

Authority: Ontario Land Tribunal Decision issued on September 20, 2023 and Order issued on December 4, 2023 in Case OLT-22-004433

CITY OF TORONTO

BY-LAW 1334-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 212 and 218 Dundas Street East and 279 ½ George Street.

Whereas the Ontario Land Tribunal has the authority to pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas the Official Plan for the City of Toronto contains such 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/or 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 the 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 enacts:

1. This by-law applies to the lands delineated by heavy black lines on Diagram 1 attached to and forming part of this By-law.
2. The words highlighted in bold type in this By-law have the same 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 1.5 (c1.0; r1.0) SS2 (x415) 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 CR (415) so that it reads:

Exception CR (415)

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

- (A) On 212 and 218 Dundas Street East and 279 ½ George Street, if the requirements of Section 7 and Schedule A of By-law 1334-2023(OLT) are complied with, the retention of an existing residential building is permitted and a **mixed- use building** may be constructed in compliance with (B) to (Z) below;
- (B) The **lot** comprises the lands delineated by heavy lines on Diagram 1, attached to By-law 1334-2023(OLT);
- (C) Despite regulation 40.5.40.10 (1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum elevation of 89.60 metres and the highest point of the **building** or **structure**;
- (D) Despite regulations 40.5.40.10(8) and 40.10.40.10(2), the permitted maximum height of the **building** or **structure**, including a mechanical penthouse, is the height measured in metres specified by the numbers following the symbol "HT" as shown on Diagram 3 of By-law 1334-2023(OLT);
- (E) Despite Clause 40.5.40.10, and Regulation (D) above, the following elements of a **building** or **structure** may project above the permitted maximum height specified in metres by the numbers following the symbol HT as shown on Diagram 3 of By-law 1334-2023(OLT) as follows:
- i. a **structure** on the roof of the **building** used for outside or open air recreation, roof top stair enclosure, roof top mechanical equipment that includes a chimney stack or other heating, cooling or ventilating equipment, window washing equipment on the roof of a **building**, elevator overrun, antennae, staircases or enclosures, privacy screens, mechanical and architectural screens, balcony and terrace guards and dividers, railings, access hatches, airshafts, landscaping, planters and other landscaping structures, elements of a **green roof**, heritage signage, and marquee signage by no more than 5.5 metres;
- (F) Despite 40.10.40.10 (5) the minimum height of the first **storey** is 3.0 metres;
- (G) Despite 5.10.30.20 the **Front Lot Line** is Dundas Street East;

- (H) Despite regulation 40.10.40.40(1), the total **gross floor area** of all **buildings** and **structures** on the **lot** exclusive of the existing **residential building** must not exceed a maximum of 34,000 square metres, of which:
- i. A maximum of 32,000 square metres for residential uses; and
 - ii. A minimum of 850 square metres for non-residential uses;
- (I) Despite regulation 40.5.40.40(3) the **gross floor area** of a **mixed-use building** also excludes areas used for:
- i. All open to below areas;
 - ii. Hallways and elevator vestibules below ground; and
 - iii. Electrical, utility, mechanical and ventilation rooms on any level of the **building** above or below ground;
- (J) Despite regulation 40.10.40.50 (1) and (2), **amenity space** must be provided in accordance with the following:
- i. A minimum of 2.5 square metres of indoor **amenity space** for each **dwelling unit**; and
 - ii. A minimum of 1.0 square metres of outdoor **amenity space** for each **dwelling unit**;
- (K) Despite (J) above respecting indoor **amenity space**, a maximum of 70 percent of the required indoor **amenity space**, may be provided above ground within a **fitness club**, provided:
- a. the balance of the indoor **amenity space** otherwise required by By-law 1334-2023(OLT) and not located within the **fitness club**:
 - i. is provided elsewhere within the **mixed-use building** for the exclusive use of its residents, and is not required to be contiguous to the **fitness club**;
- (L) Despite Regulation 40.10.40.70(2), and Section 600.10, the required minimum **building setbacks** are shown on Diagram 3, of By-law 1334-2023(OLT);
- (M) Despite Clauses 40.5.40.60 and 40.10.40.60, and Regulation (L) above, the following elements of a **building** or **structure** are permitted to encroach into the required minimum **building setbacks** as shown on Diagram 3 of By-law 1334-2023(OLT) as follows:

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- i. cornices, lighting fixtures, awnings, canopies, architectural features, balconies and guards, balcony roof or canopies, trellises, privacy screens, mechanical and architectural screens, window sills, chimneys, vents, stacks, mechanical fans, stairs, stair landings, covered stairs and/or stair enclosures associated with an entrance or exit from an underground parking garage, retaining walls and curbs, monitor wells, bicycle parking areas, fences and safety railings, terraces, planters, balustrades, bollards, wheelchair ramps, underground garage ramps and their associated **structures**, and landscape and public art features, marquee signage, by no more than 5.0 metres;
- (N) Regulation 40.10.50.10(3) with respect to required **landscaping** does not apply;
 - (O) Regulation 40.10.40.70(2)(G) with respect to **angular planes** does not apply;
 - (P) Despite Regulation 40.10.100.10 (1) **vehicle** access may be from Dundas Street East;
 - (Q) Regulation 40.10.150.1(1)(A) with respect to waste and recyclable materials storage does not apply;
 - (R) Despite Regulations 200.5.10.1 and 900.11.10(2)(B) **parking spaces** must be provided and maintained on the **lot**, in accordance with the following requirements:
 - i. A minimum of 0.1 **parking spaces** per **dwelling unit** must be provided for residents;
 - ii. A maximum of 28 **parking spaces** must be provided for non-residential/commercial uses; and
 - iii. despite regulation 200.5.10.1(2) related to minimum **parking space** dimensions, a total of ten (10) **parking spaces** can be obstructed on one side without the requirement to increase the minimum width on each obstructed side by 0.3 metres;
 - (S) Despite Regulation 200.5.1(3) the required minimum width of a one-way **drive aisle** is 4.5 metres;
 - (T) Despite Regulation 40.10.90.40 (1) and 220.5.10.1 , a minimum of 1 shared type "G" and Type "B" **loading space** and 1 type "C" **loading space** must be provided, and may be accessible from Dundas Street East;
 - (U) Despite Regulation 200.15.10(1), a minimum of 3 accessible **parking spaces** must be provided on the **lot**;
 - (V) Despite Regulation 230.5.10.1(5) **bicycle parking spaces** must be provided as follows:

- i. a minimum of 0.9 "long-term" **bicycle parking spaces** and 0.1 "short-term" **bicycle parking spaces** for each **dwelling unit**; and
- (W) Despite Regulations 230.5.1.10(4), (6) and (9) (10), **bicycle parking spaces** must be provided and maintained in accordance with the following:
- i. Both "long-term" and "short-term" **bicycle parking spaces** may be provided above or below ground and in a **stacked bicycle parking space**;
 - ii. "long-term" and "short-term" bicycle parking spaces may be located outdoors or indoors including within a secured room or enclosure or unenclosed space, or bike locker or combination thereof;
 - iii. for **stacked bicycle parking space**, the required minimum dimensions of a **bicycle parking space** is:
 - a) minimum width of 0.35 metres;
 - b) minimum length of 2.0 metres; and
 - c) minimum vertical clearance of 1.3 metres; and
 - iv. the minimum width of a **bicycle parking space** is:
 - a) 0.45 metres;
- (X) For the purposes of this exception, the maximum tower floor plate is 780 square metres;
- (Y) Despite Regulation 600.20.10(1) the first **storey** of a **mixed-use building** must provide a minimum of 50 percent of the **lot frontage** abutting the priority retail **street** for one or more of the following uses:
- a) **Art Gallery**
 - b) **Artist Studio**
 - c) **Automated Banking Machine**
 - d) **Clinic**
 - e) **Club**
 - f) **Community Centre**
 - g) **Custom Workshop**
 - h) **Day Nursery**

- i) **Eating Establishment**
- j) **Education Use**
- k) **Entertainment Place of Assembly**
- l) **Financial Institution**
- m) Library
- n) **Massage therapy**
- o) Medical Office
- p) Office
- q) **Performing Arts Studio**
- r) **Personal Service Shop**
- s) **Pet Services**
- t) **Place of Assembly**
- u) **Place of Worship**
- v) **Private School**
- w) **Production Studio**
- x) **Recreation Use**
- y) **Retail Service**
- z) **Retail Store**
- aa) **Service Shop**
- bb) **Sports Place of Assembly**
- cc) **Take-out Eating Establishment**
- dd) **Veterinary Hospital**
- ee) **Wellness centre**

(Z) For each use provided in (Y) above, a minimum of 50 percent of the surface area of the **main wall** of the first **storey** facing the priority retail **street** must be windows or doors; and

(AA) Regulation (Z) above, exempts the portion of the **building** that is a **heritage site**.

