

Authority: Ontario Land Tribunal Decision issued
October 17, 2019 and Order issued August 12, 2022 in
Tribunal File PL171476

CITY OF TORONTO

BY-LAW 343-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2022 as 193-195 McCaul Street.

Whereas the Ontario Land Tribunal pursuant to its Decision issued on October 17, 2019 and its Order issued on August 11, 2022 in respect of Tribunal File PL171476, 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 By-law 569-2013, as amended, for the City of Toronto with respect to lands known as 193-195 McCaul Street; 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/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 provides that where an owner of lands elects to provide facilities, services or matters in return for an increase in height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with such facilities, services or matters; and

Whereas the owner has elected to provide the facilities, services and matters as are hereinafter set forth; and

Whereas the increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the aforesaid lands by City of Toronto By-law 569-2013 is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner and the City of Toronto (hereinafter referred to as the "City");

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. Zoning By-law 569-2013, as amended, is further amended by amending and replacing the zone label on the Zoning By-law Map in Section 990.10 respecting the lands municipally known in the year 2018 as 193-195 McCaul Street, as outlined in heavy black lines, to CR 2.5 (c1.0; r2.0) SS1 (768), as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding the lands municipally known in the year 2019 as 193-195 McCaul Street to the Policy Area Overlay Map in Section 995.10.1, and applying a PA1 Policy Area Overlay label to these lands, as shown on Diagram 3 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands municipally known in the year 2019 as 193-195 McCaul Street to the Height Overlay Map in Section 995.20.1, and applying an HT 14.0 height label to these lands, as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands municipally known in the year 2019 as 193-195 McCaul Street to the Rooming House Overlay Map in Section 995.40.1, and applying a B3 Rooming House label to these lands, as shown on Diagram 5 attached to this By-law.
7. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number (768) as follows:

(768) Exception CR 768

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 193-195 McCaul Street, if the requirements of Section 8 and Schedule A of By-law 343-2023(OLT) are complied with, a **building, structure**, addition or enlargement is permitted in compliance with (B) to (X) below;
- (B) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** must not exceed 18,800 square metres, subject to the following:
 - (i) the total **gross floor area** for residential uses must not exceed 18,400 square metres; and
 - (ii) the non-residential **gross floor area** must not exceed 400 square metres;
- (C) Despite Regulation 40.5.40.40(3)(H) and (B) above, a mechanical penthouse may be located on two **storeys** at the top of the **building**, the lower **storey** of which may be on the same **storey** as **dwelling units**, provided such **dwelling units** are no higher than 66.0 metres above **established grade**;
- (D) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 98.35 metres and the elevation of the highest point of the building or structure;

- (E) Despite regulations 40.5.40.10(1) and 40.10.40.10(1), the permitted maximum height of a building or structure is the number in metres following the letters "HT" on Diagram 6 of By-law 343-2023(OLT);
- (F) Despite Regulation 40.10.40.10(5) the required minimum height of the first **storey**, as measured between the floor of the first **storey** and the ceiling of the first **storey**, is 2.7 metres;
- (G) Despite Regulations 40.5.40.10(3), (4), (5), (6) and (7) and (E) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 6 of By-law 343-2023(OLT):
- (i) wind screens, acoustic screens, privacy screens, railings and dividers, elevator overruns, mechanical equipment and any associated enclosure structures, pergolas, trellises, stairs, window washing equipment, chimneys, vents to a maximum of 3.0 metres; and
 - (ii) parapets, balustrades, fences, guard rails, terraces, lightning rods, light fixtures, architectural features, landscaping, roof drainage, roof assemblies and elements of a **green roof** to a maximum of 1.5 metres;
- (H) Despite regulation 40.10.40.70(1), the required minimum **building setbacks** are shown on Diagram 6 of By-law 343-2023(OLT);
- (I) Despite Regulations 40.10.40.60(1), (2), (3), (5), (6), (7) and (8), and (H) above, the following **building** elements may encroach into the required minimum **building setbacks**:
- (i) balconies to a maximum of 1.8 metres, which may be located only on the west façade of the **building** or **structure**, between a height of 28.0 metres and 55.0 metres above **established grade**;
 - (ii) balconies to a maximum of 2.3 metres may be located only on the west façade of the **building** or **structure**, between a height of 55.0 metres and 62.0 metres above **established grade**;
 - (iii) non-structural ornamental or architectural cladding to a maximum of 0.35 metres; and
 - (iv) cornices, light fixtures, ornamental elements, parapets, art and landscape features, pillars, trellises, terraces, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, awnings and canopies, and underground garage ramps and associated structures to a maximum of 3 m;
- (J) Balconies are not permitted, other than as provided for in (I) (i) and (ii) above;

- (K) Regulation 600.10.10(1), with respect to tall **building** setbacks, does not apply;
- (L) Despite Regulation 40.10.40.1 (1), **amenity space** is permitted on the same storey as non-residential uses;
- (M) Despite regulations 40.10.40.50(1) and (2), **amenity space** must be provided in accordance with the following:
- (i) a minimum of 2.6 square metres for each **dwelling unit**, of which at least 2.0 square metres for each **dwelling unit** is indoor **amenity space**;
 - (ii) outdoor **amenity space** may only be located on that portion of the **building** subject to a height limit of 4.0 metres as shown on Diagram 6 of By-law 343-2023(OLT) and within the area shown on Diagram 7 of By-law; and
 - (iii) the outdoor **amenity space** referred to in Regulation (M)(ii) above must have a continuous and solid opaque screen along the length of its northerly and easterly limits, having a minimum overall height of 2.5 metres, as measured from the surface of the **amenity space**, which may be included in the calculation of outdoor **amenity space**;
- (N) Despite I (iv) above, terraces which are not outdoor **amenity space** may only be located in the areas shown on Diagram 8 and Diagram 9 of By-law 343-2023(OLT), in accordance with the following:
- (i) Terraces on a roof of the **building** which are located between a height of 25.0 metres and 26.0 metres measured from **established grade**, are subject to the following restrictions, as shown on Diagram 8:
 - a) the maximum depth of a terrace shall be 3.0 metres, measured from the **main wall** of the **building**;
 - b) a terrace must be setback a minimum of 4.5 metres from the north property line and 6.5 metres from the east **lot line**;
 - c) the remainder of the roof area must be inaccessible except for maintenance and comprised of soft landscaping (except for required maintenance pathways), and may form part of a required **green roof**;
 - d) the terraces must have a continuous and solid screen along the entire length with a minimum overall height of 2.5 metres, on its northerly and easterly limits, of which (i) the first 1.8 metres of the screen, measured vertically from the terrace floor, must obscure vision and be composed of fritted, or translucent materials or be an opaque screen; and (ii) the remainder of the screen may be composed of transparent materials;

