

Authority: Etobicoke York Community Council Item [##], as adopted by City of Toronto Council on ~, 2022

**CITY OF TORONTO**

**BY-LAW ###-2022**

**To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 4916-4946 Dundas Street West and 4-16 Burnhamthorpe Road.**

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; 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 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10, and applying the following zone label to these lands: CR 3.5 (c3.5; r3.0) SS2 (x620) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Article 995.10.1 for the lands subject to this By-law, and applying the following label to these lands: PA-2, and applying the major streets segment along Dundas Street West and Burnhamthorpe Road as shown on Diagram 3 attached to this by-law.
5. Zoning By-law 569 -2013, as amended, is further amended by adding the lands to the Height Overlay Map in Article 995.20.1, and applying the following height and storey label to these lands: HT 15, as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569 -2013, as amended, is further amended by adding the lands to the Lot Coverage Overlay Map in Article 995.30.1 and applying the following lot coverage label to these lands: 33, as shown on Diagram 5 attached to this by-law.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Rooming House Overlay Map in Article 995.40.1, and assigning a null value.
8. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 620 so that it reads:

(620) Exception CR 620

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 4916-4946 Dundas Street West and 4-16 Burnhamthorpe Road as shown on Diagram 1 attached to By-law [XXXX] [Clerks to insert By-law

**number]**, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (U) below:

- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the vertical distance between the Canadian Geodetic Datum of 127.45 metres and the highest point of the **building** or **structure**;
- (C) Despite Regulation 40.10.20.100(1)(A), the permitted total **interior floor area** of all **cabarets, clubs, eating establishments, entertainment places of assembly, places of assembly, recreation uses** and **take-out eating establishments** on a **lot** may not exceed 890 square metres;
- (D) Despite Regulation 40.10.40.1(1), residential use portions of the **building** are permitted to be located on the same **storey** as non-residential use portions of the **building**, provided that no **dwelling units** or **bed-sitting rooms** are located on the ground floor;
- (E) Regulation 40.10.40.1(6) shall not apply to the **lot**;
- (F) A maximum of 41% of the residential units shall be **dwelling units** for independent living; and the remaining residential units are **bed-sitting rooms** used for memory care and assisted living, which are not considered **dwelling units**;
- (G) Despite Regulation 40.10.40.10(2), the permitted maximum height of a **building** or **structure** is the number in metres following the letters "HT" as shown on Diagram 6 of By-law **[Clerks to insert By-law ##]**;
- (H) Regulation 40.10.40.10(5) does not apply to washrooms, change rooms, serveries, theatre room, and storage areas;
- (I) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **building** is the number following the letters "ST" as shown on Diagram 6 of By-law **[Clerks to insert By-law ##]**; and
  - (i) for the purpose of this exception and notwithstanding the definition of **storey**, mezzanines, loft areas, mezzanines used for mechanical purposes, and mechanical penthouses above grade do not constitute as a **storey**;
- (J) Despite Regulations 40.5.40.10(4), (5), (6), (7) and (G) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 6 of By-law **[Clerks to insert By-law ##]**:
  - (i) equipment used for the functional operation of the **building** including electrical, utility, mechanical and ventilation equipment,

- enclosed stairwells, mechanical penthouse, mechanical penthouse roof access, maintenance equipment storage, elevator shafts and overruns, chimneys, and vents, by a maximum of 6.25 metres;
- (ii) architectural features, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 3.0 metres;
  - (iii) **building** maintenance units and window washing equipment, by a maximum of 6.0 metres;
  - (iv) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace, by a maximum of 3.0 metres; and
  - (v) trellises, pergolas, and unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, by a maximum of 3.5 metres;
- (K) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 19,610 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 19,360 square metres;
  - (ii) the permitted minimum **gross floor area** for non-residential uses is 250 square metres;
- (L) Despite Regulation 40.10.30.40(1), the maximum permitted **lot coverage** is 59 percent of the **lot area**;
- (M) Despite Regulation 40.10.40.70(2), the required minimum **building setbacks** are as shown in metres on Diagram 6 of By-law **[Clerks to insert By-law ##]**;
- (N) Despite Regulation 40.10.40.80(2), the required separation of **main walls** are as shown in metres on Diagram 6 of By-law **[Clerks to insert By-law ##]**;
- (O) Despite Clause 40.10.40.60 and (M) and (N) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
- (i) decks, porches, balconies, canopies and awnings, by a maximum of 5.5 metres;
  - (ii) exterior stairs, access ramps and elevating devices, by a maximum of 2 metres;

