

Authority: Toronto and East York Community Council
Item TE18.7, adopted as amended, by City of Toronto
Council on September 30, October 1 and 2, 2020

CITY OF TORONTO

BY-LAW 219-2021

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 90-104 Queen Street East and 3 Mutual Street.

Whereas Council of the City of Toronto has the authority to 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 provisions relating to the authorization of increases in height and density of development; and

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

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

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

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

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting lands outlined by heavy black lines to CR 4.0 (c2.0; r4.0) SS1 (x278), as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 278 so that it reads:

(278) Exception CR

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 90 – 104 Queen Street East and 3 Mutual Street, if the requirements of Section 7, 8 and Schedule A of By-law 219-2021 are complied with, a **mixed use building** or **structure** may be constructed and used in compliance with (B) to (Z) below;
- (B) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **mixed use building** is 34, excluding the mechanical penthouses;
- (C) Despite Regulation 40.10.40.10(5), the minimum **height** of the first **storey**, measured between the floor of the first **storey** and the ceiling of the first **storey**, is 3.0 metres;
- (D) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** must not exceed 23,500 square metres, and subject to the following:
 - (i) a maximum **gross floor area** of 23,100 square metres may be used for residential uses;
 - (ii) no residential **gross floor area** may be located above the 34th **storey**;
 - (iii) despite Regulation 40.5.40.40(3), **gross floor area** may also be reduced by 345.7 square metres of space that is to be conveyed to the City and secured by one or more agreements pursuant to Section 37(3) of the Planning Act, as may be amended; and
 - (iv) the space described in (D)(iii) above, must be measured on each **storey** from the interior side of the **main wall** and the interior side of the demising wall, including dedicated lobbies and elevator shafts;
- (E) Regulation 40.10.40.1(1) with respect to the location of residential use portions in a **mixed use building** does not apply;
- (F) The total number of **dwelling units** must not exceed 369;
- (G) The provision of **dwelling units** is subject to the following:
 - (i) a minimum of 10 percent of the total number of **dwelling units** must contain three or more bedrooms;

- (ii) a minimum of 15 percent of the total number of **dwelling units** must contain two bedrooms;
 - (iii) an additional 15 percent of the total number of **dwelling units** will be any combination of two bedroom and three bedroom **dwelling units**, or **dwelling units** that can be converted into any combination of two and three bedroom **dwelling units**; and
 - (iv) convertible **dwelling units**, as described in (G)(iii) above, may be converted using accessible or adaptable design measures such as knock- out panels;
- (H) Despite Regulation 40.10.40.50(1), **amenity space** must be provided at a minimum of 4.0 square metres for each **dwelling unit**, of which:
- (i) a minimum of 2.6 square metres per **dwelling unit** is indoor **amenity space**;
 - (ii) a minimum of 1.4 square metres per **dwelling unit** is outdoor **amenity space**; and
 - (iii) a minimum of 35 square metres of the total outdoor **amenity space** required for the **building**, must be dedicated for use by pets;
- (I) Regulation 40.10.40.50(2) with respect to **amenity space** for **buildings** with non-residential uses in SS1 Areas does not apply;
- (J) Regulation 40.5.40.70(1) with respect to **building** or **structure** setbacks from the centerline of a **lane** does not apply;
- (K) Despite Regulations 40.10.40.70(1) and 600.10.10, the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 219-2021;
- (L) Despite Clause 40.10.40.60 and (K) above, the following elements of a **building** or **structure** are permitted to encroach into the required **building setbacks** shown on Diagram 3 of By-law 219-2021:
- (i) guardrails, railings or dividers, canopies or davit arms, wheelchair ramps, site servicing features, window sills, vents, and public art features, may encroach up to a maximum of 2.5 metres; and
 - (ii) architectural features and elements, shafts, retaining walls, windscreens, stairs, lighting fixtures, may encroach up to a maximum of 1.5 metres;
- (M) Despite Regulations 40.5.40.10(1) and 40.5.40.10(2), the **height** of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 85.48 metres and the elevation of the highest point of the **building** or **structure**;

