

Authority: Ontario Municipal Board Decision issued on February 27, 2018 and Ontario Land Tribunal Order issued on June 15, 2021 in Tribunal File PL150016

CITY OF TORONTO

BY-LAW 698-2021(OLT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2021 as 308, 310, 312 and 314 Jarvis Street and 225 Mutual Street.

Whereas the Ontario Land Tribunal, formerly the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, pursuant to its order issued on June 15, 2021, in File PL150016, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2021 as 308, 310, 312 and 314 Jarvis Street and 225 Mutual Street; and

Whereas the Official Plan of 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 allow increases in height and/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 or matters as are set out in the by-law; and

Whereas the Official Plan of the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; 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 and/or density of development, the municipality, and the Ontario Municipal Board on appeal, 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 438-86, as amended, is permitted in return for the provision of 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, a by-law passed under Section 34 of the Planning Act, may authorize the temporary use of land, buildings, or structures for any purpose set out therein that is otherwise prohibited by the by-law;

The Ontario Land Tribunal enacts:

1. Pursuant to Section 37 of the Planning Act, the *heights* and density of the development permitted in this By-law on the *lot* are permitted subject to compliance with all of the conditions set out in this By-law, including the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 2 and in Appendix 1 of this By-law.
2. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the *City* pursuant to Section 37 of the Planning Act, then once such agreement(s) has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
4. None of the provisions of Section 2(1) with respect to the definitions of *non-residential gross floor area* and *residential gross floor area*, and Sections 4(2)(a), 4(5), 4(5) Schedule 1, 4(9)(a)(v), 4(11)(b) and (c), 4(12), 4(13)(a), 4(14), 8(3) Part I, 8(3) Part II, 8(3) Part III, 8(3) Part IV, and Sections 12(2)80, 12(2)132, 12(2)260, 12(2)148 and 12(2)380 of 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 land 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* on the *lot* and uses *accessory* thereto, including the *existing heritage building* and a, on the lands municipally known as 308, 310, 312 and 314 Jarvis Street and 225 Mutual Street in the year 2021 shown on Map 1 (hereinafter referred to as the *lot*), provided that:
 - (A) the *lot* comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
 - (B) the total aggregate *residential gross floor area* and *non-residential gross floor area* erected and used on the *lot* shall not exceed 32,584 square metres;
 - (C) the total *residential gross floor area* erected and used on the *lot* shall not exceed 32,341 square metres;
 - (D) a minimum of 240 square metres of *non-residential gross floor area* shall be provided, and such *gross floor area* for non-residential uses shall be located on the ground level of any *building* on the *lot*;
 - (E) no part of any building or structure located above *grade* on the *lot* shall have a *height* in metres greater than the *height* limits specified by the numbers following

the letter HT on Map 2 attached to and forming part of this By-law, except for the following:

- (i) Architectural features, air intake and air handling units, awnings, balconies, canopies, communication equipment, cornices, eaves, fences, flues, green roof, guardrails, insulation and roof surface materials, landscape features, lighting fixtures, ornamental elements, pipes, planters, platforms, railings, retaining walls, screens, stairs, terraces, walkways, access hatches, wind protection, and window sills may project above the heights shown on Map 2 by a maximum of 2.0 metres;
 - (ii) Underground garage ramps and their associated structures may project above the heights shown on Map 2 up to a maximum of 4.9 metres;
 - (iii) Elements or structures on any portion of a roof used for outside or open air recreation, including required *residential amenity space* and stair enclosures may project above the heights shown on Map 2 by a maximum of 3.0 metres;
 - (iv) Mechanical penthouses, parapets, vents, stacks, railings, window washing equipment, green roofs located on mechanical penthouses, and exit stairs may exceed the *heights* specified on Map 2 by a maximum of 5.0 metres;
 - (v) Elevator enclosures and overruns, parapets, roof drainage components, and thermal and waterproofing assembly and green roofs associated with elevator enclosures and overruns located in "Area A" on Map 2 may project above the *heights* specified on Map 2 by a maximum of 6.5 metres;
 - (vi) Elevator enclosures and overruns, parapets, roof drainage components, and thermal and waterproofing assembly located in "Area B" on Map 2 may project above the *heights* on Map 2 by a maximum of 6.2 metres; and
 - (vii) Chimneys, cooling towers, and perimeter walls associated with cooling towers located within Area C on Map 2 may project above the *heights* on Map 2 by a maximum of 7.5 metres;
- (F) the maximum number of storeys permitted on the *lot* shall not exceed the number of storeys specified by the numbers preceding the letters ST as shown on Map 2 attached to and forming part of this By-law;
- (G) no portion of any building or structure erected or used above *grade* on the *lot* is located otherwise than wholly within the heavy lines on Map 2 attached hereto and forming part of this By-law, except for the following:
- (i) architectural features, awnings, balustrades, bay windows, canopies, chimneys, cornices, eaves, fences, guardrails, lighting fixtures, landscape features, ornamental elements, parapets, brick elements, planters, railings,

