

Authority: Local Planning Appeal Tribunal Decision
issued on April 8, 2021 and Ontario Land Tribunal Order
issued on September 13, 2021 in Tribunal File PL180291

CITY OF TORONTO

BY-LAW 758-2021(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to lands known municipally in the year 2021 as 2 Carlton Street.

Whereas the Local Planning Appeal Tribunal, by way of Decision issued on April 8, 2021 and the Ontario Land Tribunal, by way of Order issued on September 13, 2021, in Tribunal File PL180291, 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 the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands known municipally in the year 2020 as 2 Carlton 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 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 matter 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 height or density of development, the owner may be required to enter into one or more agreements with the municipality dealing in respect of 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 Zoning 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;

By-law 569-2013, as amended, of the City of Toronto is further amended by the Local Planning Appeal Tribunal as follows:

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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10, and applying the following zone labels to these lands: CR 7.8 (c4.5; r7.8) SS1 (x398) 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 CR (398) so that it reads:

(398) Exception CR 398

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 the lands municipally known as 2 Carlton Street if the requirements of Section 8 and Schedule A of By-law 758-2021(OLT) are complied with, then a **mixed use building or structure** may be constructed in compliance with regulations (B) to (U) below:
- (B) Despite Regulations 40.5.1.10(3) and 40.10.40.40(1), the maximum permitted **gross floor area** of the **mixed use building** erected on the lands shown on Diagram 3 must not exceed 81,000 square metres, of which:
 - (i) The minimum **gross floor area** devoted to office uses shall be 8,282 square metres and the maximum **gross floor area** devoted to office uses shall be 14,554 square metres;
 - (ii) The maximum **gross floor area** devoted to residential uses shall be 72,000 square metres;
 - (iii) No residential **gross floor area** may be permitted above the Canadian Geodetic Datum elevation of 344.2 metres; and
 - (iv) The minimum **gross floor area** devoted to retail uses shall be 800 square metres and the maximum **gross floor area** devoted to retail uses shall be 1800 square metres;
- (C) A minimum of 10 percent of the total number of **dwelling units** shall have three bedrooms and an additional 30 percent of the total number of **dwelling units** shall have two or more bedrooms;
- (D) Despite Regulation 40.5.40.10(1) and (2), for the purposes of By-law 758-2021(OLT), the height of a **building or structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 102.2 metres and the highest point of the **building or structure**, except for those elements otherwise expressly permitted in By-law 758-2021(OLT);

- (E) Despite Regulations 40.10.40.10(1), no portion of the **mixed use building** may exceed the maximum height in metres specified by the number following the letters "HT" on Diagram 3 of By-law 758-2021(OLT);
- (F) Despite (E) above, Clause 40.5.40.10 and Regulation 40.10.40.10(1), the following **building** elements and **structures** are permitted to project above the permitted maximum heights shown on Diagram 3 of By-law 758-2021(OLT), as follows:
- (i) Architectural features, air intake and air handling units, communication equipment, cooling tower, elevator overruns, exit stairs, stairs, stair enclosures, fences, flues, landscape and public art features, noise attenuation walls, pipes, window washing equipment, and elevator machine room may project up to a maximum of 5.0 metres above the permitted maximum heights;
 - (ii) Awnings, chimneys, bicycle racks, bollards, guardrails, lighting fixtures, Planters, ornamental elements, cornices, platforms, railings, retaining walls, parapets, railings, balustrades, roof drainage systems, screens, stacks, terraces, **green roof**, trellises, insulation and roof surface materials, vents, wind mitigation screens, and window sills, may project up to a maximum of 2.5 metres above the permitted maximum heights;
 - (iii) Elements or **structures** on any portion of a roof used for outside or open air recreation, including required residential **amenity space** may project up to a maximum of 3.0 metres above the permitted maximum heights.
 - (iv) Despite subsections F (i), (ii) and (iii) above, Clause 40.5.40.10 and Regulation 40.10.40.10(1), no **building** elements and **structures** shall be located above the Canadian Geodetic Datum elevation of 349.2 metres within the area denoted as HT 247.0 on Diagram 3, above the Canadian Geodetic Datum elevation of 344.2 metres within the area denoted as HT 242.0 on Diagram 3, above the Canadian Geodetic Datum elevation of 341.4 metres within the area denoted as HT 239.2 on Diagram 3, above the Canadian Geodetic Datum elevation of 338.6 metres within the area denoted as HT 236.4 on Diagram 3, above the Canadian Geodetic Datum elevation of 335.8 metres within the area denoted as HT 233.6 on Diagram 3, above the Canadian Geodetic Datum elevation of 333.0 metres within the area denoted as HT 230.8 on Diagram 3, and above the Canadian Geodetic Datum elevation of 330.2 metres within the area denoted as HT 228 on Diagram 3, except for the following:
 - (a) Architectural features, air intake and air handling units, chimneys, lighting fixtures, communication equipment, flues, window washing equipment, up to a maximum height of 5 metres; and