- e) despite d) above, with respect to terraces on the west side of the **building**, the northern limit of the northern most terrace must have a continuous and solid screen along the entire length with a minimum overall height of 2.5 metres, of which (i) the first 1.8 metres of the screen, measured vertically from the terrace floor, must obscure vision and be composed of fritted, or translucent materials or be an opaque screen; and (ii) the remainder of the screen may be composed of transparent materials
- (ii) Terraces on a roof of the **building** which are located between a height of 55.0 metres and 56.0 metres measured from **established grade**, are subject to the following restrictions as shown on Diagram 9:
 - a) terraces may only be located on the west side of the **building** with a maximum depth of 2.0 metres, measured from the **main wall** of the **building**;
 - b) at the northern limit of the northern most terrace, the terrace must have a continuous and solid screen along the entire length of its northern limit, with a minimum overall height of 2.5 metres along its entire length of which (i) the first 1.7 metres of the screen, measured vertically from the terrace floor, must obscure vision and be composed of fritted, or translucent materials or be an opaque screen; and (ii) the remainder of the screen may be composed of transparent materials;
- (iii) Terraces on a roof of the **building** which are located between a height of 61.0 metres and 62.0 metres measured from **established grade**, are subject to the following restrictions as shown on Diagram 9:
 - a) terraces may only be located on the west and south sides of the **building** up to a maximum depth of 3.0 metres from the west **main wall** and a maximum depth of 1.9 metres from the south **main wall**;
 - b) with respect to terraces on the south side of the **building**:
 - i) at the eastern limit of the eastern most terrace, the terrace must have a continuous and solid screen along its entire length, with a minimum overall height of 2.5 metres along its entire length of which (i) a minimum of 1.7 metres of the screen, measured vertically from the terrace floor, must obscure vision and may be composed of fritted, or translucent materials or be an opaque screen, and (ii) the remainder of the screen may be composed of transparent materials;

- ii) for a minimum length of 6.87 metres, measured from the eastern limit of the eastern most terrace, the south side of the terraces must have a continuous and solid screen along its entire length, with a minimum overall height of 1.7 metres, measured vertically from the terrace floor, and must obscure vision and may be composed of fritted or translucent materials or be an opaque screen;
 - c) with respect to terraces on the west side of the **building**, the northern limit of the northern most terrace must have a continuous and solid screen with a minimum overall height of 2.5 metres along its entire length of which (i) a minimum of 1.7 metres of the screen, measured vertically from the terrace floor, must obscure vision and may be composed of fritted, or translucent materials or be an opaque screen, and (ii) the remainder of the screen may be composed of transparent materials;
- (O) For the purpose of this Exception an opaque screen means a screen composed of solid materials which cannot be seen through;
- (P) Openings and windows within the northerly and easterly **main walls** of a **building** are subject to the following:
 - (i) No windows or openings are permitted within the easterly **main walls** of a **building** located on the portion of the **lot** subject to a height limit of 4.0 metres and 8.0 metres as shown on Diagram 6 of By-law 343-2023(OLT), with the exception of one vent opening provided that:
 - a) The vent opening may only be located within the easterly **main wall** of the **building** subject to a height limit of 8.0 metres as shown on Diagram 6;
 - b) The vent opening must connect directly to an area which does not include a **dwelling unit**; and
 - c) The vent opening must be a minimum of 2.0 metres from the easterly **lot line**;
 - (ii) No windows or openings are permitted within the northerly **main walls** of a **building** between finished ground level and a height of 4.0 metres as measured from **established grade**; and
 - (iii) No windows or openings are permitted within the northerly **main walls** of a **building** located between 4.0 metres and 26.0 metres above **established grade**, with the exception that windows may occupy up to 50 percent of a **main wall** as measured at each **storey**;

- (Q) Despite 40.10.40.80(1)(A), separation distance for an opening from an exit stairwell at the ground floor must be a minimum of 1.24 metres;
- (R) Despite 200.5.1.10(12)(C), the vehicle access must be at least 4.9 from the street;
- (S) Despite regulations 200.5.10.1(1) and (6), and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) a minimum of 75 **parking spaces** for the use of the residents of the building;
 - (ii) a minimum of 10 **parking spaces** for the use of residential visitors; and
 - (iii) no **parking spaces** are required for non-residential uses;
- (T) Despite Regulations 230.5.1.10(4)(B) and (5)(A), a **bicycle parking space** must comply with the following standards:
- (i) where the bicycles are to be parked in a vertical position, a **bicycle parking space** must have a horizontal dimension of at least 0.45 metres, a length of at least 1.2 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) where the bicycles are to be parked in a **stacked bicycle parking space**, the parking spaces within the stacker must have a length of at least 1.8 metres, width of at least 0.45 metres and a vertical dimension of at least 1.2 metres;
- (U) Despite Regulations 230.5.1.10(9), 230.40.1.20(1) and (2), **bicycle parking spaces** may be located anywhere at or below ground and in an enclosed room or bicycle storage locker;
- (V) A minimum of ten percent of the total number of **dwelling units** must contain three bedrooms;
- (W) In addition to the number of three bedroom **dwelling units** required in (V) above, a minimum of ten percent of the total number of **dwelling units** must contain two bedrooms;
- (X) Despite any existing or future severance, partition, or division of the lands, the provisions of this Exception apply as if no severance, partition or division occurred.

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

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 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.

Pursuant to Ontario Land Tribunal Decision issued October 17, 2019 and Order issued August 11, 2022 in Tribunal File PL171476.

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the owner of the lands shown in Map 1 of this By-law to the City and to Sinai Health System ("Sinai"), at the owner's expense in return for the increase in *height* and density of the proposed development on the lands as shown in Map 1 of this By-law subject to and as secured in a registered agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows (the "Agreement"):

1. Prior to the issuance of the first above-grade building permit, the owner shall provide a cash contribution of one million three hundred and seventy-five thousand dollars (\$1,375,000.00) to be used towards streetscape improvements in the vicinity of the site and/or affordable housing in the local ward to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, subject to the following:
 - a. The cash contribution in this subsection 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 Publication 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment;
 - b. in the event the cash contribution referred to 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 will benefit the community in the vicinity of the lands.
2. To secure certain noise mitigation matters, including the implementation of noise attenuation features, submission of site plans and drawings and a site plan noise report, a building permit report, compliance by the owner with sound levels applicable to a Class 4 Area under Ministry of the Environment, Conservation and Parks ("MECP") Environmental Noise Guideline NPC-300 ("NPC-300"), payment to Sinai for mitigation works, screening requirements, restrictions on balconies, terraces and **amenity** spaces, implementation of compliant risk reduction measures, and appropriate noise warning clauses, subject to and in accordance with the terms of the Agreement, and as set out below:
 - a. The lands as shown in Diagram 1 of this By-law are recognized as a Class 4 Area pursuant to NPC-300, and it is the responsibility of the owner to ensure that the proposed development achieves compliance with the applicable Class 4 sound levels as required by NPC-300.
 - b. The owner agrees that NPC-300 is to be applied in the site plan approval process, respecting the proposed development on the lands shown on Diagram 1 to this

