

Authority: Local Planning Appeal Tribunal Decision issued February 5, 2019 and Ontario Land Tribunal Order issued on August 10, 2022 and effective August 8, 2022 in File OLT-22-003981 (formerly PL160225)

## **CITY OF TORONTO**

### **BY-LAW 676-2023(OLT)**

**To amend former City of North York Zoning By-law 7625, as amended, with respect to lands municipally known in the year 2022 as 169 The Donway West.**

Whereas authority is given to the Ontario Land Tribunal by Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas the Ontario Land Tribunal, pursuant to its Order effective August 8, 2022 has determined to amend By-law 7625 of the former City of North York; 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 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 7625 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 authority is given to Council by Section 34 and Section 36 of the Planning Act, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that conditions relating to the holding symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law;

The Ontario Land Tribunal orders:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York are amended in accordance with Schedule 1 of this By-law.

2. Section 64.25(8) of By-law 7625 is amended by replacing Schedule C3(8)B with the revised Schedule C3(8)B attached to this By-law.
3. Section 64.20-A of By-law 7625 is amended by adding the following subsection:

**64.20-A(288) (H) RM6(288)**

**DEFINITIONS**

4. For the purpose of this exception, the following definitions will apply:
  - (a) "apartment house dwelling" shall mean a building containing more than four (4) dwelling units each unit having access only from an internal corridor system except that ground related dwelling units may have access from an internal corridor system and directly from outside.
  - (b) "bicycle parking" shall mean an area below established grade or at grade that is equipped with bicycle racks, bicycle stackers or lockers for the purpose of parking and securing bicycles, but is not intended for general storage use.
  - (c) "bicycle parking space, short-term" means a bicycle parking space for use by visitors to a building.
  - (d) "bicycle parking space, long-term" means a bicycle parking space for use by the occupants or tenants of a building.
  - (e) "car-share" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car sharing organization and where such organizations may require that cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car sharing organization, including the payment of a membership fee that may or may not be refundable.
  - (f) "car-share parking space" means a parking space that is exclusively reserved for the parking of a car-share motor vehicle".
  - (g) "community space" shall mean a part of a building or area set aside for community uses which are limited to uses such as arts, crafts, social, charitable, and educational activities, as well as recreational purposes and recreational programming, seniors services, library. All other non-residential uses shall be prohibited.
  - (h) "established grade" shall mean 147 metres Canadian Geodetic Datum.
  - (i) "gross floor area" shall mean the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level, but excluding:

- (i) recreational amenity area;
  - (ii) parking, loading and bicycle parking below established grade;
  - (iii) parking, loading and bicycle parking at or above established grade;
  - (iv) storage rooms, electrical, utility, mechanical and ventilation rooms;
  - (v) shower and change facilities required by this By-law for required bicycle parking spaces;
  - (vi) elevator shafts;
  - (vii) vertical/garbage shafts;
  - (viii) exit stairwells in the building; and
  - (ix) mechanical penthouse.
- (j) "lot" shall mean the lands subject to this exception as contained within the heavy lines shown on Schedule 1 to this By-law.
- (k) "main wall" shall mean any exterior wall of a building or structure, including all structural members essential to the support of a roof over a fully or partly enclosed area.
- (l) "recreational amenity area" shall mean an area that is communal and available to all occupants of a building or a group of buildings for social and recreational purposes including indoor or outdoor space, exercise or entertainment rooms and other similar uses and portions of a green roof.
- (m) "tower floor plate" shall mean the floor area of each floor of a building measured from the outside of the exterior walls, but excluding inset and projecting balconies.

### **PERMITTED USES**

- (n) The only permitted uses on the lot are:
- (i) apartment house dwellings;
  - (ii) an underground residential parking garage with shared residential visitor and community space parking; and
  - (iii) community space.

- (o) Use Qualifications
  - (i) community space use is restricted to the first storey.

## **EXCEPTION REGULATIONS**

### **GROSS FLOOR AREA**

- (p) The maximum gross floor area shall be 43,000 square metres.
- (q) The maximum tower floor plate for the portion of the 28-storey building between Level 13 and Level 28 shall be 845 square metres of gross floor area.
- (r) The maximum permitted gross floor area of the community space shall be 1800 square metres.

### **NUMBER OF DWELLING UNITS**

- (s) The maximum number of dwelling units shall not exceed 570, of which a minimum of 20 percent shall contain two bedroom units and a minimum of 10 percent shall contain 3 bedroom units.

