

Authority: Local Planning Appeal Tribunal Decision
issued on October 31, 2019 and Ontario Land Tribunal
Order issued on January 7, 2022 in File PL180067

CITY OF TORONTO

BY-LAW 34-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2020 as 135-143 Portland Street.

Whereas the Owner of the lands in the year 2018 appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal (now 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 Decisions issued on October 31, 2019 and Ontario Land Tribunal Order issued on January 7, 2022, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 135-143 Portland Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the height or density of development; and

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

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters irrespective of the 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 or 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 No. 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 to CRE (x40), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number 40, so that it reads:

(40) Exception CRE 40

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 135-143 Portland Street in the year 2020, if the requirements of Section 5 and Schedule A of By-law 34-2022(OLT) are complied with, then a **mixed-use building** or **structure** may be constructed in compliance with (B) to (M) below;
- (B) The uses listed:
 - (i) in Regulations 50.10.20.10(1)(A) and 50.10.20.20(1)(A) are only permitted on the first **storey** of the **building** in combination with a **dwelling unit**; and
 - (ii) in Regulations 50.10.20.10(1)(C) and 50.10.20.20(1)(C) are not permitted.
- (C) The **gross floor area** must not exceed 8,230 square metres, of which:
 - (i) the **gross floor area** for uses listed in Regulations 50.10.20.10(1)(B) and 50.10.20.20(1)(B) must not exceed 8,230 square metres; and
 - (ii) the **gross floor area** for uses listed in Regulations 50.10.20.10(1)(A) and 50.10.20.20(1)(A) must not exceed 235 square metres
- (D) Despite Regulation 50.5.40.40(3)(C) the **gross floor area** of a **mixed use building** is reduced by the area in the **building** used for electrical, utility, mechanical and ventilation rooms on any floor above or below ground;
- (E) The maximum number of **dwelling units** is 129, of which:
 - (i) a minimum of 35 percent of all **dwelling units** must have 2 bedrooms;
 - (ii) a minimum of 10 percent of all **dwelling units** must have a minimum of 3 bedrooms; and

- (iii) any **dwelling units** with three or more bedrooms provided to satisfy (E)(ii) above are not included in the provision of **dwelling units** with two bedrooms, required by (E)(i) above;
- (F) Despite Clauses 50.10.40.70 and 50.10.40.80, and Article 600.10.10 the minimum required **building setbacks** and minimum above-ground distance between **main walls** are as shown in metres on Diagrams 3A, 3B, 3C, 3D, 3E and 3F of By-law 34-2022(OLT);
- (G) Despite (F) above and Clause 50.10.40.60, the following elements of a **building** may encroach into the required **building setbacks** and minimum above-ground distance between **main walls**:
 - (i) awnings, balustrades, cornices, eaves, fixtures, ornamental elements, lighting fixtures, parapets, railings, trellises, vents, window sills, planters, and other minor architectural projections are permitted to encroach into the minimum required **building setbacks** no more than 0.9 metres;
 - (ii) balconies may encroach up to a maximum of 1.5 metres within the balcony projection zones as noted and shown as hatched areas on Diagrams 3B, 3C, 3D, 3E and 3F of By-law 34-2022(OLT);
 - (iii) elements or portions of a **building** required for structural support, including shear walls, columns, and other structural support members may encroach into the minimum required **building setbacks** no more than 3.5 metres; and
 - (iv) canopies may encroach into the minimum required **building setbacks** no more than 1.5 metres;
- (H) Despite Regulations 50.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 90.0 metres and the elevation of the highest point of the **building** or **structure**;
- (I) Despite Clause 50.10.40.10, the permitted maximum height of a **building** or **structure** is the numerical value in metres following the letters "HT" as shown on Diagrams 3A, 3B, 3C, 3D, 3E and 3F attached to By-law 34-2022(OLT), subject to the following and (F) above:
 - (i) The first and second **storeys** of the **building** must be located within the heavy lines shown on Diagram 3A attached to By-law 34-2022(OLT);
 - (ii) The third and fourth **storeys** of the **building** must be located within the heavy lines shown on Diagram 3B attached to By-law 34-2022(OLT);

- (iii) The fifth **storey** of the **building** must be located within the heavy lines shown on Diagram 3C attached to By-law 34-2022(OLT);
 - (iv) The sixth **storey** of the **building** must be located within the heavy lines shown on Diagram 3D attached to By-law 34-2022(OLT);
 - (v) The seventh **storey** through to and including the eleventh **storey** of the **building** must be located within the heavy lines shown on Diagram 3E attached to By-law 34-2022(OLT); and
 - (vi) The portion of the **building** located at the twelfth **storey** and above must be located within the heavy lines shown on Diagram 3F attached to By-law 34-2022(OLT);
- (J) Despite (I) above and Regulations 50.5.40.10(3), (4), (5), (6), (7) and (8), only the following **building** elements and **structures** are permitted to project above the height limits shown following the symbol HT on Diagrams 3A, 3B, 3C, 3D, 3E, and 3F attached to By-law 34-2022(OLT):
- (i) awnings, balustrades, canopies, cornices, eaves, fixtures, ornamental elements, lighting fixtures, **green roofs**, structural columns and shear walls, parapets, window sills, planters and other minor architectural projections are permitted to project no more than 0.8 metres above the height limits shown on Diagrams 3A, 3B, 3C, 3D, 3E, and 3F;
 - (ii) railings and trellises are permitted to project no more than 1.3 metres above the height limits shown on Diagrams 3A, 3B, 3C, 3D, 3E, and 3F;
 - (iii) screens are permitted to project no more than 2.0 metres in the area labelled as "HT=47.0" on Diagram 3F;
 - (iv) roof hatches are permitted to project no more than 1.0 metres in the area labelled as "HT=49.99" on Diagram 3F;
 - (v) window-washing equipment, lightning protection elements, garbage chutes, vents, flues and chimney stacks are permitted to project no more than 2.0 metres in the area labelled as "HT=49.99" on Diagram 3F;
 - (vi) elevator overruns, cooling towers, generator rooms and screens are permitted to project no more than 2.9 metres in the area labelled as "Area A" on Diagram 3F;
 - (vii) the elements listed in (J) (iv) and (v) above may project by the vertical distances described above provided that the total horizontal

area of all of these elements combined does not exceed 11.0 square metres;

- (K) Despite the parking rates in Table 200.5.10.1 and Clauses 200.5.10.1 and 200.15.10, **parking spaces** must be provided as follows:
- (i) a minimum of 3 **parking spaces** for the **dwelling units**;
 - (ii) no **parking spaces** are required for the visitors of the **dwelling units**; and
 - (iii) no **parking spaces** are required for the non-residential uses;
- (L) Despite Regulation 230.50.1.20(2), a short-term **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the **lot**;
- (M) Despite Regulation 50.10.40.50(1), **amenity space** must be provided in accordance with the following:
- (i) a minimum of 1.45 square metres of indoor **amenity space** for each **dwelling unit**; and
 - (ii) a minimum of 0.55 square meters of outdoor **amenity space** for each **dwelling unit**.

