

Authority: Ontario Land Tribunal Decisions/Orders issued November 26, 2021 and August 11, 2022 with respect to Case PL171386

CITY OF TORONTO

BY-LAW 1207-2022 (OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands known municipally in the year 2021 as 2400, 2430, 2434, 2440, 2444 Yonge Street and 35 Roselawn Avenue.

Whereas the Ontario Land Tribunal pursuant to its Decision/Order issued on November 26, 2021 and August 11, 2022 in File PL171386 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 By-law 569-2013, as amended, for the City of Toronto with respect to lands municipally known as 2400, 2430, 2434, 2440, 2444 Yonge Street and 35 Roselawn Avenue; 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, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020., c. 18 ("COVID-19 Economic Recovery Act, 2020") came into force, 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, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, 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/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;

Pursuant to the Ontario Land Tribunal Decisions/Orders issued December 20, 2018, June 5, 2020 and November 26, 2021 in Tribunal File PL171386, By-law 569-2013 of the City of Toronto, as amended, is further amended 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 black lines from zone labels of CR 3.0 (c2.0; r2.5) SS2 (x2521), CR 3.0 (c2.0; r2.5) SS2 (x2432) and R (d1.0) (x768) to a zone label of CR 3.0 (c2.0; r2.5) (SS2) (x473) 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 (473) so that it reads:

(473) Exception CR 473

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

Site Specific Provisions:

- (A) On 2400, 2430, 2434, 2440, 2444 Yonge Street and 35 Roselawn Avenue, if the requirements of Section 5 and Schedule A of By-law 1207-2022(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Provisions (B) to (Z) below;
- (B) For the purposes of this exception, the **lot** comprises the lands identified by heavy lines on Diagram 1 attached to By-law 1207-2022(OLT);
- (C) In addition to the uses permitted by Regulations 40.10.20.10(1) and 40.10.20.20(1), a **kennel** is a permitted use, but is restricted to a **premises** used for the boarding and training of dogs and cats and must be ancillary to a **retail store**;
- (D) Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 167.70 metres and elevation of 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** is the number following the HT symbol in metres as shown on Diagram 3 attached to By-law 1207-2022(OLT);
- (F) Despite Regulations 40.5.40.10(3) to (8) and Provision (E) above, the following equipment and **structures** may project beyond the permitted maximum height of a **building**:
 - (i) equipment used for the functional operation of the **building** including electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, roof drainage, lightning rods, maintenance

- equipment storage, chimneys, and vents may project above the height limits to a maximum of 3.0 metres;
- (ii) elevator shafts and overruns may project above the height limits to a maximum of 4.8 metres;
 - (iii) architectural features, light fixtures, swimming pools and parapets may project above the height limits to a maximum of 2.0 metres;
 - (iv) **building** maintenance units and window washing equipment may project above the height limits to a maximum of 3.0 metres;
 - (v) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace may project above the height limits to a maximum of 3.0 metres; and
 - (vi) trellises, pergolas, awnings and unenclosed **structures** providing safety or wind protection to rooftop **amenity space** may project above the height limits to a maximum of 4.0 metres;
- (G) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** for residential and non-residential uses is 48,000 square metres, of which:
- (i) the permitted maximum **gross floor area** for non-residential uses is 6,200 square metres; and
 - (ii) the permitted maximum **gross floor area** for each individual **retail store**, is 3,500 square metres;
- (H) Despite Regulations 40.5.40.40(3) and 800.50(320), the calculation of **gross floor area** does not include the areas occupied by any non-structural architectural grid system or ornamental features that are attached to and project from the **main wall** of a **building**, or any areas that are partially enclosed by such features;
- (I) Regulations 40.10.20.100(1), (33) and 150.100.30.1(2), with respect to the size and location of an **eating establishment** or **take-out eating establishment**, do not apply;
- (J) Regulation 40.10.20.100(1), with respect to the size and location of a **recreation use** for the purposes of a fitness, exercise or health club, does not apply;
- (K) Regulation 40.10.20.100(5), with respect to the size of a beverage manufacturing use within a **retail store**, does not apply;
- (L) Regulation 40.10.20.100(21), with respect to the size and location of an **outdoor patio**, does not apply;

