

Authority: Toronto and East York Community Council Item TE23.6, adopted as amended, by City of Toronto Council on April 26, 27 and 28, 2017

## CITY OF TORONTO

### BY-LAW 1106-2017

**To amend Zoning By-law 569-2013, as amended with respect to lands municipally known as 571 to 597 Bloor Street West, 738 to 754 and 760 Bathurst Street, 28 to 34 Lennox Street, 581 to 603 Markham Street and 588 to 610 Markham Street.**

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 the Official Plan for the City of Toronto contains such 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 or 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 lands elects to provide facilities, services or matters, in return for an increase in height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality in respect of 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; and

Whereas pursuant to Section 39 of the *Planning Act*, 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 by the by-law;

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 same meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 with respect to the lands outlined in heavy lines to CR(x124) and OR(x15), as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2103, as amended, is further amended by adding to Article 900.11.10 Exception Number 124:

**Exception CR 124**

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

Site Specific Provisions:

- (A) On the lands shown as CR (124) on Diagram 2 to By-law 1106-2017 none of the provisions of 5.10.40.70.(1) to (4), 40.5.40.10(4) and (5), 40.10.20.40, 40.10.20.100(1), (6), (16), (17), (21) and (28), 40.10.40.1(1), (2), (3) and (6), 40.10.50.10, 40.10.90.40, 40.10.100.10, 150.5.20.1(1)(A)(B), (2) and (6), 150.50.50, 200.5.1.10(12)(C), 200.10.1(1) and (2), 900.11.10(2436), (2439) and (1438) shall apply to prevent the erection or use of land, **buildings** or **structures** on the lands if in compliance with regulations (B) to (PP) below and Section 6 and Schedule A of By-law 1106-2017;
- (B) The **lot** comprises the lands identified by heavy lines on Diagram 1 attached to By-law 1106-2017 and zoned CR;
- (C) If an **eating establishment** or **retail store** includes a brewpub, more than 50 percent of the total **interior floor area** of the **eating establishment** or **retail store** may be brewing space to a maximum of 5,000 square metres;
- (D) Despite regulation 40.10.20.20, the outdoor sales or display of goods and commodities is not subject to regulation 40.10.20.100(20)(B) and (C);
- (E) Despite regulation 40.10.20.20, if a **vehicle washing establishment** is located inside a **building** and below ground, the provisions of regulations 150.96.20.1(2) and (3) do not apply;
- (F) For the purpose of this exception bicycles are not **vehicles**;
- (G) For the purpose of this exception **average grade** means an elevation of 113.5 metres Canadian Geodetic Datum;
- (H) Despite regulation 40.10.40.40, the total **gross floor area** of all **buildings** and **structures** must not exceed 78,450 square metres, of which, the **gross floor area** occupied by residential uses must not exceed 60,550 square metres;
- (I) A minimum of 40 percent of the total **dwelling units** on the **lot** will contain two or three bedrooms in accordance with Schedule A of By-law 1106-2017;
- (J) A minimum of 10 percent of the total number of **dwelling units** on the **lot** will contain three or more bedrooms in accordance with Schedule A of By-law 1106-2017;
- (K) In addition to the provisions of regulation 40.5.40.40, the following areas of a **building** are not also not included in the calculation of **gross floor area**:

- (i) Indoor **amenity space**;
  - (ii) The area of **buildings** or portions of **buildings** subject to a height limit of 15.0 metres as shown on Diagram 4 attached to By-law 1106-2017;
  - (iii) The area occupied by decorative piers and columns; and
  - (iv) The **interior floor area** of any uses operated within an outdoor open air market;
- (L) At least 10 commercial units in a **building** are provided at the ground floor level subject to the following:
- (i) each commercial unit is limited to a maximum **interior floor area** of 50 square metres; and
  - (ii) each commercial unit may only be occupied by permitted non-residential uses;
- (M) Within the areas on the **lot** subject to a height limit of 15.0 metres on Diagram 4 and Diagram 5 attached to By-law 1106-2017 the **interior floor area** of a **eating establishment, take-out eating establishment, place of assembly** or **club** must not exceed 300 square metres, except that two such **eating establishment, take-out eating establishment, place of assembly** or **club** may exceed this maximum;
- (N) The ground floor area of any commercial unit fronting on Bathurst Street or Bloor Street West and occupied by a retail or service use must not exceed a maximum width of 12 metres, for a depth of not less than 7.5 metres as measured from the front **main wall** of the commercial unit, with the exception that up to two commercial units may have a width in excess of 12 metres;
- (O) The portion of a **building** in each of Tower Zones 01, 3A, and 03B, as shown on Diagram 3 attached to By-law 1106-2017 and located above a height of 33 metres measured from **average grade**, is permitted a maximum floorplate size of 600 square metres;
- (P) The portion of a **building** in Tower Zone 04, as shown on Diagram 3 attached to By-law 1106-2017 and located above a height of 37 metres measured from **average grade** is permitted a maximum floorplate size of 600 square metres;
- (Q) The portion of a **building** in Tower Zone 02, as shown on Diagram 3 attached to By-law 1106-2017 and located above a height of 18.5 metres measured from **average grade** is permitted a maximum floorplate size of 500 square metres;
- (R) For the purpose of this By-law the term floorplate means the total area of a floor of a **building** measured from the exterior of the **main wall** of the floor level, excluding the areas occupied by decorative piers and columns and including voids at the level of the floor, such as an atrium, mezzanine, stairwell, escalator, elevator, ventilation duct or utility shaft;

- (S) Despite all of regulations 40.5.40.60, 40.10.40.60, 40.10.40.70 and 40.10.40.80 no portion of any **building** or **structure** above-ground is located other than wholly within the areas delineated by heavy lines on Diagrams 3, 4, 5 and 6 attached to By-law 1106-2017 with the exception of the following:
- (i) cornices, sills, eaves, window washing equipment, railings, balustrades, awnings, piers and sun-shades, to a maximum horizontal projection of 0.5 metres beyond the heavy lines;
  - (ii) balconies to a maximum horizontal projection of 2.5 metres beyond the heavy lines;
  - (iii) canopies including supporting structures, covered walkways, privacy screens, planters, stairs, enclosed stairs, awnings, fences, lighting, bollards, safety railings, trellises, guards, guardrails, retaining walls, wheel chair ramps, bicycle parking facilities, ornamental or architectural features, landscape features, facilities accessory to a day nursery and art installations;
  - (iv) pedestrian bridges linking portions of **buildings** on Diagram 5 to portions of **buildings** on Diagram 6 as attached to By-law 1106-2017 to a maximum height of 10.5 metres, measured between finished ground level and the highest point of the bridge;
  - (v) elements and enclosures permitted by regulation (T) below; and
  - (vi) where the **main wall** of a **building** or a portion of a **building** within the heavy lines shown on Diagram 4 attached to By-law 1106-2017 as located north of the lands zoned OR as shown on Diagram 2, has windows or openings, the **main wall** must be set back at least 7.0 metres from a **lot line** that is not adjacent to a **street**, a **lane** or lands zoned OR;
- (T) Despite regulations 40.5.40.10 and 40.10.40.10, the height of each portion of a **building** or **structure** is measured as the vertical distance between **average grade** to the highest point of the **building** or **structure**, and must not exceed the height in metres as specified by the numbers following the symbol H as shown on Diagrams 4, 5 and 6 attached to By-law 1106-2017 except for the following projections:
- (i) elements and enclosures permitted by regulation (S) above;
  - (ii) **structures** on any roof used for outdoor residential **amenity space** or open air recreation, maintenance, safety, wind or **green roof** purposes to a maximum vertical projection of 3.0 metres above the height limits shown on Diagrams 4, 5 and 6;
  - (iii) elevator overruns and related enclosures to a maximum of 1.5 metres above **buildings** heights of 80.0 metres and 60.5 metres as shown on Diagram 5 attached to By-law 1106-2017; and
  - (iv) parapets, chimneys, vents and stacks;

