

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** September 11, 2018

**CASE NO(S):** PL171227

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Westbank Projects Corp.
Subject:	Application to amend Zoning By-law No. 438-86 - Neglect of the City of Toronto to make a decision Reinvestment Area (RA)
Existing Zoning:	Site specific to permit proposal
Proposed Zoning:	To permit a mixed-use project containing residential, office, and retail/commercial uses
Purpose:	489-539 King St W
Property Address/Description:	City of Toronto
Municipality:	16 159483 STE 20 OZ
Municipality File No.:	PL171227
OMB Case No.:	PL171227
OMB File No.:	PL171227
OMB Case Name:	Westbank Projects Corp. v. Toronto (City)

**Heard:** August 7, 2018 in Toronto, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

Westbank Projects Corp. and Allied Properties REIT

E. Costello

City of Toronto

M. Crawford

**MEMORANDUM OF ORAL DECISION DELIVERED BY RICHARD JONES ON  
AUGUST 7, 2018**

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[1] Counsel for Allied Properties REIT and its agent, Westbank Projects Corp., collectively described as Allied/Westbank, and the City of Toronto (“City”) informed the Tribunal of their settlement discussions and requested that the Pre-Hearing Conference be converted to a Hearing to allow for the provision of planning evidence in support of settlement discussions, which although positive, are still on going. The Tribunal assented to the request. The appeal by Allied/Westbank was made pursuant s. 34(11) of the *Planning Act* arising from the City’s failure to make a decision on the rezoning application.

[2] The subject property consists of seven buildings, 489, 499, 511, 519-529, and 539 King Street West. 495 King Street West which is located in the rear portion of the subject property does not have frontage on King Street West

[3] Counsel further requested the Tribunal to withhold its final order regarding the draft zoning by-law amendments to By-law No. 438-86 (Exhibit 6) and By-law No. 569-2013 (Exhibit 7) which are appended as Attachment 1, pending completion of items identified by City Council resolution TE34.31 dated July 23, 2018 (Exhibit 5) regarding shadow impacts, setbacks, the completion of various agreements, parking provisions etc. The list of remaining items is not inconsiderable and will take additional time to resolve according to Counsel and those matters, which are still outstanding, are also noted in paragraphs 3 and 4 on pages 265 to 268 inclusive of Tab 10, Exhibit 3a. The Tribunal notes that the City’s planning staff is supportive of the settlement initiative.

[4] The application proposes a large rectangular building that would extend over the subject property and which includes an interior courtyard. The building is proposed to step back from King Street West in a “pixelated” architectural fashion and features a series of peaks with a maximum height of 16 storeys involving two peaks at the southeast and southwest of the site. The middle peak has a maximum height of 15 storeys and the peak on the northern side of the subject property proposes 14 storeys.

[5] The designated heritage building at 489 King Street West together with the listed heritage building at 495 King Street West will be retained intact, and the front of the designated heritage building at 511 King Street West and the listed heritage buildings at 519-529 King Street West will be integrated into the new building complex. 539 King Street West will be demolished.

[6] Office uses will occupy the second, mezzanine and third floors with retail activities proposed for the first and second floors, the mezzanine levels and the underground first level. 496 residential units are proposed in addition to two floors of underground parking.

[7] The Tribunal granted participant status to 462 Wellington Inc. represented by counsel, Mary Flynn-Guglietti. Her client owns property of that same address which adjoins the subject lands. Originally 462 Wellington Street Inc. had intended to seek party status, but is now content with participant status given current intentions to settle the appeal.

[8] The Tribunal heard planning evidence from John Gladki, a professional planning consultant who was qualified to provide opinion evidence in land use planning matters. The planner has been associated with the application for quite some time.

[9] Mr. Gladki opined that the application addressed current planning policy in accordance with the following matters:

- The application was consistent with the Provincial Policy Statement 2014 because the development was proposed within a settlement area, and proposed a development form that was compact, fully serviced and supportive of public transit while also recognizing the important heritage value of several of the properties.
- The application conformed with the Growth Plan for the Greater Golden Horseshoe 2017 because it promotes an innovative intensification action

on an underdeveloped site while providing a mix of employment and housing uses.

- The application conforms with the City of Toronto Official Plan (“OP”) because it promotes growth in the City’s Downtown and Central Waterfront where development is encouraged, while increasing opportunities for walking and cycling, social interaction, economic activity and the reduction of greenhouse gas emissions. Further, as the subject lands occupy one of the acknowledged Regeneration Areas (Map 18 of the OP), the application encourages re-use of buildings and new investment in older areas. Moreover as part of the Downtown, it proposes improvements to the public realm including streets, parks and open spaces. In accordance with Chapter 3 of the OP, the application promotes a high quality built environment by virtue of its architecture, landscaping and urban design. The design ensures that building facades will be parallel to the street; that building entrances are accessible; that ground floor uses will have views on the street and that vehicular access minimizes impacts on adjoining properties. Finally, the built-form will minimize shadowing and wind impacts; allow future residents to have access to private and common amenity spaces and further ensure that improvements to sidewalks and pedestrian safety are implemented as planned.
- The application conforms to the King-Spadina Secondary Plan by providing investment in new residential, commercial and retail uses within a building form which is inclusive of new park space and protective of existing built heritage resources. The application also has regard for the King-Spadina Urban Design Guidelines (2004) and the City Wide Tall Building Guidelines with respect to massing, setbacks and the orientation of the heritage buildings in a manner which will not unduly impact the nearby mid-rise mixed-use buildings on the King Street West and Wellington Street West road corridors.



- The draft zoning by-law amendments of Attachment 1, created in consultation with City staff, reflect the highly pixelated nature of the built form, and articulate specific zoning provisions on a floor-by-floor basis to ensure, in addition to other matters, that the highest elements of the development are appropriately shifted into the interior of the subject property to minimize impact on neighbouring land uses.

## **FINDINGS**

[10] The Tribunal found it apparent that settlement discussions to date, pursuant to the uncontested planning evidence, had collectively achieved a revised development form which promoted the public interest in compliance with the numerous policies and documents which define that interest. The parties were commended for those efforts and the Tribunal is confident that the remaining items identified in this Memorandum will be resolved over time.

## **INTERIM ORDER**

[11] The Tribunal orders that the draft zoning by-laws described in Attachment 1 are approved in principle being representative of sound planning practice and in the public interest.

[12] However, the final Order is withheld pending notification by the City to the Tribunal that all outstanding matters identified by City Council Resolution TE34.31 dated July 23, 2018 (Exhibit 5) and in paragraphs 3 and 4 on pages 265 to 268 inclusive of Tab 10, Exhibit 3a have been completed. This Member remains seized.

*“Richard Jones”*

RICHARD JONES  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

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## ATTACHMENT 1

### **Draft Zoning By-law Amendment 438-86**

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

### **CITY OF TORONTO**

**By-Law No. \_\_\_\_\_ - 2018 to amend the General Zoning By-law No.438-86, as amended, of the former City of Toronto in respect of lands known in the year 2018 as 489-539 King Street West.**

Whereas authority is given to Council by 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*;

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;

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 permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86 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. None of the provisions of section 2(1) “*grade*”, and “*lot*”, 4(2)(a), 4 (5) (b), (h) and (i), 4(8), 4(12), 4 (13), 7(3) Part II 1, 4, 5 and 8, 12(2) 132, 12(2) 246 (a), (c) (e), and (f),

12(2) 260 and 12 (2)270 of Zoning By-Law 438-86 , being a “By-Law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended shall apply to prevent the erection and use of a *mixed-use* building containing dwelling units, non-residential uses, a *commercial parking garage* and *accessory* uses on the *lot*, provided that:

- a) the *lot* comprises at least the land outlined by heavy lines on attached Map 1;

#### **Gross Floor Area**

- b) the total aggregate *residential gross floor area* and *non-residential gross floor area* on the *lot* does not exceed 57,500 square meters, provided:
  - (i) the *residential gross floor area* does not exceed 37,500 square metres; and
  - (ii) the *non-residential gross floor area* does not exceed 21,000 square metres of which at least 6,000 square metres shall be dedicated for office uses;

#### **Dwelling Units**

- c) at least 20 percent of all *dwelling units* located on the *lot* shall have two or more bedrooms and at least 10 percent of all *dwelling units* on the *lot* shall have three or more bedrooms;

#### **Height**

- d) No part of a building or structure erected or used above finished ground level shall exceed the height limits specified by the numbers following the symbol "H" shown on the attached Maps 2D-2Q with the exception of:
  - (i) Eaves, canopies, cornices, parapets, lighting fixtures, ornamental elements, chimneys, vents, stacks, terraces, platforms, transformer vaults, landscape elements, railings, stairs, stair enclosures, planters, elements or structures used for outside or open air recreation, safety or wind protection purposes, terrace and balcony railings and dividers, window washing equipment, elements of a green roof , parapet, public art features and lightning rods;

#### **Building Envelope**

- e) no portion of the building above *grade* shall be located other than within the areas delineated as follows:

- (i) no portion of the first *storey* of the building above *grade* shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2A
  - (ii) no portion of the second *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2B;
  - (iii) no portion of the third *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2C;
  - (iv) no portion of the fourth *storey*, inclusive, of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2D;
  - (v) no portion of the fifth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2E;
  - (vi) no portion of the sixth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2F;
  - (vii) no portion of the seventh *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2G;
  - (viii) no portion of the eighth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2H;
  - (ix) no portion of the ninth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2I;
  - (x) no portion of the tenth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2J;
  - (xi) no portion of the eleventh *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2K;
  - (xii) no portion of the twelfth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2L;
  - (xiii) no portion of the thirteenth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2M;
  - (xiv) no portion of the fourteenth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2N;
  - (xv) no portion of the fifteenth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2O;
  - (xvi) no portion of the sixteenth *storey* of the building shall be located outside of the areas delineated by the heavy lines shown on the attached Map 2P  
and
  - (xvii) no portion of the mechanical *storey* of the building shall be located outside the areas delineated by the heavy lines shown on the attached Map 2Q;
- f) section e) of this by-law shall not apply to the following exceptions: cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, roof terraces,

eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, parapet, public art and landscape features;

### **Amenity Space**

- g) *residential amenity space* shall be provided and maintained in accordance with the following:
- (i) a minimum of 1.5 square metres of indoor *residential amenity space* per *dwelling unit*; and
  - (ii) a minimum of 1.5 square metres of outdoor *residential amenity space* per *dwelling unit* of which 50 percent may be non-exclusive.

### **Parking**

- h) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following;
- (i) a minimum of 0.3 *parking spaces* per unit for the exclusive use of residents;
  - (ii) a minimum of 1 space per 300 square metres of non-residential *gross floor area* shall be provided in a *commercial parking garage* on the *lot*; to accommodate residential visitors and non-residential uses on the *lot* on a non-exclusive basis;
  - (iii) *parking spaces* may be provided on the *lot* for uses other than those permitted on the *lot* including spaces for off-site residential and non-residential uses;
  - (iv) for each *car-share parking space* provided on the *lot*, the minimum number of resident *parking spaces* required pursuant to subsection h)(i) above may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula:  $4 \times (\text{the total number of } \textit{dwelling units} \text{ on the } \textit{lot} \text{ divided by } 60)$ , rounded down to the nearest whole number;
  - (v) for each five (5) *bicycle parking spaces* provided in excess of the minimum number of *bicycle parking spaces* required by this By-law, the minimum number of resident *parking spaces* required pursuant to subsection h)(i) above may be reduced by 1 *parking space*, up to a maximum reduction of 20% of the minimum that would otherwise be required pursuant to subsection h)(i) above;
  - (vi) the requirements of Section 4(17) of By-law 438-86, as amended, shall apply with the exception that up to 28 *parking spaces* provided on the *lot*, notwithstanding that such *parking spaces* may be obstructed on one or two sides in accordance with Section 4(17)(e) of By-law 438-86, as amended, may be provided with the following minimum dimensions:

- i) Length – 5.6 metres
- ii) Width – 2.6 metres
- iii) Height – 1.8 metres;

### **Loading**

- i) Notwithstanding the definition of *loading spaces – type B*, *loading spaces – type C*, *loading spaces – type G*, the *loading spaces – type B, C and G* can be provided at any parking level below grade. Loading spaces shall be provided and maintained on the *lot* for both residential and non-residential uses as follows:
  - a. a minimum of one Type ‘G’ *loading space*, three Type ‘B’ *loading spaces*, and two Type ‘C’ *loading spaces* shall be provided and maintained on the *lot*;
- j) access to loading spaces may be provided by driveways and passageways having a maximum slope of up to 12 percent;

### **Bicycle Parking**

- k) bicycle parking spaces shall be provided and maintained on the lot in accordance with the following requirements:
  - (i) occupant *bicycle parking spaces* are for use by the occupants or tenants of a buildings; and
  - (ii) visitor *bicycle parking spaces* are for use by visitors to a building;
  - (iii) for *dwelling units*: 0.9 *bicycle parking spaces* for each *dwelling units*, allocated as occupant *bicycle parking spaces* and 0.1 *bicycle parking spaces* for each *dwelling unit* allocated as visitor *bicycle parking spaces*;
  - (iv) for office uses: 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as occupant *bicycle parking spaces* and 3 plus 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as visitor *bicycle parking spaces*;
  - (v) for retail uses: 0.2 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as occupant *bicycle parking spaces* and 3 plus 0.3 *bicycle parking spaces* for each 100 square metres of *interior floor area* allocated as visitor *bicycle parking space*.

### **Sales Office**

- 2. None of the provision of By-law No. 438-86 shall apply to prevent a *sales office* on the *lot*.

### **Division of Lands**

3. Notwithstanding any future severance, partition or division of the *lot* as shown on Map 1, the provisions of this by-law shall continue to apply as if no severance, partition or division occurred.

### **Municipal Services**

4. Within the lot, no person shall use any land or erect 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
  - all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

### **Definitions**

5. For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as defined in By-law 436-86, as amended, with the exception of the following terms:
  - (a) "*grade*" shall mean 87.05 metres Canadian Geodetic Datum;
  - (b) "*lot*" shall mean the lands outlined in the heavy lines on Map 1; and
  - (c) *sales office* shall mean a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*;
  - (d) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle ring, bicycle stacker or bicycle locker for the purpose of parking and securing bicycles, and:
    - a. where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 metres and vertical dimension of at least 1.9 metres; and
    - b. where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
    - c. notwithstanding (a) and (b) above, where the bicycles are to be parking in a stacker, being a device that allows parking spaces to be positioned above or below one another with the aid of an elevating mechanism, the parking space within the stacker shall have horizontal dimensions of at least 1.8 metres by 0.45 metres, and the stacker shall be located in an area with a vertical dimension of at least 2.4 metres;
  - (e) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization



and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;

*“car-share parking space”* means a parking space exclusively reserved and signed for a car used only for car-share purposes;

**Section 37 Provisions**

6. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the lands shown on Map 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.

ENACTED AND PASSED this – day of--, A.D. 20—16.

JOHN TORY

Mayor

ULLI S. WATKIS

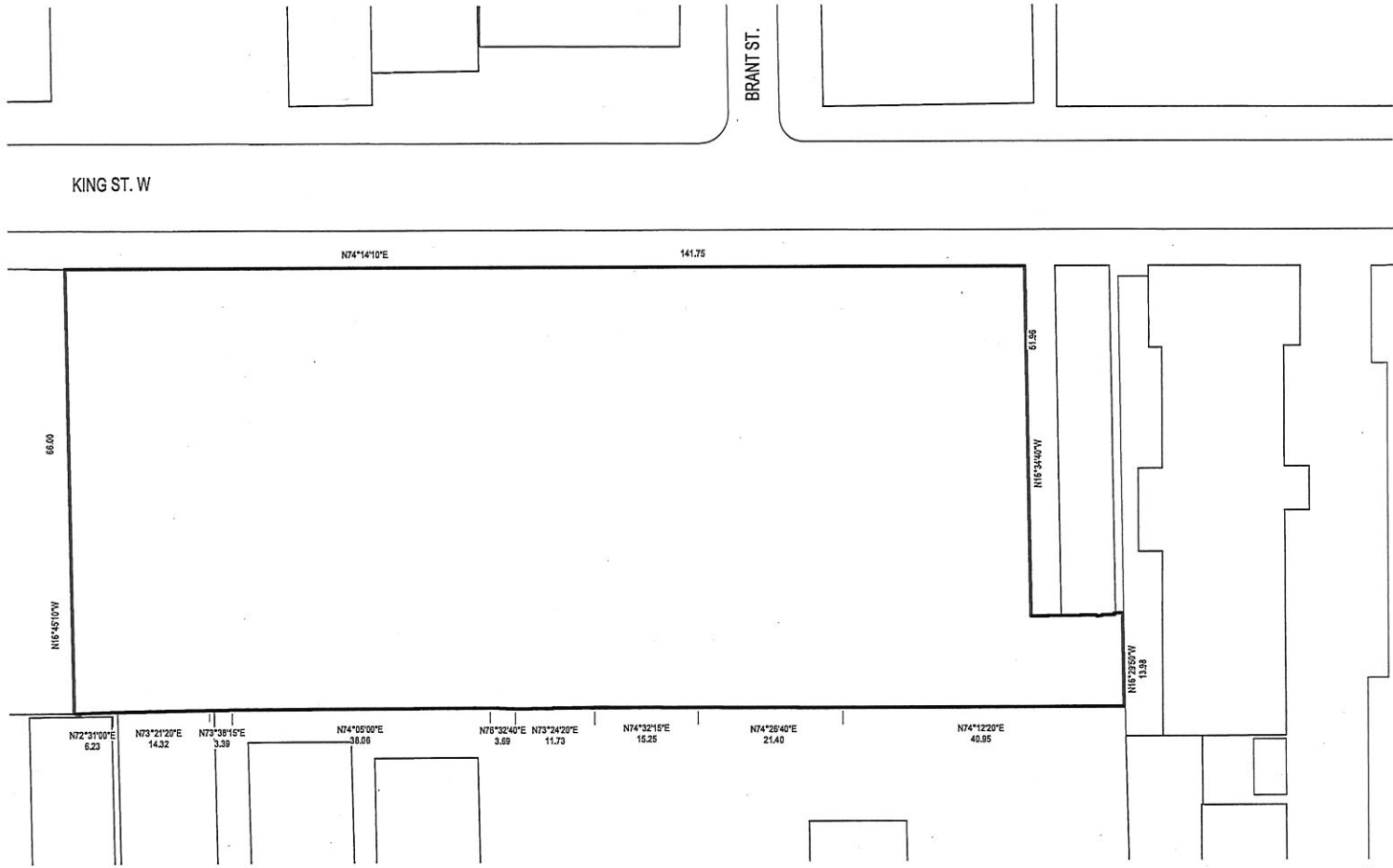
City Clerk

**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 of the proposed development on the lands as shown in Map 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:**

- i. The owner shall provide a minimum contribution of \$900,000.00 toward the commission of public art in a process in accordance with the City Planning Public Art Program.
- ii. The owner shall provide a cash contribution of \$3,000,000.00 for above-base streetscape improvements on the north side of Wellington Street West between Spadina Avenue and Portland Street and/or public realm and streetscape improvements around St. Andrews Playground and/or Brant Street. Of this total contribution, a maximum of \$1,000,000.00 may also be used for the John Street Cultural Corridor, Planning.
- iii. The owner shall provide a cash contribution of \$1,100,000.00 for the provision of new affordable housing in Alexandra Park.
- iv. In the event the cash contributions referred to in Sections (ii) and (iii) above have 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, City Planning Division, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
- v. The \$4,100,000.00 cash contribution referred to in Sections (ii) and (iii) above is to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment. All cash contributions will be payable prior to issuance of the first above-grade building permit.
- vi. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms.
- vii. Prior to the issuance of Site Plan Approval, the owner shall convey to the City a 3.0 metre wide public pedestrian easement for the life of the building over the north-south mid-block pedestrian connection through the site between King Street West and the future public park on Wellington Street West, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- viii. The owner shall implement any wind mitigation measures required as identified by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning, to be submitted as part of an application for Site Plan Approval.

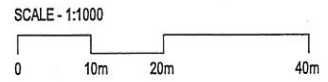
- ix. Materials for the new building will be secured through Site Plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
- x. A construction management plan shall be provided and thereafter implemented by the owner of 489-539 King Street West, to address such matters as wind, noise, dust, street closures, parking and laneway uses and access. Such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor and shall be completed prior to Site Plan approval.
- xi. Up to 1,481 square metres of office space may be provided either on site or alternatively, any amount of this office space not provided on site, may be provided within a 2 kilometre radius of the site in a building owned by the applicant.