- retaining walls, stairs and stair enclosures, screens, and window sills, may encroach into the required building setbacks for all buildings and structures up to a maximum 2.5 metres;
- (ii) Railings, balustrades and screen dividers on terraces associated with residential *dwelling units* may encroach into the required *building* setback of all *buildings* and *structures* on the *lot* up to a maximum of 4.9 metres;
 - (iii) Screens, planters along both the Jarvis Street and Mutual Street frontage, and underground garage ramp and their associated structures including canopies, may encroach into the required *building* setback for all *buildings* and structures up to a maximum of 5.5 metres; and
 - (iv) Balconies may encroach into the required building setbacks for all buildings and structures up to a maximum of 2.0 metres;
- (H) The maximum permitted tower floorplate size area, as measured from the exterior of the main wall of each storey permitted above a height of 31.5 metres, measured from *grade*, shall not exceed 771 square metres;
- (I) *Residential amenity space* shall be provided on the *lot* in accordance with the following:
- (i) a minimum of 2.0 square metres of indoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *lot*; and
 - (ii) a minimum of 1.5 square metres of outdoor *residential amenity space* per *dwelling unit* shall be provided and maintained on the *lot*;
- (J) A minimum of ten percent (10 percent) of the total number of units erected on the *lot* or 49 units, whichever is greater, shall comprise three bedroom *dwelling units* or *dwelling units* having a greater number of bedrooms, including townhouse units;
- (K) In addition to (j) above, a minimum of twenty percent (20 percent) of the total number of units erected on the *lot* or 98 units, whichever is greater, shall comprise two bedroom *dwelling units*;
- (L) A minimum of 107 *parking spaces* shall be provided and maintained on the *lot* as follows:
- (i) A minimum of 0.17 *parking spaces* per *dwelling unit* erected on the *lot*;
 - (ii) A minimum of 0.05 *parking spaces* per *dwelling unit* for residential visitors to the *lot*;

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- (M) Required residential visitor *parking spaces* may be shared with retail commercial uses and may be used commercially for profit; and
- (N) A minimum of 496 *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
- (i) A minimum of 0.9 *bicycle parking spaces – occupant* for the residential occupants of the *lot*;
 - (ii) A minimum of 0.1 *bicycle parking spaces – visitor* for residential visitors to the *lot*; and
 - (iii) A minimum of 5 *bicycle parking spaces* for non-residential visitors.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (A) "*building permit*" means a permit issued under the *Building Code Act*, S.O. 1992, c. 23 as amended or re-enacted from time to time, including a permit for excavation or shoring and including a conditional permit, but it does not include any permit issued to construct a temporary sales office or a portion thereof, a heritage restoration permit or any permit required for the demolition, repair, maintenance, renovation or improvement of the building existing on the lot on the date of enactment of this By-law;
 - (B) "*existing heritage building*" means the existing heritage building municipally known as 314 Jarvis Street, located on the lot in the year 2021 as shown on Map 2, subject to any alterations, additions and internal modifications;
 - (C) "*grade*" means an elevation of 99.0 metres Canadian Geodetic Datum;
 - (D) "*height*" means the vertical distance between grade and the highest point of the building or structure;
 - (E) "*lot*" means the lands delineated by heavy lines on Map 1 attached hereto and forming part of this By-law;
 - (F) "*temporary sales office*" means a building, structure, facility or trailer on the lot used exclusively for the initial sale of dwelling units to be erected on the lot pursuant to this By-law;
 - (G) "*storey*" means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it; and
 - (H) "*gross floor area*" shall mean the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:

- (i) Parking, loading and bicycle parking below ground;
 - (ii) Loading spaces at grade and bicycle parking spaces at or above ground;
 - (iii) Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below ground;
 - (iv) Shower and change facilities required by this By-law for required bicycle parking spaces;
 - (v) Residential amenity space required by this By-law;
 - (vi) Elevator shafts;
 - (vii) Garbage shafts;
 - (viii) Mechanical penthouse; and
 - (ix) Exit stairwells in the building.
6. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.
7. None of the provisions of By-law 438-86, as amended, apply to prevent a *temporary sales office* on the lands subject to this By-law, which means a building, structure, facility, trailer or portion thereof use exclusively for the purpose of the sale, leasing or rental of dwelling units or non-residential units to be erected on the same lands for a period not to exceed 3 years from the date of this By-law coming into full force and effect.
8. Within the lands shown on Map 1, no person shall use any land or erect or use 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
 - (B) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
9. Prevailing By-laws and Prevailing Sections: None apply.
10. 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 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 Appendix 1 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 Appendix 1 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 the satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure on the site erected with an increase in height and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.

Ontario Municipal Board Decision issued on February 27, 2018 and Ontario Land Tribunal Order issued on June 15, 2021 in Tribunal File PL150016.

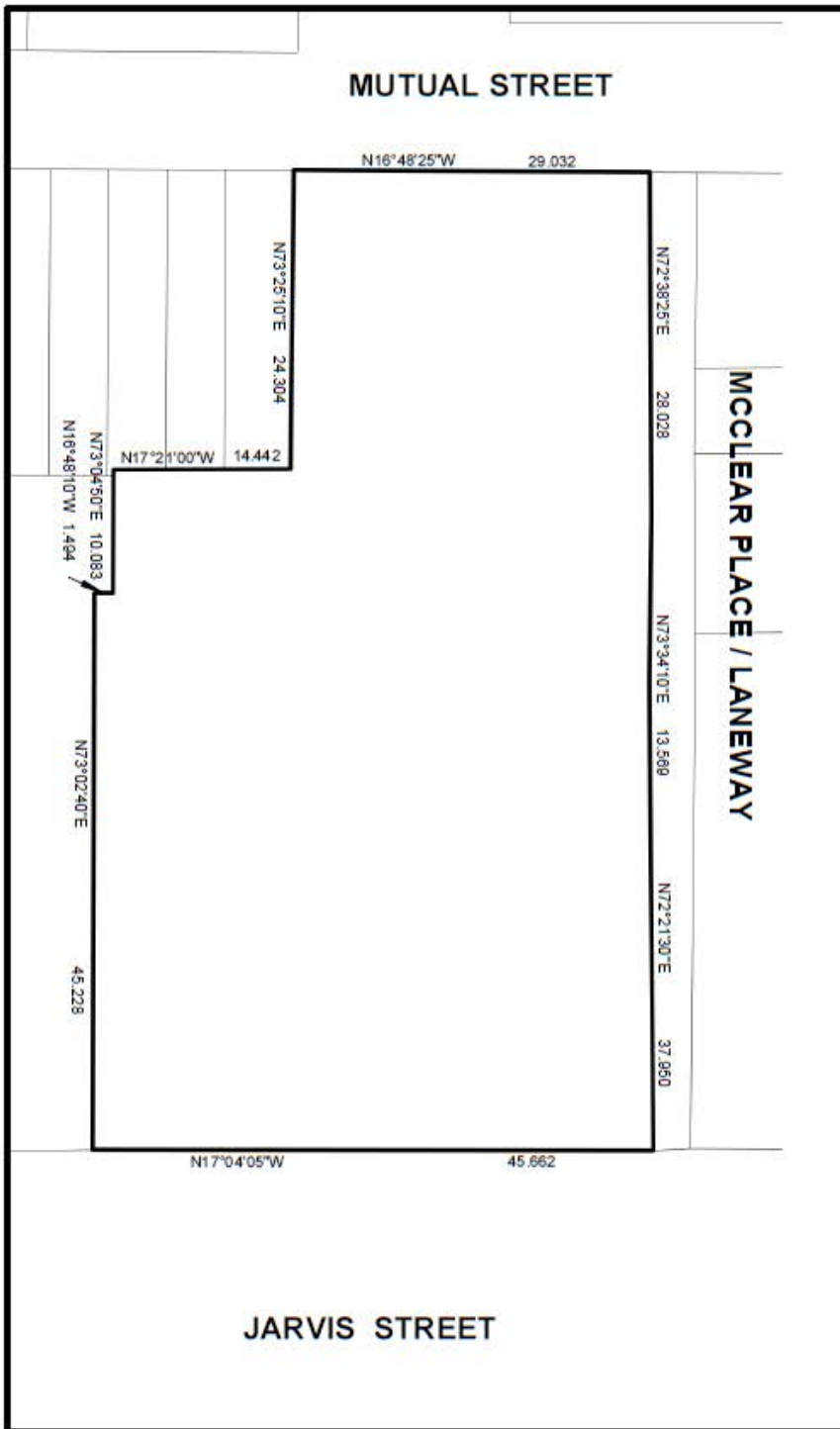
APPENDIX 1**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided to the City by the owner of the lands at the owner's expense in accordance with this By-law and as further specified in one or more agreements pursuant to Section 37 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, HST, termination and unwinding, and registration and priority of agreement whereby the owner shall agree as follows:

1. Prior to issuance of the first above grade building permit or a heritage permit, but excluding a heritage restoration permit, for all or any part of the site, the owner shall pay to the City the sum of \$3,100,000.00, to be allocated at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, for purposes identified in the Toronto Official Plan and will benefit the community in the vicinity of the site;
2. Prior to the earlier of issuance of the first above grade building permit for all or any part of the site and execution and registration of the Section 37 agreement on title to the site, the owner shall pay to the City the sum of \$200,000.00, to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, for capital improvements to improve the public safety and other conditions of public interest relating to the lane known as McClear Place, including such things as lighting, and for streetscape and other improvements in the vicinity of the site;
3. The following matters are secured in the Section 37 agreement as a legal convenience to support the development of the site but are not characterized as community benefits under section 37 of the Planning Act:
 - a. Prior to the earlier of final Site Plan Approval and issuance of a building permit or a heritage permit for the site or any portion thereof, the owner shall, at its sole cost and expense:
 - i. provide the City with the final Site Plan drawings substantially in accordance with the Reconstruction Plan, prepared by Goldsmith Borgal and Company Ltd. Architects, dated December 2, 2020, on file with and accepted by the Senior Manager, Heritage Planning;
 - ii. provide the City with a heritage lighting plan that describes how the exterior of the heritage building on the site will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such plan to the satisfaction of the Senior Manager, Heritage Planning;
 - iii. provide the City with a detailed landscape plan for the Site, satisfactory to the Senior Manager, Heritage Planning;

- iv. provide the City with an interpretation plan for the Site, to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such plan to the satisfaction of the Senior Manager, Heritage Planning; and
 - v. provide the City with a signage plan, if required, to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such plan to the satisfaction of the Senior Manager, Heritage Planning;
 - b. Prior to issuance of any permit for the site or any portion thereof, including a building permit or a heritage permit, the owner shall:
 - i. have obtained the final order of the Ontario Land Tribunal approving the amending by-laws, with such amending by-laws having come into effect in a form and with content acceptable to the Chief Planner and Executive Director, City Planning and the City Solicitor, in consultation with the Senior Manager, Heritage Planning;
 - ii. provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Planning;
 - iii. provide full documentation of the existing heritage property at 314 Jarvis Street, including two (2) printed sets of archival quality 8" x 10" 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 all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Planning; and
 - iv. provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in the approved Reconstruction Plan, the approved lighting plan and interpretation plan;
 - c. The owner shall construct and maintain the development on the site in accordance with Tier 1, Toronto Green Standard, and the owner is encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate;
 - d. The owner shall provide space within the development on the site for installation of maintenance access holes and sampling ports on the site, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with Section 681-10 of City of Toronto Municipal Code Chapter 681, Sewers;