By-law and shown on the plans and drawings submitted for building permits, and further the owner is to achieve compliance with the applicable Class 4 sound levels as required by NPC-300, where such approval process shall include the following obligations:

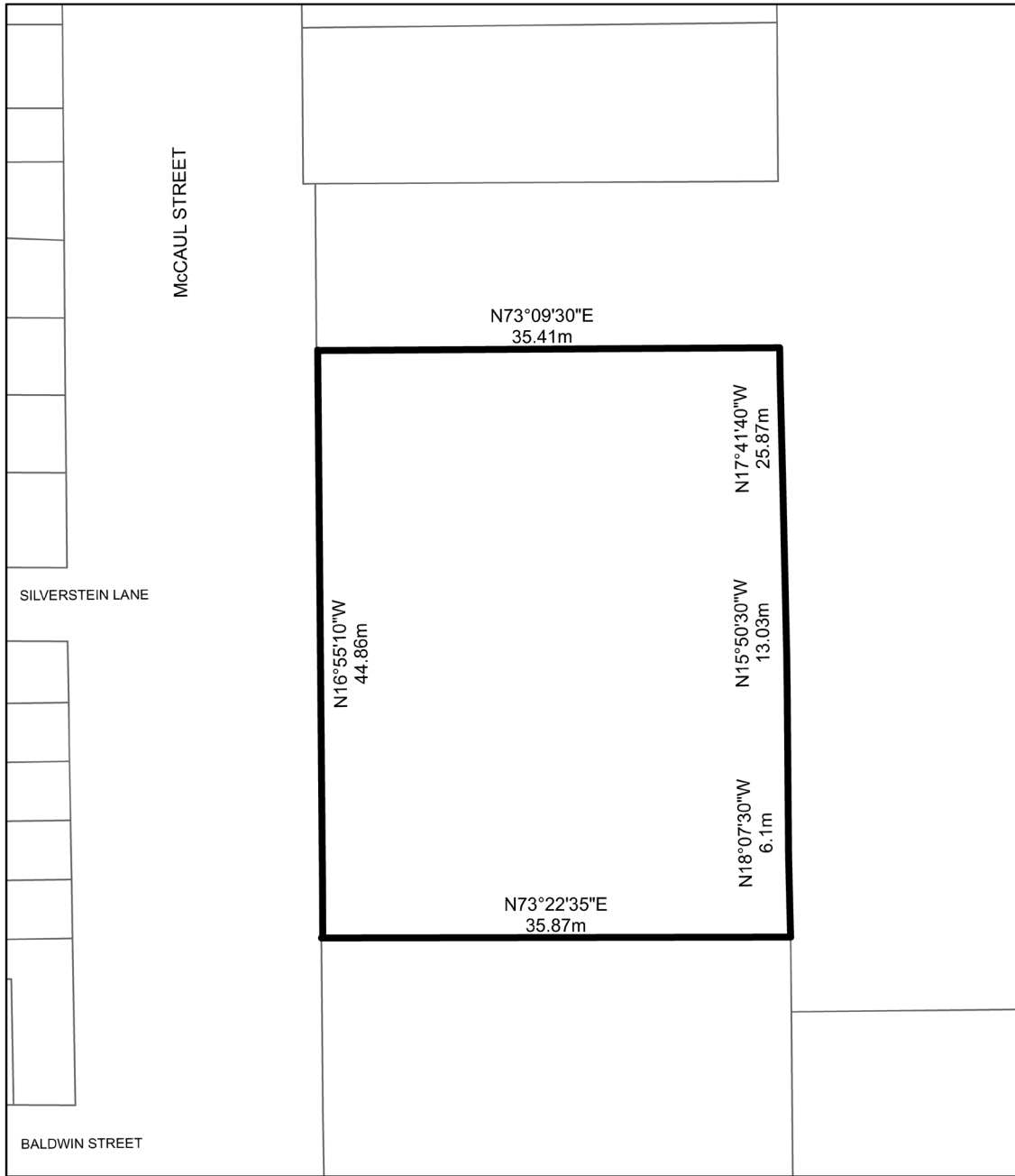
- i. the owner will produce a site plan noise report from a qualified acoustical consultant to the City and to Sinai (the "Site Plan Noise Report"), concurrently (or thereafter as provided for in the Agreement), with any application for site plan approval with respect to the proposed development of the lands shown on Diagram 1 of this By-law;
- ii. the Site Plan Noise Report will update the Zoning Noise Report dated September 6, 2019, examine the noise impact of Sinai facilities on the proposed development, meet all the requirements of the Agreement, including but not limited to, confirming that the plans and drawings submitted for site plan approval achieve compliance by the owner with NPC-300 and the Toronto Municipal Code as applicable, and confirm the plans and drawings show or notate: any requirements to achieve compliance by the owner with NPC-300 and the Toronto Municipal Code as applicable, as well as all the required noise attenuation features, the complaint risk reduction measures as described in subparagraph vi, and the requirements as described in subparagraph vii, (collectively the "Mitigation Measures");
- iii. the owner agrees that all plans and drawings submitted for site plan approval shall show or notate the required Mitigation Measures;
- iv. Sinai will review the Site Plan Noise Report and all plans and drawings submitted for site plan approval, and provide any comments to the owner and the City as provided for in the Agreement, and the Site Plan Noise Report shall be to the satisfaction of the Chief Planner (the "Approved Noise Report").
- v. The owner will provide a copy of any drafts of the proposed Notice of Approval Conditions ("NOAC") provided by the City in the site plan process and the site plan plans and drawings which are the subject thereof, to Sinai for comments by Sinai to the owner and the City, which comments shall be provided in accordance with the Agreement. The final NOAC and Site Plan Agreement shall require the implementation and maintenance of the Mitigation Measures on the lands shown on Diagram 1 of this By-law as provided in the Approved Noise Report and the Agreement;
- vi. The phrase "complaint risk reduction measures" means: measures taken in the design and/or construction of building facades of the proposed development of the land shown on Diagram 1 of this By-law which are subject to sound level limits higher than permitted by Class 1 NPC-300 to achieve an indoor sound level of 35 dBA or less between the hours of

11 p.m. and 7 a.m. and 40 dBA or less between 7 a.m. and 11 p.m. in noise sensitive indoor spaces as such spaces are defined in NPC-300.

