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November 22nd, 2021

Our File No. 135057

BY EMAIL

Aderinsola (Derin) Abimbola
City of Toronto, Legal Services
Planning and Administrative Tribunal Law
Metro Hall, 26th Floor
55 John Street
Toronto ON M5V 3C6

Dear Ms. Abimbola:

**Re: Riverking Development Inc. – 2793, 2795-2799 Bathurst Street
LPAT Proceedings PL170696 and PL180719
With Prejudice Settlement Proposal**

As you are aware, we represent Riverking Development Inc. with respect to the above-noted appeals in respect of the proposed redevelopment of 2795-2799 Bathurst Street (the “Original Site”).

Background – Initial Settlement with the City and Approval of the OPA (in full) and ZBLAs (in principle) by the Tribunal

In September, 2018 the City and our client engaged in mediation before the (then) Land Use Planning Appeal Tribunal, now carried on as the Ontario Land Tribunal (the “Tribunal”) which resulted in a revised development proposal for the Original Site. A settlement offer from our client based on the revised development proposal was the basis of a Council decision at its meeting of December 13, 2018.

With the City’s consent, our client’s revised development application was approved in principle by the Tribunal. The Tribunal issued its decision approving the OPA for the Original Site on January 24, 2019 (PL180719) and its decision approving the ZBLAs for the Original Site, in principle on January 30, 2019 (PL170696) and subject to conditions set out in Attachment 3 to the Decision. Only the City and our client were parties to the settlement hearing for the ZBLAs. A copy of the Conditions set out in Attachment 3 to the Decision, now updated to reflect the revised Section 37 contribution (as described below), as well as the requirement for a Functional Servicing Report, is appended in full to this letter.

Since the issuance of the Decisions, our client and its consultants have been engaged with City staff on the resolution of conditions to the Tribunal approval in principle for the Original Site, we understand that City staff are presently reviewing resubmission materials and we look forward to finalizing those matters with City staff. We understand that, for the purposes of this settlement offer the following Conditions must still be addressed and/or confirmed to have been addressed to the satisfaction of the City prior to the issuance of a Final Order from the Tribunal:

Condition 1 (execution of a Section 37 Agreement);

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Condition 2 (resolution of ECS comments and any agreements required thereto); and Condition 3 (finalization of the form of the revised ZBLAs).

Enhanced Development Site and Revised Settlement Proposal

Since the January 30, 2019 Decision, our client has secured the ownership of the corner parcel immediately adjacent to the Original Site, being the lands known municipally as 2793 Bathurst Street. The addition of this corner parcel to the Original Site (now, collectively referenced as the “Enhanced Site”) has been explored in detail with the City through the submission of a site plan application for the Enhanced Site which was filed in June, 2021 and has been processed by City staff since that time.

As a result of the careful review by City staff, certain modifications have been proposed to the original ZBLAs files with the Tribunal so as to properly incorporate the new corner parcel, and ensure the comprehensive redevelopment of the Enhanced Site, while addressing the City’s comments arising from the site plan approval process. In particular, the revised proposal will now include the existing building at 2793 Bathurst Street as part of the redevelopment, maintaining a retail use at the corner and locating residential units above.

Accordingly, we are now seeking the City’s consent to (1) filing the updated ZBLAs, reflecting the development proposal for the Enhanced Site, with the Tribunal; and (2) jointly requesting that the Tribunal exercise its authority to approve the ZBLAs and the modified development proposal for the Enhanced Site, with the final Order in PL170696 to be withheld until the City confirms that the Conditions set out in Attachment 3 to that Decision, which includes the requirement for a Functional Servicing Report, if deemed necessary by City staff, have been addressed in full.

In support of the request, we enclose the following:

1. Updated architectural plans, prepared by IBI Group Architects, revision date June 1, 2021 showing the revised development proposal for the Enhanced Site and the integration of the existing building on 2793 Bathurst Street into the development;
2. Updated ZBLAs, for By-laws 7625 and 569-2013, reflecting the inclusion of 2793 Bathurst Street and modifications to the development standards required to implement the revised development proposal for the Enhanced Site.

It is our understanding that City staff have revised the updated ZBLAs in detail and that the enclosed documents reflect any changes requested by City staff. We also note that City staff have agreed that no changes are required to the OPA for the Original Site, as approved by the (then) LPAT in PL180719.

Assuming the above and enclosed materials reflect accurately the discussions to date with yourself and City staff, we are respectfully requesting that this matter be considered by City Council at its meeting of December 15/16, 2021. This would enable us to then proceed to jointly engage with the Tribunal on securing a hearing date – either virtually or in person – to give effect to the above resolution early in the new year.

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Revised Section 37 Contribution

Finally, we understand it is the City's position that the modest additional GFA proposed as a result of the inclusion of 2793 Bathurst Street into the development will result in an additional contribution to the originally agreed to cash contribution pursuant to Section 37 of the Planning Act.

Accordingly, our client is prepared to make an additional contribution of \$81,723.84 for a **total and revised cash contribution** of \$1,081,723.84 which amount will be used for parkland improvements in Ward 8 and/or public realm improvements along Bathurst Street in the vicinity of the property and secured in a Section 37 Agreement to be executed with the City.

Should you have any questions regarding the above or enclosed, we would be happy to discuss with you further.

Thank you for your ongoing assistance and cooperation in resolving these matters.

