

Authority: Local Planning Appeal Tribunal Decision
issued January 18, 2019 and Ontario Land Tribunal Order
issued July 30, 2021 in File PL180221

CITY OF TORONTO

BY-LAW 702-2021(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2019 as 59 Richmond Street East and 114 and 120 Church Street.

Whereas the Owner of the lands known municipally in the year 2019 as 59 Richmond Street East and 114 and 120 Church Street appealed a proposed zoning by-law amendment to the Ontario Land Tribunal pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Local Planning Appeal Tribunal, by its Decision issued on January 18, 2019 and the Ontario Land Tribunal by its Order issued on July 30, 2021, in OLT Case PL180221 approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Section 37 of the Planning Act as a mechanism to secure capital facilities required to support 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 pursuant to Section 39 of the Planning Act, the Council of Toronto 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; 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 Ontario Land Tribunal Orders:

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 the lands outlined by heavy black lines, CR 4.0 (c2.0; r4.0) SS1 (x200), CR 6.0 (c4.5; r6.0) SS1 (x200), and O 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 200 so that it reads:

Exception CR 200

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

Site Specific Provisions:

- A. On 59 Richmond Street East, 114 Church Street and 120 Church Street, if the requirements of Section 8 and Schedule A of By-law 702-2021(OLT) are complied with, a **mixed use building** may be constructed in compliance with (B) to (Y) below;
- B. Despite regulation 40.10.40.40(1), the total **gross floor area** of the **building** must not exceed a maximum of 38,200 square metres of which:
 - i. No more than 37,475 square metres may be residential uses (**dwelling units**);
 - ii. No more than 2,200 square metres may be for non-residential uses;
 - iii. A minimum of 680 square metres shall be for non-residential uses; and
 - iv. No residential **gross floor area** shall be located above a Canadian Geodetic Datum Elevation of 230.69 metres;
- C. In addition to the **building** elements listed in regulation 40.5.40.40(3), the **gross floor area** of a **mixed use building** is also reduced by the areas in a **building** used for **public parking**;
- D. Despite regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 86.24 metres and the elevation of the highest point of the **building** or **structure**;

- E. Despite clause 40.10.40.10(1) and regulation 40.5.40.10(4), the height of the **building** or **structure**, including a mechanical penthouse, must not exceed the height in metres specified by the numbers following "HT", as shown on Diagram 3 of By-law 702-2021(OLT);
- F. Despite regulations 40.5.40.10(4), 40.5.75.1(2), (5) and (6), and (E) above the following elements of a **building** may project above the height limits shown on Diagram 3 of By-law 702-2021(OLT);
- i. **structures** on the roof of any part of the **building** used for fencing, **green roof** elements, parapets, masonry piers, landscape features including seating elements and BBQ counters, boiler vents, air intake fans, vents, elevator overruns, partitions dividing outdoor recreation areas, roof drainage, thermal insulation or roof ballast to a maximum of 1.9 metres;
 - ii. **structures** on the roof of any part of the **building** used for architectural elements, exhaust flues, landscape features and walls or structures enclosing such elements, planters for trees and vegetation, safety railings and fences, stair towers, **structures** housing a pool or spa maintenance or operational equipment and swimming pools (elevated or otherwise) to a maximum of 2.75 metres; and
 - iii. **structures** on the roof of any part of the **building** used for outside or open air recreation, wind mitigation elements, public art features, telecommunications equipment and antennae, window washing equipment, trellises, life safety equipment, lightning rods, above-ground parts of a **geo-energy** device, **cogeneration energy** devices to a maximum of 4.0 metres;
- G. Despite regulation 40.10.40.10(7) the permitted maximum number of **storeys** in a **building** on the **lot** is 45 **storeys**, excluding the mechanical penthouse;
- H. Despite clause 40.5.40.70 and regulations 40.10.40.70(1) and 40.10.40.80(1), the required minimum **building setbacks** and minimum distance **between main walls** must be provided as shown on Diagram 3 of By-law 702-2021(OLT);
- I. Despite clause 40.10.40.60 and regulation (H) above, the following elements of a **Building** may encroach into a required **building setback** a maximum of:
- i. 0.4 metres for masonry piers located in the portion of Diagram 3 of By-law 702-2021(OLT) marked as areas A, B, and C;
 - ii. 0.5 metres for window frame surrounds, masonry piers, panels at spandrels and soffits;
 - iii. 1.0 metres for acoustic screens and features, lighting fixtures, terraces, terrace guards, window sills, cladding, guardrails, balustrades, railings,