- vii. The owner agrees that all plans and drawings submitted in respect of site plan approval and all building permit plans and drawings shall limit and restrict the location of outdoor **amenity space**, balconies and terraces in accordance with (I), (J), (M), (N), and (O) of Exception CR(768) of this By-law and the Agreement and in addition, all such spaces shall not be subject to noise levels which exceed 55 dba, or the applicable MECP requirement, whichever is less;
- c. Concurrently with any application for any above-grade building permit for the proposed development of the lands shown on Diagram 1 of this By-law, the owner of such lands will provide Sinai and the City with (i) a letter ("Building Permit Letter") from a qualified acoustical consultant confirming that the Mitigation Measures recommended in the Approved Noise Report are shown on the building permit drawings, and (ii) copies of the above-grade building permit application and associated drawings/plans. The owner will:
 - i. provide Sinai with copies of any resubmissions made to the City;
 - ii. provide to Sinai and the City a Building Permit Letter confirming that the Mitigation Measures are shown or notated on the aforementioned building permit drawings, and Sinai will have an opportunity to provide any comments with respect to the Building Permit Letter and application/drawings/plans, as they relate to the Approved Noise Report, and compliance with NPC-300 and the Toronto Municipal Code, as applicable, and the required Mitigation Measures, prior to the owner requesting the issuance of the above-grade building permit;
 - iii. the Building Permit Letter shall require the implementation and maintenance of the Mitigation Measures as provided in the Approved Noise Report, the Site Plan Agreement and the Agreement which is satisfactory to the Chief Planner (the "Approved Building Permit Letter"); and
 - iv. the owner will construct and maintain the required Mitigation Measures in accordance with the Approved Noise Report, the Site Plan Agreement, the Approved Building Permit Letter and the Agreement.
- d. The Site Plan Noise Report, site plans and drawings, any applications, plans and drawings and Building Permit Letter with respect to the noise matters described herein must be to the satisfaction of the City, and Sinai shall be afforded a reasonable period in which to comment thereon to the City. If there is a dispute between the owner and Sinai with respect to any of the noise reports and any applications, plans and/or drawings with respect to the noise matters described herein, the City may engage a peer reviewer, at the owner's cost, to provide

advice to the City, prior to the City making a determination as appropriate. The City may also engage a peer reviewer in its discretion at its cost.

- e. The owner will pay Sinai the sum of \$868,021.29 as a mitigation payment, in accordance with the terms of a financial and escrow agreement which agreement will be executed contemporaneously with the Agreement.
- f. Appropriate noise warning clauses will be secured on the title of the lands shown on Diagram 1 attached to this By-law to the satisfaction of Sinai and the City, which warning clauses will be included in every lease, purchase and sale agreement disclosure statement and condominium declaration respecting the lands or any portion thereof.