- (iii) architectural features, such as a pilaster, decorative column, cornice, sill, belt course, or chimney breast and cladding, by a maximum of 1 metre;
  - (iv) window projections, including bay windows and box windows, by a maximum of 1 metre;
  - (v) eaves, by a maximum of 1 metre;
  - (vi) a dormer, by a maximum of 1 metre;
  - (vii) air conditioners, satellite dishes, antennae, vents, and pipes, by a maximum of 1 metre; and
  - (viii) guards and guardrails, railings, parapets, terraces, privacy and wind screens, landscape planters and terrace platforms may project beyond the required building setback to the extent of the **main wall** of the **storey** below;
- (P) Despite Regulation 40.10.90.10(1), one **loading space** that is not in a **building** or **structure** may be located in the north side yard;
- (Q) Despite Regulation 200.5.1.10(2)(A)(iv), 18 percent of the required **parking spaces** may be obstructed as described in Regulation 200.5.1.10(2)(D) without being required to provide additional width for the obstructed sides of the **parking space**;
- (R) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
  - (i) a minimum of 0.19 **parking spaces** per **dwelling unit** or **bed-sitting room**, of which a minimum of 3 **parking spaces** shall be reserved for visitor and non-residential uses of the **building**;
- (S) 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 with an adjacent 1.5 metre wide barrier free aisle or path as shown in Diagram 1 of By-law 579-2017; and
  - (iii) vertical clearance of 2.1 metres;
- (T) Despite Regulations 220.5.10.1(1), (3) and (5), a minimum of one (1) Type “G” **loading space** is required on the **lot**;

- (U) Despite Regulations 230.5.10.1(1)(3) and (5) and Table 230.5.10.1(1), 10 "short-term" **bicycle parking spaces** are required to be provided on **lot**.
9. Prevailing By-laws and Prevailing Sections: none
10. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
11. None of the provisions of By-law 569-2013, as amended, or in this By-law will prevent the existing 2.5 storey heritage building to continue to exist as a **lawfully existing building**;
12. Temporary use(s):
- (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of a temporary sales office or construction 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;
13. Section 37 Requirements:
- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 4 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 1 attached to this By-law and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule 1 attached to 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; and
- (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 1 are satisfied.

Enacted and passed on ~, 2022

[full name],  
Speaker

[full name],  
City Clerk

(Seal of the City)

## **SCHEDULE 1**

### **Section 37 Requirements**

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

1. Prior to the issuance of any Building Permit, the owner shall enter into and register on title, an agreement to the satisfaction of the City Solicitor 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 came into force to secure the community benefits below.
2. Prior to issuance of any building permit, the owner shall make a cash contribution to the City in the amount of one hundred forty-five thousand dollars (the "Cash Contribution") be allocated towards the following capital community services and facilities to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
  - (A) Village of Islington Business Improvement Association and streetscape improvements for Dundas Street West;
  - (B) Local park improvements; and
  - (C) Mabelle Arts.
3. The Cash Contribution set out in Clause 1 shall 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 Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.
4. In the event the Cash Contribution in Clause 1 has not been used for the intended purpose within three years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity.

#### **Other Matters in Support of the Development**

5. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:

*Privately-Owned Publicly Accessible Space (POPS)*

- (A) The owner shall, at its own expense, design, construct and thereafter maintain the Privately-Owned Publicly-Accessible Space ("POPS") areas in the locations illustrated on Diagram 6 having a minimum area of 110 square metres along Dundas Street West between the heritage building and the new building, with the specific location, configuration and design to be determined and secured in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (B) Prior to the issuance of any above-grade building permit, the owner shall prepare all documents and convey, on terms set out in the Section 37 Agreement, an access easement in favour of the City for public use of the POPS, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.
- (C) Prior to the earlier of first residential or non-residential use occupancy and first condominium registration of all or any portion of a building, the owner shall complete construction of the respective POPS to the satisfaction of the Chief Planner and Executive Director, City Planning, or such later date in the sole discretion of and on terms satisfactory to the Chief Planner and Executive Director, City Planning.

*Heritage Matters*

- (D) That prior to the issuance of any permit for all or any part of the property at 4946 Dundas Street West, including a heritage permit or a building permit, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage building, as are acceptable to the Senior Manager, Heritage Planning, the related site specific Official Plan and Zoning By-law Amendments giving rise to the proposed alterations have come into full force and effect and the owner of the subject property shall:
  - (i) Provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning; and
  - (ii) Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in the approved Conservation Plan, Heritage Lighting Plan and Interpretation Plan.



