

Authority: Ontario Land Tribunal Decision/Order issued on July 21, 2022 and August 12, 2022 (effective date August 5, 2022) in File OLT-22-003921 (formerly PL160692)

## **CITY OF TORONTO**

### **BY-LAW 682-2023(OLT)**

**To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 23 Buckingham Street.**

Whereas the Ontario Land Tribunal in its Decision/Order issued on July 21, 2022 and August 12, 2022 (effective date August 5, 2022) in File OLT-22-003921 (formerly PL160692) 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 By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 23 Buckingham Street; 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 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;

By-law 569-2013, as amended, of the City of Toronto is further amended by the Ontario Land Tribunal as follows:

1. The lands subject to this By-law are delineated 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, as amended, 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 from a zone label of E 1.0 to a zone label of CRE (x52) and O, as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Exception 52 to Article 900.12.10 so that it reads:

**(x52) Exception CRE 52**

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Section:

Site Specific Provisions:

- (A) On 23 Buckingham Street, as shown on Diagram 1 of By-law 682-2023(OLT), if the requirements of Section 6 and Section A of By-law 682-2023(OLT), are complied with, one or more **mixed-use buildings** may be constructed in compliance with Regulations (B) through (V) below;
- (B) Despite Regulation 50.10.20, **Public Parking** is a permitted use;
- (C) Despite Regulation 50.10.40.30, no portion of any **building** or **structure** erected or used above ground will be located otherwise than wholly within the lines delineating the height areas on Diagram 3;
- (D) Despite Regulation 50.5.40.10(1), the height of a **building** or **structure**, is measured as the vertical distance between the Canadian Geodetic Datum elevation of 95.95 metres and the highest point of the **building** or **structure**;
- (E) Despite Regulation 50.10.40.10(1), the permitted maximum **height** of a **building** or **structure** is the number, in metres, following the letters "HT" as shown on Diagram 3 of By-law 682-2023(OLT);
  - (i) For the purposes of this exception, the permitted maximum **height** of a **building** or **structure** is inclusive of the mechanical penthouse;
- (F) Despite Regulation 50.10.40.10(4), the permitted maximum number of **storeys** of a **building** or **structure** is the number following the letters "ST" as shown on Diagram 3 of By-law 682-2023(OLT);
  - (i) For the purposes of this exception, a mechanical penthouse and rooftop vestibule do not constitute a **storey**;

- (G) Despite Regulation 50.5.40.10 and (E) and (F) above the following elements of a **building** or **structure** may project above the permitted maximum **building** heights shown on Diagram 3 of By-law 682-2023(OLT):
- (i) equipment used for the functional operation of the **building** such as mechanical and ventilation equipment, elevator over-runs, chimneys and vents by a maximum of 3.0 metres beyond the permitted maximum height of the mechanical penthouse;
  - (ii) fences, raised planters, **landscaping** features, light fixtures, guardrails associated with an outdoor amenity space by a maximum of 3.0 metres;
  - (iii) railings located at each of the roof levels of the building by a maximum of 1.1 metres;
  - (iv) a parapet, including roof drainage, thermal insulation and roof ballast, at each of the roof levels of the building by a maximum of 1.2 metres;
  - (v) elements associated with a **green roof** by a maximum of 0.5 metres;
  - (vi) structures used for outside or open air recreation, safety or wind protection purposes by a maximum of 3.0 metres;
  - (vii) spires, ornamental, decorative or architectural elements, located above the height of each of the roof levels by a maximum of 7.0 metres; and
  - (viii) window washing equipment, lightning rods and exhaust flues located above the mechanical penthouse roof level by a maximum of 1.2 metres.
- (H) The permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 55,700 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 50,350 square metres; and
  - (ii) the required minimum **gross floor area** for non-residential uses is 5,350 square metres.
- (I) For greater clarity:
- (i) a minimum of 3,500 square metres of non-residential **gross floor area** must be provided and maintained on the **lot** provided the total **gross floor area** does not exceed 30,000 square metres; and
  - (ii) an additional minimum of 1,850 square metres of non-residential **gross floor area** must be provided on the **lot** for an aggregate total of 5,350 square metres of non-residential **gross floor area** with the phase of

development that results in a total **gross floor area** exceeding 30,000 square metres.

