

Authority: Ontario Land Tribunal Decision/Order issued
January 18, 2023, effective July 29, 2022 in OLT Case
OLT-22-001996 (formerly PL210308)

CITY OF TORONTO

BY-LAW 382-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 18 Brownlow Avenue and 190-200 Soudan Avenue.

Whereas the Ontario Land Tribunal, in its Decision issued on January 18, 2023 and its Order effective as of July 29, 2022 in OLT Case OLT-22-001996 (formerly PL210308), 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 18 Brownlow Avenue and 190-200 Soudan Avenue; 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 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 and the Ontario Land Tribunal, upon appeal, 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; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal Orders:

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 990.1 respecting the lands subject to this By-law from a zone label of R (d0.6) (x914) to a zone label of R (d0.6) (x156) as shown on Diagram 3 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number 156 so that it reads:

(156) Exception R 156

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 the lands municipally known in the year 2021 as 190-200 Soudan Avenue and a portion of 18 Brownlow Avenue, if the requirements of By-law 382-2023(OLT) are complied with, a **building** or **structure** may be constructed, erected, or used in compliance with Regulations (B) to (V) below:
- (B) For the purpose of this exception, despite Sections 800.50 (420) and (450):
 - (i) "lot" is defined as the lands outlined by black lines collectively comprising "Parcel A" and "Parcel B", as shown on Diagram 2 attached to By-law 382-2023(OLT);
 - (ii) "lot line" is defined to include the boundary of any of "Parcel A" and "Parcel B", as shown on Diagram 2 attached to By-law 382-2023(OLT);
 - (iii) "Parcel A" means the portion of the "lot" shown as Parcel A on Diagram 2 attached to By-law 382-2023(OLT); and
 - (iv) "Parcel B" means the portion of the "lot" shown as Parcel B on Diagram 2 attached to By-law 382-2023(OLT);
- (C) Despite Regulation 10.5.40.10(1) the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 161.6 metres and elevation of the highest point of the **building** or **structure**;
- (D) Despite Regulation 10.10.40.10(1), the permitted maximum height of a **building** or **structure** is the number following the HT symbol in metres as shown on Diagram 4 of By-law 382-2023(OLT);

- (E) Despite Regulation 10.10.40.10(3), the permitted maximum number of **storeys** in a **building** is the number following the letters ST as shown on Diagram 4 of By-law 382-2023(OLT);
- (i) for the purposes of this exception, a mechanical penthouse and rooftop **amenity space** within a wholly enclosed **building** envelope and located within the area denoted as HT 71.5 on Diagram 4 of By-law 382-2023(OLT) does not constitute a **storey**;
- (F) Despite Regulations 10.5.40.10(2), (3) and (4), 10.10.40.10(10) and (D) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 4 of By-law 382-2023(OLT):
- (i) Chimneys, antennae, staircases, or roof access, to a maximum of 2.5 metres;
- (ii) elevator overruns, elevator shafts, elevator machine rooms, equipment used for the functional operation of the **building**, such as electrical, utility, mechanical and ventilation equipment, including the mechanical penthouse, to a maximum of 3.0 metres;
- (iii) **structures** that enclose, screen or cover the equipment, **structures** and parts of a **building** listed in (i) and (ii) above, inclusive of a mechanical penthouse, to a maximum of 3.0 metres;
- (iv) architectural features, parapets, and elements and **structures** associated with a **green roof** to a maximum of 3.0 metres;
- (v) **building** maintenance units and window washing equipment to a maximum of 3.0 metres;
- (vi) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace to a maximum of 3.0 metres; and
- (vii) trellises, pergolas, and unenclosed **structures** providing safety or wind protection to rooftop **amenity space** to a maximum of 3.0 metres;
- (G) Regulation 10.10.40.30(1) with respect to **building depth** does not apply;
- (H) Despite Regulation 10.10.40.40(1) the permitted maximum **gross floor area** is 12,600 square metres;
- (I) The provision of **dwelling units** on "Parcel B" is subject to the following:
- (i) a minimum of 15 per cent must be 2-bedroom **dwelling units**;
- (ii) a minimum of 10 per cent must be 3-bedroom **dwelling units**;