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

5. 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 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 upon 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 applicable provisions of Schedule A are satisfied; and
- (D) Once the agreement or agreements securing the facilities, services and matters set out in Schedule A have been executed and registered, the provisions of Schedule

A shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.

Local Planning Appeal Tribunal Decision issued on October 31, 2019 and Ontario Land Tribunal Order issued on January 7, 2022 in File PL180067.

Schedule A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City by the owner 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 attached to this By-law in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act (the "**Section 37 Agreement**"), whereby the **owner** agrees as follows:

Heritage Conservation

1. The owner shall:
 - (A) enter into a Heritage Easement Agreement with the City for the properties at 139, 141 and 143 Portland Street substantially in accordance with plans and drawings prepared by Core Architects, submitted with the Heritage Impact Assessment prepared by ERA Architects Inc., dated August 16, 2019, subject to and in accordance with the approved Conservation Plan required in Section 1. (B) below, all to the satisfaction of the Senior Manager, Heritage Planning including execution of such agreement to the satisfaction of the City Solicitor;
 - (B) provide a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 139, 141 and 143 Portland Street, prepared by ERA Architects Inc., dated August 16, 2019, all to the satisfaction of the Senior Manager, Heritage Planning; and
 - (C) enter into and register on the properties at 139, 141 and 143 Portland Street one or more agreements with the City pursuant to Section 37 of the Planning Act, all to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning and the Senior Manager, Heritage Planning with such facilities, services and matters to be set forth in the related site specific Zoning By-law Amendment giving rise to the proposed alterations, including amongst other matters, securing the preparation and thereafter the implementation of a Heritage Lighting Plan, a Signage Plan, an Interpretation Plan and requiring a letter of credit to secure all work included in the approved Conservation Plan and approved Interpretation Plan, including provision for upwards indexing, all to the satisfaction of the Senior Manager, Heritage Planning.
2. Prior to Final Site Plan approval in connection with the Zoning By-law Amendment appeal for the properties at 139, 141 and 143 Portland Street, the owner shall:
 - (A) provide final site plan drawings including drawings related to the approved Conservation Plan required in Section 1. (B) above;
 - (B) provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;

- (C) provide a Heritage Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager Heritage Planning;
 - (D) provide a detailed Landscape Plan for the subject properties satisfactory to the Senior Manager, Heritage Planning; and
 - (E) submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Planning.
3. Prior to the issuance of any **building** permit for all or any part of the properties at 139, 141 and 143 Portland Street, including a heritage permit or a building permit, or a demolition permit for 135 Portland Street, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Planning, the owner shall:
- (A) obtain final approval for the necessary By-law amendments required for the alterations to the properties at 139, 141 and 143 Portland Street, such amendments to have been enacted by City Council in connection with a Ontario Land Tribunal Order and to have come into effect in a form and with content acceptable to City Council as determined by the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Planning;
 - (B) provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Section 1. (B) above including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning;
 - (C) 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 Conservation Plan, Heritage Lighting Plan, Landscape Plan, and Interpretation Plan; and
 - (D) provide full documentation of the existing heritage properties at 135, 139, 141 and 143 Portland 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
 - (E) prior to the release of the Letter of Credit required in Section 3. (D) above, the owner shall:
 - (i) provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation

work, required heritage lighting work, and the required interpretive work has been completed in accordance with the Conservation Plan, Lighting Plan, Landscape Plan, and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning; and

- (ii) provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Planning.

Tenant Relocation and Assistance

- 4. The Owner shall maintain the existing rental units, more particularly:
 - (A) The Owner covenants and agrees to maintain and operate, at a minimum, the Residential Rental Property and Existing Rental Units as Rental Dwelling Units until such time as vacant possession of all Existing Rental Units is provided by all Eligible Tenants;
 - (B) The Owner covenants and agrees that the intent of the parties is to maintain occupancy of all Existing Rental Units and to not prematurely vacate the Existing Rental Units or force any Eligible Tenants to relocate before the Notice to End your Tenancy has been issued by the Owner;
 - (C) The Owner covenants and agrees not to require or encourage any Eligible Tenant to vacate the Existing Rental Units for the purposes of repair, renovation or any other change to the status of the Existing Rental Building(s) on the Site, except with the approval of the Chief Planner and Executive Director, City Planning in writing.

- 5. The Owner shall provide tenant relocation and assistance, as follows:
 - (A) The Owner shall provide the required financial compensation to Eligible Tenants at its own expense and at no cost to the City;
 - (B) The provision of financial compensation shall not be conditional on an Eligible Tenant providing receipts or proof of expenses to the Owner, and the financial compensation is not to be provided as free rent or in the form of in-kind services, except by mutual agreement in writing between an Eligible Tenant and the Owner;
 - (C) An Eligible Tenant's length of tenure shall be calculated from the date that an Eligible Tenant took initial possession of an Existing Rental Unit, up to and including the date that the Owner issued the Notice to End your Tenancy. For Eligible Tenants who have occupied multiple Existing Rental Units within the Existing Rental Building at 139 Portland Street, the length of tenure for such Eligible Tenants shall be calculated from the date that such Eligible Tenant took possession of their first Existing Rental Unit;