- planters, monuments, retaining walls, fences, screens, wind mitigation screens and features, patios;
- iv. 2.0 metres for cornices, parapets, finials, or architectural elements, trellises and arbors, eaves, masonry, pilasters, decorative features, stairs, stair enclosures, stair landings; and
- v. 2.6 metres for window washing equipment, awnings, canopies, weather protection canopies, supportive columns, wheel chair ramps, vents, stacks, underground garage ramps and associated **structures**, underground garage stair enclosures, landscape and public art features;
- J. Despite regulation 40.5.40.60(1), a canopy, awning or similar **structure** may be located more than 5.0 metres above the elevation of the ground directly below it;
- K. Despite regulation 40.5.40.70(1)(A), a **building** may be located closer than 3.0 metres from the original centreline of a **lane**;
- L. Article 600.10.10 with respect to Building Setbacks does not apply;
- M. Despite regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
- i. A minimum of 0.17 **parking spaces** per **dwelling unit** for residents; and
- ii. A minimum of 29 **parking spaces** for visitors of the **dwelling units** and non-residential uses and may be located in a **public parking** garage on the **lot**;
- N. Of the **parking spaces** required in Regulation (M) above, a maximum of 5 such **parking spaces** may be car-share **parking spaces**, and for each car-share **parking space** provided, the minimum number of **parking spaces** may be reduced by 4 **parking spaces**;
- O. Despite Section 200.15.1, of the **parking spaces** required by (M) above, a minimum of 4 **parking spaces** must be provided as accessible **parking spaces**, which must meet the following requirements:
- i. The minimum required dimensions for an accessible **parking space** are 5.6 metres in length, 3.9 metres in width and 2.1 metres of vertical clearance;
- P. Despite regulation 200.5.1.10(2) ten **parking spaces** may have a minimum width of 2.4 metres, a minimum length of 5.4 metres, and a minimum height of 1.7 metres with or without obstructions;
- Q. Despite regulation 230.5.1.10(10), "short-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space**;

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- R. Despite regulation 230.5.1.10(4), **stacked bicycle parking spaces** must have a minimum length of 1.6 metres, a minimum width of 0.37 metres and a vertical clearance of 1.2 metres;
 - S. Regulation 230.40.1.20(2), with respect to the location of "short-term" **bicycle parking spaces**, does not apply;
 - T. Despite regulation 230.5.1.10(9), "long-term" **bicycle parking spaces** may be permitted on the third floor;
 - U. Despite Regulation 40.10.40.50, **amenity space** must be provided and maintained for the **dwelling units** at a minimum rate of 3.9 square metres per **dwelling unit**, of which:
 - i. A minimum of 600 square metres of outdoor **amenity space** must be provided, of which no more than 25 percent may be a **green roof**; and
 - ii. Indoor **amenity space** must be located in a multi-purpose room or rooms, at least one of which shall contain a kitchen and a washroom;
 - V. A minimum of 15 percent of **dwelling units** must contain at least two bedrooms, of which 50 percent must have a minimum **gross floor area** of 87 square metres;
 - W. A minimum of 10 percent of **dwelling units** must contain at least three bedrooms, of which 50 percent must have a minimum **gross floor area** of 100 square metres;
 - X. Despite regulation 220.5.10.1, a minimum of one Type "G" **loading space** and two Type "C" **loading spaces** must be provided on the **lot**; and
 - Y. Regulation 40.5.40.10(5) with respect to Limits on Elements for Functional Operation of a Building does not apply;

Prevailing By-laws and Prevailing Sections: (none applicable)

5. For the purpose of this exception:

"car-share" means the practice whereby a number of people share the use of one or more motor vehicles and such car-share motor vehicles are made available to at least the occupants of the building for short-term rental, including hourly rental; and

"car-share parking space" means a parking space exclusively reserved and signed for a car used only for car-share purposes.

