

Authority: Ontario Land Tribunal Decision issued on March 5, 2020 and Order issued July 29, 2022, in Tribunal File PL171014

**CITY OF TORONTO**  
**BY-LAW 1082-2023(OLT)**

**To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2022 as 6040 Bathurst Street and 5 Fisherville Road.**

Whereas the Ontario Land Tribunal, in its Decision issued on March 5, 2020 and its Order issued on July 29, 2022, in file PL171014 and PL180386, 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 2022 as 6040 Bathurst Street and 5 Fisherville Road; and

Whereas pursuant to Section 39 of the Planning Act, as amended, 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 in the by-law; and

Whereas authority is given by Section 34 and Section 36 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the 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; 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; 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;

The Ontario Land Tribunal, by Order, amends By-law 569-2013 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 from a zone label of RAC (f30.0; a1375; d1.5) to a zone label of RAC (f30.0; a1375; d1.5) (x194) (H) and OR, as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.8.10 Exception Number 194 so that it reads:

**(194) Exception RAC 194**

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

- (A) On 6040 Bathurst Street and 5 Fisherville Road, if the requirements of Section 8 and Schedule A of By-law 1082-2023(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (AA) below;
- (B) Despite Regulation 15.20.20.40(1), **townhouses** are a permitted **building** type;
- (C) Despite Regulation 15.20.30.40(1), the permitted maximum **lot coverage** for all the **buildings** on the lands is 38 percent of the **lot area**;
- (D) Despite Regulation 15.5.40.10(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 192.8 metres for "Building A", 193.3 metres for "Building B" and "Building C", and 192.1 metres for Townhouse Blocks "TH1", "TH2" and "TH3", and the highest point of each **building** or structure;
- (E) Despite regulation 15.20.40.1 0 (1) and (2), the height of any **building** or **structure** must not exceed the maximum height in metres specified by the numbers following the symbols "HT", and **storeys** specified by the numbers following the symbols "ST" on Diagram 3 of By-law 1082-2023(OLT);

- (F) Despite Regulations 15.5.40.10(3) and (6) and 15.20.40.10(1), the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 3 of By-law 1082-2023(OLT) and are not a storey:
- (i) **structures**, equipment or parts of the **building** used for the functional operation of the **building**, such as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, water supply facilities, electrical, utility, mechanical and ventilation equipment, window washing equipment, light fixtures, and **structures** that enclose, screen or cover the these elements to a maximum of 7.5 metres;
  - (ii) chimneys, pipes and vents associated with items identified in (F)(i) above, to an additional maximum of 3.5 metres;
  - (iii) garage vents and signage, to a maximum of 5.0 metres; and
  - (iv) wind and privacy screens, pergolas, ornamental elements, terrace guards and dividers, railings, window washing equipment on the roof of the **building**, antennae, satellite dishes, trellises, parapets, access roof hatches, and elements of a **green roof**, to a maximum of 3.0 metres.
- (G) Despite Regulation 15.20.40.40(1), the total **gross floor area** of all **buildings** and **structures** must not exceed 98,040 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 33,540 square metres for the "Existing Buildings";
  - (ii) the permitted maximum **gross floor area** for residential uses is 14,190 square metres for residential uses in "Building A" as shown on Diagram 3 of By-law 1082-2023(OLT);
  - (iii) the permitted maximum **gross floor area** for residential uses is 23,135 square metres for residential uses in "Building B" as shown on Diagram 3 of By-law 1082-2023(OLT);
  - (iv) the permitted maximum **gross floor area** for residential uses is 21,400 square metres for residential uses in "Building C" as shown on Diagram 3 of By-law 1082-2023(OLT);
  - (v) the permitted maximum **gross floor area** for residential uses is 740 square metres for non-residential uses in "Building C" as shown on Diagram 3 of By-law 1082-2023(OLT); and
  - (vi) the permitted maximum **gross floor area** for residential uses is 5,035 square metres for residential uses in Townhouse Blocks "TH1", "TH2" and "TH3" as shown on Diagram 3 of By-law 1082-2023(OLT);

- (H) Despite Regulation 15.20.40.50, **amenity space** shall be provided as follows:
- (i) a minimum rate of 2.0 square metres of indoor **amenity space** per new apartment **dwelling unit**; and
  - (ii) a minimum rate of 2.0 square metres of outdoor **amenity space** per new apartment **dwelling unit**;
- (I) Despite Regulation 5.10.40.70(1) and Clause 15.20.40.70, a **building** or **structure** must be entirely located within the area delineated by heavy lines on Diagram 3 of By-law 1082-2023(OLT);
- (J) Despite Regulation 15.20.40.70(1), (2), (3) and (4), the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 1082-2023(OLT);
- (K) Despite Regulation 15.20.40.80 (1) or (2), the required separation of **main walls** are as shown in metres on Diagram 3 of By-law 1082-2023(OLT);
- (L) Despite Regulation 15.5.40.50(2), Clause 15.5.40.60, and (H) above, the following are permitted to encroach into the required **building** setbacks shown on Diagram 3 of By-law 1082-2023(OLT);
- (i) exterior stairways, canopies, loading space enclosures, wheelchair ramps, awnings, ornamental elements, trellises, window washing equipment, stairs, stair enclosures, vents, landscape elements, terraces, decorative architectural features, ramps, ramp enclosures, parking garage ramps and associated structures, retaining walls, elevator overruns, heating, cooling or ventilating equipment, and porches and decks, either excavated or unexcavated, by a maximum of 3.0 metres.
  - (ii) balconies, wind or privacy screens, bay windows, by a maximum of 2.0 metres.
  - (iii) cornices, chimneys, waste storage enclosures, lighting fixtures, parapets, eaves, window sills, guardrails, balustrades, safety railings, bollards, pilasters and sills, by a maximum of 1.0 metre.
- (M) Despite Regulation 15.5.50.10(1) a minimum of 38 percent of the area of the lands must be for **landscaping**, of which a minimum of 50 percent of the **landscaping** must be for **soft landscaping**;
- (N) Despite Regulation 15.20.40.1(2), the maximum number of **dwelling units** on the lands shall not exceed 1,304;

