

Authority: Ontario Land Tribunal Decision issued July 27, 2022 and Order issued August 5, 2022 in File OLT-21-001361

## **CITY OF TORONTO**

### **BY-LAW 1246-2022(OLT)**

**To amend Zoning By-law 569-2013, as amended, with respect to the lands known municipally in the year 2021 as 137-149 Church Street and 18-20 Dalhousie Street.**

Whereas the Owner of the lands in the year 2021 appealed a proposed zoning by-law amendment to the Ontario Land Tribunal pursuant to subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Ontario Land Tribunal pursuant to its Decision issued on July 27, 2022 and Order issued on August 5, 2022 in File OLT-21-001361, upon hearing of the appeal under subsection 34(11) of the Planning Act R.S.O 1990, c. P.13, as amended, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally known as 137-149 Church Street and 18-20 Dalhousie Street; 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 permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal Orders:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.

3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR 3.0 (c2.0; r3.0) SS1 (x448), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number 448, so that it reads:

**(448) Exception CR 448**

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 137-149 Church Street and 18-20 Dalhousie Street, if the requirements of Sections 6 and 7, and Schedule A of By-law 1246-2022(OLT) are complied with, a **mixed use building or structure** may be constructed and used in compliance with (B) through (N) below;
- (B) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** must not exceed 32,500 square metres, and is subject to the following:
  - (i) a maximum **gross floor area** 32,100 square metres may be used for residential uses; and
  - (ii) a minimum **gross floor area** 280 square metres must be provided for non-residential uses;
- (C) The provision of **dwelling units** is subject to the following:
  - (i) a minimum of 18 percent of the total number of **dwelling units** must contain two bedrooms; and
  - (ii) a minimum of 10 percent of the total number of **dwelling units** must contain three or more bedrooms;
- (D) Despite Regulations 40.5.40.10(1) and (2), the height of a **building or structure** is measured from the orthometric elevation of 87.69 metres with reference to CGVD1928:Pre1978Adj to the highest point of the **building or structure**;
- (E) Despite Regulation 40.10.40.10(1), the permitted maximum height of a **building or structure**, including a mechanical penthouse, is the number following the symbol 'HT' as shown on Diagram 3 of By-law 1246-2022(OLT);
- (F) Despite Regulation 40.10.40.10(7), the permitted maximum **storeys** of any part of a **building or structure**, including a mechanical penthouse, is the number following the symbol 'ST' as shown on Diagram 3 of By-law 1246-2022(OLT);

- (G) Despite (F) above and Clause 40.5.40.10, the following elements, **structures**, equipment, or parts of a **building** are permitted to project above the permitted maximum height as shown on Diagram 3 of By-law 1246-2022(OLT) as follows:
- (i) elements of a **green roof**, drainage, insulation and roof surface materials, parapets, vents and planters within the area labelled 'LOWER TOWER' on Diagram 3, to a maximum of 1.0 metres or an orthometric elevation of 173.1 metres with reference to CGVD1928:Pre1978Adj, whichever is less;
  - (ii) railings and dividers, wind screens, landscaping elements, davit arms, aeronautical lighting, and light fixtures within the area labelled 'LOWER TOWER' on Diagram 3, to a maximum of 2.5 metres or an orthometric elevation of 174.6 metres with reference to CGVD1928:Pre1978Adj, whichever is less;
  - (iii) elements of a **green roof**, drainage, insulation and roof surface materials, parapets, railings, window washing equipment, **building** maintenance units, lightning rods, antennae, satellite dishes, vents, aeronautical lighting, unenclosed stairs, cooling and ventilating equipment within the area labelled 'MECHANICAL PENTHOUSE' on Diagram 3, to a maximum of 6.5 metres; and
  - (iv) except where the above (G)(i), (ii) and (iii) apply, elements of a **green roof**, drainage, insulation and roof surface materials, wind screens, parapets, awnings, guard rails, railings and dividers, structures for open air recreation, pergolas, trellises, terraces, landscaping elements, planters, aeronautical lighting, light fixtures, architectural features, balustrades, eaves, screens, chimneys and vents, a maximum of 2.5 metres;
- (H) Despite Regulations 40.10.40.50(1)(B) and 40.10.40.50(2), a minimum of 938 square metres of outdoor **amenity space** must be provided;
- (I) Despite Regulation 40.10.40.70(1) and Clause 600.10.10, the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 1246-2022(OLT);
- (J) Despite (I) above and Clause 40.10.40.60, the following elements of a **building** or **structure** are permitted to encroach into the required minimum **building setbacks** as follows:
- (i) cladding, eaves, cornices, parapets, windowsills, bollards, and columns a maximum of 0.3 metres;
  - (ii) canopies, light fixtures, awnings, ornamental elements, architectural features, planters, guardrails, railings or dividers, stairs, stair enclosures, access ramps, vents, screens and landscape planters and features, public art features, window washing equipment and **building** maintenance units a maximum of 1.5 metres;

