

Authority: Ontario Land Tribunal Decision and Order issued on July 25, 2022 and final approval on July 5, 2022, in Tribunal File PL210046

CITY OF TORONTO

BY-LAW 1201-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 1134 and 1140 Yonge Street.

Whereas the Ontario Land Tribunal, by its Decision and its Order issued on July 25, 2022 in OLT Case PL210045 approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 1134 and 1140 Yonge Street; and

Whereas pursuant to Section 36 of the Planning Act, as amended, a by-law passed under Section 34 of the Planning Act, may use a holding symbol "(H)" in conjunction with any use designation to specify the use that lands, buildings or structures may be put once council removes the holding symbol "(H)" by amendment to the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of the holding symbol "(H)"; and

Whereas pursuant to Section 39 of the Planning Act, as amended, 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 in the by-law; and

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

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

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

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

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law, which are 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, the Council of a Municipality 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 in the by-law;

The Ontario Land Tribunal orders 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 amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy lines to (H) CR 2.5 (c2.0; r2.0) SS2 (x765), 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 765 so that it reads:

Exception CR 765

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

Site Specific Provisions:

- (A) On lands municipally known in the year 2021 as 1134 and 1140 Yonge Street, if the requirements of By-law 1201-2022(OLT) are complied with, a **mixed use building** may be constructed, used or enlarged in compliance with Sections (B) to (S) below;
- (B) The provision of **dwelling units** are subject to the following:
 - (i) A minimum of 15 percent of the total number of **dwelling units** must have two or more bedrooms;
 - (ii) A minimum of 10 percent of the total number of **dwelling units** must have three or more bedrooms;
 - (iii) Any **dwelling units** with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
 - (iv) If the calculation of the number of required **dwelling units** with two or three bedrooms results in a number with a fraction, the number shall be rounded down to the nearest whole number;
- (C) Despite Regulations 40.10.40.40(1) and (2), the permitted maximum **gross floor area** is 16,200 square metres, of which:

- (i) The permitted maximum **gross floor area** for residential uses is 14,000 square metres; and
 - (ii) The permitted maximum **gross floor area** for non-residential uses is 2,200 square metres;
- (D) Despite Regulations 40.5.40.10(1) and (2) the height of a **building** or **structure** is measured from the Canadian Geodetic Datum elevation of 121.80 metres to the highest point of the **building** or **structure**;
- (E) Despite Regulation 40.10.40.10(2), the permitted maximum height of a **building** or **structure**, including a mechanical penthouse, is the height in metres specified by the numbers following the symbol HT as shown on Diagram 3 of By-law 1201-2022(OLT);
- (F) Despite Regulations 40.5.40.10(3) to (7), and (E) above, the following equipment and **structures** may project above the permitted maximum height as shown on Diagram 3 of By-law 1201-2022(OLT):
- (i) **structures** and elements related to outdoor flooring and roofing assembly, roof access hatches, elements on the roof of the **building** or **structure** used for green roof and solar technology and related roofing material, railings, guard rails, parapets, garbage chutes, elevator overrun, swimming pools, and a cooling tower by a maximum of 2.0 metres;
 - (ii) window washing equipment, ornamental or architectural features, acoustical barriers, landscape features, privacy screens, terrace dividers, fences cabanas, pergolas and trellises by a maximum of 4.0 metres;
- (G) Despite Regulations 40.5.40.70(1), and (2), and Section 600.10, the required minimum **building setbacks** are as shown on Diagram 3 of By-law 1201-2022(OLT);
- (H) Despite Clause 40.10.40.60 and (G) above, the following elements of a **building** or **structure** may encroach into the required minimum **building setbacks** as follows:
- (i) balconies by a maximum of 0.5 metres;
 - (ii) bay windows, box windows or other window projection from a **main wall** of a **building**, which increases floor area or enclosed spaces, by a maximum of 1.0 metres;
 - (iii) patios, decks, doors, wheelchair ramps, hose bibs, ventilation shafts and mechanical grilles by a maximum of 1.5 metres;
 - (iv) cornices, ornamental elements, pillars, landscape features, parapets, railings, wind screens, balcony guards, handrails, window sills, trellises,