- (iii) an additional 15 percent 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 such as knock-out panels;
- (J) Despite Regulations 10.10.40.70 (1) to (3) and 10.10.40.80(1), the required minimum **building setbacks** and required separation of **main walls** are as shown in metres on Diagram 4 of By-law 382-2023(OLT);
- (K) Despite Clause 10.5.40.60 and (J) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
 - (i) decks, porches, and balconies, to a maximum extent of 2.0 metres, provided:
 - (a) no balconies are permitted on the north **main wall** of the **building**;
 - (ii) canopies and awnings, to a maximum extent of 3.0 metres;
 - (iii) exterior stairs, access ramps and elevating devices, to a maximum extent of 4.5 metres;
 - (iv) architectural features, such as a pilaster, decorative column, cornice, sill, belt course, or chimney breast, to a maximum extent of 1.5 metres;
 - (v) window projections, including bay windows and box windows, to a maximum extent of 1.5 metres;
 - (vi) eaves, to a maximum extent of 2.3 metres; and
 - (vii) a dormer, to a maximum extent of 1.5 metres;
- (L) Regulation 10.5.50.10(4) with respect to **landscaping** does not apply to the "Parcel B";
- (M) Despite Regulation 10.10.40.50(1) **amenity space** must be provided and maintained in accordance with the following:
 - (i) On "Parcel B":
 - (a) A minimum of 2.5 square metres for each **dwelling unit** on "Parcel B" as indoor **amenity space**;
 - (b) A minimum of 320.0 square metres of outdoor **amenity space**;
 - (c) no more than 25 percent of the outdoor component may be a **green roof**; and

- (ii) On "Parcel A":
 - a) A minimum of 75 square metres of indoor **amenity space** must be provided on "Parcel A" in addition to the indoor **amenity space** on "Parcel A" existing as of January 1, 2022;

- (N) Despite Regulations 10.5.80.40(3) and 10.10.80.40(2), **vehicle** access to **parking spaces** on "Parcel B" must be provided from Redpath Avenue via shared **driveways** located on the adjacent property known municipally in the year 2021 as 71 Redpath Avenue;

- (O) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided on "Parcel B" in accordance with the following:
 - (i) a minimum of 0.22 residential occupant **parking spaces** for each bachelor **dwelling unit**;

 - (ii) a minimum of 0.51 residential occupant **parking spaces** for each one bedroom **dwelling unit**;

 - (iii) a minimum of 0.73 residential occupant **parking spaces** for each two bedroom **dwelling unit**;

 - (iv) a minimum of 0.86 residential occupant **parking spaces** for each three bedroom and greater **dwelling unit**; and

 - (v) a minimum of 0.03 residential visitor **parking spaces** for each **dwelling unit**;

- (P) Despite Regulation 200.15.10(1), a minimum of 5 of the required **parking spaces** on "Parcel B" must be accessible **parking spaces**;

- (Q) Despite Regulations 200.15.1(1), (3) and (4), accessible **parking spaces** must be provided on "Parcel B" as follows:
 - (i) An accessible **parking space** must have the following minimum dimensions:
 - (a) length of 5.6 metres;

 - (b) width of 3.4 metres; and

 - (c) 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;

- (iii) Accessible **parking spaces** must be the parking spaces closest to a barrier free:
 - (a) entrance to a **building**;
 - (b) passenger elevator that provides access to the first **storey** of the **building**; and
 - (c) and shortest route from the required entrances in (Q)(iii)(a) and (b);

- (R) Despite Regulation 230.5.1.10(4), the required minimum dimensions of a **stacked bicycle parking space** are:
 - (i) length of 1.8 metres;
 - (ii) width of 0.6 metres; and
 - (iii) vertical clearance of 1.2 metres;

- (S) Despite Regulation 220.5.10.20(2), no **loading spaces** are required to be provided and maintained on "Parcel B";

- (T) A "Publicly Owned Privately Accessible Open Space" or "POPS" with a minimum size of 214 square metres must be provided within the shaded area as shown on Diagram 4 of By-law 382-2023(OLT); and
 - (i) For the purpose of this exception, "Publicly Owned Privately Accessible Open Space" or "POPS" means a space on the "lot" situated at ground level within the hatched area shown on Diagram 4 of By-law 382-2023(OLT) that is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, seating areas, landscaped plazas, and ornamental **structures** and is used principally for the purpose of sitting, standing and other recreational uses;