- (O) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** for "Building A", "Building D" and "Building E" shall be provided and maintained as follows:
- (i) a minimum rate of 0.30 **parking spaces** per bachelor **dwelling unit** for residents;
  - (ii) a minimum rate of 0.40 **parking spaces** per one bedroom **dwelling unit** for residents;
  - (iii) a minimum rate of 0.60 **parking space** per two bedroom **dwelling units** for residents; and
  - (iv) a minimum rate of 0.80 **parking spaces** per three bedroom **dwelling unit** for residents;
- (P) Despite Section (N) above, during the construction of "Building A", a minimum of 85 parking spaces for residents and no parking spaces for visitors will be provided on the lands for "Building D" and "Building E";
- (Q) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** for "Building B", "Building C" and **townhouse** blocks "TH1", "TH2" and "TH3" shall be provided and maintained as follows:
- (i) a minimum rate of 0.60 **parking spaces** per bachelor **dwelling unit** for residents;
  - (ii) a minimum rate of 0.70 **parking spaces** per one bedroom **dwelling unit** for residents;
  - (iii) a minimum rate of 0.90 **parking space** per two bedroom **dwelling units** for residents;
  - (iv) a minimum rate of 1.0 **parking spaces** per three bedroom **dwelling unit** for residents;
  - (v) a minimum rate of 1.0 **parking space** per townhouse **dwelling unit** for residents; and
  - (vi) a minimum of 2.0 **parking spaces** are required for a **Day Nursery** located in Building C;
- (R) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** for residential visitors shall be provided and maintained at a rate of 0.10 **parking spaces per dwelling unit**;

- (S) Despite Regulations 200.5.1(3) and 200.5.10.1(2), a maximum of 15 existing **parking spaces** and the associated **drive aisles** are permitted with their existing dimensions as of the date of passing of By-law 1082-2023(OLT);
- (T) Despite Regulation 200.5.10.1(1), "car-share parking spaces" may replace parking spaces otherwise required for residential occupants, subject to the following:
- (i) a reduction of four resident occupant parking spaces will be permitted for each "car-share parking space" provided and that the maximum reduction permitted be capped by the application of the following formula:
    - a. four multiplied by the total number of dwelling units divided by 60, and rounded down to the nearest whole number;
  - (ii) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor vehicles and such "car-share" motor vehicles are made available to at least the occupants of the building for short-term rental, including hourly rental; and
  - (iii) for the purpose of this exception, "car-share parking space" means a parking space exclusively reserved and signed for a vehicle used only for "car-share" purposes;
- (U) Despite Clause 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;
- (V) Despite Regulation 200.15.1(1), an accessible **parking space** must have the following minimum dimensions:
- (i) length of 5.6 metres;
  - (ii) width of 3.4 metres; and
  - (iii) vertical clearance of 2.1 metres;
- (W) Despite Regulation 200.15.1(4), accessible **parking spaces** must be the **parking spaces** within 30 metres to a barrier free:
- (i) entrance to a **building**; or
  - (ii) passenger elevator that provides access to the first **storey** of the **building**; and
  - (iii) adjacent to a 1.5 metre wide accessible barrier free aisle or path;

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- (X) Despite Regulation 220.5.10.1(2), a minimum of three Type "G" **loading spaces** shall be provided on the lands;
- (Y) Despite Regulation 230.5.10.1 (1) and Table 230.5.10.1(1) **bicycle parking spaces** must be provided and maintained on the lands in accordance with the following:
- (i) a minimum of 0.68 "long-term" **bicycle parking spaces** for each **dwelling unit**; and
  - (ii) a minimum of 0.07 "short-term" **bicycle parking spaces** for each **dwelling unit**; and
  - (iii) no "long-term" or "short-term" **bicycle parking spaces** are required for Building "D", Building "E" or Townhouse Blocks "TH1", "TH2" and "TH3";
- (Z) Despite Regulation 230.5.1.10(4), the required minimum width of a stacked bicycle parking space:
- (i) in a horizontal position is a minimum width of 0.4 metres, a minimum length of 1.8 metres and has a minimum combined height for two stacked bicycle parking spaces of at least 2.4 metres;
  - (ii) in a vertical position is a minimum width of 0.4 metres, minimum length of 1.2 metres and a minimum vertical clearance of at least 1.9 metres;
- (AA) For the purpose of this exception, each word or expression that is in bold font in this exception shall have the same meaning as each word or expression as defined in Chapter 800 of this By-law, as amended, except for the following:
- (i) "Existing Buildings" means the **buildings** and **structures** that existed on the **lot** as of November 17, 2016, as shown as **Building D** and **Building E** on Diagram 3 of By-law 1082-2023(OLT);

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any severance, partition or division of the lands shown on Diagram 1 of By-law 1082-2023(OLT), the provisions of this By-law shall apply as if no severance, partition or division occurred.
6. Temporary use
- (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of " temporary rental/sales office "on the **lot** for a period of not more than 3 years from the date this By-law comes into full force and effect, provided:

- (i) A "temporary rental/sales office" means a **building, structure**, facility or trailer, or portion thereof, on the lands used for the purpose of the leasing or selling of **dwelling units** to be erected on the lands related to construction on the lands;
- (ii) The maximum permitted gross floor area is 150 square metres; and
- (iii) It is used exclusively for the purpose of marketing the rental or sale of dwelling units for Buildings A, B, and C and Townhouse Blocks 1, 2, and 3 as shown on Diagram 3 of By-law 1082-2023(OLT).