### **BUILDING HEIGHT AND NUMBER OF STOREYS**

- (t) The maximum building height in metres and the maximum number of storeys for all buildings shall be as shown on Schedule (H) RM6(288). The following shall apply in interpreting Schedule (H) RM6(288):
  - (i) The symbol "HT" shall mean the maximum building height permitted, measured in metres from established grade, for that portion of the building.
  - (ii) The symbol "MPHT" shall mean the mechanical penthouse.
- (u) Despite (t) above, the following elements of a building may exceed the permitted maximum building height as follows:
  - (i) 1.5 metres for skylights and roof access hatch;
  - (ii) 1.5 metres for planters, parapets, cornices, railings and guard railings;
  - (iii) 1.8 metres for balconies, terrace dividers, and privacy screens;
  - (iv) 3.0 metres for wind screens, wind and mitigation structures, architectural and ornamental features, canopies, trellises, awnings and/or other similar shade devices and associated structures, outdoor amenity space elements including outdoor kitchens, partitions dividing outdoor recreational areas; and

- (v) 3 metres for elevator overruns, stairs, stair enclosures, ramps, vents, stacks, flues, fences, mechanical equipment, window washing equipment and associated enclosures, elements of a green roof.

### **BUILDING ENVELOPES**

- (v) No portion of any building or structure erected above established grade shall be located otherwise than wholly within the building envelope shown on Schedule (H) RM6(288).
- (w) Despite (v) above, the following elements of a building may encroach into a required building setback or separation distance, or be located beyond the building envelope by a maximum of:
  - (i) 1.9 metres for architectural or ornamental features, including but not limited to cornices, piers, eaves, roof overhangs, mouldings, sills, scuppers, rain water leaders and bay windows;
  - (ii) 2 metres for balconies;
  - (iii) 3.5 metres for window washing material;
  - (iv) 3.0 metres for retaining walls and stairs, terrace, stoops, decks, porches, canopies, trellises, privacy screens, utility meters and associated enclosures, railings, vents and structures for wind mitigation;
  - (v) 5.0 metres for covered bicycle storage enclosures.

### **YARD SETBACKS**

- (x) The maximum yard setbacks for all buildings and structures above grade shall be as shown on Schedule (H) RM6(288); where there is no minimum yard setback indicated on Schedule (H) RM6(288), the minimum yard setback shall be 0 metres.
- (y) The minimum yard setbacks shown on Schedule (H) RM6(288) shall not apply to the permitted projections listed in subsection (w) of this exception.
- (z) Despite (x) and (y) above, terraces must be setback 0.5 metres from the property lines as shown on Schedule 1.

### **RECREATIONAL AMENITY AREA**

- (aa) Recreational amenity area shall be provided in accordance with the following:
  - (i) a minimum of 2 square metres per dwelling unit of indoor recreational amenity area; and

- (ii) a minimum of 2 square metres per dwelling unit of outdoor recreational amenity area.

### **PARKING**

- (bb) The provisions of Sections 6A(2) and 6A(6)(e) of By-law 7625, as amended, shall not apply.
- (cc) Parking spaces shall be provided and maintained on the lot in accordance with the following:
  - (i) a minimum of 410 parking spaces for the use of residents;
  - (ii) 40 parking spaces for the use of residential visitors, of which 7 parking spaces will be reserved for the exclusive use of community space; and
  - (iii) 5 car share parking spaces.

### **BICYCLE PARKING**

- (dd) Bicycle parking must be provided and maintained in accordance with the following:
  - (i) Residential
    - i. Long-term bicycle parking spaces (Resident) – 0.9 spaces per dwelling unit;
    - ii. Short-term bicycle parking spaces (Visitors) – 0.1 spaces per dwelling unit.
  - (ii) Non-residential
    - i. For all non-residential uses the minimum number of short-term bicycle parking spaces to be provided is 3 plus 0.25 bicycle parking spaces for each 100 square metres of interior floor area;
    - ii. For all non-residential uses the minimum number of long-term bicycle parking spaces to be provided is 0.13 bicycle parking spaces for each 100 square metres of interior floor area.
- (ee) Bicycle parking spaces for visitors and non-residential uses may be located within a secured enclosed bicycle parking area.
- (ff) Bicycle parking spaces may be provided in bicycle stackers with the following dimensions:

- (i) minimum width of 0.45 metres;
- (ii) minimum length of 1.8 metres; and
- (iii) minimum vertical clearance of 1.0 metres.