- (M) Despite Regulation 40.10.40.1(1), the residential use portions of a **mixed-use building** may be located on the same floor as the non-residential use portions or below the non-residential use portions, provided that no **dwelling units** are on the **first floor**.
- (N) Regulation 40.10.40.1(6), with respect to pedestrian access and location of entrances, does not apply;
- (O) Despite Regulation 40.10.40.70(2), the required minimum **building setbacks** are as shown in metres on Diagram 3 attached to By-law 1207-2022(OLT);
- (P) Despite Clause 40.10.40.60 and Provision (O) above, the following elements may encroach into the required minimum **building setbacks** and separation distances as follows:
- (i) cornices, light fixtures, ornamental elements, parapets, art and landscape features, architectural elements, patios, decks, swimming pools, pillars, trellises, eaves, window sills, planters, ventilation shafts, guardrails, balustrades, railings, stairs, stair enclosures, doors, wheelchair ramps, fences, screens, site servicing features, and underground garage ramps and associated **structures**, to a maximum of 1.0 metre;
 - (ii) awnings and canopies, to a maximum of 2.5 metres; and
 - (iii) balconies, which may extend to a maximum of 3.0 metres;
- (Q) Despite Regulation 40.5.40.60(1), an awning, canopy or similar **structure** may be located more than 5.0 metres above the elevation of the ground directly below it;
- (R) Despite Regulation 40.10.40.80(2), the minimum required separation of **main walls** are as shown in metres on Diagram 3 attached to By-law 1207-2022(OLT);
- (S) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** in accordance with the following requirements:
- (i) a minimum of 190 **parking spaces** for residents of the **mixed-use building**;
 - (ii) a minimum of 62 **parking spaces** for residential visitors of the **mixed-use building** which may be shared on a non-exclusive basis with non-residential uses.
 - (iii) no **parking spaces** are required for non-residential uses;
- (T) Up to a maximum of 3 car-share **parking spaces** may be provided on the lands, and for each car-share **parking space** provided, the minimum number of **parking**

spaces for residents required pursuant Regulation 200.5.10.1(1) and Table 200.5.10.1 may be reduced by four (4) **parking spaces**;

- (i) "car-share" means the practice whereby a number of people share the use of one or more motor vehicles that are owner by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building or short term rental, including hourly rental;
 - (ii) "car-share **parking space**" means a **parking space** exclusively reserved and signed for a car used only for "car-share" purposes;
- (U) Despite Regulation 200.15.10(1), 8 accessible **parking spaces** must be provided and maintained on the **lot**;
- (V) Despite Regulations 200.15.1(1), (3) and By-law 579-2017, accessible **parking spaces** must be provided as follows:
- (i) Accessible **parking spaces** must have the following minimum dimensions:
 - i. length of 5.6 metres;
 - ii. width of 3.9 metres; and
 - iii. vertical clearance of 2.1 metres
 - (ii) Despite Provision (V)(i) above, the minimum required width of 3.9 metres may be reduced to 3.4 metres provided that an accessible barrier-free aisle or path measuring 1.5 metres in width is provided along a side of the **parking space** for its entire length;
- (W) Despite Regulation 200.15.1(4), accessible **parking spaces** may be located anywhere in the underground **parking garage**;
- (X) Despite Regulation 230.5.1.10(7), if a **building** has uses, other than **dwelling units**, for which a "long-term" **bicycle parking space** is required, a minimum total of 1 shower and change facility must be provided and maintained on the **lot** for each gender;
- (Y) **Bicycle parking spaces** must be provided and maintained on the **lot** in accordance with the following:
- (i) Regulation 230.40.1.20(2) with respect to the location of a "short-term" **bicycle parking space** relative to a **building** entrance, does not apply;
 - (ii) Despite Regulation 230.5.1.10(4)(A) and (B), a bicycle parking space must have a minimum width of 0.45 metres;

- (iii) Despite Regulation 230.5.1.10(9)(B), "long-term" **bicycle parking spaces** for **dwelling units** may be located anywhere above or below ground in the **building**;
 - (iv) Regulation 230.5.1.10(9)(A)(iii) and (B)(iii), with respect to the location of a "long-term" **bicycle parking space**, does not apply;
 - (v) Despite Regulation 230.5.1.10(10), "long-term" and "short-term" **bicycle parking spaces** for **dwelling units** may be provided in any combination of vertical, horizontal or stacked positions;
- (Z) Despite any existing or future severance, partition or division of the lands outlined by heavy lines on Diagram 1 attached to By-law 1207-2022(OLT); the provisions of By-law 1207-2022(OLT); will apply to the entire lands as if no severance, partition or division occurred.

