

Authority: Local Planning Appeal Tribunal Decision issued on May 21, 2020 and its Order issued on July 26, 2022 as amended by Order issued on April 5, 2023 in Tribunal File PL180112 and OLT-22-004152

CITY OF TORONTO

BY-LAW 389-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 33 to 37 Parliament Street.

Whereas the Ontario Land Tribunal, pursuant to its Decision and Orders in respect of Case Number PL180112/OLT-22-004152 issued on May 21, 2020, July 26, 2022 and April 5, 2023 considering an appeal pursuant to Subsection 34(11) of the Planning Act, R.S.O. c. P.13, as amended, has determined to amend By-law 569-2013, as amended, for the City of Toronto with respect to lands known as 33 to 37 Parliament Street; and

Whereas the City of Toronto Zoning By-law 569-2013, as amended, where such applies, supersedes By-law 438-86 (being the Zoning By-law for the former City of Toronto), as amended, and any predecessor zoning by-laws as are applicable; 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 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 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 and/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; 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; and

Whereas pursuant to Section 39 of the Planning Act, the council of a Municipality may, in a by-law passed under section 34 of the Planning Act, authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Ontario Land Tribunal orders as follows:

1. The lands subject to this By-law are outlined by heavy black lines as shown 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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10, and applying the following zone label to these lands, as shown on Diagram 2 attached to this By-law: CR SS2 (x445).
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Section 995.10.1 and applying the following Policy Overlay label to these lands: PA1, as shown on Diagram 3 of this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Height Overlay Map in Section 995.20.1, and applying the following height label to these lands: HT 23.0, as shown on Diagram 4 of this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Lot Coverage and Overlay Map in Section 995.30.1, as shown on Diagram 5 of this By-law.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Rooming House Overlay Map in Section 995.40.1 and applying the following height label to these lands: B3, as shown on Diagram 6 of this By-law.
8. Zoning By-law 569-2013, as amended, is further amended by adding Exception (x445) to Article 900.11.10 so that it reads:

Exception CR (x445)

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 lands municipally known as 33 to 37 Parliament Street in the year 2020, if the requirements of Section 9 and Schedule A of By-law 389-2023(OLT) are complied with a **building, structure**, addition or enlargement may be erected and used in compliance with (B) to (GG) below;
- (B) The **lot** comprises the lands outlined by heavy black lines as shown on Diagram 1 of By-law 389-2023(OLT);

- (C) Despite Regulation 40.10.40.40(1), the maximum **gross floor area** on the **lot** must not exceed 35,500.0 square metres, of which, no less than 1,750.00 square metres of **gross floor area** must be provided for non-residential uses;
- (D) In addition to the provisions of Regulations 40.5.40.40(3) and for the purposes of Regulations 200.5.1.10(11) and 230.5.10.1(6), the **gross floor area** of a **mixed-use building** is also reduced by:
- (i) The area of a mezzanine used for the purpose of mechanical equipment, mechanical storage and equipment used for the functional operation of a **building**;
 - (ii) Indoor **amenity space**; and
 - (iii) Below the finished ground surface, the area of interior and exterior **building** walls;
- (E) A maximum of 545 **dwelling units** may be provided on the **lot**;
- (F) **Dwelling units** must comply with the following:
- (i) A minimum of 10 percent of the total number of **dwelling units** on the **lot** must contain three or more bedrooms;
 - (ii) A minimum of 25 percent of the total number of **dwelling units** on the **lot** must contain two bedrooms; and
 - (iii) if the calculation of the percentage of **dwelling units** which contain two bedrooms or three bedrooms results in a fraction, the percentage is rounded up to the nearest whole number for the purpose of determining compliance with either (i) or (ii) above;
- (G) Despite Regulations 40.10.20.20(1) and 40.10.20.100(7), **public parking** is permitted provided the portion of a **public parking premises** which contains an area for the parking of one or more **vehicles** is located below ground;
- (H) Despite Regulation 40.10.40.1(1), **dwelling units** must be located above the first **storey** of a **building**;
- (I) For the purpose of this exception, the mezzanine level between the first and second **storeys** is not a **storey**;
- (J) 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 77.0 metres and the highest point of the **building** or **structure** and such elevation is **established grade** for the purpose of determining the **first floor**;

- (K) Despite Regulation 40.10.40.10(2), the permitted maximum height of each portion of a **building** or **structure**, is the height in metres as specified by the numbers following the HT symbol as shown on Diagram 7 of By law 389-2023(OLT);
- (L) Despite Regulations 40.5.40.10(3), (4), (5), (6) and (7) and (K) above, the following projections may exceed the permitted maximum height of a **building** or **structure**:
- (i) Terrace dividers, parapets, balcony dividers, privacy screens, landscape features and **structures** used for outdoor **amenity space** or open air recreation including but not limited to a pool and related **structures**, to a maximum of 3.0 metres;
 - (ii) ornamental or architectural features, wheel chair ramps and elements of a **green roof** to a maximum of 1.5 metres;
 - (iii) roof top access stairs or ladders, fans and solar panels to a maximum of 2.0 metres;
 - (iv) **structures** for safety, noise or wind attenuation purposes, lightning rods, window washing equipment, barrier free lift, chimneys, vents, stacks, and flues; and
 - (v) **structures**, elements and enclosures permitted by (P) below;
- (M) In addition to the permitted projections in (L) above, any portion of a **building** located within the hatched areas on Diagram 7 of By-law 389-2023(OLT) above the permitted maximum heights of 102.0 metres and 31.5 metres as noted thereon, may only be used for the purpose of mechanical equipment, elevator overruns, stairs, ladders and cooling towers, including associated enclosures or screens and such portions are also subject to the permitted projections in (L) above;
- (N) Despite Regulation 40.10.10.10(7), the permitted maximum number of **storeys** in a **building** is the numerical value following the ST symbol on Diagram 7 of By-law 389-2023(OLT);
- (O) Despite Regulations 40.10.40.70(2) and Article 600.10.10, the required minimum **building setbacks** and distances between **main walls** of **buildings** and **structures** above the finished ground surface are shown in metres on Diagram 7 of By-law 389-2023(OLT);
- (P) Despite Regulations 5.10.40.70(1) and (2), Clauses 40.5.40.60 and 40.10.40.60, and Regulation (O) above, the following **building** elements and **structures** may project into a required minimum **building setback** and distances between **main walls** as follows:
- (i) **Structures**, elements and enclosures permitted by (L) above;