- (J) Despite Regulation 50.10.40.70, the required minimum **building setbacks** are as shown on Diagram 3 of By-law 682-2023(OLT);
- (K) Despite Sections 50.10.40.60 and 50.10.40.70 and (J) above, the following **building** elements and **structures** may encroach into the required minimum **building setbacks** shown on Diagram 3 of By-law 682-2023(OLT):
- (i) eaves, cornices, columns, public art features, light fixtures, stairs and stair enclosures, balustrades, guardrails, bollards, awnings, arcades, canopies, raised planters, patios, retaining walls, fences, vents, screens, wind mitigation screens and features, underground garage ramp and associated structures, damper equipment; window washing equipment to a maximum of 2.5 metres;
  - (ii) balconies and bay windows to a maximum of 1.8 metres;
  - (iii) **structures** used for outside or open air recreation, safety or wind protection, to a maximum of 1.6 metres; and
  - (iv) ornamental, decorative or architectural elements to a maximum of 3.1 metres;
- (L) Despite Regulation 50.10.40.50, indoor **amenity space** must be provided at a minimum rate of 2.0 square metres for each **dwelling unit** on the **lot** and may be provided in a multi-purpose room or rooms, whether or not these rooms are contiguous, with at least one washroom and kitchen;
- (M) Despite Regulation 50.10.40.50, outdoor **amenity space** must be provided at a minimum rate of 2.0 square metres for each **dwelling unit** on the **lot**;
- (N) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, the required number of **parking spaces** provided and maintained on the **lot** are not to be less than the number calculated in accordance with the following minimum ratios, (fractions to be rounded down to the closest whole number), and must be located in the underground parking structure, with the exception of a maximum of 5 layby **parking spaces** located at grade, marked for short-term delivery, service or pick-up and drop-off vehicles:
- (i) a minimum of 0.34 **parking spaces** per **dwelling unit** is required to be provided for use by residents;
  - (ii) a minimum of 0.09 **parking spaces** per **dwelling unit** is required to be provided for use by residential visitors;

- (iii) a minimum of 1.5 **parking spaces** per 100 square metres of **retail store gross floor area** is required to be provided;
  - (iv) a minimum of 1.0 **parking spaces** per 100 square metres of commercial and office **gross floor area** is required to be provided; and
  - (v) any **parking spaces** required in (N)(ii), (iii) and (iv) above may be provided and shared with a **public parking** use, with or without a fee.
- (O) Despite Regulation 200.5.10(1) and Table 200.5.10.1, the number of resident **parking spaces** required to be provided pursuant to the above-noted ratio in (N)(i), **parking spaces** for residents on the **lot** may be reduced at a rate of 4 **parking spaces** for each car-share **parking space**, provided the maximum permitted reduction is calculated using the following formula: 4 x (total number of **dwelling units** divided by 60), rounded down to the nearest whole number;
- (i) "car-share" means the practice whereby a number of people share the use of one or more motor vehicles that are owner by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building or short term rental, including hourly rental;
  - (ii) "car-share **parking space**" means a **parking space** exclusively reserved and signed for a car used only for car-share purposes
- (P) Despite Regulation 200.5.10.1(12) and (N)(i) above, the total minimum number of **parking spaces** required for residents on the **lot** may be reduced at a rate of 1 **parking space** for every 5 **bicycle parking spaces** provided in excess of the minimum number of **bicycle parking spaces** required if the reduction of **parking spaces** is not greater than 20 percent of the total minimum **parking spaces** required;
- (Q) Despite Article 200.15.10, a minimum of 5 accessible **parking spaces** plus 1 accessible **parking space** for every 50 **parking spaces** or part thereof in excess of 100 parking spaces are required to be provided on the same **lot** as every **building** or **structure** erected or enlarged;
- (R) Despite Regulation 200.15.1(1) and (3), an accessible **parking space** must have the following minimum dimensions:
- (i) length of 5.6 metres;
  - (ii) width of 3.4 metres;
  - (iii) vertical clearance of 2.1 metres; and
  - (iv) a 1.5 metre wide accessible barrier-free aisle or path is required along the entire length of one side of an accessible **parking space**.