- (b) Guardrails, roof drainage, terraces, **green roof**, trellises, screens, cornices, railings, insulation and roof surface materials up to a maximum of 2.5 metres;
 - (v) Despite subsections F (i), (ii), (iii) and (iv) above, Clause 40.5.40.10 and Regulation 40.10.40.10(1), no **building** elements and **structures** shall be located above the Canadian Geodetic Datum elevation of 353.3 metres within the area denoted as HT 251.1 on Diagram 3 except for the following:
 - (a) Air intake and air handling units, lighting fixtures, communication equipment, and flues up to a maximum height of 2.5 metres; and
 - (b) Window washing equipment up to a maximum of 5 metres;
- (G) Despite Regulations 40.5.40.70, 40.10.40.70(1) and Section 600.10, the minimum required **building setbacks** and are shown on Diagram 3 of By-law 758-2021(OLT);
- (H) Despite Regulations 5.10.40.70(1), 40.10.40.60, 600.10 and (G) above, the following **building** elements and **structures** are permitted to encroach into required **building setbacks** shown on Diagram 3 of By-law 758-2021(OLT), as follows:
 - (i) Awnings and canopies may encroach up to a maximum of 1.5 metres;
 - (ii) Chimneys, landscape and public art features, planters, trellises, screens, wind mitigation screens, and wheel chair ramps, and their associated **structures**, may encroach up to a maximum of 2.5 metres;
 - (iii) Architectural features, eaves, fences, finials, guardrails, lighting fixtures, ornamental elements, parapets, railings, window sills, may encroach up to a maximum of 1.0 metres;
 - (iv) Stairs and stair enclosures may encroach up to a maximum of 5.5 metres;
 - (v) Window washing and building maintenance equipment, may encroach into the required **building setbacks** for all **buildings** and **structures** up to a maximum of 5.5 metres when in use; and
 - (vi) Bay windows may encroach into the required **building setbacks** within the areas specified on Diagram 3 as "Bay Window Zone" to a maximum of 1.5 metres;
- (I) Despite Clause 40.10.40.50, **amenity space** must be provided and maintained on the **lot** as follows:
 - (i) 1.6 square metres of indoor **amenity space** shall be provided for each **dwelling unit**; and

- (ii) 0.6 square metres of outdoor **amenity space** shall be provided for each **dwelling unit**, of which:
 - (a) at least 40.0 square metres is outdoor **amenity space** in a location adjoining or directly accessible to the indoor **amenity space**; and
 - (b) no more than 25 percent of the outdoor component may be a **green roof**;

- (J) Despite Regulations 40.10.100.10(1) (A) and (C) with respect to **vehicle** access, one vehicular access is permitted from Wood Street and one vehicular access is permitted from Reverend Porter Lane and regulation 200.5.1.10(12)(c) shall not apply;

- (K) Despite Regulations 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided on the **lot** as follows:
 - (i) A minimum of 0.125 **parking spaces** per **dwelling unit** for residents of the **mixed use building**;

 - (ii) 16 Car Share **parking spaces** are required for use by occupants of the **mixed use building**;

 - (iii) A minimum of 0.03 **parking spaces** per 100 square metres of **non-residential gross floor area** are required for non-residential uses and residential visitors in the **mixed use building**;

 - (iv) The **parking spaces** may be located in an "automated parking system";

 - (v) **parking spaces** provided within an "automated parking system" will not be subject to clause 200.5.1.10. and must have minimum dimensions as follows:
 - (a) Length - 5.4 metres;

 - (b) Width - 2.4 metres; and

 - (c) Vertical clearance - 2 metres;

 - (vi) **Parking spaces** required in (i) through (iii) above may be provided in a **stacked parking space**; and