- light fixtures, scuppers, fall-arrest systems, site servicing features, insulation and building envelope membranes, bollards, built-in planter boxes by a maximum of 2.0 metres;
- (v) window washing equipment, wind mitigation features including canopies and awnings by a maximum of 4.0 metres;
 - (vi) a privacy wall or screen along the south lot line by a maximum of 7.3 metres;
- (I) Despite Regulation 40.10.40.10(5), the required minimum height of the first **storey**, as measured between the floor of the first **storey** and the ceiling of the first **storey**, is 3.4 metres;
 - (J) Despite Regulation 40.10.40.50(1)(B), the required minimum area of an outdoor **amenity space** adjacent to an indoor **amenity space** is 34.0 square metres;
 - (K) Despite Regulation 40.10.20.100(21)(B), the permitted maximum area of an **outdoor patio** is 10.5 square metres;
 - (L) Despite Regulation 40.10.50.10(3), a 1.0 metre wide **landscaping** strip must be maintained along the west **lot line** abutting the Residential zone;
 - (M) Despite Regulation 40.10.40.1(1), residential use portions of a **building** may be located on the same level as non-residential uses on the first and second **storey** of the **building**;
 - (N) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** as follows and may be provided as **stacked parking spaces**:
 - (i) A minimum of 0.5 residential occupant **parking spaces** per **dwelling unit**;
 - (ii) A maximum of 0.09 residential visitor **parking spaces** per **dwelling unit**;
 - (iii) A maximum of 1.0 **parking space** for each 100 square metres of non-residential **gross floor area**;
 - (iv) Car-share **parking spaces** may be used to satisfy the requirement for any parking spaces required by this exception;
 - (v) 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

- (vi) for the purpose of this exception, "car-share **parking space**" means a **parking space** exclusively reserved and signed for a vehicle used only for "car-share" purposes;
- (O) Despite Regulation 200.5.1.10(2)(B) (iv) and (C)(iv), a parking stacker structure is permitted within 0.3 metres of each side of the **stacked parking space**;
- (P) Despite regulations 200.15.1(1), accessible **parking spaces** must have the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 3.4 metres; and
 - (iii) vertical clearance of 2.1 metres; and
 - (iv) the entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path as shown on Diagram 1 and Diagram 2 of By-law 579-2017;
- (Q) Despite Regulation 200.15.1(4) accessible **parking spaces** must be located within 16 metres of a barrier free entrance to the **building** or passenger elevator that provides access to the first **storey** of the **building**;
- (R) Despite Regulation 230.5.1.10(10), a "**long-term**" or "**short-term**" bicycle **parking space** may be located in a **stacked bicycle parking space**;
- (S) Despite 40.10.90.1(1), one shared Type "G" / "B" **loading space** must be provided with the following dimensions:
 - (i) a minimum length of 13.0 metres;
 - (ii) a minimum width of 4.0 metres; and
 - (iii) a minimum vertical clearance of 6.1 metres.

Prevailing By-laws and Prevailing Sections: None Apply.

5. Despite any future severance, partition or division of the lot as shown on Diagram 1, the provisions of this By-law apply as if no severance, partition or division occurred.
6. On the lot outlined by heavy black lines on Diagram 1, 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 lot.
7. The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 of this By-law shall not be used for any purpose other than those uses and **buildings** as existed

on the site as of May 1, 2022, and a temporary sales office as permitted in Section 6 above, until such time as the "(H)" symbol has been removed. An amending by-law to remove the "(H)" symbol will be enacted by City Council when the following conditions have been fulfilled:

- (A) a permit has been granted pursuant to Section 33 of the Ontario Heritage Act for the required alterations to the heritage property at 1134 and 1140 Yonge Street to implement the Without Prejudice Settlement Offer;
- (B) the Owner has entered into a Heritage Easement Agreement with the City for the properties at 1134 and 1140 Yonge Street, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning including execution and registration of such agreement on title to the satisfaction of the City Solicitor;
- (C) the Owner has provided a detailed Conservation Plan, prepared by a qualified heritage consultant, that is consistent with the conservation strategy set out in the Heritage Impact Assessment prepared by ERA Architects dated April 27, 2022, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
- (D) the City has received an executed Section 37 Agreement securing the benefits outlined in Recommendation 4 in accordance with the Planning Act before it was amended by Bill 108 and Bill 197, and the Section 37 Agreement has been registered on title to the Site;
- (E) the Owner has addressed all outstanding issues raised by Urban Forestry, Tree Protection and Plan Review as they relate to the development, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
- (F) the Owner has provided updated Functional Servicing and Stormwater Management Reports, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
- (G) the Owner has submitted a full set of architectural plans reflecting the settlement offer for the Site, to the satisfaction of the Chief Planner and Executive Director, City Planning.

8. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, the heights and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the owner of the lot of the facilities, services and matters set out in Schedule A, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act;
- (B) Upon execution and registration of an agreement or agreements with the owner of the lot pursuant to Section 37 of the Planning Act securing the provision of the

facilities, services and matters set out in Schedule A, the lot is subject to the provisions of this By-law, provided that in the event the said agreement(s) require(s) the provision of a facility, service or matter as a precondition to the issuance of a building permit, the owner may not erect or use such building until the owner has satisfied the said requirements;

- (C) Whenever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the City pursuant to Section 37 of the Planning Act, then once such agreement 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.

Ontario Land Tribunal Decision and Order issued on July 25, 2022 and final approval on July 5, 2022 in Tribunal File PL210045.

SCHEDULE A
Section 37 Provisions

Upon execution and registration in priority of an agreement with the owner pursuant to Section 37 of the Planning Act satisfactory to the City Solicitor, securing the provision of the facilities, services and matters set out herein, the lands outlined in heavy black lines as shown on Diagram 1 of this By-law are subject to the provisions of this By-law, provided that in the event the said agreement requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the owner may not erect or use such building until the owner has satisfied the said requirements:

1. Prior to the issuance of the first above-grade building permit, an indexed one-time cash contribution shall be paid to the City in the amount of two million, six-hundred-and-fifty thousand dollars (\$2,650,000.00), to be allocated towards projects in the general vicinity of the Site, at the discretion of the Ward Councillor, in consultation with the ABC Residents' Association;
2. The amount of the cash contribution referred to in Section 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the Applicant to the City; and
3. In the event that the cash contribution in Section 1 above has not been used for the intended purpose within three (3) years of the Zoning By-law Amendment coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the general vicinity of the Site.

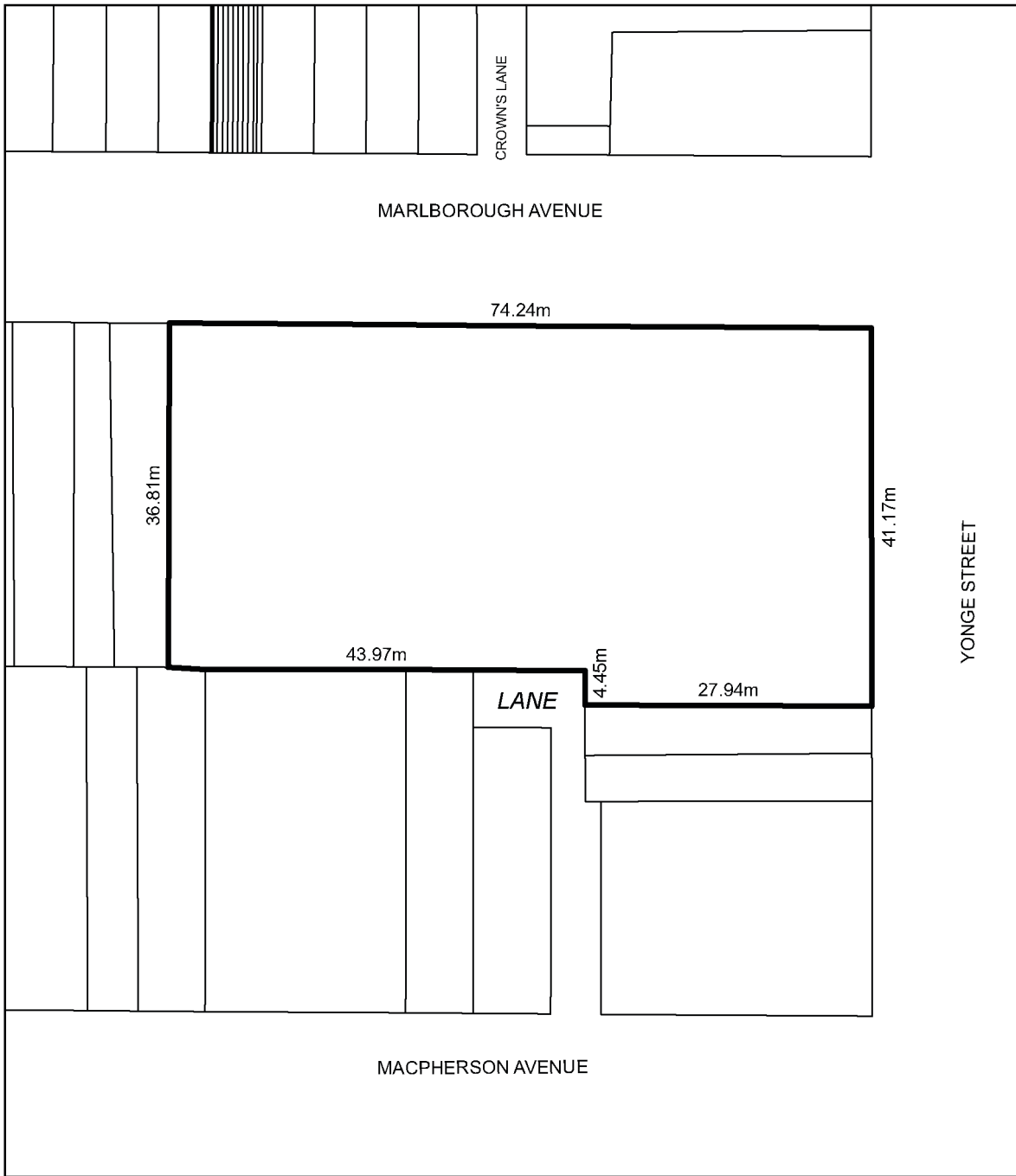
The Section 37 Agreement will also secure the following matters as a legal convenience to support the development:

4. The Owner shall satisfy its parkland dedication obligations pursuant to section 42 of the Planning Act through the conveyance of an off-site parkland dedication of the lands known municipally as 211 Avenue Road and any remaining balance shall be provided as a cash-in-lieu payment to the City, in accordance with the following:
 - a. the lands shall be conveyed to the City as soon as possible, but no later than prior to the issuance of first above-grade building permit for the Site, subject to the Owner satisfying the pre-conditions to conveyance, pursuant to the City's policies for parkland dedication; and
 - b. for the purposes of determining whether any remaining cash-in-lieu is payable:
 - i. the total value of the off-site parkland dedication shall include all hard and soft costs associated with the purchase and conveyance of 211 Avenue Road, including:

1. all hard costs, including the cost of acquiring the land (including land transfer tax), environmental remediation (if any), demolition of existing buildings, and base park improvements; and
 2. all soft costs (including reasonable legal fees, consultant fees and project management expenses) and permit fees; and
 - ii. the total value of the off-site parkland dedication based on the items outlined in clause i. above are subject to indexing based on the Construction Price Index between the date the parkland is conveyed to the City and the issuance of the first above-grade building permit for the development.
5. The Owner shall provide a minimum of 10 percent of the new residential dwelling units in the development as dwelling units containing at least three bedrooms and a minimum of 15 percent of the new residential dwelling units in the development as dwelling units containing at least two bedrooms, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 6. The Owner shall construct and maintain the development in accordance with Tier 1 of the Toronto Green Standard and the Owner will be encouraged to achieve Tier 2 of the Toronto Green Standard;
 7. Prior to Site Plan approval for the development, and in relation to the heritage properties municipally known as 1134 and 1140 Yonge Street, the Owner shall:
 - a. prepare a Construction Mitigation Plan for the development to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
 - b. provide final site plan drawings substantially in accordance with the approved heritage Conservation Plan, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - c. obtain final approval for the necessary zoning by-law amendment(s) required for the subject property, with such amendment(s) having come into full force and effect;
 - d. provide a Heritage Lighting Plan that describes how the exterior of the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - e. provide an Interpretation Plan for the Site, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning; and

- f. submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Planning;
8. Prior to the issuance of any permit for all or any part of the Site, including a heritage permit or a building permit, but excluding building permits for a temporary sales office and permits for repairs and maintenance and usual and minor works for the existing heritage building as are acceptable to the Senior Manager, Heritage Planning, Urban Design and City Planning, the Owner shall:
 - a. provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved heritage Conservation, 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; and
 - b. 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, Urban Design, City Planning, to secure all work included in the approved Conservation Plan, Heritage Lighting Plan and Interpretation Plan; prior to the release of the Letter of Credit, the Owner shall:
 - i. provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work and the required interpretive work has been completed in accordance with the Conservation Plan, Heritage Lighting Plan and Interpretation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning; and
 - ii. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
9. The Owner shall pay for and construct any improvements to the municipal infrastructure, at its sole expense, in connection with the Functional Servicing and Stormwater Management Reports or other reports accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support the development; and
10. If a residential tenant resides in the existing building on 211 Avenue Road at the time of the Owner acquiring the property, the Owner shall make financial compensation to such tenant based on the following, upon provision of vacant possession:
 - a. a payment in the amount of 3 months' rent in accordance with the Residential Tenancies Act;
 - b. a payment based on tenure, in accordance with the following:
 - i. if the tenant's length of tenure is less than 5 years, 5 months' rent;

