

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 685-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 25 Audley 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 Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 25 Audley Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increased 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, a 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, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are 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 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 Bylaw 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 from a zone label of E 1.0 to a zone label of CRE (x53), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Exception Number 53 to Article 900.12.10, so that it reads:

(x53) Exception CRE 53

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 25 Audley Street, as shown on Diagram 1 of By-law 685-2023(OLT), if the requirements of Section 6 and Schedule A of By-law 685-2023(OLT), are complied with, one or more **mixed-use buildings** may be constructed in compliance with Regulations (B) through (R) below;
- (B) Despite Regulation 50.10.20, **Public Parking** is a permitted use;
- (C) Despite Regulation 50.10.40.10(1), the height of a **building** or **structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 97.0 metres and the highest point of the **building** or **structure**;
- (D) 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 685-2023(OLT);
 - (i) For the purposes of this exception, the permitted maximum **height** of a **building** or **structure** is inclusive of the mechanical penthouse;
- (E) 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 685-2023(OLT);
 - (i) For the purposes of this exception, the mechanical penthouse, does not constitute a **storey**.
- (F) Despite Regulation 50.5.40.10 and (D) and (E) above, the following elements of a **building** or **structure** may project above the permitted maximum **building** heights shown on Diagram 3 of By-law 685-2023(OLT):
 - (i) fences, raised planters, **landscaping** features, light fixtures, and guardrails associated with an outdoor amenity space by a maximum of 3.0 metres;

- (ii) railings located at each of the roof levels of the building by a maximum of 1.1 metres;
 - (iii) 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;
 - (iv) elements associated with a **green roof** by a maximum of 0.5 metres;
 - (v) structures used for outside or open air recreation, safety or wind protection purposes by a maximum of 3.0 metres;
 - (vi) spires, ornamental, decorative or architectural elements located above the height of each of the roof levels by a maximum of 7.0 metres;
 - (vii) window washing equipment, lightning rods and exhaust flues located above the mechanical roof level by a maximum of 3.0 metres;
- (G) The permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 32,500 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 30,150 square metres; and
 - (ii) the required minimum **gross floor area** for non-residential uses is 2,059 square metres;
- (H) Despite Clause 50.10.40.70, the required minimum **building setbacks** are as shown on Diagram 3 of By-law 685-2023(OLT);
- (I) Despite Clauses 50.10.40.60 and 50.10.40.70 and (H) above, the following **building** elements and **structures** may encroach into the required minimum **building setbacks** shown on Diagram 3 of By-law 685-2023(OLT):
- (i) eaves, cornices, columns, landscape and public art features, light fixtures, balustrades, guardrails, bollards, awnings, arcades, raised planters, retaining walls, fences, vents, signs, screens, damper equipment and window washing equipment by a maximum of 1.2 metres;
 - (ii) wheelchair ramps, stairs and stair enclosures, underground parking ramp and associated structures by a maximum of 3.0 metres;
 - (iii) balconies, platforms, and bay windows by a maximum of 2.0 metres;
 - (iv) **structures** used for outside or open air recreation, safety or wind protection by a maximum of 1.6 metres; and
 - (v) ornamental, decorative or architectural elements by a maximum of 3.1 metres;

- (J) Despite (F) and (I) above, the following development standards apply to the lands 6.75 metres north of the new south property line as shown on Diagram 3 of By-law 685-2023(OLT):
- (i) No ground mounted signage is permitted;
 - (ii) Only street furniture, moveable furniture, fences/guards and other similar items or fixtures to accommodate commercial patios are permitted up to a maximum vertical dimension of 1.1 metres above the finished ground level; and
 - (iii) The provisions in (J)(i) and (ii) above do not apply to prevent lighting, wind mitigation, landscaping, and other pedestrian features that may be required by the City in this area;
- (K) A minimum of 25 percent of the total number of **dwelling units** on the **lot** must have two or more bedrooms, of which a minimum of 10 percent of the total number of **dwelling units** on the **lot** must have three or more bedrooms;
- (L) The permitted maximum **gross floor area** of the tower floor plate for the 9th **storey** to the 26th **storey** inclusive, as measured from the exterior of the **main wall** on each **storey** is 760 square metres, excluding balconies;
- (M) Despite Clause 50.10.40.50, **amenity space** must be provided at a minimum rate of 4.0 square metres for each **dwelling unit** and may be provided as either indoor space, outdoor space or a combination thereof and does not need to be contiguous;
- (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 rounded down to the closest whole number), and must be located in the underground parking structure:
- (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 1.0 **parking spaces** per 100 square metres of non-residential **gross floor area** is required to be provided; and
 - (iv) any **parking spaces** required in (N)(ii) and (iii) above may be provided and shared with a **public parking** use;
- (O) Despite Regulation 200.5.10(1) and Table 200.5.10.1, the total number of resident **parking spaces** provided pursuant to the above-noted ratio in (N)(i), **parking spaces** for residents on the **lot** may be reduced by a rate of 4 **parking spaces** for

each car-share **parking space**, provided the maximum permitted reduction is calculated using the following formula: $4 \times (\text{total number of dwelling units divided by } 60)$, 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 owned 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 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**;
- (R) Despite Regulation 220.5.10.1(2), a minimum of 1 Type "G" **loading space** is required and may be shared between all uses on the **lot**.