- (iii) davit arms and window washing equipment along the east and west **building main walls** a maximum of 2.2 metres;
  - (iv) planters or site servicing features located at grade a maximum of 3.5 metres; and
  - (v) along the east and west **building main walls** for the storeys located wholly above the orthometric elevation of 113.24 metres and below the orthometric elevation of 172.12 metres with reference to CGVD1928:Pre1978Adj balconies, balcony dividers and balcony railings a maximum of 1.5 metres;
- (K) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, a total of 120 **parking spaces** for a **mixed use building** must be provided and maintained in accordance with the following:
- (i) a minimum of 0.029 **parking spaces** per **dwelling unit** must be provided for visitors to residents of the **mixed use building**; and
  - (ii) no **parking spaces** are required for non-residential uses;
- (L) Despite Regulation 200.15.1(1), an accessible **parking space** must have the following minimum dimensions:
- (i) a width of 3.4 metres; and
  - (ii) a 1.5 metre wide accessible barrier-free aisle or path is required along the entire length of one side of an accessible **parking space**;
- (M) Despite Clause 220.5.10.1, one Type 'G' **loading space** and one Type 'C' **loading space** must be provided and maintained on the **lot**;
- (N) Despite Regulation 230.5.1.10(10), both 'long-term' and 'short-term' **bicycle parking spaces** may be provided in a stacked **bicycle parking space**.

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

5. Despite any existing or future severance, partition or division of the lands subject to By-law 1246-2022(OLT), the provisions of this By-law will apply to the whole of the lands as one lot as if no severance, partition or division had occurred.
6. The provisions of this By-law respecting the height of any **building or structure**, including permitted exceptions, are subject to any further limitations as may be set out in a by-law passed under an agreement pursuant to Section 5.81 of the Aeronautics Act, R.S.C. 1985, c. A-2.

7. Section 37 Provisions

- (A) 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, as amended, came into force, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
- (B) Where Schedule A of this By-law required that the owner 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 Decision issued July 27, 2022 and Order issued August 5, 2022 in File OLT-21-001361.

## 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 shown in Diagram 1 in this By-law. Prior to the issuance of any **building** permit, the owner shall enter into an agreement, on such terms and conditions, including upwards indexing, securities, details and requirements, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) 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, as amended, came into force, (the "**Section 37 Agreement**") to secure the community benefits and matters required to support the development below, whereby the owner agrees as follows:

#### Community Benefits

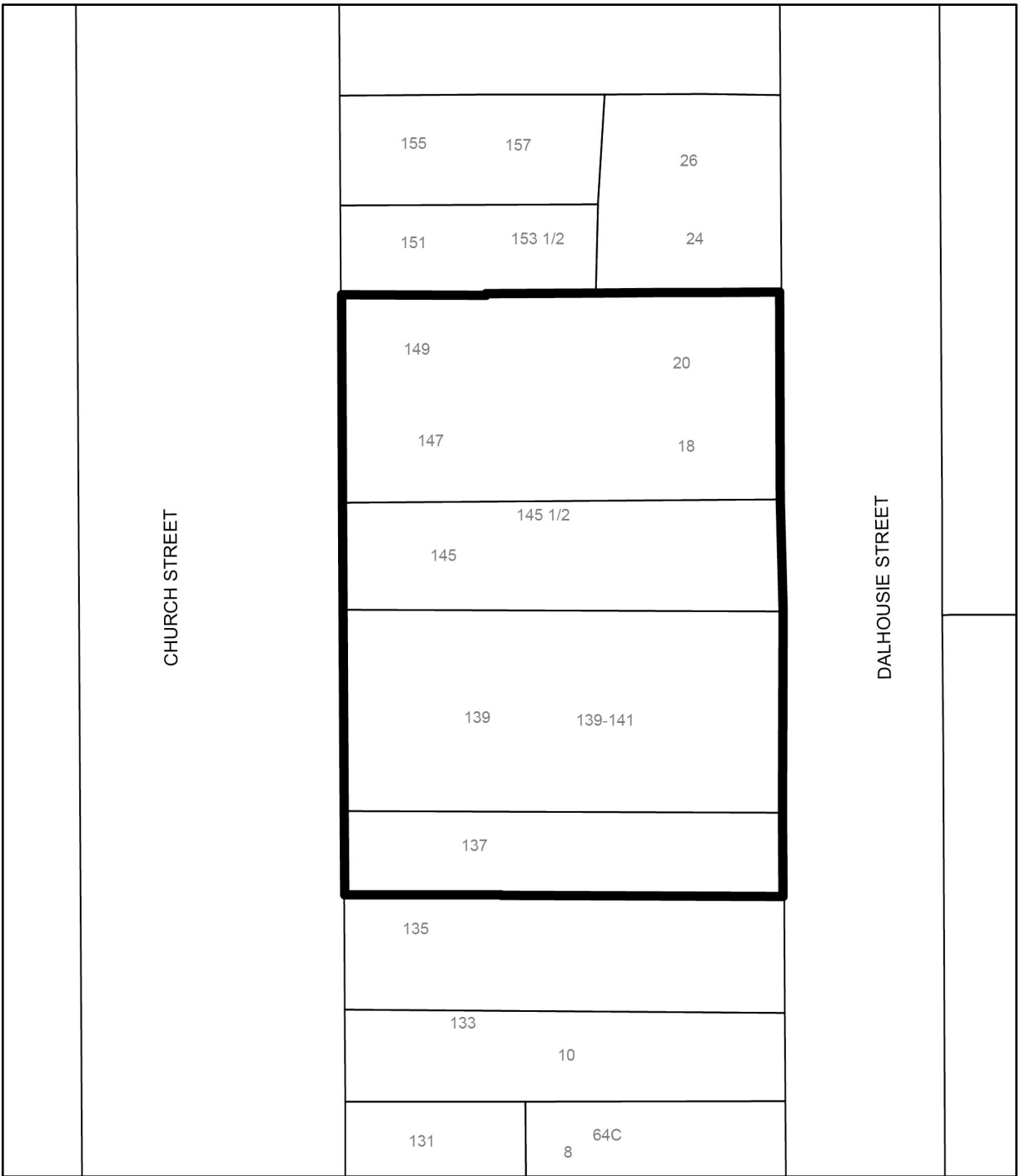
1. Prior to the issuance of the first above-grade **building** permit for any portion of the Lands, the Owner agrees to pay to the City, by certified cheque, the sum of \$6,500,000.00 Canadian dollars, that is indexed according to Section 5.2 of this Agreement to be allocated as follows:
  - (A) \$2,000,000.00 Canadian dollars towards eligible cultural, community and recreation space in the Ward;
  - (B) \$2,000,000.00 Canadian dollars towards the provision of new affordable housing in the Ward;
  - (C) \$2,000,000.00 Canadian dollars towards local streetscape improvements and public park improvements in the Ward; and
  - (D) \$500,000.00 Canadian dollars towards the provision of public art in the Ward.
2. The amounts referred to in paragraph 1 above, shall be indexed upwards in accordance with the applicable construction price index, calculated from the effective date of this By-law to the date of payment by the Owner of the cash contribution is made to the City.
3. In the event the contributions referred to in Paragraph 1 above have not been used for its intended purpose within three (3) years of this By-law comes into full force and effect, the contributions referred to in Paragraph 1 above may be redirected for another purpose, at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purposes are identified in the City's Official Plan and will benefit the local community.