- (U) Despite regulation 40.10.40.50, a minimum of 3.0 square metres per **dwelling unit** of **amenity space** must be provided and maintained in accordance with the requirements of Schedule A of By-law 1106-2017 and the following:
- (i) at least 1.5 square metres for each **dwelling unit** is indoor **amenity space**;
  - (ii) at least 40 square metres of outdoor **amenity space** must be in a location adjoining or directly accessible to the indoor **amenity space**; and
  - (iii) except for a **premises** exclusively used as an **eating establishment** or **retail store**, a total maximum of 1,000.00 square metres of **amenity space** may be provided within the **premises** of a non-residential use, if it is accessible to members of the public;
- (V) In addition to regulation 800.50(15), **amenity space** may also be available to guests and visitors of a **building**;
- (W) **Parking spaces** for residents must be provided and maintained in accordance with the following minimum requirements:
- (i) 0.15 **parking spaces** for each bachelor **dwelling unit** or **dwelling unit** occupied by a home occupation;
  - (ii) 0.27 **parking spaces** for each one bedroom **dwelling unit**; and
  - (iii) 0.43 **parking spaces** for each **dwelling unit** containing two bedrooms;
  - (iv) 1.0 **parking spaces** for each **dwelling unit** containing three or more bedrooms; and
  - (v) despite (i) to (iv) above, no **parking spaces** are required for **dwelling units** secured as affordable rental housing in an agreement with the City of Toronto, in accordance with Schedule A of By-law 1106-2017;
- (X) **Parking spaces** for all other uses within a **building** or **structure** must be provided in accordance with the following minimums, where parking period AM means 6 a.m. to Noon, PM means Noon to 6 p.m. and Eve. means 6 p.m. to 6 a.m.:
- (i) Day nursery: 0.4 **parking spaces** for each 100 square metres of **gross floor area** in accordance with the following parking occupancy rates of AM:100 percent, PM:100 percent and EVE:50 percent;
  - (ii) all other non-residential uses: 1.0 **parking space** for each 100 square metres of gross floor area in accordance with the following parking occupancy rates of AM:20 percent, PM:100 percent and EVE:100 percent; and
  - (iii) residential visitors: 0.06 **parking spaces** for each **dwelling unit** in accordance with the following parking occupancy rates of AM:10 percent, PM:35 percent and EVE:100 percent;

- (Y) Despite regulation X above, no **parking spaces** are required for **retail stores** operated in an outdoor open air market; **eating establishments** and **take-out eating establishments**;
- (Z) Despite regulations 200.5.10.1(1), (4) and (6), the minimum number of **parking spaces** as required by regulation Y above is determined as follows:
- (i) for each of the morning, afternoon and evening parking periods identified in the table above, the minimum number of **parking spaces** required for each use, is calculated using the respective **parking space** rate and occupancy rate;
  - (ii) the minimum number of **parking spaces** required for each parking period is the total of the **parking spaces** required for all uses during that parking period; and
  - (iii) the minimum number of **parking spaces** required is equal to the largest number of **parking spaces** required for any parking period;
- (AA) For each car-share **parking space** provided, the minimum number of **parking spaces** for residents required by regulation W above may be reduced by four **parking spaces**, up to a maximum reduction as calculated by the following formula:  $4 \times (\text{the total number of dwelling units divided by } 60)$ , rounded down to the nearest whole number;
- (BB) 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 car-sharing organization and such car-share motor **vehicles** are made available to at least the occupants of a **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;
- (CC) Despite regulation 200.5.1.10(2)(A)(iv) and (D):
- (i) a maximum of 15 percent of the total number of **parking spaces** provided do not have to comply with regulation 200.5.1.10(2)(A)(iv), despite that such **parking spaces** are obstructed in accordance with regulation 200.5.1.10(2)(D); and
  - (ii) provided, the total number of **parking spaces** obstructed on two sides in accordance with 200.5.1.10(2)(D) does not exceed 5 percent of the total number of provided **parking spaces**;
- (DD) Despite regulation 40.5.80.1, the **parking spaces** required by regulation X above, may be provided on a non-exclusive basis and may be provided within a **public parking** facility;

- (EE) Despite regulation 40.5.80.10, **parking spaces** must be on the same **lot** as the use for which the **parking space** is required and or may be located on any or all of the lands municipally known as 756 and 758 Bathurst Street in the year 2016;
- (FF) Despite regulation 220.5.10 a total of 8 **loading spaces** must be provided on the **lot**, comprised of 1 Type "G" **loading space**, 3 Type "B" **loading spaces** and 4 Type "C" **loading spaces**;
- (GG) Despite regulation 220.5.20.1(2), the permitted maximum slope of a **driveway** leading to any **loading space** is 15 percent;
- (HH) **Bicycle parking spaces** provided in an automated bike parking facility are not subject to regulation 230.5.1.10 (4);
- (II) Despite regulation 200.15, the following regulations apply to accessible **parking spaces**:
- (i) an accessible **parking space** must have the following minimum dimensions:
    - (a) Length of 5.6 metres;
    - (b) Width of 3.9 metres; and
    - (c) Vertical clearance of 2.1 metres;
  - (ii) accessible **parking spaces** must be the **parking spaces** located:
    - (a) closest to a pedestrian access to a building; and
    - (b) at the same level as the pedestrian entrance to the building;
  - (iii) clearly identified accessible **parking spaces** must be provided on the **lot** at a rate of 4 **parking spaces** plus 1 **parking space** for every 50 **parking spaces** or part thereof in excess of 100 **parking spaces**, in compliance with the minimum dimensions set out in (i) above;
- (JJ) Despite any existing or future severance, partition or division of the lands shown as CR(x124) on Diagram 2 to By-law 1106-2017, the provisions of this Exception and By-law 569-2013, as amended apply to the whole of the lands as one **lot** as if no severance, partition or division had occurred.