- (D) An Eligible Tenant's monthly rent shall be calculated as the monthly rent paid by such Eligible Tenant on the date that the Owner issued the Notice to End your Tenancy.
6. The Owner shall provide the required financial compensation to each of the five (5) Eligible Tenants, at its own expense and at no cost to the City, as required pursuant to the Residential Tenancies Act.
7. In addition to the financial compensation required pursuant to the Residential Tenancies Act, the Owner shall provide all Eligible Tenants additional financial compensation, based on the Eligible Tenant's length of tenure, as outlined below, payable on the date that each such Eligible Tenant provides vacant possession of their Existing Rental Unit as follows:
- (A) an amount equal to Five (5) month's rent to all such Eligible Tenants whose length of tenure, as of the date specified in the Notice to End your Tenancy, is less than Five (5) years; and
 - (B) an amount equal to Six (6) months' rent to all such Eligible Tenants whose length of tenure, as of the date specified in the Notice to End your Tenancy, is at least Five (5) years but less than Ten (10) years.
8. The fixed amounts of financial compensation provided for in Sections 7(A) and 7(B) shall be subject to upward indexing in accordance with the Consumer Price Index commencing one (1) year after the date of execution of the Section 37 Agreement.
9. The Owner shall provide each Eligible Tenant with a moving allowances, based on unit type, as follows:
- (A) In addition to the financial compensation required in Sections 6 and 7 above, the Owner shall provide all Eligible Tenants with a moving allowance, based on unit type, on the date that such Eligible Tenant provides vacant possession of their Existing Rental Unit:
 - (B) Eligible Tenants occupying a one-bedroom Existing Rental Unit on the date that the Owner issues the Notice to End your Tenancy shall receive a One Thousand Five Hundred Dollar (\$1,500) move-out moving allowance;
 - (C) Eligible Tenants occupying a three-bedroom Existing Rental Unit on the date that the Owner issues the Notice to End your Tenancy shall receive a Two Thousand Five Hundred Dollar (\$2,500) move-out moving allowance; and
 - (D) Where two or more Eligible Tenants occupy a single Existing rental Unit, the moving allowances shall be shared among all of the Eligible Tenants who occupy a single Existing Rental Unit on the date the Owner issued the Notice to End your Tenancy.

10. The Owner shall provide special needs assistance to Special Need Tenants, as designated by the Chief Planner, with additional assistance in the amount equal to four (4) months' rent. The timing of the Special Needs Assistance shall be to the satisfaction of the Chief Planner and Executive Director, City Planning.

11. The Owner shall provide all Eligible Tenants with at least six (6) months' prior written notice of the date that they must vacate their Existing Rental Unit. More particularly,
 - (A) The notice provided to all Eligible Tenants shall consist of the following two (2) elements:
 - (i) the Notice to End your Tenancy pursuant to the Residential Tenancies Act; and
 - (ii) the City-required Notice to Eligible Tenants which provides additional information to tenants.
 - (B) The final form and content of the Notice to Eligible Tenants shall be made in a form satisfactory to the Chief Planner and Executive Director, City Planning.
 - (C) The Owner shall deliver by both pre-paid registered mail and door to door delivery the Notice to Eligible Tenants and Notice to End your Tenancy to the Eligible Tenants pursuant to the terms of the Section 37 Agreement. The Owner shall, at the same time, deliver to the City a sample copy of each such notice delivered to tenants.
 - (D) Upon completion of the six (6) month notice period, the Owner may take all reasonable and necessary actions pursuant to the Residential Tenancies Act to have any and all Existing Rental Units that continue to be occupied by Eligible Tenants vacated.

12. The Owner shall not be entitled to, and the Owner agrees that it shall not request, the issuance of a Residential Demolition Permit to demolish any residential building, or portion thereof, or any Existing Rental Unit existing on the Site until, in addition to any other requirements, all of the following have been satisfied:
 - (A) the Owner has entered into and registered on title to the Site one or more Agreement(s) with the City pursuant to Section 37 of the Planning Act, to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning;
 - (B) the Owner has entered into and registered on title to the Site one or more Agreement(s) with the City pursuant to Section 111 of the City of Toronto Act and Chapter 667, to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning;
 - (C) the Zoning By-law Amendment(s) have come into full force and effect;

- (D) the Chief Planner has issued the Notice Of Approval Conditions for Site Plan Approval that implements the Zoning By-law Amendments, or as otherwise authorized by the Chief Planner and Executive Director, City Planning; and
- (E) the first **building** permit for either foundation or excavation and shoring for the Development has been issued.

Other Matters

- 13. Prior to the issuance of the first **building** permit for the demolition, shoring and excavation work, the owner shall submit, and thereafter implement, a construction management plan to address such matters as noise, dust, street closures, parking and laneway uses and access. Such plan shall be to the satisfaction of the General Manager, Transportation Services and the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
- 14. A minimum of 35 percent of all units shall be 2 bedrooms or larger and a minimum of 10 percent of all units shall be three bedrooms or larger, in compliance with the Ontario Building Code.