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- (ii) Cornices, ornamental or architectural elements, architectural fins, masonry piers, pilasters, sills and eaves to a maximum of 1.0 metres;
 - (iii) Roof top access ladders to a maximum of 1.2 metres;
 - (iv) Fencing, bollards, guards, guardrails, retaining walls, and bicycle parking facilities, subject to a maximum vertical projection of 1.5 metres above the level of the finished ground;
 - (v) Lighting fixtures, railings, wheel chair ramps, ornamental or architectural features, landscape features and art installations; and
 - (vi) Balconies and associated guards, railings and dividers, may project a maximum of 1.5 metres provided that:
 - (a) Balcony projections may only be located at or above the 8th **storey** of a **building**, and
 - (b) Despite (a) above, balconies must not project into the required **building setback** from Parliament Street;
- (Q) Regulation 40.10.40.80(2)(B), does not apply to the first **storey** of a **building**;
- (R) 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 4.2 metres, excluding any mezzanine level;
- (S) Despite Regulation 40.10.40.50(1), **amenity space** must be provided in accordance with the following:
- (i) a minimum of 3.5 square metres per **dwelling unit** must be provided as **amenity space**, of which at least 1.2 square metres per **dwelling unit** is indoor **amenity space**;
 - (ii) at least 40.0 square metres of the **amenity space** required by (i) above must be provided as outdoor **amenity space** in a location adjoining or directly accessible from indoor **amenity space**;
 - (iii) indoor **amenity space** must be provided in room(s) which may or may not be contiguous and at least one of which must contain a kitchen and washroom; and
 - (iv) indoor **amenity space** must be calculated in accordance with the provisions for the calculation of **gross floor area** as set out in (D) above and for clarity:
 - A. **amenity space** is not **gross floor area** for the purposes of (C) above;

- (T) Despite Regulation 200.5.1.10(2), a maximum of 15 percent of the total number of **parking spaces** provided may have the following minimum dimensions, and such **parking spaces** may be obstructed on one or two sides:
- (i) Length of 5.6 metres;
 - (ii) Width of 2.6 metres; and
 - (iii) Vertical clearance of 2.0 metres;
- (U) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following minimums:
- (i) 0.2 **parking spaces** for each **dwelling unit**;
 - (ii) 0.1 **parking spaces** for each **dwelling unit** for the use of residential visitors; and
 - (iii) 2.56 **parking spaces** for each 100 square metres of **gross floor area** used for a permitted non-residential use;
- (V) The **parking spaces** required by (U)(i) above may be reduced by four **parking spaces** for each car-share **parking space** provided on the **lot**;
- (W) Despite Regulations 40.5.80.1(1), 200.5.1.10(10) and 200.10.1(1) and (2):
- (i) the **parking spaces** required by (U) (ii) and (iii) above may be provided on a non-exclusive basis within a **public parking** use on the **lot**; and
 - (ii) car-share **parking spaces** provided in accordance with (V) above, may be provided within a **public parking** use on the **lot**;
- (X) Despite Section 200.15.1, **parking spaces** must be provided on the **lot** as accessible **parking spaces** as follows:
- (i) Each 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) An accessible barrier-free aisle or path of 1.5 metres in width is required along the entire length of one side of an accessible **parking space** and such aisle or path may be shared by two accessible **parking spaces**; and

- (iii) An accessible **parking space** must be located within 38.0 metres as measured horizontally from the rear of the accessible **parking space** to a passenger elevator that provides access to the first **storey** of the **building**;
- (Y) Despite Clause 220.5.10.1, a minimum of 1 Type "B" **loading space** and a minimum of 1 Type "G" **loading space** must be provided;
- (Z) Despite Regulation 230.5.1.10(9)(B)(iii), a required "long-term" **bicycle parking space** for a **dwelling unit** in a **mixed-use building** may be located below the finished ground surface;
- (AA) Despite Regulation 230.5.1.10(10), a "long-term" **bicycle parking space** and a "short-term" **bicycle parking space** may be located in a **stacked bicycle parking space**;
- (BB) Despite Regulation 230.5.1.10(4), the minimum width of a **stacked bicycle parking space** is 0.4 metres;
- (CC) Regulation 230.40.1.20(2) does not apply to a "short-term" **bicycle parking space** located in a **building**;
- (DD) For the purpose of this Exception, **car-share** is the practice whereby a number of people share the use of one or more **vehicles** that are owned and operated by a profit or non-profit car-sharing organization, and car-share **parking space** means a **parking space** exclusively reserved and signed for a **vehicle** used only for **car-share** purposes;
- (EE) Regulation 40.5.40.10(8) does not apply with respect to limits on elements for the functional operation of a **building** for towers; and
- (FF) Sections 12(2)132 and 12(2)270 (a) of former City of Toronto By-law 438-86 do not apply.