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

5. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.42.10 Exception Number 15:

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

## Site Specific Provisions:

- A. On the lands identified as OR(x15) on Diagram 2 to By-law 1106-2017, in addition to the uses permitted under regulation 90.30.20.10, and despite any regulations of By-law 569-2013 as amended to the contrary, the following are also permitted uses:
- (i) pedestrian access, patios and loading activities ancillary to the lands identified as CR(x124) on Diagram 2 to By-law 1106-2017;
  - (ii) construction staging activities ancillary to the lands identified as CR(x124) on Diagram 2 to By-law 1106-2017 including the erection and use of **buildings, structures** or trailers used for the purpose of a construction management office, parking and materials storage; and
  - (iii) regulation 90.30.40.70 does not apply to a **building, structure** or trailer used for the purpose of a construction management office.

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

## 6. Section 37 Provisions

- A. Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown as CR (x124) on Diagram 2 of 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 A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands to the satisfaction of the City Solicitor;
- B. Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- C. The owner must not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to Exception CR 124 of By-law 569-2013, as amended, unless the provisions of Schedule A of such By-law are satisfied.

Enacted and passed on October 4, 2017.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)



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

The facilities, services and matters set out below are required to be provided by the owner at their expense to the City in accordance with one or more agreements pursuant to section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement in return for the increase in height of the proposed development on the lands as shown on Map 1 of this By-law and as 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 the first above-grade building permit and subject to the City obtaining funding for an investment in affordable housing for the lot, the owner shall enter into a contribution agreement with the City to design, construct, provide, maintain and contribute to the provision and maintenance of sixty (60) new affordable rental housing dwelling units on the lot at a value of at least \$4,000,000.00 from the owner, with terms in accordance with such contribution agreement, including that the average monthly rents of such sixty (60) units shall be at or below 80 percent of the CMHC rents for a period of twenty-five (25) years inclusive of a 5 year phase-out period from first occupancy of each such unit as affordable rental housing in accordance with such contribution agreement, all to the satisfaction of the Director, Affordable Housing Office, the Chief Planner and Executive Director, City Planning and the City Solicitor. And the owner shall thereafter provide such affordable rental housing dwelling units in accordance with the contribution agreement entered into with the City.
2. In the event the City does not obtain funding for an investment in affordable rental housing for the lot as required in clause 1 of this Appendix, the owner shall in any event provide and maintain on the lot at least 19 new affordable rental housing dwelling units distributed throughout the lot and comprising at least the greater of a total of 1,038 square metres or 1.7 percent of the total residential gross floor area erected on the lot, with rents not exceeding the CMHC Rent for at least 25 years, inclusive of a 5 year phase-out period comprised of the following:
  - (a) at least 6 bachelor units, which shall have a minimum size of at least 39.5 square metres;
  - (b) at least 6 one-bedroom units having a minimum size of at least 48.8 square metres;
  - (c) at least 5 two-bedroom units having a minimum size of at least 67.4 square metres; and
  - (d) at least 2 three-bedroom units having a minimum size of at least 85.9 square metres, such provision by the owner having a value of at least FOUR MILLION DOLLARS (\$4,000,000.00), subject to upwards indexing.

3. The owner shall offer all new affordable rental dwelling units for rent proportionately with the offering of the new dwelling units once the owner has rented 75 new dwelling units on the lot or in the case of units required under a contribution agreement as set out in clause 1 above, in the event of any conflict with the contribution agreement, such units shall be offered commencing in accordance with the timing set out in such Contribution Agreement.
4. The tenants of the new affordable rental dwelling units shall have access to all indoor amenity space and outdoor amenity space, and other common areas located on the lot. There shall be no cost to tenants to reserve amenity space for tenant meetings. Reasonable and customary costs may be charged to reserve or pre-book amenity space and which shall be on the same basis as other residents of the lot, subject to car parking and visitor car parking which may have charges.
5. Prior to site plan approval for all or any part of the lot, the owner shall provide to the satisfaction of the Chief Planner and to the Director, Affordable Housing Office, the proposed unit layouts and floor plans for any areas of buildings that provide or relate to the provision of the new affordable rental dwelling units required in clauses 1 and 2 above.
6. The owner shall enter into a memorandum of understanding with the City setting out the range of options and funding opportunities to be pursued by the City and the owner to seek to achieve a target of up to 20 percent of the total number of new dwelling units erected on the lot as affordable rental housing.
7. All of the residential gross floor area erected on the lot shall comprise and be maintained as rental housing for at least a continuous period of twenty-five (25) years commencing on the date the final new purpose-built rental dwelling unit in the final building to be constructed is occupied; during which time period no application shall be made to convert any dwelling unit to any non-rental housing purpose including that no application shall be made to register any dwelling unit under the Condominium Act or for any other form of ownership tenure, or to demolish any rental housing unit without replacement as rental housing on the lot.

At such time as the twenty-five (25 year) rental period has expired, the owner shall continue to provide and maintain the rental housing as rental housing until the owner has applied for and obtained final approval of:

- (a) a zoning by-law amendment to amend the zoning for the lot to delete the requirement that the rental housing be provided and maintained as rental housing;
- (b) an official plan amendment and zoning by-law amendment to amend any other applicable policies and provisions which are in force and effect at that time which might otherwise prevent the conversion or demolition of such rental housing;
- (c) permission under any other applicable by-laws(s) and statute(s) which restrict or regulate the demolition or conversion of rental housing; and

- (d) a description respecting the building on the lot on which the rental housing dwelling units are erected, in the case of condominium registration being sought.
8. The owner shall provide and maintain on the lot, a minimum of:
- (a) 10 percent of the total number of residential units erected on the lot as three-bedroom dwelling units;
  - (b) 20 percent of the total number of residential units as two-bedroom dwelling units; and
  - (c) 40 percent of the total number of residential units as two and three bedroom dwelling units.

all to the satisfaction of the Chief Planner and Executive Director, City Planning.

9. The owner will provide and maintain on the lot and/or on adjacent lands, a non-profit community and/or cultural space in a location satisfactory to the General Manager, Parks, Forestry and Recreation, finished to a shell condition, and leased for a term acceptable to the City at nominal cost to the City, having a size of at least 325.2 square metres, with direct access from a public right-of way and/or Publicly-Accessible Privately Owned Space and/or publicly accessible pedestrian walkway fronting parkland, at a value of at least ONE MILLION DOLLARS (\$1,000,000.00) subject to upwards indexing, prior to the issuance of the first above-grade building permit.

Alternatively, should the City in its sole discretion elect in writing to the owner to require, the owner shall pay to the City prior to the issuance of the first above-grade building permit the sum of ONE MILLION DOLLARS (\$1,000,000.00) in lieu of the provision of such non-profit community and/or cultural space within the approved development, such payment to be used towards community and/or cultural space in the vicinity of the lot.