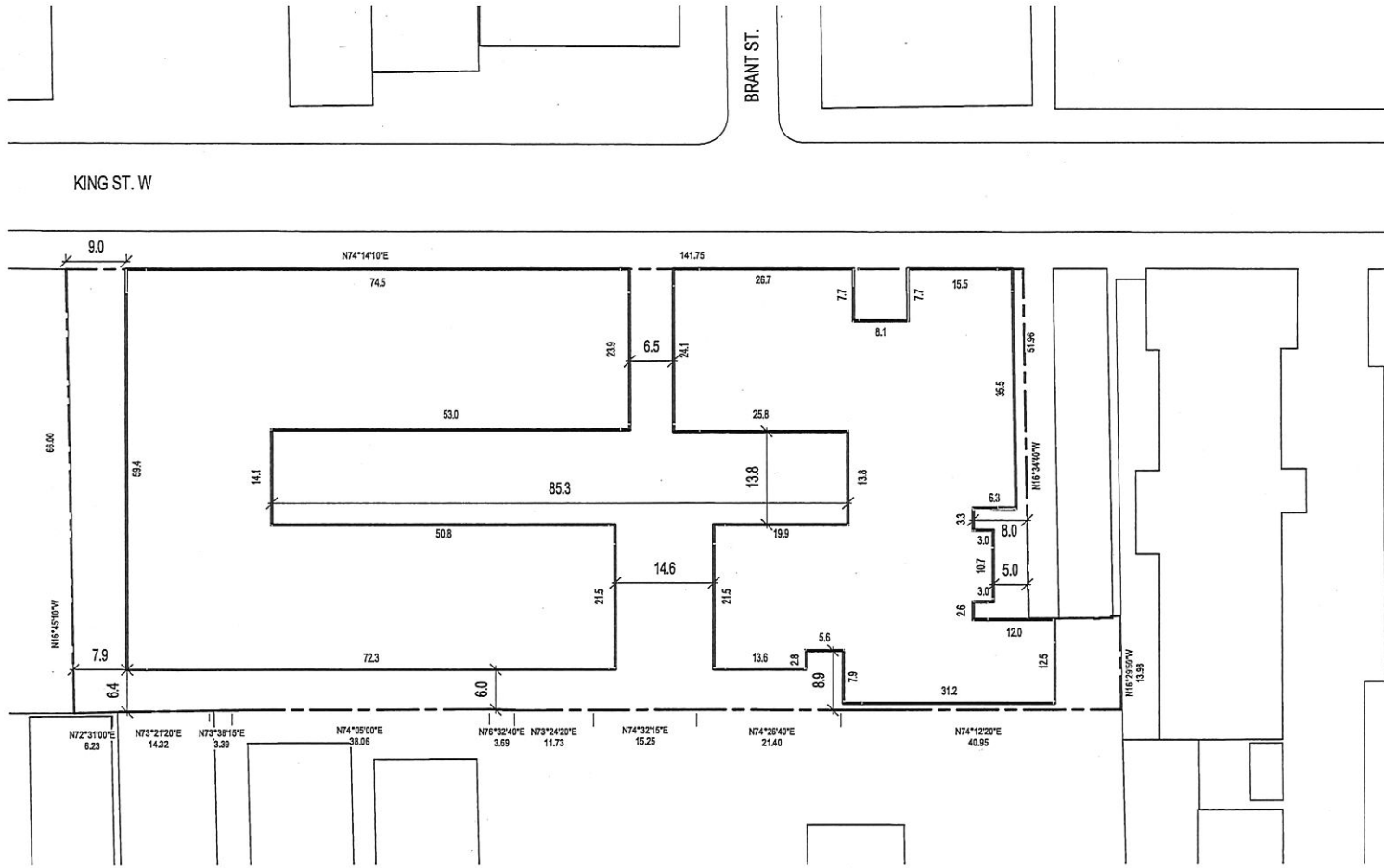


KING ST. W

BRANT ST.

MAP 1 - SITE





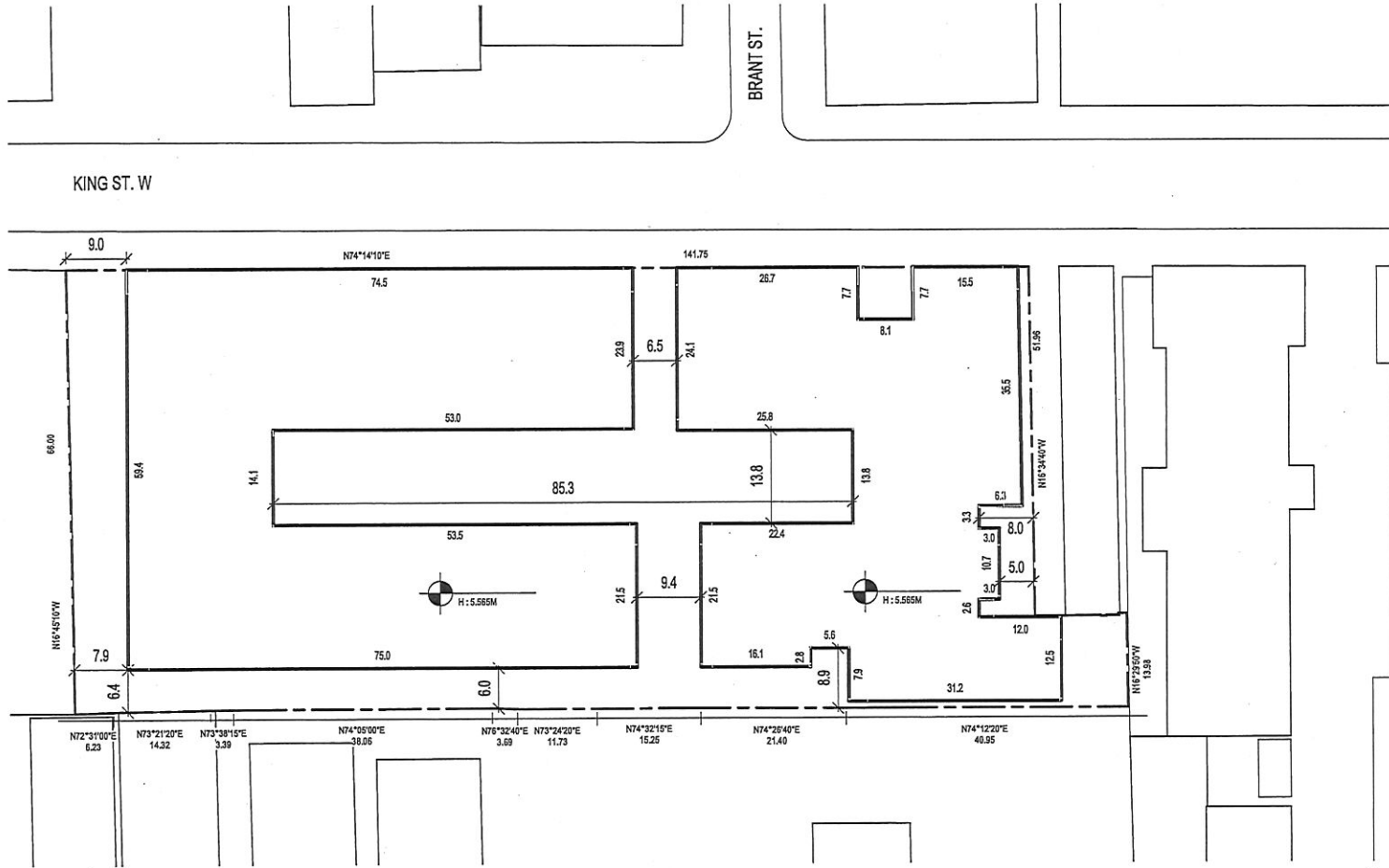
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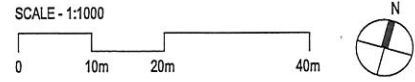
MAP 2A - FLOOR 01

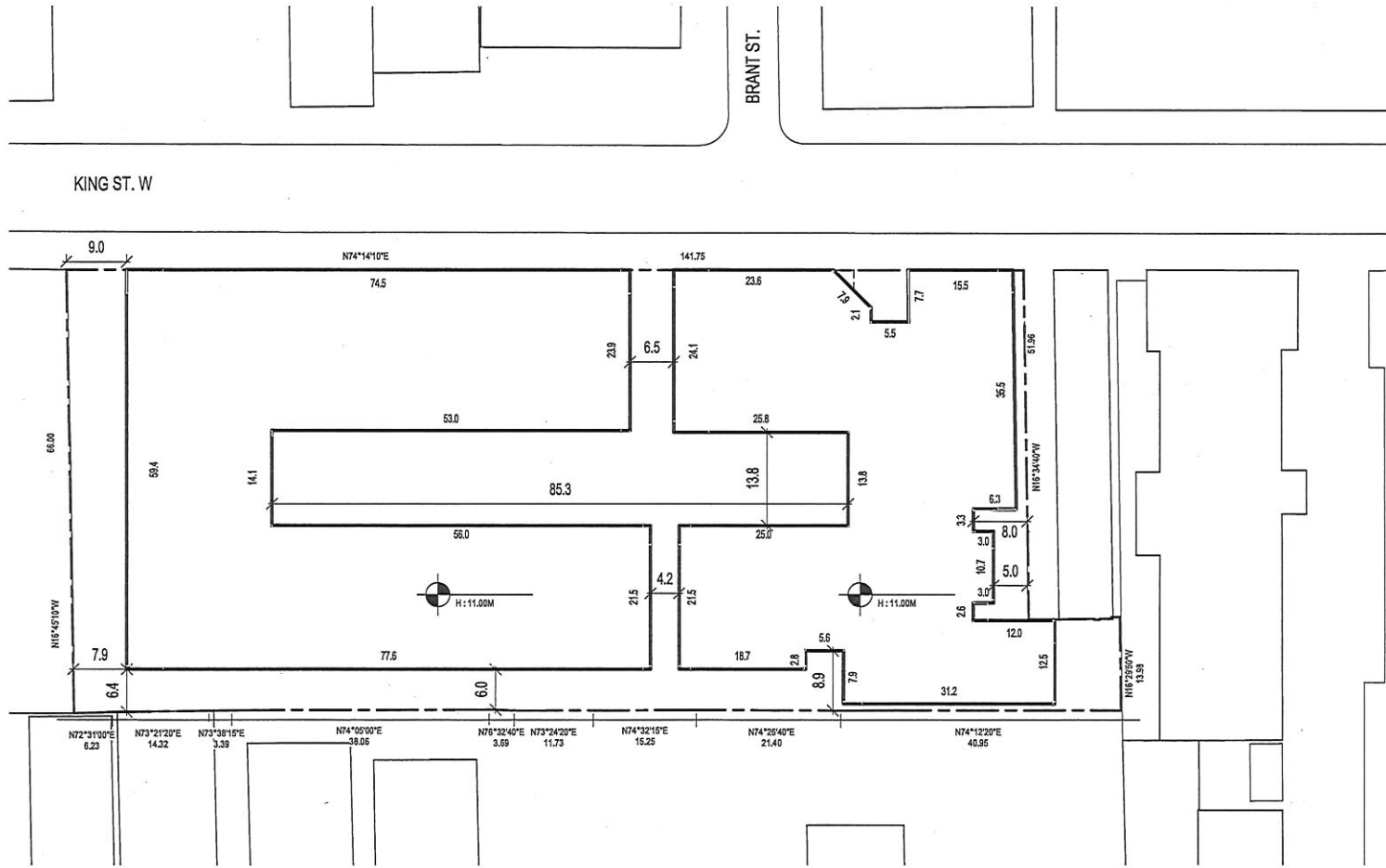
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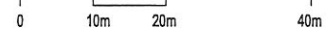
MAP 2B - FLOOR 02

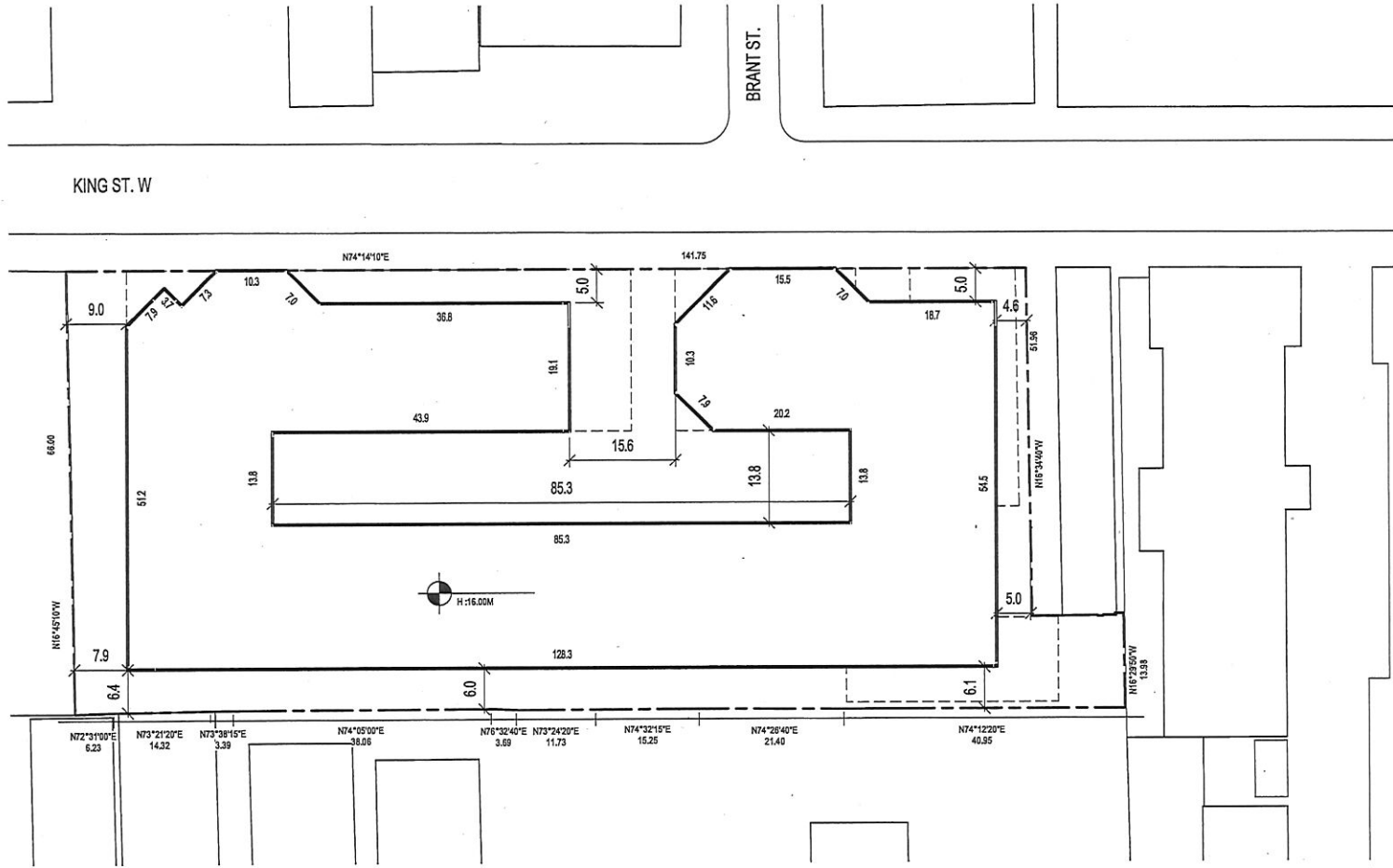




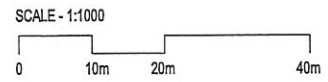
MAP 2C - FLOOR 03

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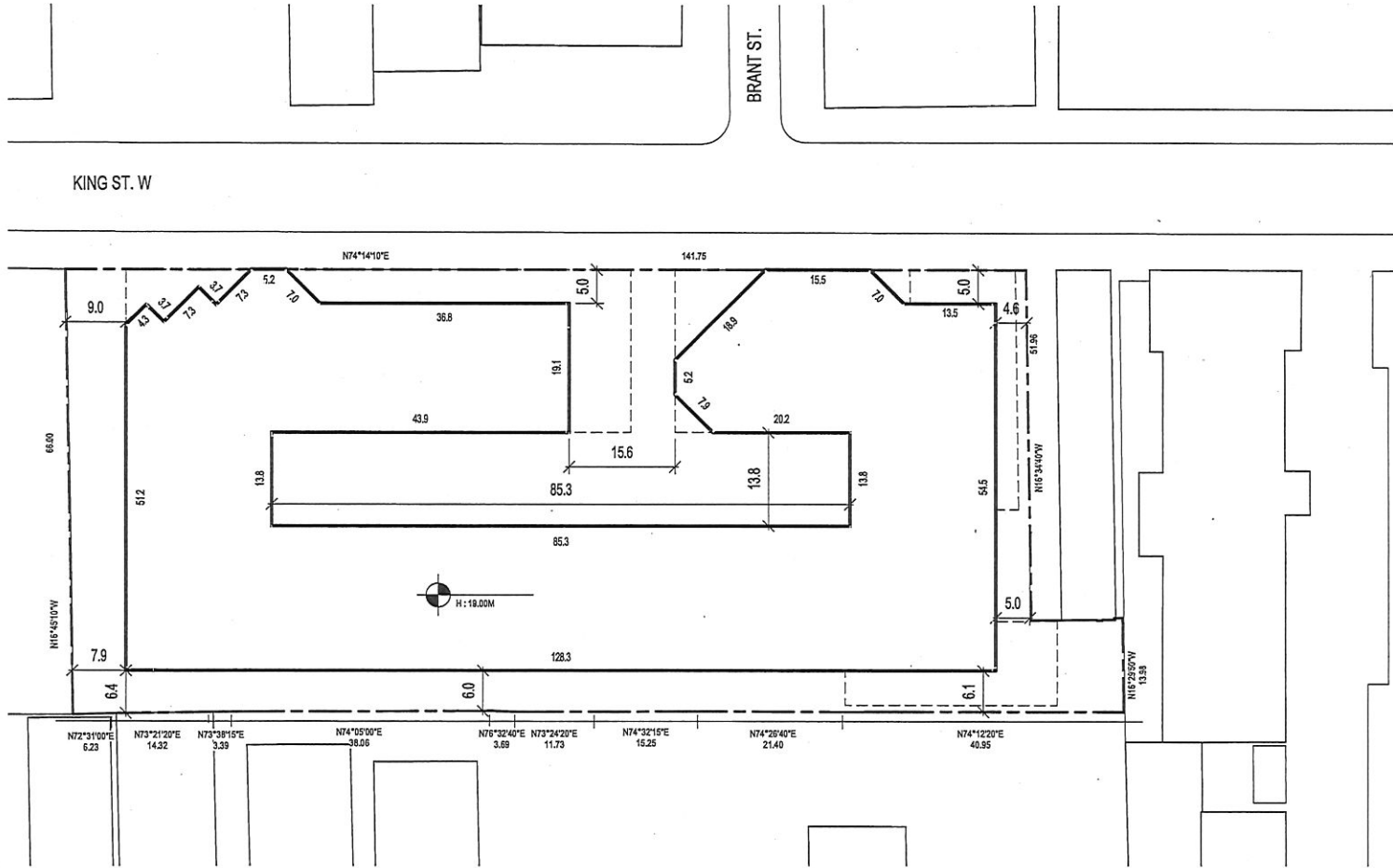




