

December 14, 2023

CITY OF NIAGARA FALLS

By-law 2023-XXX

A by-law to amend By-law 79-200, to permit the use of the land for a 20-storey mixed-use development on land legally described as 6285 and 6289 Main Street, and formerly 5619 and 5643 Murray Street, in the Regional Municipality of Niagara, and non-addressed parcels identified as PINs 64350-0136 and 64350-0244 on Plan 59R-10611; Niagara Falls, and as identified on Schedule 1 to this by-law;

WHEREAS the City's Official Plan contains policies to ensure the creation of a high-quality built form and urban environment in the City's tourist districts and to provide the opportunity to approve zoning by-law amendments which permit increases in building heights in return for improvements to the public realm as authorized by Section 37 of the *Planning Act*;

AND WHEREAS pursuant to Section 37 of the *Planning Act*, authority is given to Council to prepare and adopt a Community Benefits Charge by-law pursuant to subsection 37(9) of the Act;

AND WHEREAS Subsection 37(3) of the *Planning Act* provides that, a Community Benefits Charge may be imposed only with respect to development or redevelopment that requires, among other matters, the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;

AND WHEREAS the owner of the lands hereinafter referred to has elected to pay Community Benefits Charges as is hereinafter set forth in the amount of 4% of the Value of the Land that is the subject of the Development or Redevelopment on the day before the first Building Permit is issued in respect of the Development or Redevelopment in return for the increase in height in connection with the aforesaid lands;

AND WHEREAS the Community Benefits Charge otherwise payable shall be reduced on a proportionate basis based on the percentage of the building comprised of the Gross Floor Area for the types of Development or Redevelopment set out in section 1 of Ontario Regulation 509/20 to the Act;

AND WHEREAS Subsection 34(5) of the *Planning Act* provides that the Council of a local municipality may prohibit the use of land or the erection of buildings or structures until such municipal services as maybe set out in a by-law passed under Section 34 of the *Planning Act* are available to service the land, building and structures;

AND WHEREAS City Council has held a Public Meeting to consider these matters, including an increase in height;

AND WHEREAS City Council has adopted Official Plan Amendment No. XXX, which permits the development of one 20 storey tower, inclusive of a mezzanine level but excluding the mechanical penthouse. The total height of the development to is 67 metres

December 14, 2023

excluding the mechanical penthouse, subject to the payment of a Community Benefits Charge pursuant to Subsection 37(32) of the *Planning Act*.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. The Lands that are the subject of and affected by the provisions of this by-law are described in Schedules 1 and 2 of this by-law and shall be referred to in this by-law as the "Lands". Schedules 1 and 2 are a part of this by-law.
2. The purpose of this by-law is to amend the provisions of By-law No. 79-200, to permit the use of the Lands in a manner that would otherwise be prohibited by that by-law. In the case of any conflict between a specific provision of this by-law and any existing provision of By-law No. 79-200, the provisions of this by-law are to prevail.
3. Notwithstanding any provision of By-law No. 79-200 to the contrary, the following uses and regulations shall be the permitted uses and regulations governing the permitted uses on and of the Lands.
4. The regulations governing the permitted uses shall be:

i.	Minimum lot area:	the whole of the Lands, save and except for any part required for road widening
ii.	Minimum front yard depth:	Refer to Schedule 2 and clause (vii) of this section
iii.	Minimum rear yard depth:	Refer to Schedule 2 and clause (vii) of this section
iv.	Minimum interior side yard depth:	Refer to Schedule 2 and clause (vii) of this section
v.	Minimum exterior side yard width:	Refer to Schedule 2 and clause (vii) of this section
vi.	Maximum lot coverage	33%

vii.	Maximum height of building or structure as shown on Schedule 2 attached hereto:	67 metres and a maximum of 20 storeys, not including the mechanical penthouse or mezzanine level
viii.	Location of buildings or structures, their maximum height and maximum number of storeys and minimum yards:	Refer to Schedule 2 and clause (vii) of this section
ix.	Minimum landscaped open space:	10% of the lot area
x.	Minimum number of parking spaces:	0.92 parking spaces for each dwelling unit
xi.	The balance of regulations specified for a R5F use.	

5. The owner of the Lands is required pursuant to pay Community Benefits Charges in the amount of 4% of the Value of the Land that is the subject of the Development or Redevelopment on the day before the first Building Permit is issued in respect of the Development or Redevelopment in return for the increase in height in connection with the aforesaid lands.
6. The Community Benefits Charge otherwise payable shall be reduced on a proportionate basis based on the percentage of the building comprised of the Gross Floor Area for the types of Development or Redevelopment set out in Section 1 of Ontario Regulation 509/20 to the Act.
7. The height of the buildings or structures permitted by section 5 of this by-law shall only be permitted subject to payment of the Community Benefits Charges described in clauses 6 and 7 of this by-law.
8. All other applicable regulations set out in By-law No. 79-200 shall continue to apply to govern the permitted uses on the Lands, with all necessary changes in detail.
9. No person shall use the Lands for a use that is not a permitted use.
10. No shall use the Lands in a manner that is contrary to the regulations.