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(2)132 of former City of Toronto By-law 438-86 except as otherwise provided for in Site Specific Provision (FF) in Exception CR(x445); and
 - (B) Section 12(2)270 (a) of former City of Toronto By-law 438-86 except as otherwise provided for in Site Specific Provision (FF) in Exception CR(x445);
9. None of the provisions of this By-law or By-law 569-2013 will apply to prevent a sales office on the **lot**, which means a building, structure, facility, trailer or portion thereof used exclusively for the purpose of the sale, marketing, leasing or rental of **dwelling units** erected on the **lot** for a period not to exceed 3 years from the date of this By-law coming into full force and effect;

- 10.** Despite any existing or future consent, severance, partition or division of the **lot**, the provisions of this By-law, will apply to the lands, as identified on Diagram 1, as one **lot** as if no consent, severance, partition or division occurred.
- 11.** 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 prior to the issuance of a building permit, the issuance of such permit shall be dependent on the 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 on May 21, 2020 in Tribunal File PL180112 and Ontario Land Tribunal Order issued on July 26, 2022 as amended by Order issued on April 5, 2023 in Tribunal File PL180112 and OLT-22-004152.

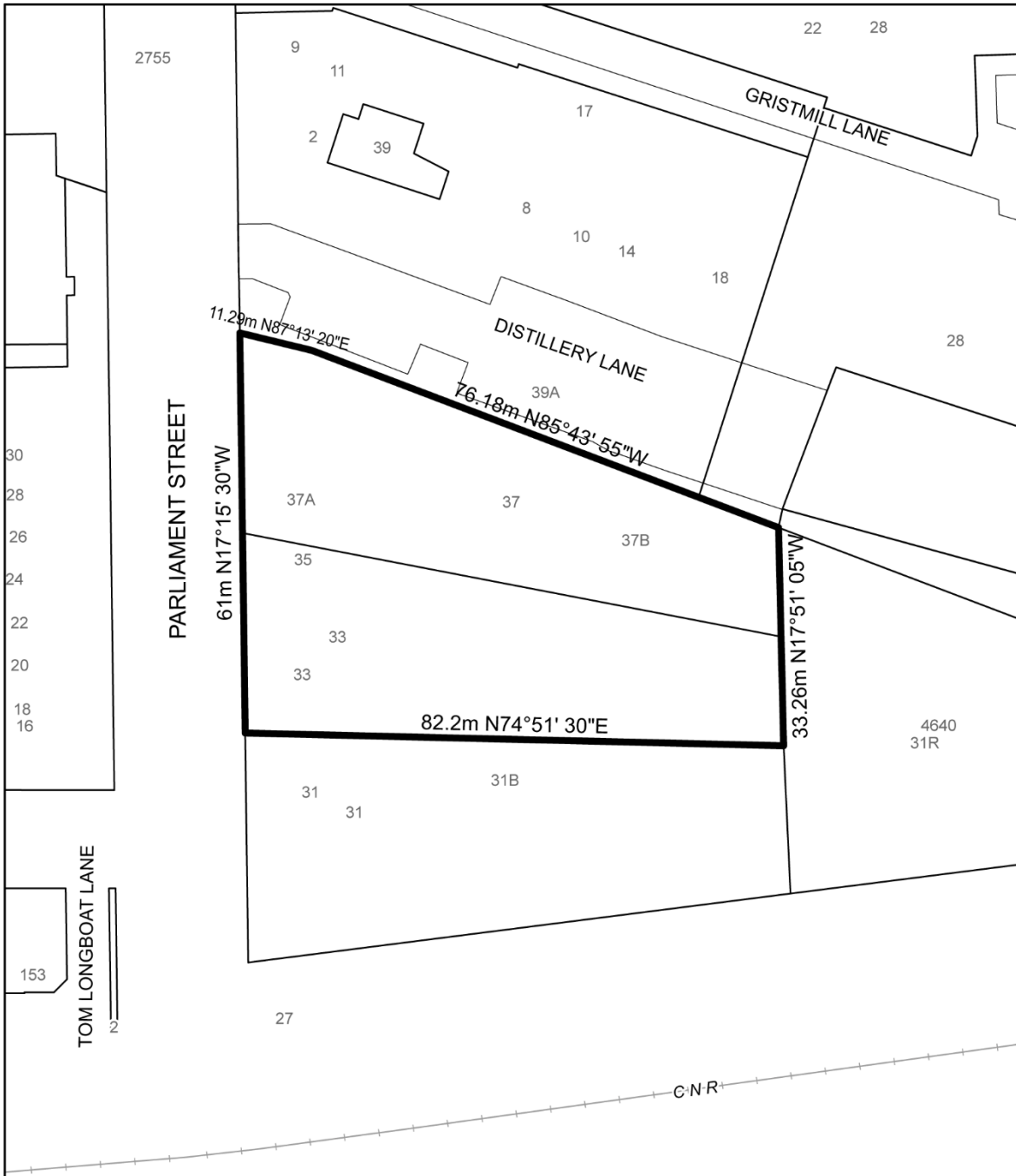
SCHEDULE A
Section 37 Provisions

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 on Diagram 1 of this By-law, subject to and secured in a registered agreement or agreements under Section 37(3) of the Planning Act, whereby the owner agrees as follows:

1. Prior to the issuance of the first Above-Grade Building Permit for the Development, the Owner shall pay a cash contribution in the amount of \$2,850,000 towards capital facilities within proximity of the lands, to be allocated as follows:
 - (A) \$570,000 for the provision of affordable housing in the vicinity of the lands; and
 - (B) \$2,280,000 towards any combination of the following, at the discretion, and to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
 - (i) Local parkland improvements and/or public realm improvements in the vicinity of the lands, which may include David Crombie Park Revitalization and/or improvements to the Parliament Street underpass; and
 - (ii) Community services and facilities in the vicinity of the lands;
2. The payment amount referred to in 1. above shall be increased by upwards index in accordance with the 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 Section 37 Agreement to the date such payment is made;
3. In the event the cash contribution referred to in 1. above has not been used for the intended purpose(s) within three (3) years of this By-law coming into force and effect, the cash contribution may be redirected for another purposes(s), provided that the purposes(s) is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
4. The owner shall provide and thereafter maintain a privately-owned, publicly-accessible open space easement to the City for nominal consideration ("POPS") with a minimum area of 300 square metres in accordance with the terms and conditions of the Section 37 Agreement with the details of which are to be secured as part of the site plan approval;
5. The Owner shall construct the POPS to the satisfaction of the Chief Planner prior to the earlier of Condominium Registration for all or any part of the Site and 12 months following First Occupancy, subject to extensions due to seasonality satisfactory to the Chief Planner and Executive Director, City Planning;
6. The proposed development will incorporate a curtain wall or glazing system on the west

- facing wall of the tower above the podium levels, the details of which shall be secured as part of the site plan approval process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
7. Prior to the issuance of notice of approval conditions in connection with the Site Plan Application, the owner shall submit a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning;
 8. The owner shall provide landscape plans as part of the site plan approval process that include the provision of street trees and landscaping along Parliament Street and along the proposed driveway, where appropriate, and paving on the private driveway that complements the character of the Distillery District to the satisfaction of the Chief Planner and Executive Director, City Planning;
 9. Prior to the issuance of the first Above-Grade Building Permit, the owner shall retain a consultant archaeologist, licensed by the Ministry of Tourism, Culture and Sport, under the provision of the Ontario Heritage Act to carry out a program of archaeological monitoring to occur when bulk excavation approaches an elevation of approximately 76 metres ASL to ensure that any remains of the 1859 Gooderham and Worts Parliament Street wharf and any other lakefill engineering systems that may be present are documented and further that during preliminary site work, the site should be visited regularly by the consultant to inspect the progress of the perimeter shoring and any other soil removals processes to the satisfaction of the Senior Manager, Heritage Preservation Services;
 10. The owner shall provide relevant assessment reports from the consultant archaeologist identified in 9. above to the City in both hard copy format and digital format prior to the issuance of the first Above-Grade Building Permit;
 11. Prior to the issuance of the first Above-Grade Building Permit, the owner shall incorporate any significant archaeological resources and findings into the proposed development through in situ preservation and interpretation where feasible, or will be commemorated and interpreted through exhibition development on site including, but not limited to commemorative plaquing to the satisfaction of the Senior Manager, Heritage Preservation Services;
 12. The owner shall provide pet friendly amenities within its indoor and/or outdoor residential amenity space as part of the Proposed Development, to be secured as part of the site plan approval process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 13. For any periods where pedestrian access cannot be accommodated on Distillery Lane, the owner shall ensure that all non-residential uses and POPS fronting on Distillery Lane will have pedestrian access to Parliament Street or the private driveway on the south side of the lands to the satisfaction of the Chief Planner and Executive Director, City Planning; and
 14. The owner shall explore the possibility of providing knock-out panels or other means to

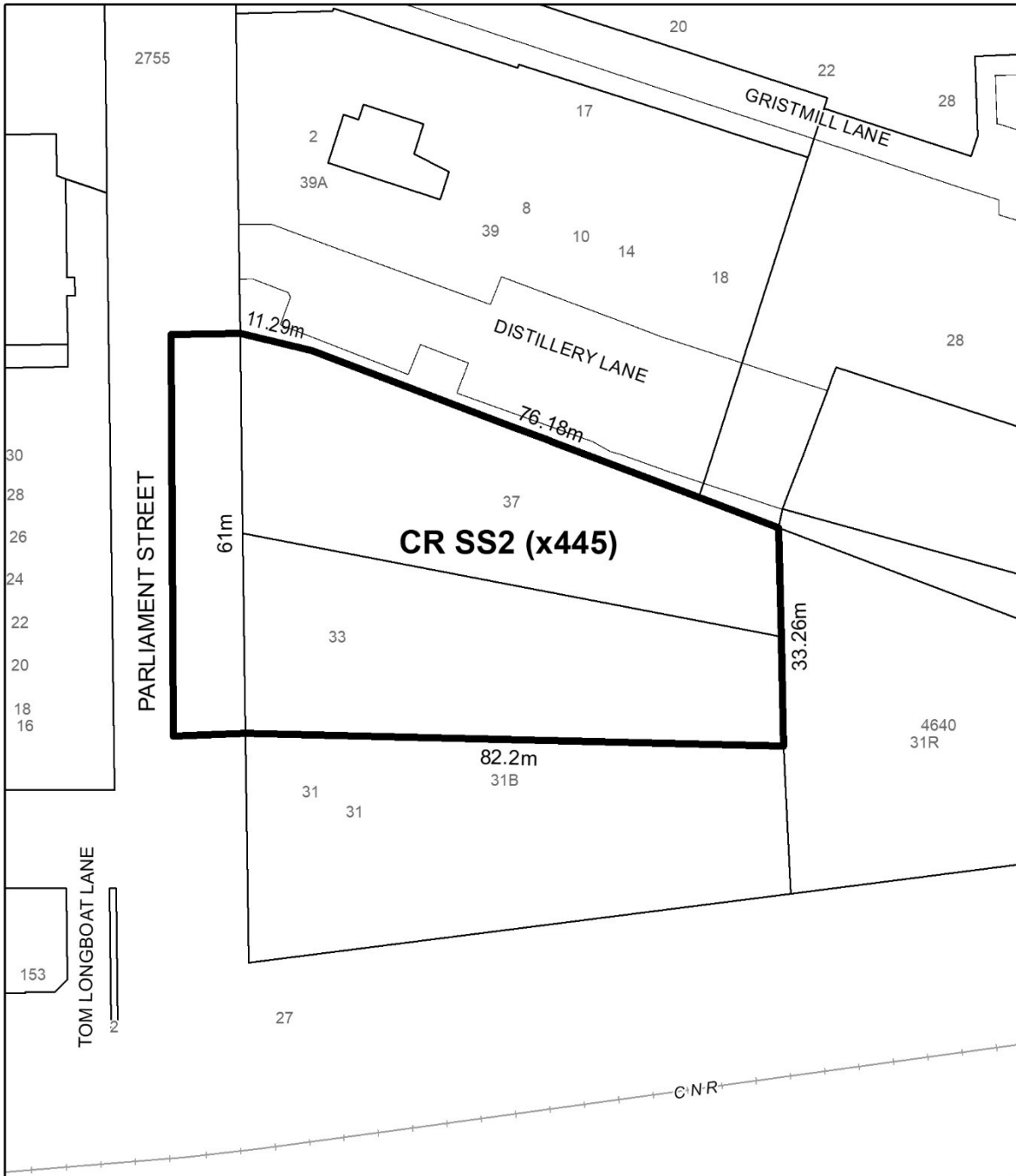
connect the underground parking garage of the Proposed Development with existing and/or planned underground parking garages on adjacent sites, and to consolidate loading and driveway accesses, to be secured as part of the approved plans in the site plan application, to the satisfaction of the Chief Planner and Executive Director, City Planning.