 - (vii) For the purposes of this exception, "automated parking system" means a mechanical system for the purpose of parking and retrieving cars without drivers in the **vehicle** during parking and without the use of ramping or driveway aisles, and which may include but is not limited to, a vertical lift and the storage of cars on parking pallets. Automated manoeuvring of other **vehicles** may be required in order for cars to be parked or to be

retrieved. Parking pallets and parking elevators will not conform to the **parking space** and accessible **parking space** dimensions set out in City of Toronto Zoning By-law 569-2013 and above in By-law 758-2021(OLT). For clarity, parking pallets will be considered as a **parking space** or as an accessible **parking space** for the purpose of determining compliance with the requirements in City of Toronto Zoning By-law 569-2013 and relevant clauses in By-law 758-2021(OLT).

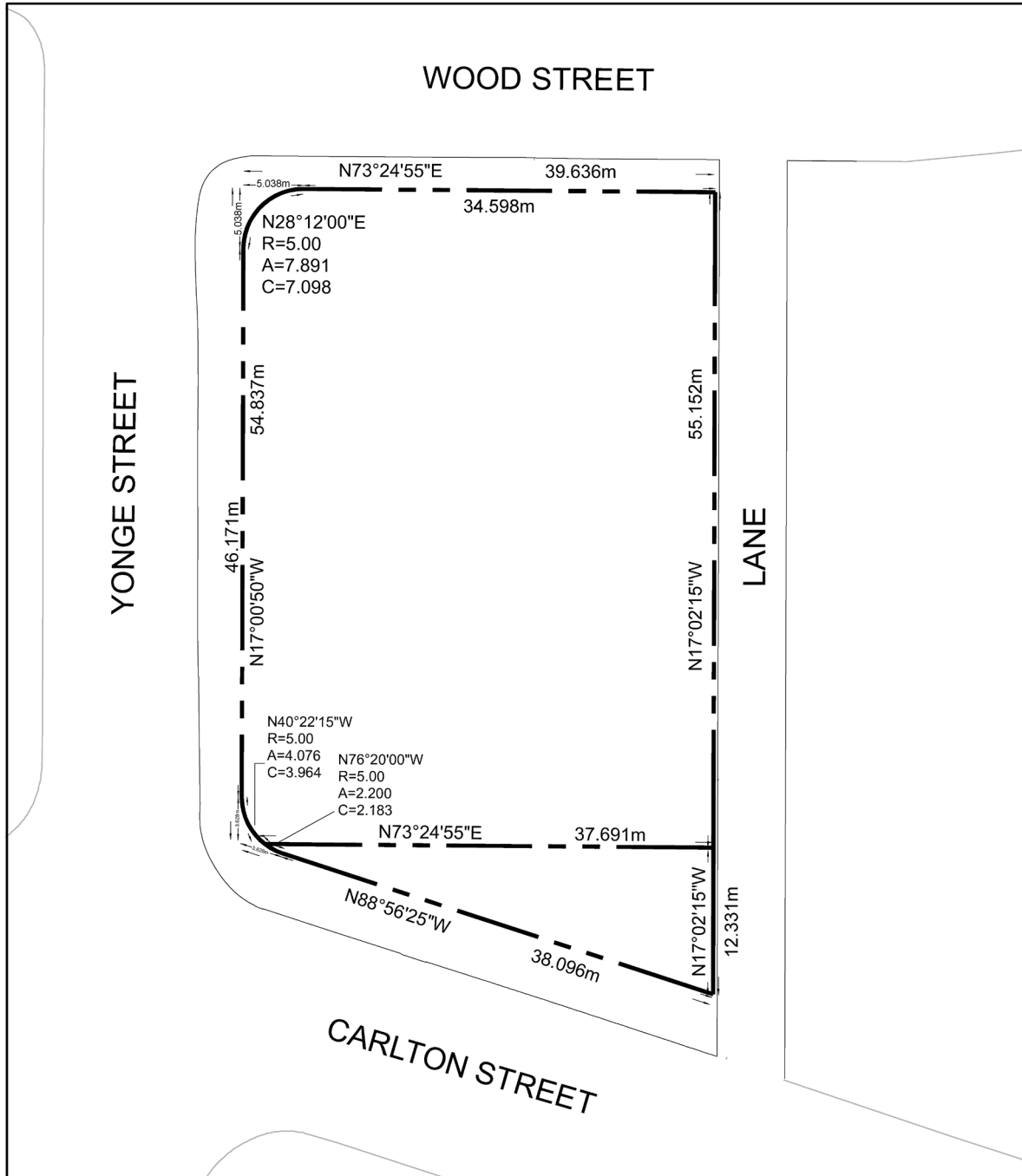
- (L) Despite Regulations 200.5.1.10(2)(A) and (D), electric vehicle infrastructure, including electrical vehicle supply equipment may encroach up to a maximum of 0.5 metres, and does not constitute an obstruction to a **parking space**;
- (M) Accessible **parking spaces** shall be provided on the **lot** in accordance with the following requirements:
- (i) minimum length of 5.6 metres;
 - (ii) minimum width of 3.4 metres;
 - (iii) minimum vertical clearance of 2.1 metres; and
 - (iv) the entire length of accessible **parking spaces** must be adjacent to a 1.5 metres wide accessible barrier free aisle or path;
- (N) Despite sections 200.15.1(4) and 200.15.10(1) a minimum of five (5) accessible **parking spaces** must be located closest to a barrier free pedestrian entrance within the parking garage providing access to an elevator serving the ground floor;
- (O) "Car-share" **parking spaces** are permitted on the **lot** in accordance with the following:
- For the purposes of this exception, "car share" means the practice where a number of people share the use of one or more cars that are owned by a profit or nonprofit car sharing organization and where the organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car sharing organization, including the payment of a membership fee which may or may not be refundable, and "car share **parking space**" means a **parking space** exclusively reserved and used for car share purposes where the **vehicle** is accessible to at least the occupants of the **building**;
- (P) Despite Clause 220.5.10.1 **loading spaces** shall be provided on the **lot**, as follows:
- (i) One – **loading space** – Type 'G'
 - (ii) One – **loading space** – Type 'B'; and