- (E) That prior to the release of the Letter of Credit in Section 5.(D)(ii) above, the owner shall:
- (i) Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work and the required interpretive work has been completed in accordance with the Conservation Plan and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning;
  - (ii) Provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Planning; and

*Site Plan Matters*

- (F) The owner shall, at its own expense, address the following matters in any application for site plan approval for the development, which shall be determined and secured in a site plan agreement with the City, as applicable, all to the satisfaction of the Chief Planner and Executive Director, City Planning:

*Heritage*

- (i) Provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Planning;
- (ii) Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
- (iii) Provide a Heritage Lighting Plan that describes how the exterior of the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
- (iv) Provide a detailed landscape plan for the subject property, satisfactory to the Senior Manager, Heritage Planning;
- (v) Submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Planning;

- (vi) Provide full documentation of the existing heritage property, including two printed sets of archival quality 20.3 centimetres by 25.4 centimetres (eight inches by 10 inches) colour photographs with borders in a glossy or semi-gloss finish and one digital set on a USB flash drive in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Planning;

*Land conveyances*

- (vii) The owner shall prepare all documents and convey a portion of the lands subject to be incorporated into the adjacent Islington Pioneer Cemetery, to the satisfaction of the Chief Planner and Executive Director, City Planning, Corporate Real Estate Management, and the City Solicitor;
- (viii) Prior to issuance of the first above-grade building permit, the owner shall prepare all documents and convey a road widening of one metre along Dundas Street West to the City across the full width of the site and a six metre radius corner rounding at the southeast corner, all to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services and the City Solicitor.
- (ix) The conveyance of any easement or fee simple interest of lands to the City as contemplated in Subsections 5(F)(x) and (xi) shall be at no cost to the City, for nominal consideration to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning, City Solicitor, Corporate Real Estate Management, as the case may be, and the cost of preparation and deposit of accepted reference plans shall also be at the owner's expense. The road widening conveyances shall also be free and clear of encumbrances to the satisfaction of General Manager, Transportation Services.

*Sidewalk*

- (x) Construction of the City sidewalk to City standards along the Burnhamthorpe Road and Dundas Street West frontage, to the satisfaction of the General Manager, Transportation Services;

*Implementation of Mitigation Measures*

- (xi) Implementation of any required wind control measures identified in the Pedestrian Level Wind Study, prepared by RWDI, dated October 31, 2019, and any future addendum, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- (xii) Implementation of any required noise mitigation measures or other recommendations, as detailed in the Noise Impact Study, prepared by RWDI, dated November 1, 2019, to the satisfaction of the Chief Planner and Executive Director, City Planning.