- (N) Despite Regulation 40.10.40.10(1), the permitted maximum **height** of a **building** or **structure**, including mechanical penthouses, must not exceed the **height** in metres specified by the numbers following the symbol "HT" on Diagram 3 and within the applicable coordinates identified on Diagram 4 of By-law 219-2021;
- (O) Despite (N) above and Clause 40.5.40.10, the following elements, **structures**, equipment, or parts of a **building**, are permitted to project above the permitted maximum **height** as shown on Diagram 3 of By-law 219-2021 as follows:
- (i) hatch doors, roof drainage, davit arms, chimneys, vents, lightning rods, nautical lighting, light fixtures, telecommunication equipment, antennas, and elements of **green roofs**, may project above the maximum **height** in metres specified by the number following the symbol "HT" within the area labelled "ZONE (A)" on Diagram 3, to a maximum of 3.0 metres or a Canadian Geodetic Datum (CGVD2013) of 190.84 metres, whichever is less;
 - (ii) hatch doors, roof drainage, davit arms, chimneys, vents, lightning rods, nautical lighting, light fixtures, telecommunication equipment, antennas, and elements of **green roofs**, may project above the maximum **height** in metres specified by the number following the symbol "HT" within the area labelled "ZONE (B)" on Diagram 3, to a maximum of 3.0 metres or a Canadian Geodetic Datum (CGVD2013) of 193.13 metres, whichever is less;
 - (iii) hatch doors, roof drainage, davit arms, chimneys, vents, lightning rods, nautical lighting, light fixtures, telecommunication equipment, antennas, and elements of **green roofs**, may project above the maximum **height** in metres specified by the number following the symbol "HT" within the area labelled "ZONE (C)" on Diagram 3, to a maximum of 3.0 metres or a Canadian Geodetic Datum (CGVD2013) of 195.14 metres, whichever is less;
 - (iv) parapets may project above the maximum **height** in metres specified by the number following the symbol "HT" within the areas labelled "ZONE (A)", "ZONE (B)", and "ZONE (C)", on Diagram 3, to a maximum of 0.5 metres; and
 - (v) except for where the above (O)(i) to (iv) inclusive apply, the following may project above the **height** limits shown on Diagram 3 by a maximum of 3.0 metres: wind screens, mechanical equipment and any associated enclosure **structures**, parapets, awnings, fences, railings and dividers, screens, stairs, roof drainage, window washing equipment, flues, chimneys, vents, terraces, retaining walls, lightning rods, nautical lighting, light fixtures, architectural features, landscaping, landscaping features, telecommunication equipment, antennas, roof assembly, elements of a **green roof**, including required residential **amenity space**;

- (P) Regulation 40.10.100.10 (1)(C) with respect to **vehicle** accesses does not apply;
- (Q) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained in accordance with the following:
- (i) a minimum of 0.16 **parking spaces** per **dwelling unit** for residents of the **mixed use building**;
 - (ii) no **parking spaces** are required for visitors of residents; and
 - (iii) no **parking spaces** are required for non-residential uses;
- (R) Despite Regulation 200.5.1.10(2)(A)(iv), a maximum of 10 **parking spaces** may be obstructed on one or two sides in accordance with 200.5.1.10(2)(D) without a requirement to increase the minimum width by 0.3 metres;
- (S) Despite Regulation 200.5.10.1(12), the number of required **parking spaces** in (Q)(i) above may be reduced up to a maximum of 12 **parking spaces**, not including accessible **parking spaces**, at a rate of one **parking space** for every five "long-term" **bicycle parking spaces** provided on the lands in excess of the minimum number of "long-term" **bicycle parking spaces** required;
- (T) Car-share parking may be provided on the **lands**, in accordance with the following:
- (i) a maximum of six **car-share parking spaces** may be provided;
 - (ii) despite Regulation 200.5.1.10(2)(A), **car-share parking spaces** must have a minimum length of 5.6 metres, a minimum vertical clearance of 2.0 metres, and a minimum width of 2.6 metres; and
 - (iii) for each **car-share parking space** provided, the resident parking required in (Q)(i) may be reduced by a maximum of four **parking spaces** that do not include accessible **parking spaces**, in addition to any reduction in the resident parking requirement in accordance with (S) above; and
- (U) Despite Regulation 200.5.1.10(13), access to **parking spaces** and **car-share parking spaces** in the **building** may be provided by **vehicle** elevators, in accordance with the following:
- (i) each **vehicle** elevator must have a minimum platform width of 2.4 metres;
 - (ii) **vehicle** elevators are readily accessible at all times for the parking and removal of a **vehicle**; and
 - (iii) not less than two **vehicle** elevators must be provided and maintained in the **building** for the use of residents;