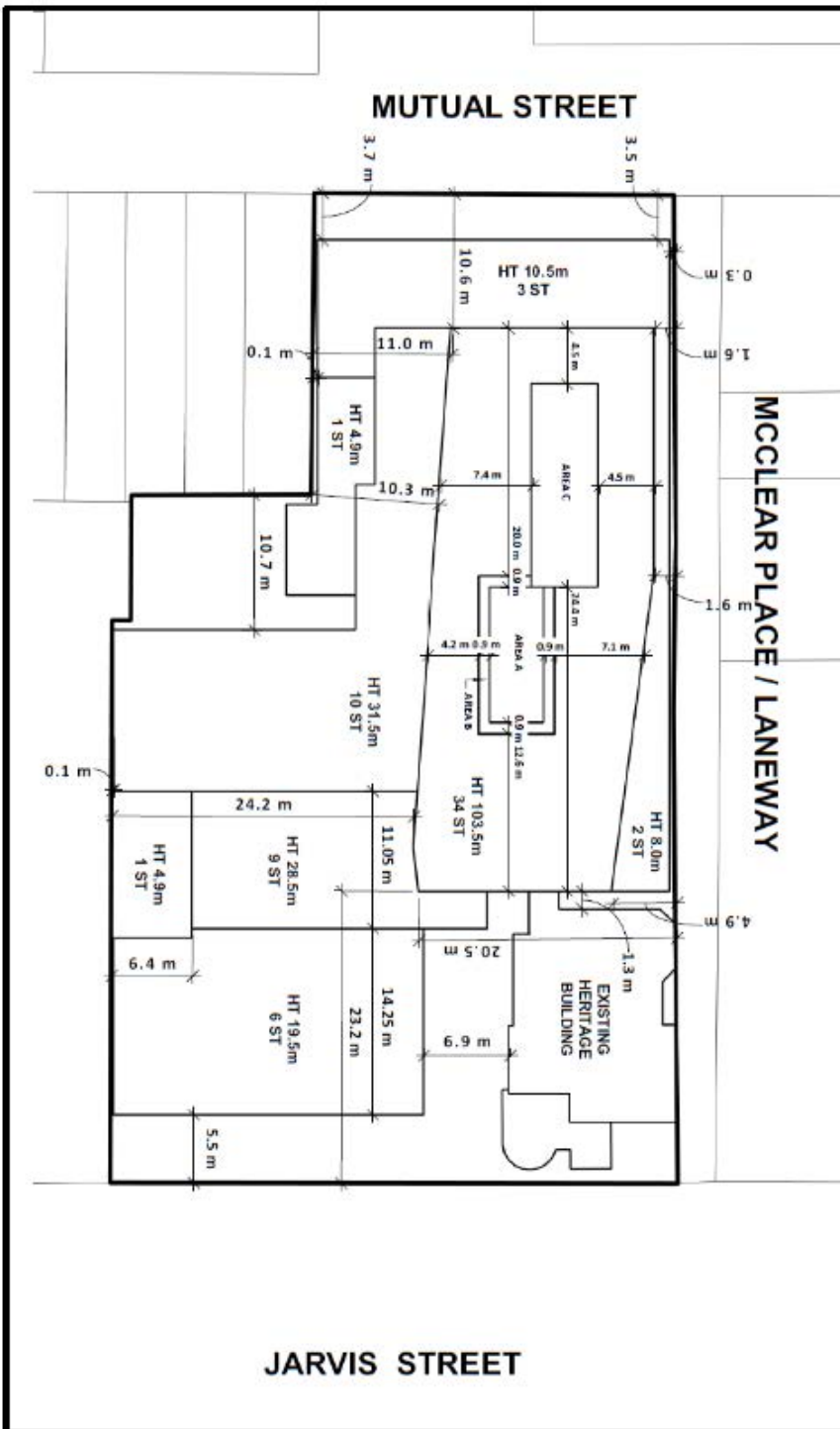
- e. The owner shall design, construct and render operational, at no cost to the City, improvements or upgrades to municipal infrastructure identified in the Functional Servicing Report required to support the development, if any, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services. The timing for the completion of any such improvements, if required, will be determined in the context of Site Plan Approval for the development, and secured by way of agreement(s) with the City, and the improvements may be completed on a phased basis, satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- f. The owner shall, through the Site Plan Approval process, enter into a financially secured agreement for the construction of any improvements to municipal infrastructure, should it be determined that upgrades and road improvements are required to support the development, according to the transportation report accepted by the General Manager, Transportation Services and the Functional Servicing Report and/or any other engineering report accepted by, and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- g. The owner will provide screening and other mitigation measures for the loading facilities at grade, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- h. Prior to the issuance of the first above grade building permit or a heritage permit for all or any part of the site, the owner shall, at its sole cost and expense, provide to the City a construction management plan, satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, in accordance with the terms and conditions of the Section 37 agreement; and
- i. Prior to the earlier of the final Site Plan Approval and issuance of any building permit in connection with the development on the site or a portion thereof, the owner shall, at its sole cost and expense, prepare and submit a detailed pedestrian level wind study for the development to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation, in accordance with the terms and conditions of the Section 37 Agreement.



 **TORONTO**
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308-314 Jarvis Street and 225 Mutual Street
MAP 1

Not to Scale 



 **TORONTO**
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308-314 Jarvis Street and 225 Mutual Street
MAP 2

Not to Scale 