*POPS*

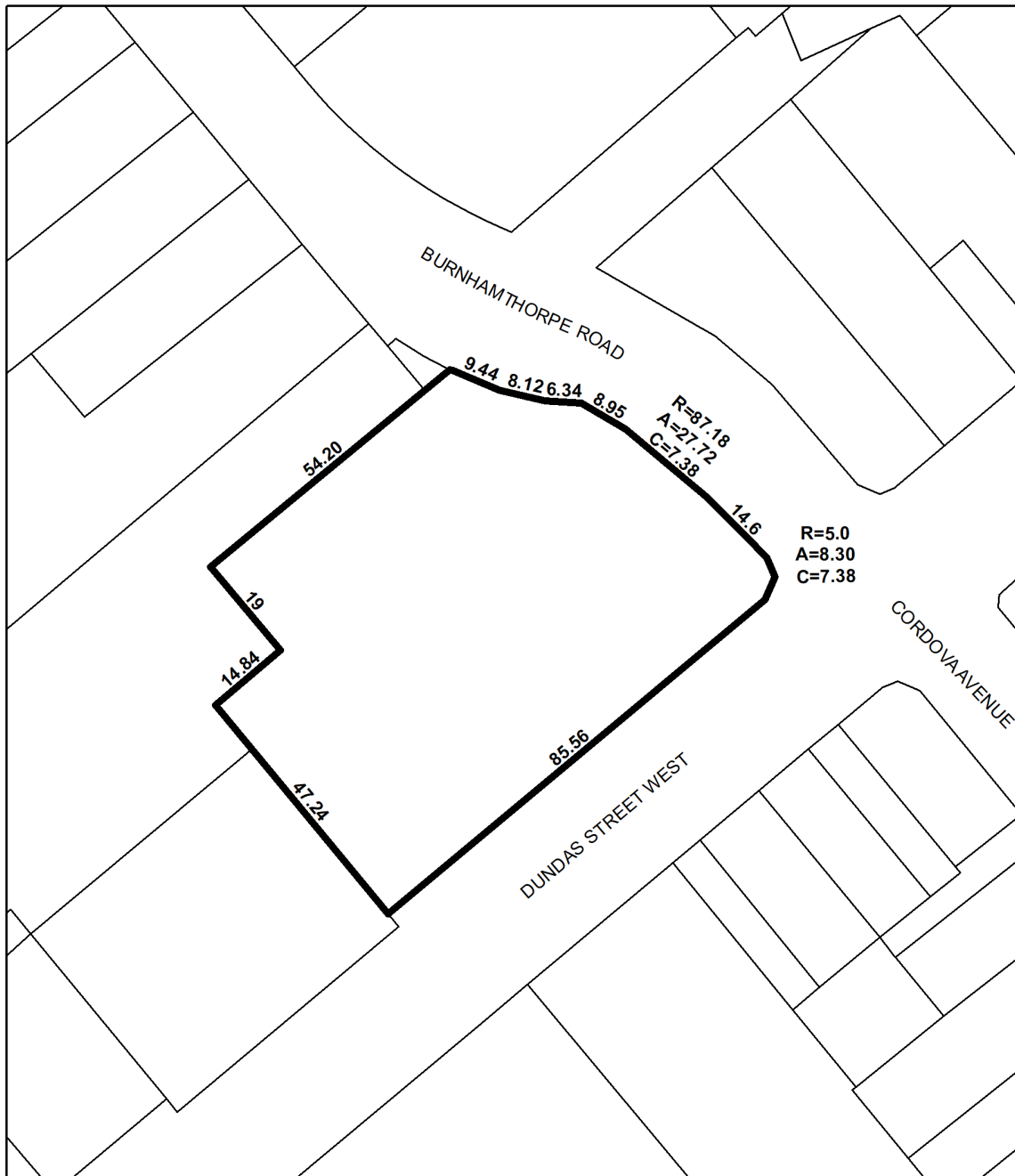
- (xiii) Incorporation of signage to identify the proposed POPS to be located along the south edge of the site;

*Toronto Green Standard*

- (G) The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council from time to time, to the satisfaction of the Chief Planner and Executive Director, City Planning.

*Nav Canada*

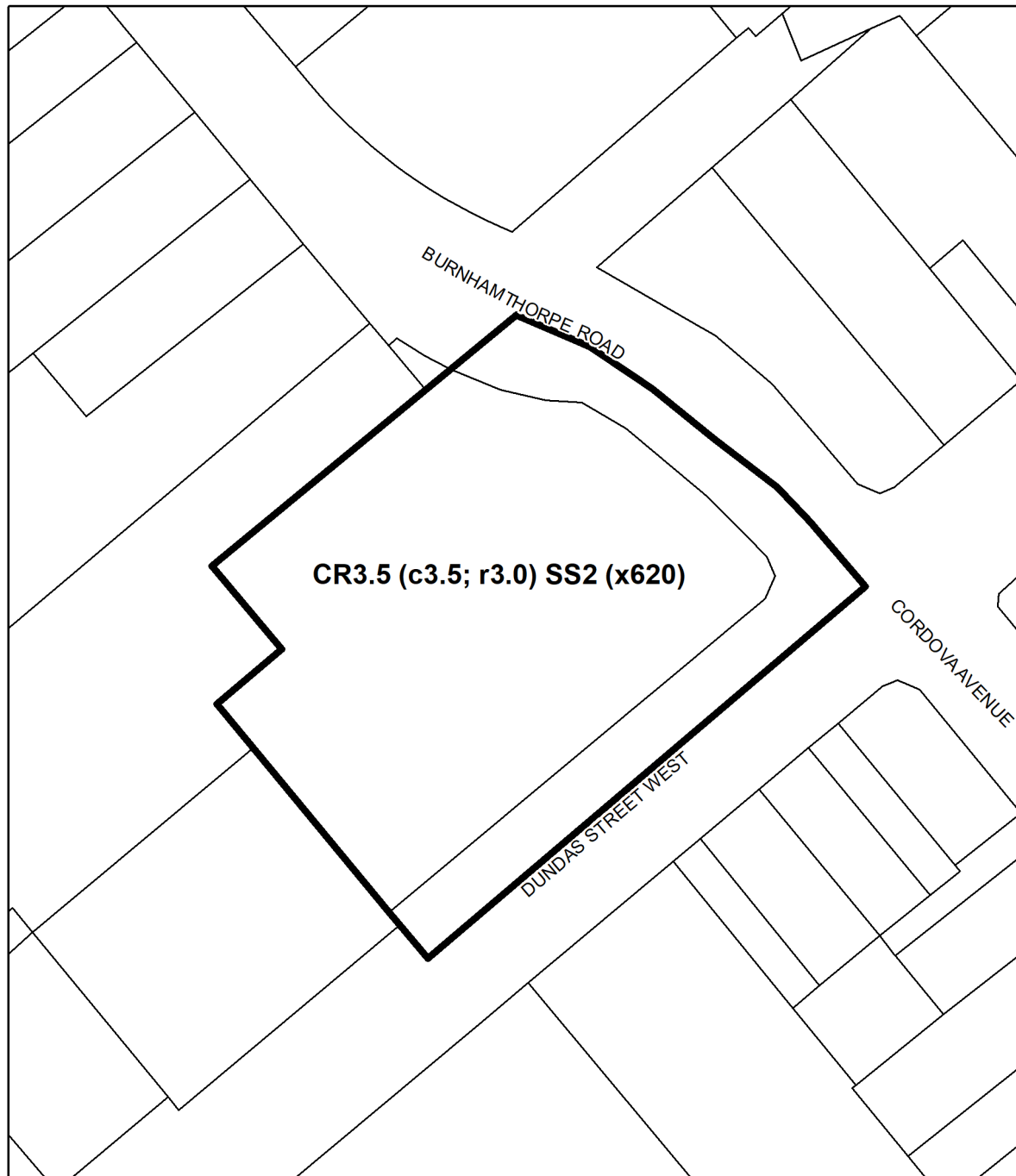
- (H) The owner shall provide notification to NAV Canada a minimum of 10 days prior to the start of construction.