Prevailing By-laws and Prevailing Sections (None apply).

5. Despite any future severance, partition or division of the lands, the provisions of this By-law apply as if no severance, partition or division occurred.
6. Section 37 Requirements
 - (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**Schedule 37 Provisions**

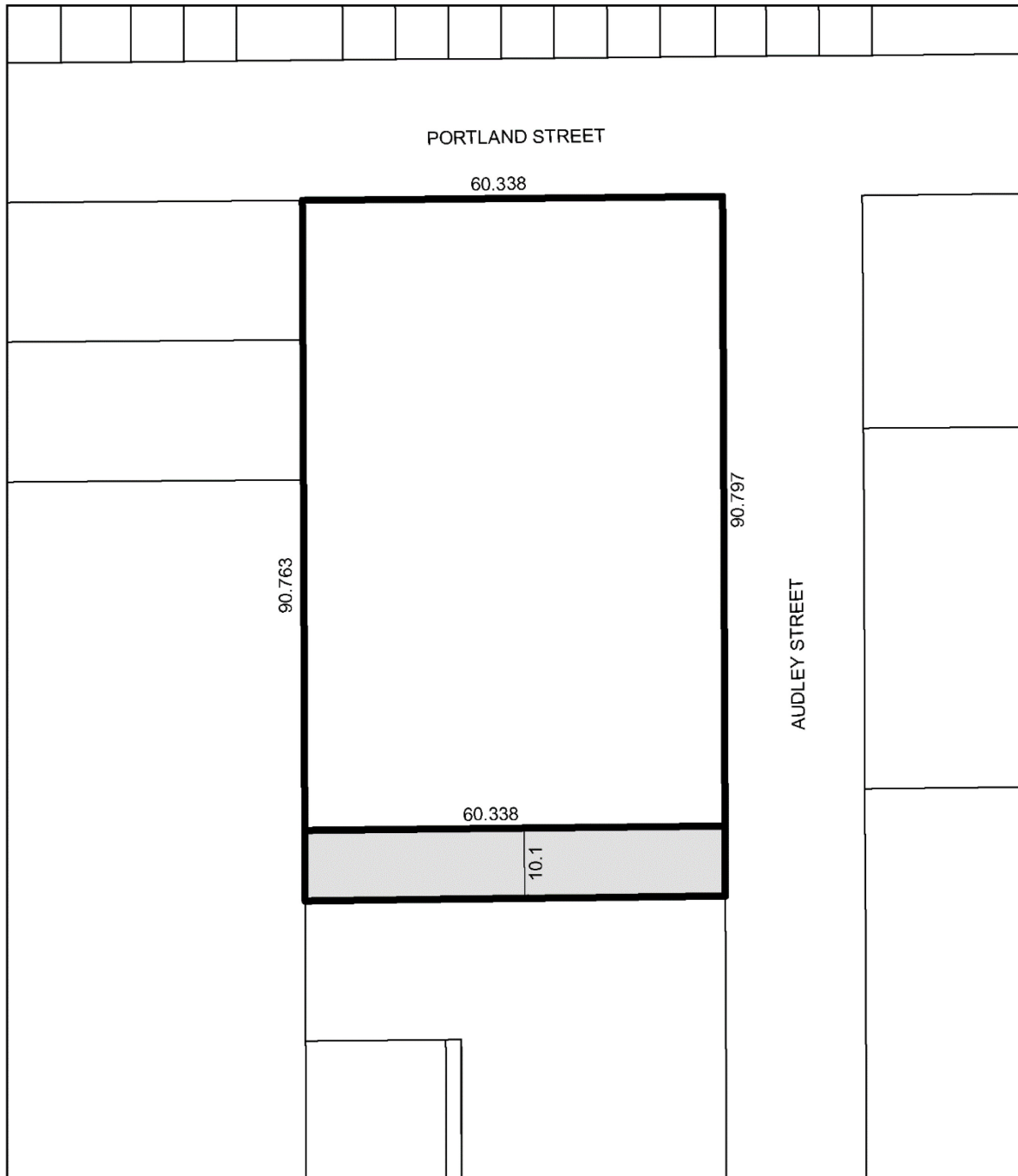
The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands shown as CRE (x53) on Diagram 2 of this By-law, and secured in an agreement or agreements pursuant to Section 37(3) 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 \$1,100,000.00 to be allocated to community benefits serving the Mimico-Judson Secondary Plan Area, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor;
 - 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 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;