Prevailing By-laws and Prevailing Sections: CR 2389 does not apply

5. Notwithstanding any of the foregoing provisions, none of the provisions of the by-law shall apply to prevent, on the lands municipally known as 279 ½ George Street in the year 2021, the retention and use of the existing building as a residential building, provided that those uses in the existing building:
 - (A) Are those uses in the building that existed on July 1, 2023, or
 - (B) Are residential use(s) permitted by this by-law.
6. Despite any future severance, conveyance, partition or division of the **lot**, the provisions of this By-law shall continue to apply to the whole of the **lot** as if no severance, conveyance, partition or division has occurred.
7. 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 of 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 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 must 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 the provisions of Schedule A of such By-law are satisfied; and
 - (D) The owner shall enter into an agreement 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 came into force to secure the community benefits above.

Pursuant to Ontario Land Tribunal Decision issued on September 20, 2023 and Order issued on December 4, 2023 in Case OLT-22-004433.

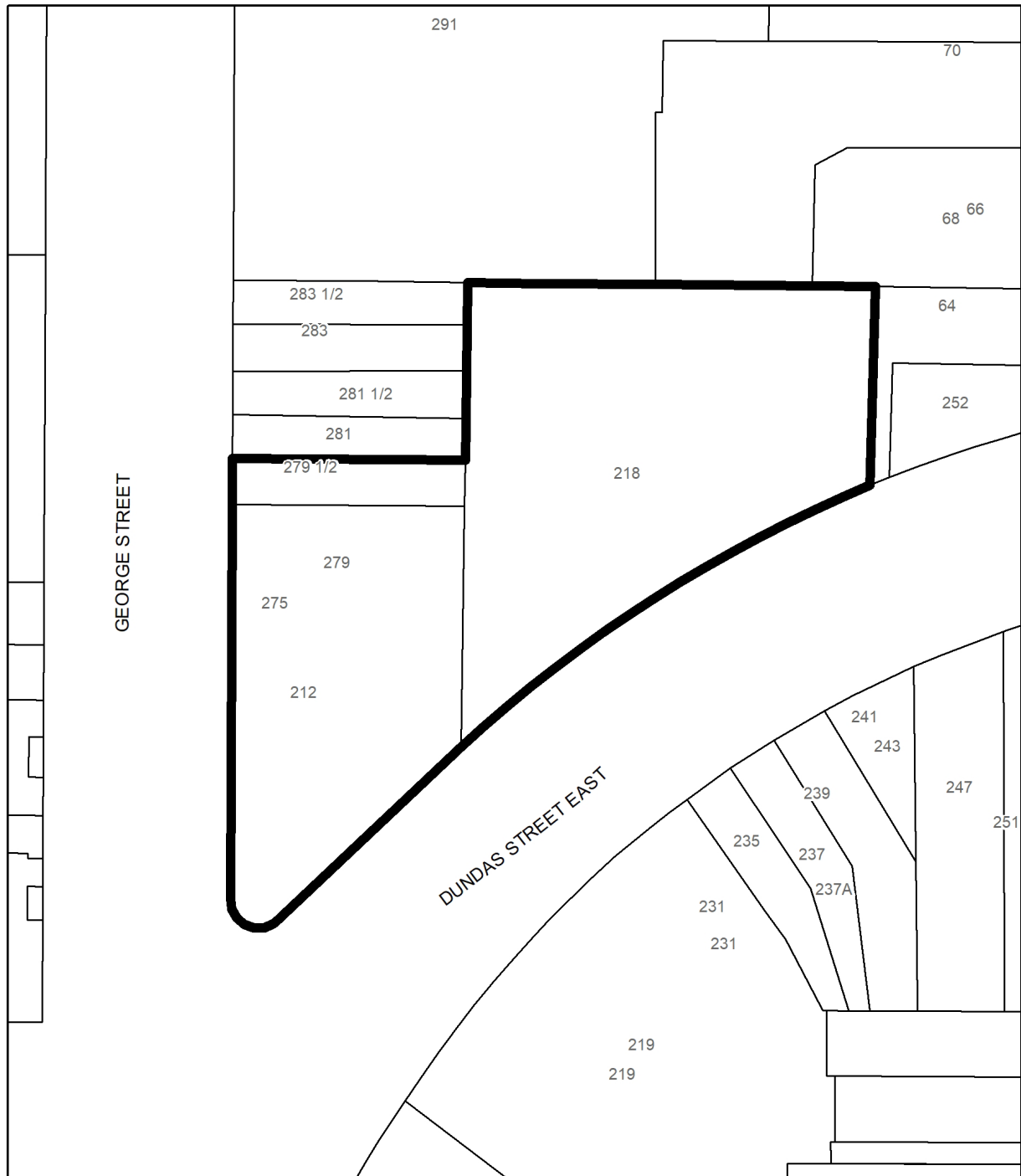
SCHEDULE A**Section 37 Provisions**

1. Prior to the issuance of any building permit, the owner shall enter into an agreement 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 below.
2. 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 as 212-218 Dundas Street East and 279 1/2 George Street on Diagrams 2 and 3 of this By-law, and secured in an agreement or agreements pursuant to Section 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, whereby the owner agrees as follows:
 - a. Prior to the issuance of the first above-grade building permit for the Development, other than for a Temporary Sales Pavilion, the Owner shall make a cash payment to the City in the sum of \$4,250,000.00 (four million, two hundred and fifty thousand dollars) to be used in a manner determined by the Ward Councillor and the Chief Planner and Executive Director, City Planning, provided the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands;
 - b. The owner shall continue to provide and maintain the ten (10) existing rental dwelling rooms on the lands at 279 1/2 George Street as rental housing, together with the associated facilities and amenities of the existing residential rental property, for a period of at least 20 years commencing from the date that the Zoning By-laws come into force and effect, and with no applications for demolition or conversion from residential rental use during such 20 year period, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;
 - c. The owner shall undertake improvements to the existing rental apartment building, taking into account tenant responses to the required Tenant Survey related to programming of amenity space, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or their designate, the following:
 - i. Prior to the first above-grade building permit for any part of the development or after such permit if the improvements are secured by letter of credit;
 - ii. Improvements to the existing waste management facilities including storage of garbage, recycling and composting;

- iii. Accessibility improvements within the existing residential rental building, including push button automatic door openers for all common doors, where possible, and an accessible clothes folding table within the laundry room;
 - iv. Improvements to the laundry room within the existing residential rental building;
 - v. Short-term bicycle parking near the front entrance of the existing residential rental building;
 - vi. Improvements and repairs to the existing ten (10) rental rooms, with repairs and improvements to be determined through the site plan application review process and secured in a Site Plan Agreement; and
 - vii. Improvements to the existing outdoor amenity areas, to be shared between residents of the existing rental building, with programming of a similar nature to be determined through the site plan application review process and secured in a Site Plan Agreement;
- d. The costs of all improvements to the existing residential rental building and associated spaces, both within and outside the building, as described above, shall not be passed on to tenants of the existing building in any form, including by way of an application to the Ontario Landlord Tenant Board or to any successor tribunal with jurisdiction to hear applications made under the legislation governing residential tenancies in Ontario, for the purpose of obtaining an increase in residential rent above the applicable guideline;
 - e. Prior to Site Plan Approval for the development the owner agrees to develop a Construction Mitigation and Tenant Communication Plan to mitigate the impacts of construction on existing tenants, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - f. The owner shall provide a minimum of 10-percent of all new units in the proposed building as 3-bedroom units;
 - g. The owner shall provide a minimum of 15 percent of all new units in the proposed building as 2-bedroom units;
 - h. The owner shall provide a minimum of 15 percent of all new units in the proposed building as 2 and/or 3-bedroom units, or units that can be converted to 2 or 3-bedroom units through the use of accessible or adaptable design measures;
 - i. As part of a site plan application for the lands, the owner shall, at its sole expense, submit detailed landscape plans, sections, and details with sufficient information to assure Urban Forestry that the required City tree plantings and associated soil volumes and soil infrastructure is feasible; and

- j. Prior to final Site Plan Approval for any part of the site, the Owner shall submit a construction management plan for the development addressing such matters as noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the General Manager, Transportation Services, in consultation with the Ward Councillor.