December 14, 2023

11. The provisions of this by-law shall be shown on Sheet C5 and Sheet D5 of Schedule "A" of By-law No. 79-200 by redesignating the Lands from TC to RF5-XXX.

12. Section 19 of By-law 79-200 is amended by adding thereto:

19.1.XXXX Refer to By-law No. 2023-XXX

Read a First, Second and Third time; passed, signed and sealed in open Council this ____ day of _____, 202X.

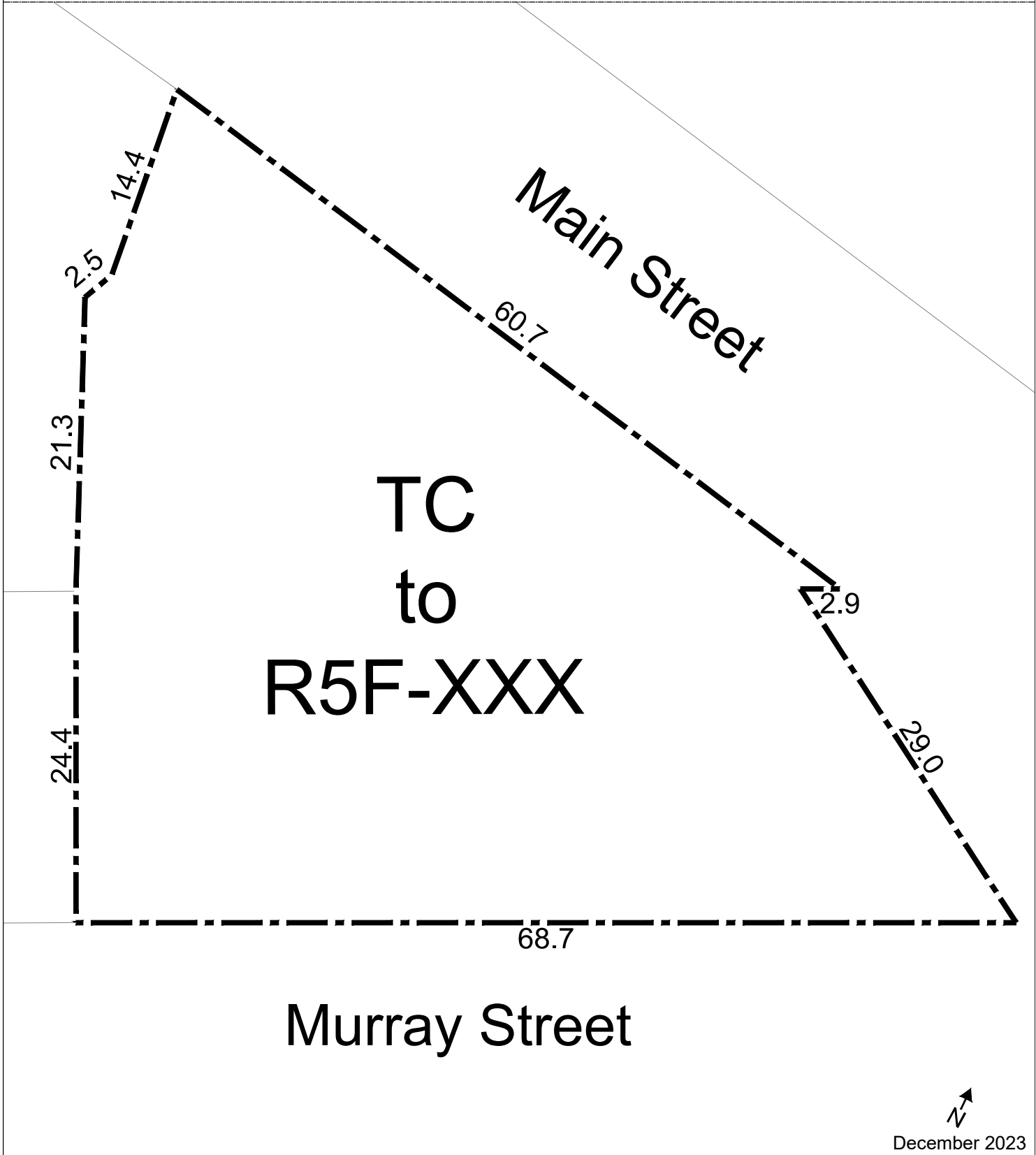
.....
WILLIAM G. MATSON, CITY CLERK

.....
JAMES M. DIODATI, MAYOR