- (U) On "Parcel B", as shown on Diagram 2 of By-law 382-2023(OLT), none of the provisions of City of Toronto By-laws 1280-2007, 267-2008 and 22036 apply to prevent the construction, erection of and use of **buildings** or **structures** in compliance with Regulations (B) to (T) above; and

- (V) On "Parcel A" as shown on Diagram 2 of this By-law 382-2023(OLT), none of Regulations (B) to (T) above will prohibit the **buildings, structures** and uses existing as of January 1, 2022.

Prevailing By-laws and Prevailing Sections: City of Toronto By-laws 22036, 1280-2007, and 267-2008.

5. 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.
6. Pursuant to Section 39(1) of the Planning Act, none of the provisions of By-law 569-2013, as amended, apply to prevent the construction, erection and use of a **retail store**, with a maximum height of 3.0 metres, for the purpose of selling or leasing **dwelling units** on the **lot** in the R Zone to which this By-law applies. Section 6 of this By-law shall expire on August 12, 2025.
7. Section 37 Provisions:
 - (A) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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 as on Diagram 1 of By-law 382-2023(OLT) 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, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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 upon 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 applicable provisions of Schedule A are satisfied; and
 - (D) Once the agreement or agreements securing the facilities, services and matters set out in Schedule A have been executed and registered, the provisions of Schedule A shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

Ontario Land Tribunal Decision issued on January 18, 2023 and Ontario Land Tribunal Order effective on July 29, 2022 in Tribunal File Number OLT-22-001996 (formerly PL210308).

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:

- i. The Owner shall enter into and register on title to the lands, one or more agreements pursuant to Section 37 of the Planning Act, at the owner's expense, to secure the following matters, on such terms and conditions as may be required, all satisfactory to the Chief Planner and Executive Director, City Planning, and the City Solicitor:
 1. a cash contribution of \$1,750,000.00 dollars to be allocated towards community benefits that have been identified as priorities in the Yonge-Eglinton Secondary Plan at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 2. the cash contribution referred to in i.1. above shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building 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 of the Agreement to the date of payment; and
 3. in the event the cash contribution referred to in i.1. 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 is identified in the Official Plan and will benefit the community in the vicinity of the lands.
- ii. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support development:
 1. the owner shall enter into a financially secured agreement for the construction of any improvements to the existing municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development;
 2. the owner shall submit a revised Transportation Impact Study, including an updated Parking and Loading Study and Transportation Demand Management strategy to the satisfaction of, the General Manager, Transportation Services and that such matters arising from such study be secured, if required;

3. should the accepted Transportation Demand Management Plan include any cash contribution toward Transportation Demand Management measures, such cash contribution shall be paid by the owner to the City prior to the issuance of the first above-grade building permit for the development and allocated in accordance with the Transportation Demand Management Plan, and such cash contribution 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 18-10-0135-01, or its successor, calculated from the date of the Section 37 Agreement to the date of payment;
4. the rental tenure of the existing rental units at 18 Brownlow Avenue without application to convert or demolish for at least 20 years and needed improvements to the existing rental housing, including:
 - A. the existing rental dwelling units in the 18 Brownlow Building will be secured as rental units in accordance with Policy 3.2.1.5 of the Official Plan for a minimum of 20 years without application to convert or demolish, as of the date of the Section 37 Agreement;
 - B. the owner will increase the amount of indoor amenity space in the 18 Brownlow Building by adding 75 square metres of indoor amenity space on the lower level without seeking an above-guideline rent increase for this work;
 - C. the owner will provide seating around the relocated barbeque area and around the existing swimming pool, and allow access for the tenants of the 18 Brownlow Building to the at-grade outdoor amenity area associated with the Property;
 - D. the owner will undertake a tenant survey to seek input on the programming for this additional indoor amenity space, as well as input on potential improvements or renovations to the 18 Brownlow Building; and
 - E. the owner will provide along with a Construction Mitigation and Tenant Communication Plan and any other rental housing matters in conformity with Policy 3.2.1.5 of the Official Plan

all to the satisfaction of the Chief Planner and Executive Director, City Planning;