Yours truly,

AIRD & BERLIS LLP



Eileen P.K. Costello

EPKC/gg

Encl.

cc: Craig Hunter

Client

46648056.1

Items to be Addressed Prior to Issuance of LPAT Order

The Parties request the Local Planning Appeal Tribunal to withhold its Order on the Zoning By-law amendment applications until such time as the Tribunal has been advised by the City Solicitor that:

1. the owner has entered into a Section 37 to secure:

- a. Section 37 benefits in the amount of \$1,081,723.84 to be paid by the owner prior to the issuance of the first above-grade building permit for the proposed development to be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor for local area park improvements in the new Ward 8 and/or public realm improvements along Bathurst Street in the new Ward 8;
- b. the cash contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment; and
- c. other matters as a matter of legal convenience, including road improvements to Glencairn Avenue to support the proposed development, such as a new eastbound left turn lane into the site. a. the Rental Housing Declaration of Use and Screening form submitted by the applicant has been approved by the Chief Planner and Executive Director, City Planning;

2, . all the outstanding comments and requirements within the Engineering and Construction Services Memorandum dated March 7, 2018, as well as the following requirements, have been addressed to the satisfaction of the Chief Engineer and Executive Director, Engineering and Constructions Services:

- i. the Hydrogeological report is revised to satisfactorily address the quality of discharge to meet sewer by-law requirements;
- ii. the Hydrogeological report is revised to satisfactorily provide an analysis of construction dewatering quantities or alternatively describes how construction dewatering will not require discharge to a city sewer (short-term);
- iii. the Hydrogeological report is revised to satisfactorily provide an analysis of construction dewatering quantities for the proposed building (long-term) including any certification letters required by the City;
- iv. the Mechanical Engineer is designed and provides the groundwater pump peak discharge rate for the proposed Private Water Drainage System;
- v. provision of storm sewer analysis for the storm sewer on Glencairn Avenue up to the connection point where it joins the existing connection coming from Forest Wood Storm Sewer;
- vi. submission of a Sanitary Sewer Analysis, including a complete drainage area plan with populations and detailed explanation of infiltration rate source and HGL analysis and profiles;
- vii. submission of a Hydrant Pressure and Volume Test;
- viii Submission of an updated Functional Servicing Report to determine the storm water runoff, sanitary flow and water supply demand resulting from this development and whether there is adequate capacity in the existing municipal infrastructure to accommodate the proposed development;
- ix. the owner has entered into a financially secured Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that infrastructure upgrades are required to support the development, according to the Functional Servicing Report, and any updates thereto, Stormwater Management Study, Sanitary Sewer Analysis and

Hydrant Pressure and Volume Test accepted by the Chief Engineer and Executive Director, Engineering and Construction Services;

x. the owner has provided space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers Chapter 681; and
xi. financial securities have been provided and any agreements have been entered into to complete the work prior to the first above grade building permit as required by the City, to secure any upgrades or required improvements to the existing municipal infrastructure identified in the reports required as per condition 5.b. above to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services in consultation with the General Manager, Transportation Services;

3. the final form and content of the zoning by-laws are satisfactory to the City Solicitor; and

4. An Order is issued in LPAT matter PL180719 approving the Official Plan Amendment for the subject lands (Note: this has now occurred).

46656906.1

CITY OF TORONTO

BY-LAW NO. ~ - 2021 (LPAT)

To amend former City of North York Zoning By-law No. 7625, as amended, with respect to the lands municipally known as 2793, 2795 -2799 Bathurst Street

WHEREAS the Local Appeal Planning Tribunal (LPAT) pursuant to its Order No. ~ dated ~~~ upon hearing the appeal of Riverking Development LP under Section 34 of the *Planning Act* 1990, c.P. 13, as amended, deem it advisable to amend By-law No. 7625 of the former City of North York.

THEREFORE LPAT HEREBY APPROVES as follows:

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

2. Section 64 of By-law No. 7625 of the former City of North York is amended by adding the following subsection:

64 (XX) C1(XX) *To be finalized by clerk's office*

3. DEFINITIONS

(a) APARTMENT DWELLING HOUSE

For the purpose of this exception, “apartment house dwelling” shall include in addition to dwelling units having access only from an internal corridor system, ground level dwelling units having access from both an internal corridor system and directly from the outside.

(b) BICYCLE PARKING SPACES – RESIDENTIAL/ RETAIL

Bicycle Parking Space means an area used for parking or storing a bicycle;

(c) ESTABLISHED GRADE

For the purpose of this exception “established grade shall mean the geodetic elevation of 180.5.

(d) GROSS FLOOR AREA

For the purpose of this exception, “gross floor area” shall mean the aggregate of the areas of each floor measured between the exterior faces of the exterior walls of the building or structure at the level of each floor excluding:

(i) parking, loading and bicycle parking below-grade;

(ii) required loading spaces at the ground level and required bicycle parking spaces at or above ground;

- (iii) storage rooms, washrooms, electrical utility, mechanical and ventilation rooms in the basement;
 - (iv) amenity area required by this By-law;
 - (v) elevator shafts;
 - (vi) garbage shafts;
 - (vii) mechanical penthouse; and
 - (viii) exit stairwells in the building
- (e) **GROSS SITE**
- For the purpose of this exception, “site area” shall mean the having an area of 3,593 m².
- (f) **LOT**
- the lot comprises at least the lands delineated by heavy lines on Schedule 1, zoned as C1 attached to and forming part of this By-law;

4. PERMITTED USES

- (a) In addition to all uses permitted in a C1 zone under Section 23(1), outdoor Residential Recreational Amenity Areas may be located on roof top terraces.

5. EXCEPTION REGULATIONS

(a) **GROSS FLOOR AREA**

The maximum gross floor area shall not exceed 15,720 m².

- (i) A total of 14,800m² of residential gross floor area shall be permitted.
- (ii) A total of 920 m² of non-residential gross floor area shall be permitted.