Prevailing By-laws and Prevailing Section(s): (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 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.

Ontario Land Tribunal Decisions/Orders issued November 26, 2021 and August 11, 2022 in File PL171386

SCHEDULE A
Section 37 Provisions

Prior to the issuance of the first permit issued under the Building Code Act, 1992 in respect of the lands shown on Diagram 1 attached to this By-law, the owner shall enter into an agreement under Section 37 of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, and register same in priority, to the satisfaction of the City Solicitor, whereby the owner agrees to secure the facilities, services and matters set out below which are required to be provided to the City at the owner's expense as follows:

1. Prior to the issuance of the first above-grade building permit of the proposed development, a cash contribution of \$1,800,000.00 to be paid by the Owner and to be allocated toward the following, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
 - a. \$1,500,000.00 towards park acquisition including, but not limited to, Eglinton Park and the new park being created at Duplex Avenue and Montgomery Avenue/Helendale Avenue; and
 - b. \$300,000.00 towards current and future streetscape improvements and landscaping upgrades along the Yonge Street and Montgomery Avenue, including landscaping, seating and lighting improvements to the interface between the Anne Johnston Health Centre and the new mid-block connections, and the removal of existing boulevard parking on Montgomery Avenue;
2. The \$1,800,000.00 cash contribution is to be indexed upwardly in accordance with the Statistics Canada Non-Residential 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 the Local Planning Appeal Tribunal decision to the date of payment; all cash contributions will be payable prior to issuance of the first above-grade building permit;
3. In the event the cash contribution referred to in Part 1 above has not been used for the determined purpose within three years of the amending Zoning By-law 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 the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands;
4. Prior to the issuance of the first above-grade building permit for the lands, the Owner shall convey to the City an over-dedication of 406 square metres of parkland within the area generally shown on Diagram 3 of this By-law with the final location and configuration of the parkland over-dedication to be to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Ward Councillor; the off-site parkland over-dedication to be transferred to the City shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments save and except tieback encroachments where such encroachment is acceptable to the General

- Manager, Parks, Forestry, and Recreation and subject to payment of compensation to the City, and the parkland is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation, and the City Solicitor;
5. Prior to the issuance of the first above-grade building permit for the lands, the Owner shall convey to the City an on-site parkland dedication of 827 square metres, in satisfaction of the required parkland contribution pursuant to Section 42 of the Planning Act within the area generally as shown on Diagram 3 of this By-law , with the final location and configuration of the on-site parkland to be to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Ward Councillor; the off-site parkland to be transferred to the City shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments save and except tieback encroachments where such encroachment is acceptable to the General Manager, Parks, Forestry, and Recreation and subject to payment of compensation to the City, and the parkland is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation, and the City Solicitor;
 6. The Owner shall provide the base and above base improvements for the parkland dedications referred in Parts 4 and 5 above;
 7. The Owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of Item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time;
 8. Prior to Final Site Plan approval for the lands, the Owner shall design, financially secure and agree to maintain a 3 metre wide public access walkway running east-west along the southerly boundary of the lands and running north-south directly through the lands adjacent the east boundary of the parkland described in Part 4 and Part 5 above to Roselawn Avenue, in accordance with the terms and conditions of the Section 37 Agreement, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 9. The Owner shall prepare all documents and convey to the City, at its own expense and for nominal consideration, a public access easement for use by the general public, including rights of support as applicable, upon and over the walkway referred to in Part 9 above, in accordance with the terms and conditions of the Section 37 Agreement, in priority and free and clear of all physical and title encumbrances unless otherwise agreed to by the Chief Planner and Executive Director, City Planning, to the satisfaction of Director, Corporate Real Estate Management, the Chief Planner and Executive Director, City Planning and the City Solicitor, in consultation with the local Ward Councillor;
 10. Prior to the issuance of the first permit issued under the Building Code Act, 1992 for all or any part of the lands, but excluding permits for repairs and maintenance and usual and minor works for the heritage properties municipally known as 2430 Yonge Street and