- (S) Despite Regulation 220.5.10.1, a total of 6 **loading spaces** are required to be provided and maintained on the **lot**, and may be shared between all uses. For greater clarity:
- (i) a minimum of 1 Type "G" **loading space**, 1 Type "B" **loading space** and 2 Type "C" **loading spaces** are required to be provided and maintained on the **lot** provided the total **gross floor area** does not exceed 30,000 square metres; and
  - (ii) a minimum of 2 additional **loading spaces** are required to be provided on the **lot** for an aggregate total of 6 **loading spaces** with the phase of development that results in a total **gross floor area** exceeding 30,000 square metres, which must include 1 Type "G" **loading space** and 1 Type "B" **loading space**.
- (T) Despite Regulation 230.5.1.10(9), a "long-term" **bicycle parking space** may be located within the **building** or outside, including on any level of the **building** below-ground, within a secured room, enclosure or unenclosed space or any combination thereof, or bicycle locker;
- (U) Despite Regulation 230.50.1.20(2), a "short-term" **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the **lot** and may be located in an unsecured room;
- (V) The **building(s)** may be constructed in phases;

Prevailing By-laws and Prevailing Sections: None Apply

5. Despite any future severance, partition or division on the lands, the provisions of this By-law apply as if no severance, partition or division occurred.
6. 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 attached to 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 attached to this By-law 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 provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit must be dependent on satisfaction of the same; and

- (C) The owner may 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.

Ontario Land Tribunal Decision/Order issued on July 21, 2022 and August 12, 2022 (effective date August 5, 2022) in File OLT-22-003921 (formerly PL160692).

**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 as CRE (x52) on Diagram 2 of this By-law, and secured in an agreement or agreements pursuant to Section 37(1) of the Planning Act, whereby the owner agrees as follows:

1. The owner is required to enter into an agreement with the City pursuant to Section 37 of the Planning Act, to secure the provision of the said facilities, services and matters, in a form satisfactory to the City with conditions providing for indexed escalation of financial contributions, no credit for development charges unless otherwise specified, indemnity, insurance, GST/HST, termination and unwinding, and registration and priority of agreement.
2. The community benefits that shall be secured in the Section 37 Agreement are as follows:
  - a) Prior to the issuance of the first above grade building permit, the owner must make a cash contribution to the City in the amount of \$1,800,000.00, of which \$800,000.00 shall be allocated to public art, and the balance shall be allocated to community benefits serving the Mimico-Judson Secondary Plan Area, including the construction of a pedestrian and cycling bridge over Royal York for the purpose of connecting the planned Mimico-Judson Greenway, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor. The payment of the indexed Section 37 cash contribution will be made prior to issuance of the first above grade building permit for the site. The indexing of value of the contribution in this paragraph will be from the date of execution of the Section 37 Agreement to the date of payment;
  - b) The cash contribution outlined above must be indexed upwardly from the date of the registration of the Section 37 Agreement to the date the payment is made 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 Table: 18-10-0135-01, or its successor;
  - c) In the event the cash contribution outlined above has not been used for the intended propose 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, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
  - d) Prior to the conveyance of parkland to the City in 3.a), an easement shall be granted to the City to create a Privately-Owned Publicly Accessible Space (POPS) and to be located immediately north of the park dedication, which space will be open to the public and not contain space exclusive to paying customers of

adjacent businesses, or otherwise. The owner shall also provide privately owned outdoor space adjacent to the POPS which will accommodate outdoor uses such as patio seating associated with adjacent restaurants or other businesses. The combined area of the POPS and additional outdoor space shall not be less than 364 square metres with the POPS not to be less than 182 square metres;