- (iii) One – **loading space** – Type 'C';
- (Q) Despite Regulation 230.5.1.10(9), (10) and 230.40.1.20 (1), **bicycle parking spaces** must be provided and maintained on the **lot** in accordance with the following:
 - (i) Long-term and short-term **bicycle parking spaces** may be provided in horizontal, vertical and/or **stacked bicycle parking spaces**, or any combination thereof;
 - (ii) Long-term **bicycle parking spaces** and short-term **bicycle parking spaces** may be located any floor of a **building** below **grade** and may be located more than 30 metres from a pedestrian entrance;
 - (iii) Despite subsection P(ii) above, a minimum of 400 long-term **bicycle parking spaces** will be located on the first level below **grade**, inclusive of a mezzanine level;
 - (iv) Short-term and long-term **bicycle parking spaces** and/or **stacked bicycle parking spaces** may be located within a secured room, enclosure or any combination thereof; and
 - (v) Short-term **bicycle parking spaces** and/or **stacked bicycle parking spaces** may be located indoors or outdoors;
- (R) Despite Regulation 230.5.1.10(4) and (5) **stacked bicycle parking spaces** must have minimum dimensions as follows:
 - (i) minimum length of 1.8 metres;
 - (ii) minimum width of 0.6 metres, and
 - (iii) minimum vertical clearance for each **bicycle parking space** of 1.0 metres;
- (S) Regulation 40.10.40.1(1) with respect to location of commercial uses in a **mixed use building**, does not apply;
- (T) Despite regulation 40.10.40.10(5) related to the minimum height of first **storey**, the first **storey**, measured between the floor of the first **storey** and the ceiling of the first **storey** shall be 4.0 metres; and
- (U) None of the provisions of this By-law or By-law 569-2013, as amended, shall apply to prevent a Construction Office/Sales Office on the lands identified on Diagram 1 of By-law 758-2021(OLT), where a Construction Office/Sales Office means **buildings, structures**, facilities or trailers, or portions thereof, used for the purpose of the administration and management of construction activity and/or for selling or leasing dwelling units and of non-residential **gross floor area** on the lands identified on Diagram 1 of By-law 758-2021(OLT);

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

5. Despite any existing or future severance, partition, division, or conveyance of the **lot**, the provisions of this by-law shall apply to the whole **lot** as if no severance, partition or division occurred.
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 on Diagram 3 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A of this By-law 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 provision of Schedule A are satisfied.


Local Planning Appeal Tribunal Decision issued on April 8, 2021 and Ontario Land Tribunal Order issued on September 13, 2021 in Tribunal File PL180291.