- e. 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;
3. The other matters secured in the Section 37 Agreement as a legal convenience to support the development are as follows:
- a. The dedication of lands for a public park consisting of a minimum area of 609 square metres on the south of the lands. The lands will be remediated by the owner, in accordance with the City's Environmental Policies, and conveyed to the City pursuant to section 42 of the Planning Act prior to obtaining a final order of the Ontario Land Tribunal (OLT) in OLT Case PL160692, PL170835 and PL180240;
 - 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;
 - i. Prescribing a process 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 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 No. PL160692, on file with 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

25 Audley Street

File # 17 262415 WET 06 OZ



Lands to be Conveyed for Public
Parkland purposes as part of Land
Exchange Agreement



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

Diagram 2

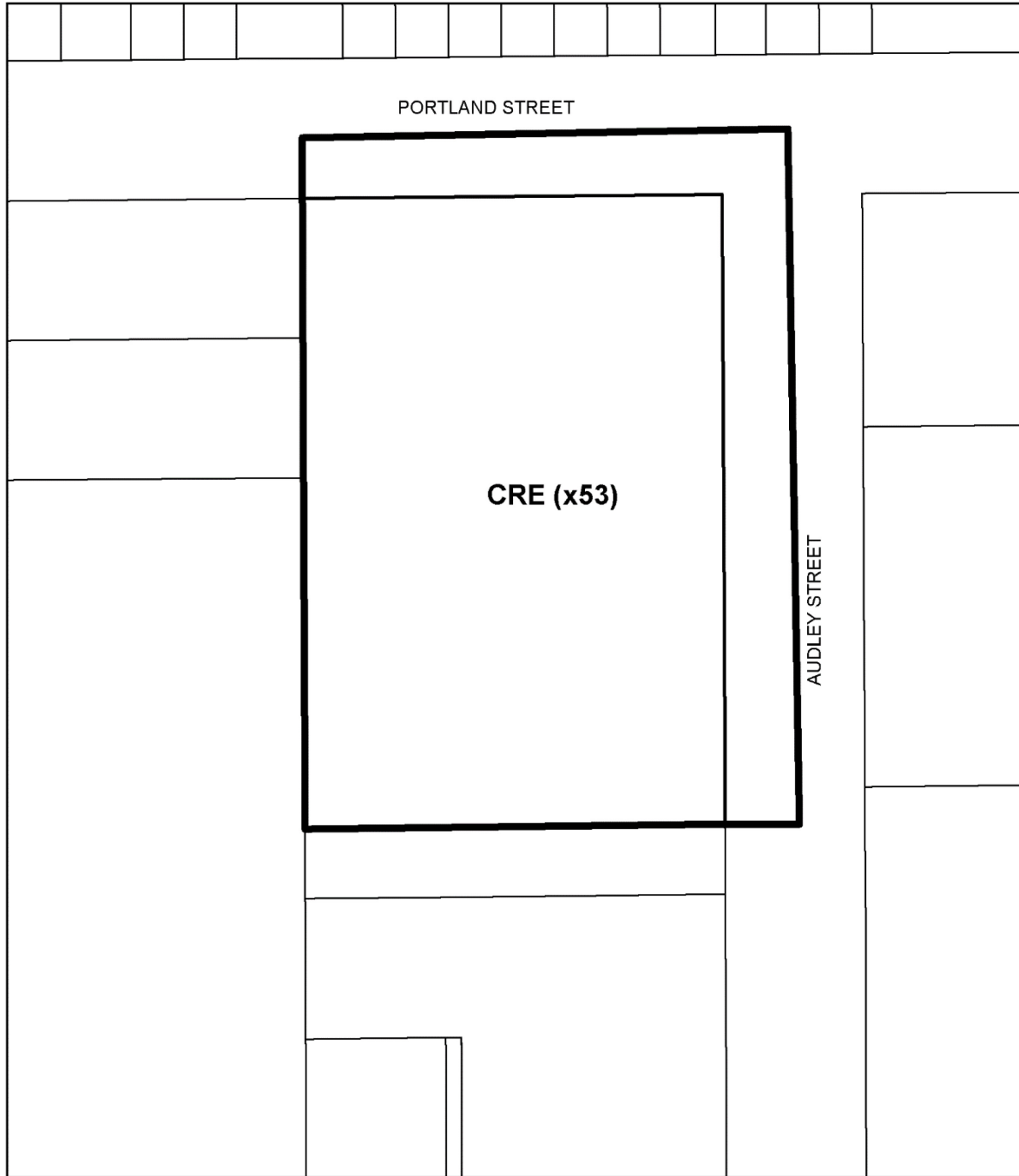
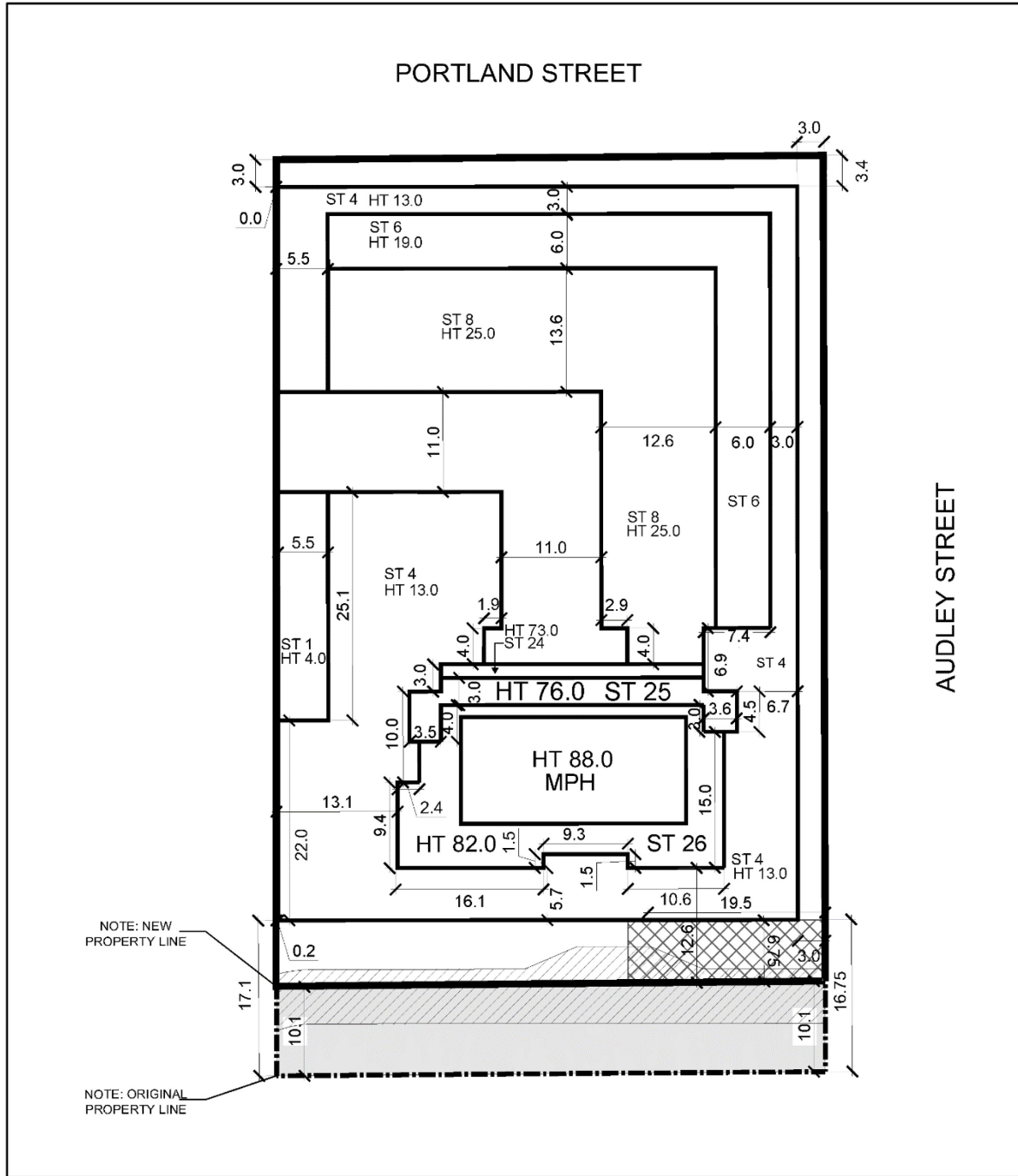




Diagram 3





TORONTO
 Diagram 3

25 Audley Street

File # 17 262415 WET 06 02

 Lands to be Conveyed for Public Parkland purposes as part of Land Exchange Agreement
 Private Publicly Accessible Laneway

 Area Subject to Provision J


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