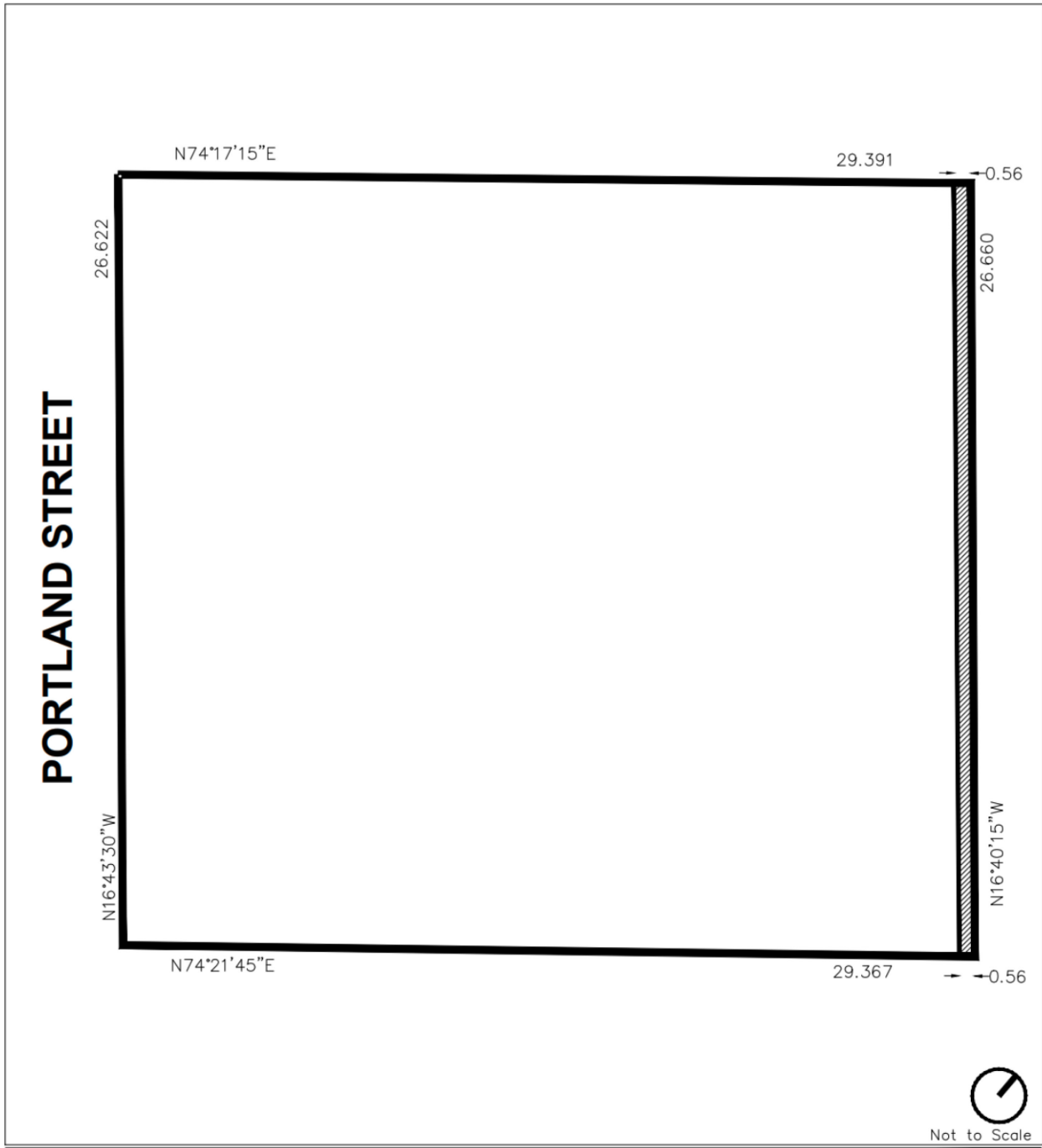




Diagram 1
Zoning By-law Amendment

135-143 Portland Street
City of Toronto

- Area affected by this by-law 
- Area of Laneway Widening 

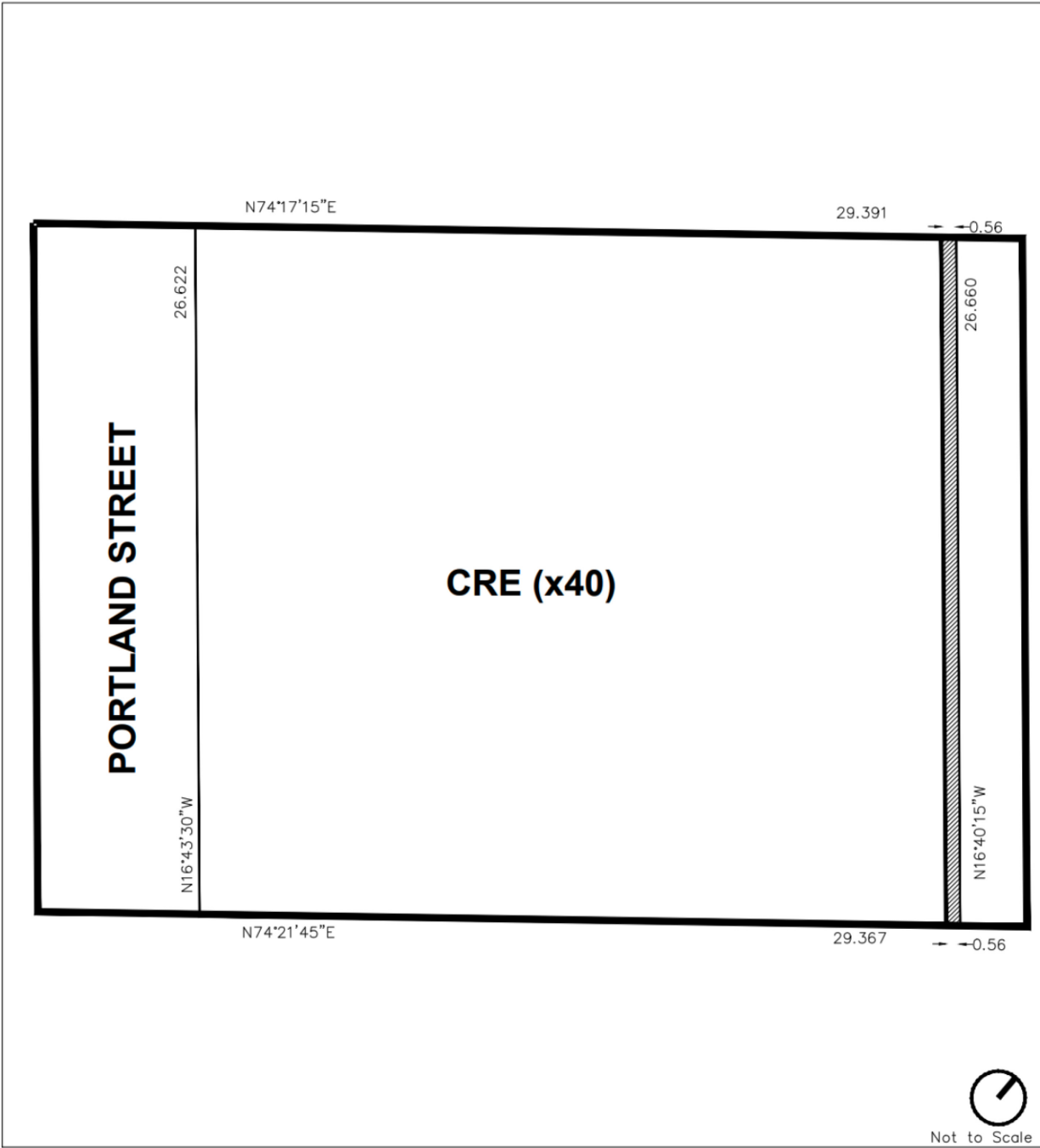




Diagram 2

Zoning By-law Amendment

135-143 Portland Street
City of Toronto

- Area affected by this by-law 
- Area of Laneway Widening 

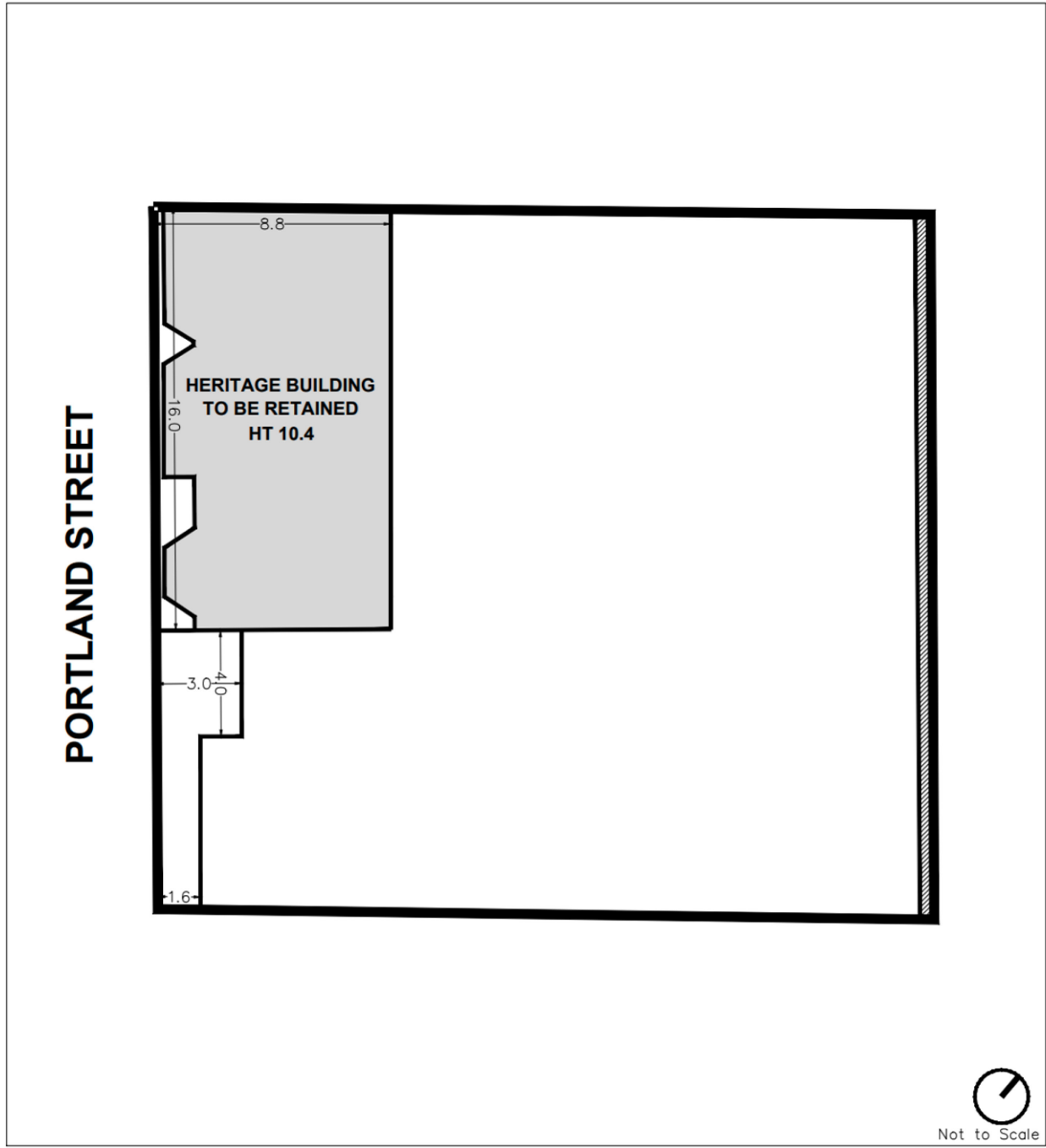


