

Authority: Ontario Land Tribunal Decision issued on July 26, 2022 and Order effective on July 26, 2022 in File OLT-22-002176

CITY OF TORONTO

BY-LAW 535-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 933-935 The Queensway.

Whereas the Owner of the lands in the year 2020 appealed a proposed Zoning By-law Amendment to the Local Planning Appeal Tribunal (now 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 Ontario Land Tribunal, by its Decision issued on July 26, 2022 and Order effective on July 26, 2022, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 933-935 The Queensway; 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 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 adding the lands identified as Part 1 on Diagram 1 attached to this By-law to the Zoning By-law Map in Section 990.10, and by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands identified as Part 2 on Diagram 1 attached to this By-law, and applying the following zone label to these lands: CR 3.0 (c3.0; r3.0)SS2(x774) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands identified as Part 1 on Diagram 1 attached to this By-law to the Policy Areas Overlay Map in Article 995.10.1, and by adding a Policy Area label on the Policy Areas Overlay Map in Article 995.10.1 respecting the lands identified as Part 2 on Diagram 1 attached to this By-law, and applying the following Policy Area label to these lands: PA4, as shown on Diagram 3 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands identified as Part 1 on Diagram 1 attached to this By-law to the Height Overlay Map in Article 995.20.1, and by adding a Height label on the Height Overlay Map in Article 995.20.1 respecting the lands identified as Part 2 on Diagram 1 attached to this By-law, to the Height Overlay Map in Article 995.20.1, and applying the following height and storey label to these lands: HT 21.0 and ST 6 as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands identified as Part 1 on Diagram 1 attached to this By-law, to the Lot Coverage Overlay Map in Article 995.30.1, and applying no value to these lands.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands identified as Part 1 on Diagram 1 attached to this By-law, to the Rooming House Overlay Map in Article 995.40.1, and applying no value to these lands.
8. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11_10 Exception Number 774 so that it reads:

(774) Exception CR 774

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 933-935 The Queensway, if the requirements of Section 11 and Schedule A of By-law 535-2023(OLT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with (B) to (V) 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 of 106.52 metres and the elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulation 40.10.40.10(2), the permitted maximum height of a building or structure is the number, in metres, following the letters 'HT' as shown on Diagrams 5 of By-law 535-2023(OLT);
- (D) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **building** is the number following the letters 'ST' as shown on Diagram 5 of By-law 535-2023(OLT);
- (E) Despite Regulations 40.5.40.10(4), (6), (7) and (C) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 5 of By-law 535-2023(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, by a maximum of 5.0 metres;
 - (ii) **structures** that enclose, screen or cover the equipment, **structures** and parts of a **building** listed in (i) above by a maximum of 5.0 metres;
 - (iii) architectural features, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 1.5 metres;
 - (iv) **building** maintenance units and window washing equipment, by a maximum of 2.0 metres;
 - (v) planters, **landscaping** features, and guard rails by a maximum of 2.0 metres;
 - (vi) divider screens on a balcony and/or terrace, by a maximum of 3.0 metres;
 - (vii) trellises and pergolas by a maximum of 4.0 metres;
 - (viii) unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, by a maximum of 2.5 metres; and
 - (ix) a sound barrier on the 7th **storey** of the outdoor shared amenity area by a maximum of 2.4 metres;

