

Authority: Ontario Land Tribunal Decision issued on May 31, 2022 and Order issued on August 11, 2022 in File OLT-22-002194

CITY OF TORONTO

BY-LAW 386-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 133-141 Queen Street East and 128 Richmond Street East.

Whereas the Ontario Land Tribunal, in its Decision issued on May 31, 2022 and its Order issued on August 11, 2022, in file OLT-22-002194, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 133-141 Queen Street East and 128 Richmond Street East; 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 Section 37.1 of the Planning Act provides that Subsections 37(1) to (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to the COVID-19 Economic Recovery Act, 2020 came into force, shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this By-law was passed prior to that date; and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 and the Ontario Land Tribunal, upon appeal, 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; and

Whereas Schedule B of this By-law requires the owner to confirm the availability of and/or provide municipal services to service the land, buildings or structures prior to the issuance of a building permit as required by Subsection 34(5) of the Planning Act, the issuance of such permit shall be dependent on satisfaction of same;

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 and replacing Article 900.11.10 Exception Number 2255, such that it reads as follows:

(2255) Exception CR 2255

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 133-141 Queen Street East and 128 Richmond Street East, as shown on Diagram 1 of By-law 386-2023(OLT), if the requirements of Section 6 and Schedule A of By-law 386-2023(OLT) are complied with, a **building** or structure may be constructed, used or enlarged in compliance with regulations (B) to (S) 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 85.85 metres and elevation of the height point of the **building** or **structure**;
- (C) Despite Regulations 40.5.40.10(4), (5) and (8) and 40.10.40.10(1), the permitted maximum height of a **building** or **structure**, including a mechanical penthouse, is the number following the HT symbol as shown on Diagram 2 of By-law 386-2023(OLT);
- (D) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **building** is the number preceding the letters "ST" as shown on Diagram 2 of By-law 386-2023(OLT);
- (E) Despite (C) above, and Regulations 40.5.40.10(6) and (7), the following equipment and **structures** may project beyond the permitted maximum height of a **building**, as follows:
 - (i) architectural features, parapets, drainage, insulation and roof surface materials, stairs and stair enclosures, chimneys, pipes, vents, eaves, balustrades, and elements and **structures** associated with a **green roof**, by a maximum of 3.0 metres;
 - (ii) **building** maintenance units, davit arms, window washing equipment, and lightning rods, by a maximum of 5.0 metres;

- (iii) planters, **landscaping** features, light fixtures, guard rails, and divider screens on a balcony and/or terrace, by a maximum of 2.0 metres; and
 - (iv) trellises, pergolas, awnings and unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, by a maximum of 3.0 metres.
- (F) Despite Regulation 40.10.40.40(1) the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 29,100 square metres, of which:
 - (i) the permitted maximum **gross floor area** for residential uses is 29,000 square metres; and
 - (ii) the permitted maximum **gross floor area** for non-residential uses is 500 square metres.
- (G) Despite Regulation 40.10.40.50(1)(A) and (B) and (2), a **building** with 20 or more **dwelling units** must provide **amenity space** as follows:
 - (i) at least 2.8 square metres for each **dwelling unit** as indoor **amenity space**; and
 - (ii) at least 1.1 square metres of outdoor **amenity space** for each **dwelling unit** of which at least 40.0 square metres must be in a location adjoining or directly accessible to the indoor **amenity space**, and of which the area labelled "outdoor amenity space step back (part of required outdoor amenity space)" on Diagram 2 of By-law 386-2023(OLT) must include a strip composed of **landscaping** or **soft landscaping** for a minimum of 1.8 metres measured from the north **main wall** of the **building**.
- (H) Despite Regulation 40.10.40.70(1), the required minimum **building setbacks** are as shown in metres on Diagram 2 of By-law 386-2023(OLT);
- (I) Despite Regulation 40.10.40.80(1), the required minimum separation of **main walls** are as shown in metres on Diagram 2 of By-law 386-2023(OLT);
- (J) Despite Clause 40.10.40.60 and (H) and (I) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
 - (i) balconies, to a maximum extent of 1.0 metres along the east **main wall** of the **building** and a maximum extent of 2.0 metres along the north, west and south **main walls** of the **building**;
 - (ii) despite (i) above, for the purposes of this exception:
 - a. no projecting balcony may be located within 1.5 metres of a corner of the tower as shown on Diagram 3 of By-law 386-2023(OLT);

