

Authority: Local Planning Appeal Tribunal Decision
issued on October 28, 2020 and Ontario Land Tribunal
Order effective on August 8, 2022 in File OLT-22-002857

CITY OF TORONTO

BY-LAW 1251-2022(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 1 Front Street West

Whereas the Owner of the lands in the year 2019 appealed a proposed Zoning By-law Amendment to 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 Decision issued on October 28, 2020 and Ontario Land Tribunal Order effective on August 8, 2022, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 1 Front Street West; and

Whereas a zoning by-law may include Holding (H) symbol pursuant to section 36 of the Planning Act, R.S.O. 1990, c. P. 13, as amended; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of Holding (H) symbol with conditions in the zoning by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the 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 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 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 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 municipally known in the year 2021 as 1 Front Street West, as 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 CR 6.0 (c6.0; r6.0) SS1 (x2116) to (H) CR 6.0 (c6.0; r6.0) SS1 (x2116), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by deleting and replacing Article 900.11.10 Exception Number CR 2116, so that it reads:

(2116) Exception CR 2116

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 1 Front Street West, if the requirements of Section 6, Section 7 and Schedule A of By-law 1251-2022(OLT) are complied with, a **building or structure** may be constructed, used or enlarged in compliance with (B) to (CC) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building or structure** is the distance between the Canadian Geodetic Datum elevation of 80.0 metres and the elevation of the highest point of the **building or structure**;
- (C) Despite Regulation 40.10.40.1(1), all residential use portions of the **mixed-use building**, must be located above non-residential uses portions, other than: residential lobby access and residential **amenity space**;
- (D) Despite Regulation 40.10.20.100(21)(B), **outdoor patios** on the **lot** may have a collective maximum area of 560 square metres and shall be located a minimum of 2.5 metres from the southern **lot** line;
- (E) Despite Regulation 40.10.40.10(1), the permitted maximum height of a **building or structure** is the numerical value, in metres, following the letters "HT" as shown on Diagram 3 attached to By-law 1251-2022(OLT);
- (F) 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 3.7 metres;
- (G) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** is the numerical value following the letters "ST" as shown on Diagram 3 attached to By-law 1251-2022(OLT);

- (H) Despite Regulations 40.5.40.10(3) to (8) and (E) above, the following elements of a **building or structure** may project beyond the permitted maximum height shown on Diagram 3 of By-law 1251-2022(OLT):
- (i) equipment used for the functional operation of the **building** including electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, and vents, up to a maximum of 3.0 metres;
 - (ii) **structures** that enclose, screen, or cover the equipment, **structures** and parts of a **building** listed in (i) above, up to a maximum of 3.0 metres;
 - (iii) architectural features, parapets, and elements and **structures** associated with a **green roof**, up to a maximum of 0.5 metres;
 - (iv) **building** maintenance units and window washing equipment, trellises, pergolas, screens, and unenclosed structures providing safety or wind protection to rooftop amenity space, by a maximum of 3.5 metres; and
 - (v) planters, **landscaping** features, bollards, and guard rails, up to a maximum of 1.5 metres;
 - (vi) solar panels, light fixtures, and lightning rods, up to a maximum of 5.0 metres;
- (I) Despite Regulations 40.10.40.40(1) and (2), the permitted maximum **gross floor area** of all **buildings** and **structures** must not exceed 90,000 square metres of **gross floor area**, of which:
- (i) a maximum of 32,000 square metres of **gross floor area** may be for residential uses; and
 - (ii) a minimum of 58,000 square metres of **gross floor area** may be for non-residential uses, of which a minimum of 36,000 square metres must be for office uses;
- (J) The provision of **dwelling units** must be provided in accordance with the following:
- (i) a minimum of 15 per cent must be two-bedroom **dwelling units**; and
 - (ii) a minimum of 10 per cent must be three-bedroom **dwelling units** or larger;
 - (iii) any **dwelling units** with three or more bedroom provided to satisfy (ii) above are not included in the provision required by (i) above;