- (F) Despite Regulations 40.5.40.10(4), (8) and (E) above, for the area labelled as "MPH" as shown on Diagram 5 of By-law 535-2023(OLT):
- (i) equipment and **structures** that enclose, screen or cover the equipment, used for the functional operation of the **building** including electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, maintenance equipment storage, and elevator shafts may not project beyond the permitted maximum height; and
 - (ii) A ladder for accessing the top of the area labelled as "MPH" is permitted to project 1.2 metres beyond the permitted maximum height;
- (G) Despite Regulation 40.10.40.1(1), non-residential uses are only required on the first **storey** of a **mixed use building** along the Queensway frontage;
- (H) Regulation 40.10.40.10(5), with respect to the minimum height of the first **storey** does not apply for residential uses;
- (I) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the lands is 16,832 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 16,000 square metres;
 - (ii) the permitted minimum **gross floor area** for non-residential uses is 511 square metres;
 - (iii) no residential **gross floor area** shall be permitted above the 11th **storey**; and
 - (iv) the maximum **gross floor area** of the area labelled "MPH" on Diagram 5 of By-law 535-2023(OLT) is 550 square metres;
- (J) A maximum of 210 **dwelling units** are permitted on the lands, and the provision of **dwelling units** is subject to the following:
- (i) a minimum of 20 percent must be two-bedroom **dwelling units**; and
 - (ii) a minimum of 10 percent must be three-bedroom **dwelling units** or larger;
- (K) For each **dwelling unit** the total area of glazing, windows and opening of each exterior **main wall** for each **dwelling unit**, shall not exceed 50 percent of the interior **gross floor area** for each **dwelling unit**;
- (L) No **building** may penetrate a 45 degrees **angular plane**, measured at a line parallel to and at a height above a **lot line** that abuts The Queensway, equal to 80 percent of the width of The Queensway **street** right-of-way with the exception of guard rails and parapets which may penetrate 1.07 metres into the **angular plane**;

- (M) Despite Regulations 40.10.40.70(2) and 40.10.40.80(2), the required minimum **building setbacks** and separation of **main walls** are as shown in metres on Diagram 5 of By-law 535-2023(OLT);
- (N) Despite Regulations 40.10.40.70(2), 40.10.40.80(2) and (M), the required minimum **building setbacks** and separation of **main walls** for the first **storey** identified as the ground floor line are as shown in metres on Diagram 5 of By-law 535-2023(OLT);
- (O) Despite Clause 40.10.40.60 and (M) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
- (i) decks, porches, and balconies, by a maximum of 2.0 metres;
 - (ii) canopies and awnings, by a maximum of 2.0 metres;
 - (iii) exterior stairs, access ramps and elevating devices;
 - (iv) cladding added to the exterior surface of the **main wall** of a **building**, by a maximum of 0.2 metres; and
 - (v) air conditioners, satellite dishes, antennae, vents, and pipes, by a maximum of 2.0 metres;
- (P) 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 0.75 residential occupant **parking space per dwelling unit**;
 - (ii) a minimum of 0.15 residential visitor **parking space** for each **dwelling unit**; and
 - (iii) a minimum of 1.00 **parking space** for each 100 square metres of non-residential **gross floor area**;
- (Q) Residential visitor **parking spaces** and **parking spaces** for non-residential uses, may be provided on a non-exclusive basis and may be shared in a **parking garage** below ground;
- (R) 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 resident occupant **parking spaces** will be permitted for each "car-share parking space" provided and that the maximum reduction permitted be capped by the application of the following formula:

- a. four multiplied by the total number of **dwelling units** divided by 60, and rounded down to the nearest whole number;
 - (ii) 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
 - (iii) 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;
- (S) Despite Regulation 200.5.1.10(2), a maximum of 21 **parking spaces** provided may have the following minimum dimensions, despite that such **parking spaces** may be obstructed on one or two sides:
- (i) Length – 5.2 metres;
 - (ii) Width – 2.6 metres; and
 - (iii) Height – 2.0 metres;
- (T) Despite Regulation 200.15.1(1), (3) and (4), accessible **parking spaces** must be provided on each Block 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 the **parking spaces** closest to a barrier free:
 - a. entrance to a **building**;
 - b. passenger elevator that provides access to the first **storey** of the **building**; and
 - c. the shortest route from the required entrances in (T)(iii)a. and b.