- (V) Despite Regulation 200.15.1(4), the nearest point of an accessible **parking space** must be located no more than 9.0 metres, unobstructed by walls, from the nearest door of a vestibule or lobby which leads to a barrier-free elevator that provides access to the first **storey** of the **building**;
- (W) Despite Clause 220.5.10.1, one Type "G" **loading space** must be provided and maintained;
- (X) Where required **bicycle parking spaces** are located in a **storey** other than the first **storey, or a parking level** of the **building**, a bicycle ramp, elevator, or similar bicycle-dedicated mechanism must be provided in such a **storey or parking level**, which allows bicycle access to the first **storey** of the **building**;
- (Y) Despite Regulation 230.40.1.20(2), the nearest point of a "short-term" **bicycle parking space** located within the **building**, must be in accordance with the following:
 - (i) located up to a maximum distance of 12.5 metres from the nearest door of a vestibule which leads to a bicycle-dedicated mechanism as described in (X) above; and
 - (ii) for the purposes of (Y)(i) above, the maximum distance must be measured along a path inclusive of doors, and unobstructed by walls and **bicycle parking spaces**;
- (Z) Despite Regulations 230.40.1.20(1), 230.5.1.10(4)(A), and 230.5.1.10(10):
 - (i) both "long-term" **bicycle parking spaces** and "short-term" **bicycle parking spaces** may be located in a stacked **bicycle parking space**, with a minimum width of 0.24 metres; and
 - (ii) "short term" **bicycle parking spaces** may be located indoors or outdoors in an enclosed or secured room or enclosure.

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

- 5. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 6. For the purpose of this By-law:
 - (i) "car-share" means the practice whereby a number of people share the use of one or more vehicles that are owned and operated by a for profit or non-profit organization, and such car-share vehicles are made available to at least the occupants of the building for short term rental, including hourly rental; and

- (ii) "car-share parking space" means a **parking space** exclusively reserved and signed for a car used only for car-share purposes.
7. The provisions of this By-law respecting the **height** of any **building** or **structure**, including permitted exceptions, are subject to any further limitations as may be set out in a by-law passed under an agreement pursuant to Section 5.81 of the Aeronautics Act, R.S.C. 1985, c. A-2.
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 and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- B. Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- C. The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Enacted and passed on April 8, 2021.

Frances Nunziata,
Speaker

John D. Elvidge,
Interim 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 City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

Community Benefits:

- (A) Prior to the issuance of the first above grade building permit for the lands, the owner shall pay to the City a cash contribution of one million (\$1,000,000.00) dollars to be allocated as follows:
- (i) five hundred thousand (\$500,000.00) dollars towards capital improvements in Toronto Community Housing buildings and/or new or existing affordable housing units within proximity of the lands in the Ward, in consultation with the Ward Councillor; and
 - (ii) five hundred thousand (\$500,000.00) dollars towards local streetscape, parkland and/or community facilities within proximity of the lands in the Ward, in consultation with the Ward Councillor;

The cash contribution referred to in this section shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Agreement to the date of payment;