### **LOADING**

- (gg) The provisions of Sections 6A(16)(b)(i) and 6A(16)(d)(iv) of By-law 7625, as amended, shall not apply.
- (hh) A minimum of two (2) loading spaces shall be provided on the lot as follows:
  - (i) One (1) Type 'C'; and
  - (ii) One (1) Type 'G'.
- (ii) The loading spaces shall have the following minimum dimensions:
  - (i) A Type 'C' loading space shall have minimum dimensions of 6 metres long, 3.5 metres wide and a vertical clearance of 3 metres.
  - (ii) A Type 'G' loading space shall have minimum dimensions of 13 metres long, 4 metres wide and a vertical clearance of 6.1 metres.

### **PROVISIONS NOT APPLICABLE**

- (jj) The provisions of Sections 15.8, 20-A-2.1, 20-A.2.2, 20-A.2.4, 20-A.2.4.1, 20-A.2.5, 20.A.2.6, of By-law 7625, as amended, shall not apply.

### **HOLDING PROVISIONS**

- (kk) The lands zoned with the "(H)" symbol delineated by heavy lines on Schedule 1 attached to and forming part of this By-law shall not be used for any purpose other than those uses and buildings as existing on the site as of the date of the passing of this By-law until the "(H)" symbol has been removed.
- (ll) An amending by-law to remove the "(H)" symbol shall be enacted by City Council when all the following conditions have been fulfilled to the satisfaction of City Solicitor, the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services and Council:
  - (i) The owner has entered into an agreement pursuant to Section 37 of the Planning Act (the "Section 37 Agreement") and any other necessary agreements, satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor, with such agreement(s) registered on title to 169 The Donway West, in a manner that is satisfactory to the City

Solicitor to secure the community benefits and matters of legal convenience at the owners expense.

- (ii) The owner has submitted a complete Site Application to the City.
- (iii) The City has received, reviewed and accepted a Site Servicing Review (comprised of Functional Servicing Report, Stormwater Management Report and Hydrogeological Report) demonstrating that the City requirements can be met and sufficient capacity exists to accommodate the existing and proposed development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services. Should the Site Servicing Review identify upgrades and/or new services are required, those upgrades and/or services will be secured by appropriate agreements and be constructed and operational prior to the issuance of final Site Plan Approval for any development on the lands, all to the satisfaction to the Chief Engineer and Executive Director, Engineering and Construction Services.

## **5. SECTION 37**

Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in density of the development is permitted beyond that otherwise permitted on the lands shown on Appendix 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.

- (i) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of an above grade building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (ii) The owner shall not use, or permit the use of, a building or structure erected with an increase in density pursuant to this By-law unless all provisions of Schedule A are satisfied.

## **6. DIVISION OF LANDS**

Notwithstanding any future severance, partition or division of the gross site shown on Schedule (H) RM6(288), the provisions of this By-law shall apply to the whole of the gross site as if no severance, partition or division occurred.