10. The owner shall provide the following, to the satisfaction of the General Manager, Transportation Services, the Executive Director, Engineering and Construction Services, the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:
- (a) prior to site plan approval, the owner shall submit a plan detailing improvements to the public realm to be implemented in support of the development permitted by this By-law, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, sidewalk treatment, outdoor seating, and cycling facilities, and Toronto Transit Commission bus/streetcar shelters, located on both public and private lands;
  - (b) the plan required in clause 10(a) above shall include a streetscape improvement plan for Markham Street between Lennox Street and Bloor Street West. The streetscape improvements will be to an enhanced standard beyond the City's typical streetscape design guidelines in the immediate vicinity of the lot, in the area identified as Markham Street, between Lennox Street and Bloor Street West;

- (c) the owner shall construct the approved improvements required in clauses 10(a) and (b) above by no later than the date that is two years following the first residential or commercial use or occupancy on the lot, subject to extensions, if any as are satisfactory to the Chief Planner and Executive Director, City Planning, for seasonality;
- (d) the owner shall maintain all improvements required in clause 10(a) above that are located on private property and the owner shall maintain all improvements required in clause 10(b) above;
- (e) prior to the issuance of the first above-grade building permit, the owner shall provide an upwardly indexed letter of credit to the City in the amount of the cost of all works required in clause 10(a) above;
- (f) prior to the issuance of the first above-grade building permit, the owner shall provide an upwardly indexed letter of credit to the City in the amount of \$500,000.00, upwardly indexed, as security for the completion of the approved enhanced streetscape improvements required in clause 10(b) above;
- (g) no later than 18 months following the first use or occupancy of a unit, building or portion thereof on the lot after the date of enactment of this By-law, the owner will convey to the City for nominal consideration, free and clear of encumbrances other than those approved by the Chief Planner and Executive Director, City Planning and the City Solicitor, to be provided and maintained at the owner's expense and the specific location, configuration and design to be determined to the satisfaction of the Chief Planner and Executive Director, City Planning prior to the earlier of the issuance of any site plan approval pursuant to Section 114 of the *City of Toronto Act, 2006*, and the issuance of any above-grade building permit, the following easements with provision for rights of support if necessary, and insurance and indemnification of the City by the owner, requiring that the owner shall own, operate, maintain and repair the Publicly-Accessible Privately Owned Space and the East-West Link., and the owner shall install and maintain a centralized sign on the proposed Publicly-Accessible Privately Owned Space, at its own expense, generally in accordance with the City of Toronto Publicly-Accessible Privately Owned Space Urban Design Guidelines. Members of the public shall be entitled to use the Publicly-Accessible Privately Owned Space and the East West Link 365 days a year, subject to temporary closures on terms and conditions being satisfactory to the Chief Planner and Executive Director, City Planning; all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:
  - i. Publicly-Accessible Privately Owned Space easement over the proposed re-designed and privately-owned Honest Ed's Alley in the event of the closing and sale to the owner by the City of the existing public lane known on the date of enactment of this By-law as Honest Ed's Alley, to provide a privately owned publicly accessible open space (the "POPS") for use by the City of Toronto and the general public, and to provide within the area subject to the POPS easement a publicly accessible walkway having a minimum width of at least 2.1 metres for use by the City of Toronto and

- the general public, which easement shall include provisions for rights of support if necessary, insurance and indemnification of the City by the owner, and maintenance and repairs by the owner, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor; and
- ii. In addition, a public access easement shall be conveyed to the City over the area comprising the proposed East-West Link, identified on Reference Plan 66R29394 as Parts 12, 16 and 21.
- (h) the owner will provide public art on the lot in publicly accessible areas including, without limitation, exterior publicly accessible areas (public sidewalks, exterior walls or other building elements), provided such areas are clearly visible at all times from publicly accessible areas, to a minimum value of \$500,000.00, subject to upwards indexing, to be secured by way of an indexed letter of credit in the amount of \$500,000.00 provided by the owner to the City prior to the issuance of the first above-grade building permit. Prior to the issuance of the first above-grade building permit, the owner will submit a public art budget and a plan detailing the possible locations of any public art installations on the lot, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
- (i) prior to issuance of the first above-grade building permit, the owner shall submit a Wind Study, satisfactory to the Chief Planner and Executive Director, City Planning, including wind tunnel analysis, which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, and the owner shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (j) the owner shall at its expense design and construct, at no cost to the City, improvements to the Lennox Street and Bathurst Street intersection intended to facilitate left turn movements, as identified in the Urban Transportation Considerations Report dated May 2016, prepared by BA Group, or such other improvements of equal or lesser value, all to the satisfaction of the General Manager, Transportation Services. The details and timing for such work shall be secured at the time of the first site plan approval for all or any part of the lot, with financial security to secure such work to be provided to the City prior to the issuance of the first above- grade building permit, all to the satisfaction of the General Manager, Transportation Services. The owner's obligation to construct such improvements is subject to receiving the necessary permission from the City to access the right of way, subject to the usual City requirements for insurance and indemnities;
- (k) prior to any use of the proposed building at the south west corner of Markham Street and Bloor Street West, the owner will design, construct, provide and thereafter maintain a below-grade pedestrian connection beneath Markham Street, at its sole expense, and will be responsible for any and all costs related to the relocation of any underground utilities to facilitate the connection, and will

provide the City with an indemnity, satisfactory insurance, a security in the form of letters of credit related to the construction and ongoing maintenance of the connection, all to the satisfaction of the General Manager, Transportation Services;

- (l) the owner will enter into an agreement with the City to secure, at the sole cost of the owner, the design, construction, and ongoing maintenance of the pedestrian tunnel underneath Markham Street in clause 10(k). above, to the satisfaction of the General Manager, Transportation Services;
- (m) the owner shall design and construct, at no cost to the City, any required improvements to municipal infrastructure identified in the Functional Servicing and Stormwater Management Report, prepared by Cole Engineering, signed and sealed December 19, 2016, to the satisfaction of the Executive Director, Engineering and Construction Services and the General Manager, Transportation Services, with the timing for the completion of such improvements, which may be completed on a phased basis to the satisfaction of the Executive Director, Engineering and Construction Services, and the General Manager, Transportation Services, to be determined prior to any final site plan approval;
- (n) prior to the issuance of the first above-grade building permit, the owner will submit plans detailing the location of the proposed Neighbourhood Energy Facility, to the satisfaction of the Chief Planner and Executive Director, City Planning and other necessary City officials, in consultation with the Ward Councillor;
- (o) prior to the commencement of any excavation and shoring work, the owner will submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official and Executive Director, Toronto Building, in consultation with the Ward Councillor, and thereafter shall implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, the size and location of construction staging areas, location and function of gates, information on concrete pouring, lighting details, construction vehicle parking and queuing locations, refuse storage, site security, site supervisor contact information, a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, in consultation with the Ward Councillor;
- (p) within 4 years from the issuance of the first above-grade building permit for the development, subject to a seasonality extension satisfactory to the General Manager, Parks and Forestry and Recreation:
  - i. in accordance with section 42 of the *Planning Act*, the owner shall convey to the City, an on-site parkland dedication, having a minimum size of 1,150.0 square metres with a minimum of 22.0 metres of frontage on Markham Street, situated on the west side of Markham Street, south of Bloor Street, as shown generally on the Site Plan, dated May 21, 2015,