- (B) In the event the cash contribution referred to in this section has not been used for the determined purpose within three years of the amending Zoning 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, in consultation with the Ward Councillor, provided the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands;
- (C) The Owner shall design, construct, finish, and convey to the City, in an acceptable environmental condition, for nominal consideration and at no cost to the City, a minimum 345.7 square metres Community Agency Space constructed and finished to Base Building Condition and in accordance with the terms and specifications to be secured in the Section 37 Agreement, all satisfactory to the Executive Director, Social Development, Finance and Administration, Executive Director, Corporate Real Estate Management, the Chief Planner and Executive Director, City Planning, and the City Solicitor (the "**Community Space**") and subject to the following:
- (i) prior to the issuance of the first above grade building permit, the owner shall provide a letter of credit in the amount sufficient to guarantee 120 percent of the estimated cost of the design, construction and handover of the Community Space

complying with the specifications and requirements of the Section 37 Agreement, to the satisfaction of the Executive Director, Corporate Real Estate Management, the Executive Director, Social Development, Finance and Administration, the Chief Planner and Executive Director, City Planning, and the City Solicitor;

- (ii) prior to conveyance of the Community Space to the City, the owner shall provide a one-time cash contribution in the amount of \$280,000.00 towards operating costs of the Community Space;
- (iii) prior to conveyance of the Community Space to the City, the owner shall provide a one-time cash contribution in the amount of \$560,000.00 in accordance with the Section 37 Agreement;
- (iv) the one-time cash contributions referred to in (C) of this section shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Agreement to the date of payment; and
- (v) in accordance with the Section 37 Agreement, the owner and the City shall enter into, and register on title to, the appropriate lands an Easement and Cost Sharing Agreement at no cost to the City, that is in a form satisfactory to the City Solicitor; the Easement and Cost Sharing Agreement shall address and/or provide for the integrated support, use, operation, maintenance, repair, replacement, and reconstruction of certain shared facilities, and the sharing of costs, in respect thereof, of portions of the subject lands to be owned by the City and the owner as they pertain to the Community Space.

Matters Required to Support the Development:

Withdrawal of appeals

- (D) The Owner has withdrawn its appeal(s) of Official Plan Amendment 352, and By-laws 1106-2016 and 1107-2016.

Tenant relocation and assistance plan

- (E) An acceptable tenant relocation and assistance plan shall be developed and implemented to mitigate hardship for existing tenants of the existing five (5) rental dwelling units proposed to be demolished. The tenant relocation and assistance plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning;

Helicopter flight path

- (F) Prior to the issuance of the first building permit on the site, the owner shall provide confirmation from St. Michael's Hospital, or their representative, that any temporary

(including construction cranes or related construction machinery) and permanent structures are below or outside the protected flight path, as per By-law 1432-2017, to the satisfaction Chief Building Official and Executive Director, Toronto Building;