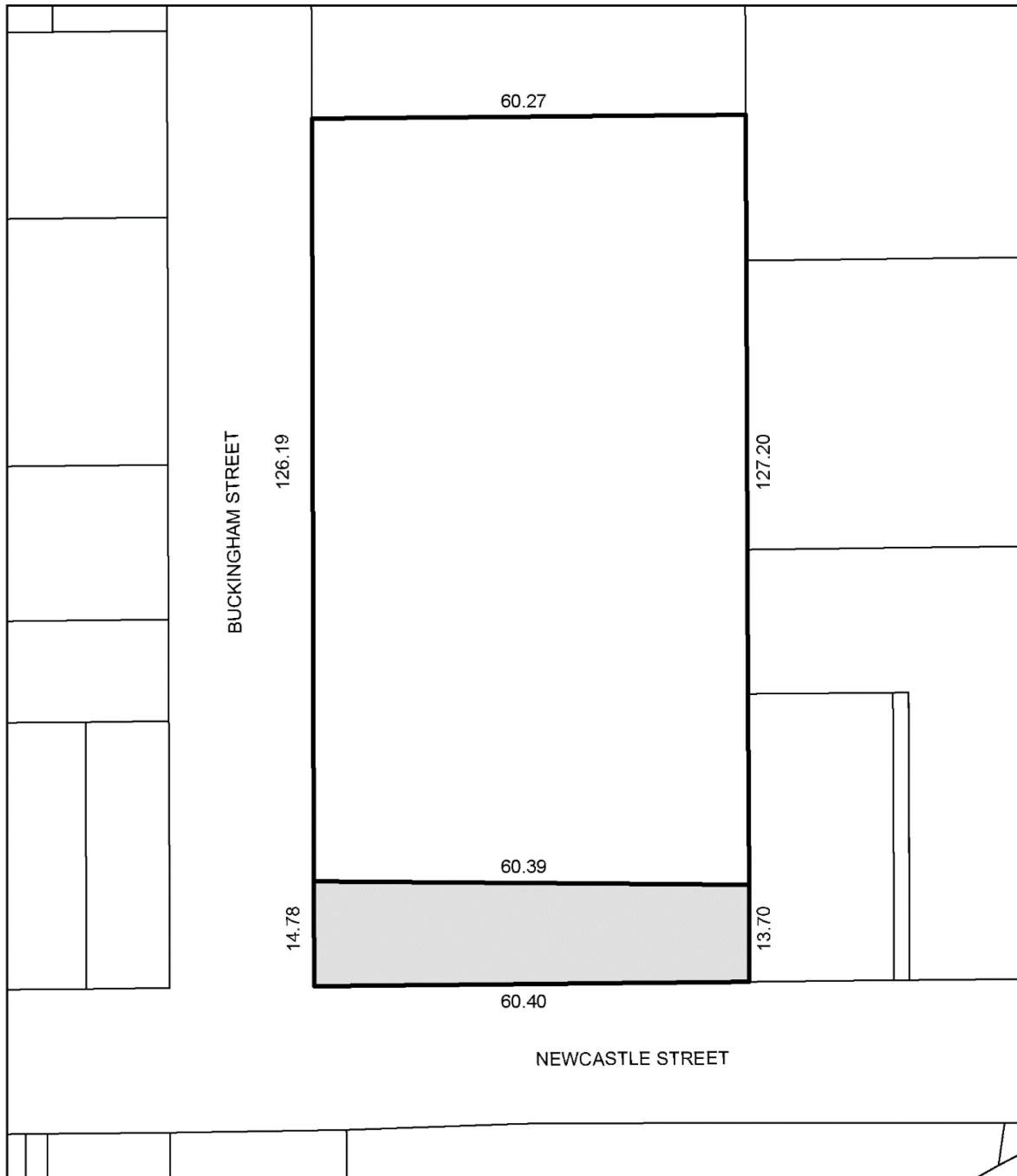
- e) Prior to the earlier of first residential occupancy or registration of a plan of condominium on the lands, an at-grade easement shall be granted to the City over a private laneway having a minimum pavement width of 6 metres and a total minimum width of 13.5 metres bisecting the lands east-west in order to connect to a similar private laneway being provided by the owners of the adjacent lands to the east. The easement shall be granted over said laneway to the City in order to achieve an east-west publicly accessible, privately owned and maintained laneway bisecting the block from Buckingham Street to Audley Street;
- f) A minimum of 10 percent of the dwelling units constructed on the lands shall contain three or more bedrooms and a minimum of 15 percent shall contain a minimum of two or more bedrooms, for a total of 25 percent of all dwelling units containing a minimum of two or three bedrooms, in compliance with the Ontario Building Code;
- g) The provision of 5 percent of the new dwelling units on the lands as affordable housing units, or such reduced number as may be permitted in the discretion of the Executive Director, Housing Secretariat, in accordance with the City's Home Ownership Assistance Development Charges Deferral Program (the "HOAP"), and whereby:
  - (i) the City agrees to defer all development charges payable with respect to dwelling units sold under the HOAP and the owner transfers the benefit of the deferred development charges, together with the obligation to repay, to eligible purchasers of eligible units, as set out in the City's standard HOAP development charges deferral agreement;
  - (ii) the owner will, on behalf of the City, enter into loan agreements with the eligible purchasers and ensure that a second mortgage, in favour of the City, to secure the repayment of the deferred development charges, is registered on closing of the purchase agreement; and
  - (iii) if at the time of issuance of an above grade building permit, changes in the Bank of Canada Interest Rate, combined with the household income threshold established by the City for eligibility for purchasers, has impacted the ability of eligible purchasers to purchase eligible units in the project, and if the City has not altered the eligibility requirements in response in order that eligible units remain affordable for eligible purchasers, the owner will have the option of paying the Development Charges for said units and may sell the units to purchasers whose household incomes exceed the eligibility threshold limits established by the City. Similarly, if the Bank of Canada Interest Rate has changed prior