7. Within the lands shown on Schedule 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:

- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and

- (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

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## SCHEDULE A

### Section 37 Provisions

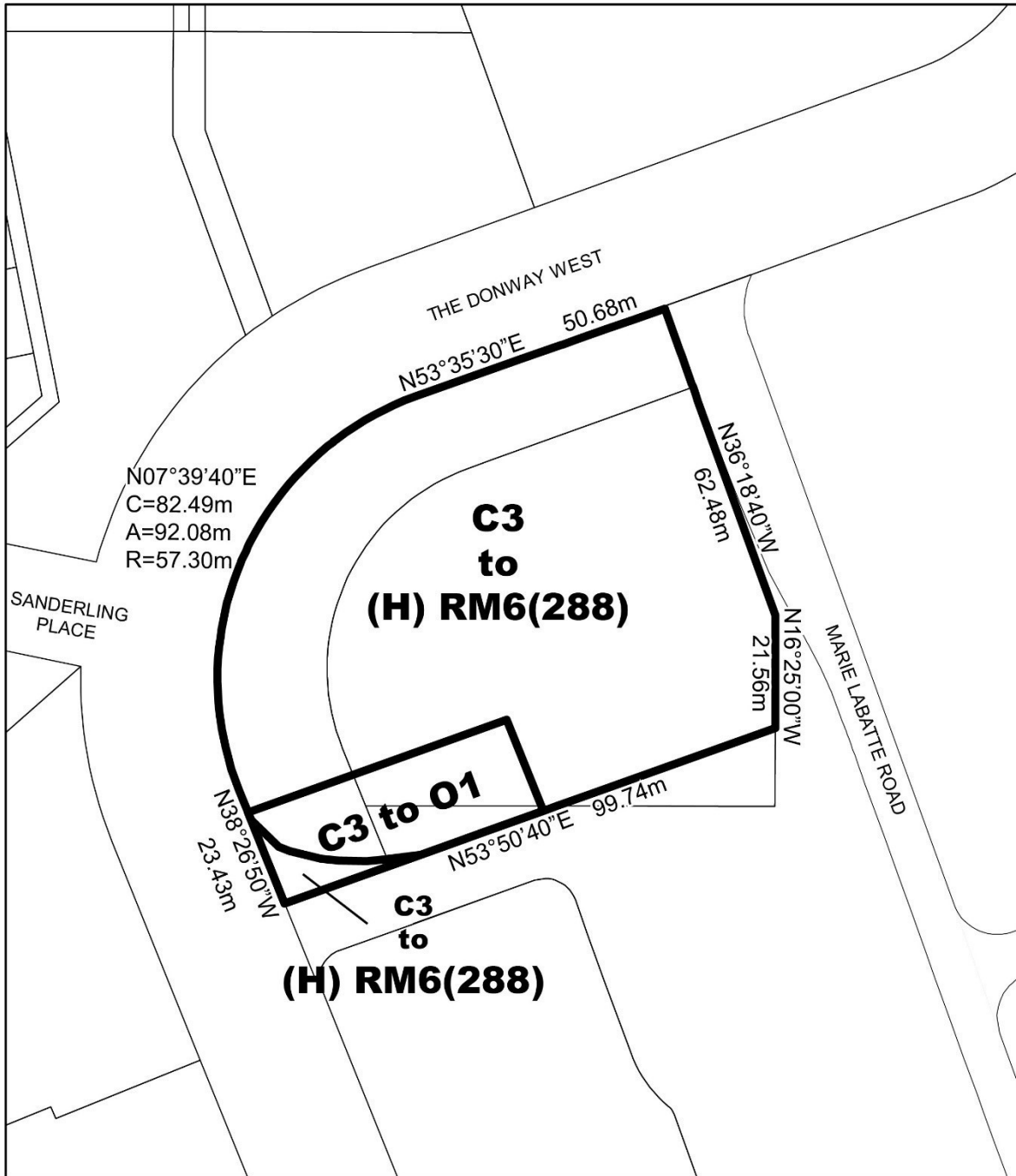
The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands shown in Schedule 1 in this By-law, and secured in an agreement under Section 37(3) of the Planning Act, whereby the owner agrees as follows:

1. The Owner shall, at its sole cost and expense, design, construct and finish, inclusive of all fixtures, a community/cultural space (the "**Community Space**") comprising a minimum Gross Floor Area of ONE THOUSAND SEVEN HUNDRED square metres (1,700 m<sup>2</sup>) to be located on the first storey of the proposed building at 169 the Donway West.
  - i) the owner shall construct and finish the Community Space at its own cost, inclusive of all fixtures, and shall also provide furnishings and equipment for the Community Space, to a maximum cost of \$350,000.00;
  - ii) the Community Space will be conveyed to the City at a nominal cost upon completion, in accordance with the provisions of the Section 37 Agreement and will be operated by the City or a third party operator; and
  - (iii) the Community Space will be finished with flexible meeting/fitness spaces, gymnasium/auditorium area and associated changing rooms and washrooms, administrative space, and an integrated walking track, and the facility will be fully accessible for people with disabilities and will have visible frontage and signage; the City and the owner shall work together to finalize the details of the design, construction and finishes of the Community Space that is acceptable to both parties, prior the issuance of any above grade permits for the building at 169 The Donway West, to the satisfaction of General Manger, Parks, Forestry and Recreation.

