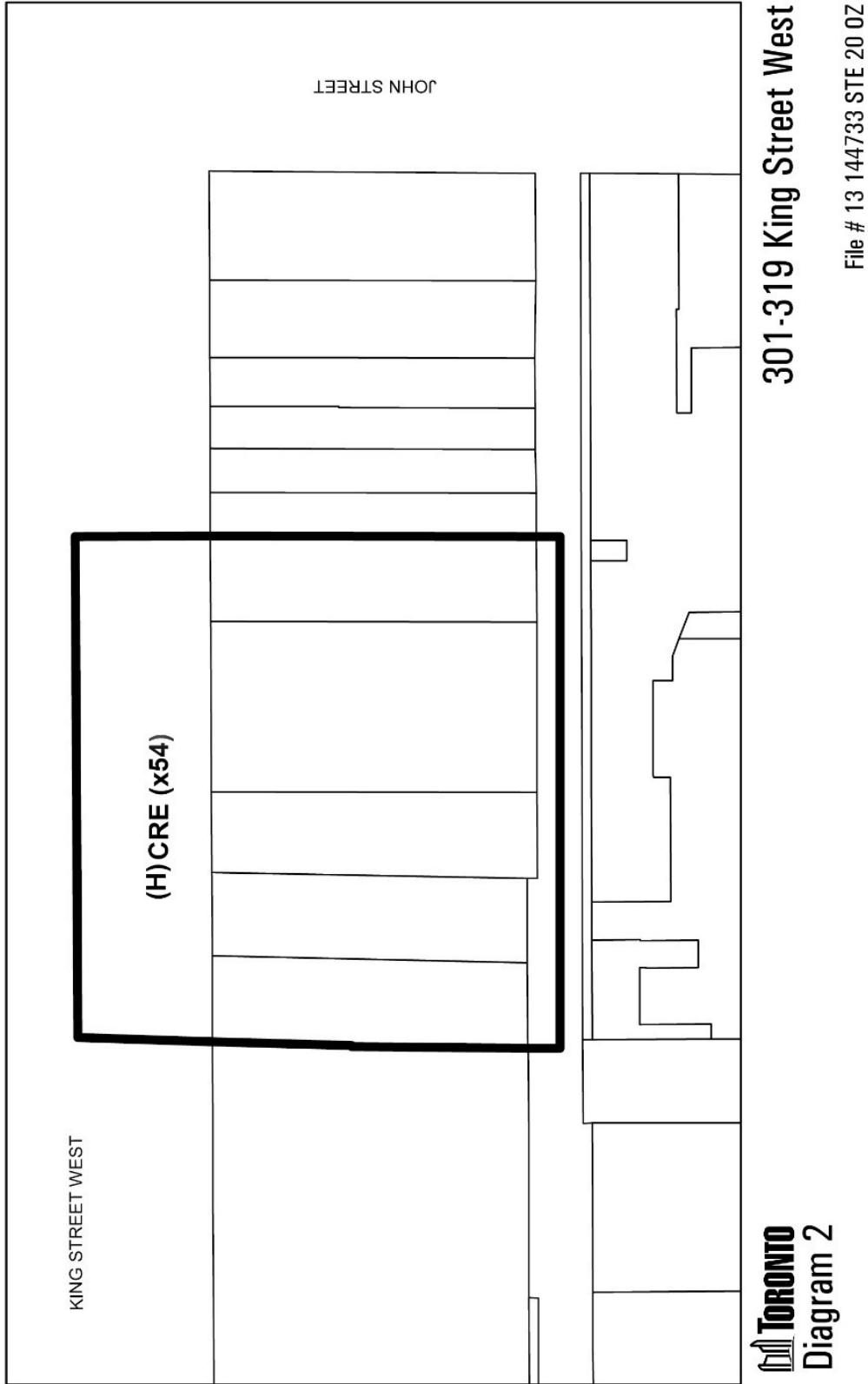
301-319 King Street West

File # 13 144733 STE 20 0Z



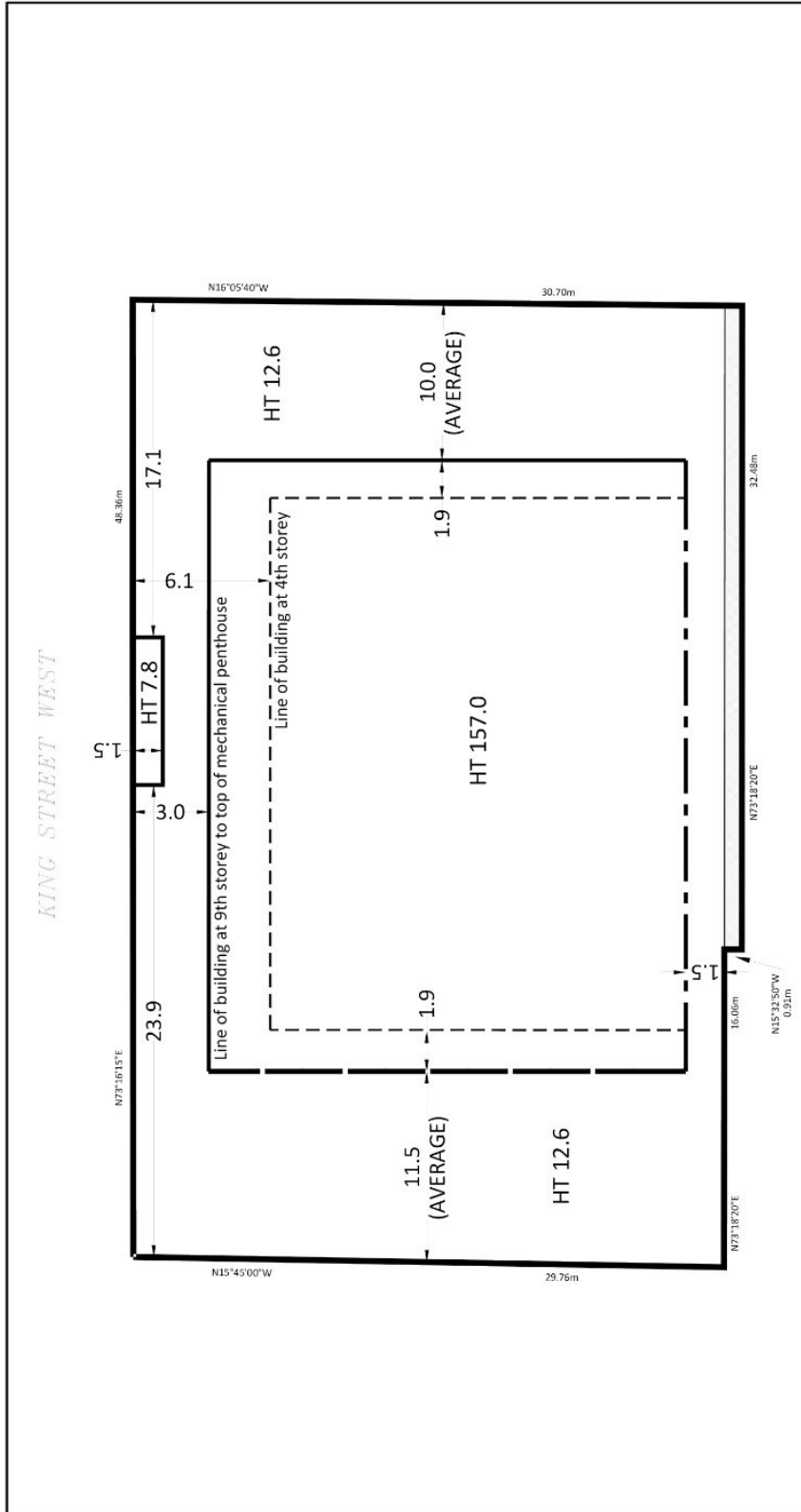
City of Toronto By-law 569-2013
Not to Scale
07/20/2022

Diagram 2



City of Toronto By-law 569-2013
Not to Scale
07/22/2022

Diagram 3



301-319 King Street West

File # 13 144733 STE 20 0Z

-  Area affected by this by-law
-  Area of 0.87m laneway widening
-  Main wall where 0.5 m balcony projection permitted
-  Main wall where 1.5 m balcony projection permitted



City of Toronto By-law 569-2013
 Not to Scale
 07/21/2022