 **Toronto**
Diagram 1

33-37 Parliament Street


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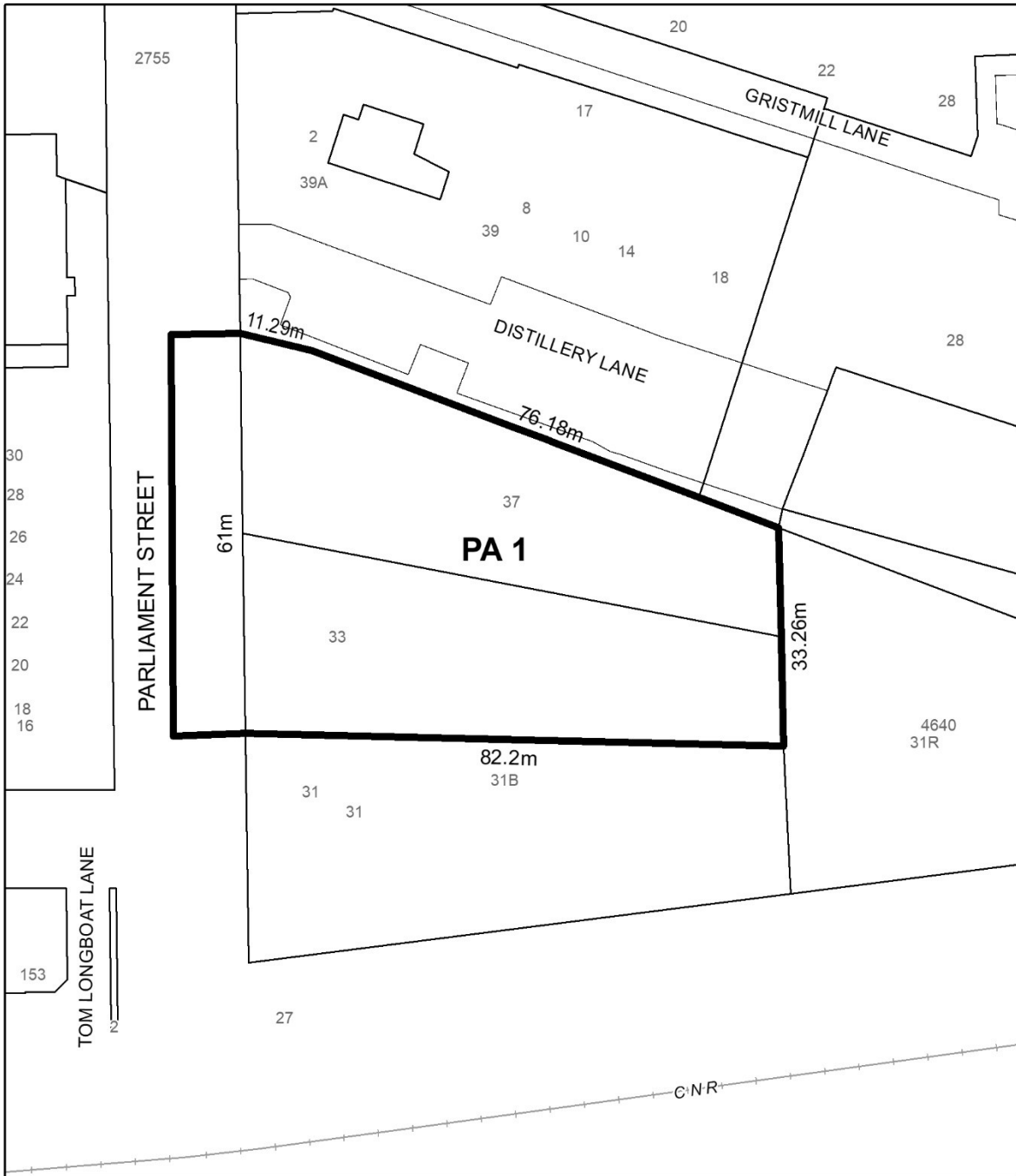