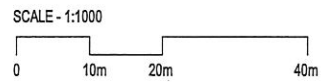
**MAP 2D - FLOOR 04**



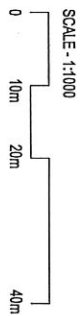
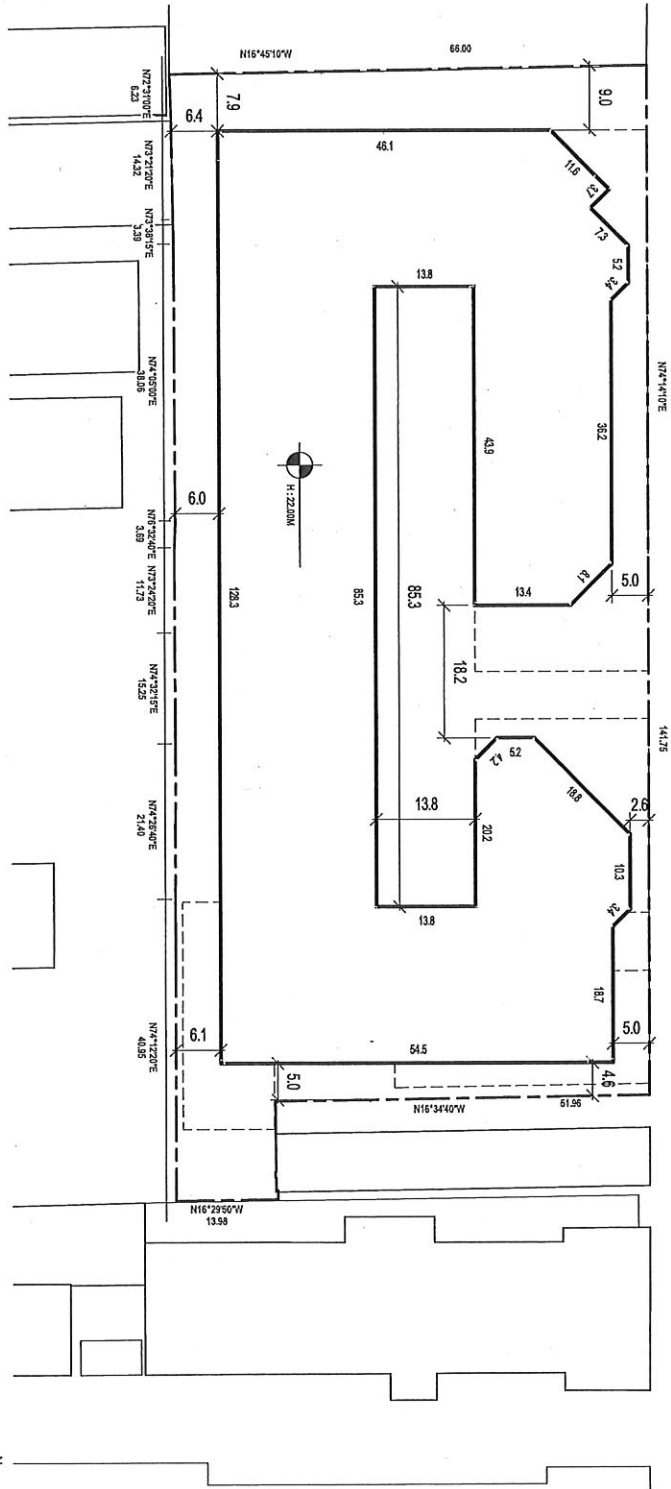




**MAP 2E - FLOOR 05**

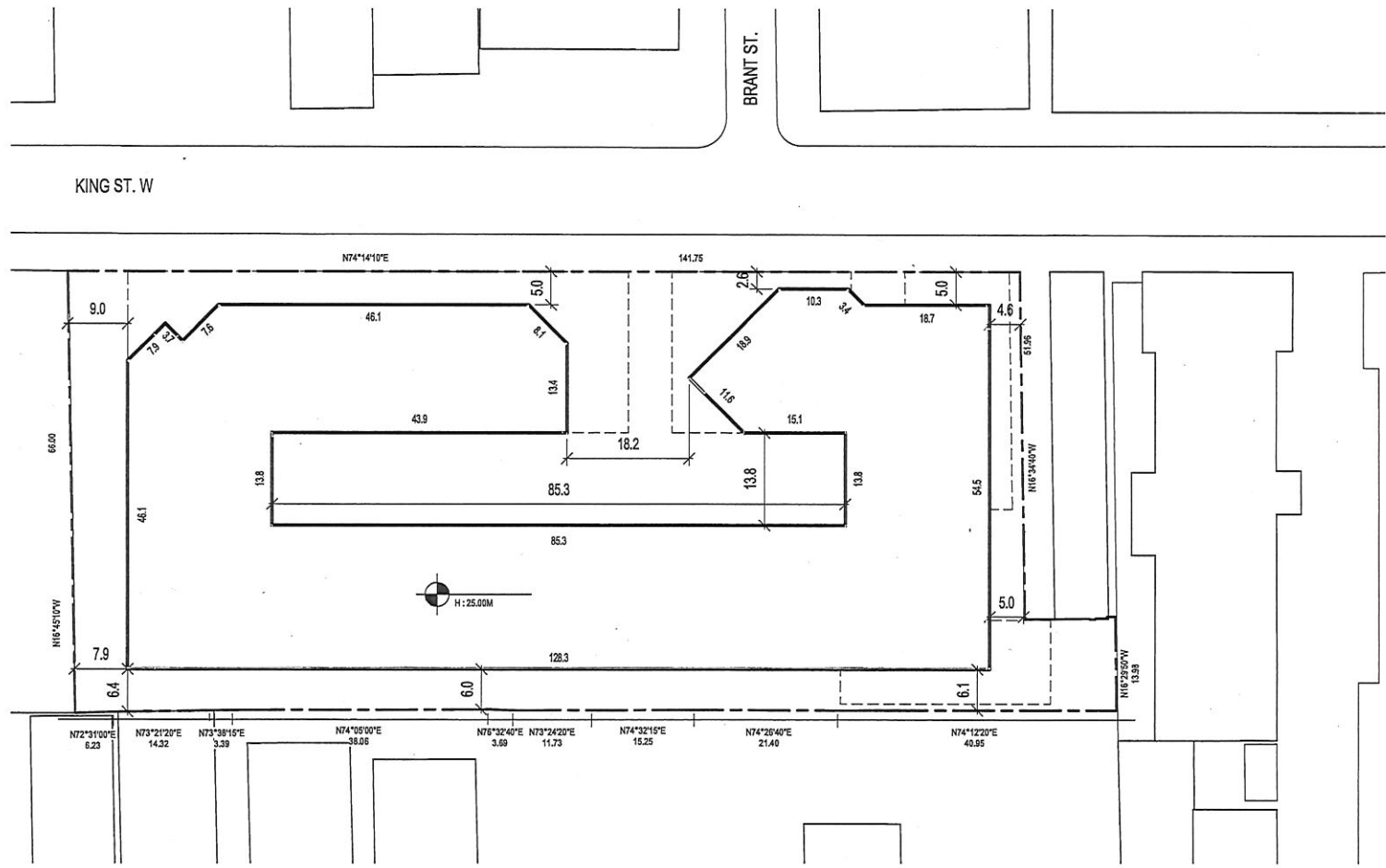


MAP 2F - FLOOR 06



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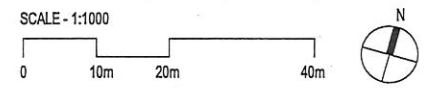
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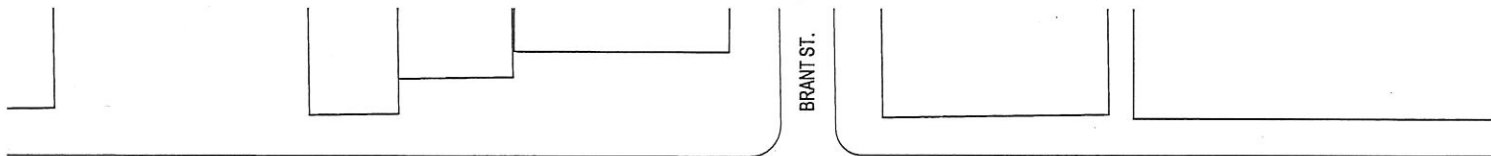


KING ST. W

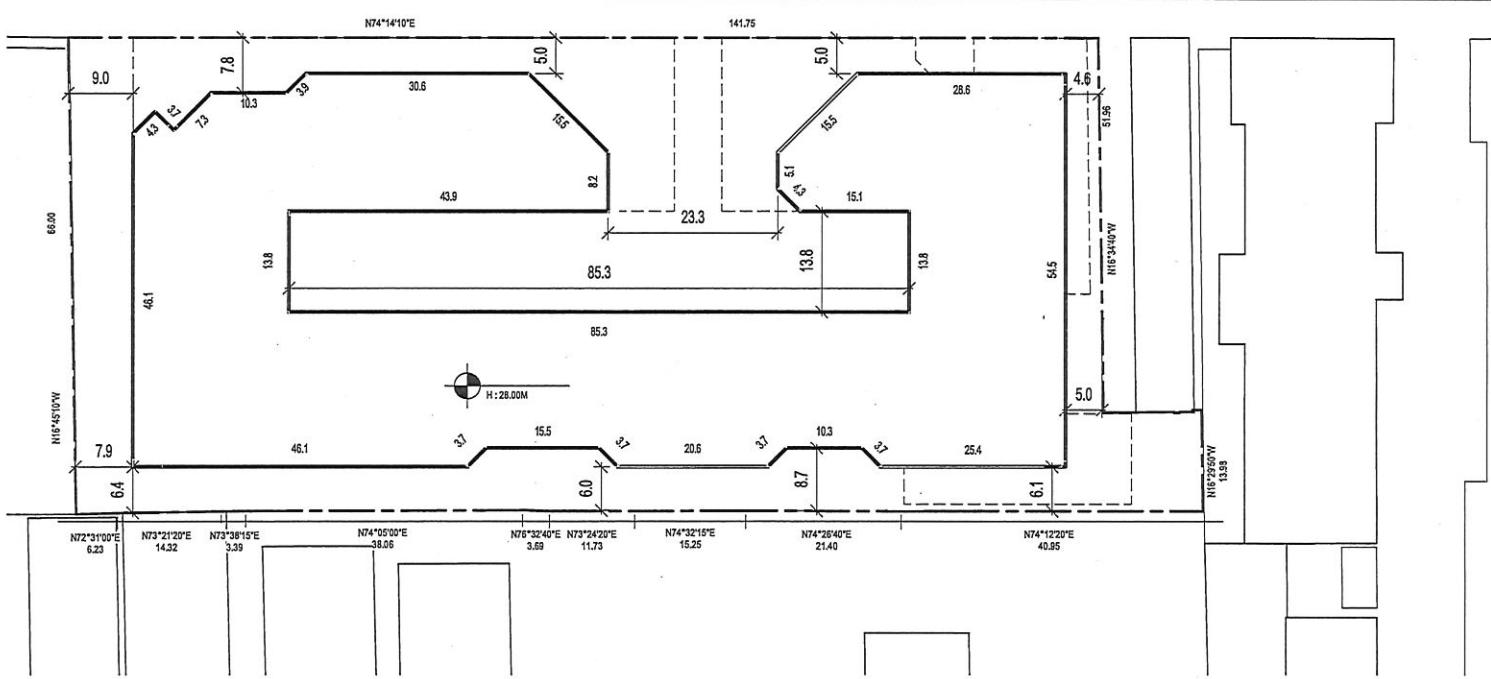
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MAP 2G - FLOOR 07

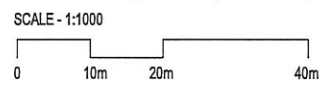


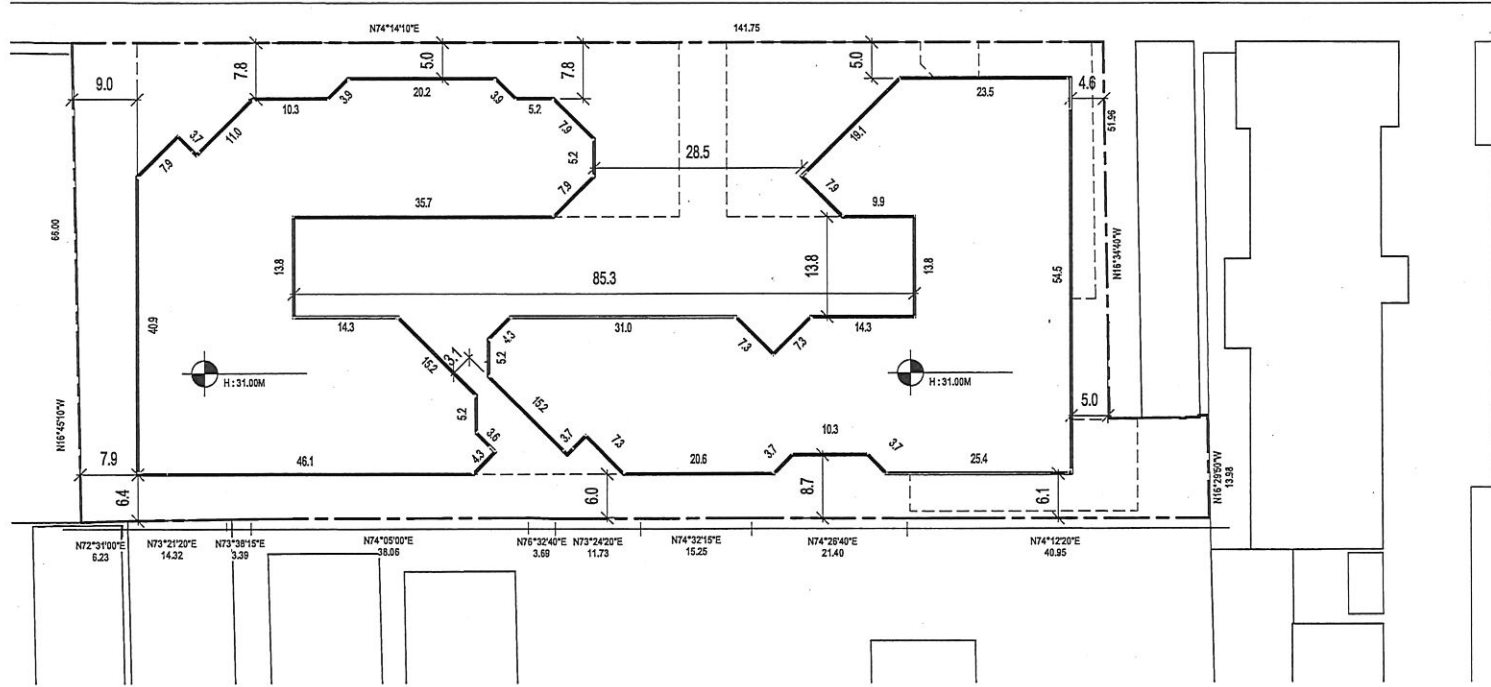
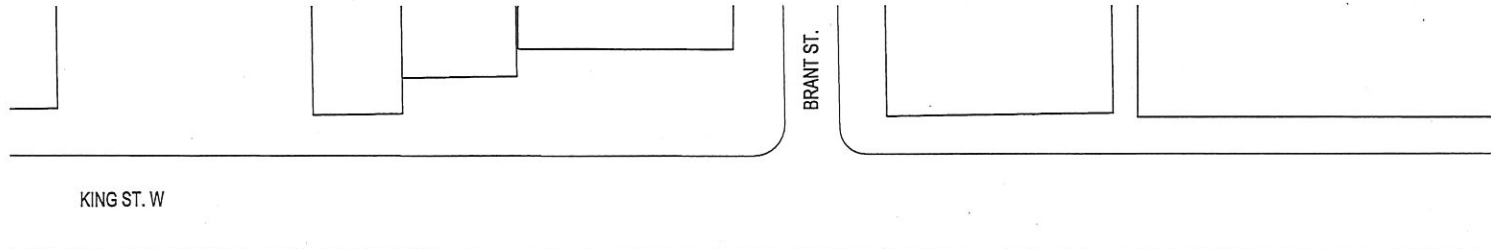


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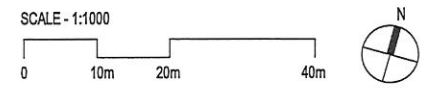