- (iv) if the calculation of the required number of **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;
- (K) In addition to the **building** elements which reduce **gross floor area** listed in Regulation 40.5.40.40(3), the **gross floor area** of a **mixed use building** is also reduced by the areas in a **building** or **structure** used for mechanical rooms on any level of the **building**;
- (L) Despite Regulation 40.10.40.50(2), no outdoor **amenity space** is required for non-residential uses;
- (M) Despite Regulations 40.10.40.70(1) and 40.10.40.80(1) and Clause 600.10.1, the required minimum **building setbacks** and the required minimum separation of **main walls** of any **building** or **structure** are shown on Diagram 3 of By-law 1251-2022(OLT);
- (N) An average separation distance of at least 25.0 metres must be provided between **main walls** of each **building** above a height of 46.0 metres, provided that the minimum separation distance is no less than 24.0 metres at any point between the **main walls** of each **building**;
- (O) Despite Regulations 40.5.40.60(1), Clause 40.10.40.60 and (M) above, the following elements of a **building** or **structure** may encroach into a required minimum **building setback** and **main wall** separation distance as follows:
 - (i) canopies and awnings, up to a maximum of 6.0 metres;
 - (ii) exterior stairs, access ramps and elevating devices, by a maximum of 1.0 metres;
 - (iii) cladding added to the exterior surface of the **main wall** of a **building**, architectural features, such as a pilaster, decorative column, cornice, sill, belt course, ornamental fins or chimney breast, eaves, pipes, and ladders, by a maximum of 0.5 metres; and
 - (iv) light fixtures, windowsills, and ornamental elements, by a maximum of 1.0 metre;
- (P) Despite Regulation 40.10.90.40(1), **vehicle** access to a **loading space** may be provided from Yonge Street via shared **driveway(s)** and located on the adjacent property municipally known in the year 2021 as 141 Bay Street;
- (Q) Despite Regulation 40.10.100.10(1), **vehicle** access may be provided from Yonge Street via shared **driveway(s)** located on the adjacent property municipally known in the year 2021 as 141 Bay Street;

- (R) Despite Regulations 200.5.1(2), 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the lands in accordance with the following:
- (i) a minimum of 0.1 residential occupant **parking spaces** for each **dwelling unit**;
 - (ii) no **parking spaces** are required for residential visitors;
 - (iii) a minimum of 0.23 **parking spaces** for each 100 square metres of non-residential **gross floor area** for non-residential uses;
- (S) Despite Regulation 200.5.10.1(1), "car-share **parking spaces**" may replace **parking spaces** otherwise required for residential occupants, subject to the following:
- (i) a reduction of four (4) resident occupant **parking spaces** will be permitted for each "car-share **parking space**" provided; and
 - (ii) the maximum reduction permitted be capped by the application of the following formula:
 - a. four (4) multiplied by the total number of **dwelling units** divided by 60, and rounded down to the nearest whole number;
- (T) For the purposes of this exception:
- (i) "car-share" or "car-sharing" means the practice where a number of people share the use of one or more cars that are owned 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; and
 - (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 200.5.1.10(2)(A)(iv), a maximum of 10 percent of the **parking spaces** provided may be obstructed as described in Regulation 200.5.1.10(2)(D) without being required to provide additional width for the obstructed sides of the parking space;
- (V) Despite Regulation 200.5.1.10(2)(D), Electric Vehicle Infrastructure, including electrical vehicle supply equipment, does not constitute an obstruction to a **parking space**;
- (W) Despite Regulation 200.5.1.10(12)(B), the **vehicle** entrance or exit for a one-way **driveway** into or out of the **building** must have a minimum width of 3.0 metres;