- 6. Despite any severance, partition or division of lands, the provisions of this By-law apply to the whole of the lands as if no severance, partition or division occurred.
- 7. On the lands outlined by heavy black lines on Diagram 1 attached to this By-law, a temporary sales office is permitted for a period of not more than 3 years from the date

this by-law comes into full force and effect, used exclusively for the purpose of marketing, sales and leasing of **dwelling units** to be constructed on the lands.

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 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.
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Local Planning Appeal Tribunal Decision issued January 18, 2019 and Ontario Land Tribunal Order issued July 30, 2021 in File PL180221.

SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the **lot** as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act in a form satisfactory to the City, registered on title to the **lot**, 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 the agreement.

1. Prior to the issuance of the first above grade building permit, the owner shall make an indexed cash contribution to the City in the amount of four million five hundred and nine thousand dollars (\$4,509,000) payable by certified cheque to the City of Toronto, to be allocated toward capital improvements at the discretion of the Chief Planner and Executive Director, City Planning, as follows:
 - a. One Million dollars (\$1,000,000) to be allocated to Public Art that will be located within the future 198 square metres on-site park. In lieu of a monetary contribution, the owner must at its election provide Public Art for the future 198 square metres on-site park in accordance with the City's Public Art Program to the equivalent value, in accordance with all of the applicable terms and conditions of Section 5 of the agreement entered into by the owner and the City under Section 37(3) of the Planning Act;
 - b. Five Hundred Thousand dollars (\$500,000) to be used for capital improvements to existing community non-profits, including Fred Victor Centre;
 - c. Two Million dollars (\$2,000,000) to be allocated to local streetscape and/or park improvements;
 - d. Four Hundred and Fifty Thousand dollars (\$450,000) to be allocated to the implementation of the Heritage Interpretation Master Plan and/or Heritage Lighting Master Plan for Old Town Toronto; and
 - e. Five Hundred and Fifty Nine Thousand dollars (\$559,000) to be allocated to improvements to community, recreation and/or cultural spaces and/or City facilities.