5. one privately owned publicly-accessible open space, not less than 214 square metres in size with the location and configuration shown on Diagram 4 of this By-law, to the satisfaction of the Chief Planner and Executive Director, City Planning. Prior to the issuance of Site Plan Approval, the owner shall convey to the City, for nominal consideration, easement(s) along the surface of the lands for public access, together with any necessary rights of support, to the satisfaction of the City Solicitor, which shall constitute the privately owned publicly-accessible open space. The owner shall own, operate, maintain and repair the privately owned publicly-accessible open space and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the privately owned publicly-accessible open space at all times of the day and night, 365 days of the year; and the specific location, configuration and design of the privately owned publicly-accessible open space shall be determined in the context of a Site Plan Approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City;
6. through Site Plan Control, Landscape Plans along with a composite utility plan overlay on the Landscape Plans, a Soil Volume Plan, an Arborist Report and a Tree Protection Plan to the satisfaction of the General Manager, PFR and the Chief Planner. The Landscape Plans shall illustrate soil volumes and species for the proposed trees to be planted on the City-owned right-of-way on Brownlow Avenue, and for the proposed trees to be planted on the subject property along Brownlow Avenue, to the satisfaction of the Chief Planner in consultation with the Director, Urban Forestry. The owner shall thereafter implement the recommendations of such reports, and shall relocate at its sole cost and expense any utility conduits that interfere with existing or proposed trees, all of which shall be secured as part of Site Plan Approval, to the satisfaction of the Chief Planner, in consultation with the General Manager, PFR.
7. through Site Plan Control, 5.0 metre-wide landscaped buffers on both of the Brownlow and Soudan frontages of the subject property, substantially in accordance with the landscape buffer shown on Site Plan A201 in Confidential Appendix B to the report (July 12, 2022) from the City Solicitor in Item 2022.CC47.19;
8. through Site Plan Control, an on-site dog relief area with proper disposal facilities for existing and new residents, substantially in the size, location and configuration as the pet relief area shown on Site Plan A201 in Confidential Appendix B to the report (July 12, 2022) from the City Solicitor in Item 2022.CC47.19;

9. prior to Site Plan Approval, a Streetscape Improvement Plan, substantially in accordance with shown on Site Plan A201 in Confidential Appendix B to the report (July 12, 2022) from the City Solicitor in Item 2022.CC47.19, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the General Manager, Transportation Services, which shall provide for:
- a. a curb extension at the northwest corner of Soudan Avenue and Brownlow Avenue within the public boulevard;
 - b. along Soudan Avenue, a new 2.1 metre-wide linear path of concrete public sidewalk, within the public boulevard; and
 - c. along Brownlow Avenue, a new 2.1 metre-wide linear path of concrete public sidewalk, within the public boulevard;