- (X) Despite Regulation 200.15.1(1), (3) and (4), accessible **parking spaces** must be provided on the lands as follows:
- (i) An accessible parking space must have the following minimum dimensions:
 - a. length of 5.6 metres;
 - b. width of 3.4 metres; and
 - c. vertical clearance of 2.1 metres;
 - (ii) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
 - (iii) accessible **parking spaces** must be located within 20.0 metres of a barrier free entrance to the **building** or passenger elevator that provides access to the first **storey** of the **building**;
- (Y) Despite Regulations 220.5.1(2) and 220.5.1.10(5) and Clause 220.5.10.1, the following **loading spaces** are required and must be provided on the lands as follows:
- (i) a minimum of five (5) Type 'B' **loading spaces**;
 - (ii) a minimum of four (4) Type 'C' **loading space**; and
 - (iii) a minimum of one (1) Type 'G' **loading space**;
- (Z) Despite (Y) above, any or all **loading spaces** may be provided on a non-exclusive basis in a below-ground **parking garage** on, or shared with, the adjacent lands municipally known in the year 2021 as 141 Bay Street;
- (AA) Despite Regulation 230.5.1.10(7), a minimum of two shower and change facilities must be provided for the required "long-term" **bicycle parking**;
- (BB) Despite Regulation 230.5.1.10(9)(A)(iii) and 230.5.1.10(9)(B)(iii), long-term **bicycle parking spaces** may be distributed on the first three levels of the **building** below-ground; and
- (CC) Despite Regulations 230.5.1.10(4)(B)(ii) and 230.5.1.10(10), both "short-term" and "long-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space** having a minimum width of 0.4 metres.

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

5. Despite any future severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.

6. 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/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.