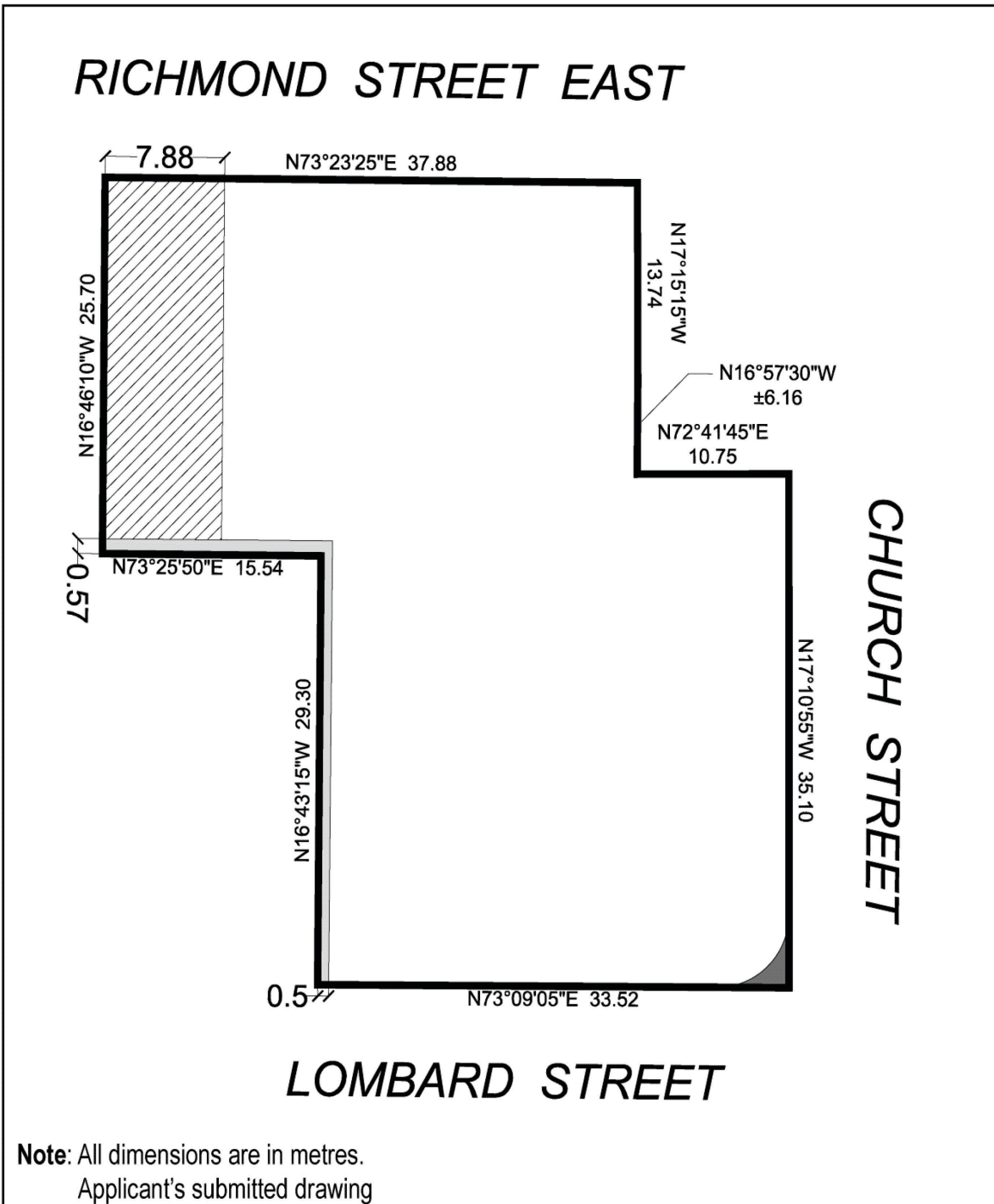
Such amounts to be indexed upwardly in accordance with the Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication 327-0058, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of the payment of the funds by the owner to the City; and

In the event the cash contribution(s) referred to in Section 1 of this Schedule A, above, have not been used for the intended purpose within three (3) years of the date of the issuance of the first above-grade building permit for the **lot**, 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 that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the **lot**.




Legal Convenience Matters

2. That the Section 37(3) Agreement referenced in Section 1 of this Schedule A, above, secure as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
 - a. The owner will provide for a conveyance of a 198 square metre portion of the **lot** to the City to satisfy parkland dedication requirements and the owner will prepare and register all documents and studies required to convey the parkland to the City, to the satisfaction of the City Solicitor;
 - b. The owner shall provide a minimum of 10 percent family sized units in the development on the **lot**, containing at least three bedrooms;
 - c. The owner shall convey a 0.5 metre wide strip of land along the east limit of the public lane and a 0.57 metre wide conveyance along the north limit of the public lane to the City for the widening of the Barbed Wire Lane;
 - d. The owner shall convey lands to the City consisting of a 5.0 metre corner rounding at Church Street and Lombard Street;
 - e. The owner shall submit a construction management plan to the satisfaction of the Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor, and shall implement the plan during the course of construction: and
 - f. The owner shall construct and maintain the development in accordance with Tier 1 performance measures of Toronto Green Standard, as adopted by City Council.