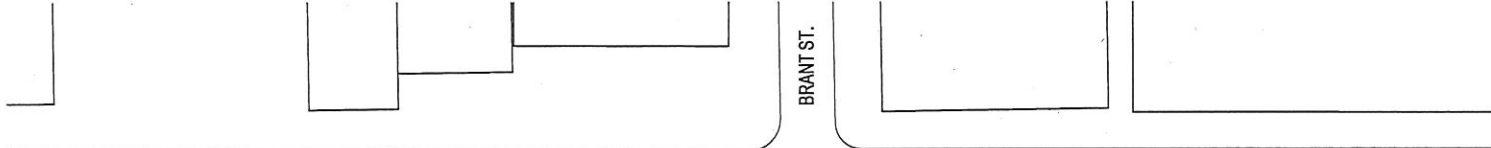
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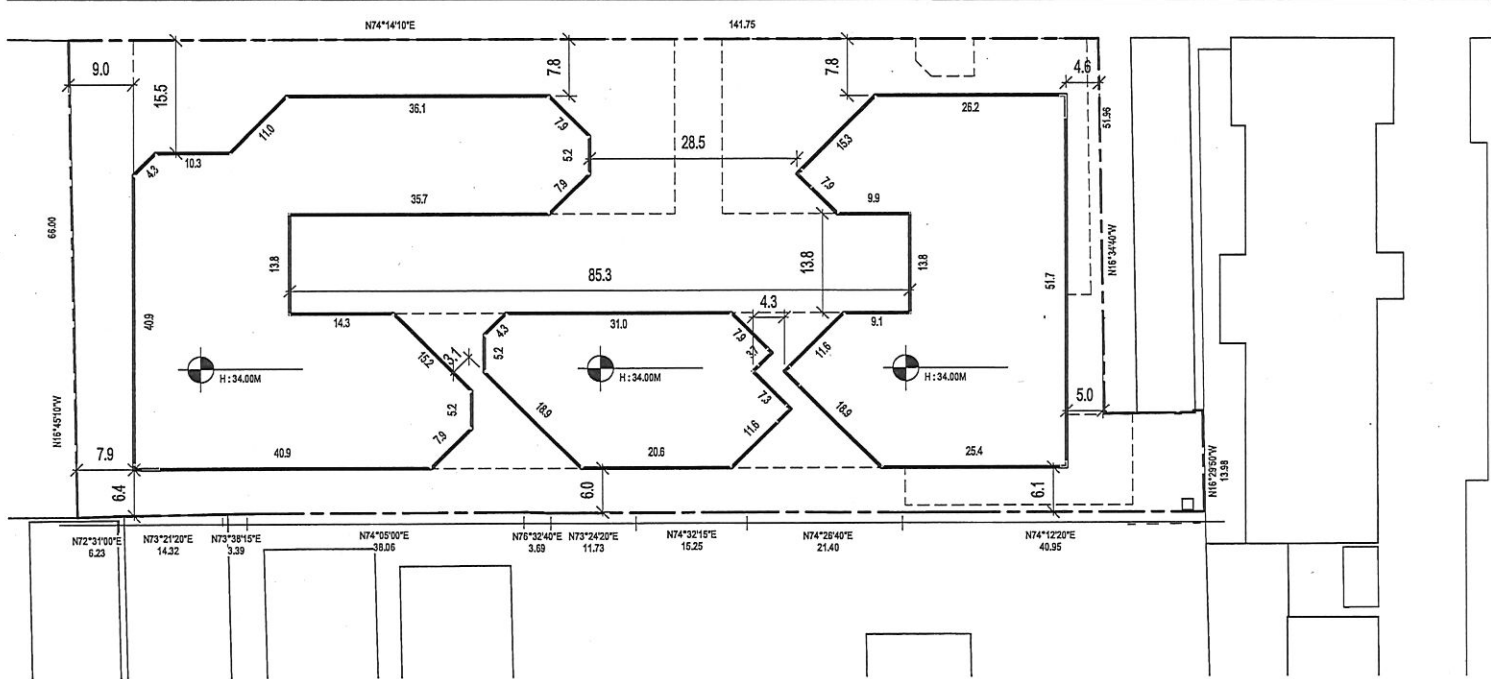
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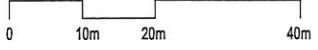
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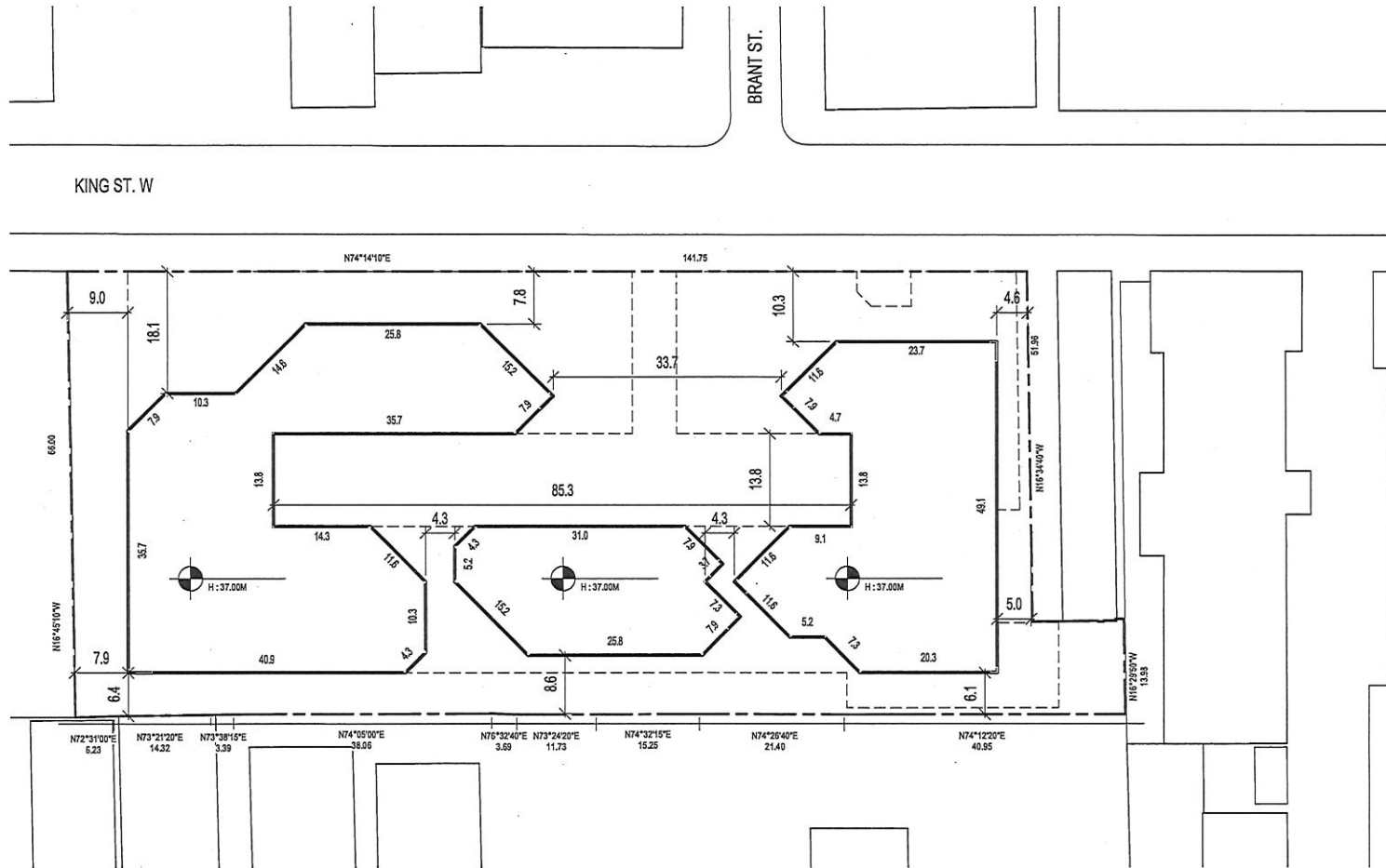
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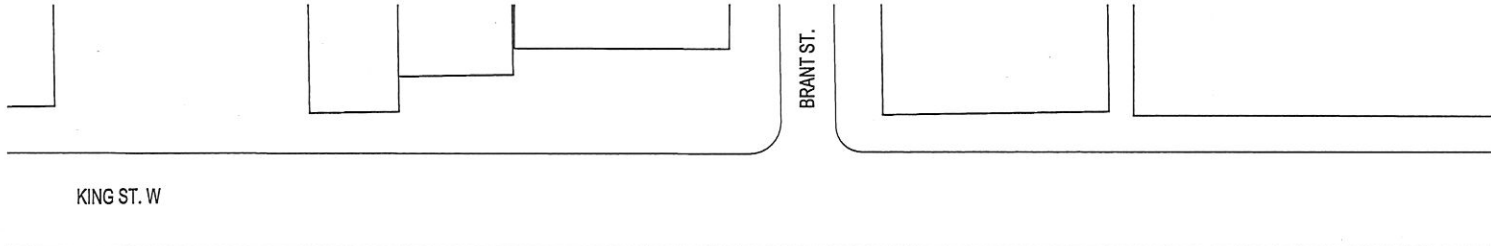
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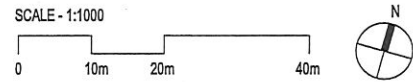
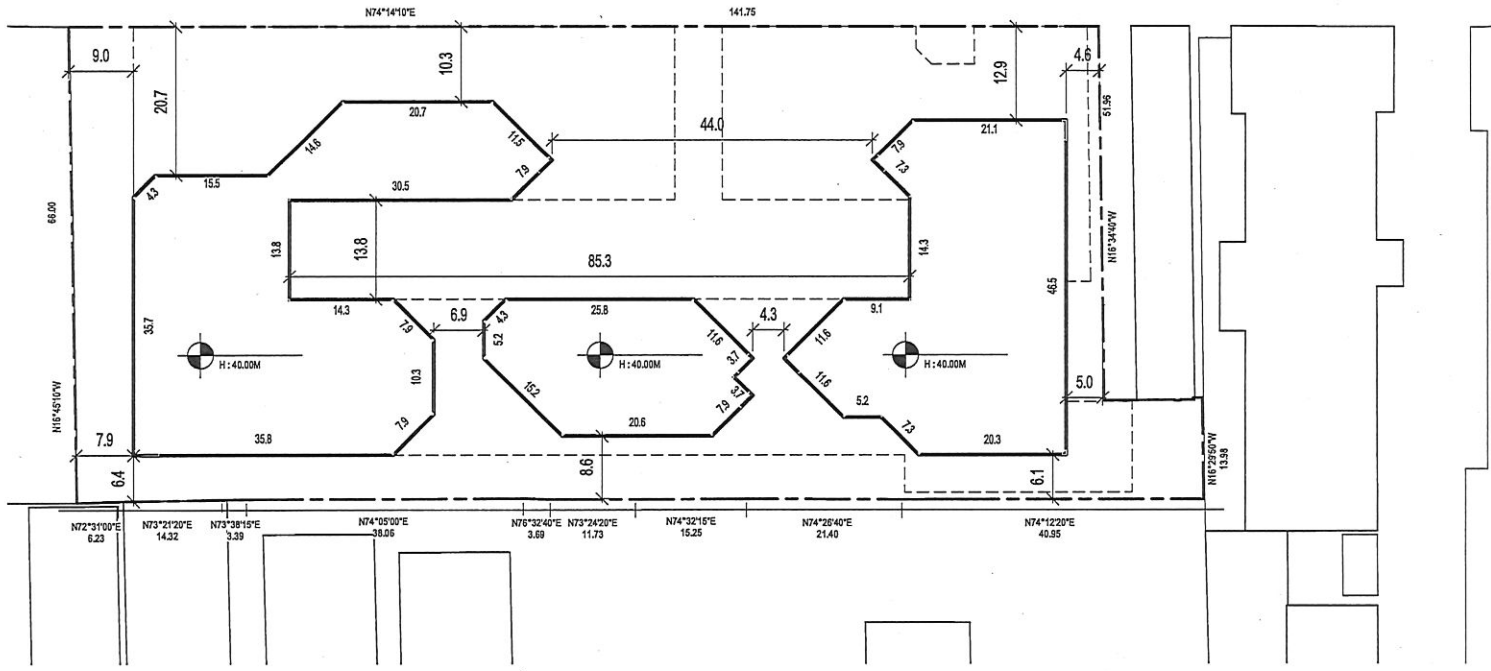


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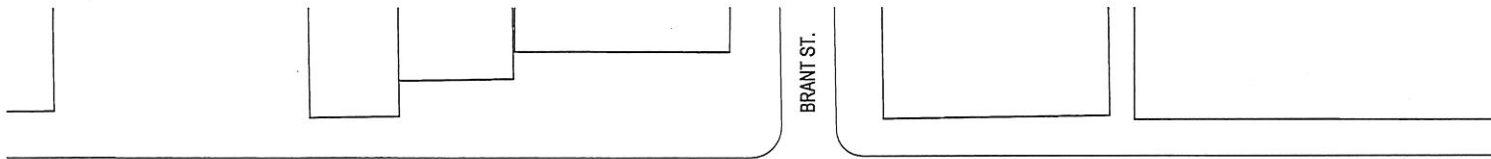


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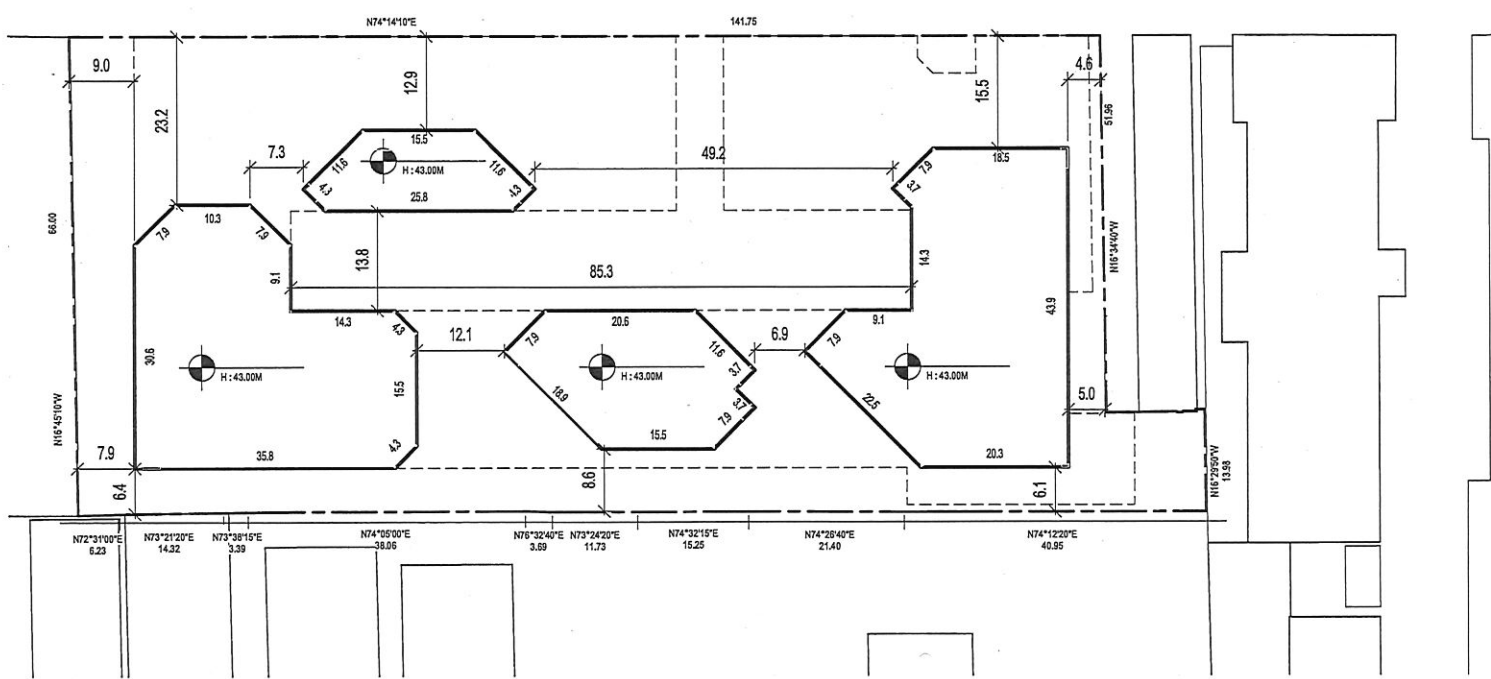
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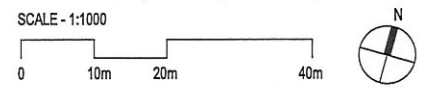


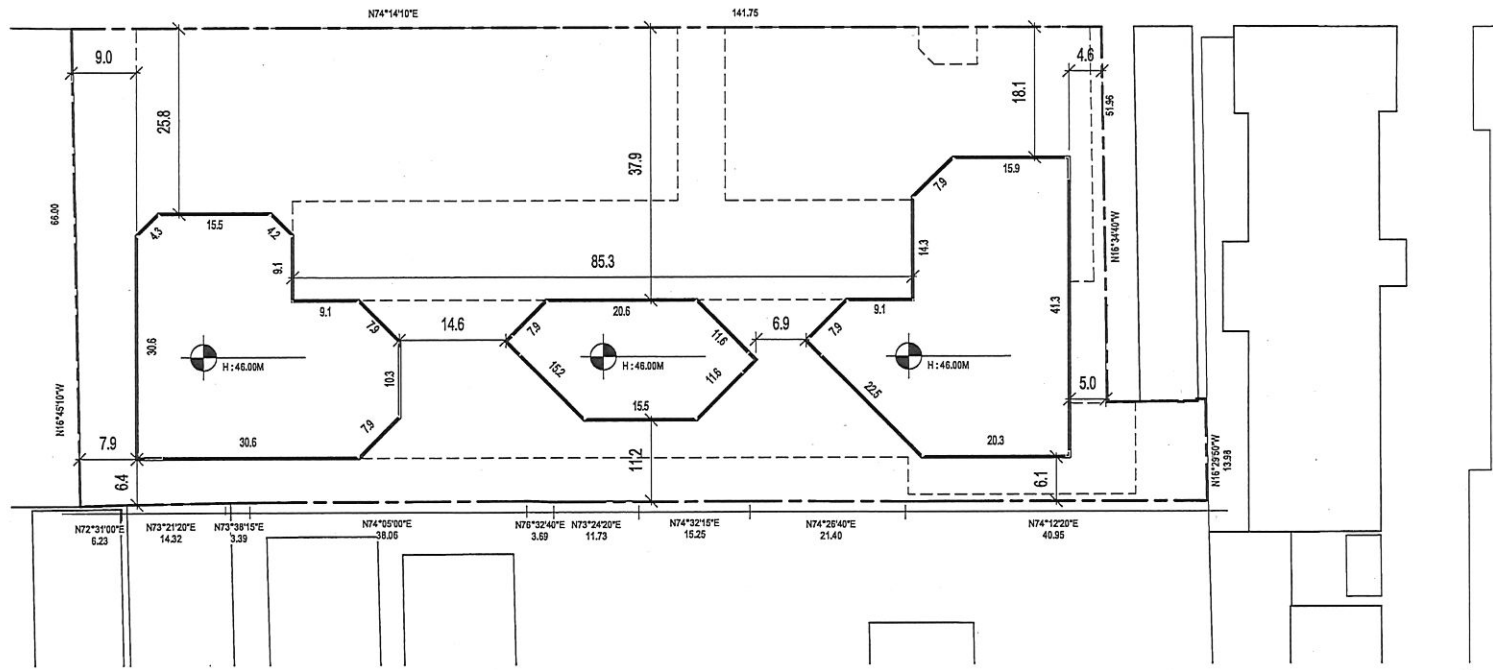
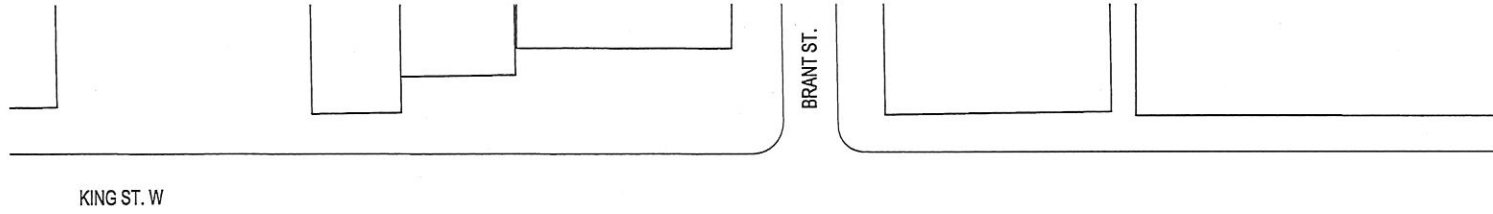


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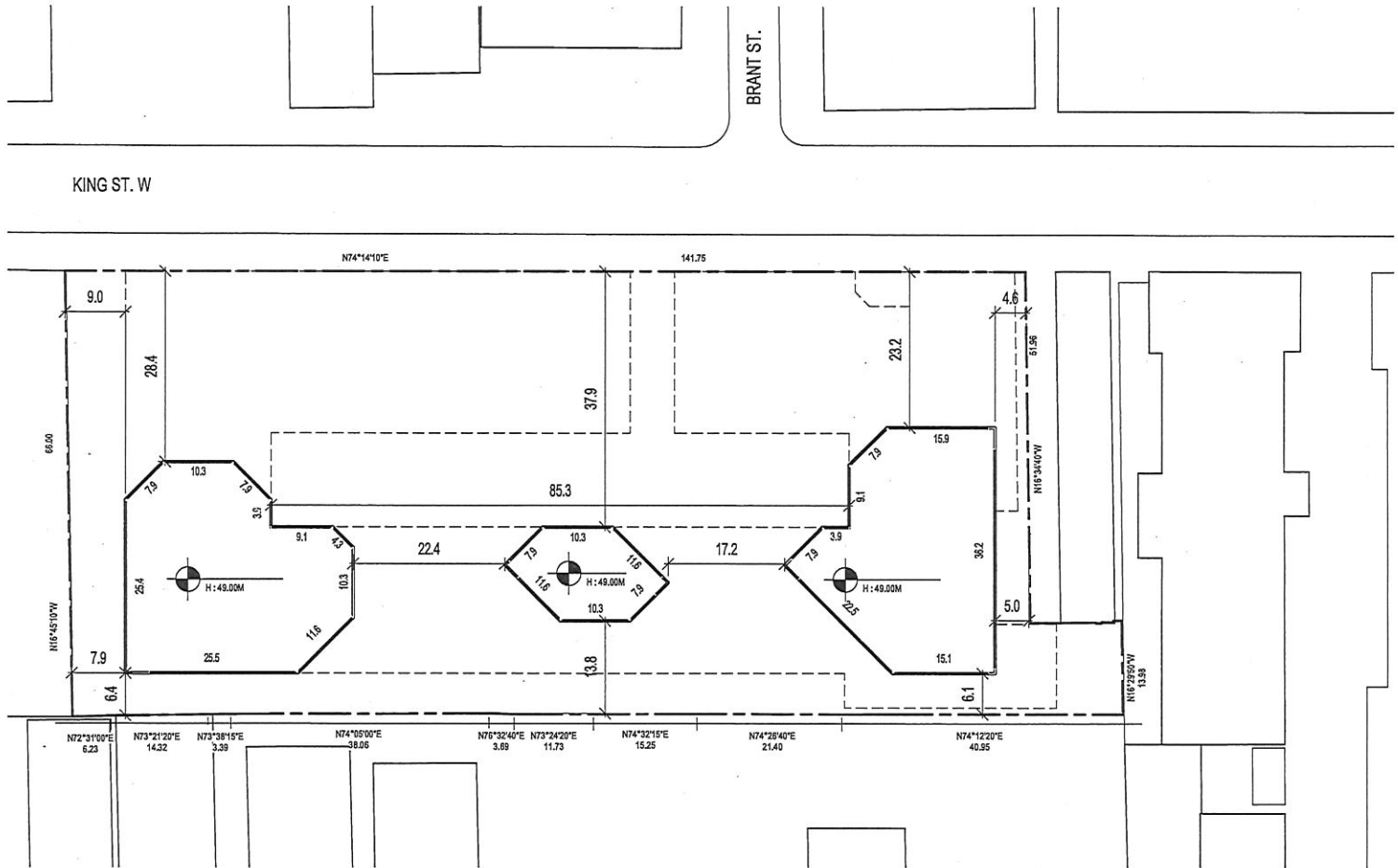
MAP 2M - FLOOR 13