- b. no projecting balconies beyond the **main walls** of the **building** are permitted to wrap around the corners of the **building**; and
 - c. balconies located on the east **main wall** of the tower may occupy no more than 70 percent of the **main wall** for each floor of the tower as shown on Diagram 3 of By-law 386-2023(OLT).
- (iii) canopies, awnings, window washing equipment and **building** maintenance units, to a maximum extent of 3.5 metres;
 - (iv) cladding or thermal insulation added to the exterior surface of the **main wall** of a **building**, eaves, satellite dishes, antennae, vents, pipes, and site servicing features to a maximum extent of 0.75 metres;
 - (v) architectural features, such as a pilaster, decorative column, cornice, sill, belt course, or chimney breast, to a maximum extent of 1.0 metres; and
 - (vi) light fixtures, planters and other **landscaping** elements, access ramps.
- (K) Despite Regulation 200.5.1.10(2)(A)(iv), 5 percent of the required **parking spaces** 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**;
- (L) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
- (i) a minimum of 0.2 residential occupant **parking spaces** for each **dwelling unit**;
 - (ii) a minimum of 0.016 residential visitor **parking spaces** for each **dwelling unit**; and
 - (iii) no **parking spaces** are required for non-residential uses.
- (M) Despite Regulation 200.15.1(1), an accessible **parking space** must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 3.4 metres;
 - (iii) vertical clearance of 2.1 metres; and
 - (iv) the entire length of accessible **parking spaces** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path.

- (N) Despite Regulation 200.15.1(4)(C), an accessible **parking space** must be the **parking space** that is the shortest barrier free route from the required entrances in Regulations 200.15.1(4)(A) and (B);
- (O) Despite Regulation 230.5.1.10(4)(A)(ii), the required minimum width of a **stacked bicycle parking space** is 0.4 metres;
- (P) Despite Regulation 230.5.1.10(9)(B)(iii) "long term" **bicycle parking spaces** for a **dwelling unit** in a **mixed-use building** may be located on any level of the **building** below ground;
- (Q) Despite Regulation 230.5.1.10(10), both "short-term" and "long-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space**;
- (R) The provision of dwelling units is subject to the following requirements:
- (i) a minimum of 15 percent of the total number of **dwelling units** on the **lot** must contain two bedrooms; and
 - (ii) a minimum of 10 percent of the total number of **dwelling units** must contain a minimum of three bedrooms with a minimum **interior floor area** of 100 square metres for each **dwelling unit**.
- (S) Section 600.10, with regards to tall building setbacks in the downtown area, does not apply.

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

4. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
5. None of the provisions of this By-law or By-law 569-2013, as amended, shall apply to prevent a sales office used for the initial sale of **dwelling units** on the **lot**.
6. Section 37 Provisions
 - (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this By-law 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 attached to 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; and

- (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 attached to this By-law are satisfied.

7. Availability of Municipal Services

- (A) Pursuant to Subsection 34(5) of the Planning Act, it is prohibited to use the lands shown on Diagram 1 attached to this by-law or erect or use buildings or structures as permitted in this By-law until the owner confirms the availability of and/or provide municipal services to service the land, building or structures, as set out in Schedule B hereof, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- (B) Where Schedule B of this By-law requires the owner confirm the availability of and/or provide municipal services to service the land, buildings or structures prior to the issuance of any 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 pursuant to this By-law unless all provisions of Schedule B attached to this by-law are satisfied.

Ontario Land Tribunal Decision issued on May 31, 2022 and Order issued on August 11, 2022 in File OLT-22-002194.

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 as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, whereby the owner agrees as follows:

1. Prior to the issuance of any Building Permit on the lands, the owner shall enter into an agreement and the agreement shall be registered on title to the lands to the satisfaction of the City Solicitor 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 came into force to secure the community benefits set out below.
2. Prior to the issuance of the first above-grade permit, excluding demolition permits, the owner shall pay to the City a cash contribution of three million and five hundred thousand dollars (\$3,500,000.00 CAN) to the City to be allocated towards certain community benefits in the vicinity of the lands to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
3. The cash contribution set out in Clause 2 above shall 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 Table: 18-10-0135-01, or its successor, calculated from the date of the Ontario Land Tribunal Decision to the date of payment of the Cash Contribution by the owner to the City.
4. In the event the Cash Contribution in Clause 2 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 that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the Property.
5. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - (A) 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 having a minimum gross floor area of 100 square metres, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (B) The Owner shall pay for and construct any improvements to the municipal infrastructure, at their 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 this development;