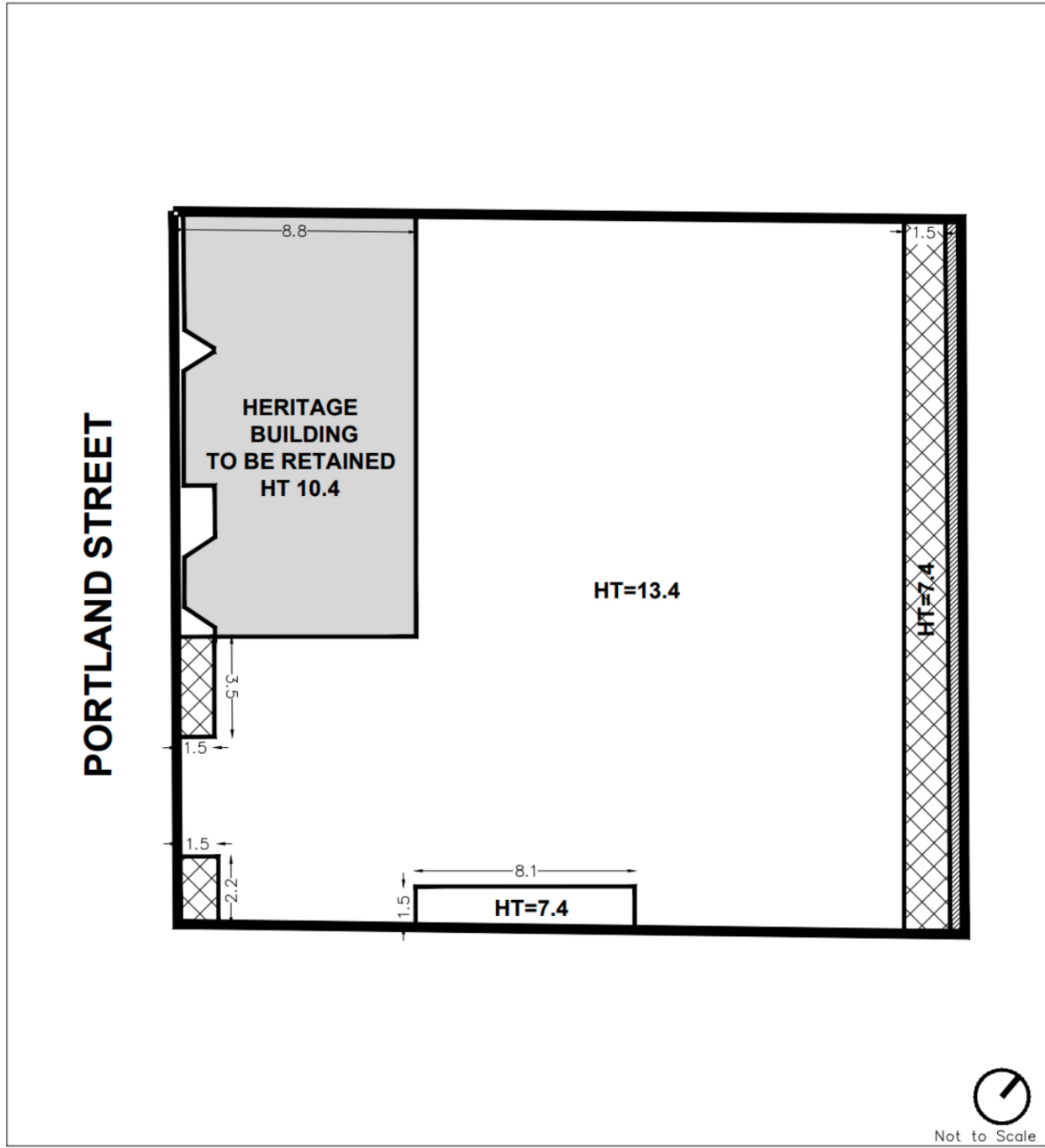


Diagram 3A
Zoning By-law Amendment
135-143 Portland Street
City of Toronto




- Area affected by this by-law 
- Area of Laneway Widening 



Not to Scale

Diagram 3B Zoning By-law Amendment

135-143 Portland Street
City of Toronto

- Area affected by this by-law 
- Area of Laneway Widening 
- Area Subject to Section 4(G)(ii) of this By-law 