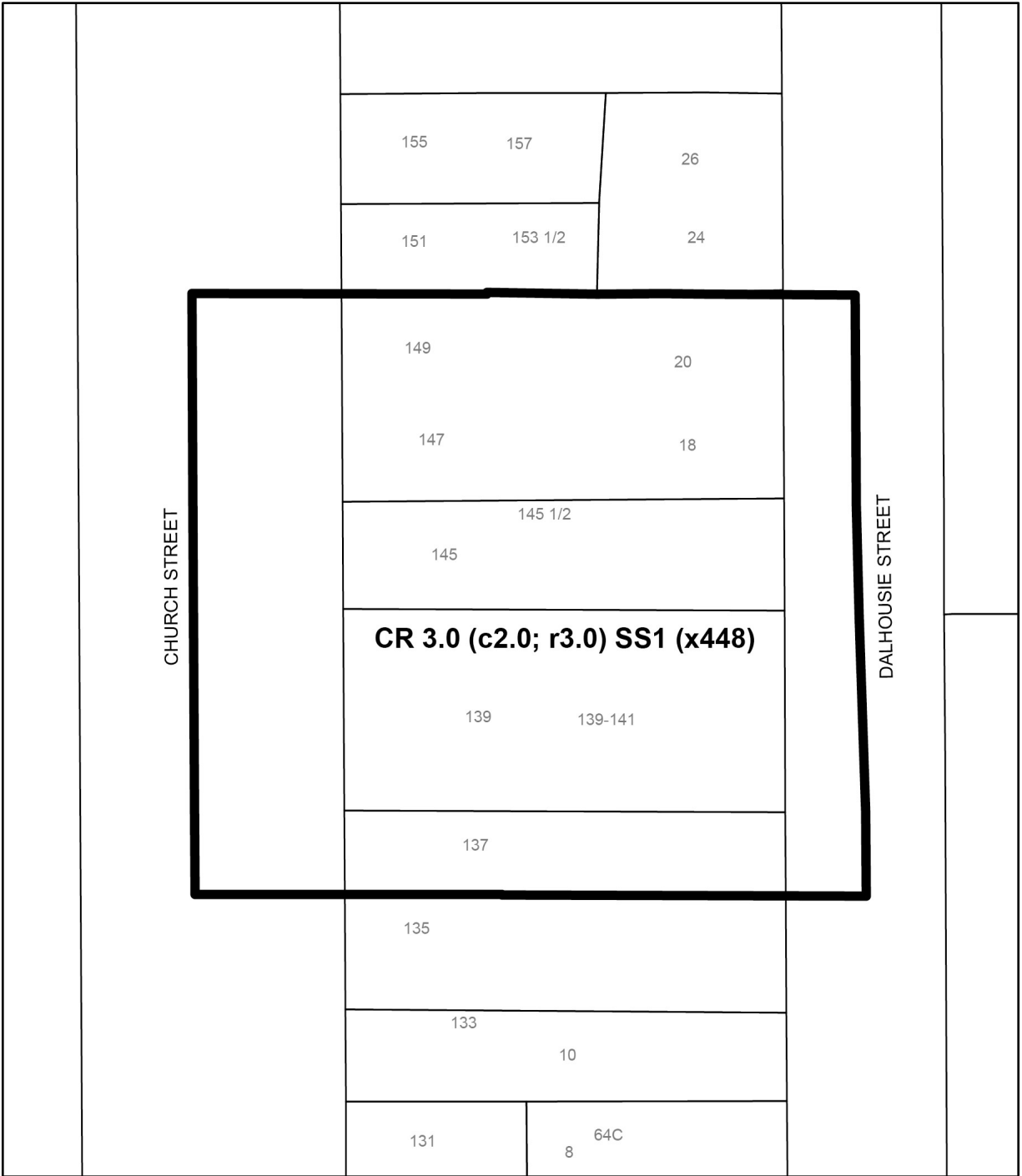
#### Matters Required to Support the Development