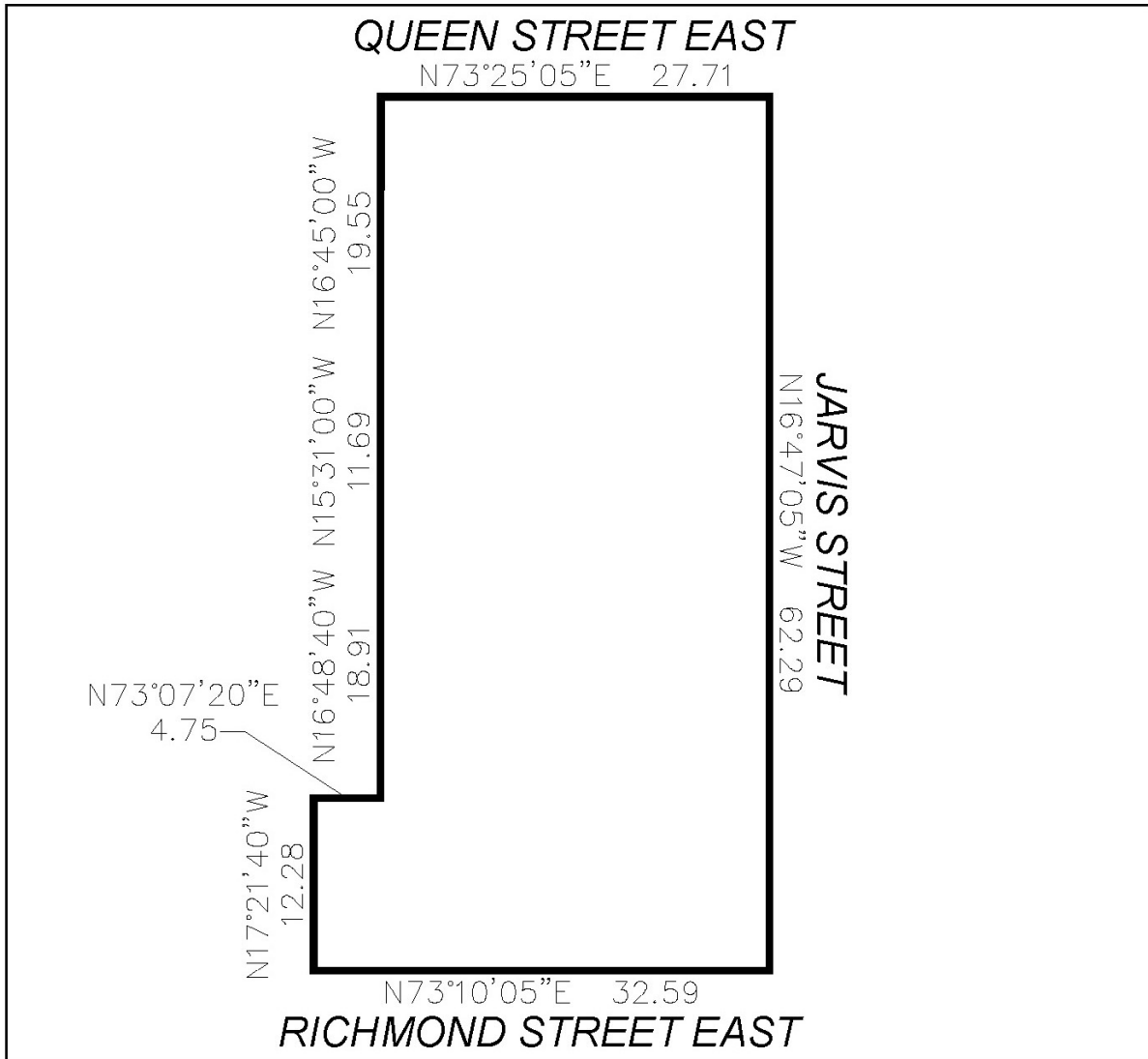
- (C) The Owner shall develop a Construction Mitigation Plan prior to the issuance of the first below grade building permit for the proposed development of the Subject Site to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor; and
- (D) The Owner shall submit an updated Pedestrian Level Wind Study, to the satisfaction of the Chief Planner and Executive Director, City Planning and provide any wind mitigation measures identified in the required wind studies for the revised proposal as part of the Site Plan approval process for the Subject Site.