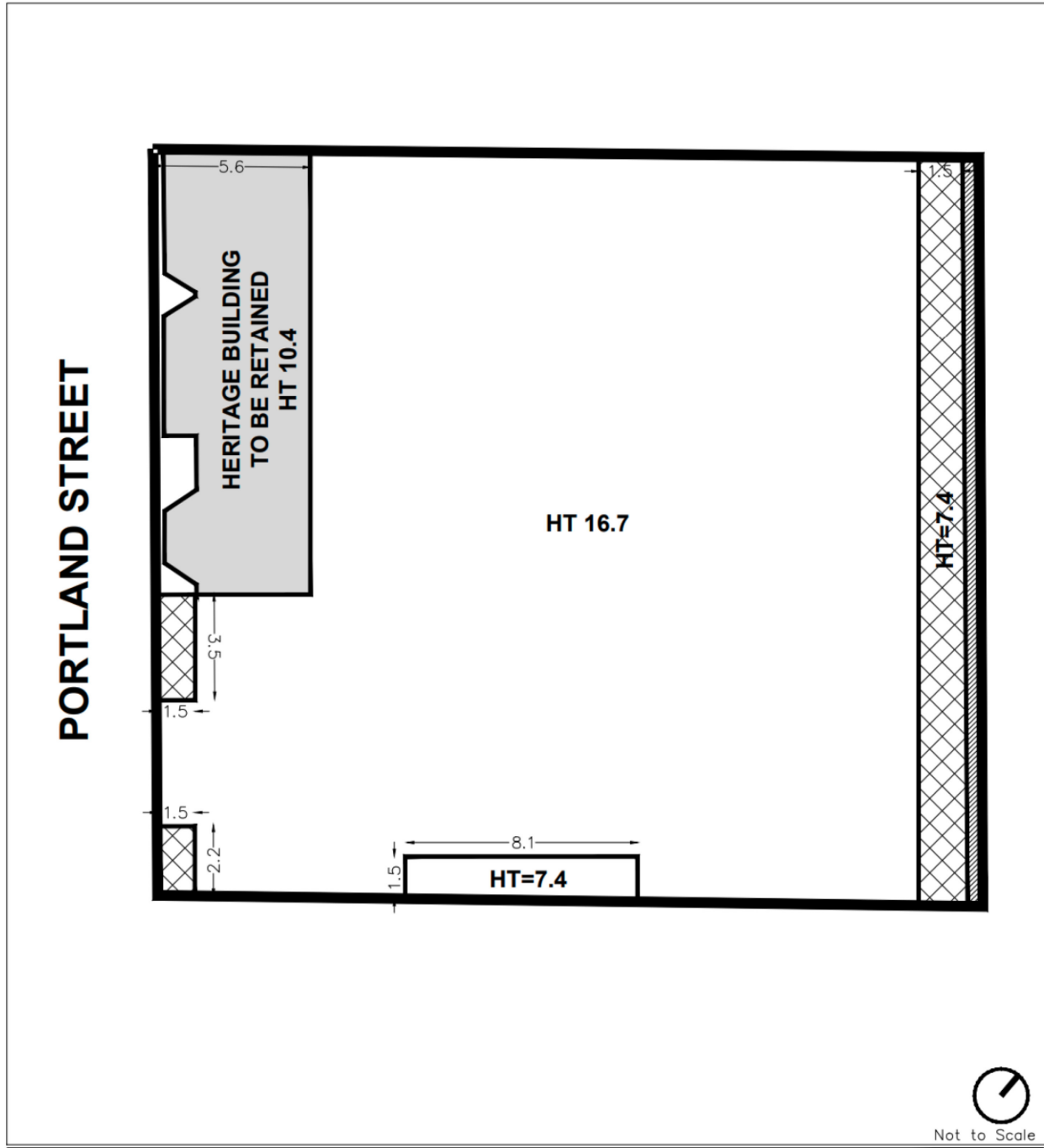



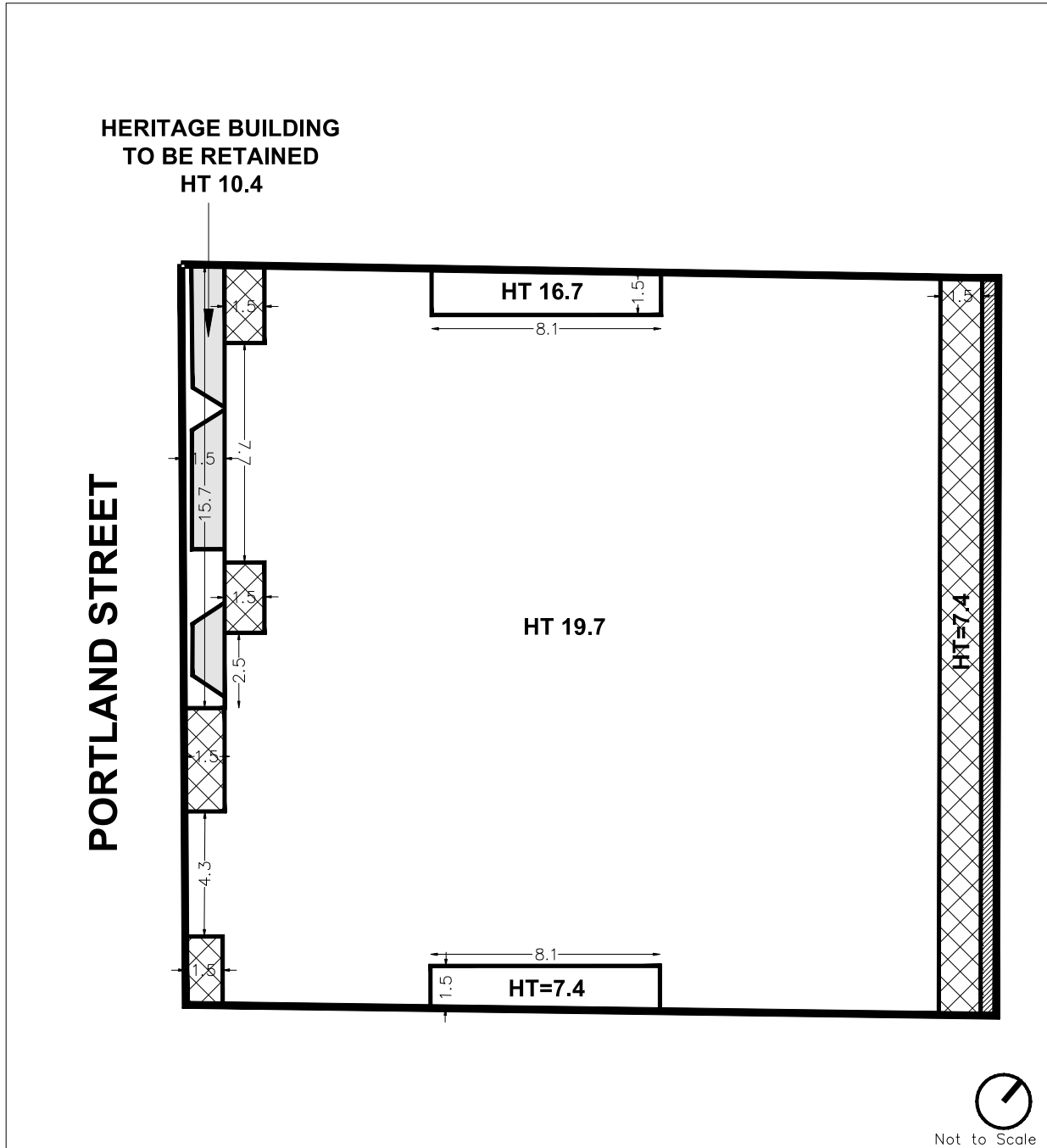