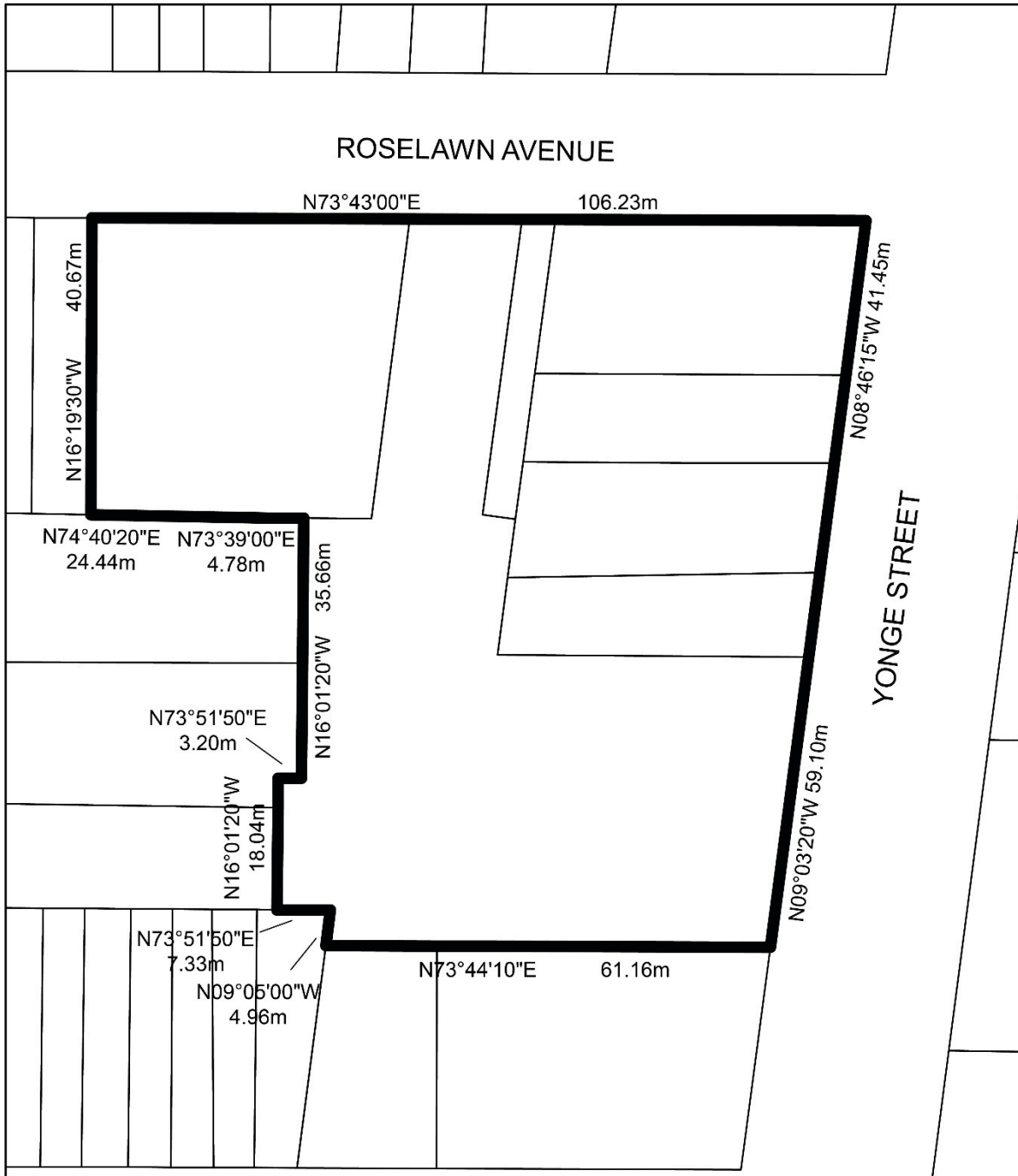
2434 Yonge Street as are acceptable to the Senior Manager, Heritage Planning, the Owner shall:

- a. provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan for the heritage properties municipally known 2430 Yonge Street and 2434 Yonge Street, 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;
- b. provide a Letter of Credit, including provision for upwards indexing in accordance with the terms and conditions of the Section 37 Agreement 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
- c. provide full documentation of the heritage properties at 2430 Yonge Street and 2434 Yonge 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.