- (U) Despite Clauses 40.10.90.1 and 220.5.10.1 a required minimum of one (1) Type "G" **loading space** must be provided on the lands;
- (V) Despite Regulation 230.5.1.10(10) a "long-term" **bicycle parking space** may be located in a **stacked bicycle parking space**;
- (W) Despite (A) listed under Prevailing By-laws and Prevailing Sections below, City of Toronto by-law 514-2003 does not apply to a **building or structure** constructed, used or enlarged in compliance with Regulations (B) to (V) above.

Prevailing By-laws and Prevailing Sections: City of Toronto By-law 514-2003.

9. 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.

10. Holding Provision

- (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 lands as shown on Diagram 1 as of the date of the Ontario Land Tribunal Order bringing this By-law in effect until the '(H)' symbol has been removed.
- (B) An amending by-law to remove the '(H)' symbol may be enacted by City Council when the following conditions have been fulfilled to the satisfaction of the City Solicitor, the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Transportation Services, as the case may be, and Council:
 - (i) The owner, at their sole cost and expense, submits Functional Servicing and Stormwater Management Reports, including confirmation of water and fire flow, sanitary stormwater capacity, Hydrogeological Review, including the Foundation Drainage Report (the "**Engineering Reports**") acceptable and satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services;
 - (ii) The execution and registration of a development agreement between the owner of the lands and the City, securing the financing and construction of any improvements that may be required to the City's sanitary sewer, storm sewer and water supply systems to accommodate the proposed development arising from the accepted Engineering Reports satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services;
 - (iii) The receipt of all necessary approvals for the infrastructure required, as described (ii) above;

- (iv) The owner, at their sole cost and expense, submitted a detailed wind tunnel test complete with a statistical wind analysis to determine the impacts and efficacy of the recommended wind mitigation measures, that is acceptable and satisfactory to the Chief Planner and Executive Director, City Planning and thereafter has secured such matters in a manner satisfactory to the Chief Planner and Executive Director, City Planning; and
- (v) The owner has entered into and registered on title to the lands a Section 37 Agreement pursuant to Section 37 of the Planning Act, acceptable and satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor.

11. Section 37 Requirements:

- (A) Pursuant to Section 37 of the Planning Act, as it read 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 as on Diagram 2 of By-law 535-2023(OLT) 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, as it read 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, 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.

SCHEDULE A
Section 37 Requirements

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:

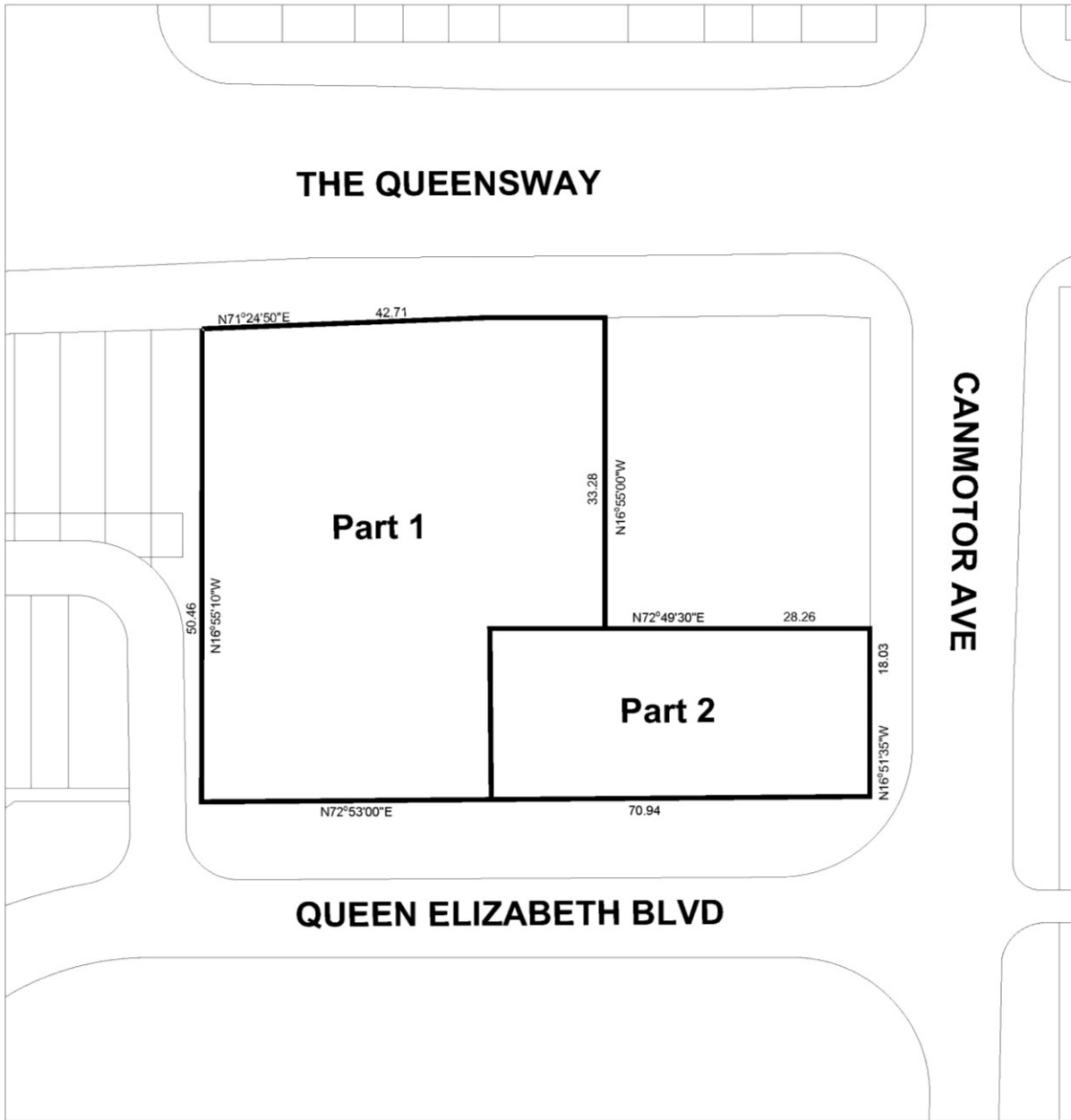
Community Benefits

1. Prior to issuance of the any **building** permit, the owner shall make a cash contribution to the City in the amount of one million, two hundred thousand dollars (\$1,200,000.00) (the "**Cash Contribution**") be allocated towards the following capital community services and facilities to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
 - (A) streetscape improvements along The Queensway through the Shop The Queensway Business Improvement Area;
 - (B) traffic control and street improvement measures;
 - (C) improvements to local parks and trails located in local Ward, including Queensway Park and Mimico Park Trail; and/or
 - (D) public art (including heritage plaques).
2. The Cash Contribution set out in Clause 1 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 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 that the purpose is identified in the Official Plan and will benefit the community in the vicinity.

Matters Required to Support the Development

4. The owner shall satisfy applicable signage requirements of the Toronto District School Board and the Toronto Catholic District School Board and shall insert warning clauses in purchase and sale/tenancy agreements as required in connection with student accommodation.
5. The owner agrees to into a financially secured Development Agreement for the construction of any improvements to the existing municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development.
6. 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 from time to time, to the satisfaction of the Chief Planner and Executive Director, City Planning. The owner will 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 application for each building on the lot.