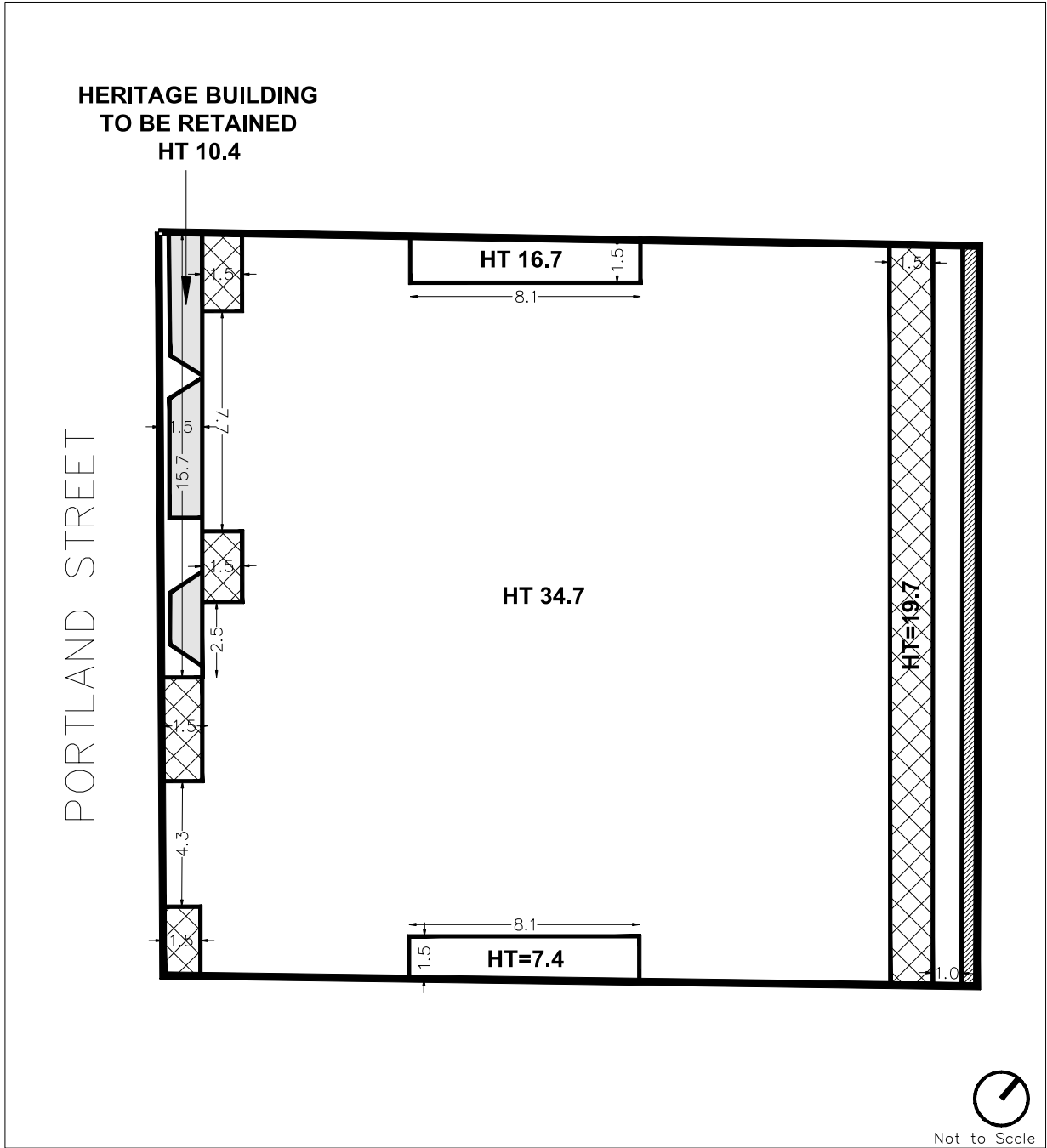
Diagram 3C
Zoning By-law Amendment
135-143 Portland Street
City of Toronto

