

Authority: Local Planning Appeal Tribunal Decision issued on January 30, 2019, Ontario Land Tribunal Decision issued on July 27, 2022 and Order issued on August 12, 2022 in File OLT-22-003969 (formerly PL170696)

CITY OF TORONTO

BY-LAW 385-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 2793, 2795-2799 Bathurst Street.

Whereas the Local Planning Appeal Tribunal, by its Decision issued on January 30, 2019, in File OLT-22-003969 (formerly PL170696), and authorized by the Ontario Land Tribunal by way of a Decision issued on July 27, 2022 in file OLT-22-003969 has approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known as 2793, 2795-2799 and Bathurst Street; and

Whereas the Ontario Land Tribunal held a hearing in accordance with the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the Planning Act, to pass this 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, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18 ("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 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; 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 Schedule A of this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The City of Toronto By-law 569-2013, as amended, is further amended by the Ontario Tribunal 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 to CR 1.0 (c.1.0; r 1.0) SS2, (x355) 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. 11.10 Exception Number 355 so that it reads:

Exception CR 355

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 2793, 2795-2799 Bathurst Street if the requirements of Section 6 and Schedule A of By-law 385-2023(OLT) are complied with, a **building, structure**, addition or enlargement may be constructed in compliance with (B) to (Q), below.
- (B) Within the hatched area shown on Diagram 4 of By-law 385-2023(OLT), the only uses permitted are vehicular access, ramps, residential and non-residential **parking spaces** and **bicycle parking spaces**, **loading spaces** and servicing areas, access to the loading and servicing areas, access to residential and non-residential **parking spaces**, balconies, terraces/indoor and outdoor **amenity spaces**, the pedestrian entrance and lobby, locker rooms, storage rooms, mechanical rooms, and residential **dwelling units** that are associated with the **mixed use building**.
- (C) Despite regulations 40.5.40.10(1) & (2) the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 180.5 metres and the elevation of the highest point of the **building** or **structure**.
- (D) Clause 40.10.30.40, with regards to **lot coverage**, does not apply.
- (E) Despite regulation 40.10.40.1(1), residential use portions of the building may be located on the same **storey** as non-residential use portions.
- (F) Despite regulations 40.10.40.10(2) and 40.10.40.1(7), the permitted maximum height and **storeys** of a **building** or **structure** is the numerical value in metres following the letters "HT" and the number of **storeys** prior to the letters "ST" on Diagram 3 of By-law 385-2023(OLT):

- (i) the mezzanine and mechanical penthouse shall not be included in the calculation of the number of storeys.
- (G) Despite regulation 40.5.40.10(3) to (8) and (F) above, the following elements of a **building** may project above the permitted maximum height on Diagram 3 of By-law 385-2023(OLT):
- (i) mechanical penthouse to a maximum of 5.5 metres;
 - (ii) safety railings, parapets, balustrades, guardrails, chimneys, vents, stacks, **landscaping** elements, **green roof** elements, outdoor furniture, roof access hatches, planters, ventilation shafts and ramps to a maximum of 2.5 metres; and
 - (iii) trellises, window washing equipment, privacy screens, wind screens, architectural screens, stairs, stairs enclosures associated with an entrance of exit, elevator overruns and elements or **structures** on the roof of the **building** used for outside or open air recreation, safety or wind protection purposes to a maximum of 5 metres.
- (H) For the purpose of determining compliance with regulation 40.10.40.10(5), the required minimum height of first **storey** does not apply to residential uses and the minimum height of all other non-residential uses is 4.0 metres.
- (I) Despite regulation 40.10.40.40(1), the permitted maximum **gross floor area** of the **building** is 15,720 square metres of which:
- (i) no more than 14,800 square metres may be for residential uses; and
 - (ii) no more than 920 square metres may be for non-residential uses.
- (J) Despite regulation 40.10.40.70(2), the required minimum **building setbacks** for a **building** or **structure** are shown on Diagram 3 of By-law 385-2023(OLT).
- (K) Despite clause 40.10.40.60 and regulation (J) above, the following may encroach into the required minimum **building setbacks** on Diagram 3 of By-law 385-2023(OLT):
- (i) Cornices, light fixtures, ornamental elements, parapets, and landscape features, patios, pillars, trellises, balconies, terraces, eaves, window sills, bay windows, planters, ventilation shafts, guardrails, railings, wheelchair ramps, fences, screens, site servicing features, up to a maximum of 1.5 metres;
 - (ii) The main residential entrance canopy located on the ground floor up to a maximum of 3.0 metres and all other canopies up to a maximum of 1.8 metres;