## 7. Holding Provisions

- (A) The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 attached to and forming part of this By-law must not be used for any purpose other than those uses located in the buildings and structures existing on the lands as of the date of this By-law, any Temporary Use permitted by Section 6 and those uses permitted within the RAC category of Zoning By-law 569-2013, as amended, until the "(H)" symbol has been removed. An amending by-law to remove the "(H)" symbol may be enacted by City Council when the following conditions have been fulfilled for each respective Area to the satisfaction of, where applicable, the City Solicitor, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive Director, Engineering and Construction Services, and Council, in respect of the lands as follows:
  - (i) The owners of 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 and 6030 Bathurst Street submit a Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 Bathurst Street and 6030 Bathurst Street, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (ii) The owners of 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 and 6030 Bathurst Street submit a consolidated Transportation Impact Study for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 25 Fisherville Road, and 6020 Bathurst Street and 6030 Bathurst Street, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
  - (iii) The owners of 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street, and 25 Fisherville Road provide cross-section drawings of the new local public street with a width of 16.5 metres, inclusive of (1) all municipal services such as watermains, storm sewers, sanitary sewers, if required by a Master Functional Servicing Report and Stormwater Management Report or site-specific Functional Servicing

Report and Stormwater Management Reports for the above-mentioned lands, (2) all utilities, including street lights, (3) proposed connections and any improvements to Bathurst Street and Fisherville Road, and (4) the proposed pavement markings and signage for the proposed public road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, respectively;

- (iv) The owners of 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street, and 25 Fisherville Road enter into, and register in priority on title, a Joint Section 37 Agreement with the City to secure the matters of legal convenience identified in paragraph 3 of Schedule A of this By-law;
- (v) The owner submits a Transportation Demand Management Plan with respect to the development of 6040 Bathurst Street and 5 Fisherville Road, to the satisfaction of the General Manager, Transportation Services;
- (vi) The owner submits a site-specific Functional Servicing Report and Stormwater Management Report with respect to the development of 6040 Bathurst Street and 5 Fisherville Road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- (vii) The owner enters into, and registers in priority on title, a site-specific Section 37 Agreement with the City to secure the community benefits and matters of legal convenience identified in paragraphs 1 and 2 of Schedule A of this By-law.

## 8. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, 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, 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.
- (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters and to enter into an agreement prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of 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.

Ontario Land Tribunal Decision issued March 5, 2020 and Ontario Land Tribunal Order issued July 29, 2022 in Tribunal File PL171014 and PL180386.

## 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 Diagram 1 and Diagram 4 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, in a form satisfactory to the City, with provisions providing for the indexing escalation of financial contributions where applicable, no credit for development charges, indemnity, insurance, payments of taxes, termination and unwinding, and registration of the agreement in priority, whereby the owner agrees as follows:

1. The following facilities, services, and matters are to be secured as community benefits:
  - (a) Prior to the issuance of the first below grade shoring permit, the owner shall make a cash payment to the City in the amount of \$500,000.00 to be allocated towards improvements to parks, community facilities and/or public realm located within Ward 6 and/or the vicinity of the site, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor;
  - (b) The financial contributions referred to in paragraph 1(a) above shall be indexed in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City;
  - (c) In the event the financial contribution referred to in paragraph 1(a) above has not been used for the intended purpose prior to the expiry of the third anniversary of the By-law coming into full force and effect, the cash contribution may be redirected for another purpose at the sole discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
  - (d) The owner shall, at its sole cost and expense, design, construct, finish (including millwork), commission, and hand over a licensable 62 space child-care facility for children from infants to 4 years in age on the ground floor of the podium of Building C, with "podium" being defined as the first 6 storeys of Building C, generally comprising a minimum 539 square metres interior and adjacent exterior areas having a minimum area of 290 square metres, including kitchen and laundry appliances in a dedicated kitchen and dedicated laundry room and throughout the Child Care Centre as required, together with: (i) the necessary easements for services, utilities (i.e. hydro, gas, water, life safety systems, HVAC, etc.), access to and egress from and use of any dedicated and exclusive use areas and common areas of the Development and any other easements as determined by the City for the purpose of operation and access to and from the Child Care Centre, including without limiting the generality of the foregoing, access to and from all vehicular and bicycle parking spaces and pick-up and drop-off areas located within the

Development for use by the City, its employees, staff, contractors, tenants, patrons, and invitees, a shared vehicular drop-off and pick-up location to the Child Care Centre, to accommodate a minimum of 3 vehicles at a time and to be used on a lay-by basis, as well as 2 designated underground parking spots for staff, visitors and daily delivery; Drop-off and Pick-up locations and all parking spots/spaces are to be available Monday to Friday (inclusive), from 7:00 a.m. to 7:00 p.m. and access cards and/or vouchers for accessing the parking must be provided to the child care operator by the owner all in accordance with such further terms and conditions of the Section 37 Agreement;

- (e) Prior to the issuance of the first above grade building permit for the lands, the owner shall make a public art contribution with a value of no less than \$167,000 in the form of public art or a cash payment to the City in accordance with the terms and the conditions of the Section 37 Agreement, to be used for public art in the vicinity of the lands; and
  - (f) The owner shall provide ten (10) one-bedroom affordable rental dwelling units in Building A, to be secured as affordable rental dwelling units for a period of at least 15 years and as rental units for a period of at least 20 years in accordance with the terms and conditions of the Section 37 Agreement.
2. The following facilities, services and matters are to be secured in as legal conveniences to support development:
- (a) Pursuant to the site plan control application process, but in any event prior to final site plan approval, the owner shall provide a Transportation Demand Management Plan to the satisfaction of the Chief Planning and Executive Director, City Planning Division and thereafter the owner shall construct and maintain the development in accordance with the approved Transportation Demand Management Plan;
  - (b) Pursuant to the site plan control application process, but in any event prior to final site plan approval, the owner shall provide a Construction Phasing Plan for the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the owner shall thereafter construct the development in accordance with the approved Construction Phasing Plan;
  - (c) Pursuant to the site plan control application process, but in any event prior to final site plan approval for the proposed development, the owner shall provide a Tenant Construction Mitigation & Communication Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
  - (d) The owner shall continue to provide and maintain the 202 existing rental dwelling units in the existing apartment building at 6040 Bathurst Street and the 202 existing rental dwelling units in the existing apartment building at 5 Fisherville Road as residential rental dwelling units, together with the associated spaces located within the two existing apartment buildings, for a minimum period of 20 years commencing from the date of this By-law, with no application to demolish

or convert the existing rental units to another use during that period of time, in accordance with the terms and conditions of the Section 37 Agreement;