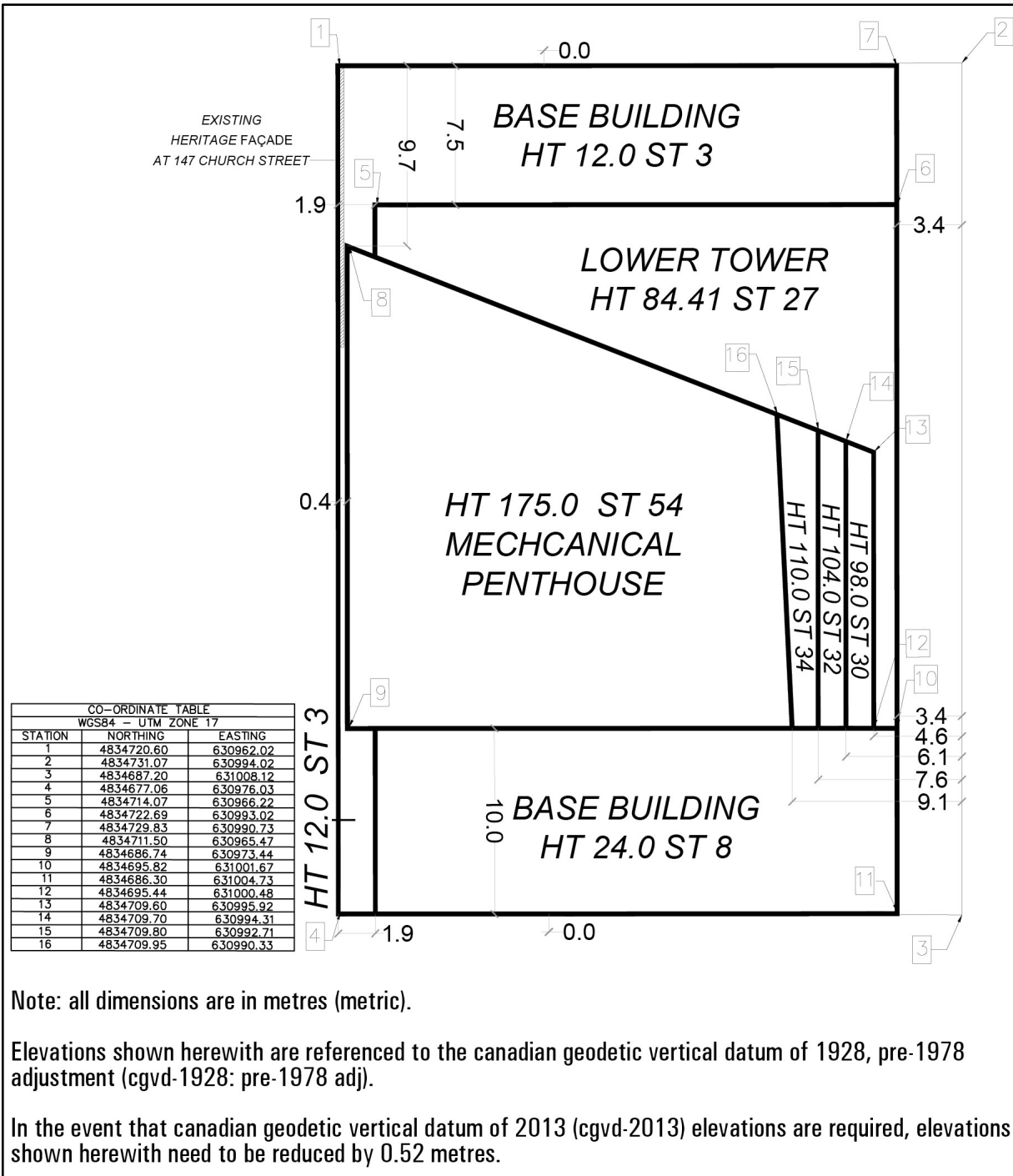
4. Prior to the issuance of any **building** permit on the Lands, the Owner shall provide confirmation from St. Michael's Hospital, through an official representative of the respective corporate entities, that any temporary (including construction cranes or related

construction machinery) and permanent structures are below or outside the Protected Flight Path as defined in the Section 37 Agreement, to the satisfaction of the Chief Building Official and Executive Director, Toronto Building.

5. Prior to the issuance of any permit for all or any part of the property municipally known as 147 Church Street, including a **building** permit or heritage permit, the Owner shall:
  - (A) provide **building** permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, 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, 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, and approved interpretation plan, in accordance with the Heritage Easement Agreement, which such Letter of Credit shall be increased in the Construction Price Index from the date of execution of the Heritage Easement Agreement to be entered into between the Parties.
6. The Owner shall construct and maintain the Development in accordance with Tier 1, Toronto Green Standard, and the Owner will be encouraged to achieve Tier 2, Toronto Green Standard or higher, where appropriate.
7. As part of the Site Plan application, the Owner shall, at their sole cost and expense, implement any required wind mitigation measures in the accepted Wind Study prepared by Theakston Environmental, including any addendums thereto on behalf of the Owner, to the satisfaction of the Chief Planner and Executive Director, City Planning.
8. Prior to the issuance of the first **building** permit (excluding a demolition permit) for the lands, including a conditional **building** permit, or a portion thereof, the Owner shall provide at its expense to the satisfaction of the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services, a construction management plan for such matters as may be prescribed in the Section 37 Agreement.







Note: all dimensions are in metres (metric).

Elevations shown herewith are referenced to the canadian geodetic vertical datum of 1928, pre-1978 adjustment (cgvd-1928: pre-1978 adj).

In the event that canadian geodetic vertical datum of 2013 (cgvd-2013) elevations are required, elevations shown herewith need to be reduced by 0.52 metres.



137-149 Church Street

File # 18 174573 STE 27 OZ