MAP 2N - FLOOR 14

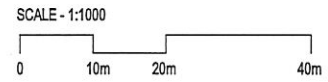


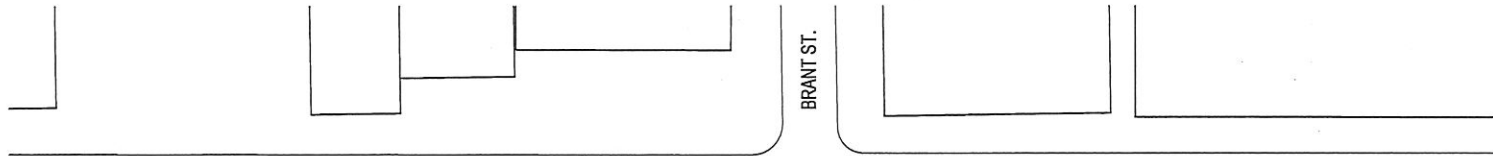


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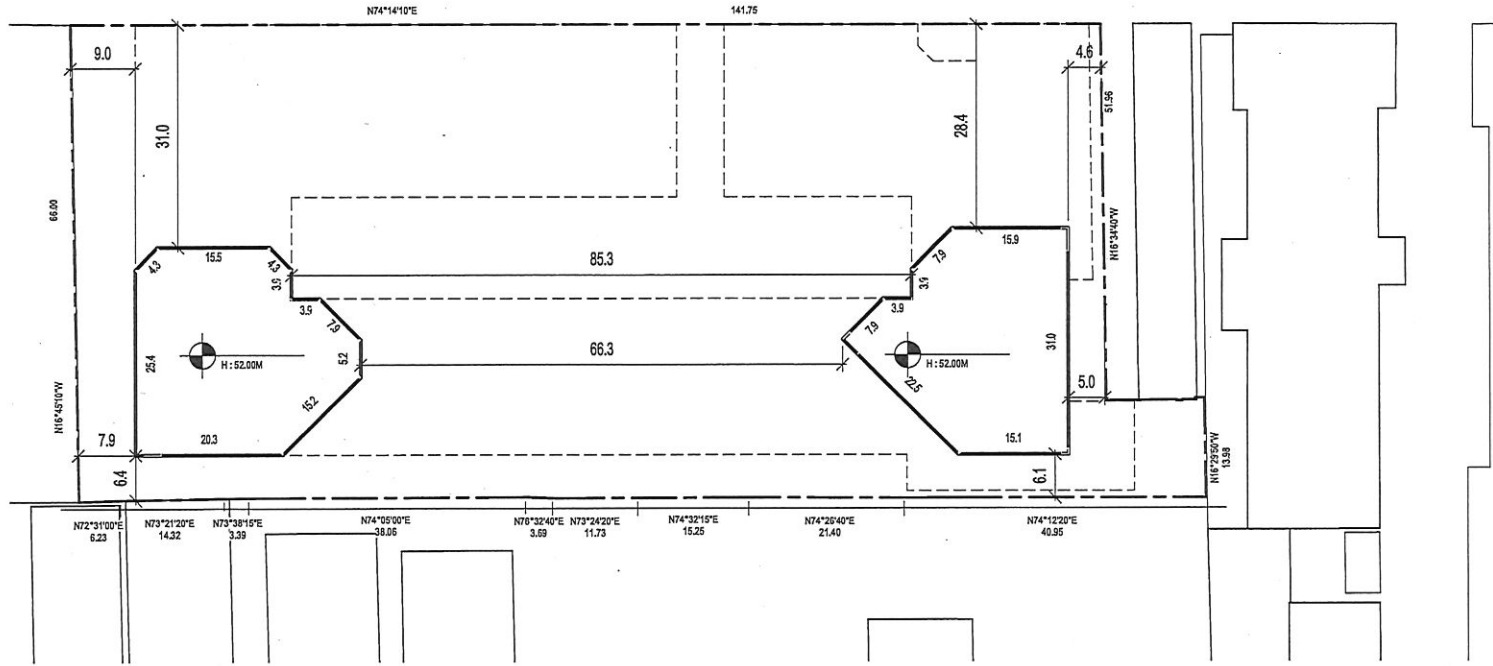
MAP 20 - FLOOR 15





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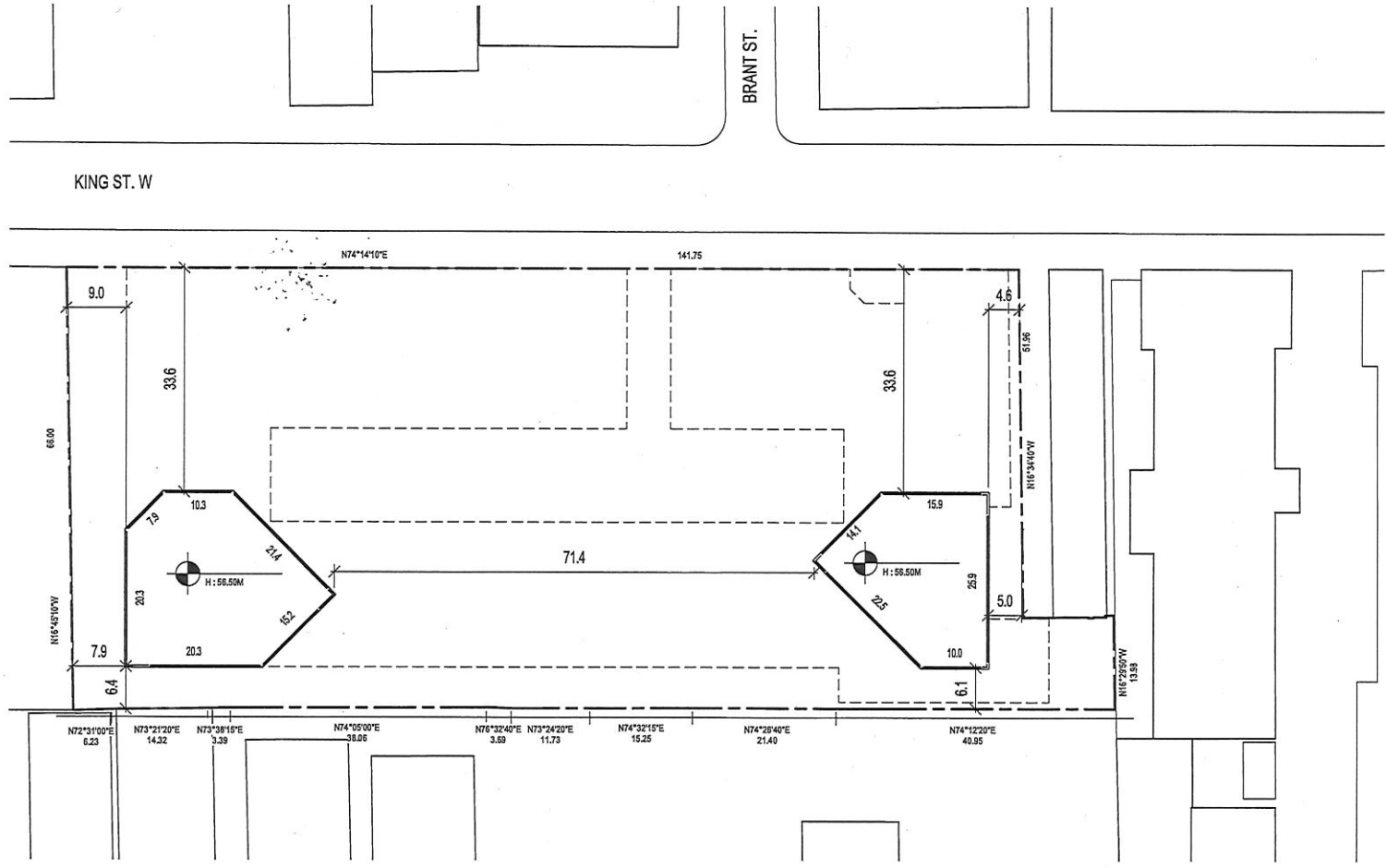
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MAP 2P - FLOOR 16

SCALE - 1:1000





MAP 2Q - ROOF

**489-539 King Street West**

**Draft Zoning By-law Amendment 569-2013**

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

## CITY OF TORONTO

### BY-LAW No. XXX-2018

**To amend the City of Toronto By-law No. 569-2013, as amended, with respect to lands known municipally as 489, 495, 499, 511, 519-529 and 539 King Street West.**

Whereas authority is given to Council by 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*;

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;

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 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;

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 No. 569-2013, Chapter 800 Definitions.
3. Zoning By-law No. 569-2013, as amended, is further amended by adding the lands outlined by heavy black lines on Diagram to the Zoning By-law Map in Section 990.10, and applying the following zone label to these lands: CRE (x1) as shown on Diagram 2 attached to this By-law; and
4. Zoning By-law No. 569 -2013, as amended, is further amended by adding the lands subject to this By-law to the Height Overlay Map in Section 995.20.1, and applying the following heights and storey labels to these lands HT 23, as shown on Diagram 3 attached to this Bylaw; and
5. Zoning By-law No. 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Section 995.10.1, and applying the following Policy Area label to these lands: PA1 as shown on Diagram 4 attached to this Bylaw; and
6. Zoning By-law No. 569 -2013, as amended, is further amended by adding the lands subject to this By-law to the Rooming House Overlay Map in Section 995.40.1, and applying the following Rooming House label of B3 to these lands, as shown on Diagram 5 attached to this By-law;
7. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number X so that it reads:

#### **Exception CRE 1**

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 lands known municipally as 489, 495, 499, 511, 519-529 and 539 King Street West none of the provisions of Clauses and Regulations 5.10.40.70 (1) to (4), 50.10.40.1(2), 50.10.40.30(1), 50.10.40.60 (1) through (8), 50.10.40.70 (1), (3), (4) and (5), 50.10.40.80 (1) through (3), 50.10.40.81 (1) and (2), 50.10.150.1 (1), 200.5.10.1(1) and (6), Table 200.5.10.1, 200.10.1(2), 200.15.1.5(1), 200.15.10, 220.5.10.1, 230.5.1.10(9), 230.5.1.10.10, 230.50.1.20 (1) and (2)(D) and 900.12.10 (32) apply to prevent the erection or use of a mixed use **building** on the **lot** including a commercial **parking garage** in accordance with the following:

(B) The **lot** comprises at least the land outlined by heavy lines on attached Diagram 1;



- (C) The total **gross floor area** erected on the **lot**, excluding those portions of the **building** used for the purposes of a commercial **parking garage**, must not exceed 57,500 square meters, provided:
- (i) the **gross floor area** of the **building** occupied by residential uses does not exceed 37,500 square metres; and
  - (ii) the **gross floor area** of the **building** occupied by non-residential uses does not exceed 21,000 square metres, of which a minimum of 6,000 square metres shall be dedicated to office uses;
- (D) At least 20 percent of all **dwelling units** located on the **lot** shall have two or more bedrooms and at least 10 percent of all units located on the **lot** shall have three or more bedroom dwelling units;
- (E) Height is measured from the Canadian Geodetic Datum elevation of 87.18 metres to the highest point of the storey of the **building** or **structure** identified in section (F) below;
- (F) No portion of any **building** or **structure** on the **lot** shall have a height greater than the height in metres specified by the number following the H symbol measured to the top of each storey as identified in Diagrams 6D-6Q of By-law [Clerks to insert By-law number] except for:
- (i) eaves, canopies, cornices, parapets, lighting fixtures, ornamental elements, chimneys, vents, stacks, terraces, platforms, transformer vaults, landscape elements, railings, stairs, stair enclosures, planters, elements or structures used for outside or open air recreation, safety or wind protection purposes, terrace and balcony railings and dividers, window washing equipment, elements of a green roof, parapet, public art features and lightning rods;
- (G) No portion of the **building** above grade on the **lot** shall be located other than within the areas delineated as follows:
- (i) no portion of the first storey of the **building** above grade shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6A
  - (ii) no portion of the second storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6B;
  - (iii) no portion of the third storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6C;
  - (iv) no portion of the fifth and fourth storey, inclusive, of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6D;

- (v) no portion of the fifth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Map 6E;
- (vi) no portion of the sixth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6F;
- (vii) no portion of the seventh storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6G;
- (viii) no portion of the eighth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6H;
- (ix) no portion of the ninth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6I;
- (x) no portion of the tenth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6J;
- (xi) no portion of the eleventh storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6K;
- (xii) no portion of the twelfth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6L;
- (xiii) no portion of the thirteenth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6M;
- (xiv) no portion of the fourteenth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6N;
- (xv) no portion of the fifteenth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6O;
- (xvi) no portion of the sixteenth storey of the **building** shall be located outside of the areas delineated by the heavy lines shown on the attached Diagram 6P; and
- (xvii) no portion of the mechanical storey of the **building** shall be located outside the areas delineated by the heavy lines shown on the attached Diagram 6Q;

(H) section (G) of this by-law shall not apply to the following exceptions: cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, roof terraces, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, parapet, public art and landscape features;

- (I) **amenity space** must be provided in accordance with the following:
- (i) a minimum of 1.5 square metres of indoor **amenity space** for each **dwelling unit**; and
  - (ii) a minimum of 1.5 square metres of outdoor **amenity space** for each **dwelling unit** of which 50 percent may be non-exclusive;
- (J) **Parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) a minimum of 0.3 **parking spaces** per **dwelling unit** must be provided for the exclusive use of residents;
  - (ii) a minimum of 1 space per 300 square metres of non residential **gross floor area** shall be provided in a commercial **parking garage** on the **lot** shall be provided to accommodate visitors and non-residential uses on the **lot** on a non-exclusive basis; and
  - (iii) despite regulation 200.5.1.10(2): a maximum of 28 **parking spaces** provided do not have to comply with regulation 200.5.1.10(2)(A)(iv), despite such **parking spaces** are obstructed in accordance with regulation 200.5.1.10(2)(D);
- (K) **Parking spaces** may be provided on the **lot** for uses other than those permitted on the **lot** including spaces for off-site residential and non-residential uses;
- (L) For each car-share **parking space** provided, the minimum number of **parking spaces** for residents required pursuant to regulation (J)(i) above may be reduced by four **parking spaces**, up to a maximum reduction as calculated by the following formula:  $4 \times (\text{the total number of dwelling units on the lands divided by } 60)$ , rounded down to the nearest whole number;
- (M) For the purpose of this Exception:
- i. Car-share means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the **building** for short term rental, including hourly rental; and
  - ii. A car-share **parking space** means a **parking space** exclusively reserved and signed for a car used only for car-share purposes;
- (N) **Loading spaces** may be provided at any parking level below grade;

- (O) Despite regulation 220.5.20.1(2), the maximum permitted slope of a ramp or driveway leading to a loading space is 12 percent, except that maximum permitted slope of the portion of a ramp or driveway within 6 metres of the limit of a street is 5 percent;
- (P) A minimum of one Type "G", **loading space**, three Type "B" **loading spaces** and two Type "C" **loading spaces** must be provided and maintained on the **lot**;
- (Q) Despite regulation 230.5.1.10(10), a "long-term" or "short-term" **bicycle parking space** may be located in a **stacked bicycle parking space**.
- (R) Despite regulation 230.5.1.10(4)(A)(ii), if a **stacked bicycle parking space** is provided, the minimum width for each **bicycle parking space** is 0.45 metres;
- (S) Despite any existing or future severance, partition or division of the lot, the provisions of this exception shall apply to the whole of the lot as if no severance, partition or division had occurred;

**8. Section 37 Provisions**

- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 of By-law [Clerk to provide By-law number] 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 By-law X 2016 [Clerk to provide By-law number] 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 density pursuant to the By-law unless all provisions of Schedule A of By-law [Clerk to provide By-law number] are satisfied.

ENACTED AND PASSED this – day of--, A.D. 2017.

JOHN TORY

Mayor

ULLI S. WATKIS

City Clerk

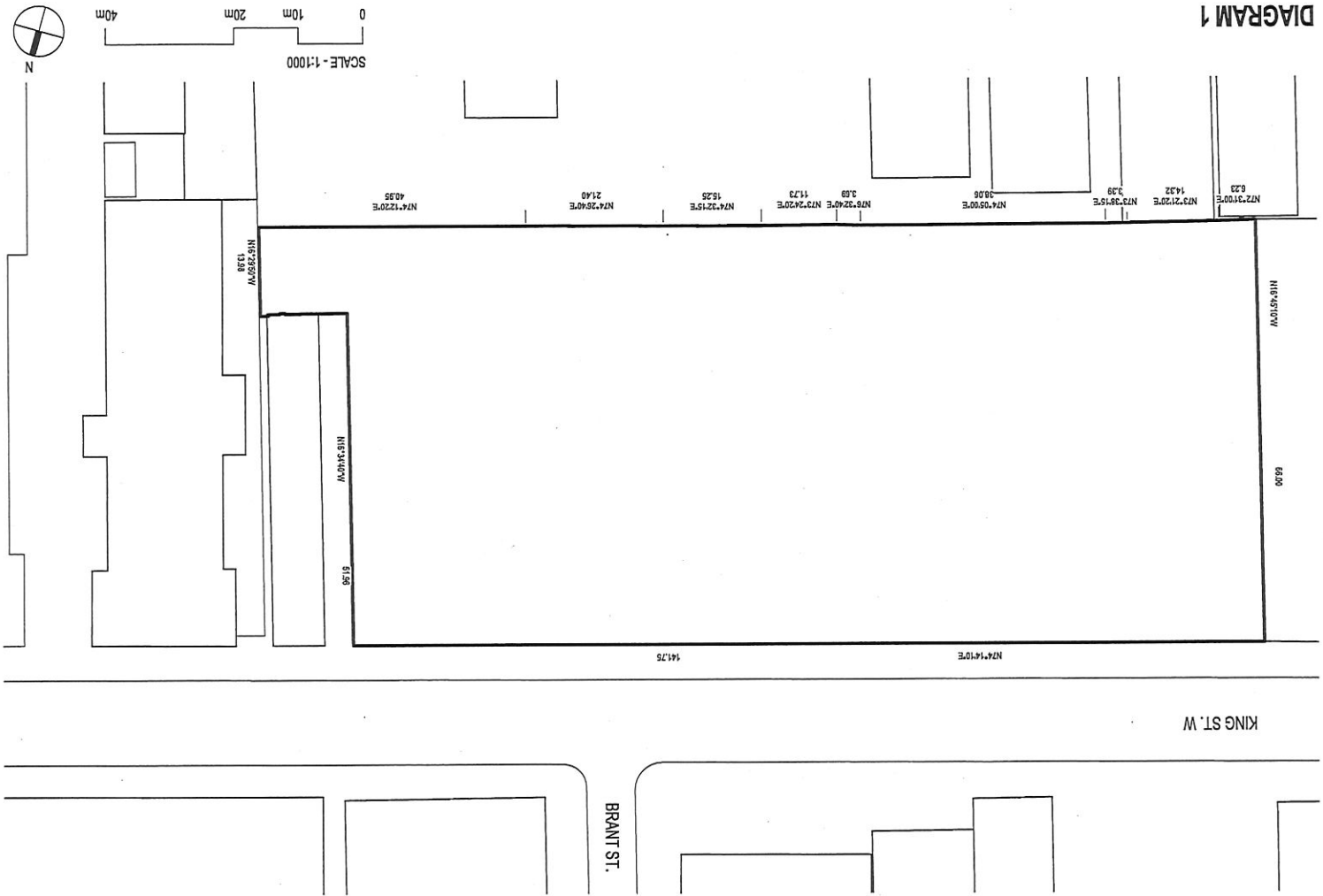
**SCHEDULE A**  
**Section 37 Provisions**

**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 of the proposed development on the lands as shown in Map 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:**

- i. The owner shall provide a minimum contribution of \$900,000.00 toward the commission of public art in a process in accordance with the City Planning Public Art Program.
- ii. The owner shall provide a cash contribution of \$3,000,000.00 for above-base streetscape improvements on the north side of Wellington Street West between Spadina Avenue and Portland Street and/or public realm and streetscape improvements around St. Andrews Playground and/or Brant Street. Of this total contribution, a maximum of \$1,000,000.00 may also be used for the John Street Cultural Corridor, Planning.
- iii. The owner shall provide a cash contribution of \$1,100,000.00 for the provision of new affordable housing in Alexandra Park.
- iv. In the event the cash contributions referred to in Sections (ii) and (iii) above have 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, City Planning Division, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
- v. The \$4,100,000.00 cash contribution referred to in Sections (ii) and (iii) above is to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment. All cash contributions will be payable prior to issuance of the first above-grade building permit.
- vi. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms.
- vii. Prior to the issuance of Site Plan Approval, the owner shall convey to the City a 3.0 metre public pedestrian easement for the life of the building over the north-south mid-block pedestrian connection through the site between King Street West and the future public park on Wellington Street West, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- viii. The owner shall implement any wind mitigation measures required as identified by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning, to be submitted as part of an application for Site Plan Approval.

- ix. Materials for the new building will be secured through Site Plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
- x. A construction management plan shall be provided and thereafter implemented by the owner of 489-539 King Street West, to address such matters as wind, noise, dust, street closures, parking and laneway uses and access. Such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor and shall be completed prior to Site Plan approval.
- xi. Up to 1,481 square metres of office space may be provided either on site or alternatively, any amount of this office space not provided on site, may be provided within a 2 kilometre radius of the site in a building owned by the applicant.