Toronto Green Standard

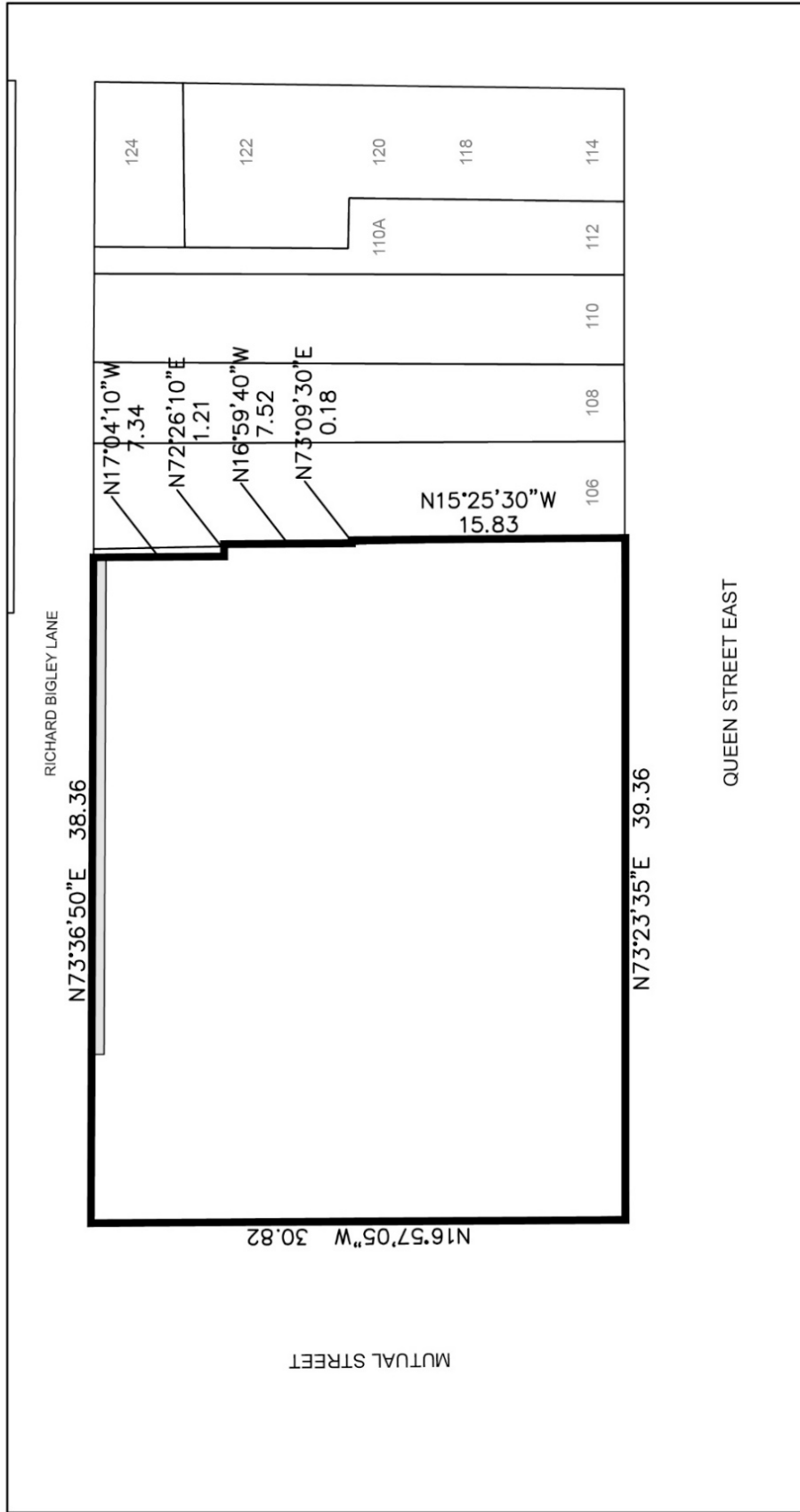
- (G) The owner will construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for each building on the site;

Construction Management Plan

- (H) Requirements for a construction management plan with the general matters included in the Section 37 Agreement, including but not limited to, noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the General Manager, Transportation Services, in consultation with the Ward Councillor;

Ontario Line

- (I) Prior to any site plan approval for the site, the owner shall obtain from Metrolinx, or its successor, written confirmation to the Chief Planner and Executive Director, City Planning and City Solicitor, that the owner has satisfied any required technical or related review for any proposed below grade structural elements, including the manner of excavation and shoring for the development of the site as these matters relate to the Ontario Line tunnel; and
- (J) Prior to site plan approval for the site, should Metrolinx, or its successor, provide a recommendation related to any tiebacks, or similar mechanism, that may impact the City's right-of-way, the owner shall first obtain any required approvals from the City prior to agreeing to implement any recommendations from Metrolinx that may impact the City's right-of-way.