- (e) In the event a Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road (the "Functional Servicing and Storm Water Management Report") concludes upgrades to existing municipal infrastructure are required to support development of the lands then the owner shall enter into the City's then current form of municipal infrastructure agreement with the City and provide financial security to secure the construction of the said upgrades or said new infrastructure in accordance with all City standards and specifications prior to the issuance of the first building permit for any part of the lands, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (f) In the event the Functional Servicing and Storm Water Management Report concludes upgrades to existing municipal infrastructure or new municipal infrastructure are required then the owner shall design, construct, and make operational, to the satisfaction of the appropriate City official, all said upgrades to existing municipal infrastructure in accordance with the agreement referred to in paragraph 2(e) prior to the issuance of the first above grade building permit for the lands, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (g) The owner shall provide the following improvements to the existing apartment buildings at 6040 Bathurst Street and 5 Fisherville Road, to the satisfaction of the Chief Planner and Executive Director, City Planning, with no cost pass through to the existing and future tenants and residents in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in residential rent above the applicable guideline, or in the form of any additional costs and charges:
  - a. Prior to the issuance of the first above grade building permit for Buildings B and C,
    - (i) Outdoor furniture, other programming and pavement improvements within the existing outdoor amenity area adjacent to the privately owned publicly accessible open space ("POPS");
    - (ii) Outdoor amenity space improvements adjoining the building at 6040 Bathurst Street with furniture, other programming, and associated landscape treatments;
    - (iii) Locating a hand delivered refuse drop-off area for kitchen waste and recycling within both existing buildings situate on the lands as of the date of this By-law and municipally known as 6040 Bathurst Street and 5 Fisherville Road, respectively;

- (iv) Introducing push button automatic door openers for front door, vestibule door and laundry room door and a clothes folding table that is universally accessible within the laundry rooms;
  - (v) Introducing universal accessibility routes from outside the buildings to the elevators, as the buildings are currently not accessible;
  - (vi) Short term-bike visitor bike racks located in close proximity to the front entrances of both existing buildings situate on the lands as of the date of this By-law and municipally known as 6040 Bathurst Street and 5 Fisherville Road, respectively; and
  - (vii) Fitness centre in the basement level of existing development;
- b. Prior to the occupancy of Building A:
- (i) Provide a new indoor garbage, recycling/bulk and organic waste storage area for the Building at 5 Fisherville; and
  - (ii) Provide a consolidated indoor garbage, recycling/bulk and organic waste storage area and loading for the Building at 6040 Bathurst and Building A.
- (j) The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as amended by City Council from time to time;
- (k) Prior to final site plan approval of Building B, the owner shall design a privately-owned publicly accessible open space adjacent to the on-site parkland dedication, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or designate and construct the POPS in the first phase of development of the site in accordance with the approved site plans (the privately-owned publicly accessible open space referred to in this paragraph being the "Park POPS");
- (l) Prior to the earlier of (i) condominium registration of Building C, (ii) the first occupancy of Building C, and (iii) 3 years from the date the first above grade building permit is issued for Building C, the owner shall grant an easement to the City along with all necessary rights of support, for nominal consideration and in priority, to the satisfaction of the City Solicitor, over and upon the Park POPS for the purpose of privately-owned publicly accessible open space in favour of the general public, on terms satisfactory to the Chief Planner and Executive Director, City Planning Division or designate, in consultation with the City Solicitor;
- (m) Prior to Site Plan Approval of Building B, the owner shall design a privately-owned publicly accessible open space which functions as a midblock connection through the site in an east/west orientation and in a north/south orientation, to the satisfaction of the Chief Planner and Executive Director, City Planning Division

or designate (the a privately-owned publicly accessible open space referred to in this paragraph being the "Midblock POPS");

- (n) Prior to the earlier of (i) condominium registration of any part of Building B and Building C, inclusive of the shared podium, (ii) the first occupancy of Building B and Building C, inclusive of the shared podium, and (iii) 3 years from the date the first above grade building permit is issued for the shared podium of Building B and Building C, the owner shall grant an easement to the City along with all necessary rights of support, for nominal consideration and in priority, to the satisfaction of the City Solicitor, over and upon the north south portion of the Midblock POPS for the purpose of pedestrian use by the general public, in accordance with the site-specific phasing plan and on terms satisfactory to the Chief Planner and Executive Director, City Planning Division, or designate, in consultation with the City Solicitor;
- (o) Prior to the earlier of (i) condominium registration of any part of Building C, (ii) the first occupancy of Building C and (iii) 3 years from the date of issuance of the first above grade building permit for Building C, the owner shall grant (1) a temporary easement to the City, for nominal consideration, over the temporary east-west walkway and (2) an easement to the City along with all necessary rights of support, for nominal consideration and in priority, to the satisfaction of the City Solicitor, over and upon the east half of the Midblock POPS for the purpose of pedestrian use by the general public, in accordance with the site-specific phasing plan, and on terms satisfactory to the Chief Planner and Executive Director, City Planning Division, or designate, in consultation with the City Solicitor;
- (p) Prior to the earlier of condominium registration of any part of Building A, occupancy of Building A and 3 years from the date of issuance of the first above grade building permit for Building A, the owner shall grant an easement to the City along with all necessary rights of support, for nominal consideration and in priority, to the satisfaction of the City Solicitor, over and upon the west half of the Midblock POPS for the purpose of pedestrian use by the general public, to the satisfaction of the City Solicitor, in accordance with a phasing plan for the development satisfactory to Chief Planner and Executive Director, City Planning Division secured in the Section 37 Agreement;
- (q) The owner shall implement the wind control measures study for the site as part of site plan control, in accordance with a consolidated Wind Study for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street and 25 Fisherville Road pursuant to site plan control application process for the lands, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (r) The owner shall provide and maintain a minimum of 10 percent of the new dwelling units on the site as 3-bedroom units; and
- (s) Prior to the issuance of the first above grade building permit, the owner shall convey the fee simple interest in no less than 691 square metres of the lands to the

City as a parkland dedication in base park condition, in compliance with the City's policies regarding the conveyance of potentially contaminated lands as a condition of development approval, as may be amended by City Council from time to time, to the satisfaction of the General Manager, Parks, Forestry and Recreation and in accordance with the terms and conditions of the Section 37 Agreement.