 **TORONTO**
Diagram 2

33-37 Parliament Street

File #: 17 219060 STE 28 0Z



City of Toronto By-law 569-2013
Not to Scale
12/02/2021

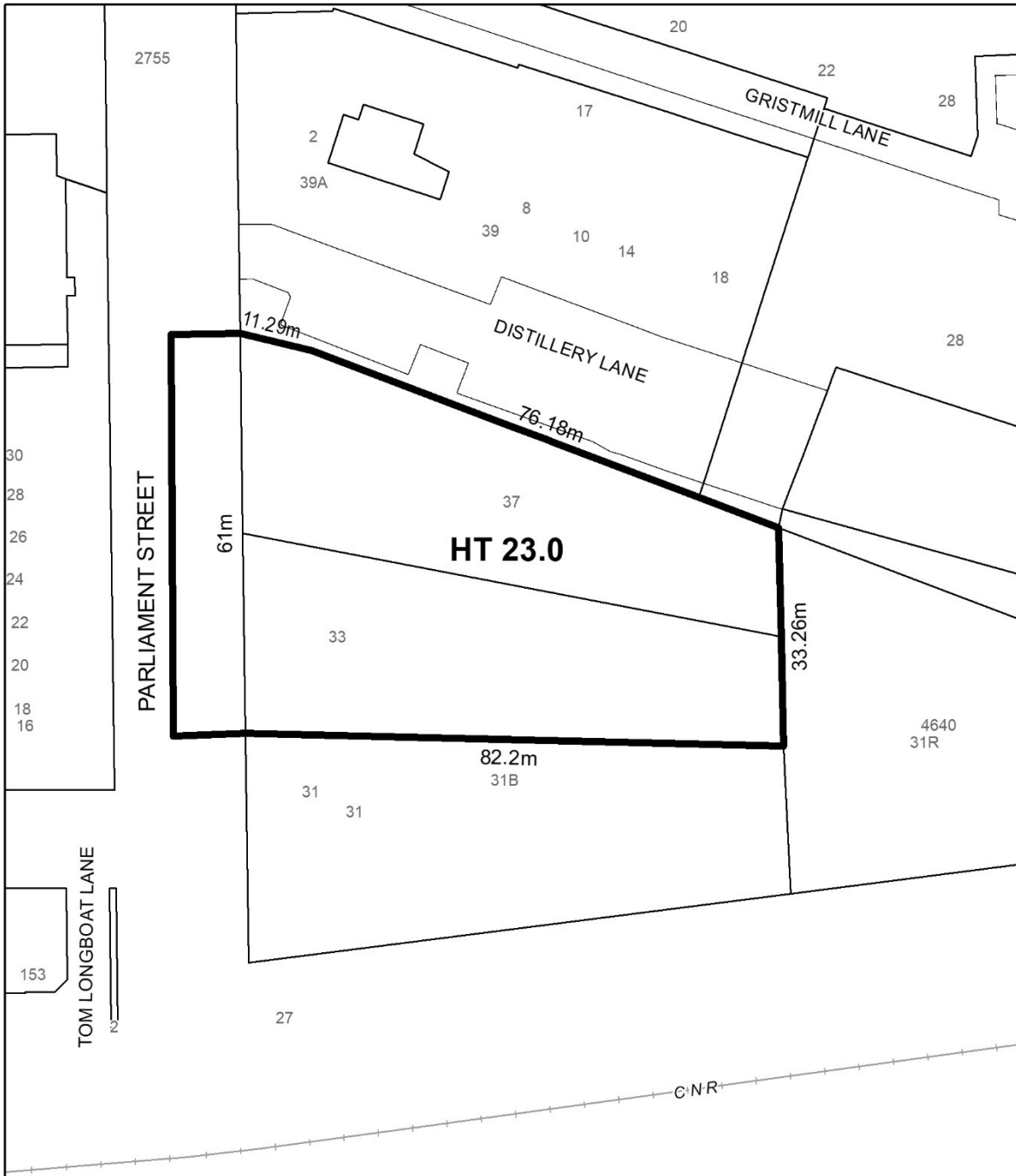


 **TORONTO**
Diagram 3

33-37 Parliament Street

File #: 17 219060 STE 28 0Z