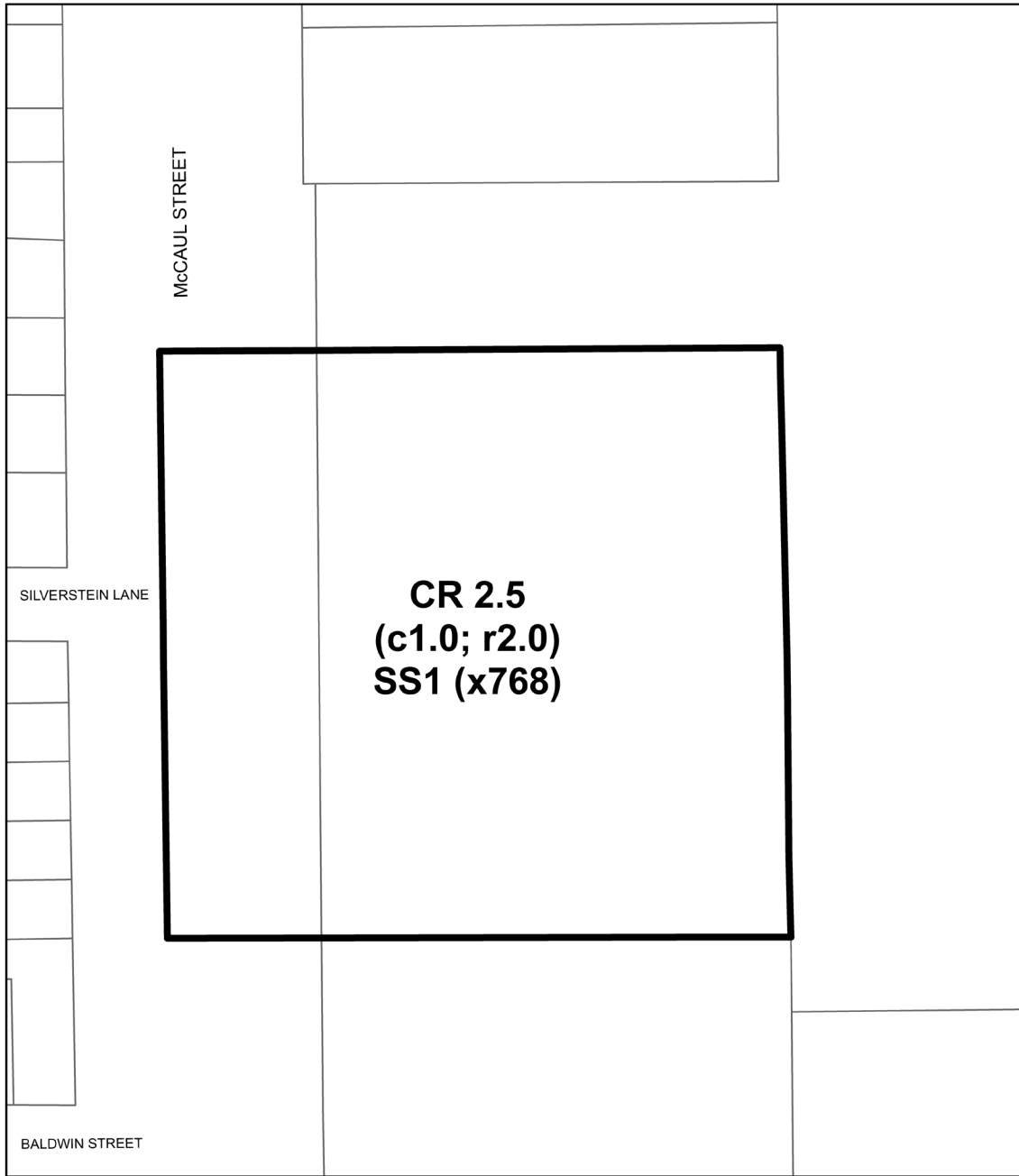


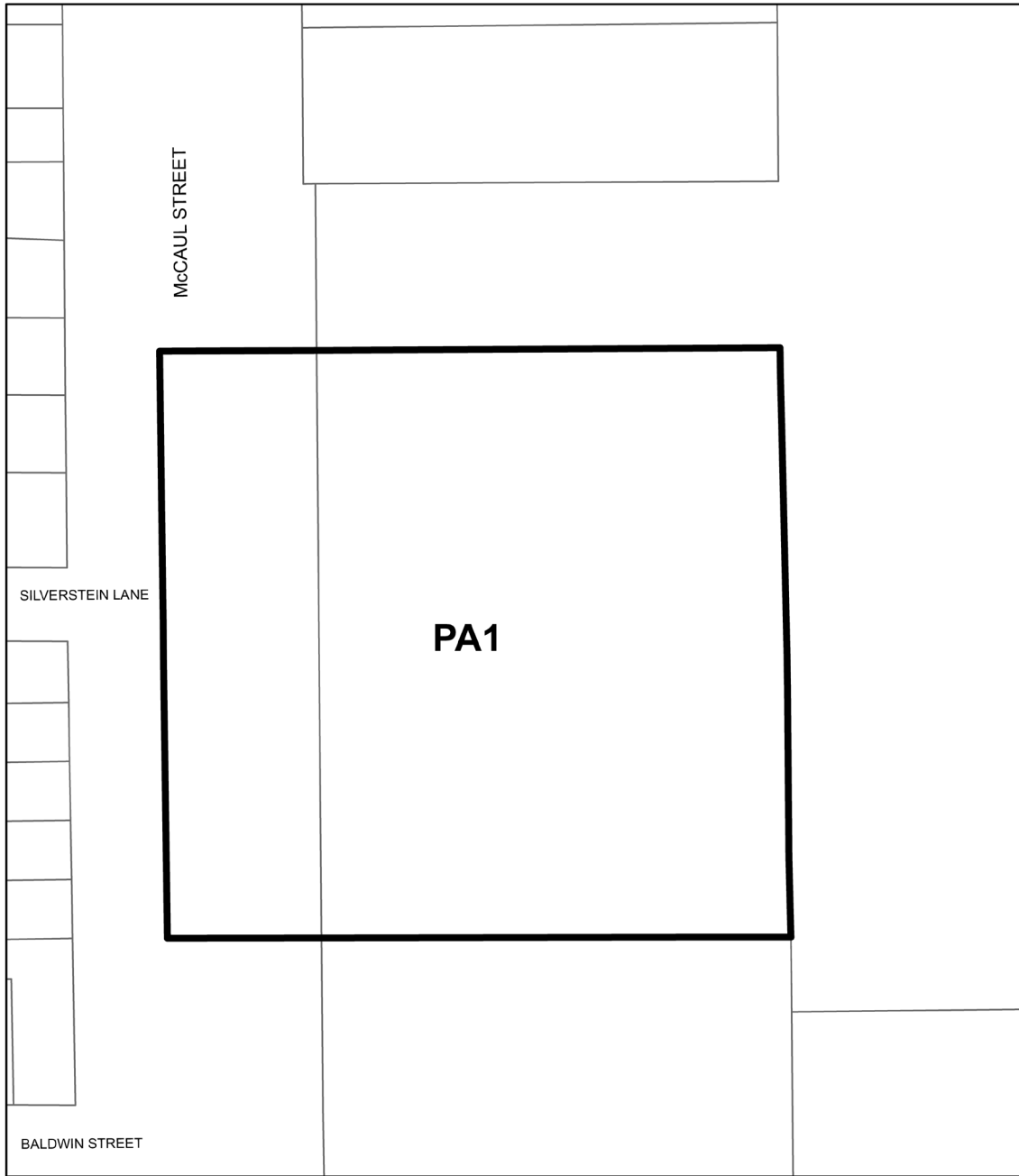
 **TORONTO**
Diagram 1

193-195 McCaul Street

File # 17 211689 STE 20 0Z





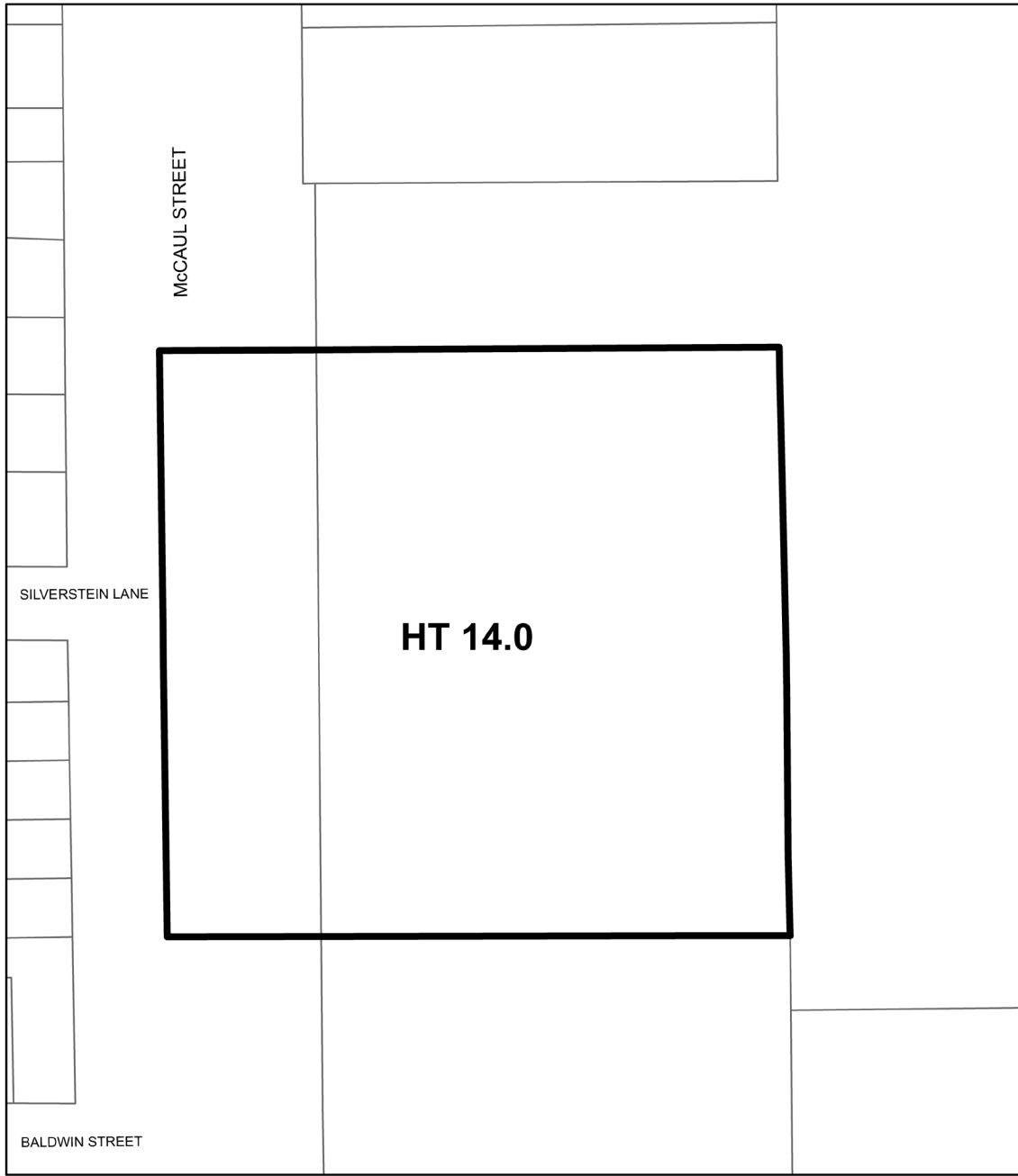


 **TORONTO**
Diagram 3

193-195 McCaul Street

File # 17 211689 STE 20 0Z



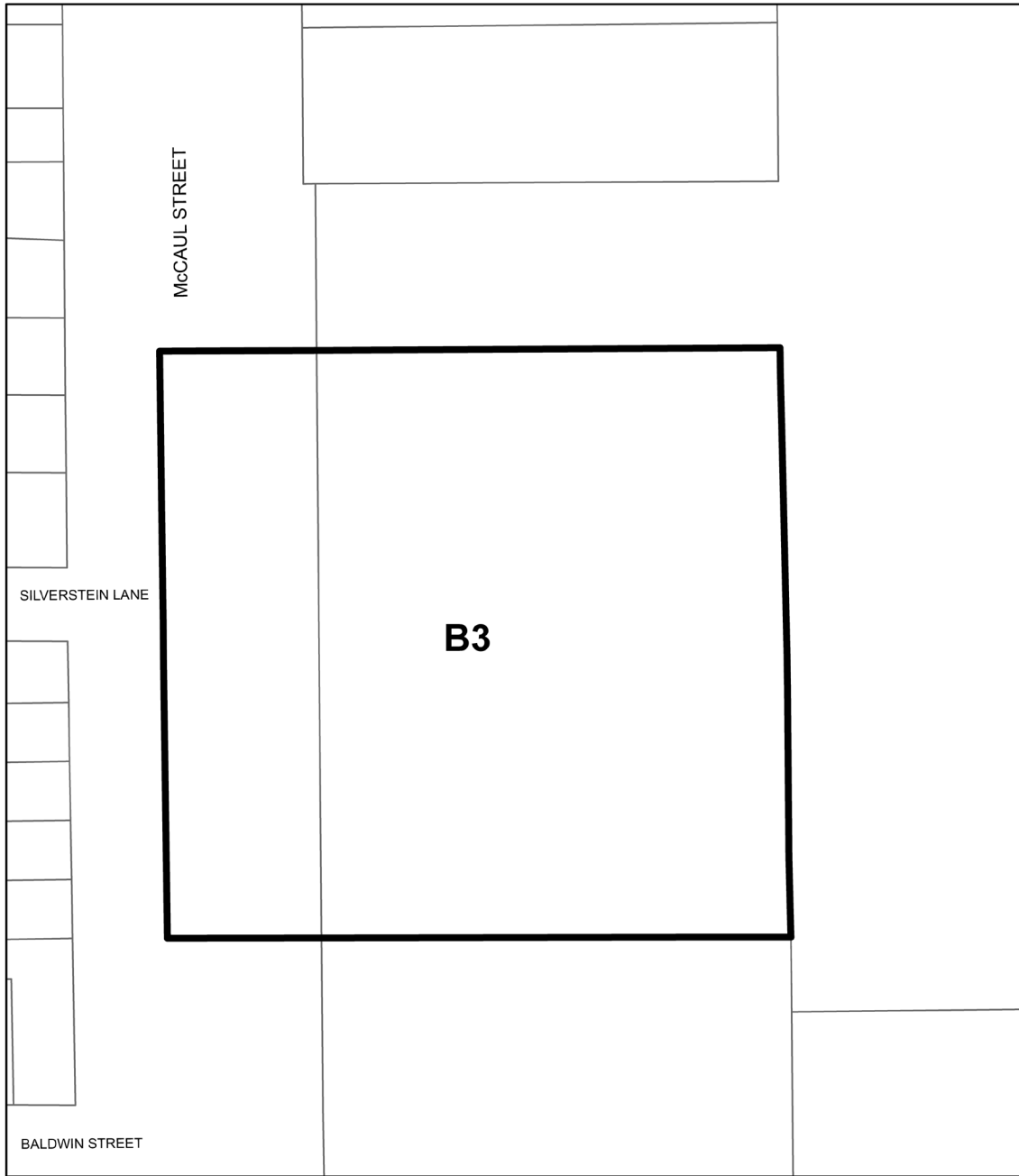


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Diagram 4

193-195 McCaul Street