 **TORONTO**  
Diagram 1

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

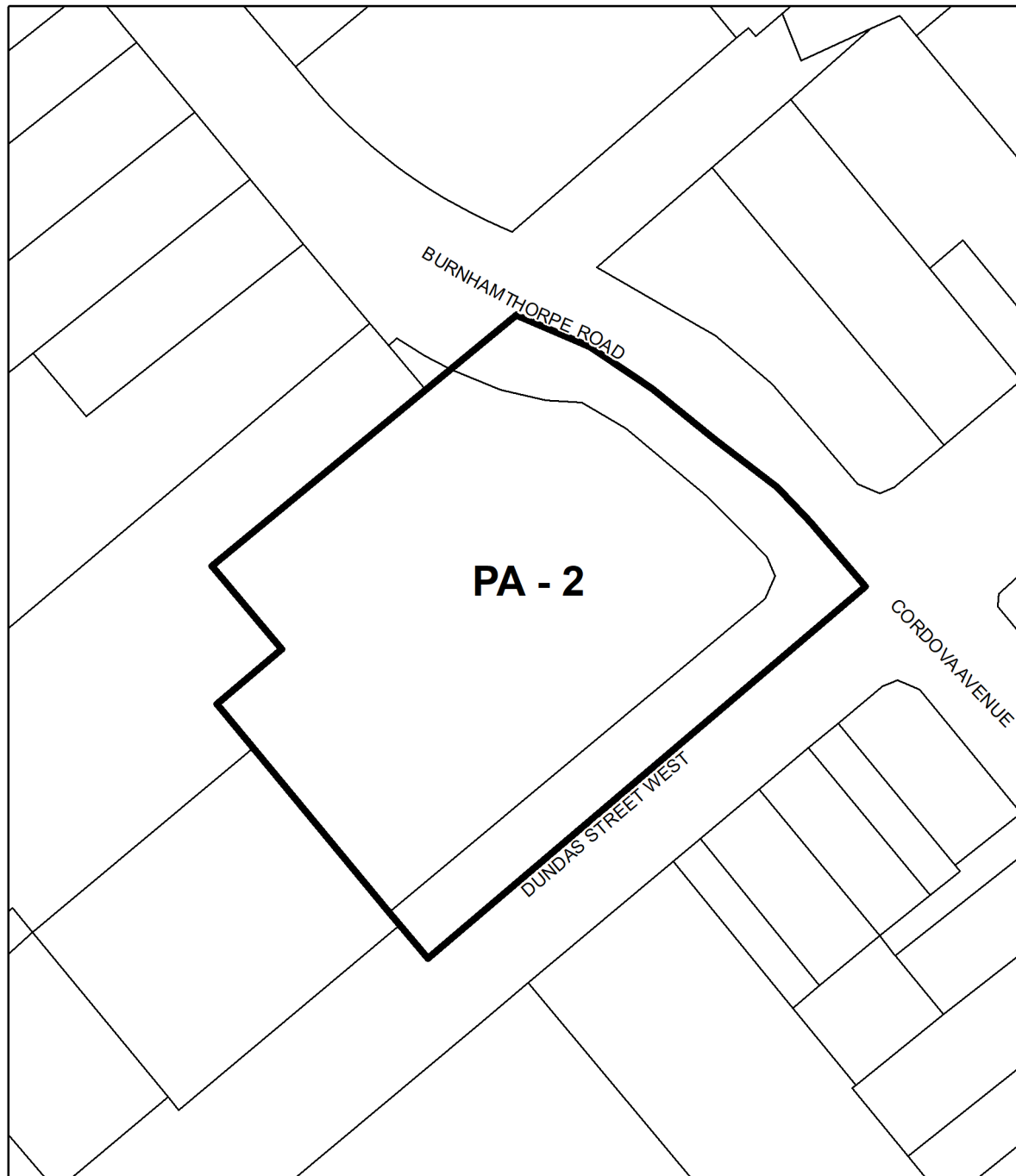
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 **Toronto**  
Diagram 2