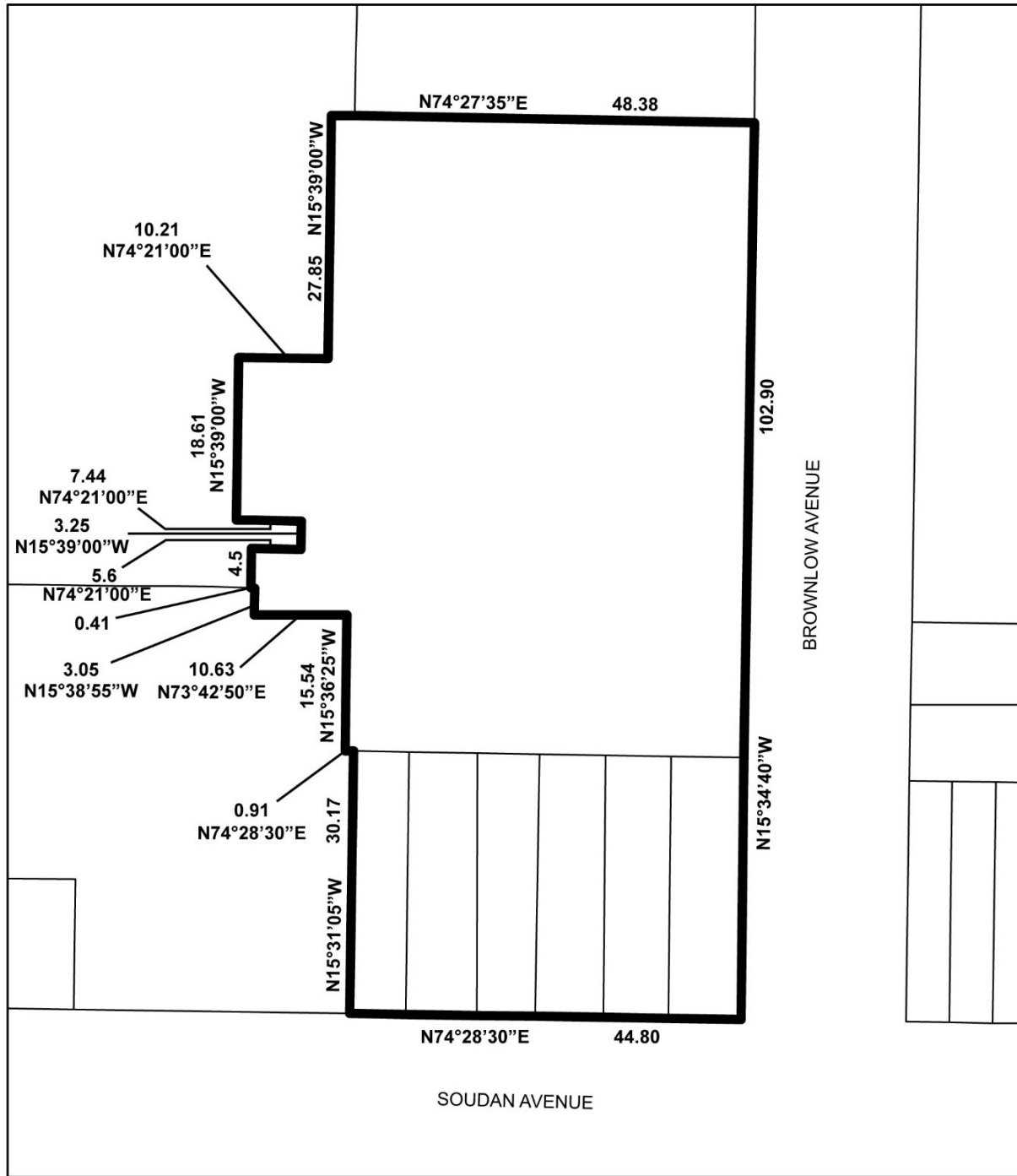
(the "**Streetscape Improvements**");

and an acceptable functional plan illustrating the Streetscape Improvements and the associated modifications in the pavement markings and road signs, to the satisfaction of the General Manager, Transportation Services. The owner shall enter into a financially secured agreement in respect of the Streetscape Improvements. The timing for completion of the Streetscape Improvements shall be determined at the time of and through the Site Plan Approval process.

10. through Site Plan Control, a revised Noise Impact Study, including the peer review process paid for by the owner, that identifies all mitigation measures to be undertaken for this development and that incorporates into the recommendations for site design, any required mitigation measures. The owner shall construct and maintain any required mitigation measures, to be secured through Site Plan Control, to the satisfaction of the Chief Planner and Executive Director, City Planning;
11. through Site Plan Control, a Pedestrian Level Wind Study to the satisfaction of the Chief Planner and Executive Director, city Planning; and agreement to implement any wind mitigation measures required thereby to the satisfaction of the Chief Planner and Executive Director, City Planning;
12. the construction and maintenance of the development in accordance with Tier 1, Toronto Green Standard. The owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance

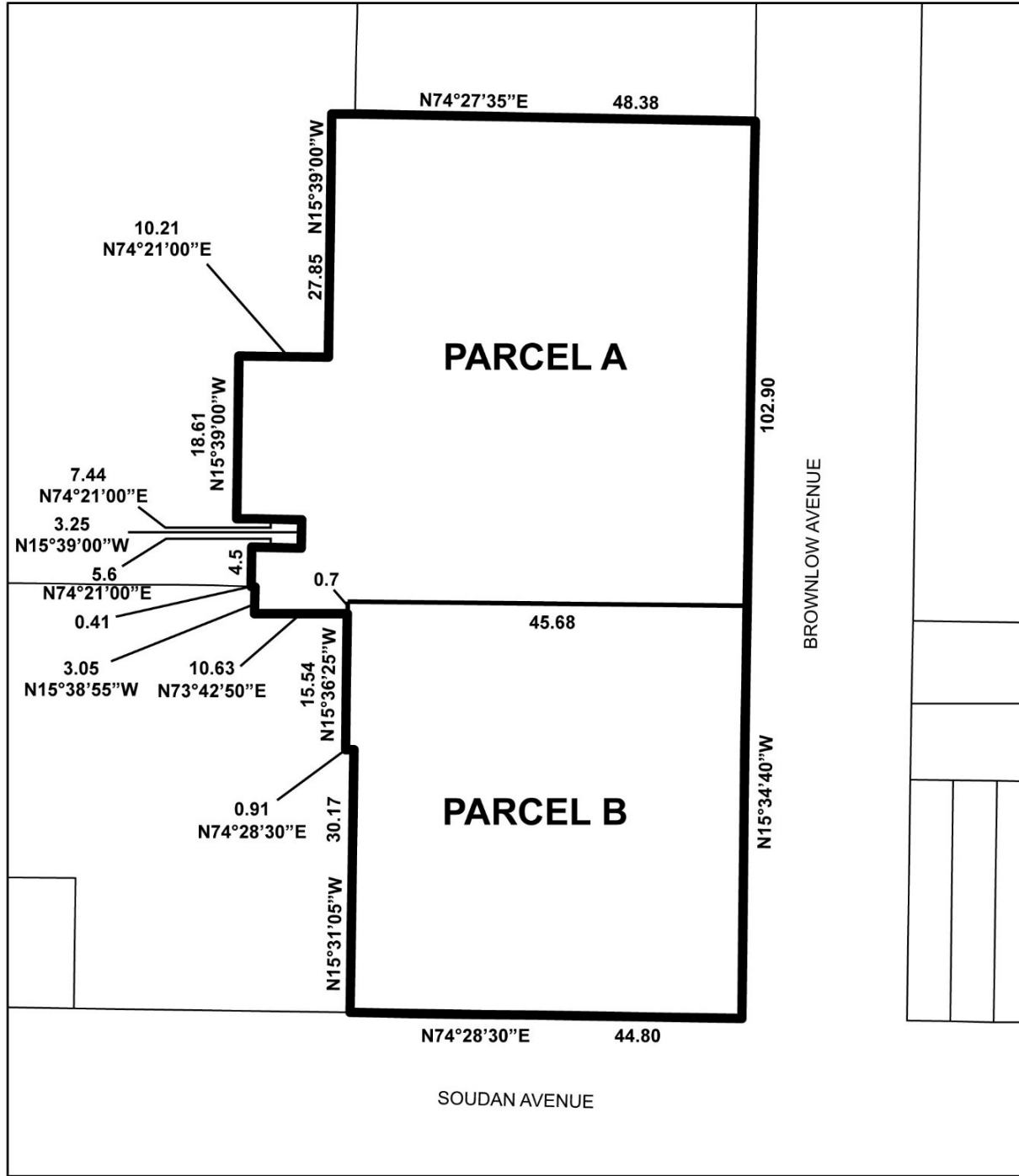
standards of Toronto Green Standards applicable at the time of the Site Plan Application for the development;

13. consent to the inclusion of warning clauses and signage of the Toronto Catholic District School Board and the Toronto District School Board in the conditions of Site Plan Approval and subsequently within any agreements of purchase and sale or tenant lease agreements for the proposed units, to the satisfaction of the Chief Planner and Executive Director, City Planning; and
14. prior to commencement of any excavation and shoring work, a Construction Management Plan to the satisfaction of the Chief Building Official and Executive Director, Toronto Building, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive Director, Engineering and Construction Services and thereafter shall implement the plan during the course of construction; the Construction Management Plan will include, but not be limited to the following construction-related matters: noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queueing locations, street closures, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, including matters related to the construction of streets or infrastructure, and any other matters requested by the Chief Building Official and Executive Director, Toronto Building, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive Director, Engineering and Construction Services.