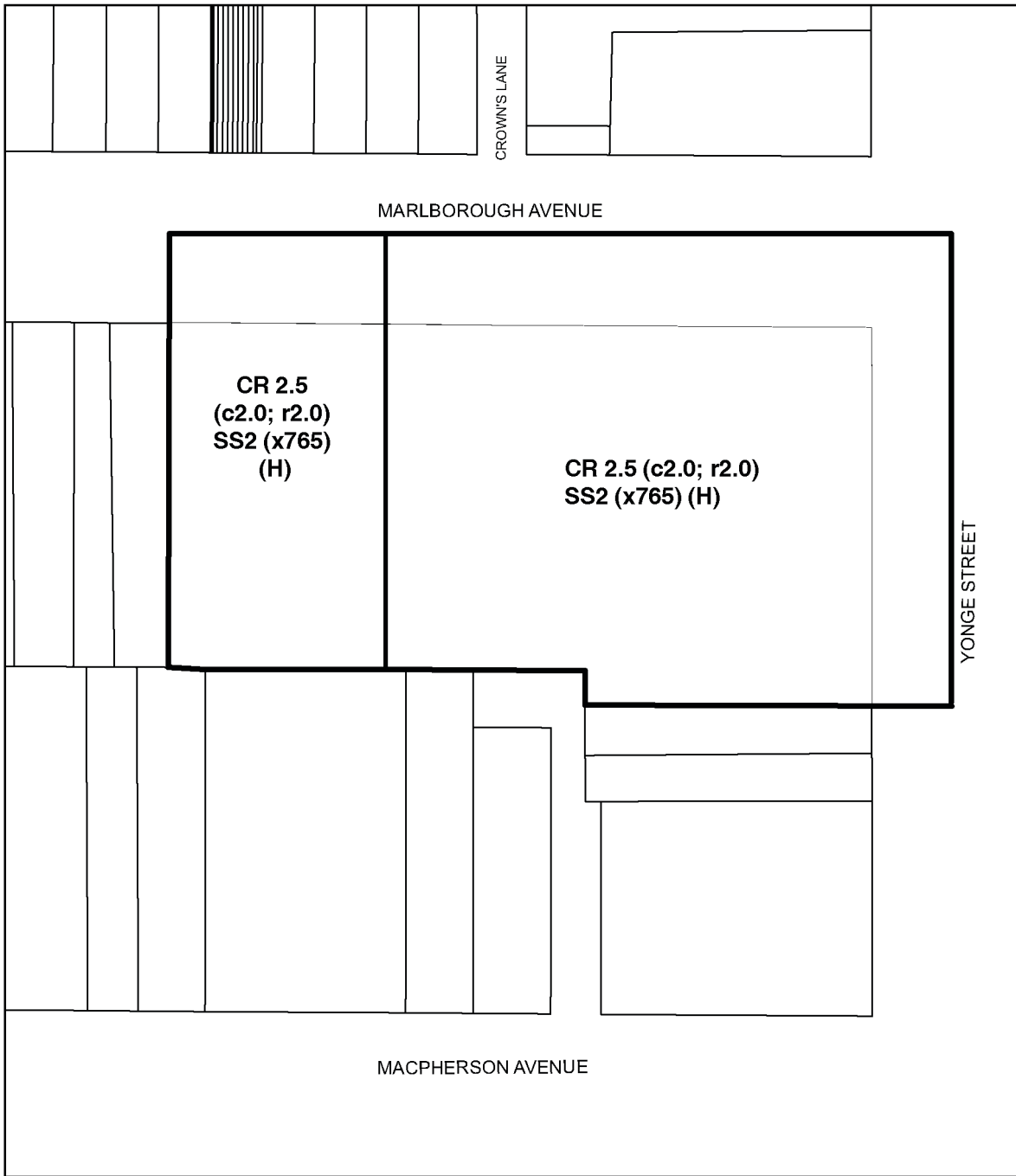
- ii. if the tenant's length of tenure is at least 5 years but less than 10 years, 6 months' rent;
 - iii. if the tenant's length of tenure is at least 10 years but less than 15 years, 7 months' rent;
 - iv. if the tenant's length of tenure is at least 15 years but less than 20 years, 8 months' rent;
 - v. if the tenant's length of tenure is at least 20 years but less than 30 years, 10 months' rent; or
 - vi. if the tenant's length of tenure is at least 30 years, 12 months' rent; and
- c. payment for moving expenses in the amount of \$1,500.