(b) **BUILDING HEIGHT**

The maximum building heights shall be regulated in accordance with the following requirements:

- (i) The building height shall not exceed the maximum heights in metres as shown on Schedule 2 excluding mechanical penthouses up to 5.5 metres in height and any eaves, canopies, cornices, lighting fixtures, awnings, fences, and safety railings, architectural features, parapets, trellises, balustrades, window sills,

window washing equipment, privacy screens, architectural screens, guardrails, chimneys, vents, stacks, terraces, platforms, transformer vaults, wheelchair ramps, retaining walls, ornamental elements, architectural elements, landscaping elements, paving and insulation, green roof elements, outdoor furniture, roof access hatches, walkways, stairs, covered stairs and or stair enclosures associated with an entrance or exit from an underground parking garage, underground parking garage ramps and their associated structures, stair landings, planters, and public art features, elevator overruns and elements or structures on the roof of the building used for outside or open air recreation, safety or wind protection purposes;

- (ii) Provision 23.2.4.3 for maximum building height for commercial buildings with dwellings above the first floor shall not apply.

(c) **SETBACKS**

- (i) Provide building setbacks as shown on Schedule 2 attached to this By-law.
- (ii) Minimum yard setbacks for structures below finished grade shall be 0 metres.

(d) **BUILDING ENVELOPE**

No portion of any building or structure erected and used above established grade shall be located otherwise than wholly within the building envelope identified on Schedule 2. Notwithstanding this requirement, the following projections are permitted:

- (i) cornices, light fixtures, ornamental elements, parapets, art and landscape features, patios, decks, pillars, trellises, balconies, terraces, eaves, window sills, bay windows, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, retaining walls, screens, site servicing features, awnings and canopies, private laneway may extend beyond the heavy lines shown on Schedule 2.
- (ii) Notwithstanding the foregoing clause, balconies located above the 4th storey on that portion of the north tower façade must have a minimum depth of 1.8 m. The total length of all balconies is a minimum of 25% of the width of the 9th floor for the 5th -- 9th floors on the northern façade of the mid-rise as shown on Schedule 2.

(e) **AMENITY AREA**

Recreational Amenity Area

- (i) A minimum of 2.0 square metres of indoor private recreational amenity area per dwelling unit shall be provided; and
- (ii) A minimum of 2.0 square metres of outdoor private recreational amenity area per dwelling unit shall be provided.

(f) **AUTOMOBILE PARKING REQUIREMENTS**

Provide parking in accordance with the following minimum requirements within a Mixed- Use Building:

- (i) for residential dwelling unit:
 - 1-Bedroom Units 0.8 spaces per unit
 - 2-Bedroom Units 0.9 spaces per unit
 - 3+ Bedroom Units 1.1 spaces per unit
 - Visitor 0.15 spaces per unit
- (ii) for non-residential uses, 1 parking space per 100 square metres of Gross Floor Area;
- (iii) all parking spaces shall maintain a minimum width of 2.6m and a minimum length of 5.6m.
- (iv) regulation 6A(3) (i) and (iii) shall not apply.
- (v) residential visitor parking spaces can be shared with the non-residential commercial parking spaces.

(g) **BICYCLE PARKING REQUIREMENTS**

Bicycle Parking Requirements

- (i) Residential occupant bicycle parking spaces shall be provided at a minimum rate of 0.9 long term bicycle spaces per dwelling unit;
- (ii) Residential visitor bicycle parking spaces shall be provided at a minimum rate of 0.1 per dwelling unit;
- (iii) Retail long-term bicycle parking shall be provided at grade at a minimum rate of 0.2 spaces per 100 square metres of Gross Floor Area; and
- (iv) Retail short-term bicycle parking shall be provided at grade at a minimum rate of 0.3 spaces per 100 square metres of Gross Floor Area.

(h) **LOADING SPACE**

For the purpose of this exception, loading space shall mean:

- (i) A minimum of one Type G loading space shall be provided with minimum dimensions of 4.0 metres wide, 13.0 metres long and vertical clearance of 6.1 metres.

(i) **LOT COVERAGE**

- (i) Provision 23.2.1 does not apply.

(j) **LOT AREA**

- (i) Lot area provision 23.2.4.1 do not apply.
- (k) Floor area of Dwelling Unit
 - (i) Provision 23.2.4.2 for minimum dwelling unit shall not apply.

6. DIVISION OF LANDS

- (i) Notwithstanding any severance or division of the lands subject to this exception the regulations of this exception shall continue to apply to the whole of the lands.

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

- (a) All new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
- (b) All water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

8. TEMPORARY USE

A Temporary Rental Office and associated parking spaces may be permitted on the *lot* lot which shall be exempt from all development standards and regulations in Former North York By-law 7625.

9. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram [1] in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A 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 prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in [height and/or density] pursuant to this By-law unless all provisions of Schedule A are satisfied.