Diagram 1



933-935 The Queensway

Diagram 1

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Diagram 2

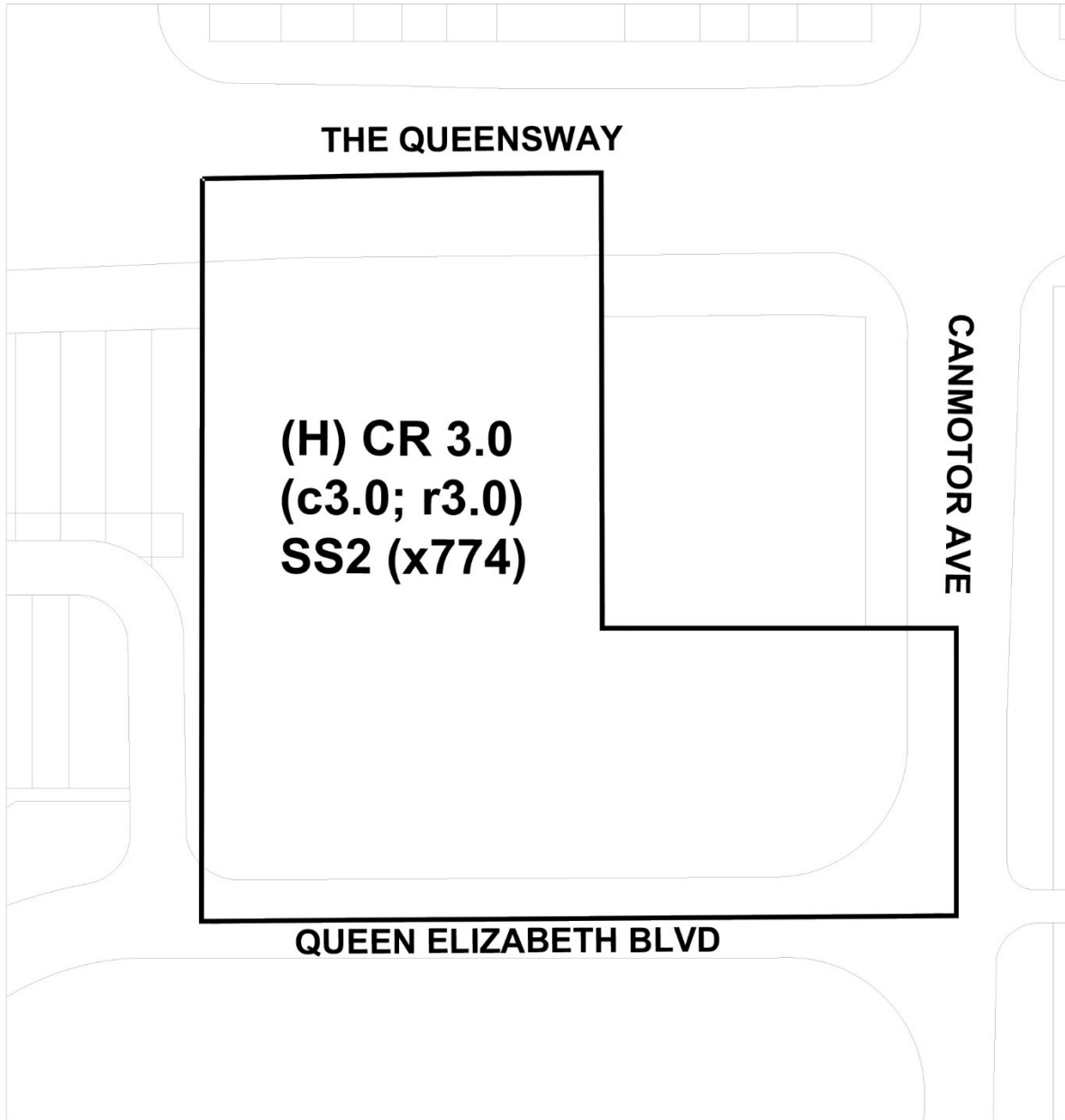


Diagram 2