- (iii) On the north side of the portion of the **building** labelled "HT 10.4" on Diagram 3 of By-law 385-2023(OLT): cornices, light fixtures, ornamental elements, parapets, eaves, window sills, bay windows, up to a maximum of 0.5 metres;
 - (iv) Where located on the ground of the north side of the **building** labelled "HT 10.4" on Diagram 3 of By-law 385-2023(OLT): terraces, platforms, retaining walls, walkways, **landscaping** features, patios, decks, planters, guard rails, pillars, stairs, parapets, wheelchair ramps, fences and ventilation shafts up to a maximum of 5.5 metres;
 - (v) Where located on the ground of the south side of the **building** labelled "HT 13.65" on Diagram 3 of By-law 385-2023(OLT): platforms, light fixtures covered stairway enclosures, retaining walls, walkways, **landscaping** features, patios, decks, planters, guard rails, pillars, stairs, stair rails parapet and wheelchair ramps; and
 - (vi) Where located on the ground on the east side of the portion of the **building** labelled "HT 5.7", "HT 10.4", and "HT 13.65" on Diagram 3 of By-law 385-2023(OLT): transformer vaults, underground garage ramps and their associated **structures**, stairs, landscape features, planters, guard rails, parapets, pillars, wheelchair ramps, fences, gas meter, canopies, site servicing features, and ventilation shafts, to a maximum of 3.15 metres.
- (L) Despite regulation 40.10.40.60(1)(C)(iii):
- (i) Balconies located on the north side above the fourth **storey** of the portion of the **building** labelled "HT 7.5", "HT 19.9", "HT 23.15", "HT 26.4", and "HT 30" on Diagram 3 of By-law 385-2023(OLT) must have a minimum depth of 1.8 metres, measured from the **main wall**; and
 - (ii) Balconies located on the north side above the fifth **storey** of the portion of the **building** labelled "HT 7.5", "HT 19.9", "HT 23.15", "HT 26.4" and "HT 30" on Diagram 3 of By-law 385-2023(OLT) must have a length equal to 25 percent of the width of the north side **main wall** of the ninth **storey**.
- (M) Despite regulation 40.10.50.10(3), a minimum 1.5 metre wide strip of land used only for **soft landscaping** must be provided abutting 40 percent of the east **lot line** abutting the lot in the Residential Zone category.
- (N) Despite regulation 200.5.10.1(1) and Table 200.5.1.10, **parking spaces** must be provided below the Canadian Geodetic Datum elevation of 180.5 metres in accordance with the following:
- (i) 0.8 residential occupant **parking spaces** for each one-bedroom **dwelling unit**;

- (ii) 0.9 residential occupant **parking spaces** for each two-bedroom **dwelling unit**;
 - (iii) 1.1 residential occupant **parking spaces** for each three-bedroom and greater **dwelling unit**;
 - (iv) 0.15 visitor **parking spaces** per **dwelling unit**; and
 - (v) 1.0 **parking spaces** for each 100 square metres of non-residential **gross floor area** for all non-residential uses.
- (O) Despite regulation 200.5.1.10(2)(A)(iv), a maximum of 15 percent of the total number of parking spaces may be obstructed on both sides.
- (P) Despite clauses 220.5.10.1 and 40.10.90.1, one Type "G" **loading space** is required on the **lot**.
- (Q) Despite regulation 40.10.90.10(1)(c), a **loading space** may be provided in the **rear yard** that abuts a **lot** in the Residential Zone category.

Prevailing By-laws and Prevailing Sections: Schedule 'D' Airport Hazard Map from City of North York Zoning by-law 7625.

5. Despite any existing or future severance, partitions or division of the lot, the provisions of this By-law will apply to the whole of the lot as if no severance partition or division occurred.
6. Section 37 Provisions
- (A) 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, 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 of this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A of this By-law hereof and which are secured by one or more agreements pursuant to Section 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, 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/or density pursuant to this By-law unless all provisions of Schedule A of this By-law are satisfied.