11. Prior to Final Site Plan approval for all or any part of the lands, the Owner shall:

- a. provide final site plan drawings including drawings related to the approved Conservation Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Planning;
- b. provide an Interpretation Plan for the heritage properties municipally known as 2430 Yonge Street and 2434 Yonge Street, to the satisfaction of the Senior Manager, Heritage Planning and thereafter the Owner 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 municipally known as 2430 Yonge Street and 2434 Yonge Street will be sensitively illuminated to enhance their heritage character, to the satisfaction of the Senior Manager, Heritage Planning and thereafter the Owner shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
- d. submit a Signage Plan for the proposed development, to the satisfaction of the Senior Manager, Heritage Planning; and

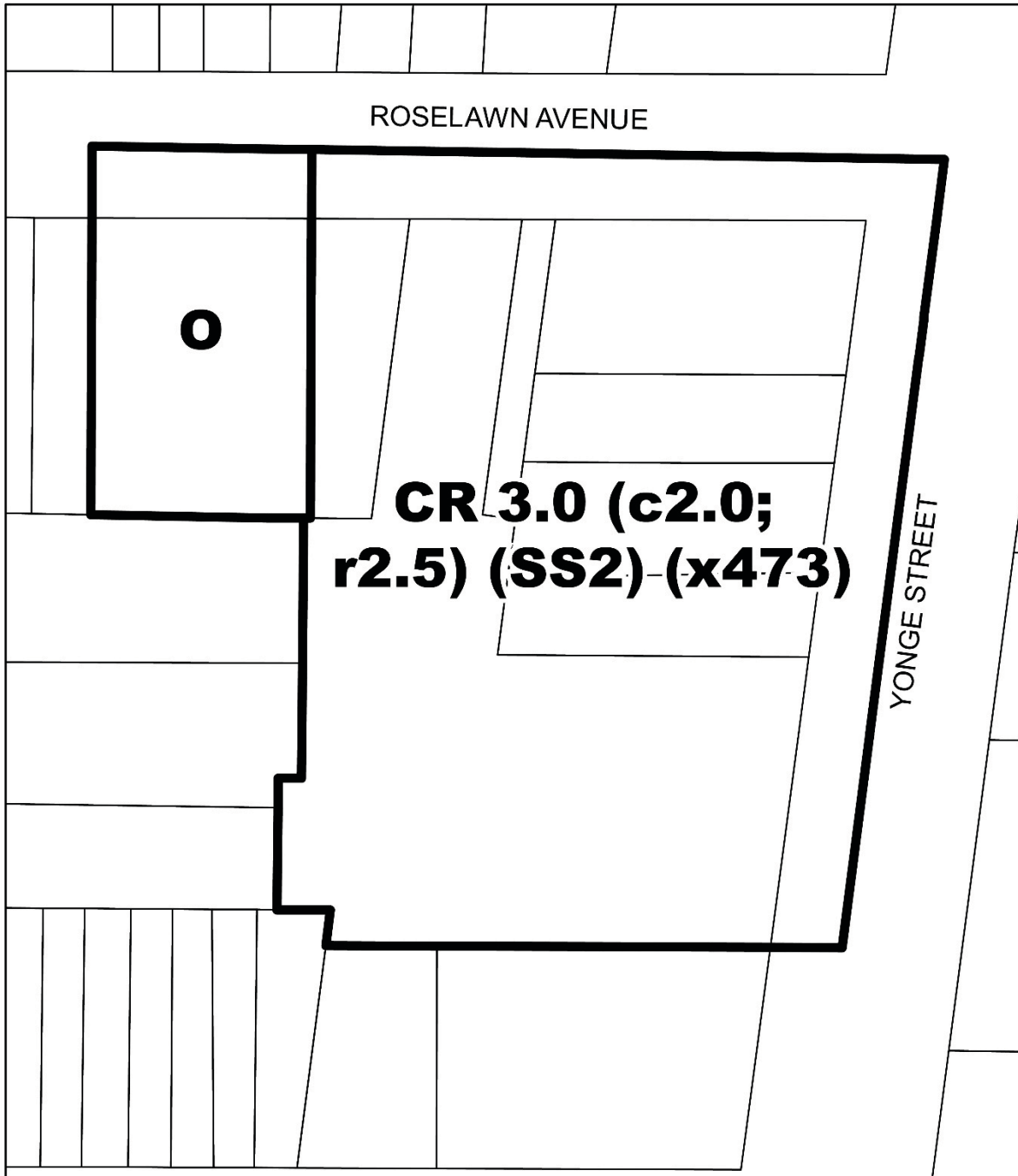
- e. submit a Landscape Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Planning.