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

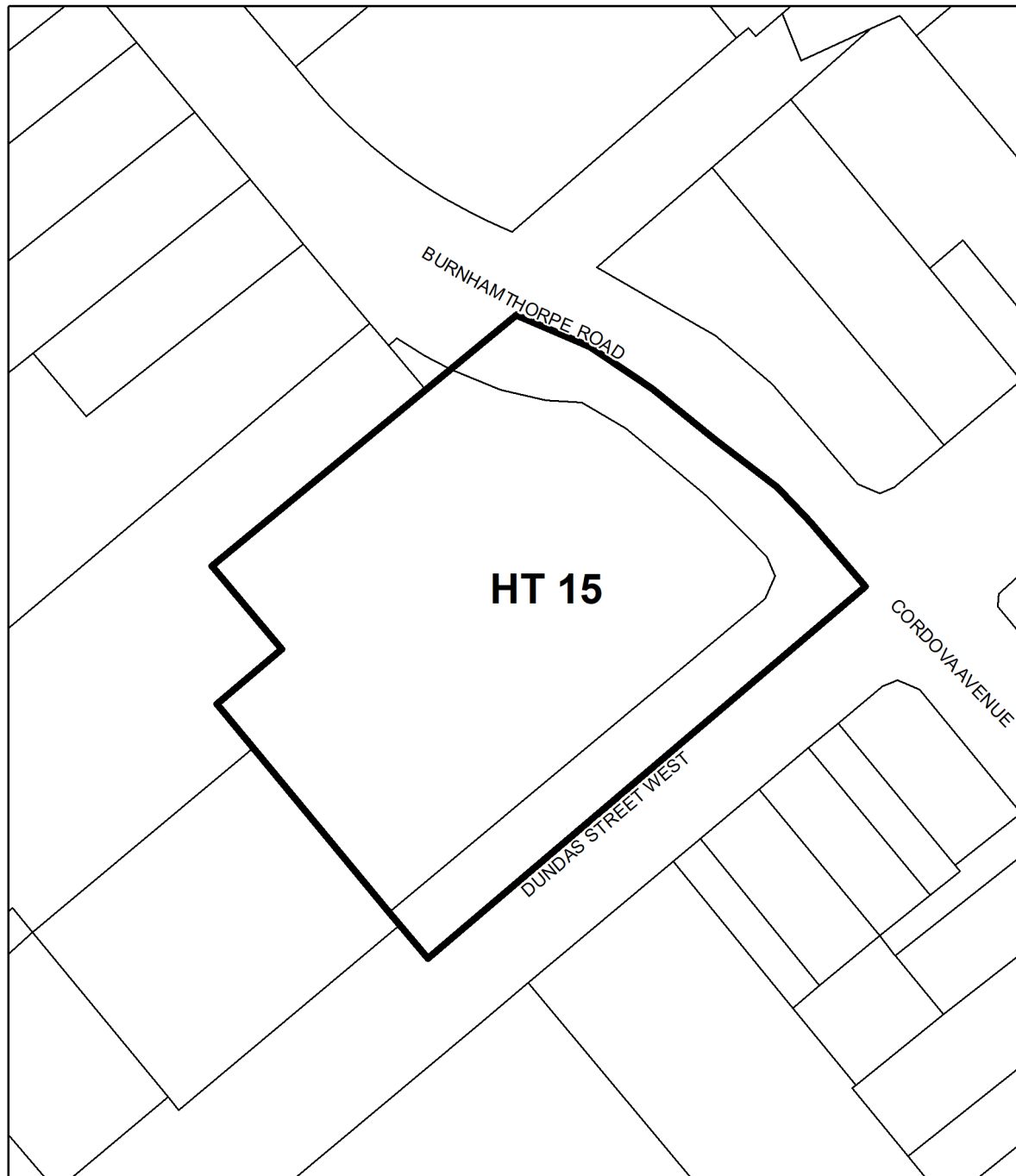
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 **TORONTO**  
Diagram 3