File # 17 211689 STE 20 0Z



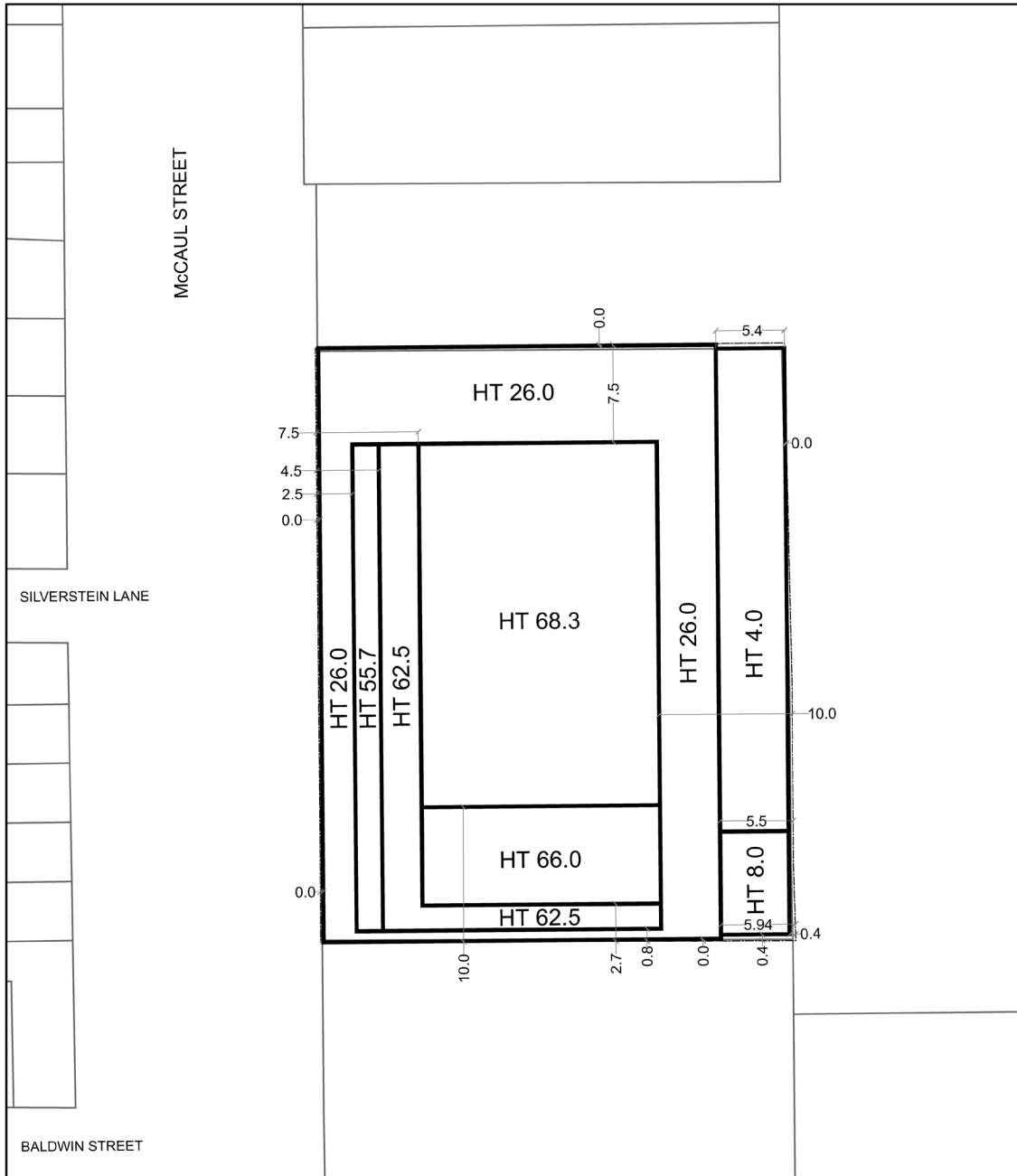


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Diagram 5

193-195 McCaul Street

File # 17 211689 STE 20 0Z





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Diagram 6

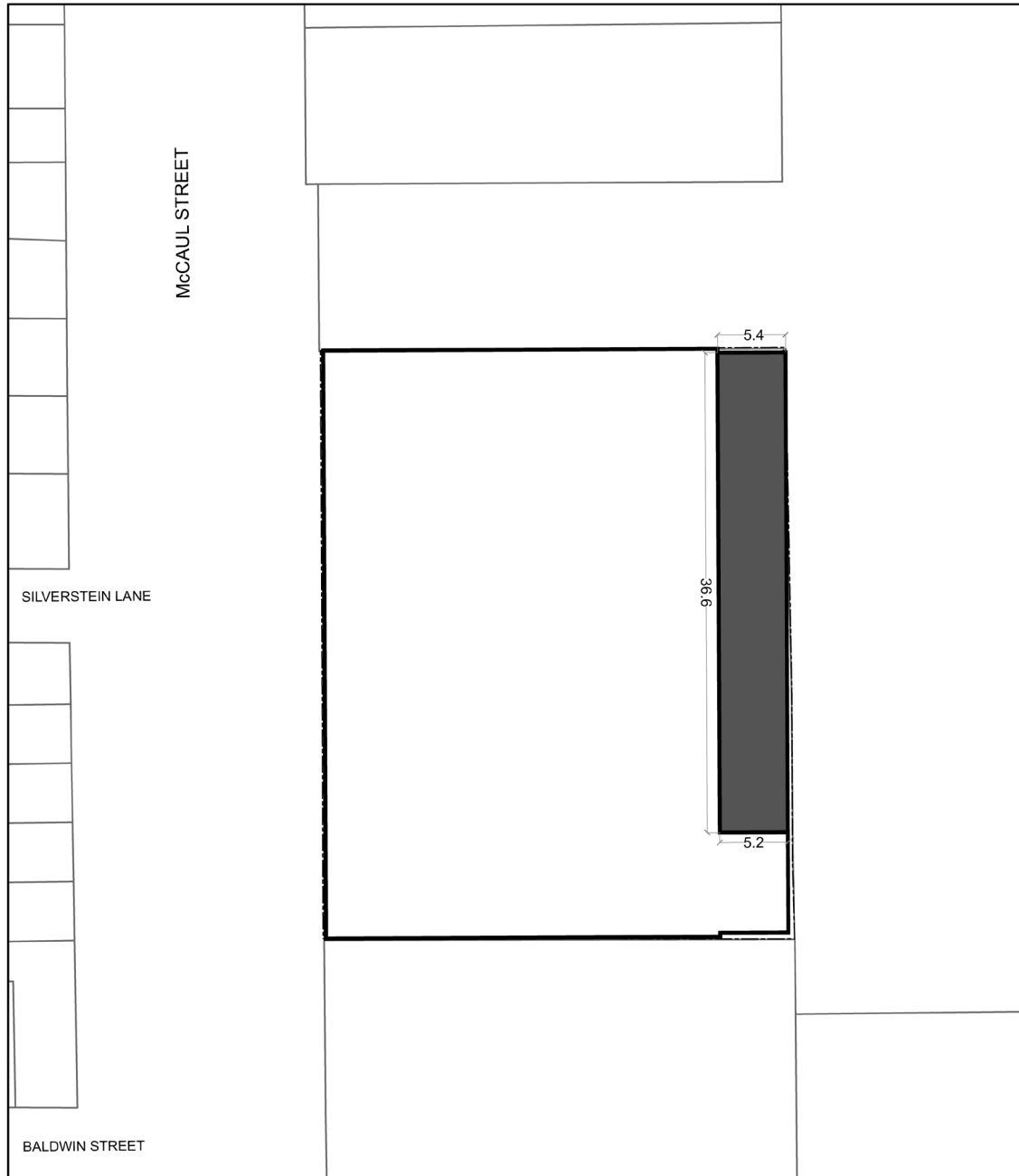
193-195 McCaul Street

File # 17 211689 STE 20 0Z

Note: Applicant Provided Drawing



City of Toronto By-law 569-2013