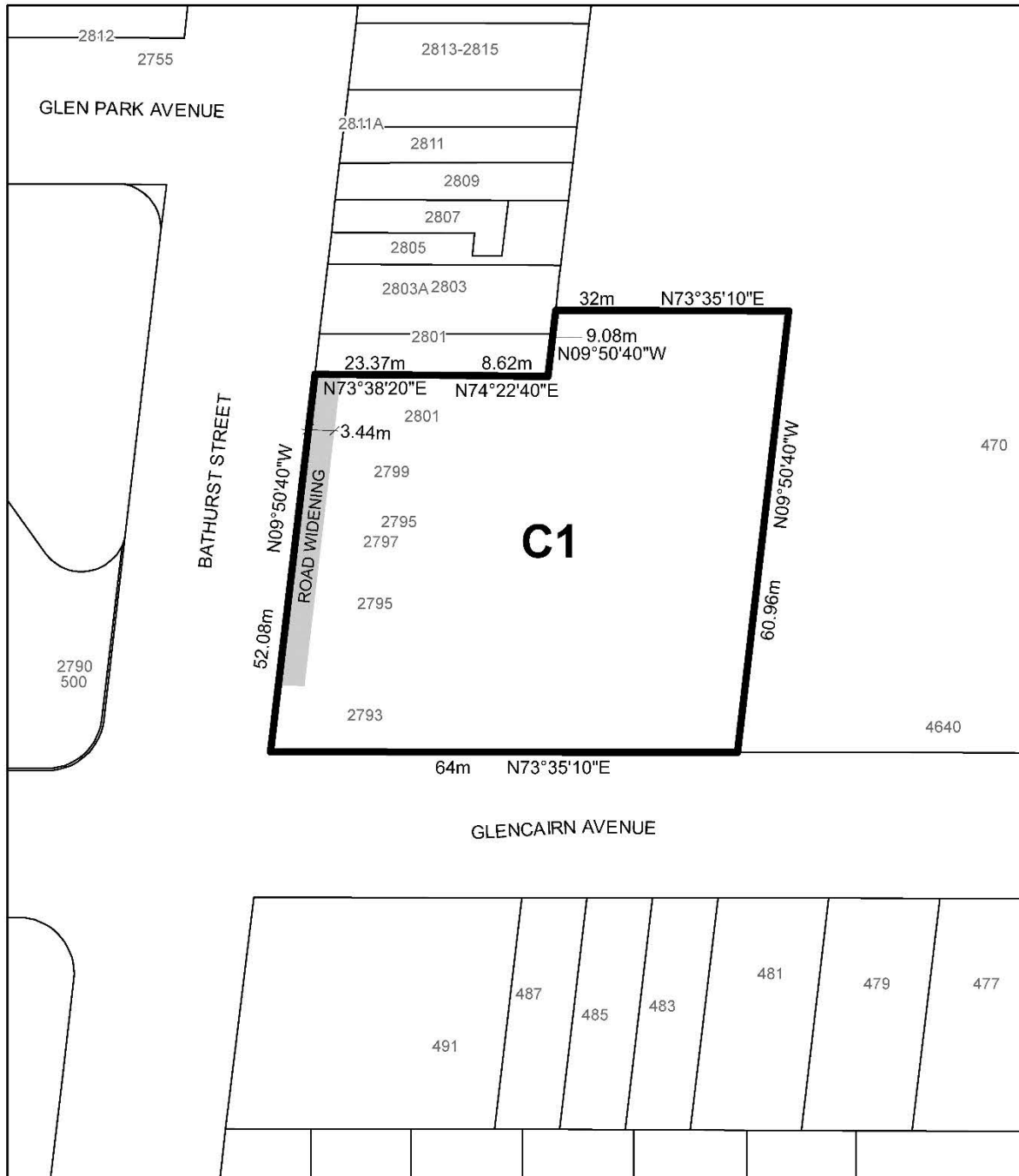
PURSUANT TO THEH ORDER/DECISION NO. _____ OF THE LOCAL PLANNING APPEAL TRIBUNAL ISSUED ON _____IN CASE NO. PL170696

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 Development Site and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- a. Prior to the issuance of the first above grade building permit the Owner shall provide to the City of Toronto \$1,100,000.00 (one million and one hundred thousand dollars) be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor for local area park improvements in the new Ward 8 and/or public realm improvements along Bathurst Street in the new Ward 8.
 - i. The cash contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment;
 - ii. In the event the cash contribution referred to in (a) has not been used for the intended purpose 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 of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
- b. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:


road improvements to Glencairn Avenue to support the proposed development, such as a new eastbound left turn lane into the site.