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

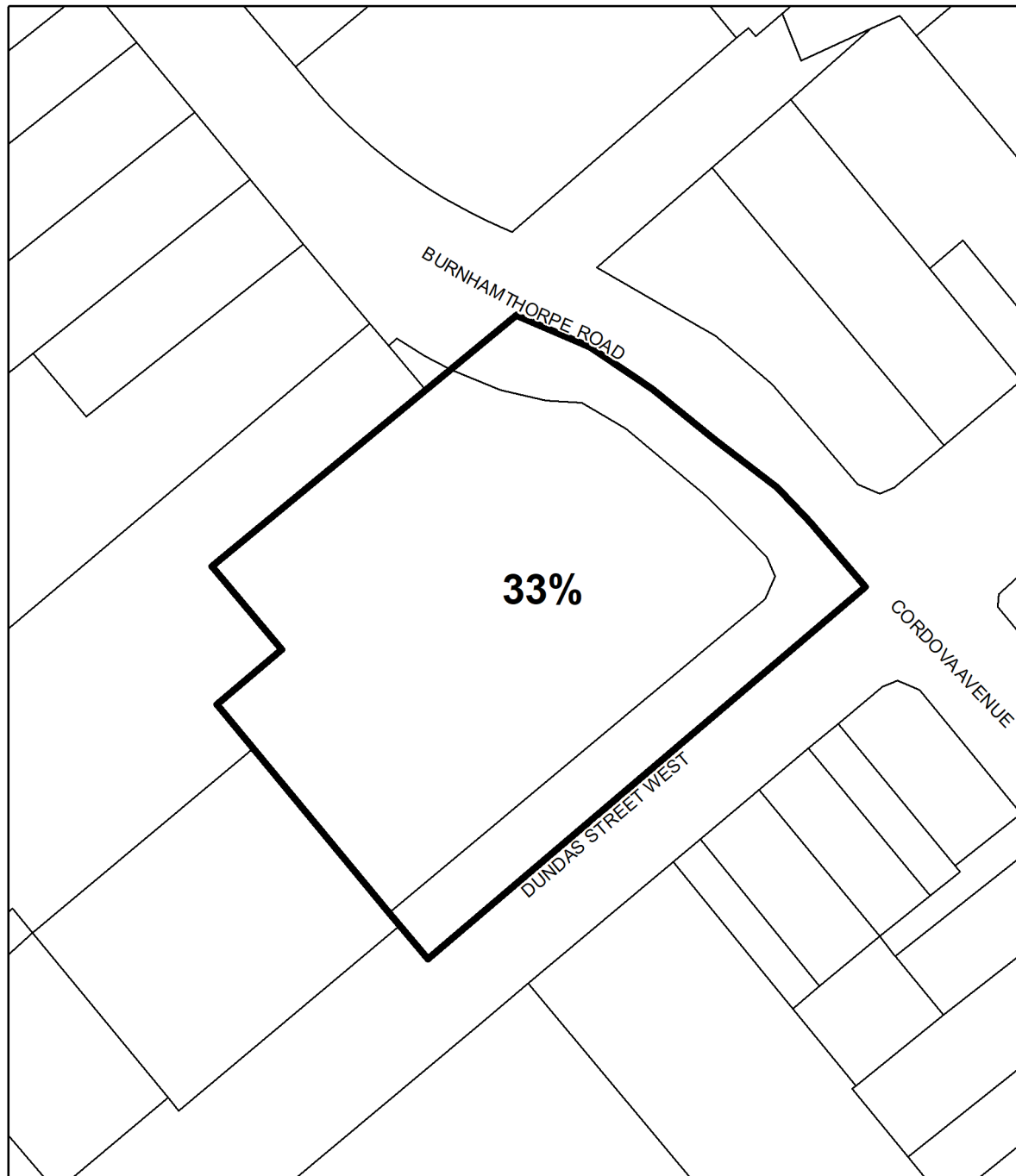
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 **Toronto**  
Diagram 4