933-935 The Queensway

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Diagram 3

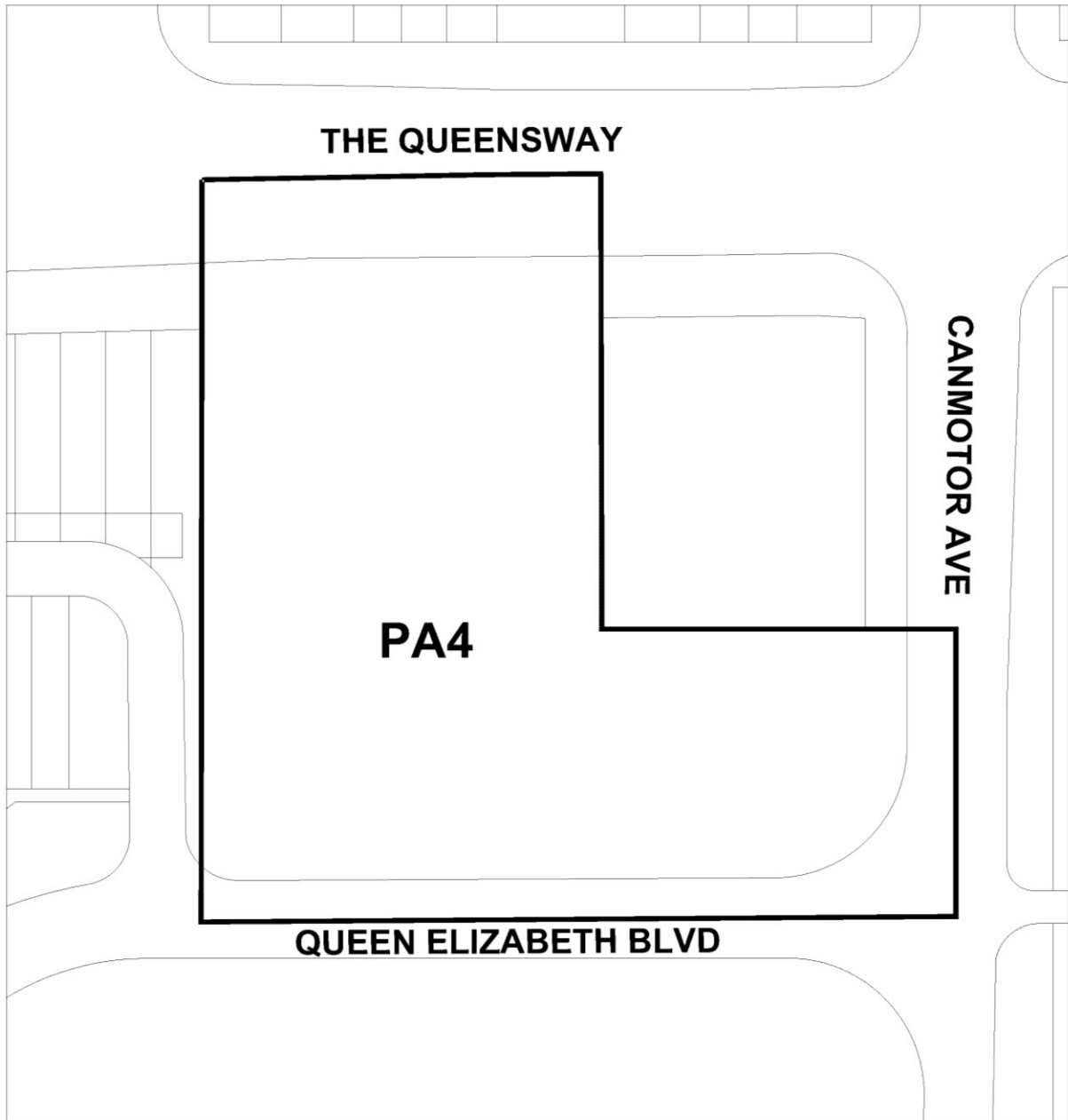


Diagram 3

933-935 The Queensway