3. The following facilities, services and matters in respect of a new local public street and other matters relating to the implementation of a block plan for the lands and the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road are to be secured as legal conveniences to support development by a Section 37 Agreement among the City, the owner, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and the owner of the lands municipally known as 25 Fisherville Road:
  - (a) The owners shall construct and convey lands to the City for the purpose of a new local public street with a width of 16.5 metres as shown on Diagram 4 attached to this By-law with a general alignment in a north/south direction from Fisherville Road along the shared property line between the lands municipally known as 25 Fisherville Road and 6040 Bathurst Street and 5 Fisherville Road and in an east/west direction to Bathurst Street along the shared property line between the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, and 6020 and 6030 Bathurst Street, in accordance with this Schedule A and the terms and conditions of the Section 37 Agreement;
  - (b) Prior to the issuance of the first building permit for any part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners shall:
    - (i) submit a draft reference plan describing the lands to be conveyed to the City as the new local public street satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and following approval shall deposit said plan with the Land Registry Office, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
    - (ii) pay all fees to be paid for the issuance of the first building permit in relation to that part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road for which a building permit has been requested and is to be issued;
    - (iii) satisfy the City's policies in respect of the conveyance of potentially contaminated lands as a condition of development approval, as may be amended from time to time, in respect of the new local public street to be conveyed to the City, save and except for the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road which

shall be subject to paragraph 3(c) below, to the satisfaction of to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

- (iv) otherwise satisfy all remaining requirements for release for construction of services, said services to be provided in no more than two separate phases, all in accordance with the terms and conditions of the Section 37 Agreement;
- (c) If a Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Master Functional Servicing Report") or the Functional Servicing and Storm Water Management Report concludes that municipal infrastructure to be located within the new local public street is required to accommodate groundwater discharge from the below grade construction of the lands and such discharge cannot be otherwise accommodated in compliance with applicable laws, prior to the issuance of the first building permit for excavation and shoring for any structure for any part of the lands known municipally as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall:
- (i) construct and make operational all municipal services necessary for issuance of a building permit, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (ii) lay base course asphalt including base curb on the lands to be conveyed to the City as the new local public street, save and except for the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, extending to the existing City roads that abut the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
  - (iii) provide certification from a civil engineer in respect of the base course asphalt and base curb base referred to in paragraph 3(c)(ii) above, to the satisfaction of Engineering and Construction Services;
  - (iv) construct, install, connect, and make operational the sanitary sewer system, storm sewer system and water system, including fire hydrants, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

- (v) provide certification from a civil engineer in respect of all the services referred to in paragraph 3(c)(iv) above, to the satisfaction of Chief Engineer and Executive Director, Engineering and Construction Services; and
  - (vi) install all temporary street signs, to the satisfaction of Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- (d) Notwithstanding paragraph 3(c) above, if the Master Functional Servicing and Storm Water Management Report or the Functional Servicing and Storm Water Management Report concludes that municipal infrastructure to be located within the new local public street is not required to accommodate groundwater discharge from the below grade construction of the lands or if it is determined that such discharge can be otherwise accommodated in compliance with applicable laws, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall complete those matters listed in paragraphs 3(c) above prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road;
- (e) Prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street or 25 Fisherville Road, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road shall transfer to the City their respective fee simple interests in the lands to be used as the new local public street, save and except for the fee simple interest in the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road which shall be subject to the conveyance and construction time of paragraph 3(f) below, and save and except for the fee simple interest in the south boulevard of the east/west section of the new local public street located within the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street which shall be subject to the conveyance of the real property interest and construction and conveyance timing of paragraph 3(g) below, all for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within the above referred to lands necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the General Manager, Transportation Services;
- (f) Prior to the earlier of the issuance of the first above grade building permit for Building A within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road and twenty (20) years from the date of this By-law, the owner of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road shall:

- (i) satisfy the City's policies in respect of the conveyance of potentially contaminated lands as a condition of development approval, as may be amended from time to time, in respect of the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, to the satisfaction of to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (ii) construct and certify the construction of the new local public street within the north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road in accordance with the requirements of section 3(a) of this By-law, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (iii) construct, install, connect, make operational and certify the sanitary sewer system, storm sewer system and water system, including fire hydrants, if required, in accordance with the requirements of section 3(a) of this By-law, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- (iv) transfer of the fee simple interest in said lands to the City, for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within north boulevard of the east/west section of the new local public street located within the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services;
- (g) Prior to the issuance of the first above grade building permit for any part of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street or 25 Fisherville Road, the owners of the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street shall register a grant of strata easement in favour of the City upon and over south boulevard of the east/west section of the new local public street located within the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, for nominal consideration, and all support rights in and through the soil and all structural members, columns, load bearing walls, beams, footings, foundations, floor, and roof slabs and any other component of any building, structure or improvement situate or to be situate within the above referred to lands necessary for the support of the new local public street, to the satisfaction of the City Solicitor in consultation with the General Manager, Transportation Services;