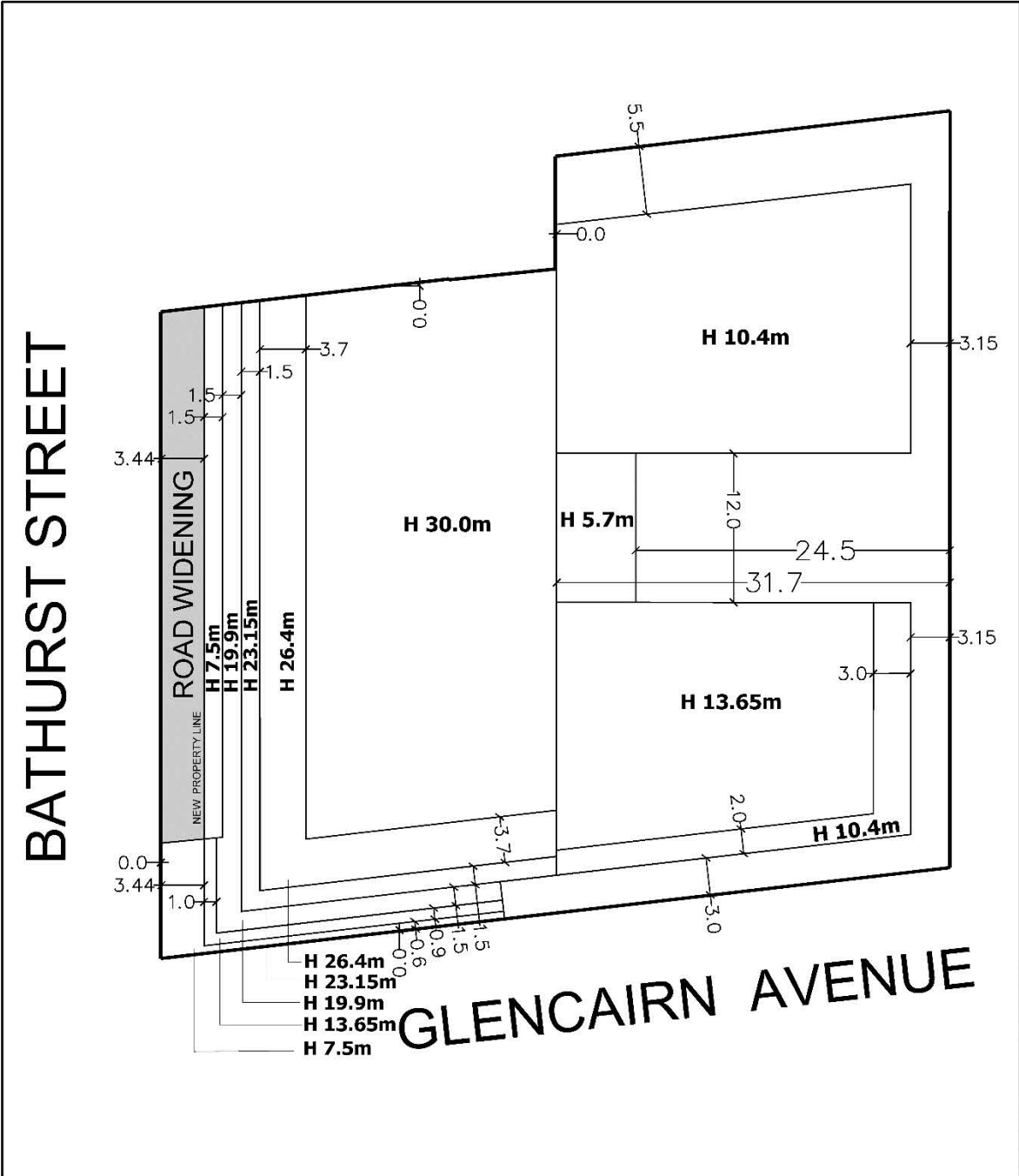


 **TORONTO**
Schedule 1

2793, 2795 -2799 Bathurst Street

File #: 20 189647 NNY 08 SA


Former City of North York By-law 7625
Not to Scale
12/03/2020



**CITY OF TORONTO
LOCAL PLANNING APPEAL TRIBUNAL
Attachment _____**

Bill No. ~

BY-LAW No. XXXX-2021 (LPAT)

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 2793, 2795 -2799 Bathurst Street

Whereas the Local Planning Appeal Tribunal, by its Decision issued _____ and Order issued on _____, Tribunal File No. PL170696 approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known as 2793, 2795 – 2799 and Bathurst Street; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development;

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 No. 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;

Therefore the City of Toronto By-law 569-2013, as amended, is hereby further amended by the Local Planning Appeal 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 By-law No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 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 to CR 1.0 (c.1.0; r 1.0) SS2, (x355) as shown on Diagram 2 attached to this By-law.

4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 355 so that it reads:

Exception CR 355

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 2793, 2795 – 2799 Bathurst Street if the requirements of Section 6 and Schedule A of By-law [Clerks to supply by-law ##] are complied with, a **building, structure**, addition or enlargement may be constructed in compliance with (B) to (Q), below.
- (B) Within the hatched area shown on Diagram 4 of By-law [Clerks to supply by-law ##], the only uses permitted are vehicular access, ramps, residential and non-residential **parking spaces** and **bicycle parking spaces, loading spaces** and servicing areas, access to the loading and servicing areas, access to residential and non-residential **parking spaces**, balconies, terraces/indoor and outdoor **amenity spaces**, the pedestrian entrance and lobby, locker rooms, storage rooms, mechanical rooms, and residential **dwelling units** that are associated with the **mixed use building**.
- (C) Despite regulations 40.5.40.10(1) & (2) the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 180.5 metres and the elevation of the highest point of the **building** or **structure**.
- (D) Clause 40.10.30.40, with regards to **lot coverage**, does not apply.
- (E) Despite regulation 40.10.40.1(1), residential use portions of the building may be located on the same **storey** as non-residential use portions.
- (F) Despite regulations 40.10.40.10(2) and 40.10.40.1(7), the permitted maximum height and **storeys** of a **building** or **structure** is the numerical value in metres following the letters "HT" and the number of **storeys** prior to the letters "ST" on Diagram 3 of By-law [Clerks to insert by-law number]; and
- (i) the mezzanine and mechanical penthouse shall not be included in the calculation of the number of storeys;
- (G) Despite regulation 40.5.40.10(3) to (8) and (F) above, the following elements of a **building** may project above the permitted maximum height on Diagram 3 of By-law [Clerks to insert by-law number]:

- (i) mechanical penthouse to a maximum of 5.5 metres;
 - (ii) safety railings, parapets, balustrades, guardrails, chimneys, vents, stacks, **landscaping** elements, **green roof** elements, outdoor furniture, roof access hatches, planters, ventilation shafts and ramps to a maximum of 2.5 metres;
 - (iii) trellises, window washing equipment, privacy screens, wind screens, architectural screens, stairs, stairs enclosures associated with an entrance of exit, elevator overruns and elements or **structures** on the roof of the **building** used for outside or open air recreation, safety or wind protection purposes to a maximum of 5 metres;
- (H) For the purpose of determining compliance with regulation 40.10.40.10(5), the required minimum height of first **storey** does not apply to residential uses and the minimum height of all other non-residential uses is 4.0 metres
- (I) Despite regulation 40.10.40.40(1), the permitted maximum **gross floor area** of the **building** is 15,720 square metres of which:
- (i) no more than 14,800 square metres may be for residential uses; and
 - (ii) no more than 920 square metres may be for non-residential uses;
- (J) Despite regulation 40.10.40.70(2), the required minimum **building setbacks** for a **building** or **structure** are shown on Diagram 3 of By-law **[Clerks to insert by-law number]**;
- (K) Despite clause 40.10.40.60 and regulation (J) above, the following may encroach into the required minimum **building setbacks** on Diagram 3 of By-law **[Clerks to insert by-law number]**:
- (i) cornices, light fixtures, ornamental elements, parapets, and landscape features, patios, pillars, trellises, balconies, terraces, eaves, window sills, bay windows, planters, ventilation shafts, guardrails, railings, wheelchair ramps, fences, screens, site servicing features, up to a maximum of 1.5 metres;
 - (ii) the main residential entrance canopy located on the ground floor up to a maximum of 3.0 metres and all other canopies up to a maximum of 1.8 metres;
 - (iii) on the north side of the portion of the **building** labelled "HT 10.4" on Diagram 3 of By-law **[Clerks to insert by-law number]**: cornices, light fixtures, ornamental elements, parapets, eaves, window sills, bay windows, up to a maximum of 0.5 metres;