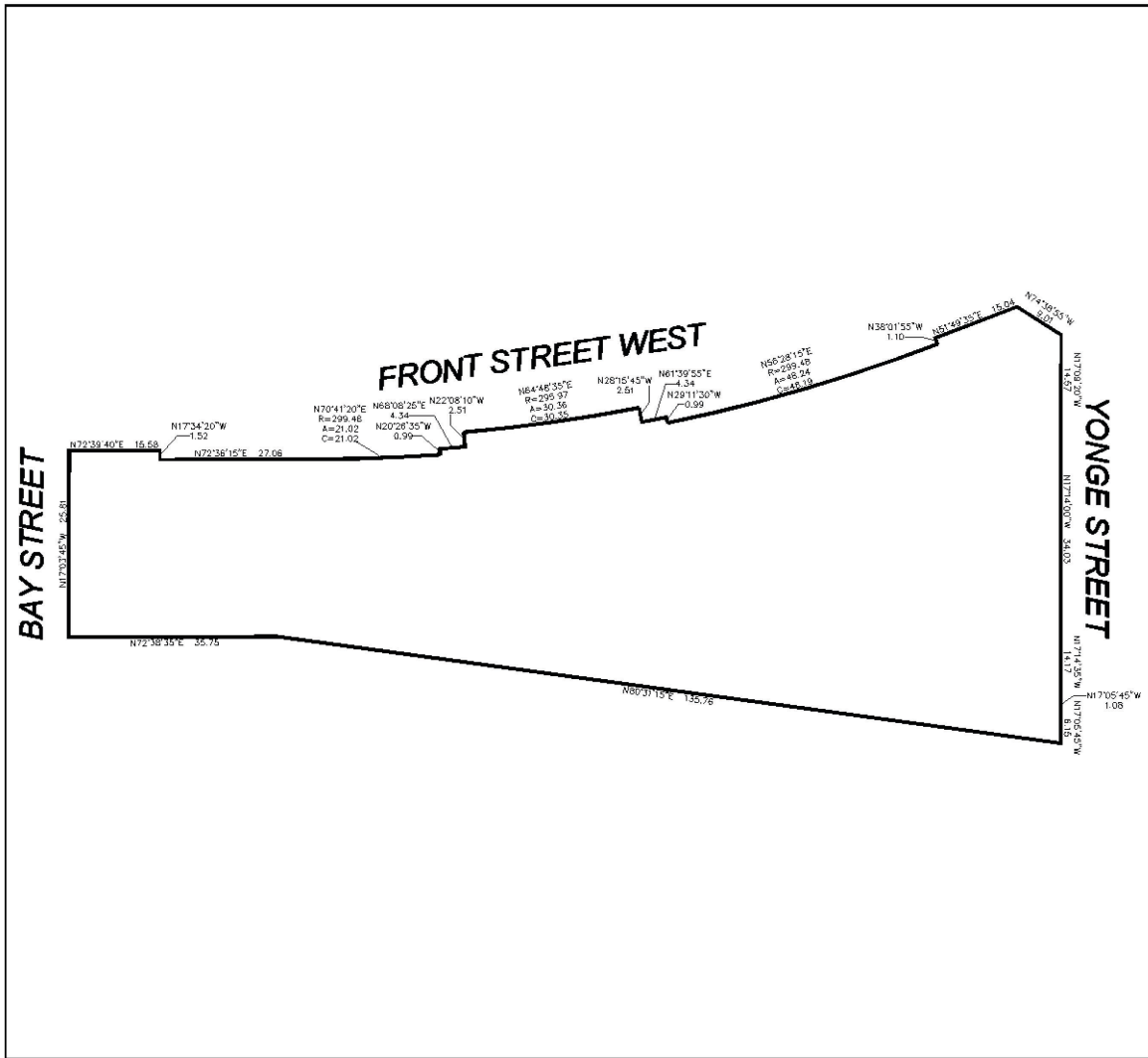
7. Holding Provisions

- (A) The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 attached to and forming part of this By-law must not be used for any purpose other than those uses and buildings existing on the site as of date of passing this By-law on the lands shown on Diagram 1 attached to this By-law until the "(H)" symbol has been removed.
- (B) An amending by-law to remove the "(H)" symbol may be enacted by City Council with respect to the lands, when the following conditions have been fulfilled to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning, the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, General Manager, Transportation Services, as the case may be, and Council:
 - (i) the owner has submitted, at their sole cost and expense, a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report taking into account any existing, approved and proposed developments and any required materials and analysis to address stormwater, sanitary and water capacity matters and infrastructure improvements and/or new municipal infrastructure determined to be required to support the development of the lands to which the amending by-law to remove the

"(H)" symbol applies ("**Engineering Reports**"), satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Toronto Water;

- (ii) the owner has submitted, at their sole cost and expense, has secured the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support the development of the lands to which the amending by-law to remove the "(H)" symbol applies, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the accepted Engineering Reports, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water;
- (iii) The receipt of all necessary approvals for the infrastructure required, as described (ii) above; and
- (iv) the owner has submitted a revised Arborist Report, Tree Protection and Preservation Plan, and revised conceptual landscape plan addressing the City-owned trees along Front Street in a manner satisfactory to the General Manager, Parks, Forestry and Recreation and the owner addresses such requirements as may be required regarding City-owned trees under Chapter 813 of the Municipal Code.

Local Planning Appeal Tribunal issued on October 28, 2020 and Ontario Land Tribunal Order effective on August 8, 2022 in File OLT-22-002857.