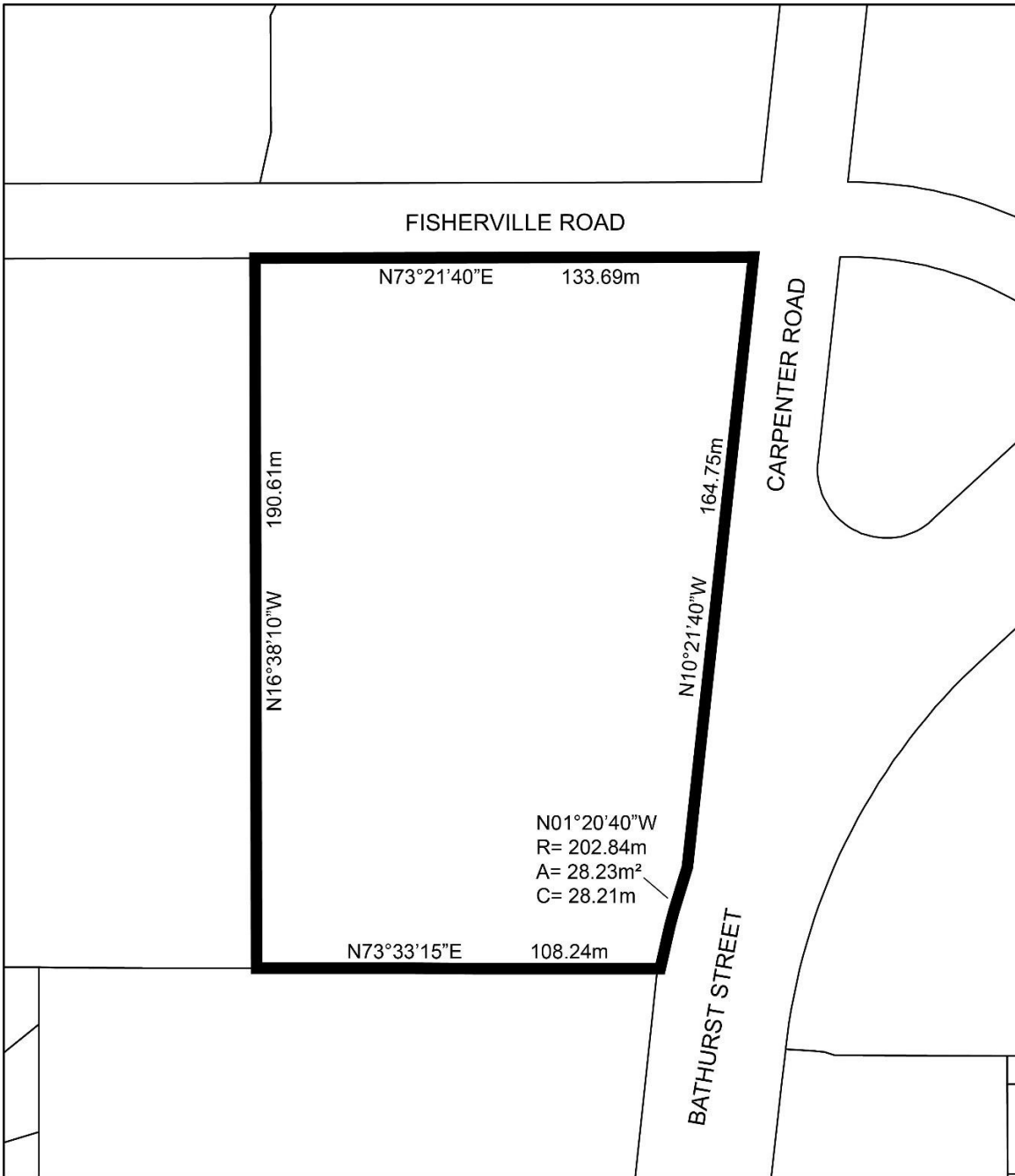
- (h) Prior to the issuance of the first above grade building permit issued for the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owner of the lands municipally known as 6020 Bathurst Street and 6030 Bathurst Street shall install bollards or fixtures within the south boulevard of the east/west section of the new local public street as described in paragraph 3(a) above, to the satisfaction of the Chief Planner and Executive, Director City Planning, in consultation with the General Manager, Transportation Services in accordance with the terms and conditions of the Section 37 Agreement;
- (i) In the event either of the Master Functional Servicing and Storm Water Management Report for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Master Functional Servicing Report") or the Consolidated Transportation Impact Study for the lands municipally known as 6040 Bathurst Street and Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road (the "Consolidated Transportation Impact Study") concludes upgrades to existing municipal infrastructure are required then the owners shall enter into the City's then current form of municipal infrastructure agreement with the City and provide financial security in an amount satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, respectively, to secure the construction of the said upgrades in accordance with all City standards and specifications prior to the issuance of the first building permit for any part of the lands municipally known as 6040 Bathurst Street and Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road. For greater clarity, provided the owner satisfies the requirements described in this paragraph 3(j), any requirement for external municipal infrastructure upgrades that are specific to 6020 and 6030 Bathurst Street and/or 25 Fisherville Road, which do not affect the lands will not delay the ability to proceed with the development of the lands;
- (j) Prior to the issuance of the first above grade building permit for any part of lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 Bathurst Street and 6030 Bathurst Street, and 25 Fisherville Road, the owners shall design, construct, and make operational, to the satisfaction of the appropriate City official, all said upgrades to existing municipal infrastructure as required by the Master Functional Servicing Report and the Consolidated Transportation Impact Study, in accordance with the terms of the City's then current form of municipal infrastructure agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, respectively, save and except for those matters required to be designed, constructed, and made operational prior to the issuance of the first building permit if identified in the Master Functional Servicing Report or the Functional Servicing and Storm Water Management Report as being required to accommodate groundwater discharge from the below grade construction of the lands and such groundwater discharge cannot be otherwise accommodated in compliance with applicable laws. For greater clarity, provided the owner satisfies

the requirements described in this paragraph 3(k), any requirement for external municipal infrastructure upgrades that are specific to 6020 and 6030 Bathurst Street and/or 25 Fisherville Road, which do not affect the lands will not delay the ability to proceed with the development of the lands;

- (k) The owner shall provide and construct the proposed development in accordance with a phasing plan for the lands municipally known as 6040 Bathurst Street and 5 Fisherville Road, 6020 and 6030 Bathurst Street and 25 Fisherville Road, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- (l) All other specific obligations of the owners with respect to the construction of the new local public street and any required municipal services, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (m) Specific obligations of the owners with respect to the environmental remediation of the lands for the new local public street to be conveyed to the City, at no cost to the City including the owner's payment of all costs incurred by the City for a third-party peer review of environmental reports submitted by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (n) All other specific obligations of the owners with respect to the posting of financial securities in connection with the new local public street and required municipal services, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services. The required financial securities will be based on cost estimates provided by the landowners, subject to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- (o) All other specific obligations of the owners the respect to the City's acceptance and assumption of the new local public street and the municipal services related thereto, warranty and/or guarantee periods for the works undertaken by the owner, the provision of insurance and indemnities, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the City Solicitor;
- (p) In respect of any structures within the lands that are located beneath the new local public street, such as a parking garage, prior to the conveyance of the lands to be used for the new local public street the owners shall cause the provision of pre- and post- construction certification from the owner's structural engineer with reliance extended to the City, together with as-built drawings, evidencing compliance with load-bearing standards in accordance with the Canadian Highway Bridge Building Code or the Ontario Building Code (whichever at the time of construction of the new local public street is more stringent), and the provision of drainage system(s) and waterproofing with an appropriate membrane and protection against damage from the use and maintenance of the new local public street, including but not limited to tree root growth, to the satisfaction of

the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, provided that no part of the new local public street, save and except that sidewalks and associated boulevards, will be located above an underground parking garage within the lands. In respect of any below-grade structures that are located adjacent to the new local public street, prior to the conveyance of the lands to be used for the new local public street the owners shall cause the provision of certification from the owner's structural engineer with reliance extended to the City evidencing compliance with applicable load-bearing standards, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;