- (iv) Where located on the ground of the north side of the **building** labelled "HT 10.4" on Diagram 3 of By-law [Clerks to insert by-law number]: terraces, platforms, retaining walls, walkways, **landscaping** features, patios, decks, planters, guard rails, pillars, stairs, parapets, wheelchair ramps, fences and ventilation shafts up to a maximum of 5.5 metres;
 - (v) Where located on the ground of the south side of the **building** labelled "HT 13.65" on Diagram 3 of By-law [Clerks to insert by-law number]: platforms, light fixtures covered stairway enclosures, retaining walls, walkways, **landscaping** features, patios, decks, planters, guard rails, pillars, stairs, stair rails parapet and wheelchair ramps
 - (vi) Where located on the ground on the east side of the portion of the **building** labelled "HT 5.7", "HT 10.4", and "HT 13.65" on Diagram 3 of By-law [Clerks to insert by-law number]: transformer vaults, underground garage ramps and their associated **structures**, stairs, landscape features, planters, guard rails, parapets, pillars, wheelchair ramps, fences, gas meter, canopies, site servicing features, and ventilation shafts, to a maximum of 3.15 metres.
- (L) Despite regulation 40.10.40.60(1)(C)(iii):
- (i) Balconies located on the north side above the fourth **storey** of the portion of the **building** labelled "HT 7.5", "HT 19.9", "HT 23.15", "HT 26.4", and "HT 30" on Diagram 3 of By-law [Clerks to insert by-law number] must have a minimum depth of 1.8 metres, measured from the **main wall**.
 - (ii) Balconies located on the north side above the fifth **storey** of the portion of the **building** labelled "HT 7.5", "HT 19.9", "HT 23.15", "HT 26.4" and "HT 30" on Diagram 3 of By-law [Clerks to insert by-law number] must have a length equal to 25% of the width of the north side **main wall** of the ninth **storey**.
- (M) Despite regulation 40.10.50.10(3), a minimum 1.5 metre wide strip of land used only for **soft landscaping** must be provided abutting 40 percent of the east **lot line** abutting the lot in the Residential Zone category.
- (N) Despite regulation 200.5.10.1(1) and Table 200.5.1.10, **parking spaces** must be provided below the Canadian Geodetic Datum elevation of 180.5 metres in accordance with the following:
- (i) 0.8 residential occupant **parking spaces** for each one-bedroom **dwelling unit**;
 - (ii) 0.9 residential occupant **parking spaces** for each two-bedroom **dwelling unit**;

- (iii) 1.1 residential occupant **parking spaces** for each three-bedroom and greater **dwelling unit**;
- (iv) 0.15 visitor **parking spaces** per **dwelling unit**;
- (v) 1.0 **parking spaces** for each 100 square metres of non-residential **gross floor area** for all non-residential uses;
- (O) Despite regulation 200.5.1.10(2)(A)(iv), a maximum of 15% of the total number of parking spaces may be obstructed on both sides;
- (P) Despite clauses 220.5.10.1 and 40.10.90.1, one Type "G" **loading space** is required on the **lot**;
- (Q) Despite regulation 40.10.90.10(1)(c), a **loading space** may be provided in the **rear yard** that abuts a **lot** in the Residential Zone category;

Prevailing By-laws and Prevailing Sections:

- (A) Schedule 'D' Airport Hazard Map from City of North York Zoning by-law 7625.
5. Despite any existing or future severance, partitions or division of the lot, the provisions of this By-law will apply to the whole of the lot 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] in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
 - (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
 - (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in [height and/or density] pursuant to this By-law unless all provisions of Schedule A are satisfied.