to closing and eligible purchasers are no longer able to complete the transaction, then the owner will have the option of paying the deferred Development Charges, with indexing, at that time and may then sell the units to purchasers whose household incomes exceed the eligibility threshold limits established by the City.

3. The other matters secured in the Section 37 Agreement as a legal convenience to support the development are as follows:
- a) The over dedication of lands for a public park consisting of a minimum area of 860 square metres having frontage on Newcastle Street and Buckingham Street. The lands will be remediated by the owner, in accordance with the City's Environmental Policies, and conveyed to the City, for nominal consideration, prior to the earlier of the first residential use of the first building on the lands and registration of the first plan of condominium on the lands, and shall be further secured by a Section 118 restriction under the Land Titles Act.
  - b) Upgrades to existing municipal infrastructure, as may be required, as confirmed by the Functional Servicing & Preliminary Stormwater Management Report, prepared by Crozier & Associates and dated October 2020 and the Transportation Impact Study, prepared by LEA Consulting and dated March 19, 2019 and further clarified through response letters from LEA Consulting, dated December 22, 2020 and March 16, 2021, submitted to the City by the owners of properties in Block D and E in OPA 331 and accepted by the Executive Director, Engineering and Construction Services;
  - c) Provisions to secure measures relating to environmental noise, required to ensure land use compatibility with nearby employment uses, including but not limited to:
    - (i) prescribing a process upon which Metrolinx will be provided with site plan application and building permit application materials from the owner and reasonable opportunities to comment on such applications to the City, which comments the City shall have regard to when determining whether to grant site plan approval and building permits;
    - (ii) prescribing a process pursuant to which noise impacts will be mitigated for outdoor amenity areas located on all of the lands subject to this by-law in accordance with the document titled "Noise Evaluation Method and Selection of Exterior Envelope Sound Isolation for Blocks D and E" being Exhibit 28, in Tribunal File PL160692, on file with the Chief Planner and Executive Director, City Planning; and
    - (iii) prescribing a process for calculating upgraded facades for sensitive uses on all of the lands subject to this by-law in the document titled "Noise Evaluation Method and Selection of Exterior Envelope Sound Isolation for Blocks D and E" being Exhibit 28, in Tribunal File PL160692, on file with the Chief Planner and Executive Director, City Planning;

- d) Prior to site plan approval, the following are required:
  - (i) warning clauses will be registered on title to all of the lands subject to this by-law advising of the Class 4 area designation and proximity of the Willowbrook Rail Maintenance Facility and Mimico GO Station to the proposed development; and
  - (ii) an environmental easement for noise will be granted by the owner in favour of Metrolinx.
  
- e) Prior to the issuance of a building permit, the owner must confirm through its solicitor that an environmental noise easement has been granted to Metrolinx.