- (q) All other specific obligations of the owners to pay all engineering and inspection fees in accordance with the terms and conditions of the Section 37 Agreement, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- (r) All other specific obligations of the owners for the maintenance and repair of, and liability for, the new local public street prior to its assumption by the City, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

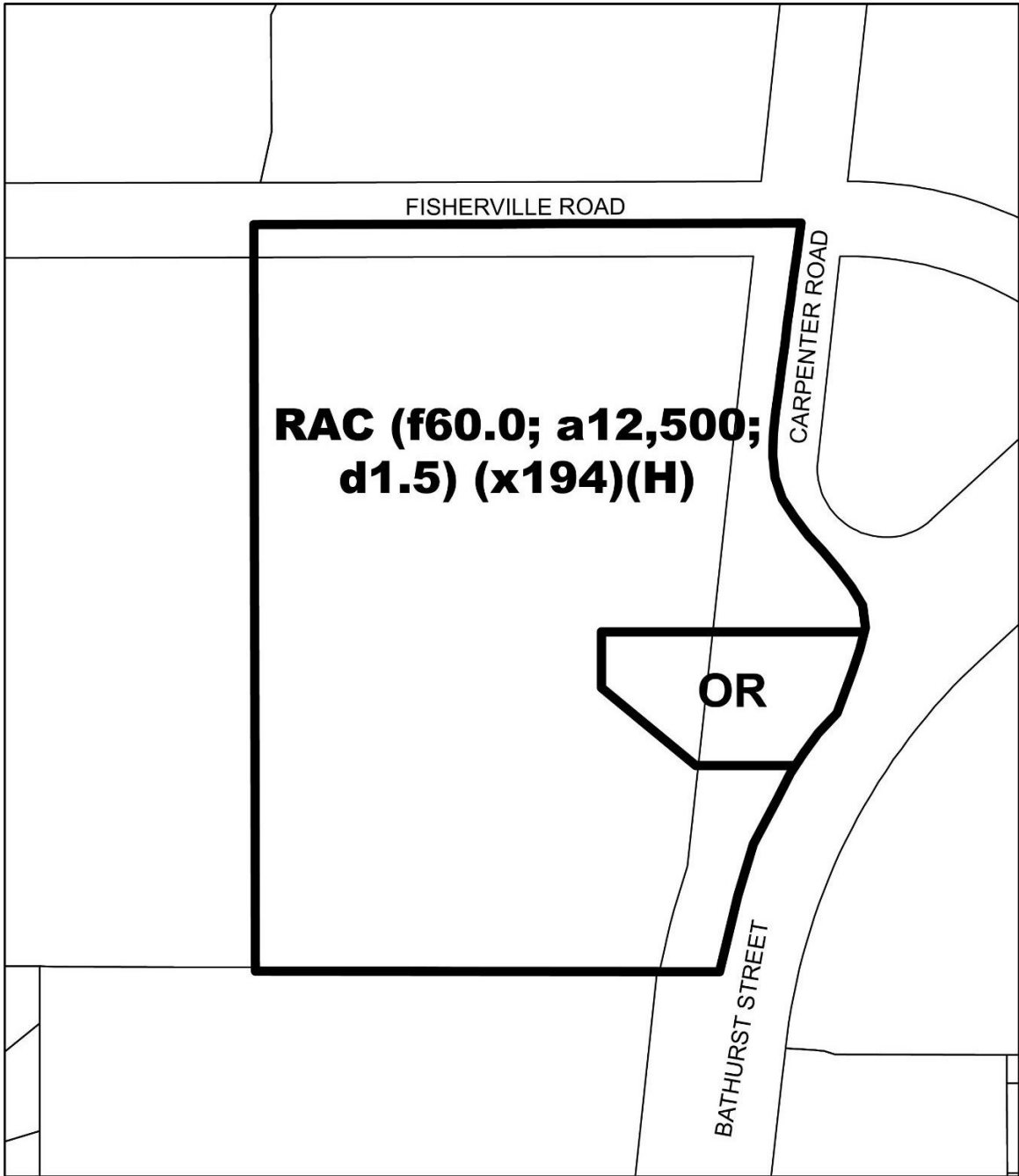


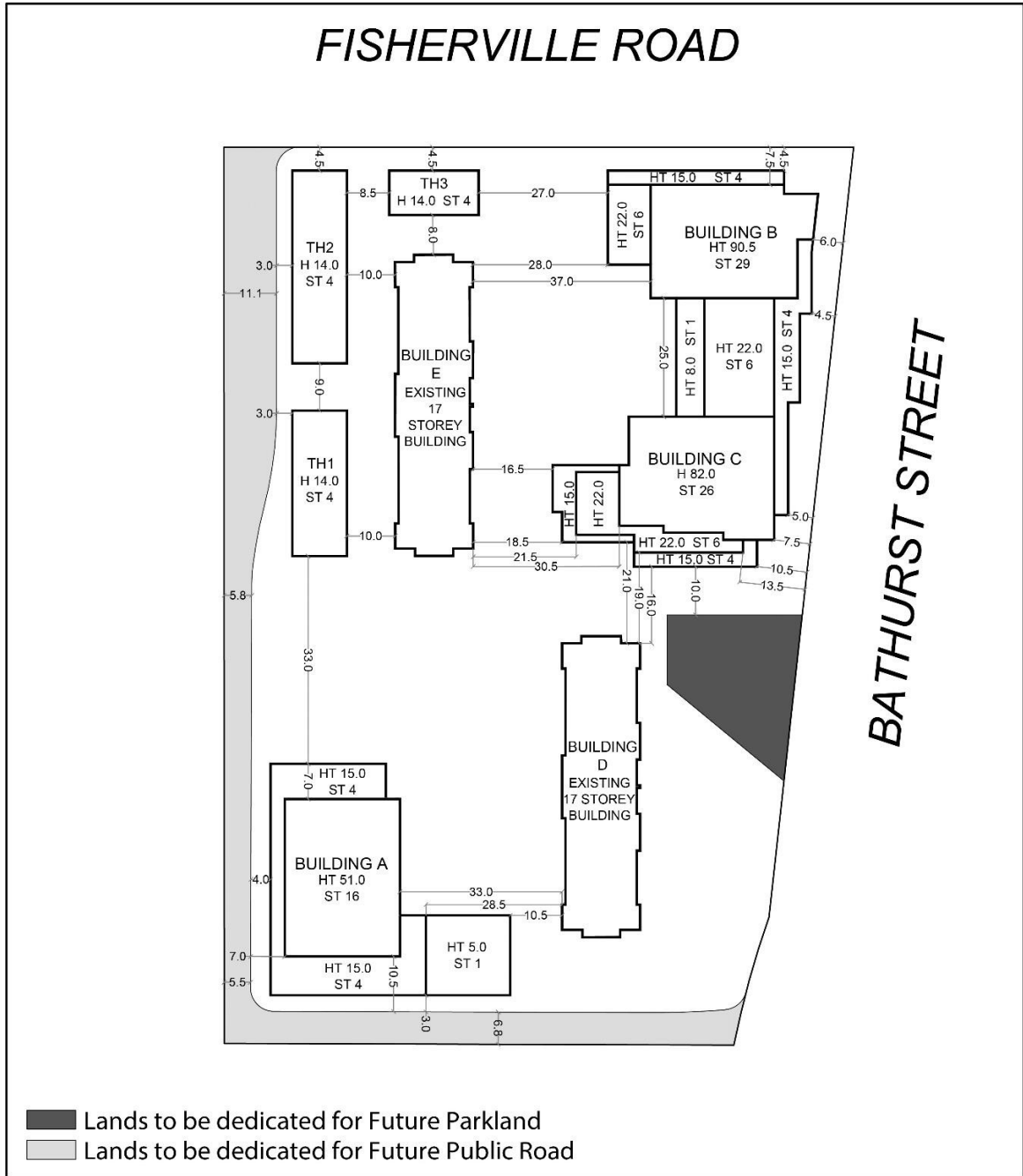
 **TORONTO**  
Diagram 1

**6040 Bathurst Street & 5 Fisherville Road**

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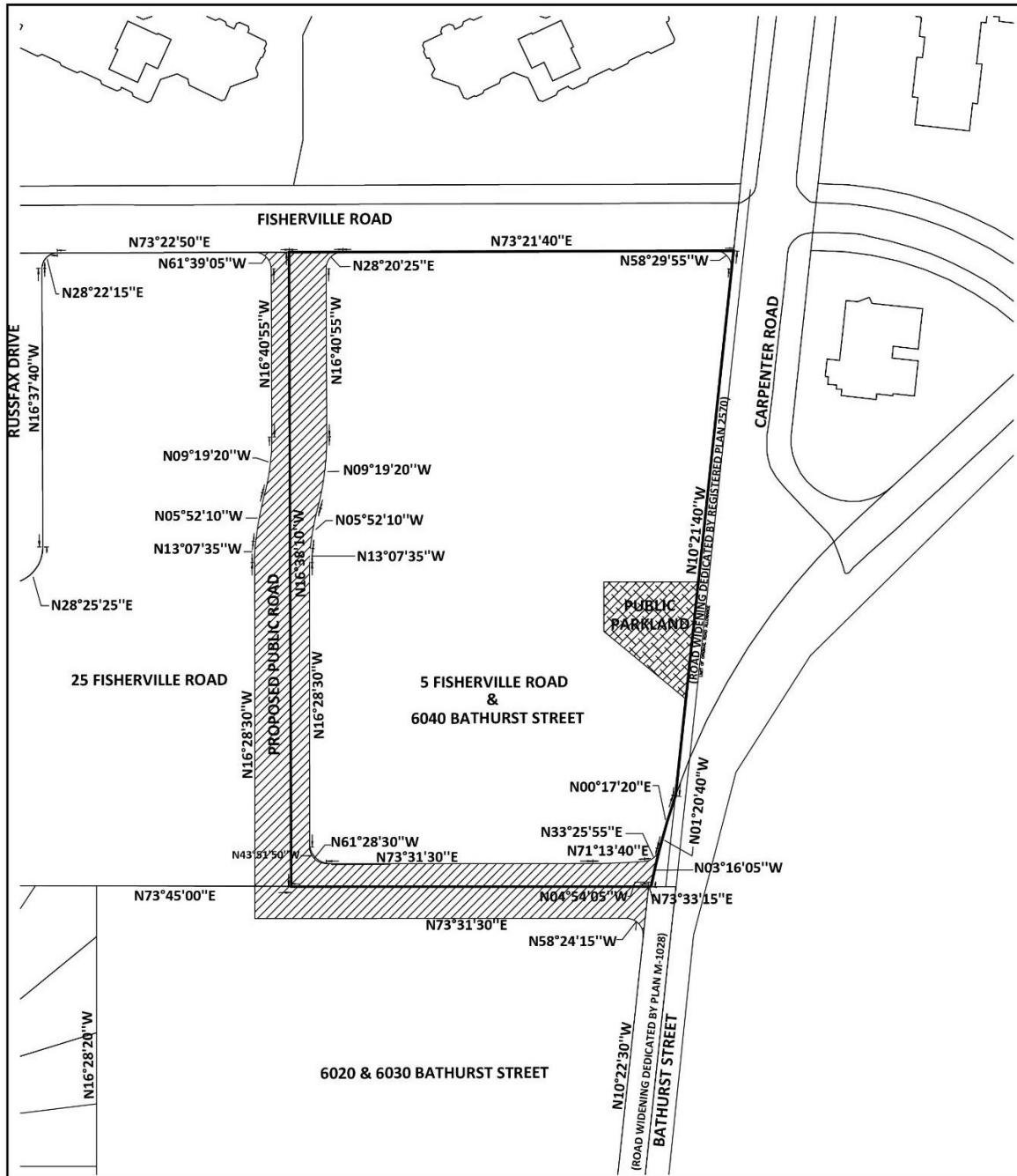




**6040 Bathurst Street & 5 Fisherville Road**

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 **TORONTO**  
Diagram 4

## 6040 Bathurst Street & 5 Fisherville Road

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