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Diagram 4

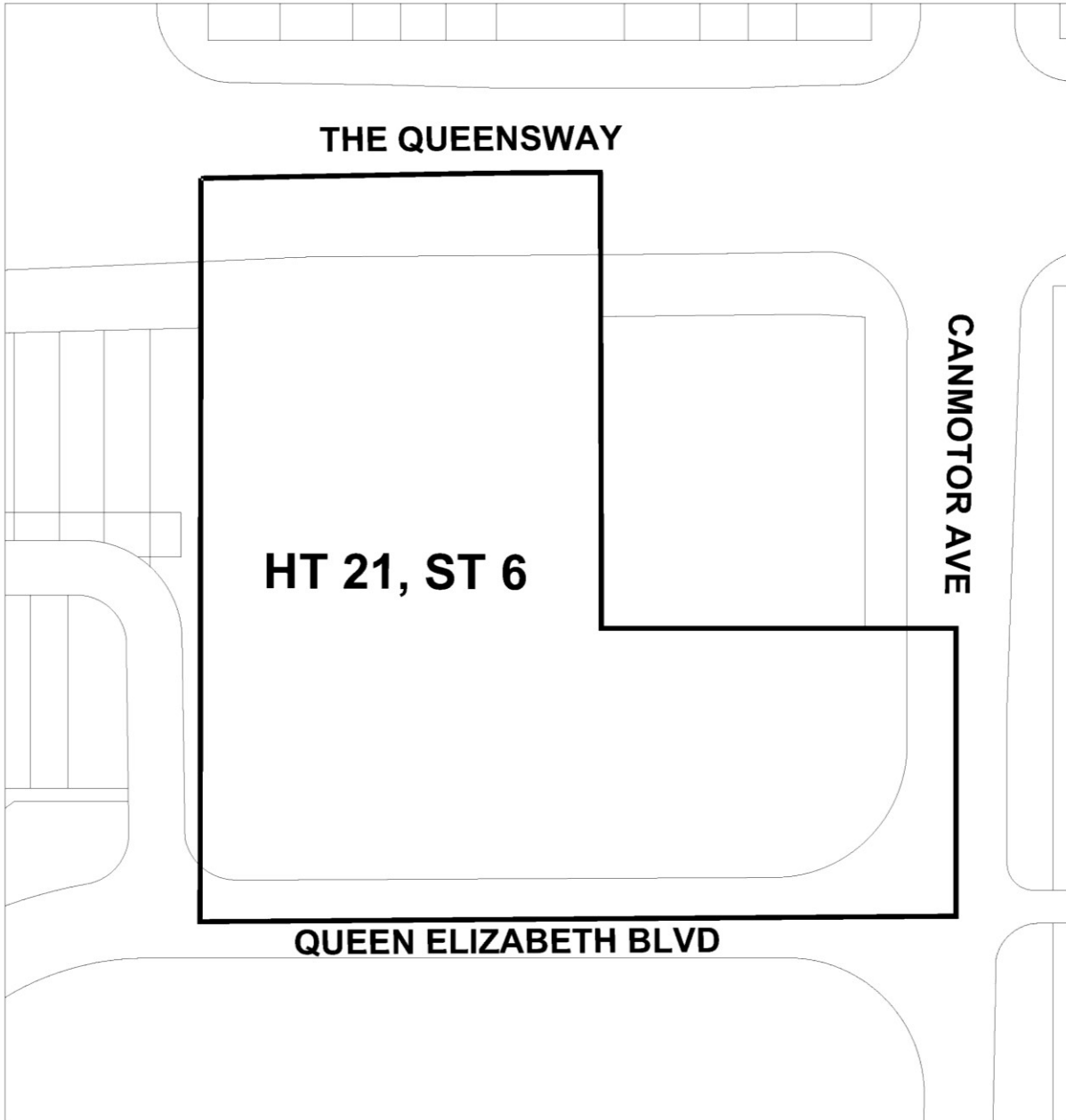


Diagram 4

933-935 The Queensway

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