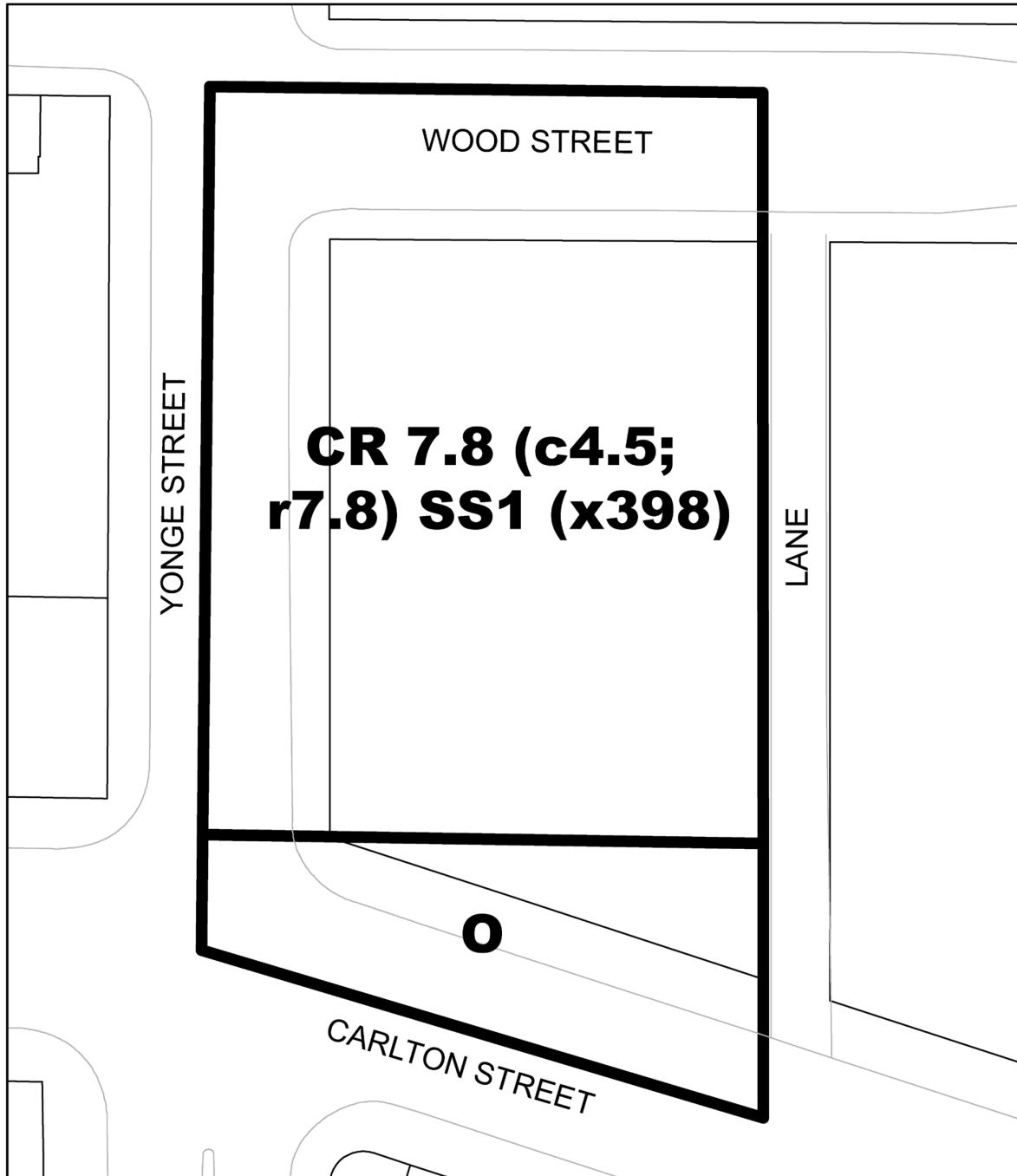


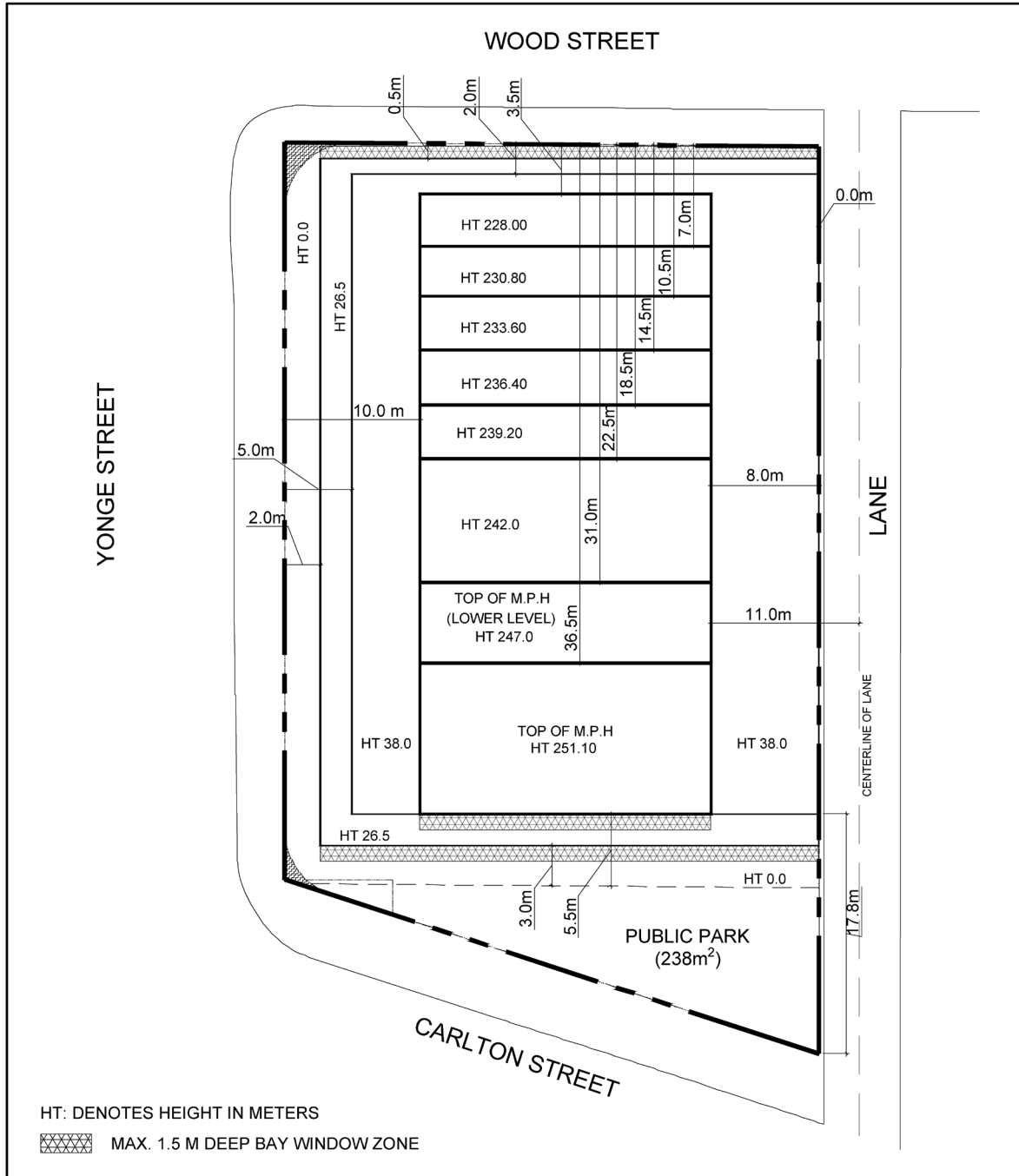
 **TORONTO**
Diagram 1

2 Carlton Street

File # 16 232828 STE 27 OZ


City of Toronto By-law 569-2013
Not to Scale
07/06/2021





Toronto
Diagram 3

2 Carlton Street

File # 16 232828 STE 27 OZ

City of Toronto By-law 569-2013
Not to Scale
07/06/2021

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 **lands** as shown on 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:

1. Prior to the issuance of the first above-grade building permit for the development, the Owner shall pay to the City the sum of Fourteen Million Seven Hundred Fifty Thousand Dollars (\$14,750,000.00) to be allocated equally, as may be required by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, between:
 - (a) Capital improvements for new or existing affordable housing, cultural or recreational facilities in the Ward;
 - (b) Local area streetscape capital improvements; and
 - (c) Local area park capital improvements.
2. The cash contribution referenced above shall be increased by upwards indexing in accordance with the Statistics Canada Non-Residential Construction Price Index, calculated from the date the Section 37 Agreement is executed to the date payment is made;
3. As a condition of Site Plan Approval, the Owner shall complete a Toronto Transit Commission Technical Review;
4. The Owner shall maintain a minimum 3 metre setback from the main wall of the podium of the development adjacent to the proposed parkland, and at its sole cost and expense, provide, construct and thereafter repair and maintain the 3-metre setback area as privately-owned landscaped outdoor space with allowances for patio and spill-out retail uses;
5. The Owner acknowledges and agrees that they will not request an encroachment agreement or limiting distance agreement from the City for the purpose of maintaining any building projections from the development that project into the private landscaped outdoor space;
6. As a condition of Site Plan Approval, the Owner shall be required to provide an updated Hydrogeological Review to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with Toronto Water;
7. The Owner shall construct and maintain the development in accordance with Tier 1, Toronto Green Standard and the Owner is encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate;

8. The Owner shall submit an updated Noise and Vibration Study, Parking and Traffic Impact Study, Landscape Plan, and any other studies or reports as may be required through the site plan approval process for the development, and shall implement any required revisions or mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning;
9. As a condition of Site Plan Approval, the Owner shall provide a pedestrian level wind study, including wind tunnel test, to the satisfaction of the Chief Planner. The pedestrian level wind study shall identify recommendations to protect for comfortable wind conditions on neighbouring streets, walkways and open spaces as necessary to preserve their utility. The Owner will implement and maintain all recommended wind impact mitigation measures for the **lands** to the satisfaction of the Chief Planner and Executive Director, City Planner;
10. As a condition of Site Plan Approval, the Owner shall secure matters such as materiality, articulation and design of the proposed building, as well as site design, landscape and streetscape treatment through the site plan approval process;
11. As a condition of Site Plan Approval, the Owner shall develop an interpretation/commemoration plan for the existing building on the **lands**, to be implemented as part of the site plan approval process to the satisfaction of the Chief Planner and Executive Director, City Planning;
12. The Owner shall provide a minimum of 8,282 square metres of **gross floor area** devoted to office uses within the development for the purposes of office space replacement on the **lands**;
13. The Owner also agrees to provisions within the Zoning By-law Amendments for the potential further provision of office space for a total of 14,554 square metres of **gross floor area** devoted to office uses on the **lands**. For clarity, the Owner has no obligation to provide any additional **gross floor area** devoted to office uses on the **lands** beyond the 8,282 square metres secured in the Zoning By-law Amendments;
14. As part of the development the Owner shall ensure a minimum of 10 percent of the total number of **dwelling units** shall have three bedrooms, and in addition a minimum of 30 percent of the total number of **dwelling units** shall have two or more bedrooms. There shall be no restrictions on the size of these **dwelling units**;
15. Prior to the issuance of the first above-grade building permit, the Owner shall convey to the City in fee simple no less than 238 square metres of unencumbered parkland along Carlton Street for public parkland purposes;
16. The parkland conveyance is to be free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved in writing by the General Manager, Parks, Forestry and Recreation. To the extent that the Owner agrees to provide a potential TTC connection, any encumbrances and encroachments that are required below grade to

accommodate the potential TTC connection shall be accepted as permitted encumbrances and encroachments by the General Manager, Parks, Forestry and Recreation;

17. The Owner, at its expense, will be responsible for Base Park Improvements;
18. Prior to the issuance of the first above-grade building permit, the Owner shall submit a cost estimate and any necessary plans reflecting the Base Park Improvements, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
19. Prior to the issuance of the first above-grade building permit, the Owner shall post a Letter of Credit in the amount of 120 percent of the value of the Base Park Improvements based on the approved plans and cost estimate, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
20. In addition to the Base Park Improvements, the Owner shall design and construction improvements to the parkland, above the Base Park Improvements, to be approved by the General Manager, Parks, Forestry and Recreation (the "Above Base Park Improvements");
21. Prior to the issuance of the first building permit or the permit that triggers the payment of the development charges, but in no event shall it be later than the issuance of the first above-grade building permit, the Owner is required to submit a cost estimate and any necessary plans to be approved by the General Manager, Parks, Forestry and Recreation, for the Above Base Park Improvements;

Upon receipt of a development charge credit for the Parks and Recreation component payable for the development, the Owner shall submit a separate Letter of Credit equal to 120 percent of the value of the Parks and Recreation component of the development charges (the "Above Base Park Improvements Security") to secure the Above Base Park Improvements.