- revised December 19, 2016 drawing number A0.05, prepared by Henriquez Partners Architects, in accordance with the following and all to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor;
- ii. the owner will notify the City with respect to the issuance of the first above-grade permit for all or any part of the lot;
  - iii. prior to the issuance of the first above-grade building permit, the owner shall enter into an agreement of purchase and sale with the City for the onsite parkland dedication for nominal consideration, and register a section 118 of the Land Titles Act restriction on title, with the form of the agreement of purchase and sale and the section 118 restriction secured in the Section 37 Agreement and all to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor;
  - iv. the on-site parkland dedication identified in Clause 10.p.i. above, shall be conveyed to the City in its entirety in one transaction;
  - v. prior to conveyance of the lands to the City, the owner shall be responsible for an environmental assessment of the land and any associated costs or remediation works required as a result of that assessment. Such assessment or remediation shall ensure that the parkland will meet all applicable laws, regulations and guidelines respecting the site to be used for public park purposes, including City Council policies respecting soil remediation of sites. A qualified environmental consultant acceptable to the Executive Director, Engineering and Construction Services shall prepare the environmental assessment. Prior to transferring the parkland to the City, the environmental assessment shall be peer reviewed by an environmental consultant retained by the City at the owner's expense (the "Peer Reviewer"), and the transfer of the parkland shall be conditional upon the Peer Reviewer concurring within the owner's environmental consultant that the parkland meets all applicable laws, regulations and guidelines for public park purposes; and
  - vi. the owner's environmental consultant shall file a Record of Site Condition on the Ontario's Environmental Site Registry and submit to the General Manager, Parks, Forestry and Recreation, the Ministry of the Environment and Climate Change Letter of Acknowledgement of Filing of the Record of Site Condition confirming that the Record of Site Condition has been prepared and filed in accordance with Ontario Regulation 153/04 and that the Ministry of the Environment and Climate Change will not audit the Record of Site Condition at this time or that the Record of Site Condition has passed an Ministry of the Environment and Climate Change audit.
- (q) the owner acknowledges that the remaining section 42 parkland dedication requirement not fulfilled through the required on-site land conveyance, as set out under clause 10(p) above, shall be satisfied through a cash-in-lieu of parkland payment to the City, to the satisfaction of the General Manager, Parks, Forestry

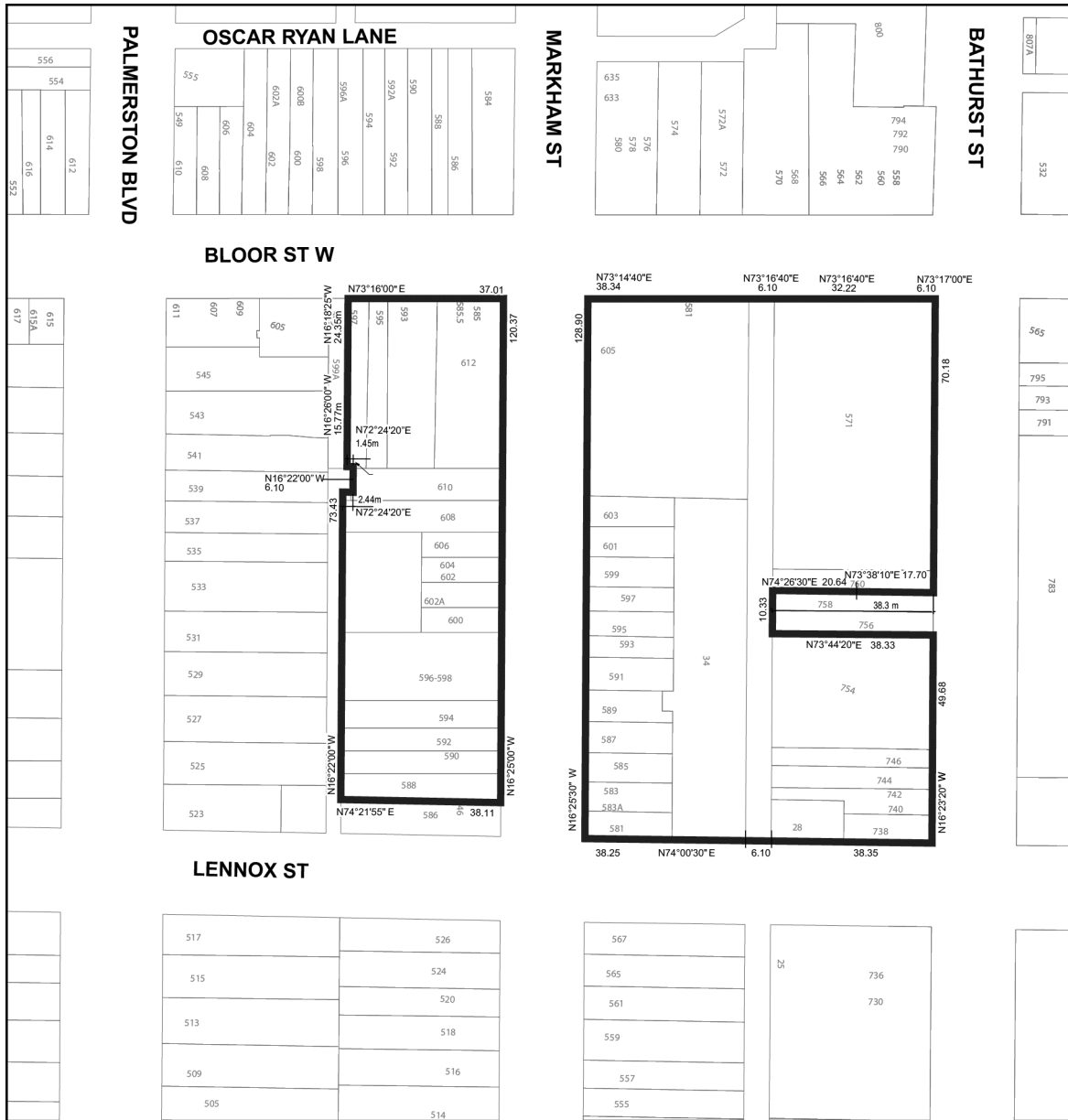
and Recreation. The amount of cash-in-lieu to be paid will be determined at the time of issuance of the first above-grade building permit and provided to the City as follows:

- i. the owner shall provide the cash-in-lieu funds in the form of a letter of credit and these remaining monies will be directed towards the Above Base Park Improvements of the on-site parkland dedication to the extent required. The owner shall construct the Above Base Park Improvements to the amount of any development charges payable under the Parks, Forestry and Recreation portion of such charges and any deficiency required to construct such improvements shall be from such cash-in-lieu, as determined by the General Manager, Parks, Forestry and Recreation, all to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- (r) prior to final Site Plan Approval for the properties located at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 598, 590, 594, 596, 598, 600, 602, and 610 Markham Street the owner shall provide:
- i. final site plan drawings substantially in accordance with the approved heritage Conservation Plan(s) required for such lands, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - ii. Interpretation Plan(s) for the heritage properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602, and 610 Markham Street (as relocated to 604-606 Markham Street) to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan(s) to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - iii. a Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Preservation Services; and
  - iv. a detailed Landscape Plan for the subject properties, satisfactory to the Senior Manager, Heritage Preservation Services.
- (s) prior to the issuance of any permit for all or any part of the heritage properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602 and 610 Markham Street, Services, including a heritage permit or a building permit, but excluding permits for: such repairs and maintenance and usual and minor works for the existing heritage buildings; and for interior alterations that do not affect the exterior building features as are acceptable to the Senior Manager, Heritage Preservation Services:



- i. the related site specific Official Plan Amendment and Zoning By-law Amendment giving rise to the proposed alterations shall have been enacted by City Council and have come into full force and effect in a form and with content acceptable to City Council, as determined by the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Preservation Services;
  - ii. the owner shall provide full building permit drawings for the subject phase of development, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan(s), including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - iii. the owner shall provide letter(s) of credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan(s) and Interpretation Plan.
- (t) in addition to the requirements of clause 10.s.above, prior to the issuance of any heritage permit or building permit for: i. the removal and relocation of the building at 610 Markham Street; and ii. the demolition of the buildings on the properties at 599 and 601 Markham Street and 760 Bathurst Street:
  - i. the owner shall provide full documentation of the existing buildings at 610 Markham Street, 599-601 Markham Street and at 760 Bathurst Street, including two (2) printed sets of archival quality 8 inch by 10 inch colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of original drawings as may be available, all to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (u) prior to the release of the letter(s) of credit required in clause 10.s.above the owner shall:
  - i. have obtained final site plan approval for the properties at 738, 740, 742, 744 and 746 Bathurst Street, 585 Bloor Street West and 581, 583, 585, 587, 589, 591, 593, 595, 597, 588, 590, 592, 594, 596, 598, 600, 602, and 610 Markham Street issued by the Chief Planner and Executive Director, City Planning;
  - ii. provide a letter of substantial completion for the subject phase of work 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(s) and Interpretation Plan(s) and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and

- iii. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.
  - (v) the financial contributions, securities and letters of credit required in this Schedule shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period beginning from the date of the execution of the Section 37 Agreement required by this Schedule and By-law to the date of each such payment or provision or completion as applicable (the "upwards indexing").
11. The following matters are also to be secured in the Section 37 Agreement to support the development:
- (a) the owner shall enter into a Memorandum of Understanding with the City which shall form part of the Section 37 Agreement, which sets out the range of options and funding opportunities by the owner and the City to further develop the affordable housing plan for the lot to achieve up to a target of 20 percent of the total dwelling units as affordable rental housing;
  - (b) the owner shall present its retail strategy, on a confidential basis with no more than six (6) representatives of local Residents Associations and Business Improvement Areas as selected by the Ward 19 and 20 Councillors in consultation with the owner, where the representatives will be required to sign an undertaking confirming confidentiality; and
  - (c) No later than three months following the first site plan submission, the owner shall host a meeting within the context of the consultation process related to the site plan submission, which shall be attended by representatives from both BA Group, or such other transportation consultant retained by the owner in its discretion, and City of Toronto Transportation Services, to discuss the transportation study dated May 2016, prepared by BA Group, and if requested in writing by the Ward 19 and 20 Councillors after said meeting, the owner will be required to submit a peer review to the City of the aforementioned BA Group study, at a cost to the owner no greater than \$5,000.00 where such peer review will review the recommended traffic improvements.
12. The owner shall enter into and register an agreement with the City pursuant to section 37 of the *Planning Act* (the "Section 37 Agreement") to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.



 **TORONTO**  
Diagram 1

571 to 597 Bloor Street West, 738 to 782 Bathurst Street,  
26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
File # 15 188751 STE 19 OZ and 15 188805 STE 19 OZ