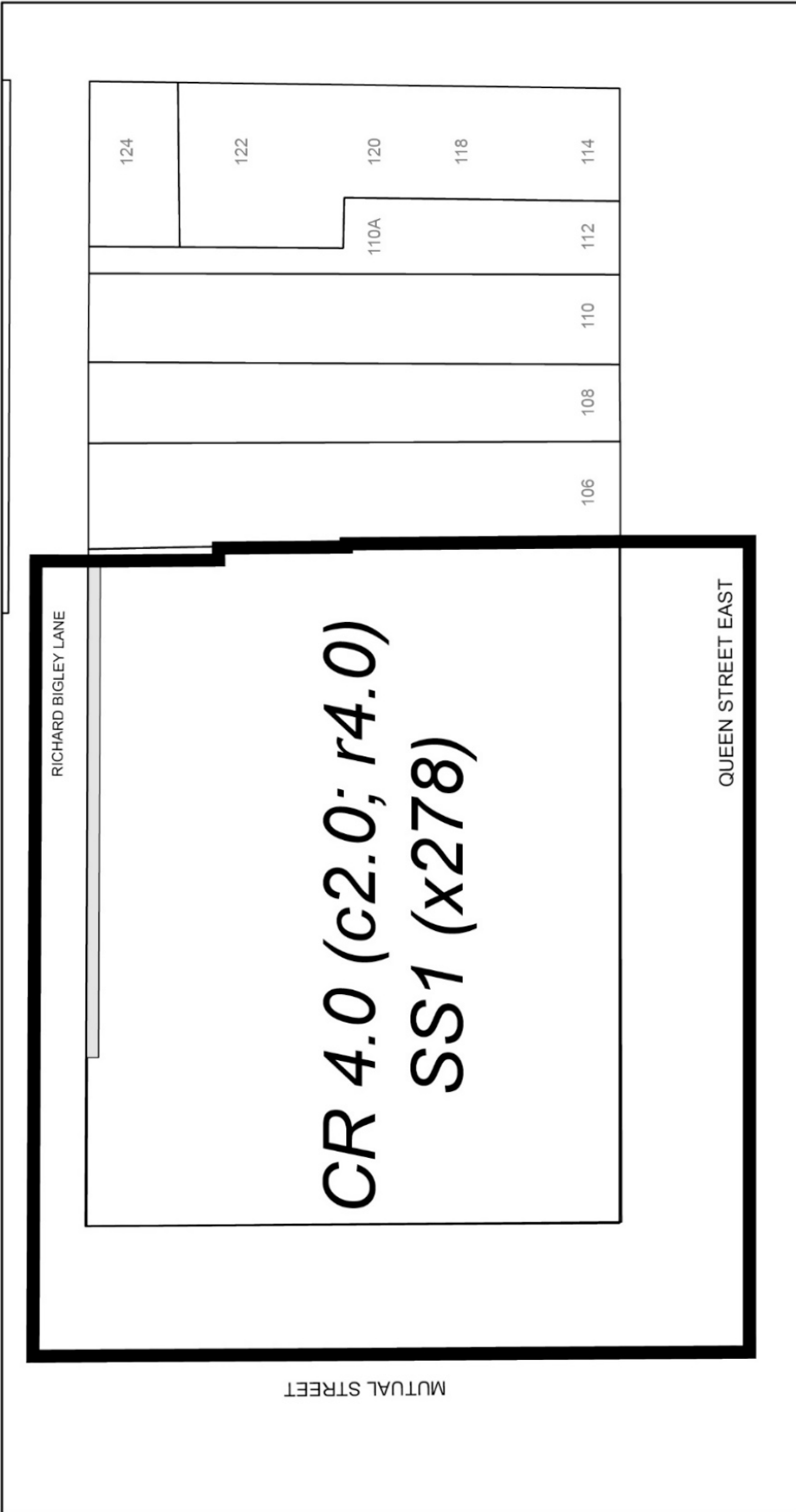
90-104 Queen Street East and 3 Mutual Street