DIAGRAM 1



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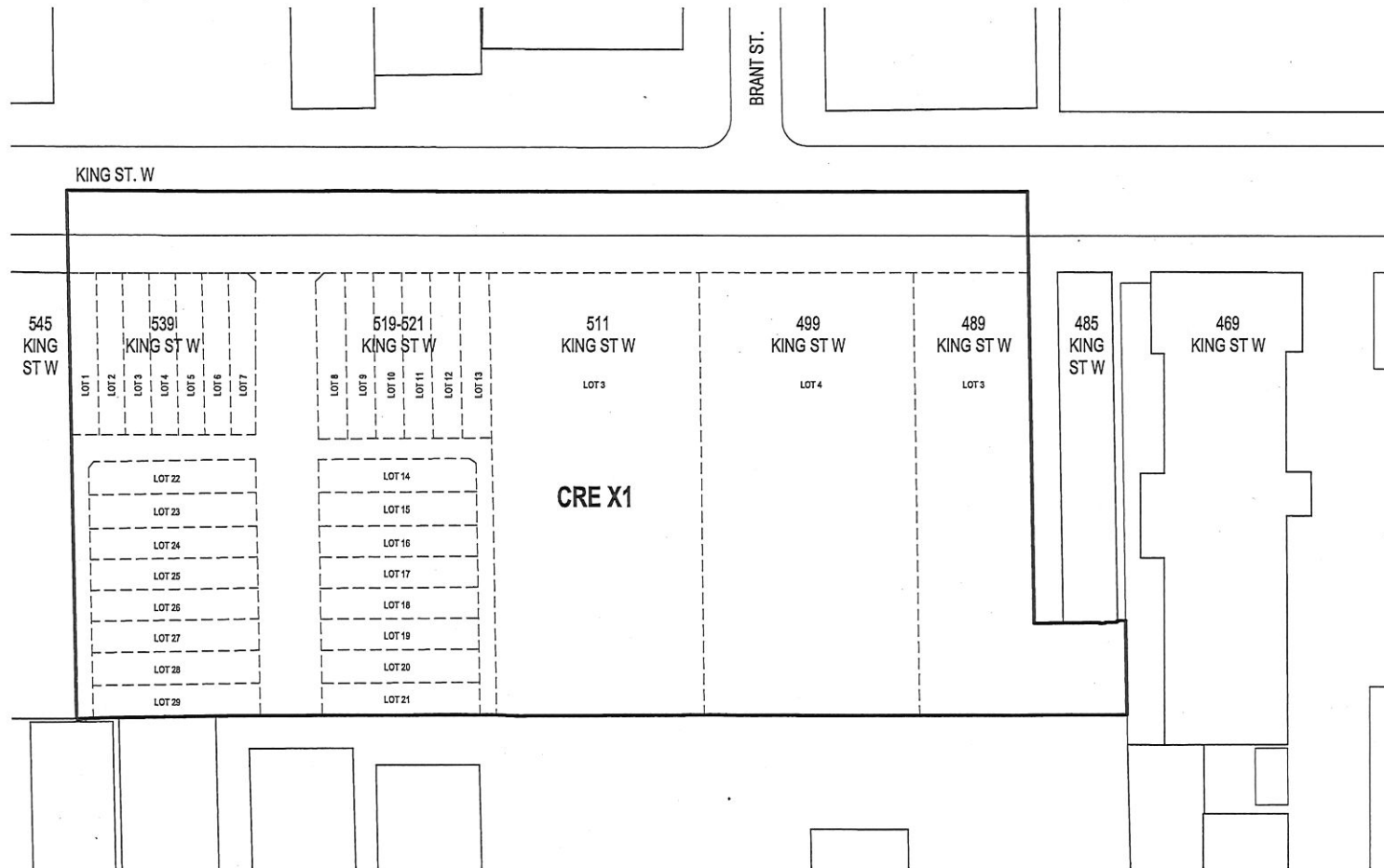
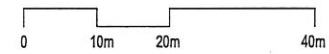


DIAGRAM 2

SCALE - 1:1000



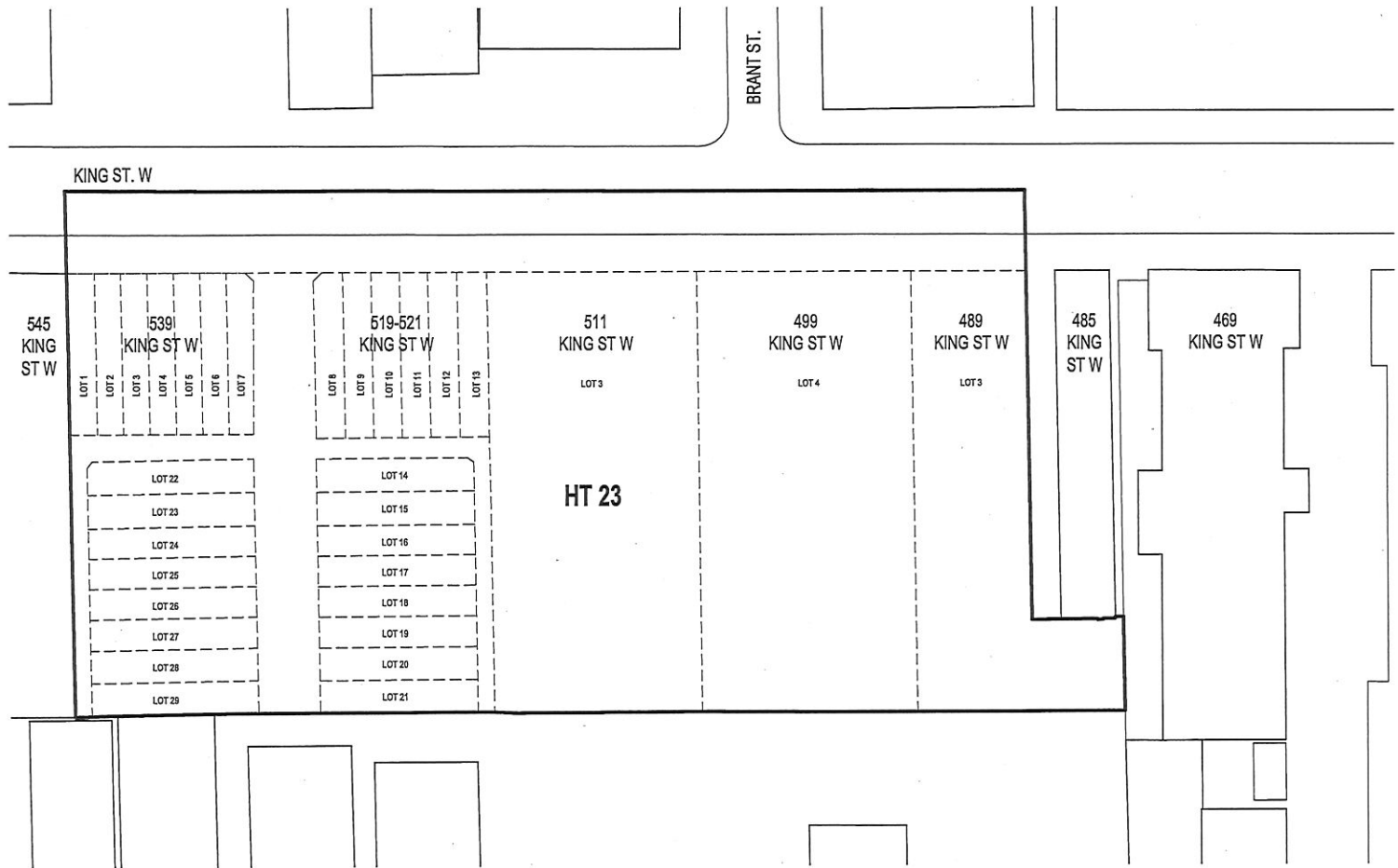
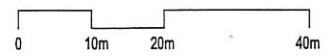


DIAGRAM 3

SCALE - 1:1000



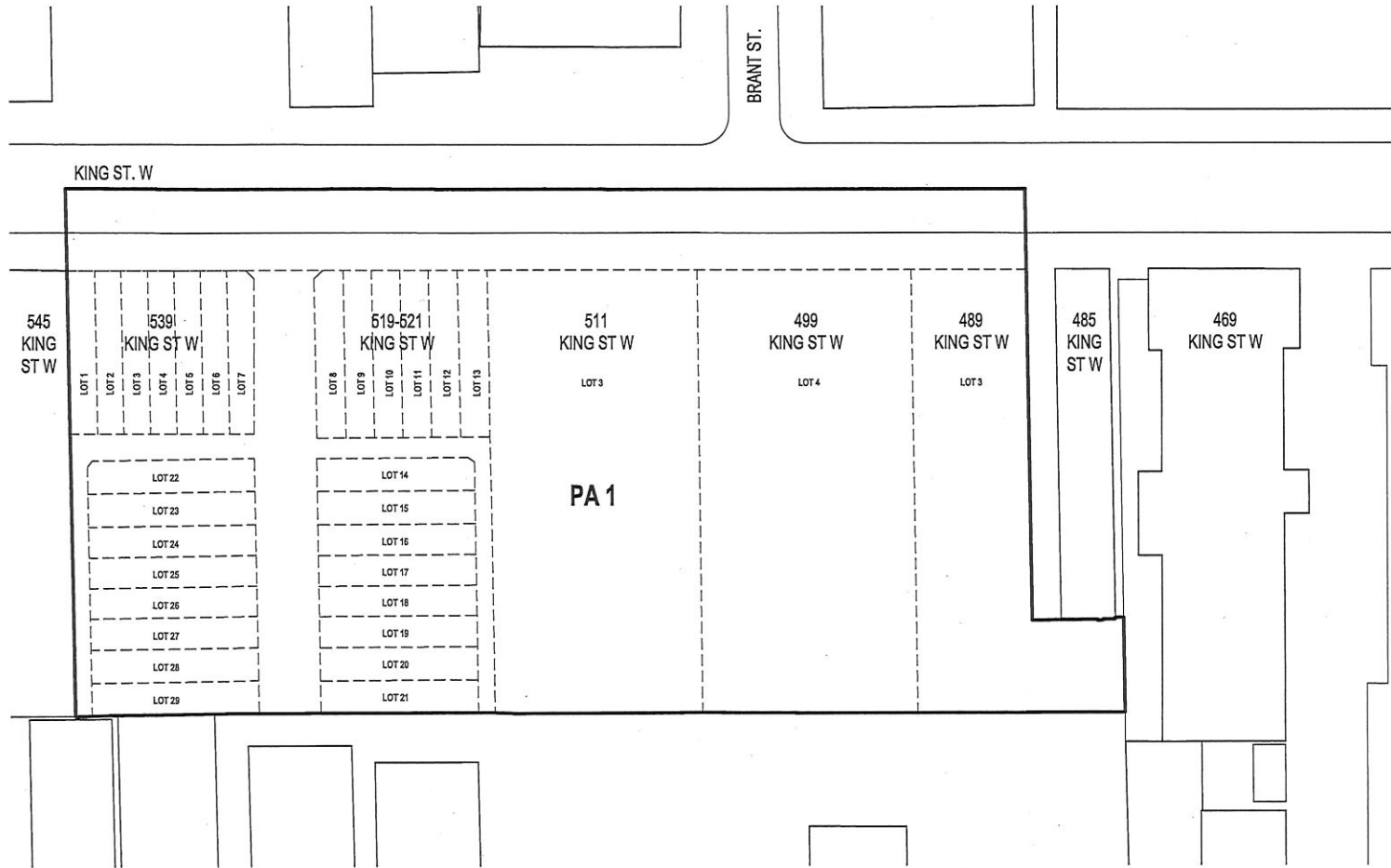
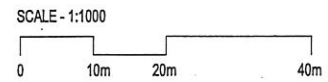


DIAGRAM 4



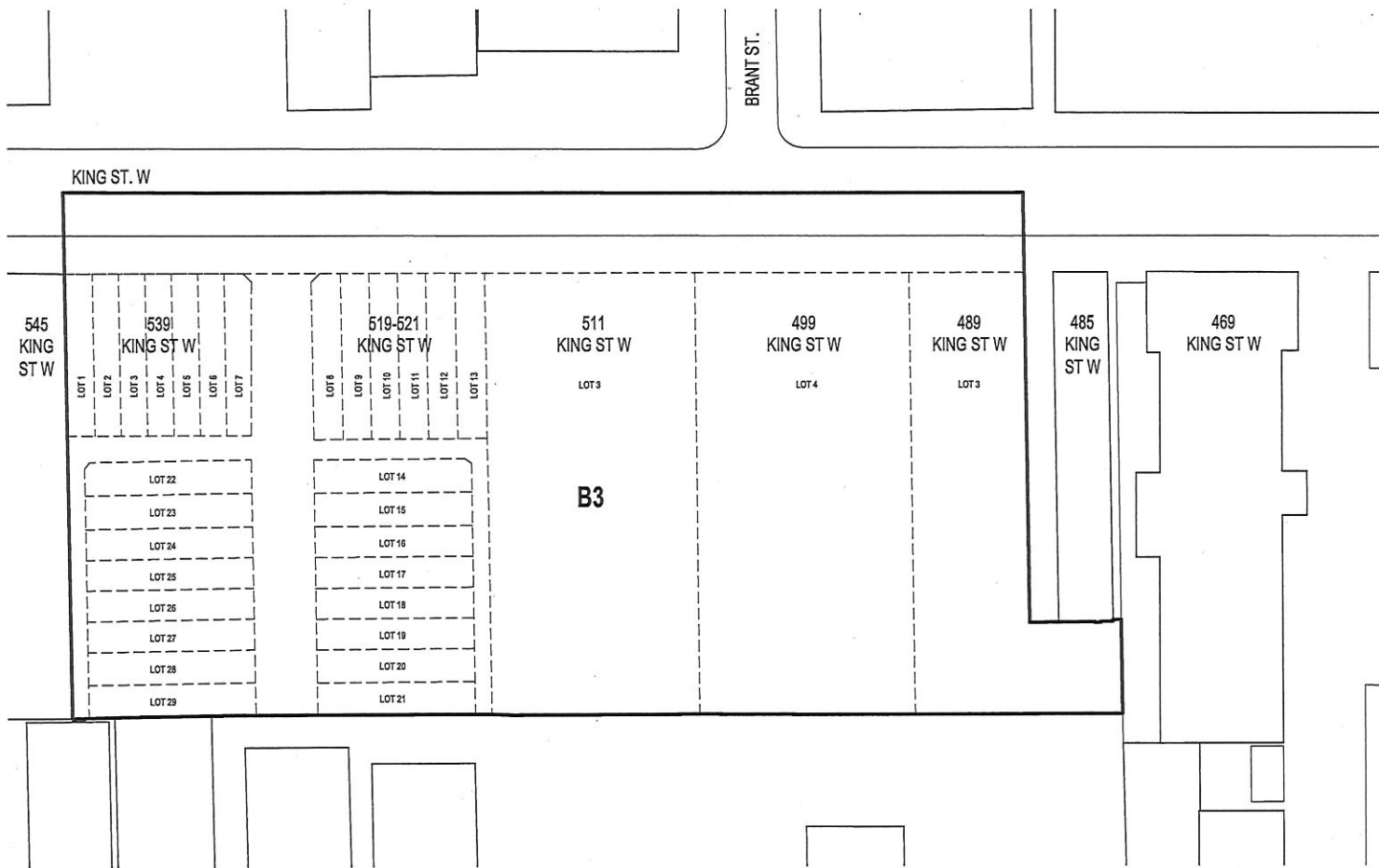
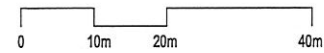


DIAGRAM 5

SCALE - 1:1000



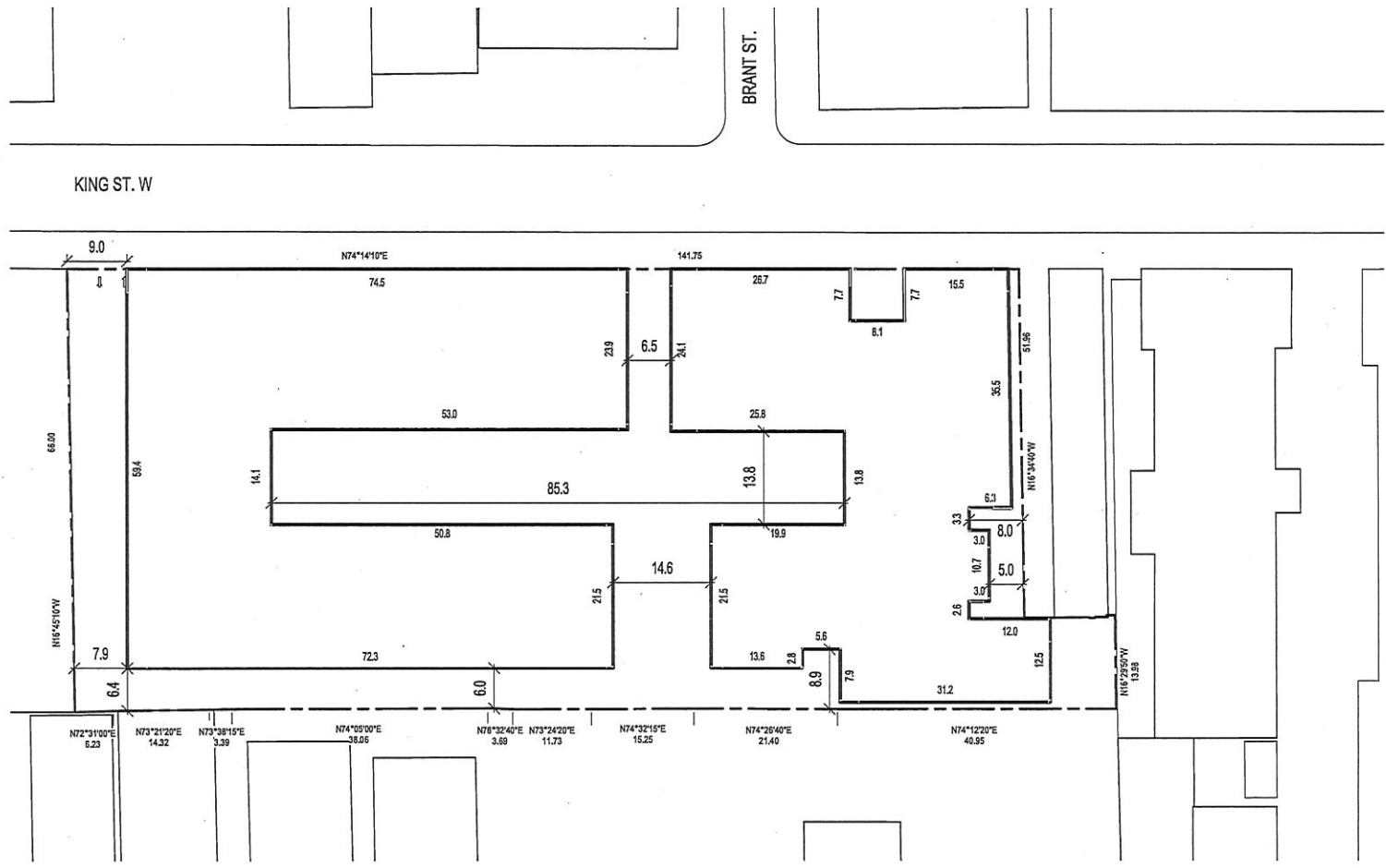
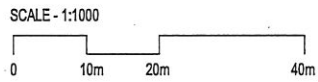
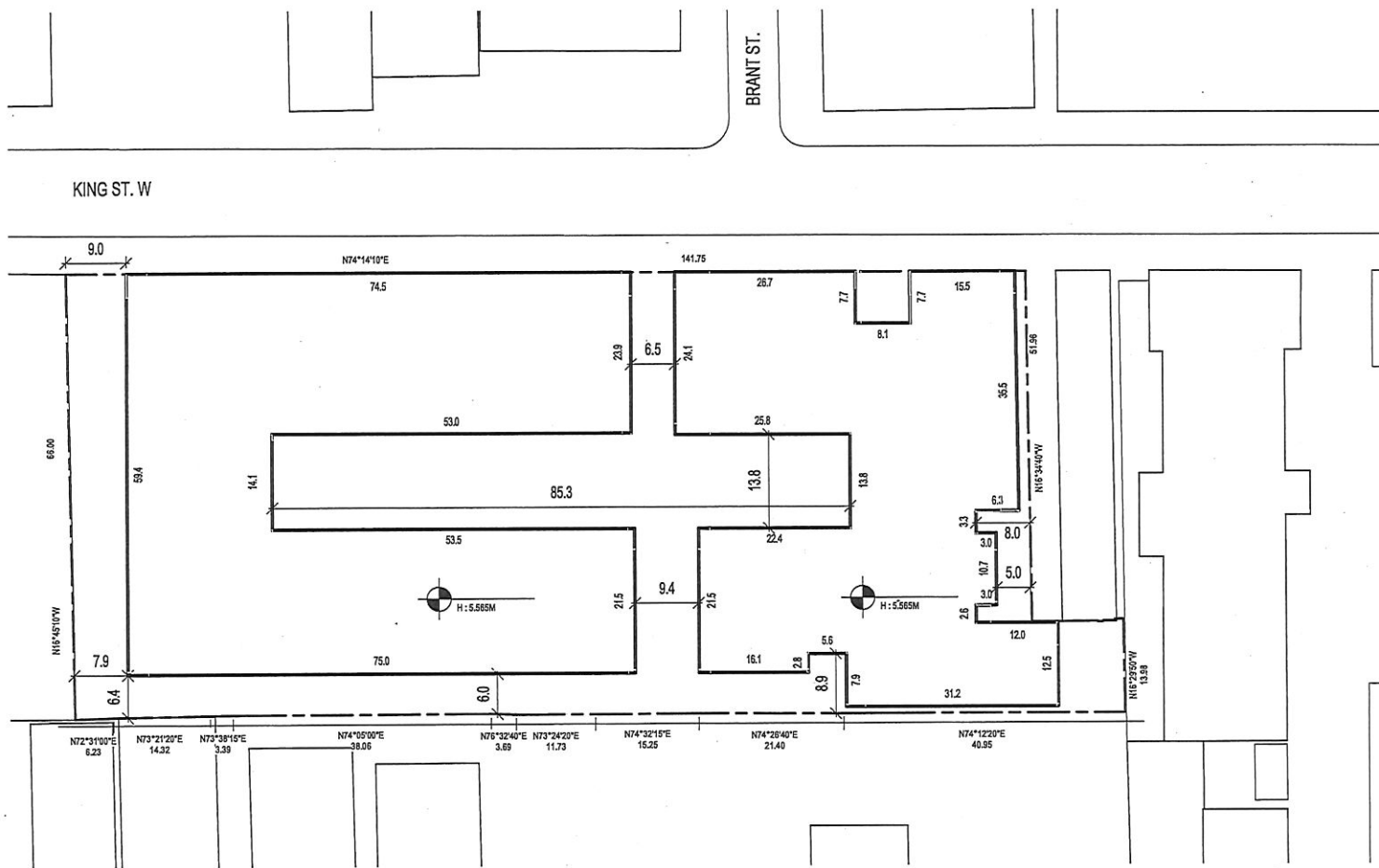


DIAGRAM 6A - FLOOR 01



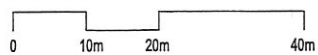


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BRANT ST.