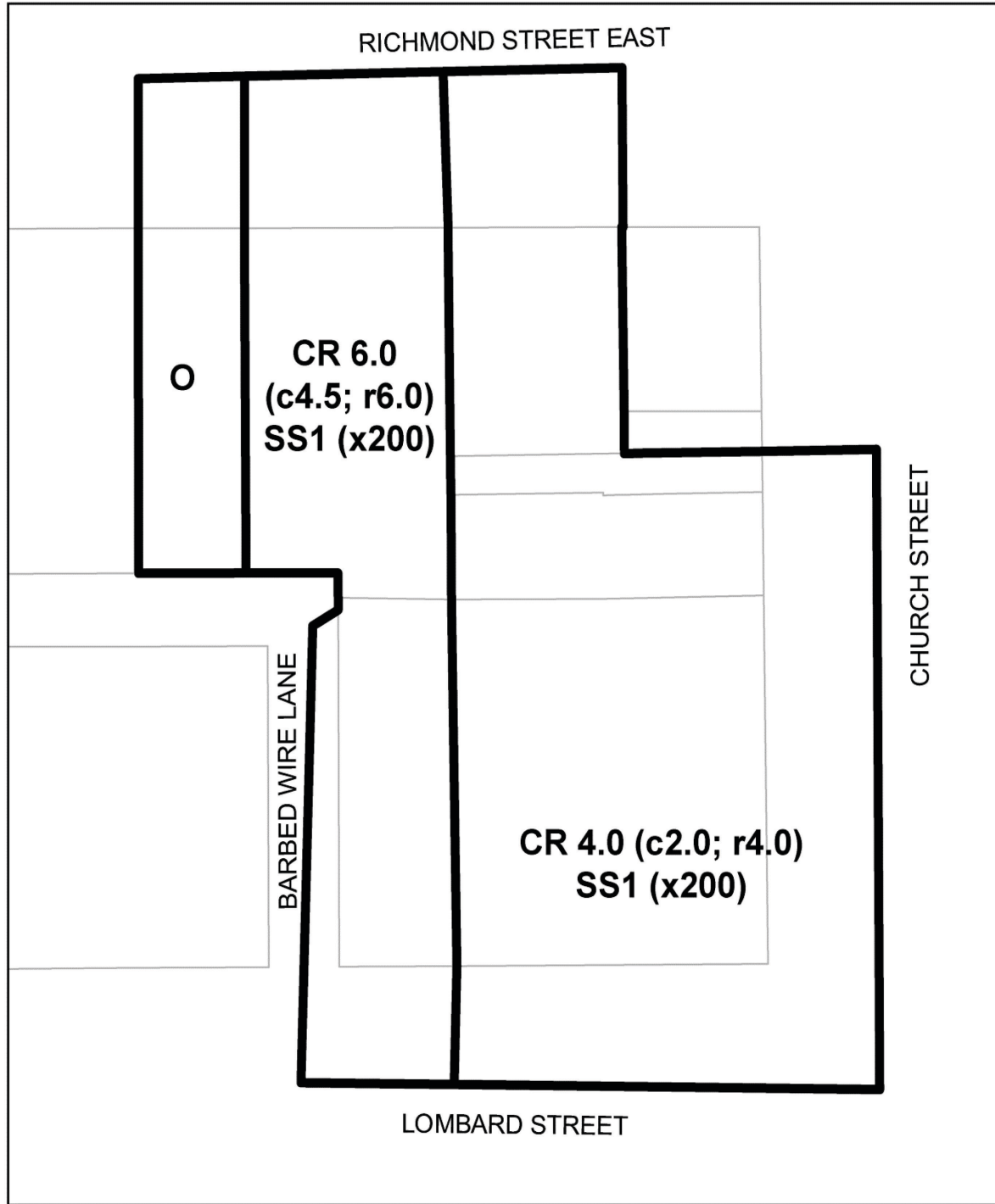


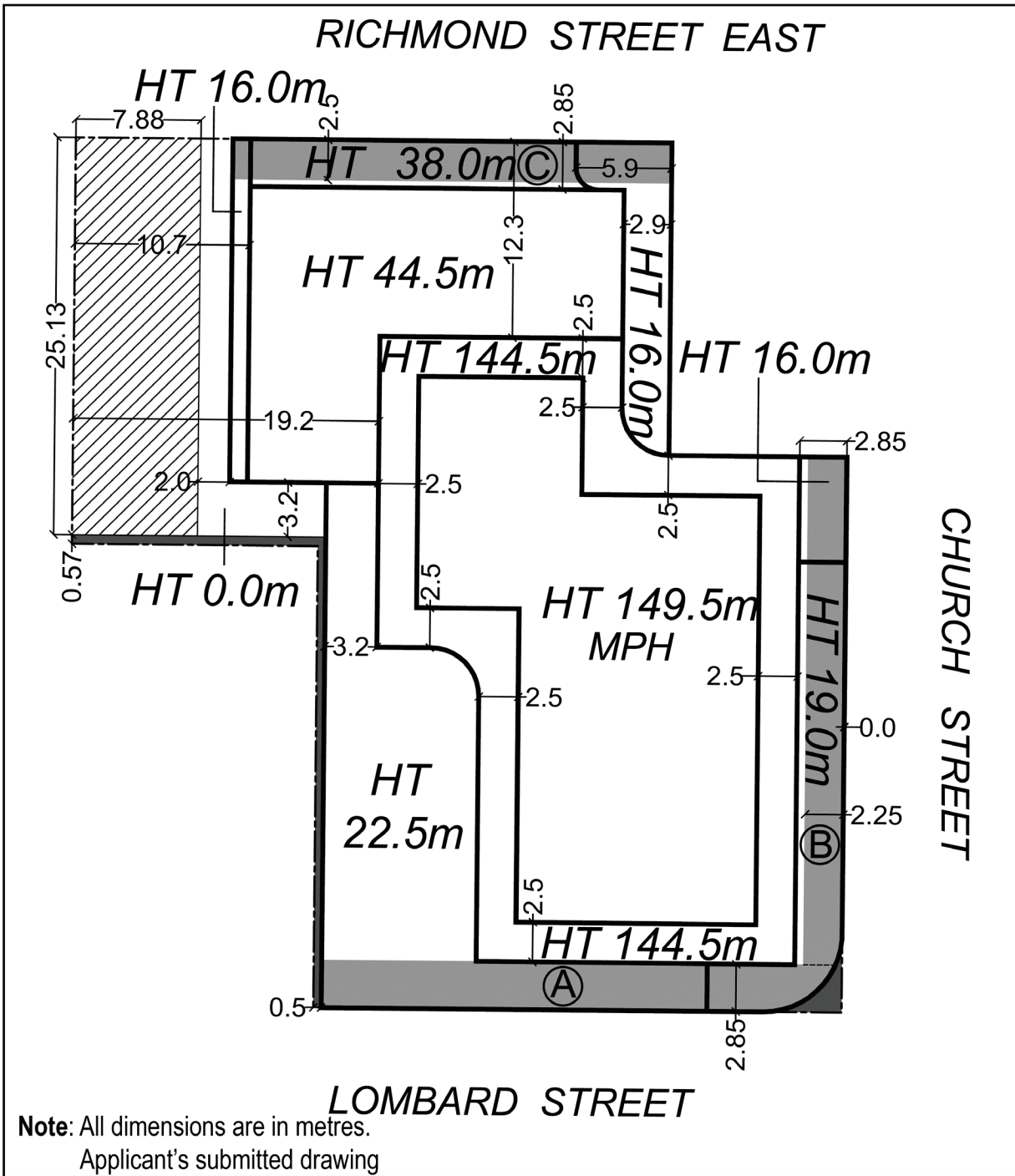
114-120 Church Street & 59 Richmond Street East

File # 17 253844 STE 28 0Z

-  Proposed on-site parkland dedication
-  Proposed corner rounding dedication
-  Proposed laneway widening dedication


 City of Toronto By-law 569-2013
 Not to Scale
 08/22/2019





TORONTO
Diagram 3

114-120 Church Street & 59 Richmond Street East

File # 17 253844 STE 28 OZ

- Conveyance to City
- ▨ Proposed on-site parkland dedication of 198 square metres
- No building permitted between:
- (A) The height of 0.0 and 3.3 metres
- (B) The height of 0.0 and 3.6 metres
- (C) The height of 0.0 and 4.3 metres