File # 18 271140 STE 13 0Z

0.72 metre lane widening



City of Toronto By-law 568-2013
 Not to Scale
 08/25/2020



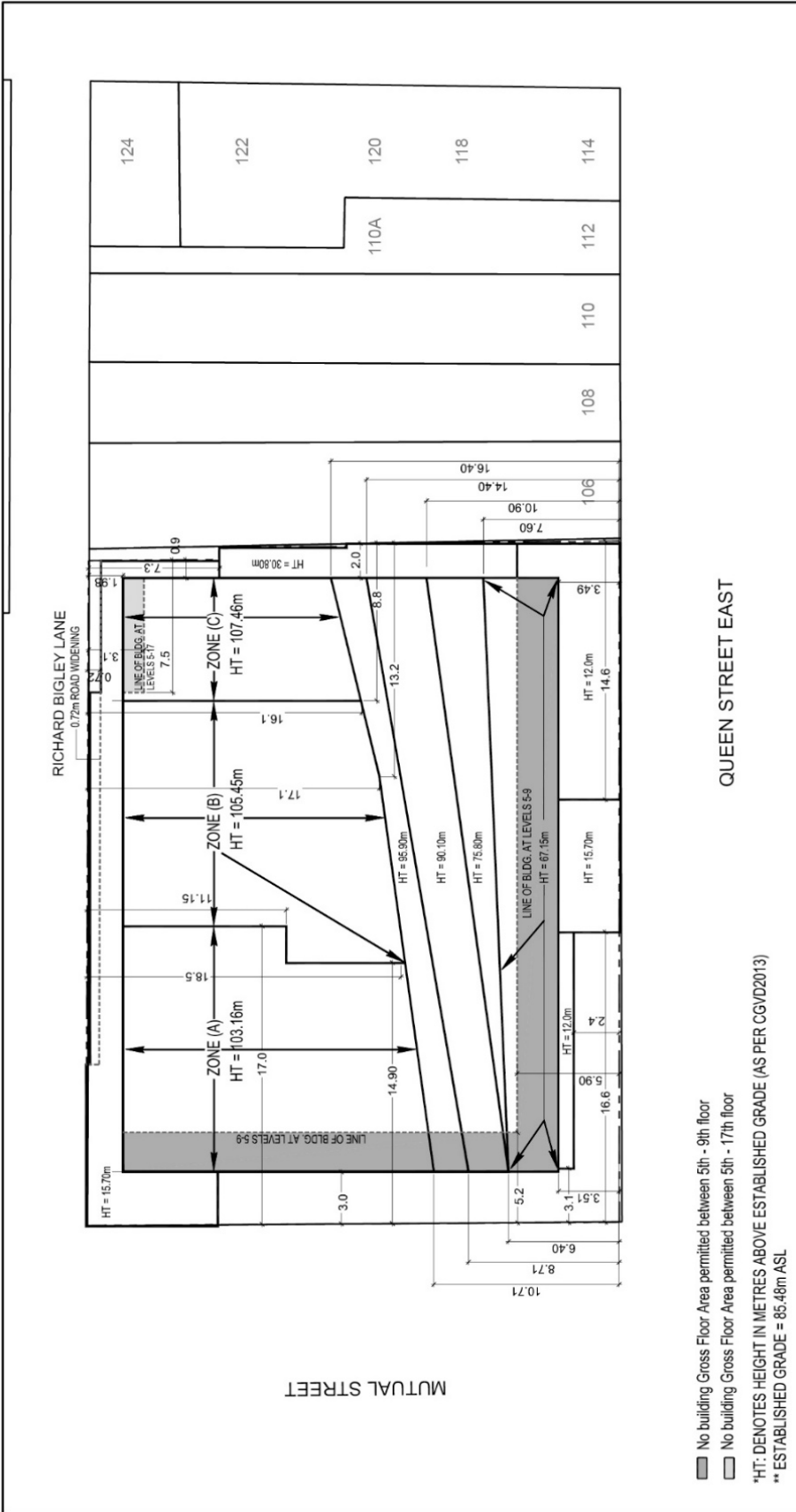
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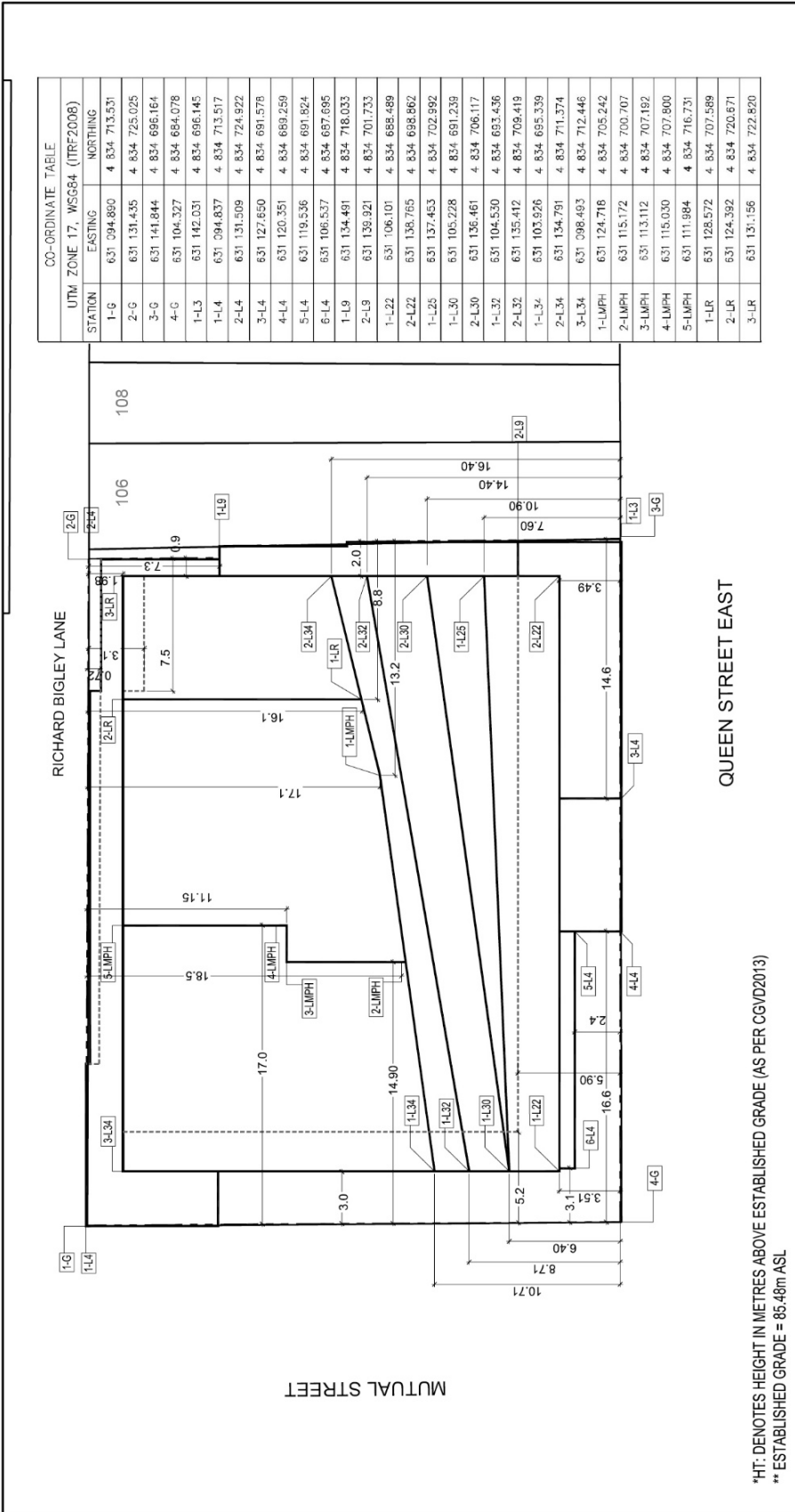


90-104 Queen Street East and 3 Mutual Street

File # 18 271140 STE 13 0Z



City of Toronto By-law 569-2013
Not to Scale
08/25/2020



*HT: DENOTES HEIGHT IN METRES ABOVE ESTABLISHED GRADE (AS PER CG/VD2013)
** ESTABLISHED GRADE = 85.48m ASL



90-104 Queen Street East and 3 Mutual Street

File # 18 271140 STE 13 0Z

City of Toronto By-law 569-2013
Not to Scale
08/25/2020