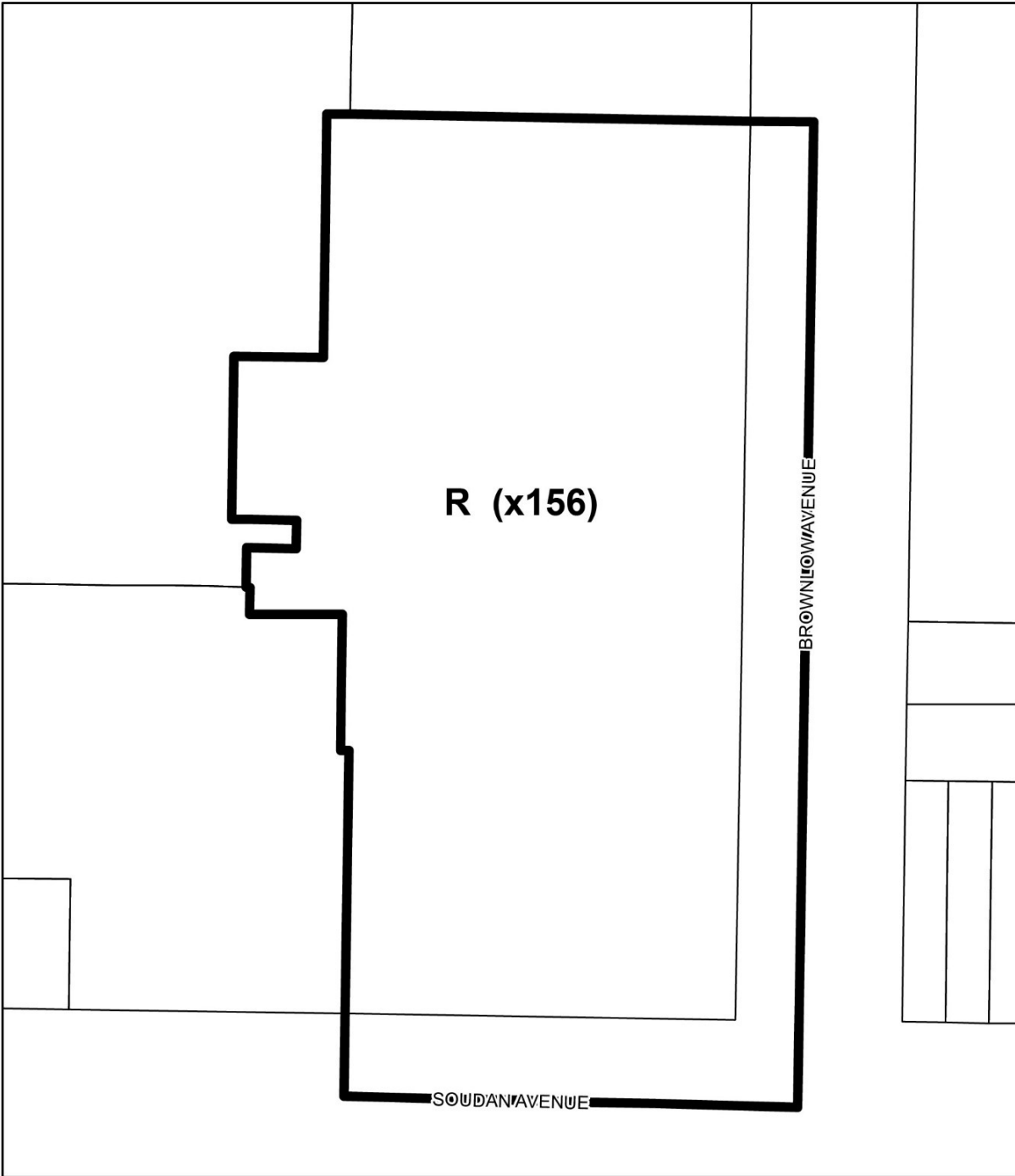
 **TORONTO**
Diagram 1

**190-200 Soudan Avenue &
18 Brownlow Avenue**
File # 20 230438 STE 12 OZ



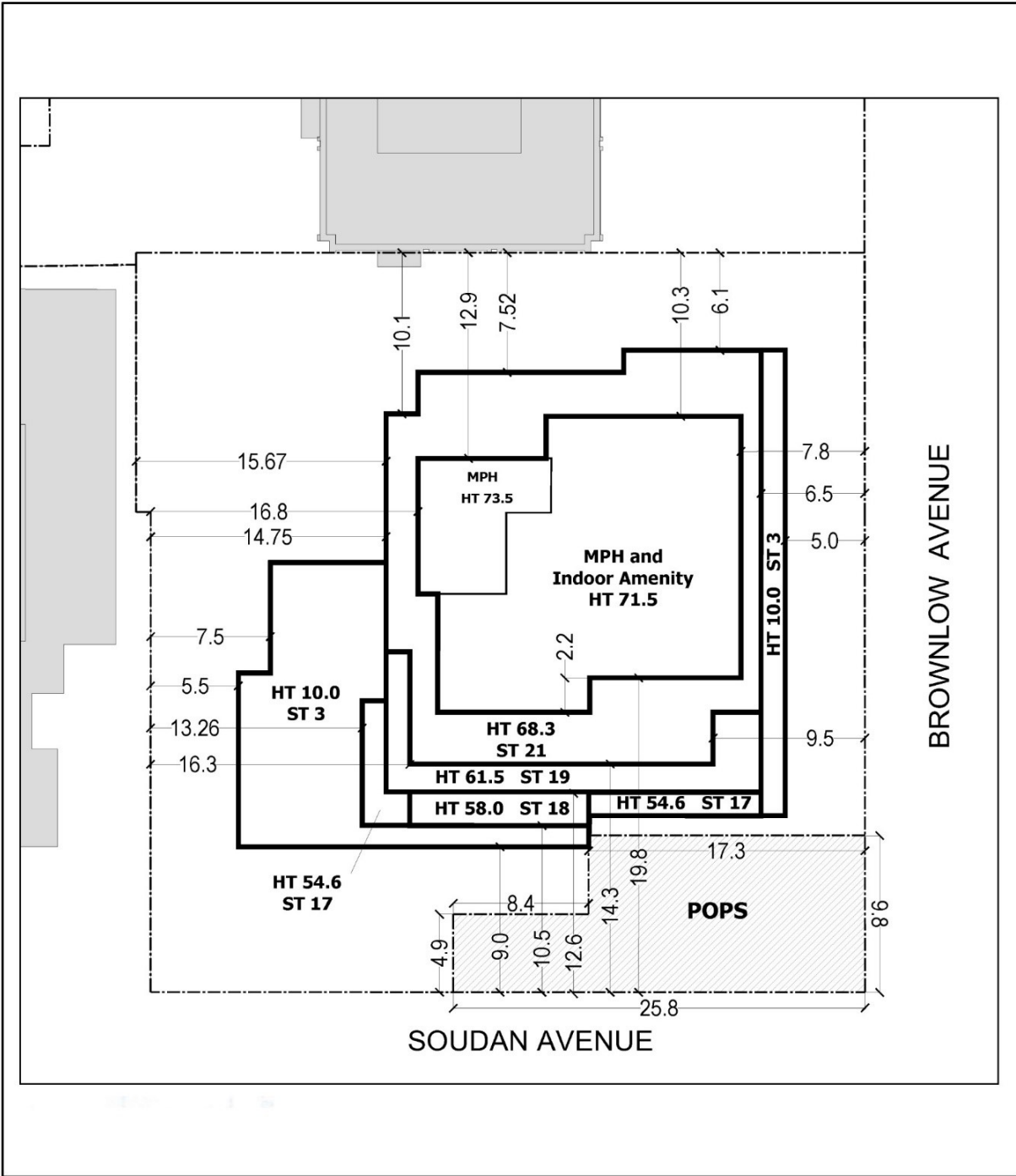
 **TORONTO**
Diagram 2

**190-200 Soudan Avenue &
18 Brownlow Avenue**
File # 20 230438 STE 12 OZ



 **TORONTO**
Diagram 3

**190-200 Soudan Avenue &
18 Brownlow Avenue**
File # 20 230438 STE 12 OZ



TORONTO
 Diagram 4

**190-200 Soudan Avenue &
 18 Brownlow Avenue**
 File # 20 230438 STE 12 OZ

-  Existing Building
-  Privately Owned Publicly Accessible Space