APPEAL TRIBUNAL ISSUED ON _____ IN CASE NO. PL170696

DRAFT

Schedule A: Section 37 Provisions

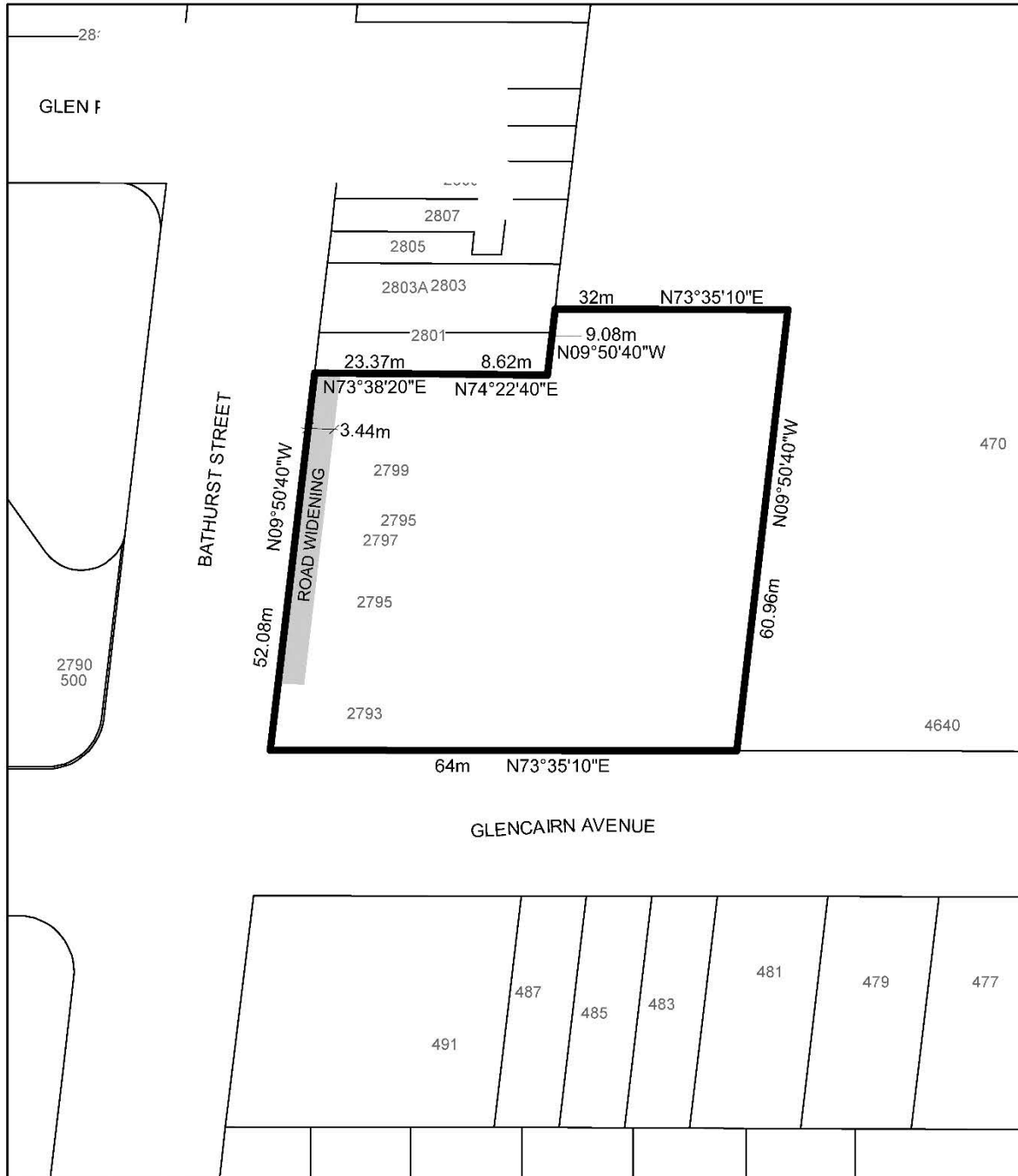
The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the Development Site and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- a. Prior to the issuance of the first above grade building permit the Owner shall provide to the City of Toronto \$1,100,000.00 (one million and one hundred thousand dollars) to be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor for local area park improvements in the new Ward 8 and/or public realm improvements along Bathurst Street in the new Ward 8.
 - i. The cash contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment;
 - ii. In the event the cash contribution referred to in (a) has not been used for the intended purpose 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 of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
- b. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

road improvements to Glencairn Avenue to support the proposed development such as a new eastbound left turn lane into the site.

Speaker City Clerk

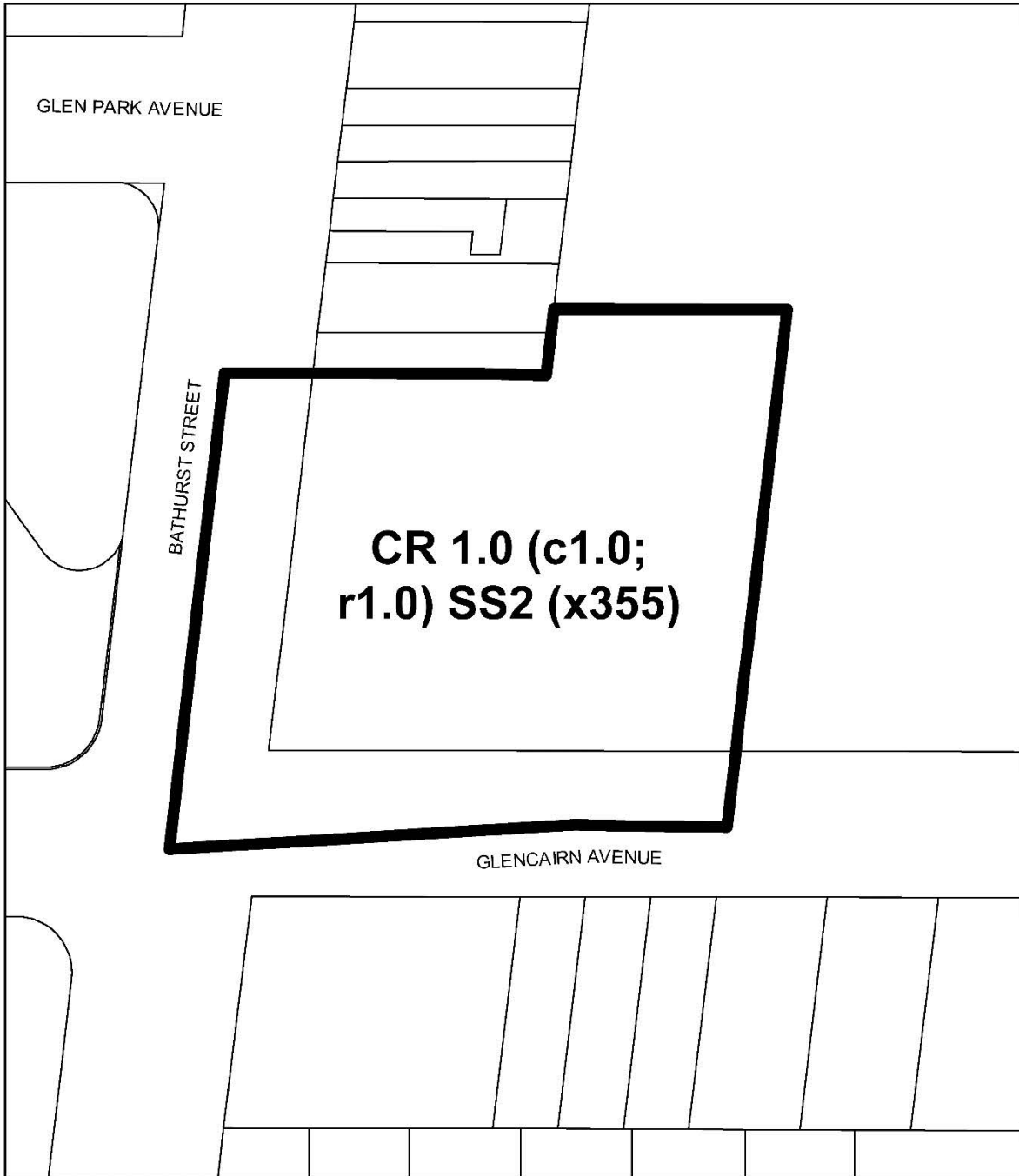
(Seal of the City)