- Area affected by this by-law 
- Area of Laneway Widening 
- Area Subject to Section 4(G)(ii) of this By-law 




onto

Area of Laneway Widening 
Area Subject to Section 4(G)(ii) of this By-law 



oronto

Area of Laneway Widening 

Area Subject to Section 4(G)(ii) of this By-law 

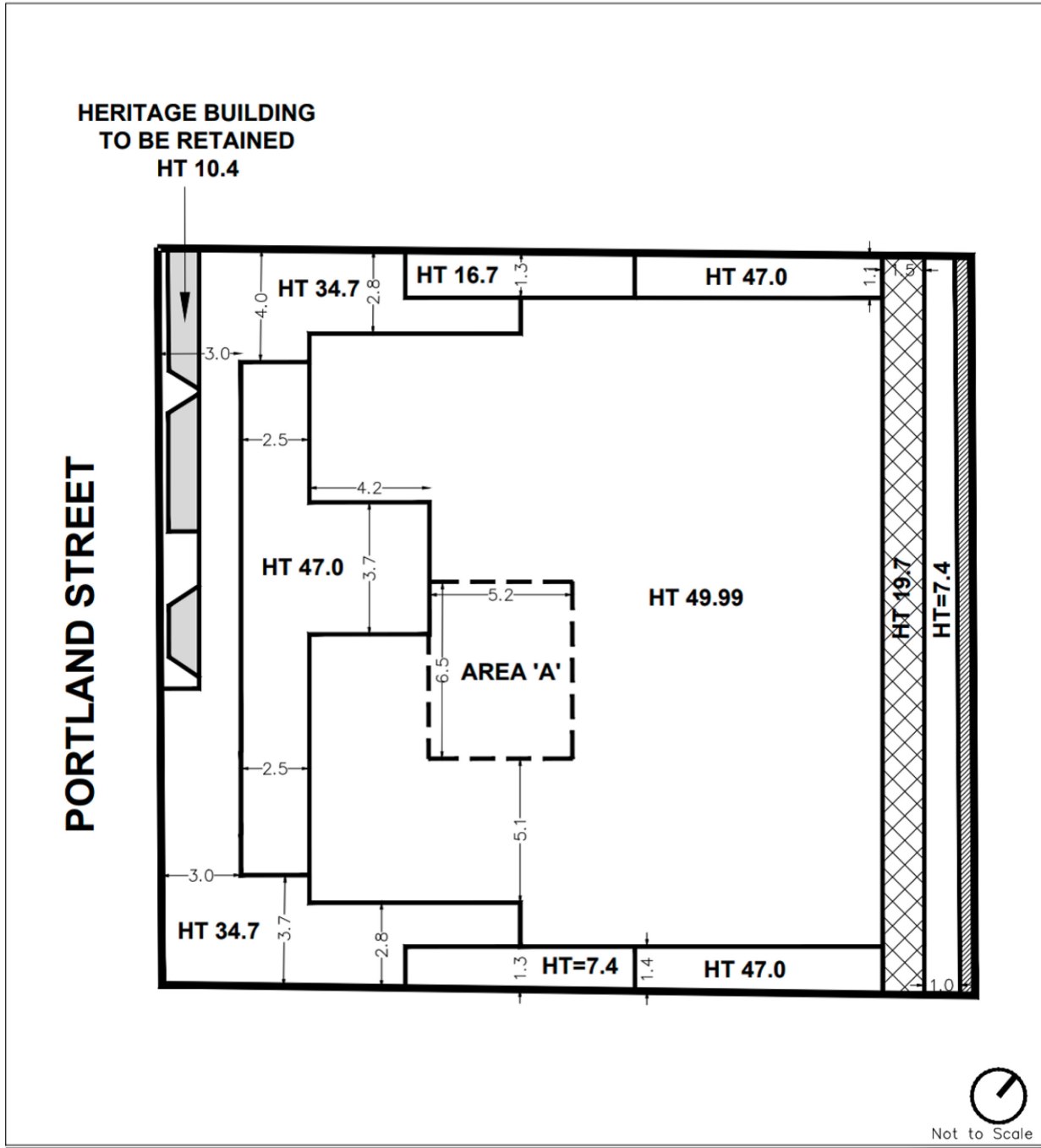




Diagram 3F
Zoning By-law Amendment
 135-143 Portland Street
 City of Toronto

Area affected by this by-law	
Area of Laneway Widening	
Area Subject to Section 4(G)(ii) of this By-law	