Matters to be Secured as a Legal Convenience

2. The matters to be secured as a legal convenience in the Section 37 Agreement are as follows:
  - i. a minimum of ten percent three bedroom units and twenty percent two bedroom units shall be provided;
  - ii. the parking rates as set out in the Settlement Offer will be supplemented by three additional Travel Demand Management measures:
    - a. one Bikeshare station (financial contribution of \$50,000);
    - b. preloaded Presto Card(s) with a value of \$150.00 shall be provided to each unit; and


- c. five dedicated carshare spaces which shall be located on P1 Level and accessible to the public.

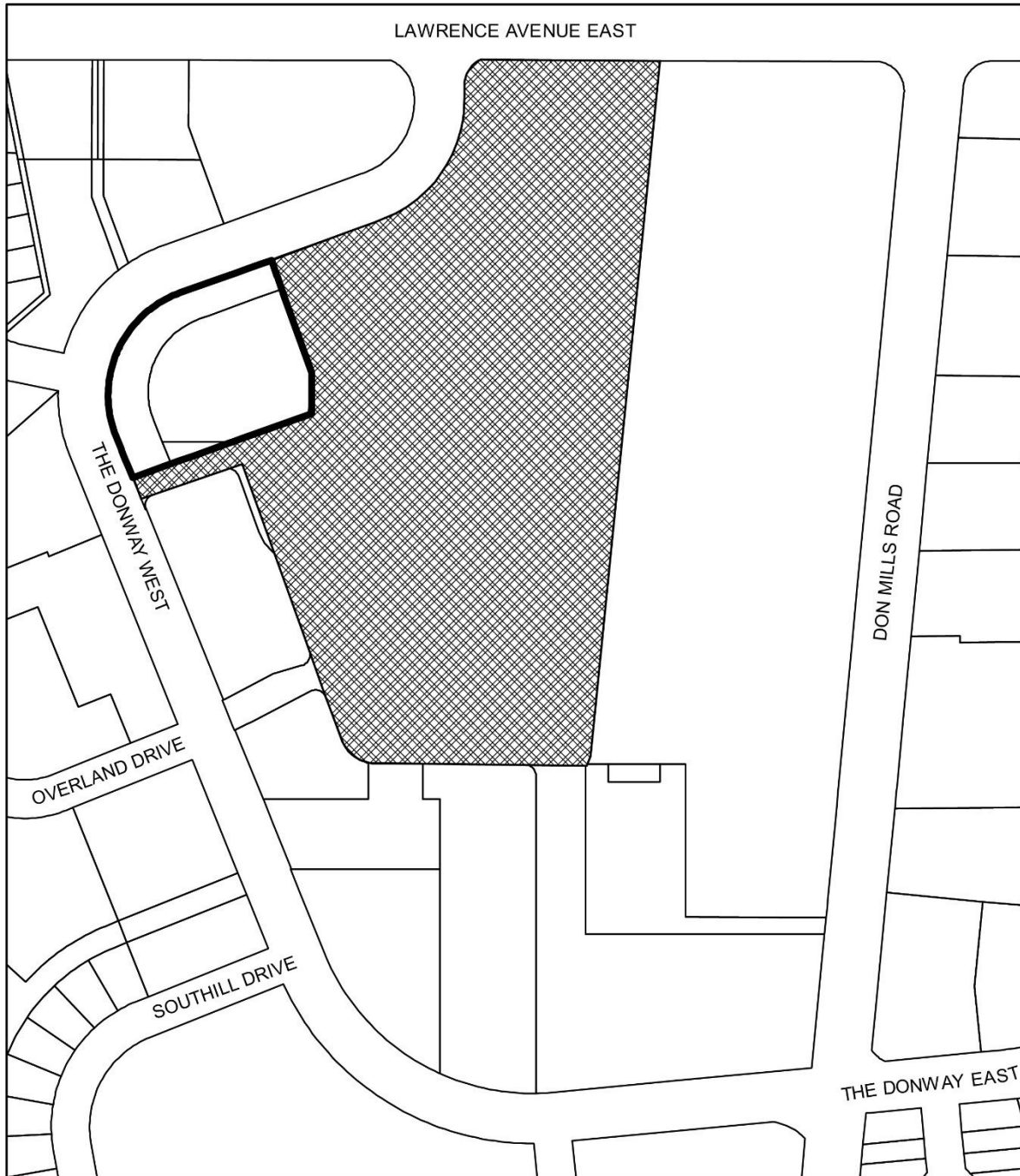


 **TORONTO**  
Schedule 1

169 The Donway West

File # 15 227717 NNY 25 0Z


  
Former City of North York By-law 7625  
Not to Scale  
07/29/2022

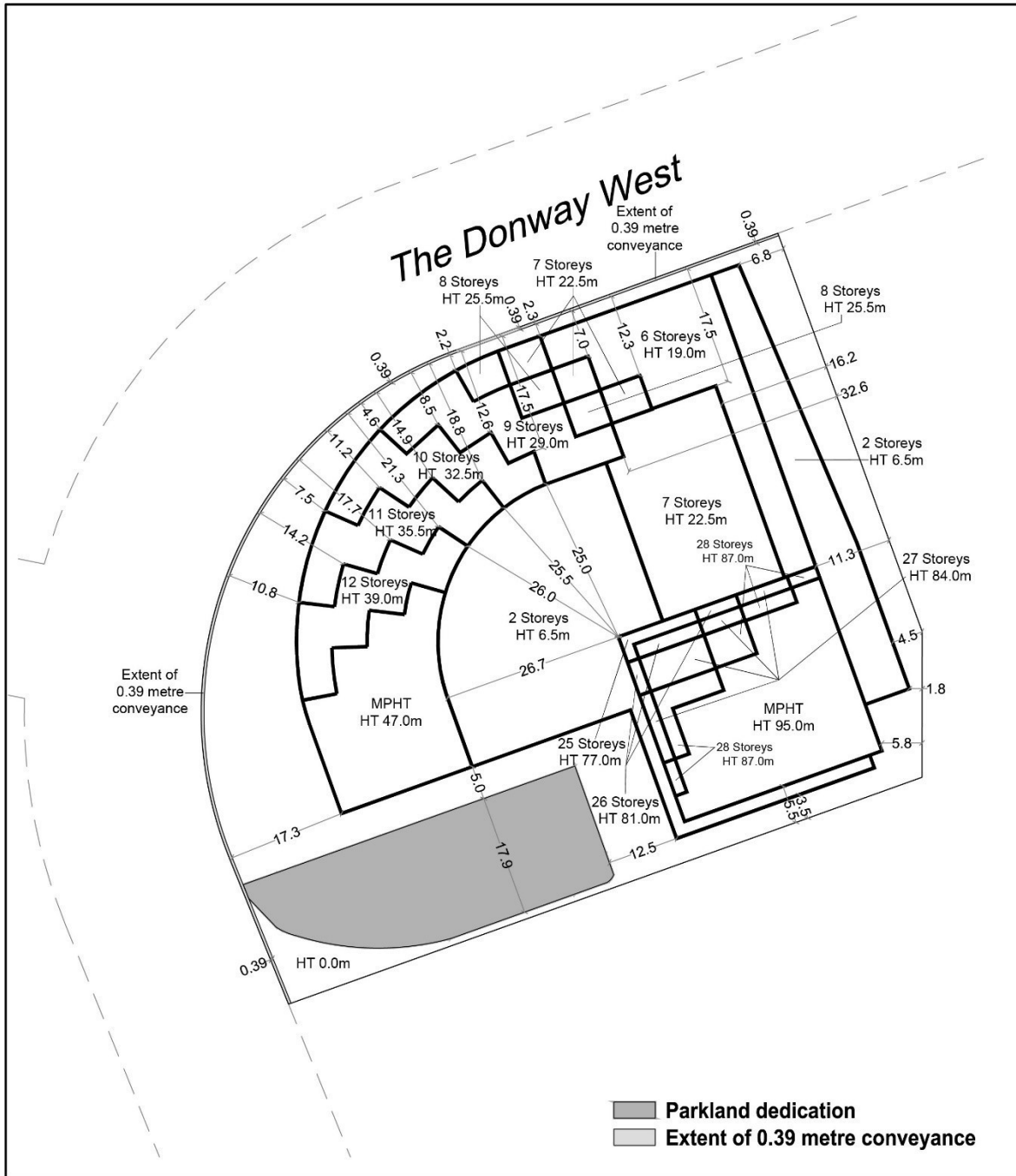


 **TORONTO**  
Schedule C3(8)B

**169 The Donway West**

File # 15 227717 NNY 25 0Z

  
Former City of North York By-law 7625  
Not to Scale  
07/25/2022



**TORONTO**  
 Schedule (H)RM6(288)

169 The Donway West

File # 15 22717 NNY 25 0Z

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 Former City of North York By-law 7625  
 Not to Scale  
 07/29/2022