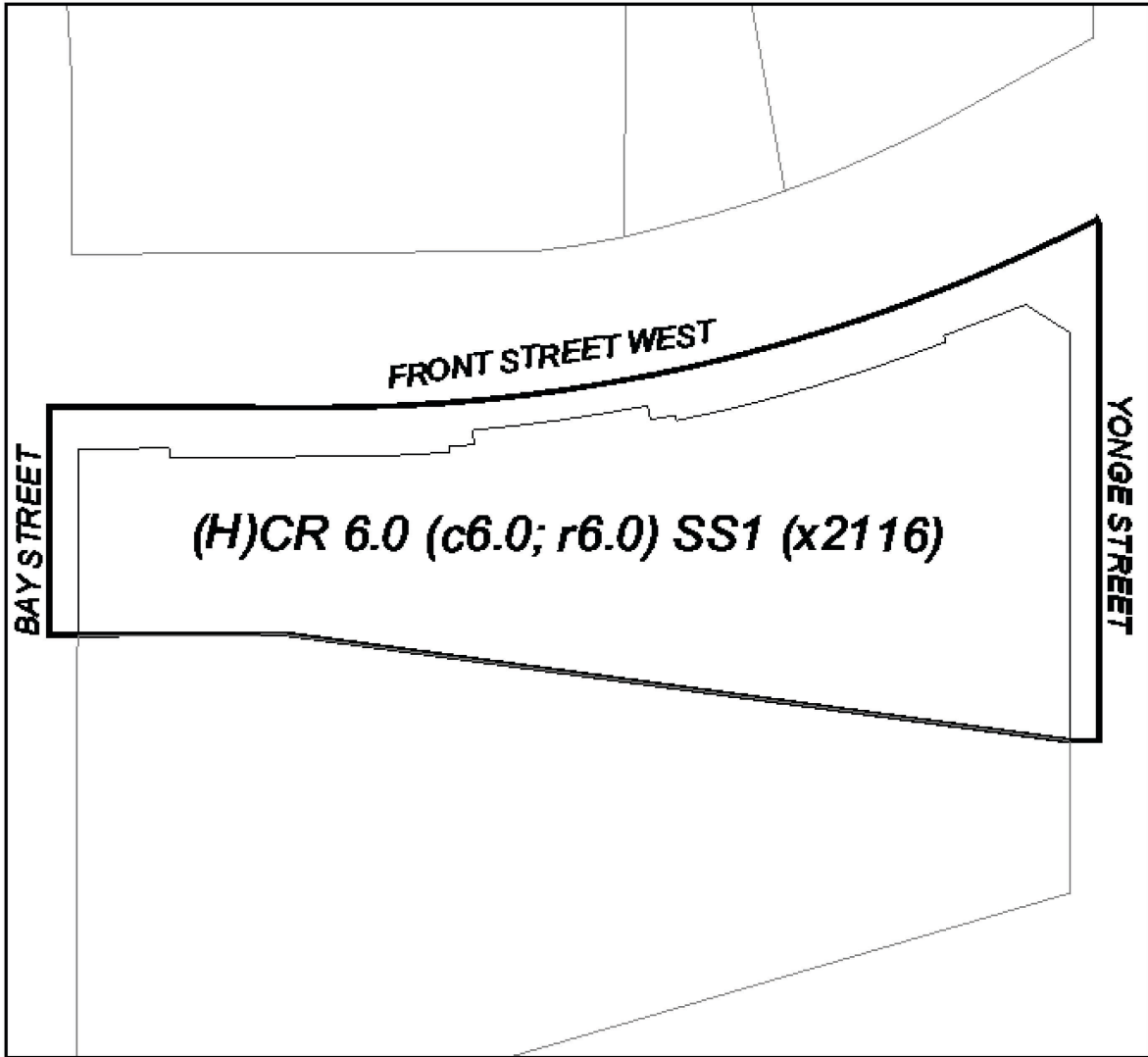
1 Front Street West, Toronto

Diagram 1

File # _____



Not to Scale



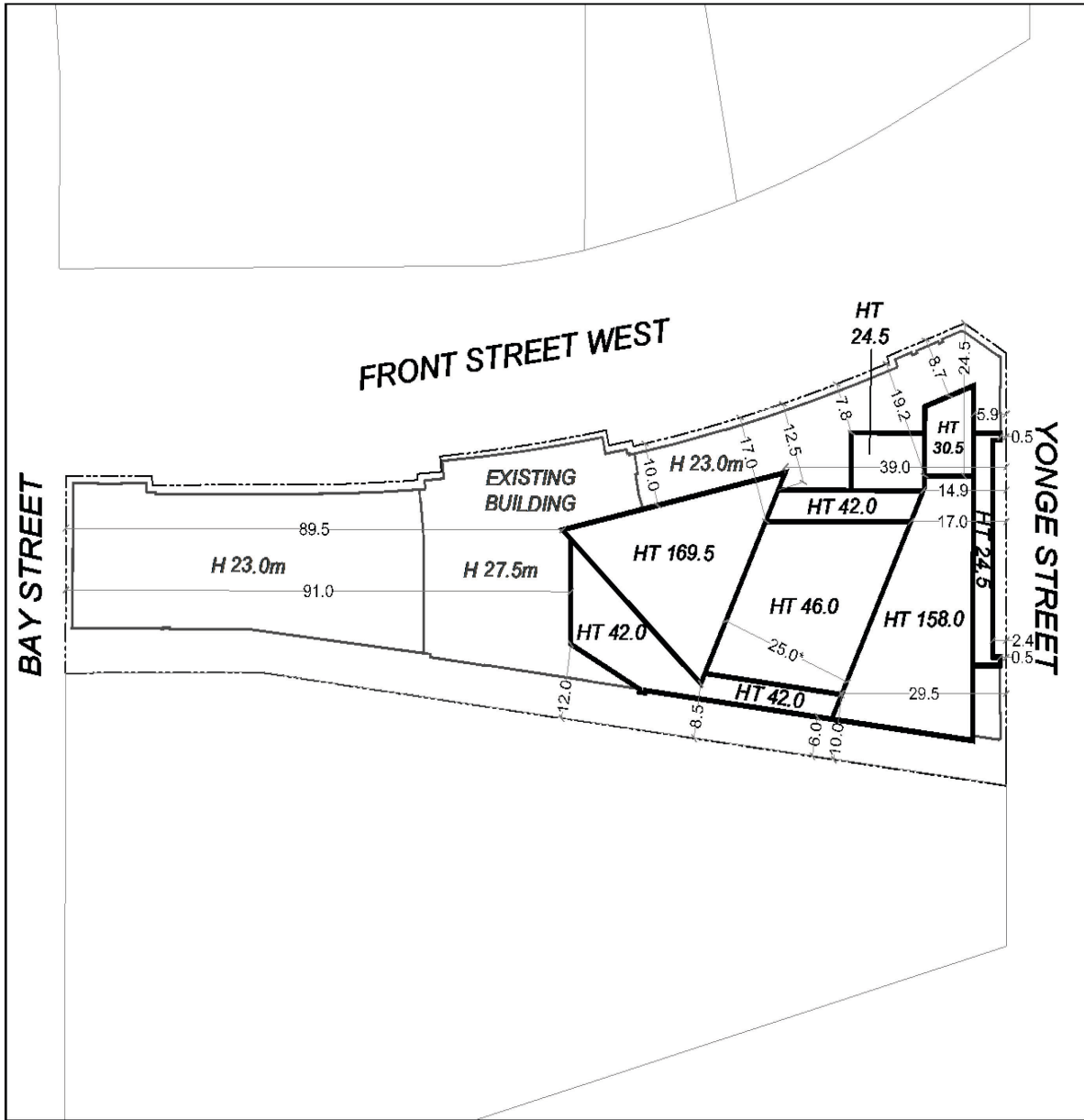
1 Front Street West, Toronto

Diagram 2

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Not to Scale



1 Front Street West, Toronto

Diagram 3

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*See Exception CR 2116, Subsection M



Not to Scale

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 the lands, the owner shall pay to the City four million and six hundred thousand dollars (\$4,600,000.00) in Canadian funds (the "**Cash Contribution**") to be allocated as follows:
 - (i) Four hundred and sixty thousand dollars (\$460,000.00) for the provision of affordable housing in the local Ward;
 - (ii) Four hundred and sixty thousand dollars (\$460,000.00) for capital repairs to the existing Toronto Community Housing buildings in the local Ward; and
 - (iii) Three million, six hundred and eighty thousand dollars (\$3,680,000) towards any combination of the following, at the discretion, and to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
 - a. local parkland improvements and/or public realm improvements in local Ward; and
 - b. community services and facilities in the local Ward.
2. The Cash Contribution set out in Clause 1 shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135, or its successor, calculated from the effective date of this By-law to the date of payment of the Cash Contribution by the owner to the City.
3. In the event the Cash Contribution in Clause 1 has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor,

provided the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands.