City of Toronto By-law 569-2013
Not to Scale
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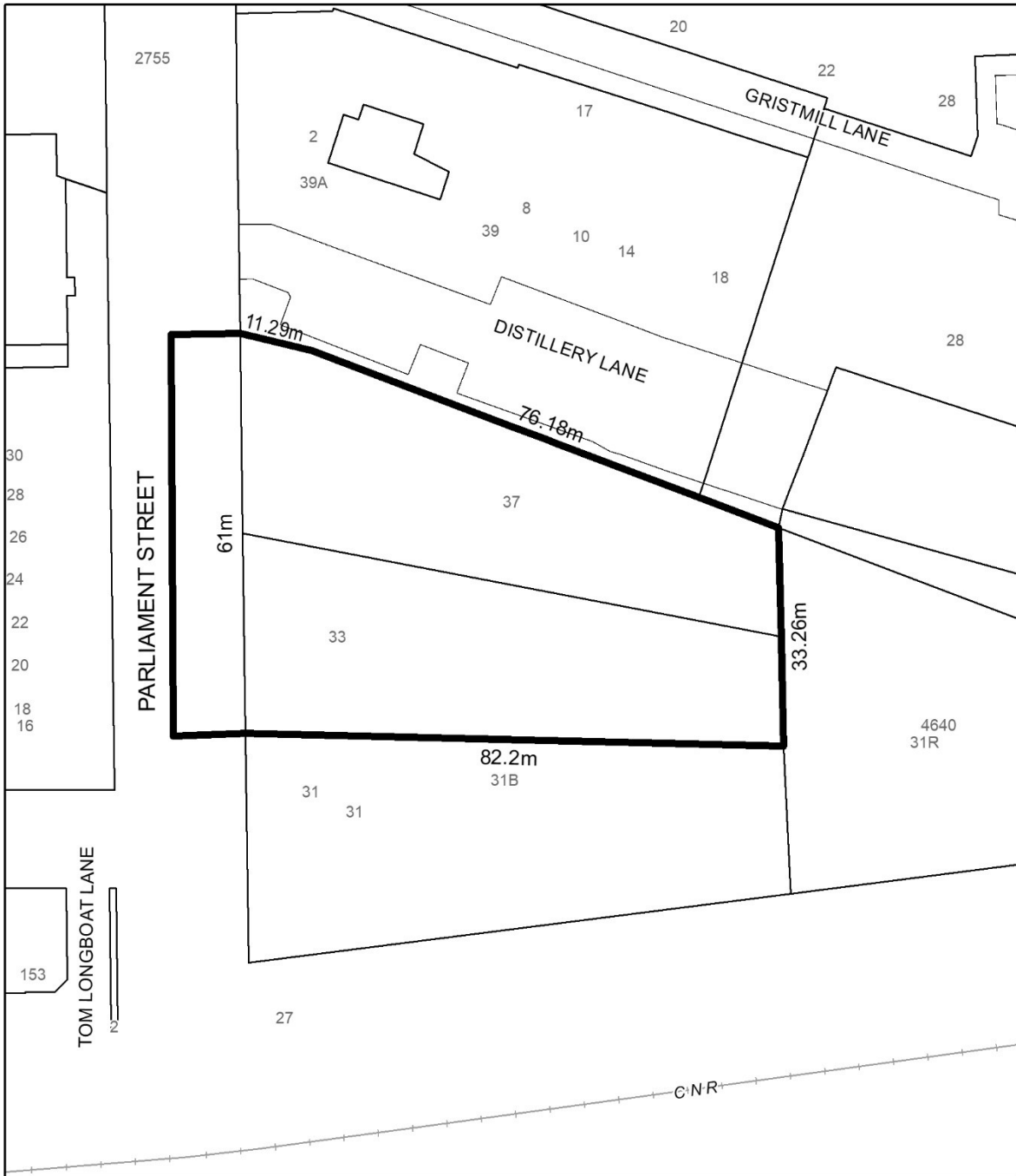


 **TORONTO**
Diagram 4

33-37 Parliament Street

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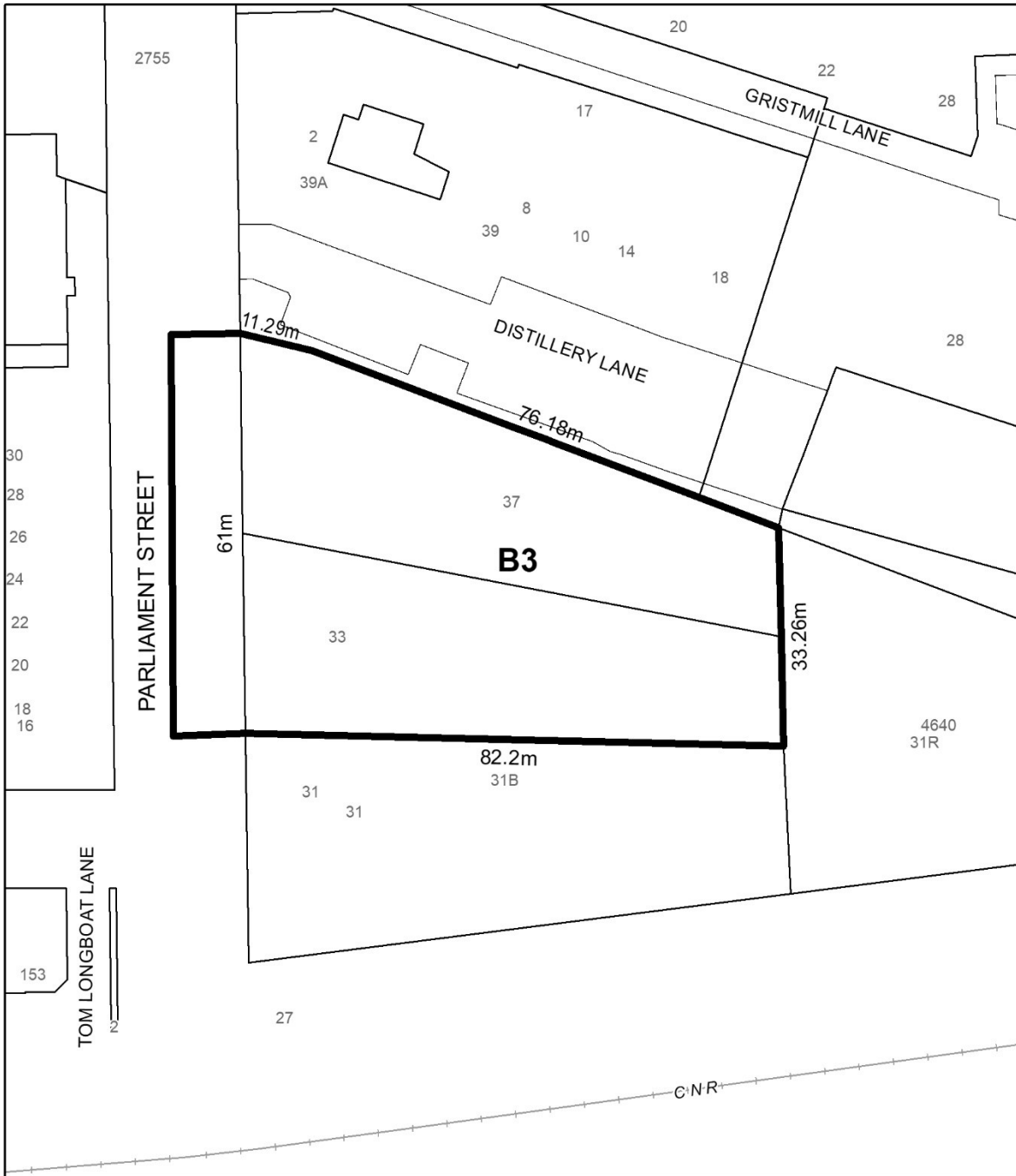