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

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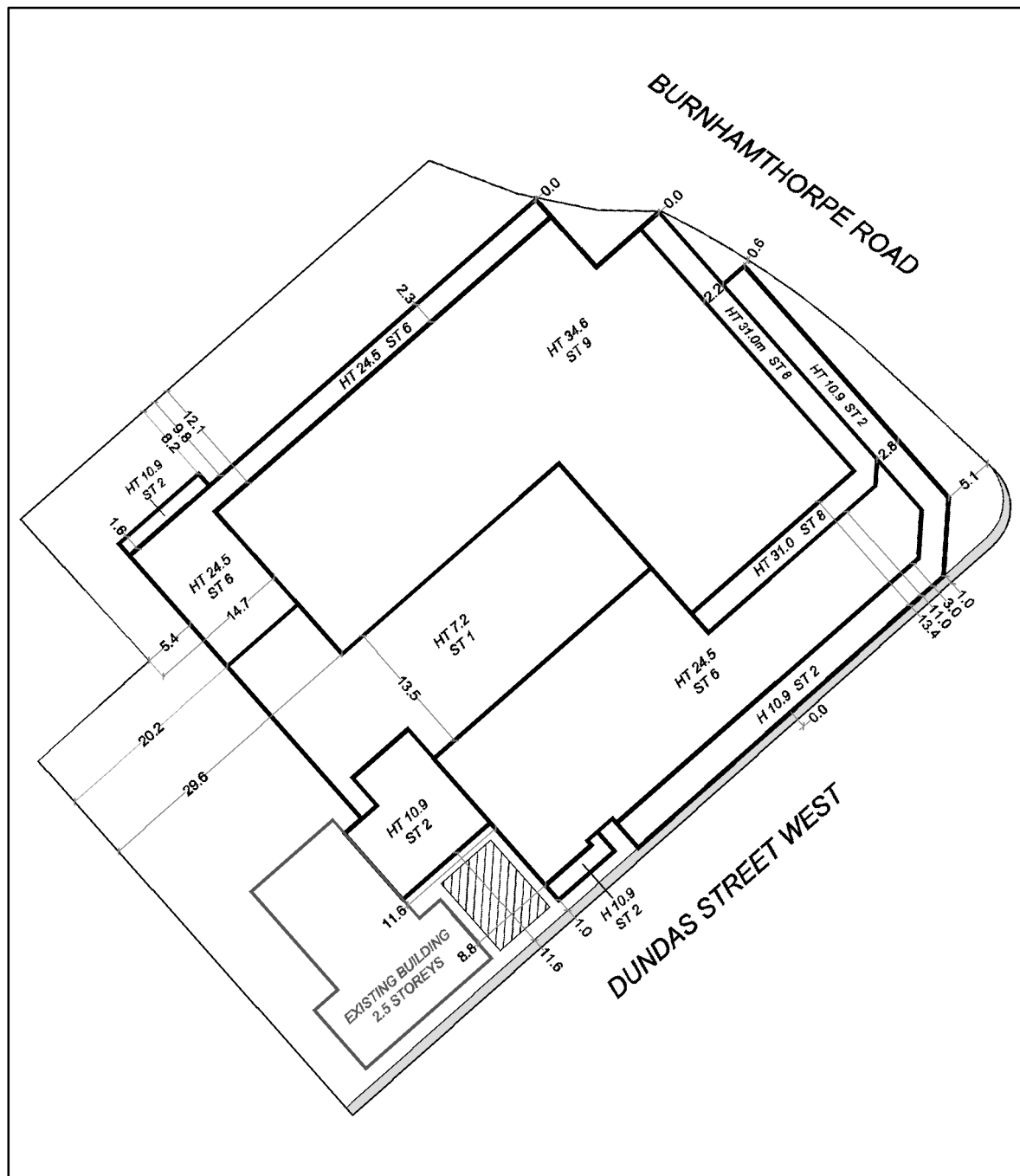


 **TORONTO**  
Diagram 5

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

File # 19 264443 WET 03 02





**Toronto**  
Diagram 6

4916 - 4946 Dundas St W and  
4 - 16 Burnamthorpe Rd

File # 19 264443 WET 03 0Z

 PRIVATELY OWNED PUBLICLY-ACCESSIBLE SPACE  
 ROAD WIDENING

City of Toronto By-law 569-2013  
Not to Scale  
06/22/2022