DIAGRAM 6B - FLOOR 02

SCALE - 1:1000



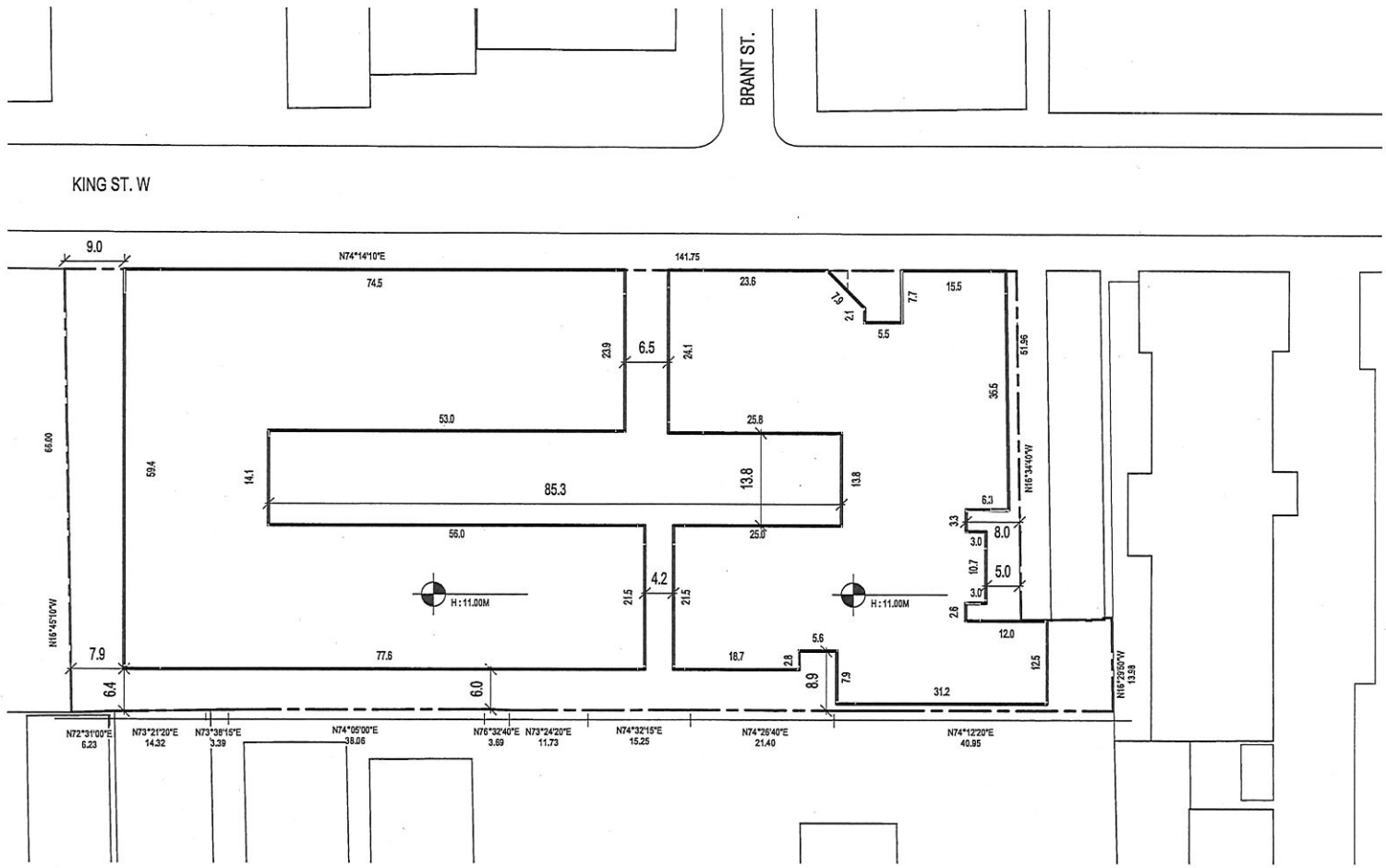
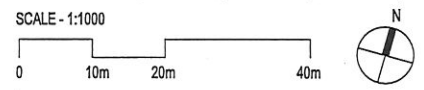
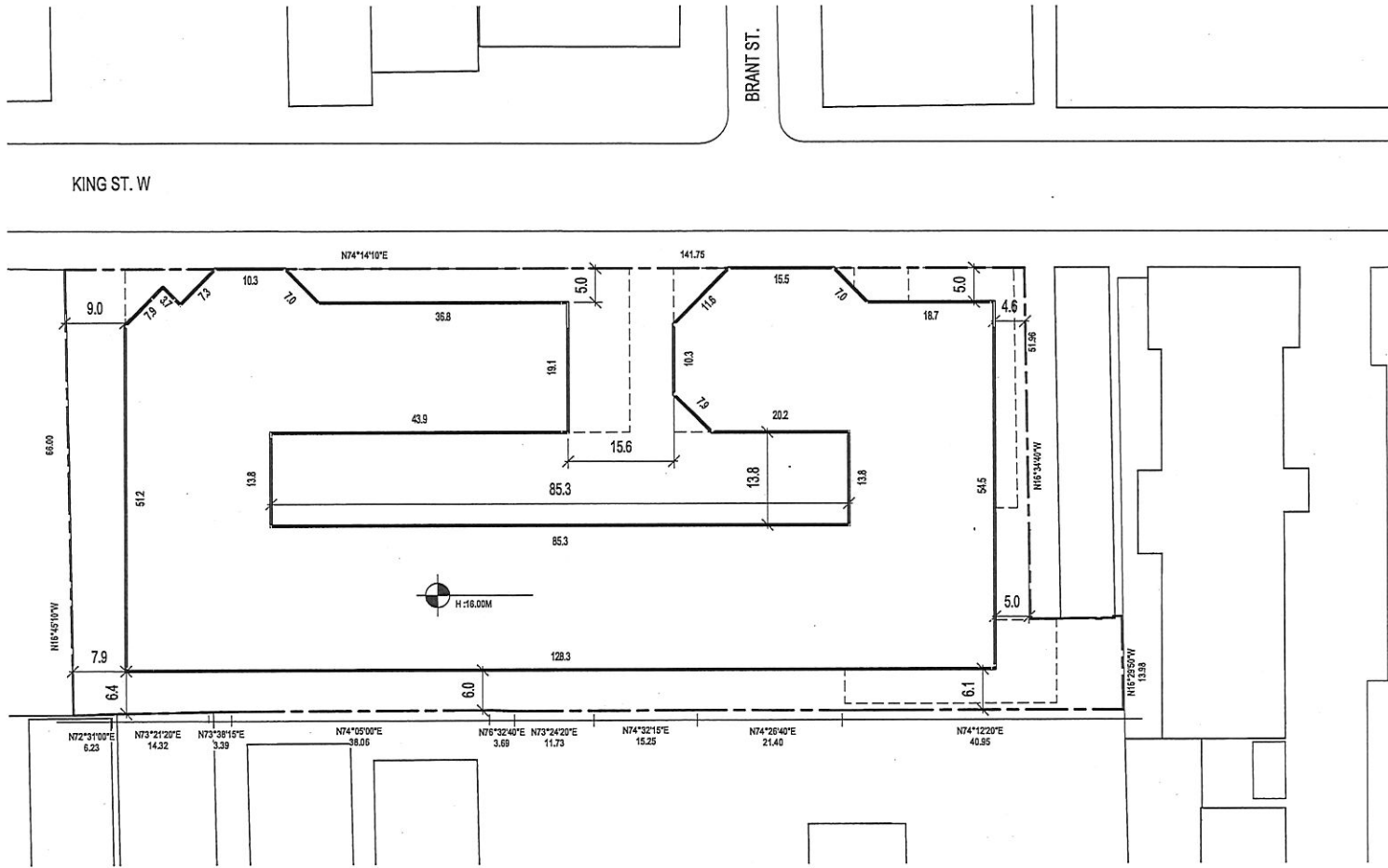


DIAGRAM 6C - FLOOR 03





**DIAGRAM 6D - FLOOR 04**







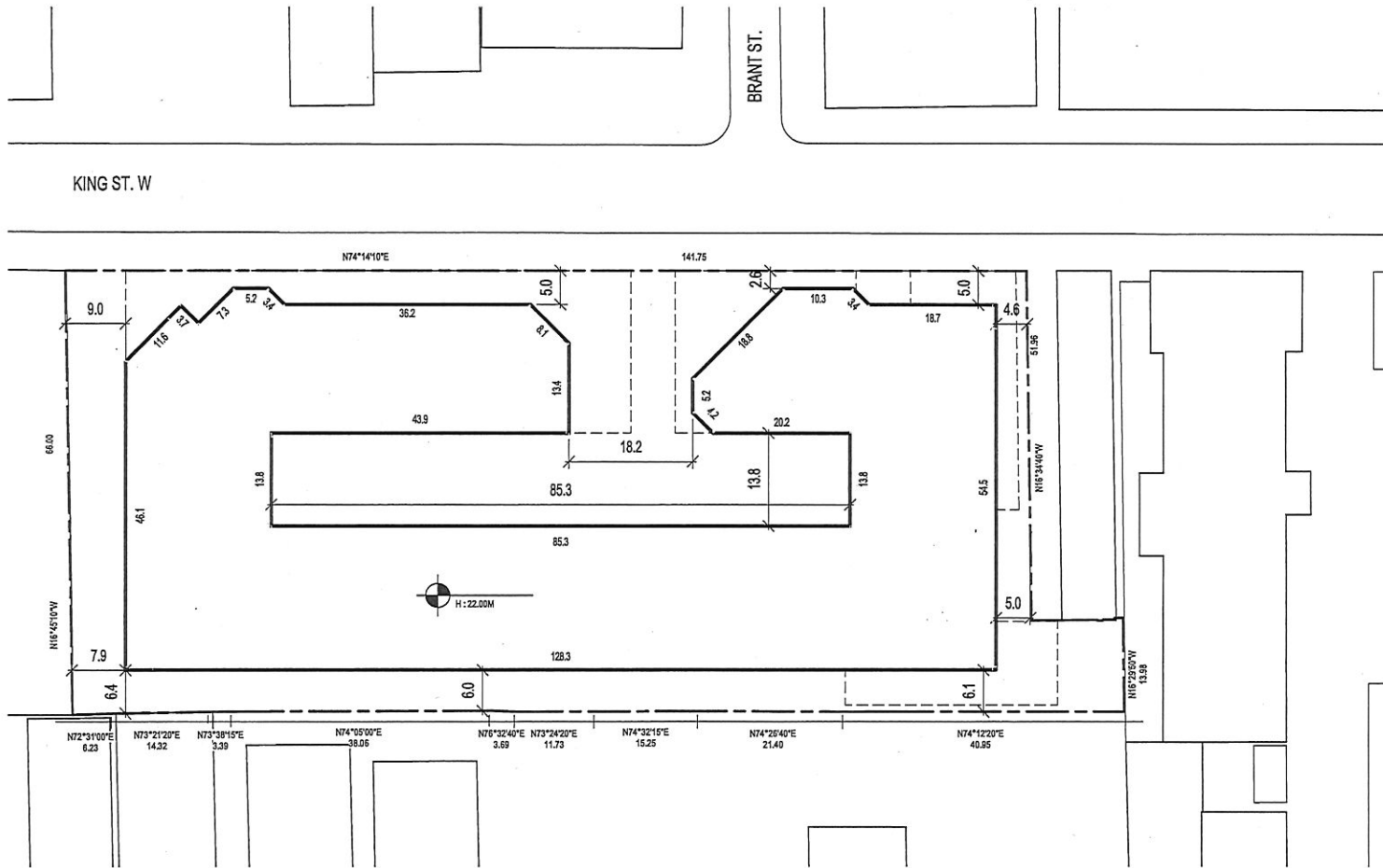
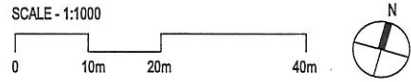


DIAGRAM 6F - FLOOR 06





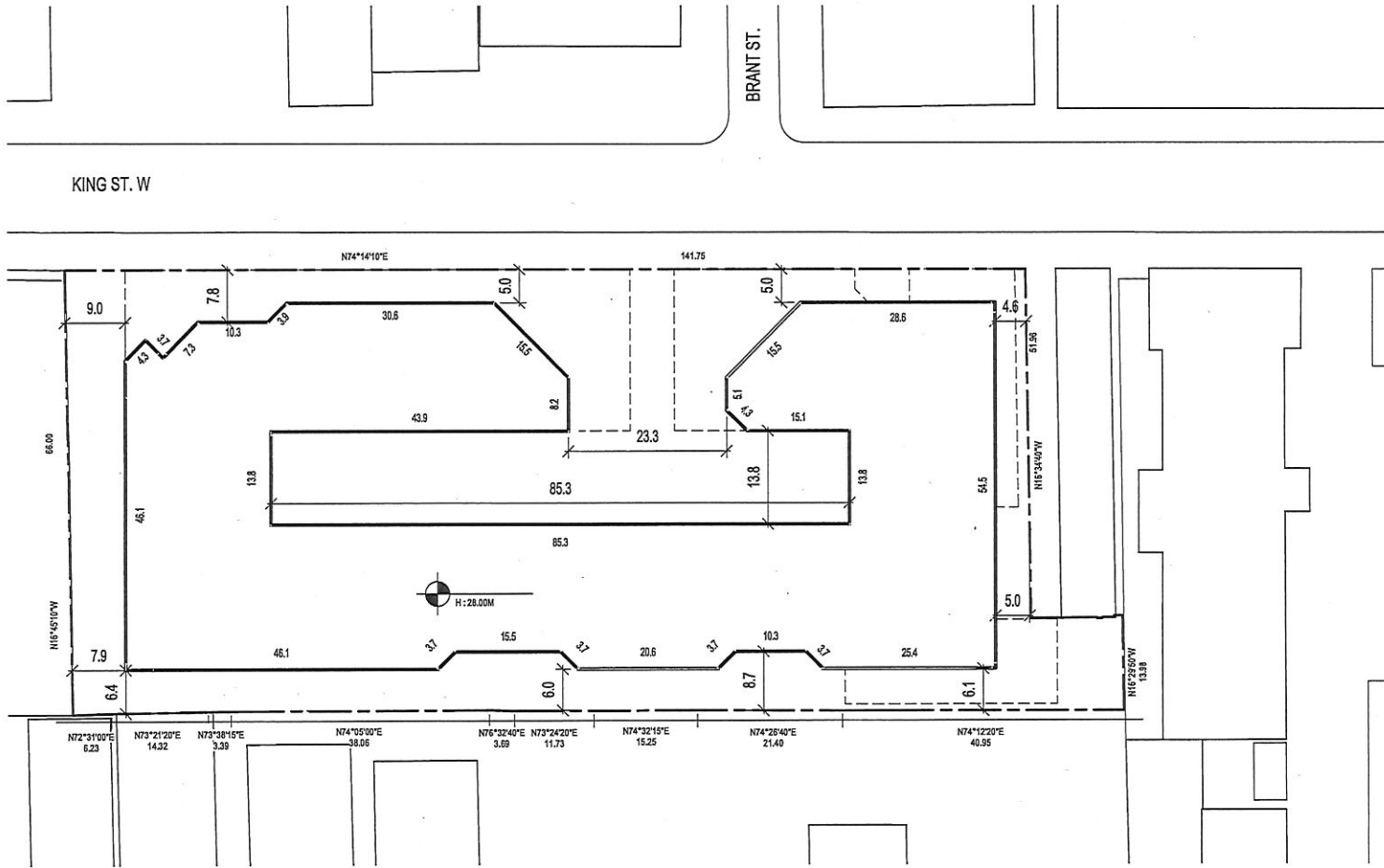
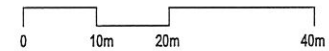