 **TORONTO**
Diagram 1

2793, 2795 -2799 Bathurst Street

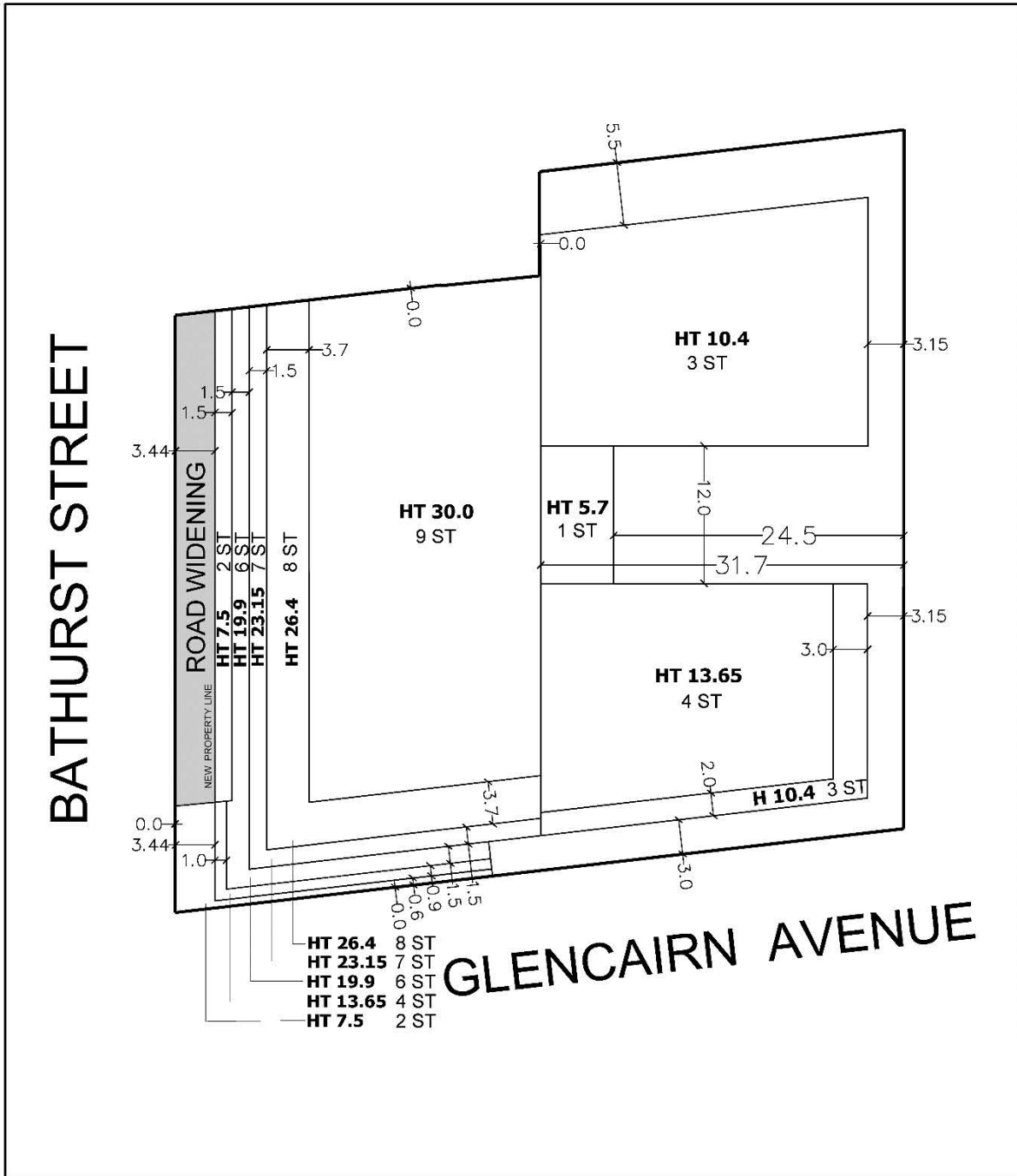
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 **TORONTO**
Diagram 2

2793, 2795 -2799 Bathurst Street

File #: 20 189647 NNY 08 SA



TORONTO
 Diagram 3

2793, 2795 -2799 Bathurst Street

File #: 20 189647 NNY 08 SA



 **TORONTO**
Diagram 4

2793, 2795 -2799 Bathurst Street

File #: 20 189647 NNY 08 SA