Diagram 5

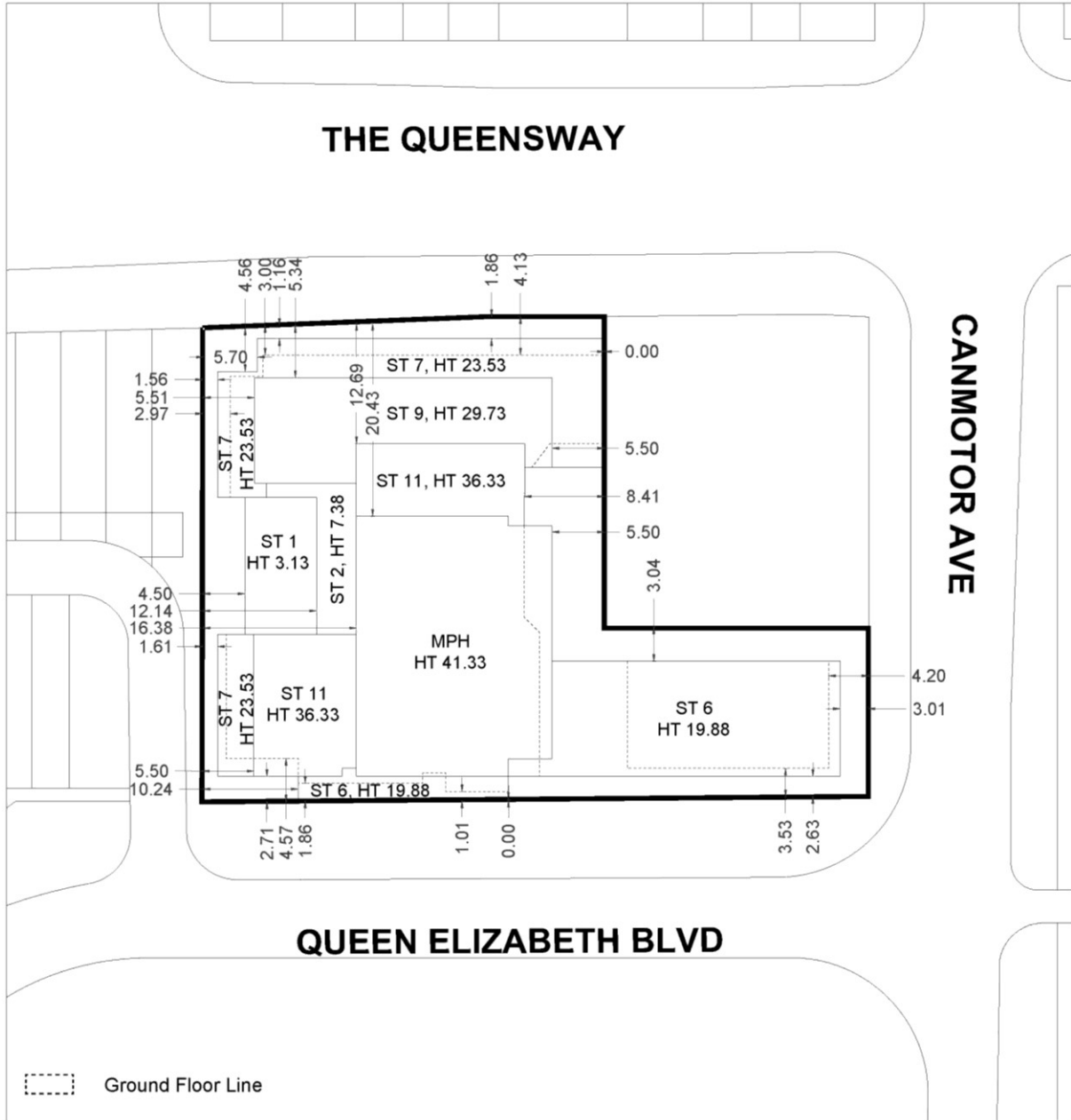


Diagram 5

933-935 The Queensway

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