 **TORONTO**
Diagram 1

**2400, 2430, 2434, 2440,
2444 Yonge Street & 35 Roselawn Avenue**

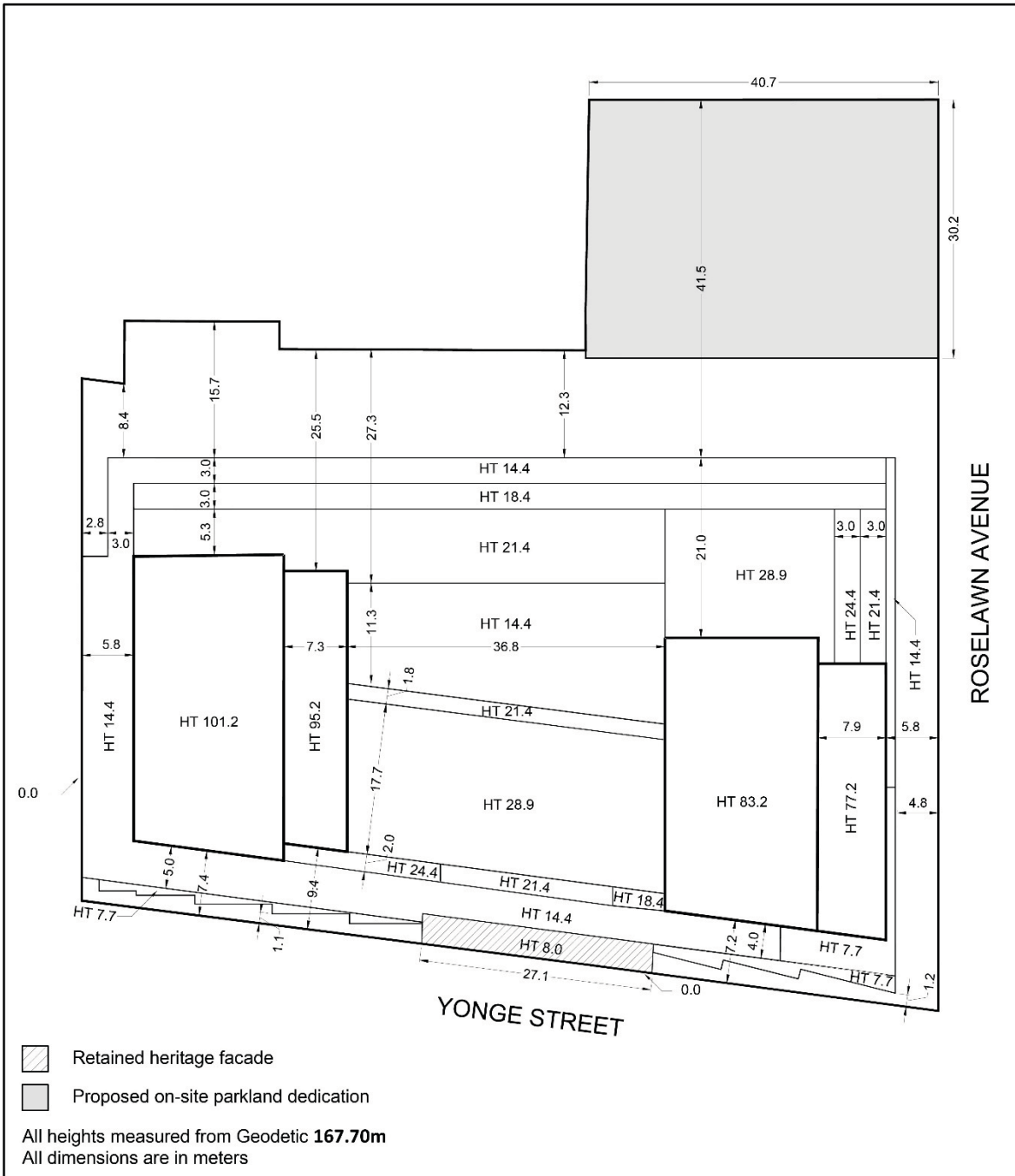
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 **TORONTO**
Diagram 2

2400, 2430, 2434, 2440,
2444 Yonge Street & 35 Roselawn Avenue

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 Diagram 3

2400, 2430, 2434, 2440,
 2444 Yonge Street & 35 Roselawn Avenue
 File #: 17 190823 NNY 16 0Z