City of Toronto By-law 569-2013
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 **TORONTO**
Diagram 5

33-37 Parliament Street

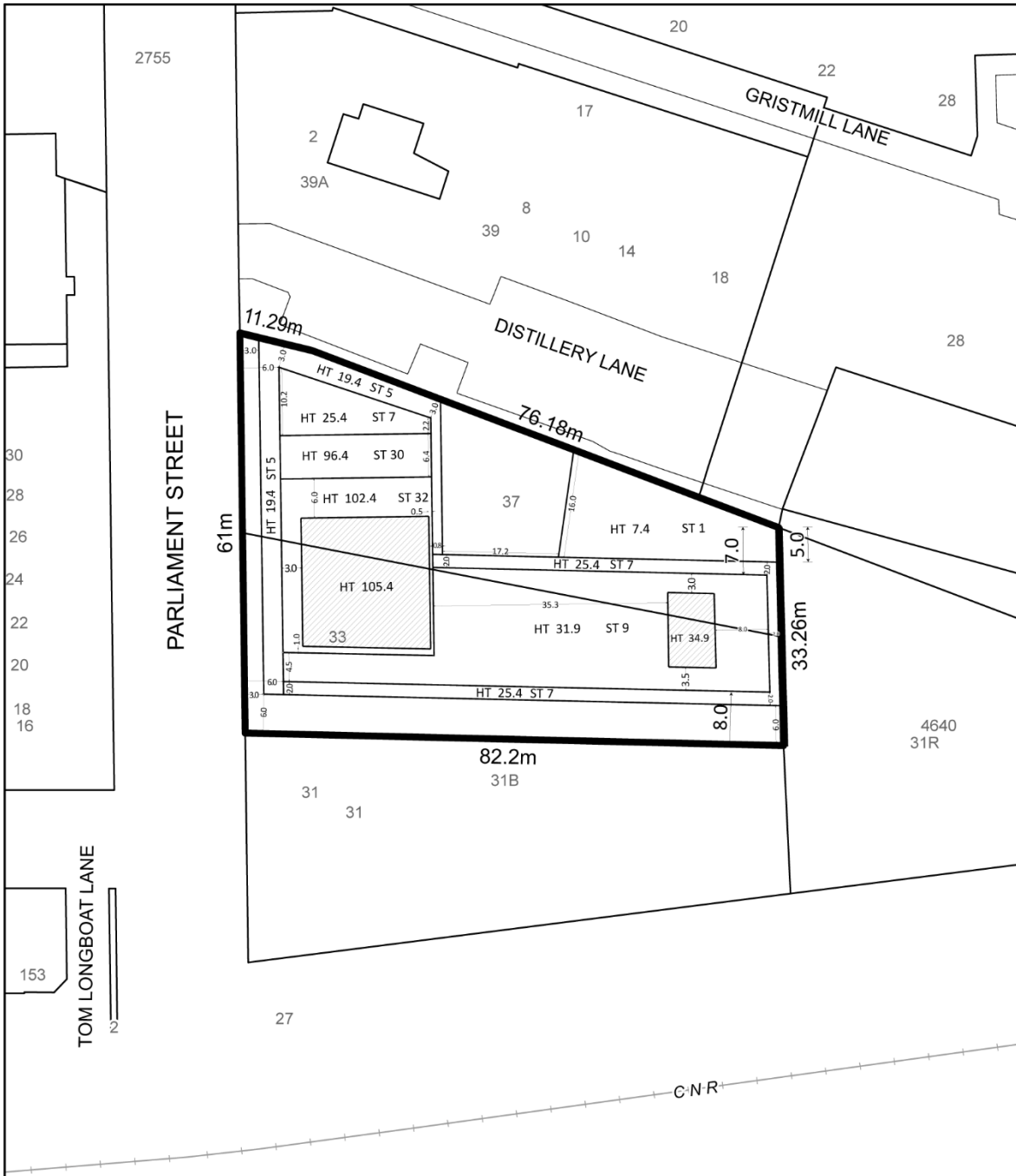
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 **TORONTO**
Diagram 6

33-37 Parliament Street

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 **TORONTO**
Diagram 7

33-37 Parliament Street

File #: 17 219060 STE 28 0Z



City of Toronto By-law 569-2013
Not to Scale
28/03/2022