SCHEDULE B
Availability of Municipal Services

The confirmation of the availability of and/or provision of municipal services to service the lands as shown in Diagram 1 in this By-law shall be completed by the owner and at the owner's expense to the satisfaction of the City prior to the issuance of any Building Permit as follows:

1. the Owner has addressed all outstanding issues raised by Engineering and Construction Services as they relate to the Zoning By-law Amendment application as set out in their memorandum dated December 11, 2019 or as may be updated in response to further submissions filed by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
2. the Owner has provided a revised Functional Servicing Report, Stormwater Management Report, Municipal Servicing and Grading Plan, and any other reports or documents deemed necessary in support of the development to the City for review and acceptance by and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; the reports will determine whether the municipal water, sanitary and storm sewer systems can support the proposed development and whether upgrades or improvements of the existing municipal infrastructure are required; and
3. the Owner has entered into a financially secured agreement to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services for the construction of any improvements to the municipal infrastructure, at the owner's sole expense, should it be determined that upgrades are required to support the development as identified in the accepted Functional Servicing Report, Stormwater Management Report, Municipal Servicing and Grading Plan, or other reports accepted by the Chief Engineer and Executive Director, Engineering and Construction Services.

Diagram 1



133-141 Queen Street East & 128 Richmond Street East, Toronto

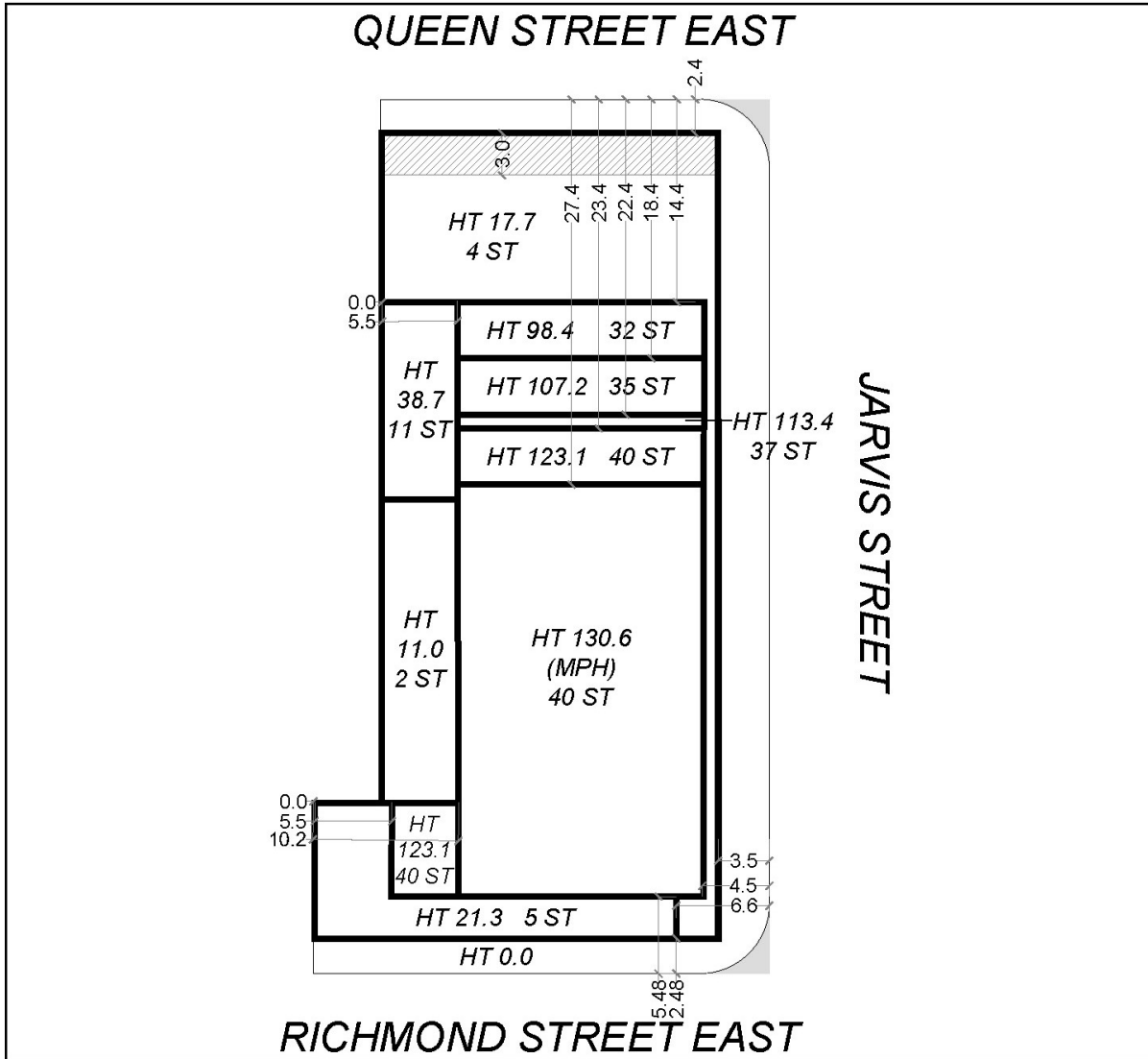
Diagram 1

File #18 225083 STE 28 OZ



Not to Scale

Diagram 2



133-141 Queen Street East & 128 Richmond Street East, Toronto

Diagram 2

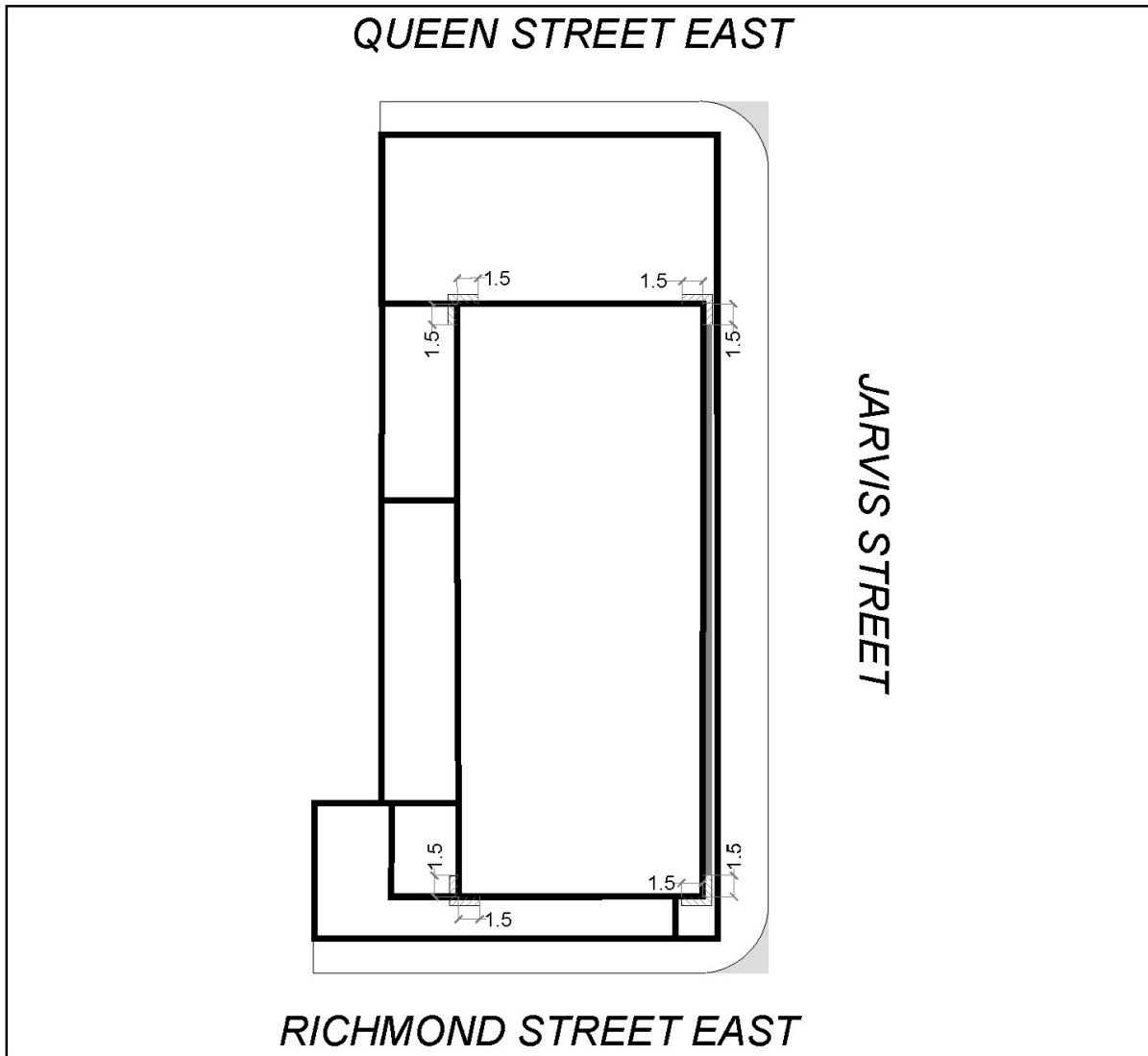
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-  5.0 metre corner rounding
-  Outdoor amenity space step back (part of required outdoor amenity space)



Not to Scale




Diagram 3



133-141 Queen Street East & 128 Richmond Street East, Toronto

Diagram 3

File #18 225083 STE 28 OZ

-  5.0 metre corner rounding
-  Projecting Balconies Prohibited
-  Balconies limited to 70% of tower main wall per floor



Not to Scale