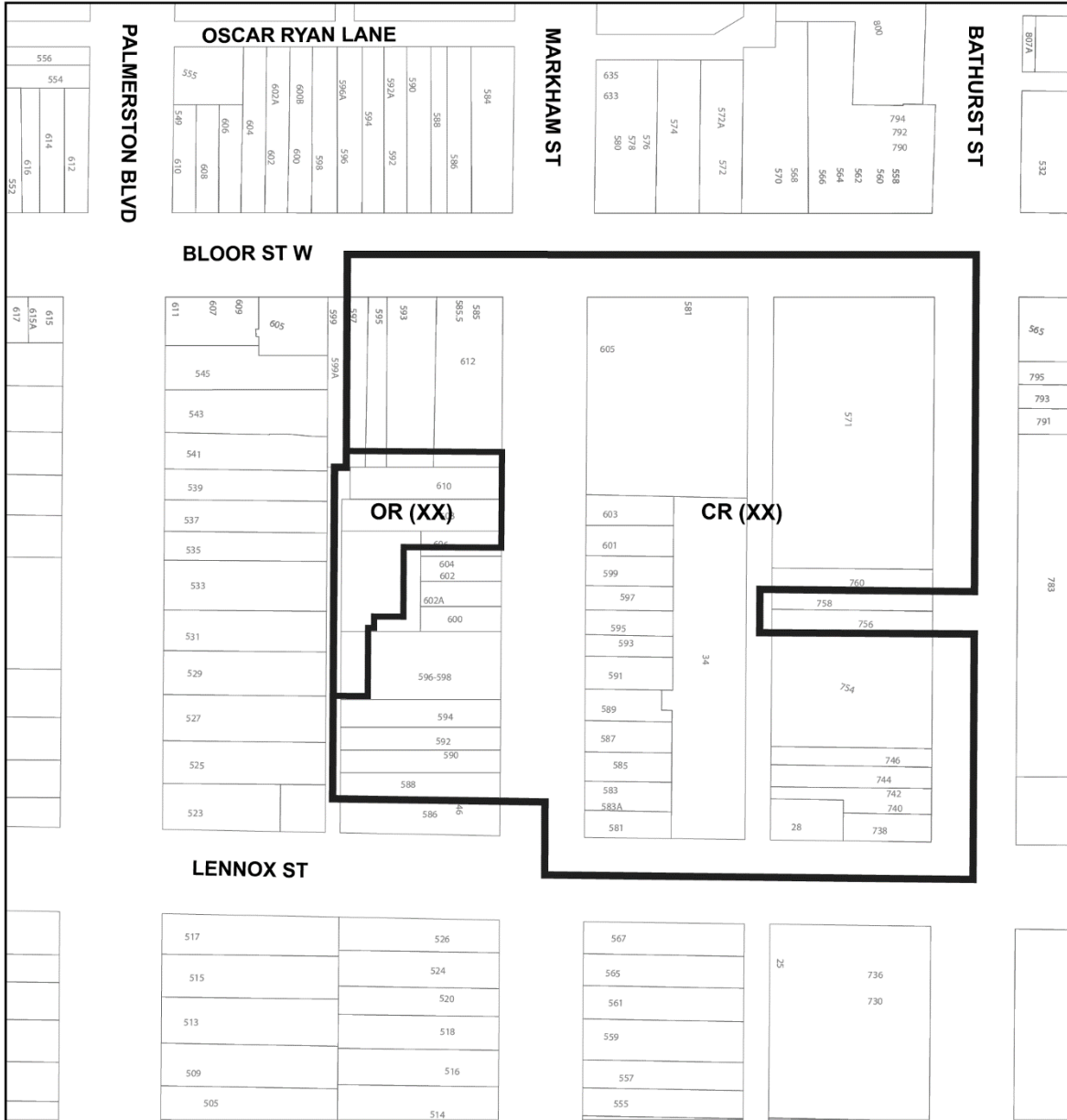


  
Diagram 2

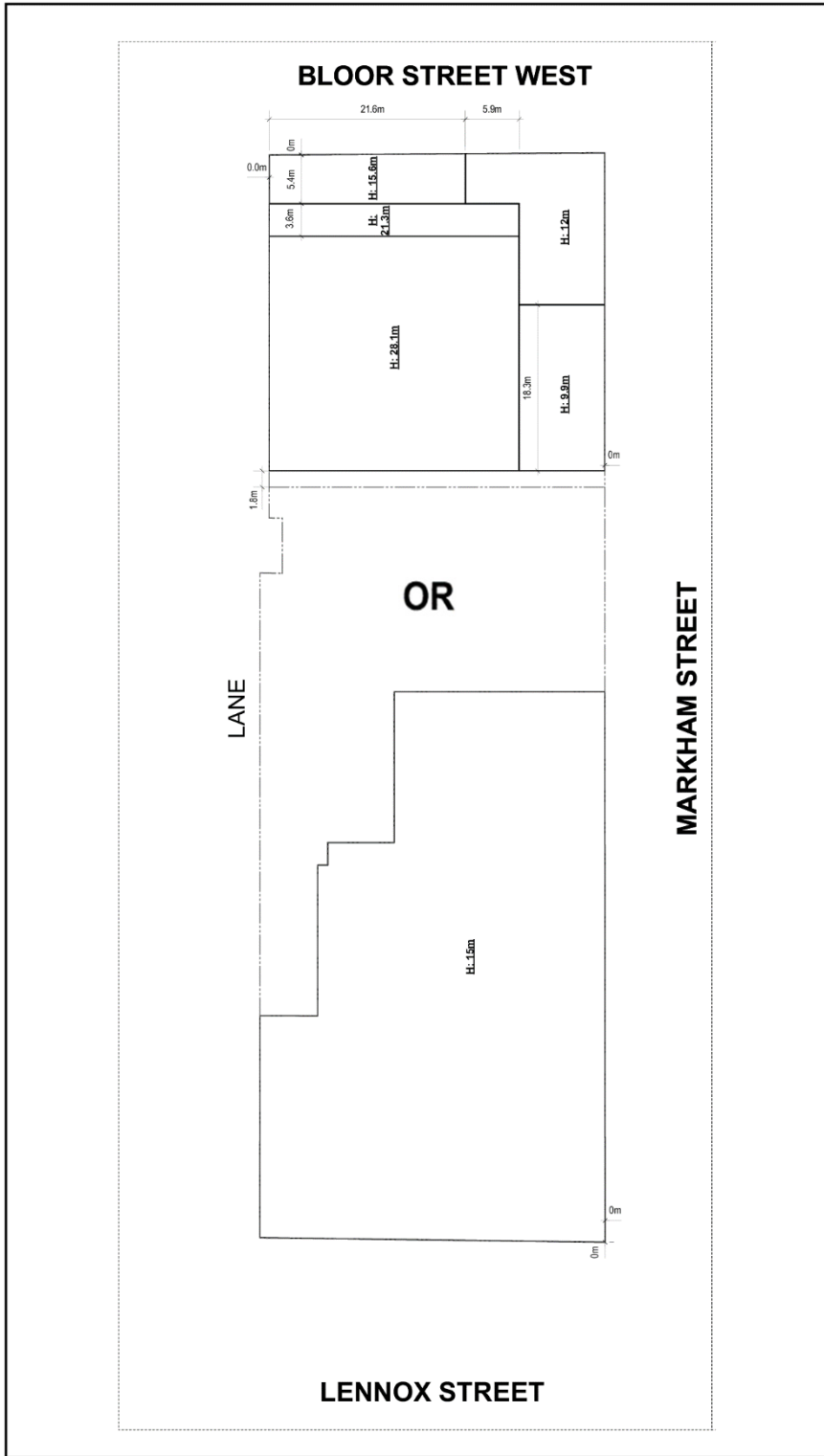
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26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
File # 15 188751 STE 19 OZ and 15 188805 STE 19 OZ



**Toronto**  
Diagram 3

571 to 597 Bloor Street West, 738 to 782 Bathurst Street,  
26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
File # 15 188751 STE 19 0Z and 15 188805 STE 19 0Z