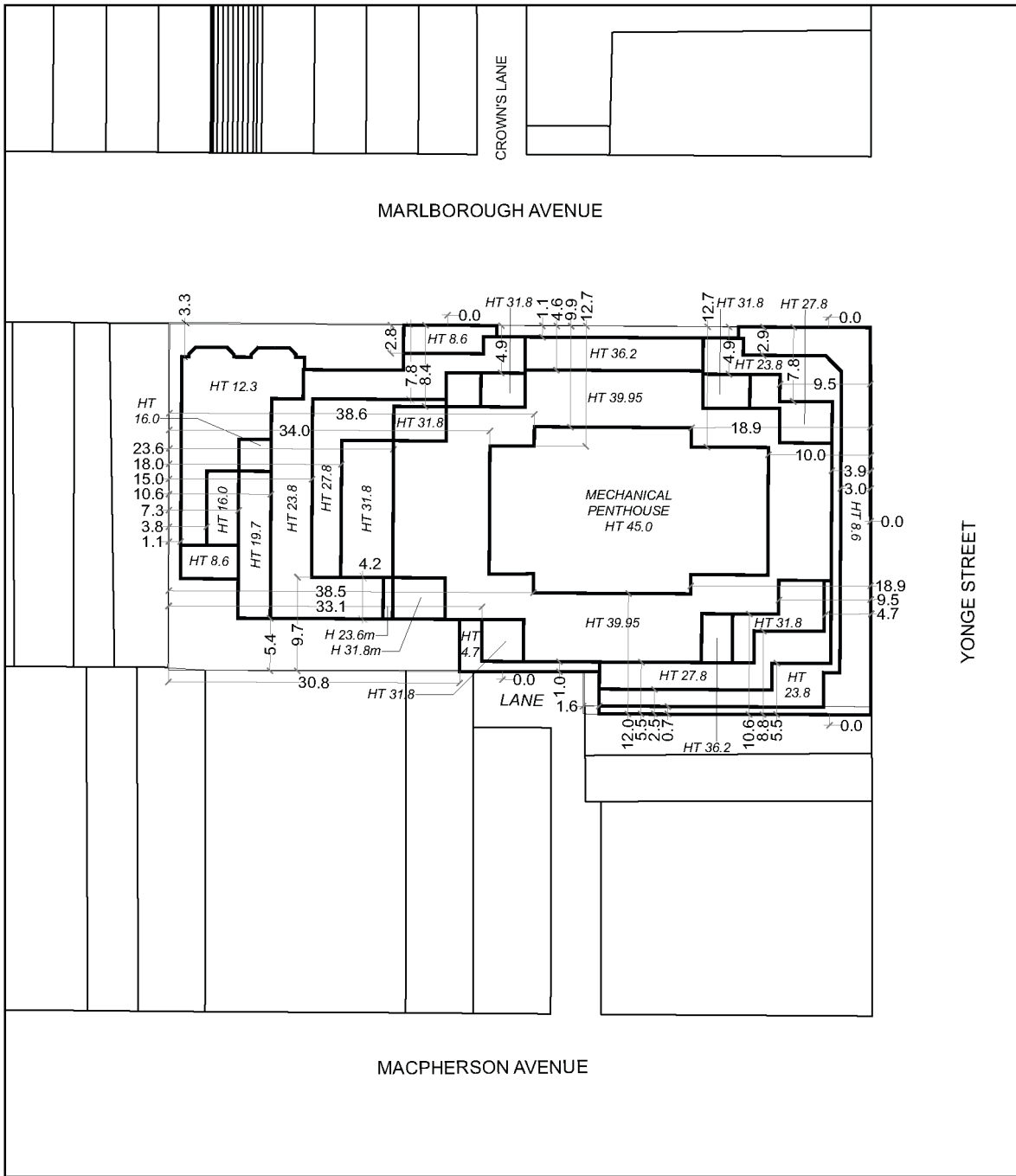


 **TORONTO**
Diagram 1

1134-1140 Yonge Street

File # 20 189124 STE 11 OZ





TORONTO
Diagram 3

1134-1140 Yonge Street

File # 20 189124 STE 11 0Z