Not to Scale
08/03/2022



 **TORONTO**
Diagram 7

193-195 McCaul Street

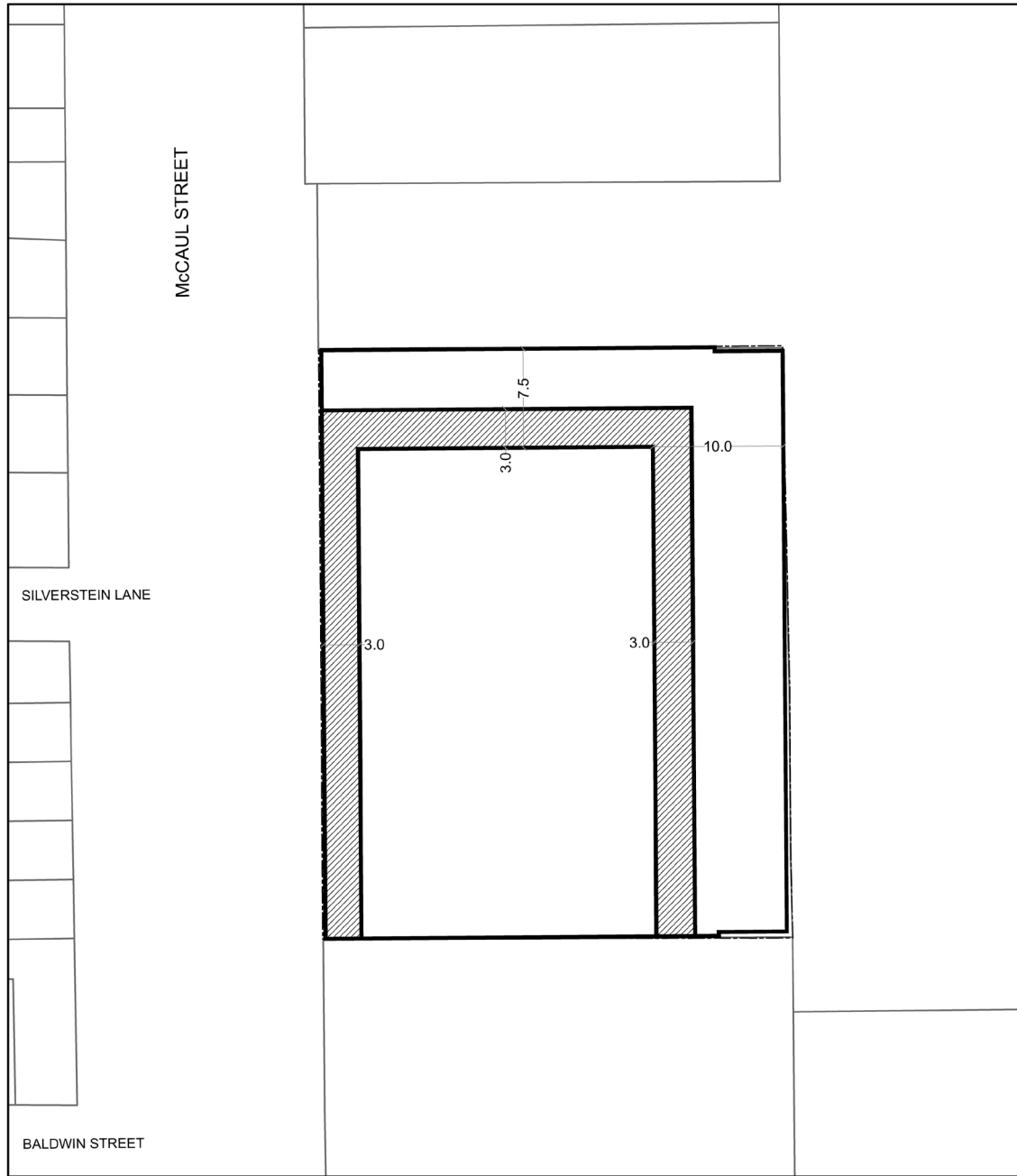
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Note: Applicant Provided Drawing

 Outdoor Amenity Space Subject to Regulation (M)(ii)



City of Toronto By-law 569-2013
Not to Scale
08/03/2022



 **TORONTO**
Diagram 8

193-195 McCaul Street

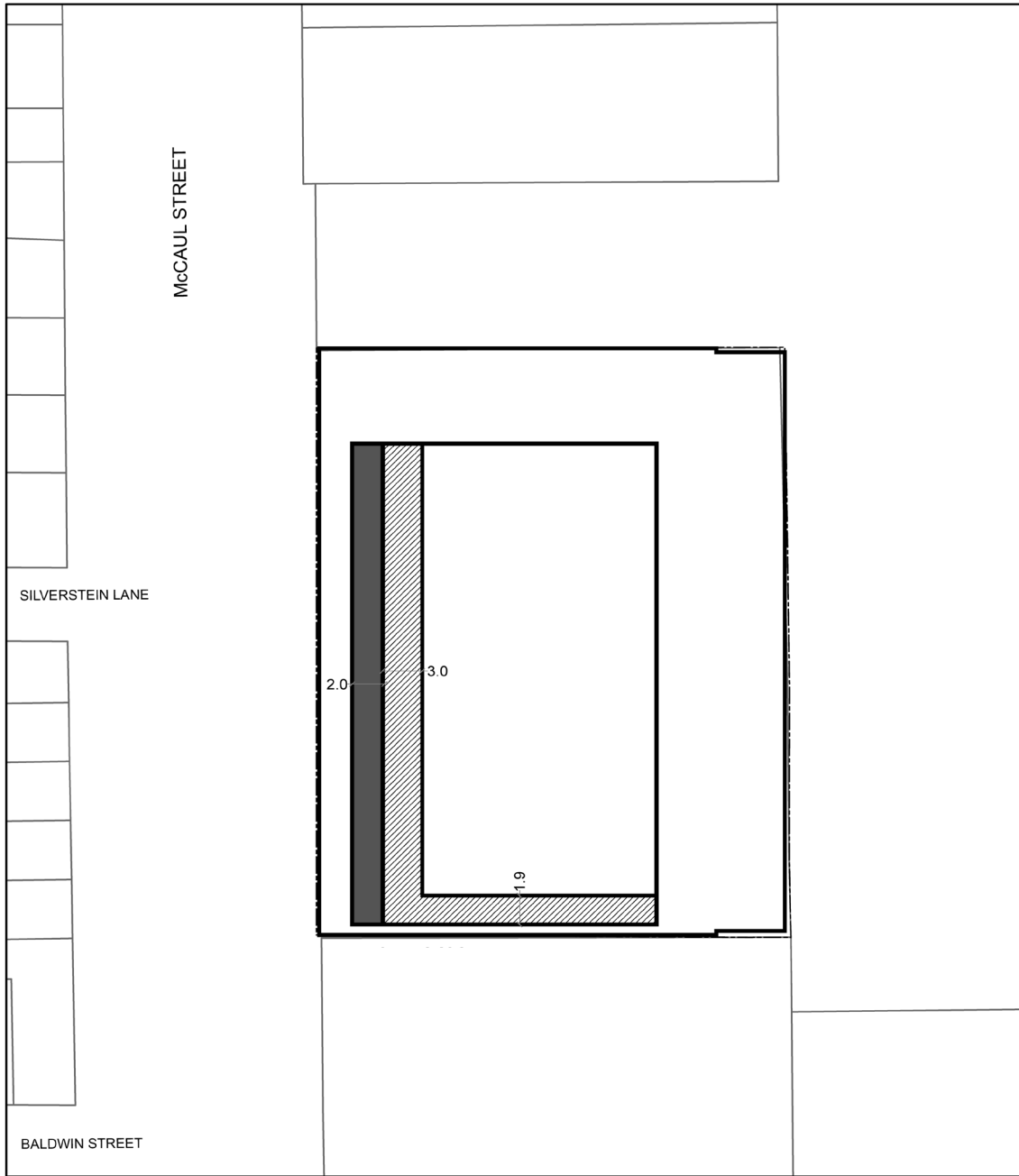
File # 17 211689 STE 20 0Z

Note: Applicant Provided Drawing

 Terraces subjected to Regulation (N)(i)



City of Toronto By-law 569-2013
Not to Scale
08/03/2022





 **TORONTO**
Diagram 9

193-195 McCaul Street

File # 17 211689 STE 20 0Z

Note: Applicant Provided Drawing

-  Terraces subjected to Regulation (N)(ii)
-  Terraces subjected to Regulation (N)(iii)



City of Toronto By-law 569-2013
Not to Scale
08/03/2022