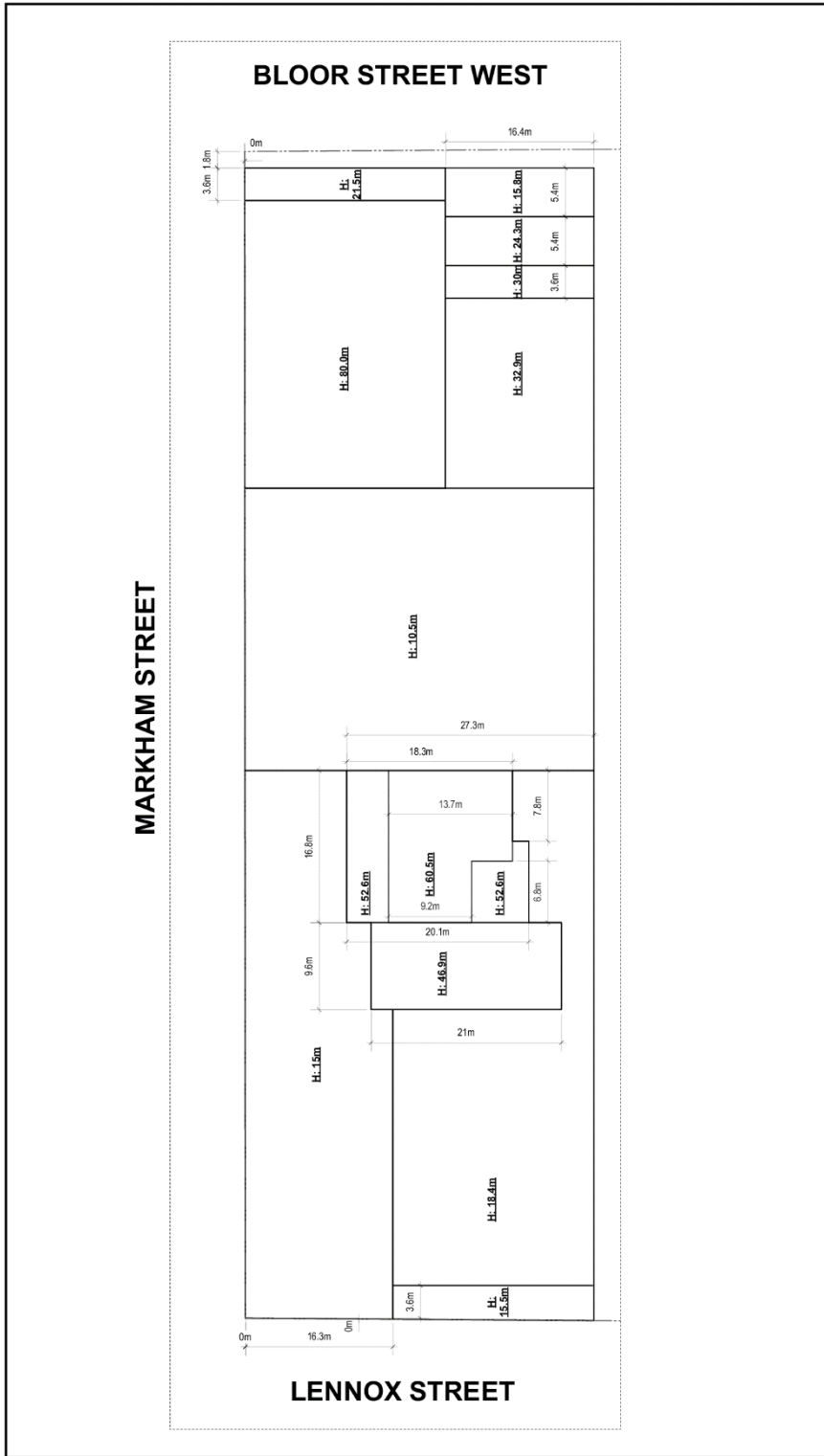
City of Toronto By-Law 569-2013  
Not to Scale  
06/30/2017



**Toronto**  
**Diagram 4**

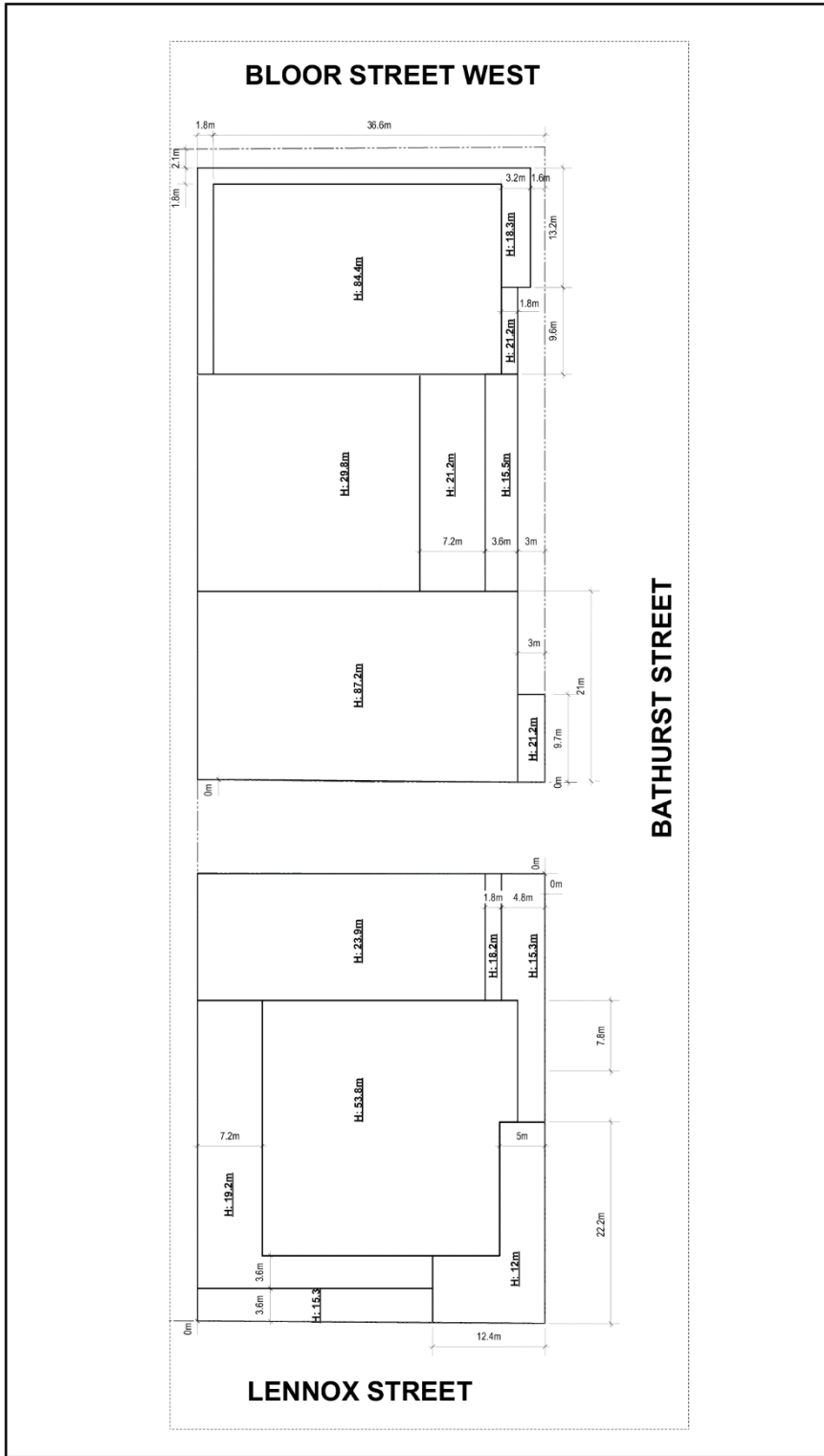
571 to 597 Bloor Street West, 738 to 782 Bathurst Street,  
 26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
 File # 15 188751 STE 19 0Z and 15 188805 STE 19 0Z

City of Toronto By-Law 569-2013  
 Not to Scale  
 06/16/2017



571 to 597 Bloor Street West, 738 to 782 Bathurst Street,  
26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
File # 15 188751 STE 19 0Z and 15 188805 STE 19 0Z

City of Toronto By-Law 569-2013  
Not to Scale  
06/16/2017



571 to 597 Bloor Street West, 738 to 782 Bathurst Street,  
 26 to 38 Lennox Street, 581 to 603 and 588 to 612 Markham Street  
 File # 15 188751 STE 19 0Z and 15 188805 STE 19 0Z

City of Toronto By-Law 569-2013  
 Not to Scale  
 06/16/2017