Diagram 1



 **TORONTO**  
Diagram 1

23 Buckingham Street

File # 17 258569 WET 06 0Z

 Lands to be Conveyed for Public Parkland


  
City of Toronto By-law 569-2013  
Not to Scale  
07/26/2022

Diagram 2

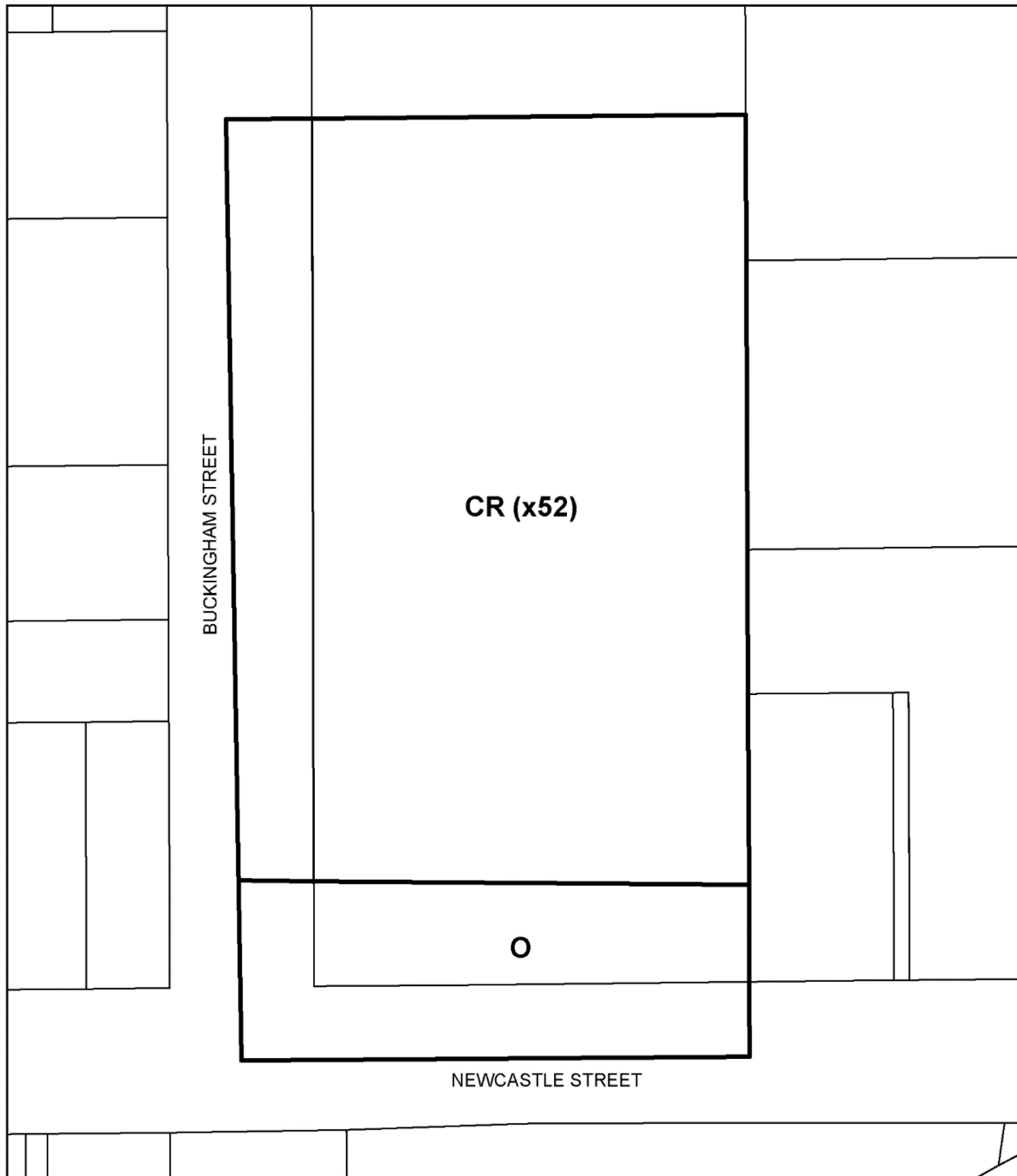
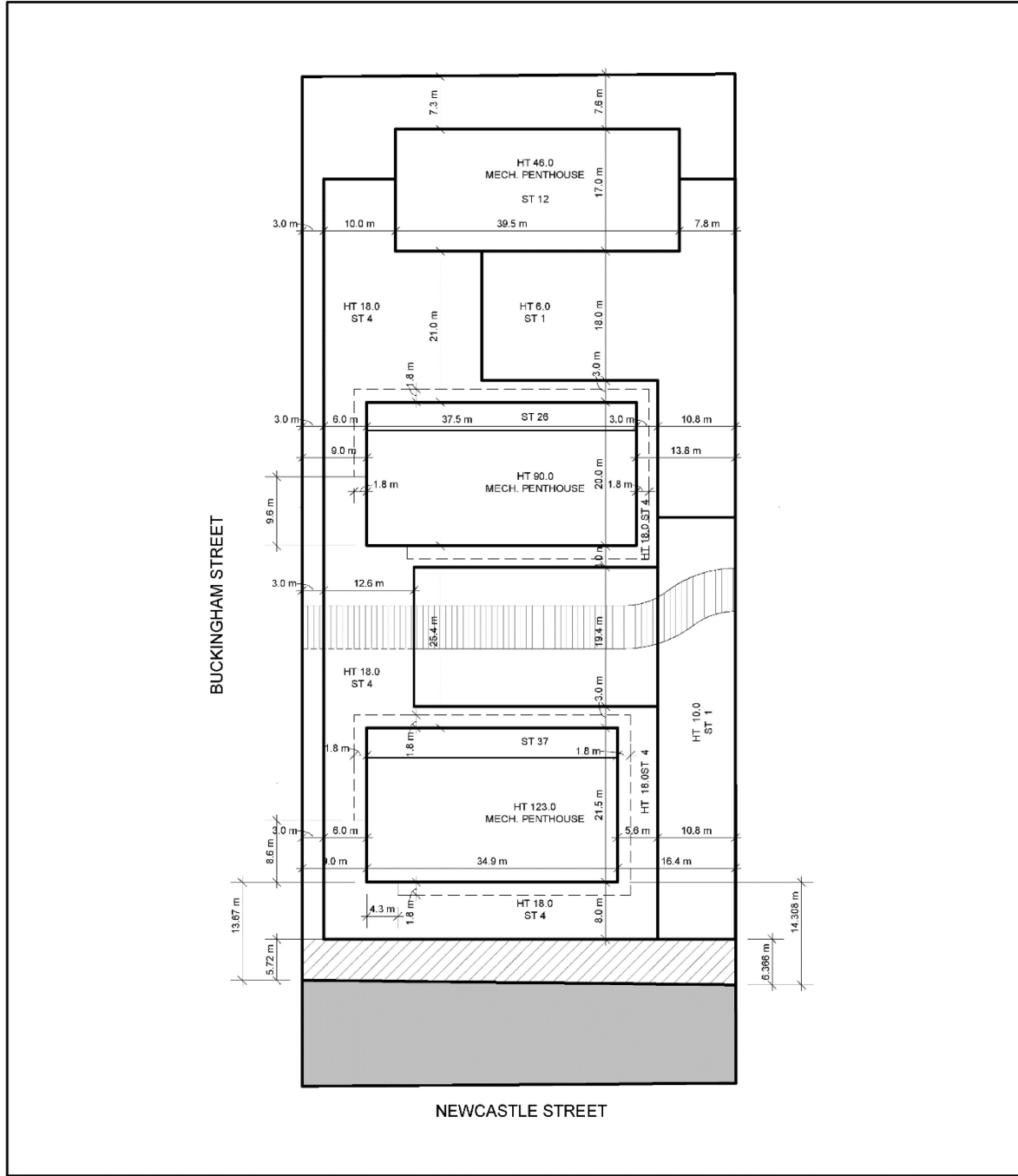


Diagram 3






**Toronto**  
 Diagram 3

23 Buckingham Street

File # 17 258569 WET 06 0Z

 AREA OF PUBLIC PARK  
 CONCEPTUAL LOCATION OF POPS TO BE REFINED IN ACCORDANCE WITH SCHEDULE 'A' OF THIS BY-LAW

 EXTENTS OF PROJECTED BALCONIES  
 PRIVATE PUBLICLY ACCESSIBLE LANEWAY

  
 City of Toronto By-law 569-2013  
 Not to Scale  
 07/26/2022