DIAGRAM 6H - FLOOR 08

SCALE - 1:1000



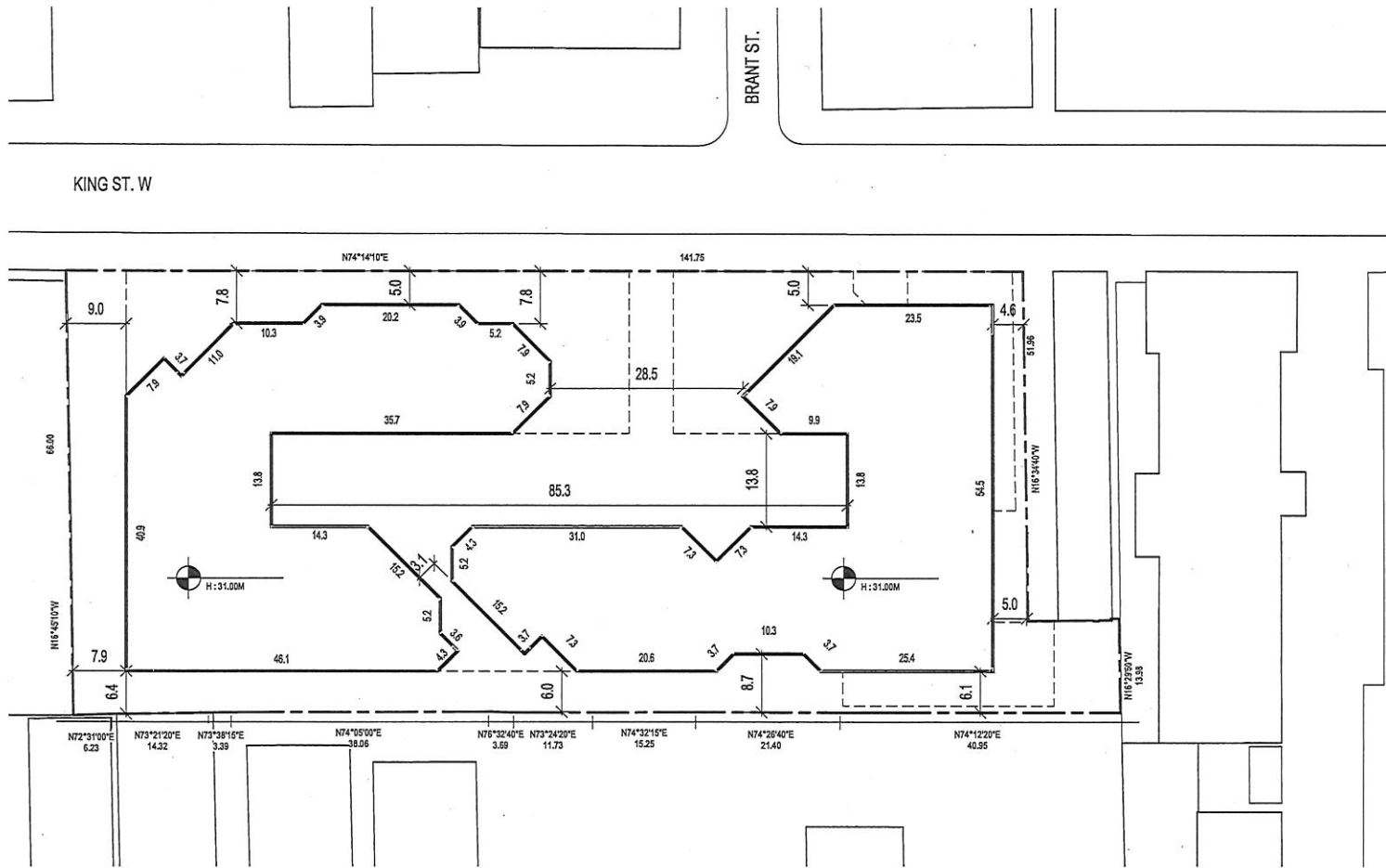
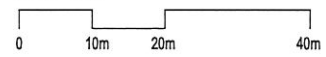
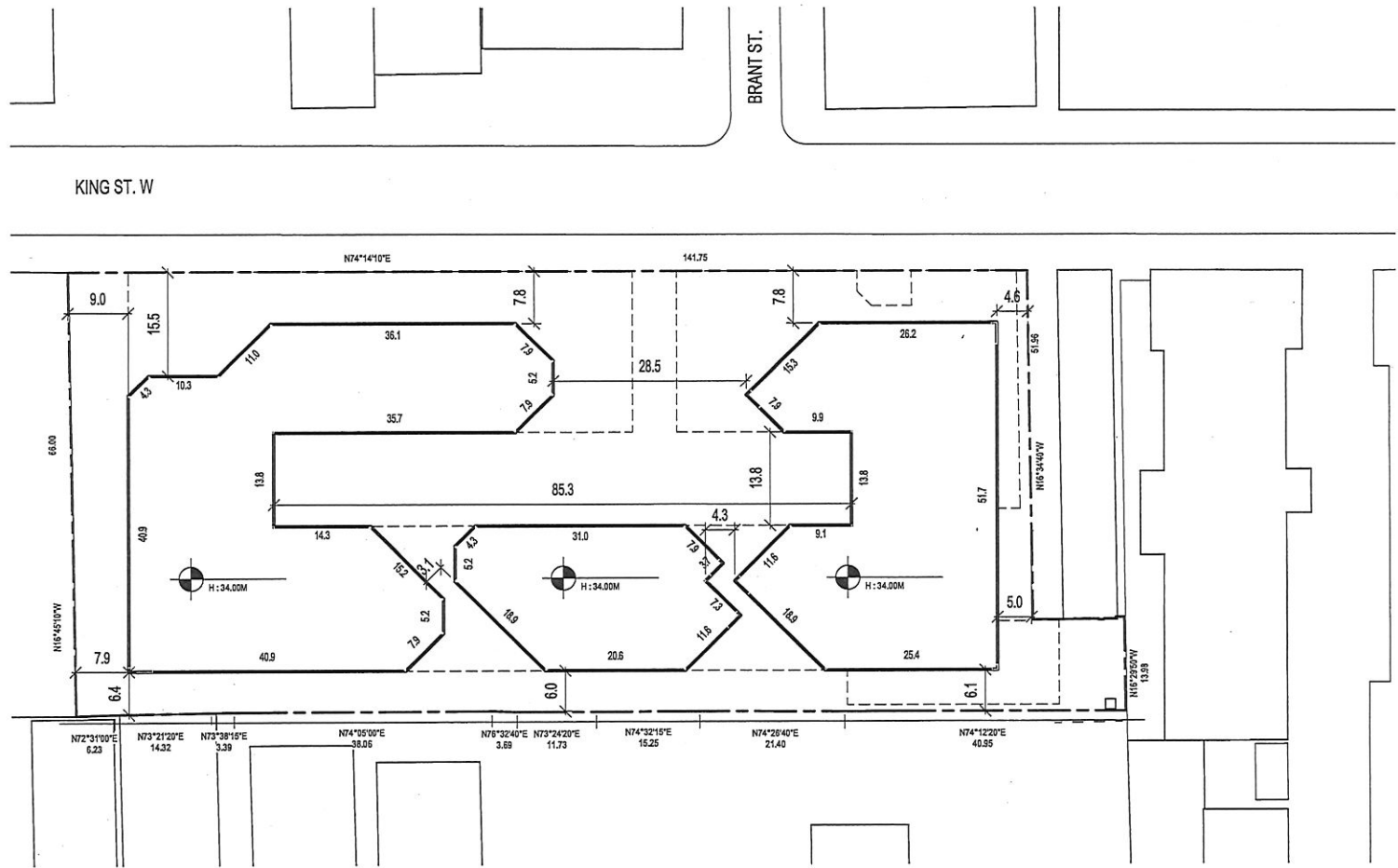


DIAGRAM 6I - FLOOR 09

SCALE - 1:1000



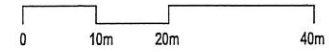


KING ST. W

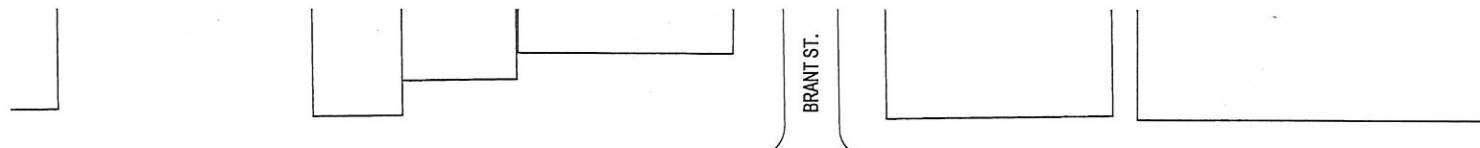
BRANT ST.

DIAGRAM 6J - FLOOR 10

SCALE - 1:1000







KING ST. W

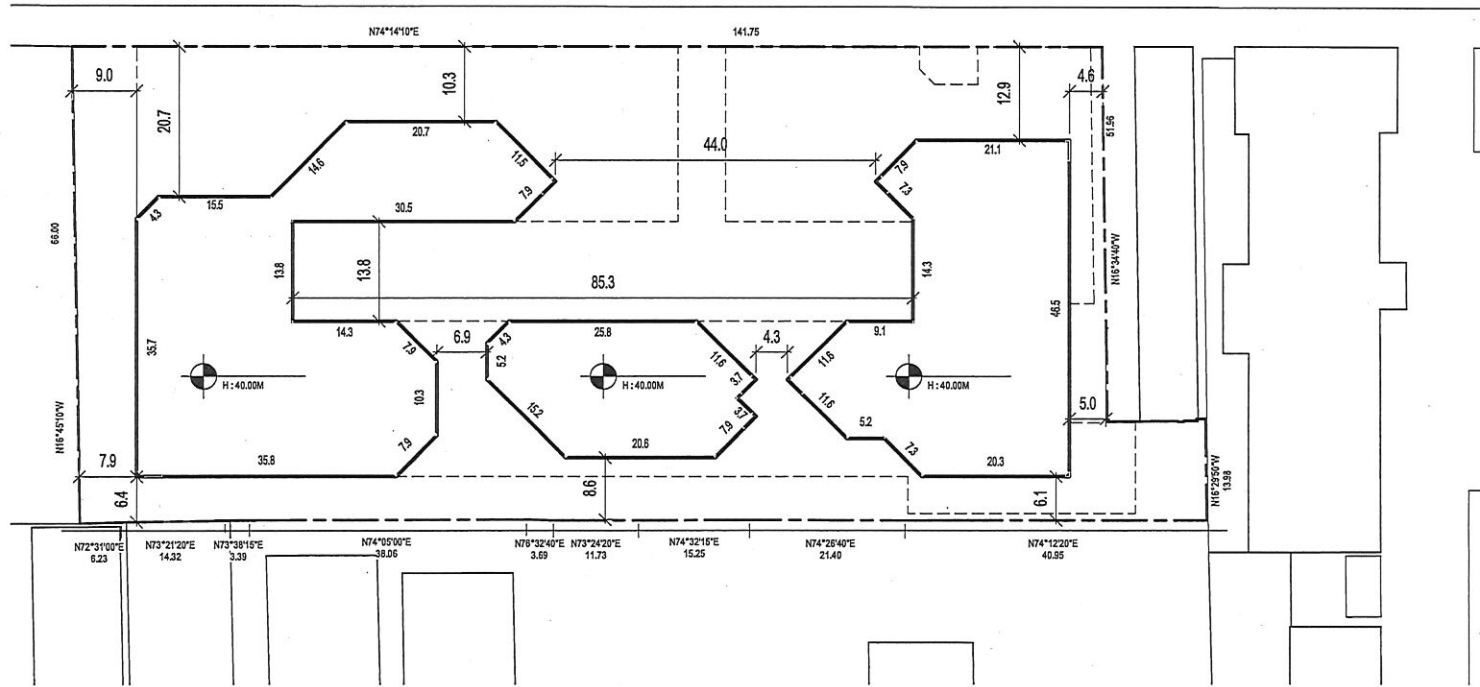
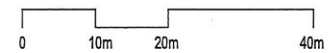


DIAGRAM 6L - FLOOR 12

SCALE - 1:1000





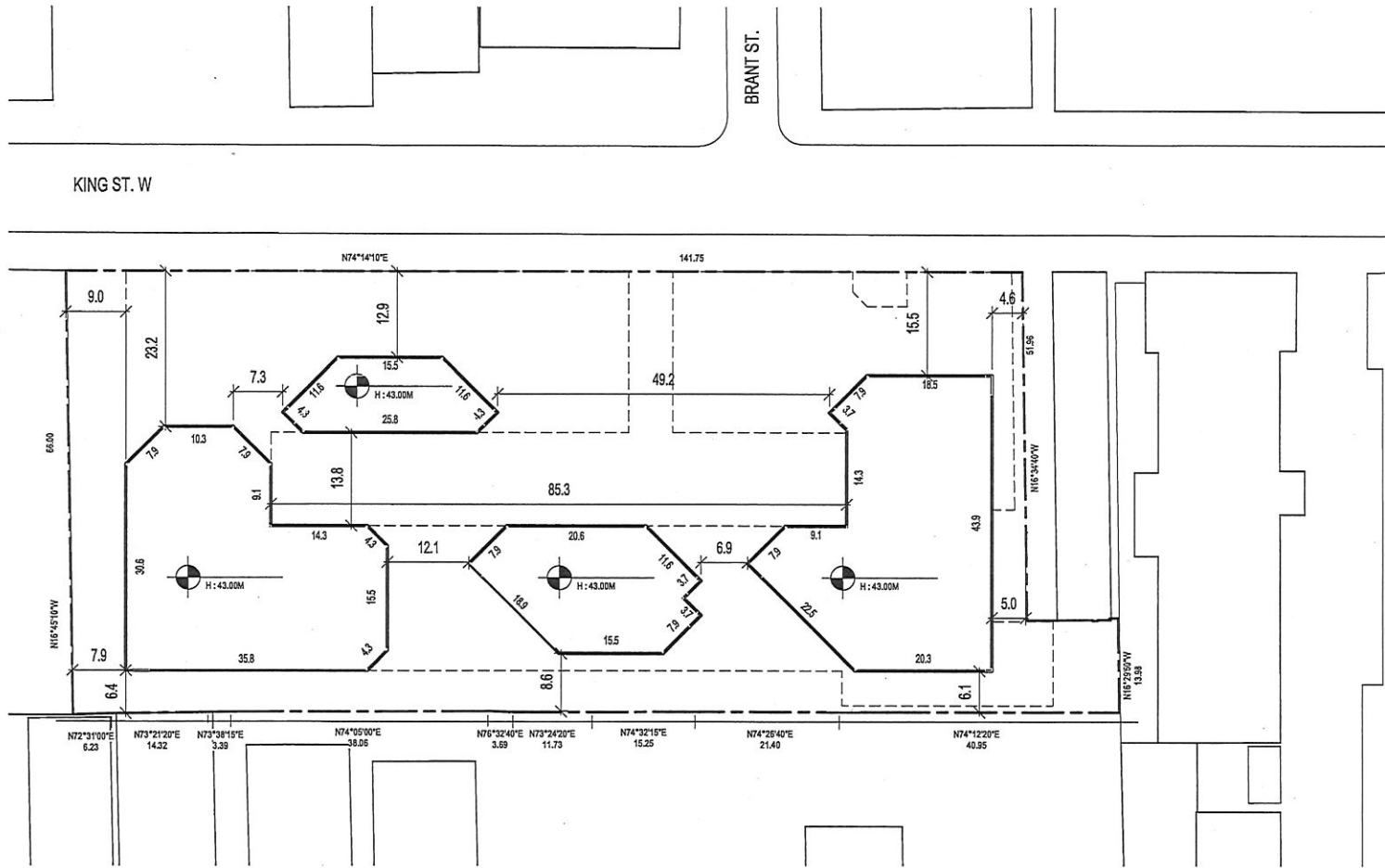
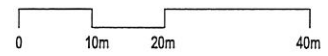


DIAGRAM 6M - FLOOR 13

SCALE - 1:1000







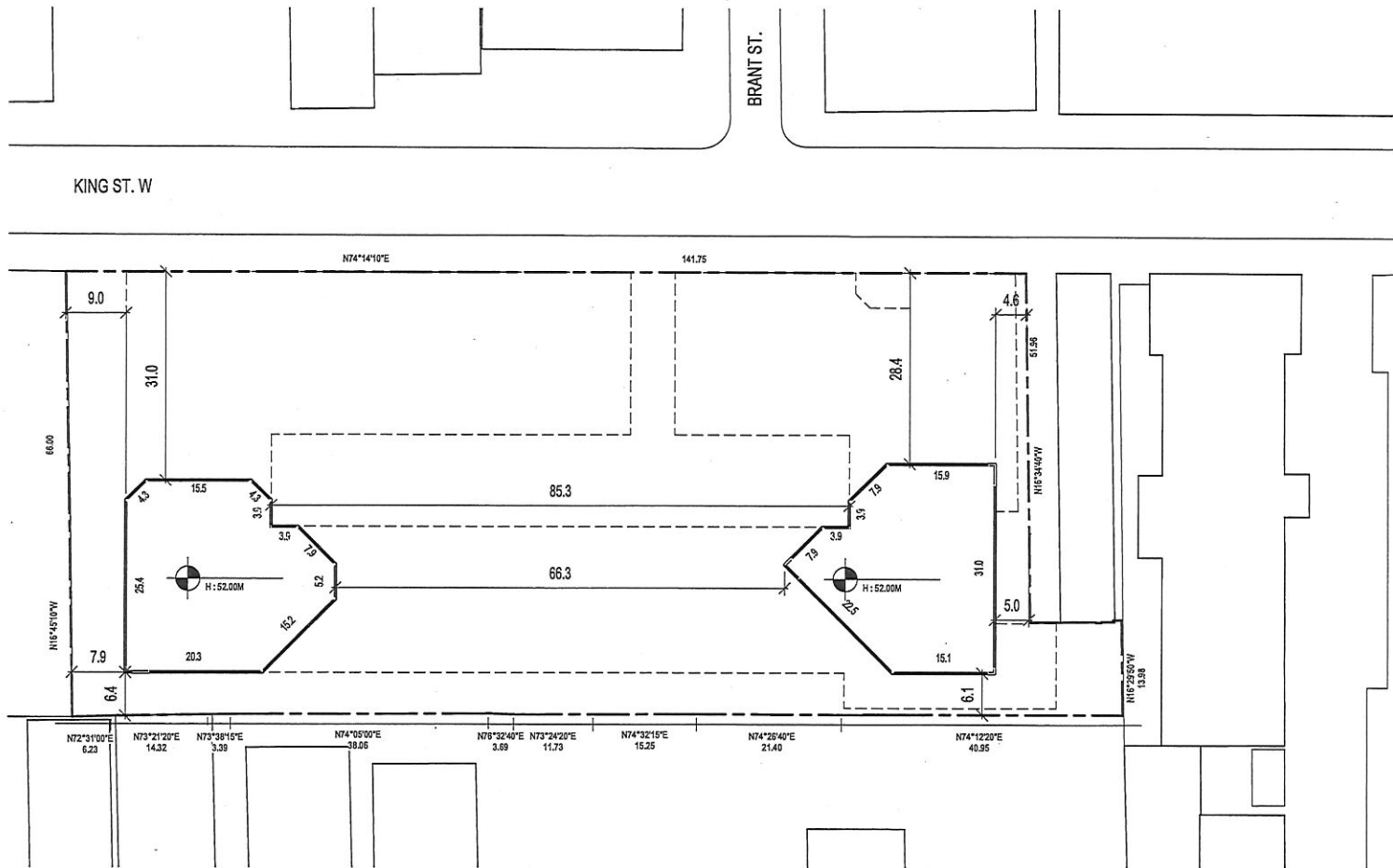


DIAGRAM 6P - FLOOR 16



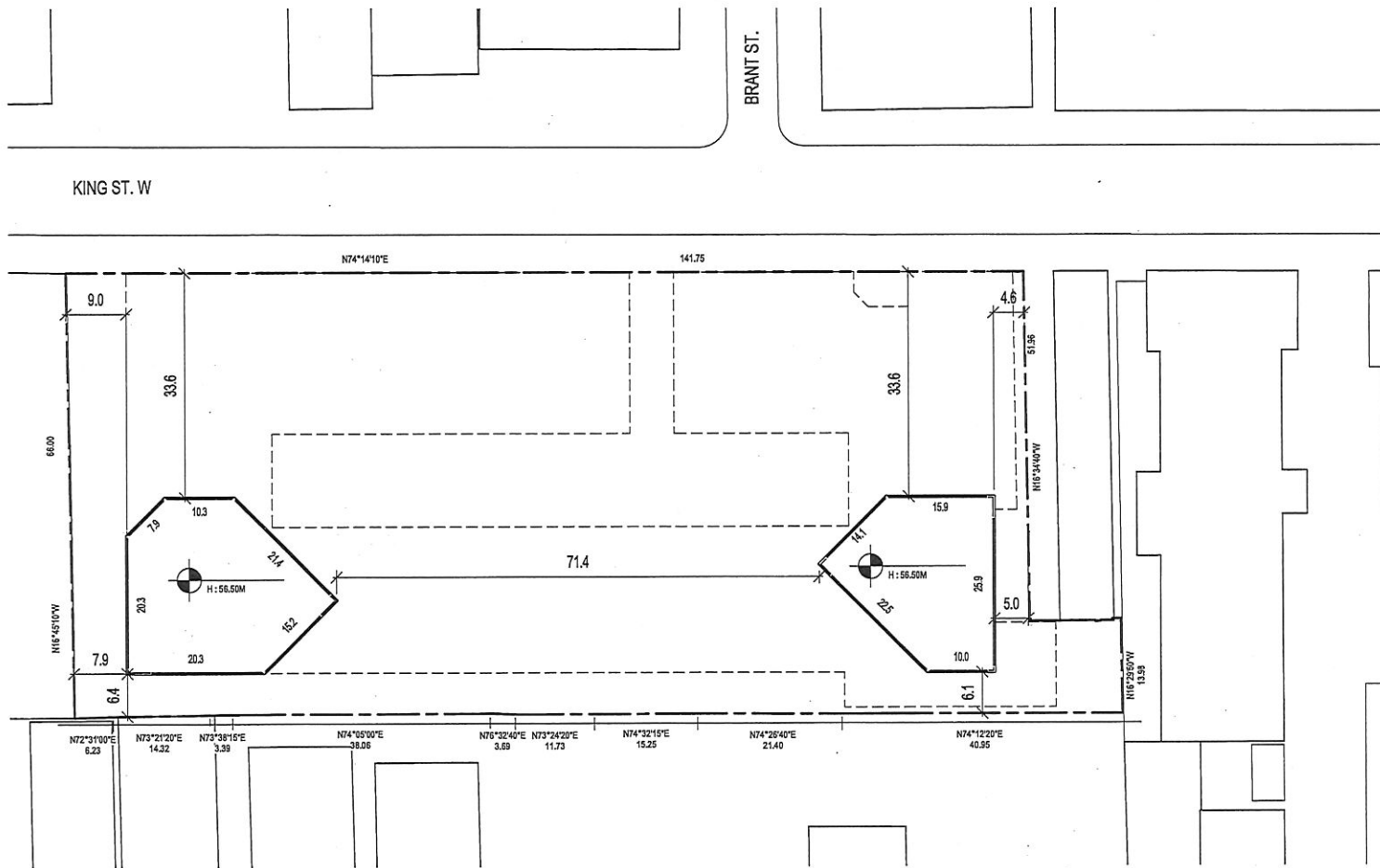


DIAGRAM 6Q - ROOF