Schedule '1' to Zoning By-law 2023-XXX

--- Subject Lands

6285 & 6289 Main Street and formerly 5619 & 5643 Murray Street

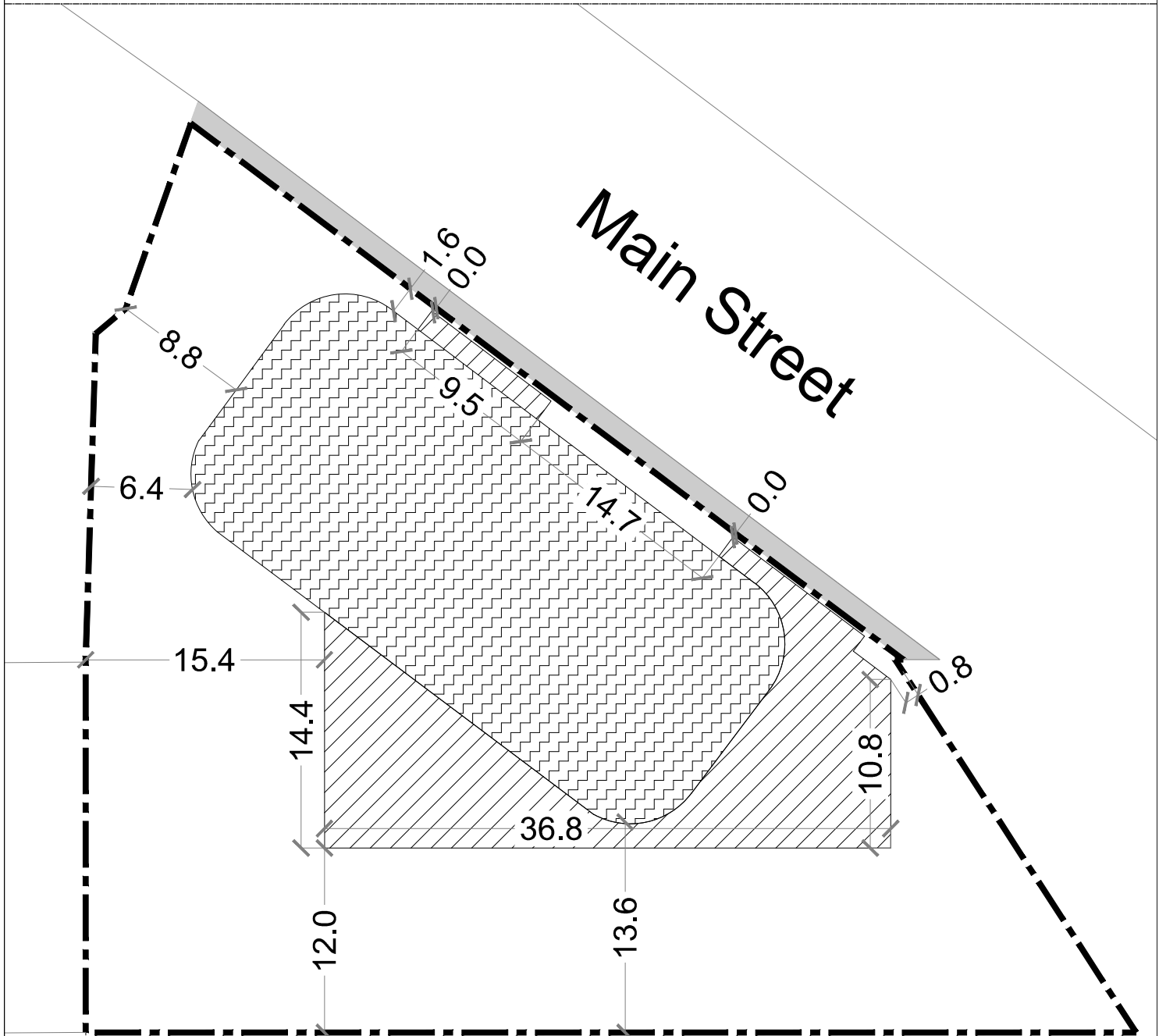


Schedule '2' to Zoning By-law 2023-XXX

--- Subject Lands

■ 1.44m Road Widening

6285 & 6289 Main Street and formerly 5619 & 5643 Murray Street



Maximum No. of Storeys

▨ 1 Storey (9.3m)

▤ 20 Storeys (67.5m)

NOTE: A mezzanine and mechanical penthouse are not considered a storey

Murray Street



December 2023