Matters Required to Support the Development

4. The owner shall construct and maintain, at its own expense, privately owned publicly-accessible spaces ('POPS'), of not less than 1,000 square metres at the southern portion of the property between Bay Street and Yonge Street, and the Owner shall convey to the City, for nominal consideration, easement(s) along the surface of the lands, to the satisfaction of the City Solicitor, which shall constitute the POPS and any required public access easements to connect the POPS to adjacent POPS and/or public rights-of-way, where necessary; and the Owner shall own, operate, maintain and repair the POPS and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the POPS at all times of the day and night, 365 days of the year; and the specific location, configuration, design and temporary uses of the POPS shall be determined in the Section 37 Agreement and the context of a Site Plan Approval for each building and/or block pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City.
5. The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner shall be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the Site Plan Control application.
6. The Owner shall coordinate the provision of loading and parking spaces below-grade with the 141 Bay Street Lands in a manner satisfactory to the General Manager, Transportation.
7. As part of the Site Plan Application for the development on the lands, should the access arrangement or reconfiguration of lanes at the Yonge Street and the Esplanade signalized intersection change, the Owner shall submit an updated Transportation Impact Study satisfactory to the General Manager, Transportation Services.
8. As part of the Site Plan Application for the development on the lands, the Owner shall prepare an updated streetscape design plan based on information obtained from the General Manager, Transportation Services to address any changes to the boulevard, including sidewalk widenings and a potential bump out at the Yonge Street intersection and thereafter implement any such streetscape design approved by the General Manager, Transportation Services.
9. The Owner, at its sole cost and expense, shall be responsible for all proposed work within the municipal boulevard, as identified on the approved plans and drawings, including but not limited to the reconstruction of the entire clearway and modification to the curb line identified in Clause 8 above, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

10. Prior to Site Plan Approval for the Development, the Owner shall, at its sole cost and expense, prepare and submit an updated, detailed Noise and Vibration Feasibility Study, including any required peer review, satisfactory to the Chief Planner. The Owner shall, at its sole cost and expense, implement and maintain all of the recommended mitigation measures in the accepted Noise and Vibration Feasibility Study to the satisfaction of the Chief Planner.
11. Prior to the issuance of any Building Permit and as part of a Site Plan Application for any part of the Lands, the Owner shall, at its sole cost and expense, provide a Noise and Vibration Feasibility study of surrounding rail and transportation corridors, including light rail transit, within 300 metres of the Lands to the satisfaction and acceptance by Metrolinx and the General Manager, Transportation Services.
12. As part of the Site Plan Application for the development on the lands, the Owner shall, at its sole cost and expense, identify the locations for knock out panel or panels for the potential future PATH connection satisfactory to the General Manager, Transportation Services and the Chief Planner.
13. Prior to Site Plan Approval for the development on the lands, the Owner shall, at its sole cost and expense, prepare and submit an updated, detailed pedestrian level wind study, including wind tunnel analysis, satisfactory to the Chief Planner. The wind study shall include recommendations for the public realm surrounding the Development and the outdoor areas within the Development to mitigate wind impacts year-round. The Owner shall, at its sole cost and expense, implement and maintain all of the recommended mitigation measures in the wind study to the satisfaction of the Chief Planner.
14. Prior to the issuance of the any **building** permit for the lands and as part of the Site Plan Approval process, the owner shall complete a TTC Technical Review of the Development and obtain the TTC written acknowledgement that the Owner has satisfied all of the conditions arising out of the TTC technical review. As part of the review process, the Owner shall provide the requisite information and pay the associated review fee to the TTC.
15. Prior to the issuance of any **building** permit, the owner shall enter into a construction agreement with the TTC, in a form acceptable to TTC, and shall include a detailed Construction Management Plan, including construction schedule, hoarding plans, shoring and excavation plans, crane swing plans, sequence and methodology, condition surveys, and other items as identified through the required Technical Review.
16. Prior to the issuance of any permit for all or any part of the Lands, including a Building Permit or Heritage Permit, but excluding permits for repairs, maintenance, and usual and minor works as are acceptable to the Senior Manager, HP, 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 for the **heritage site**; and

- (B) provide a Letter of Credit, including provision for upwards indexing in accordance with the Construction Price Index, 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; and

- (C) provide full documentation of the **heritage site**, 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.