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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 Schedule 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:

1. Prior to the issuance of any Building Permit, the owner shall enter into an agreement and the agreement shall be registered on title to the lands 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 facilities, services or matters set out below:
 - i. Prior to the issuance of the first above grade building permit the Owner shall provide to the City of Toronto \$1,081,723.84 (one million, eighty-one thousand, seven hundred and twenty-three dollars and eighty-four cents) to be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor for local area park improvements in the new Ward 8 and/or public realm improvements along Bathurst Street in the new Ward 8.
 - ii. The cash contribution will 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.
 - iii. In the event the cash contribution referred to in (i) has not been used for the intended purpose within three (3) years of this 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 of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
2. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - i. Road improvements to Glencairn Avenue to support the proposed development such as a new eastbound left turn lane into the site.

Diagram 1

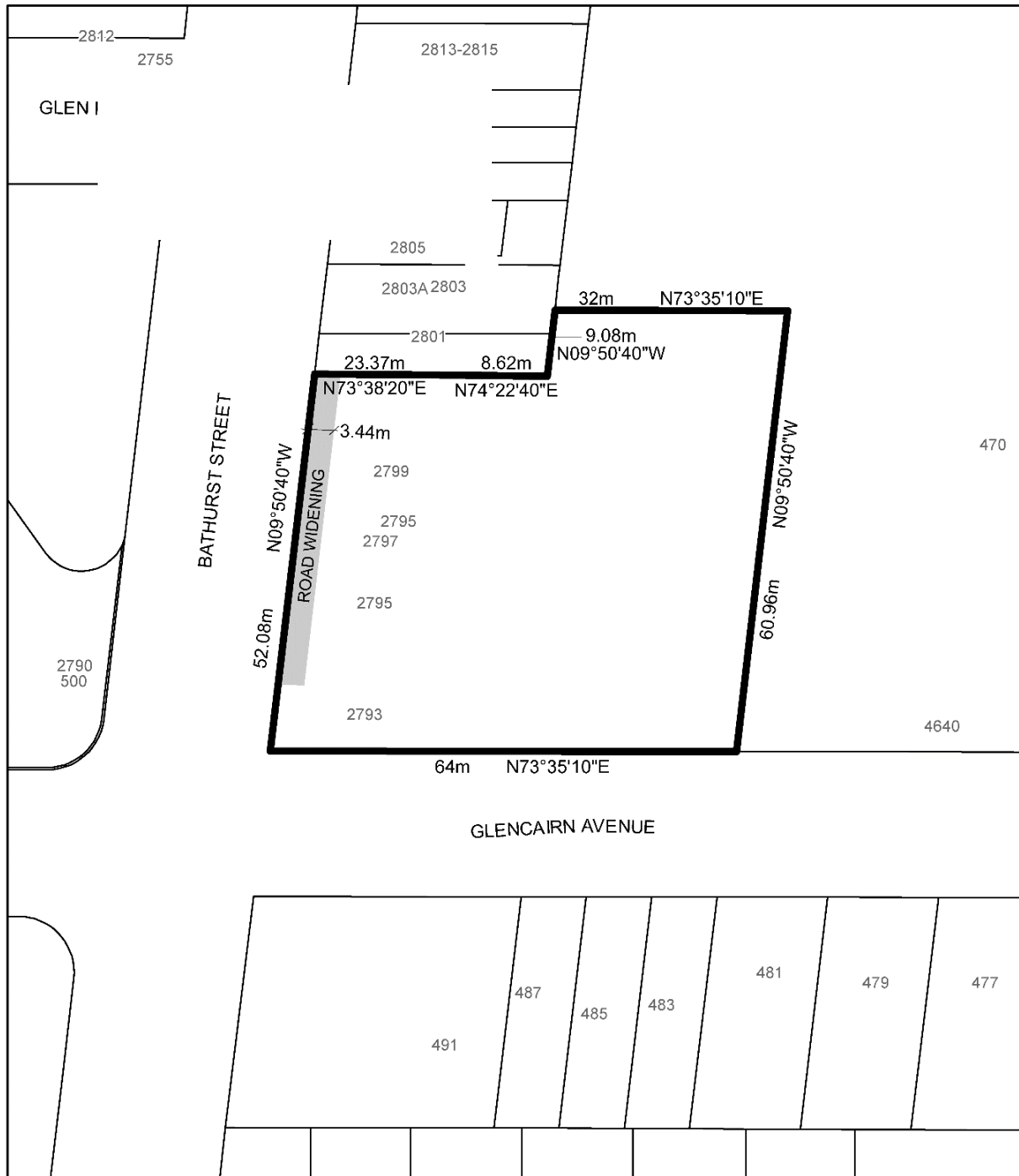


Diagram 2

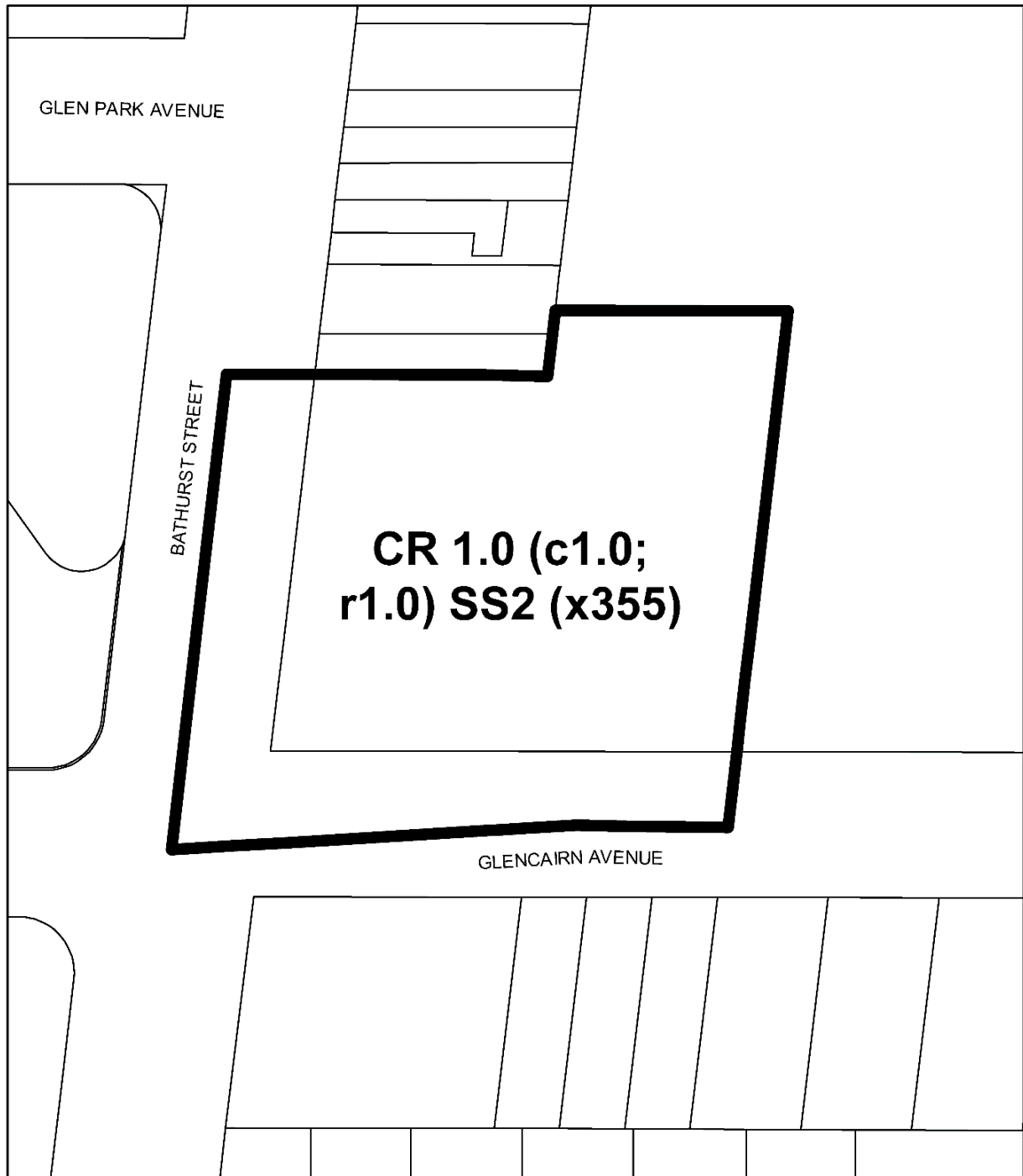


Diagram 3

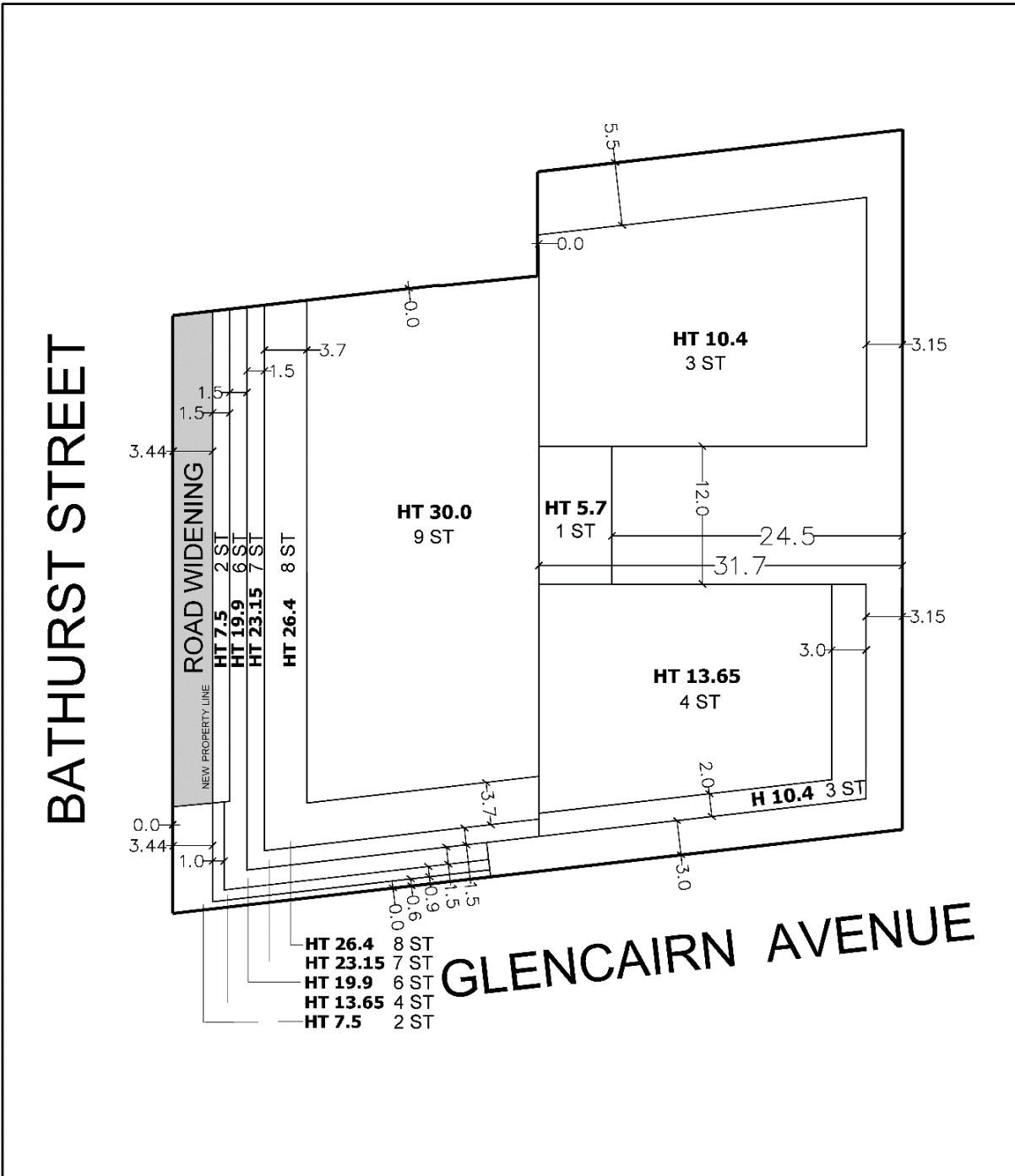


Diagram 4