Diagram 1

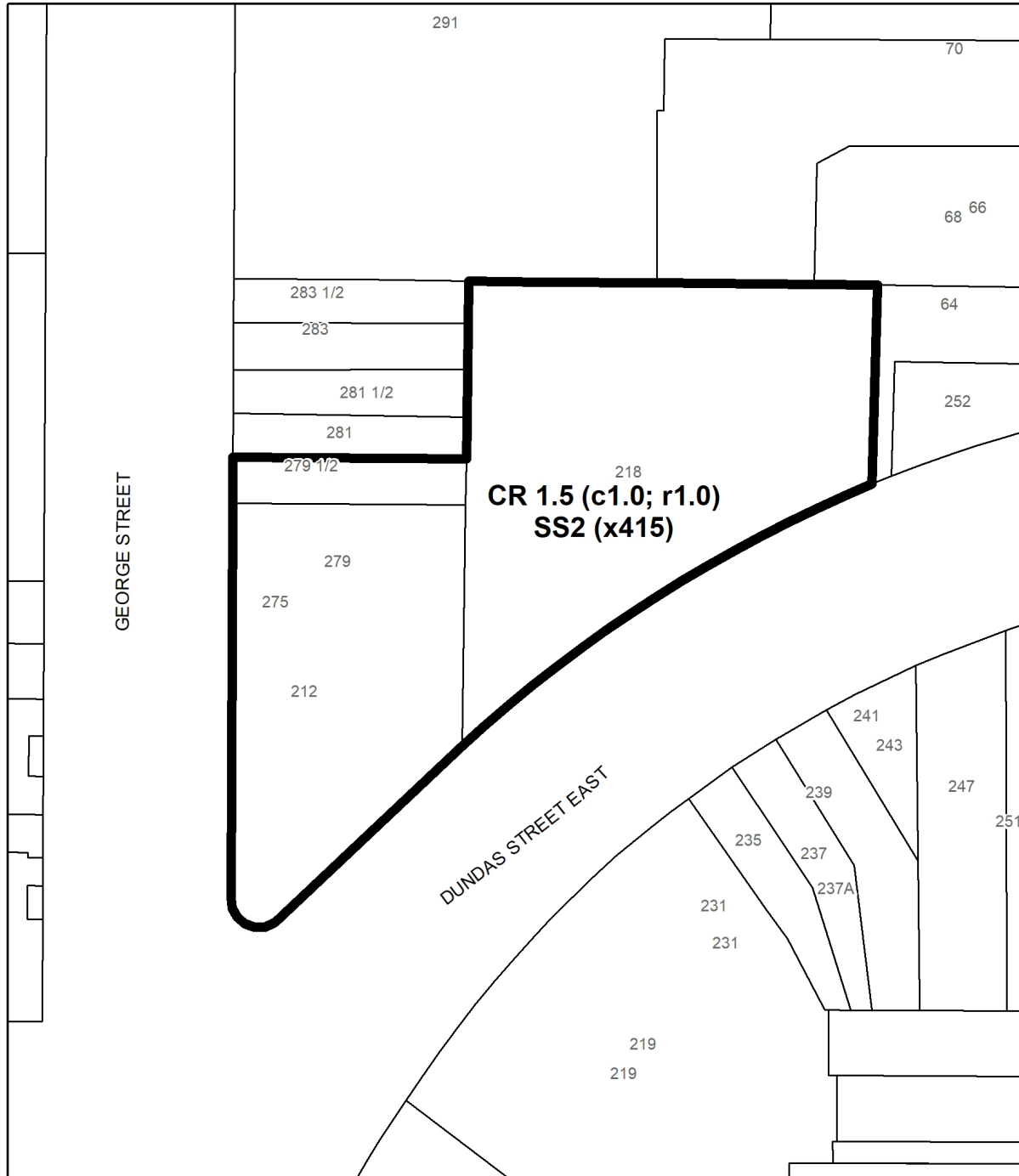


 **TORONTO**
Diagram 1

**212-218 Dundas Street East
and 279½ George Street**

File # 20 151363 STE 13 OZ

Diagram 2

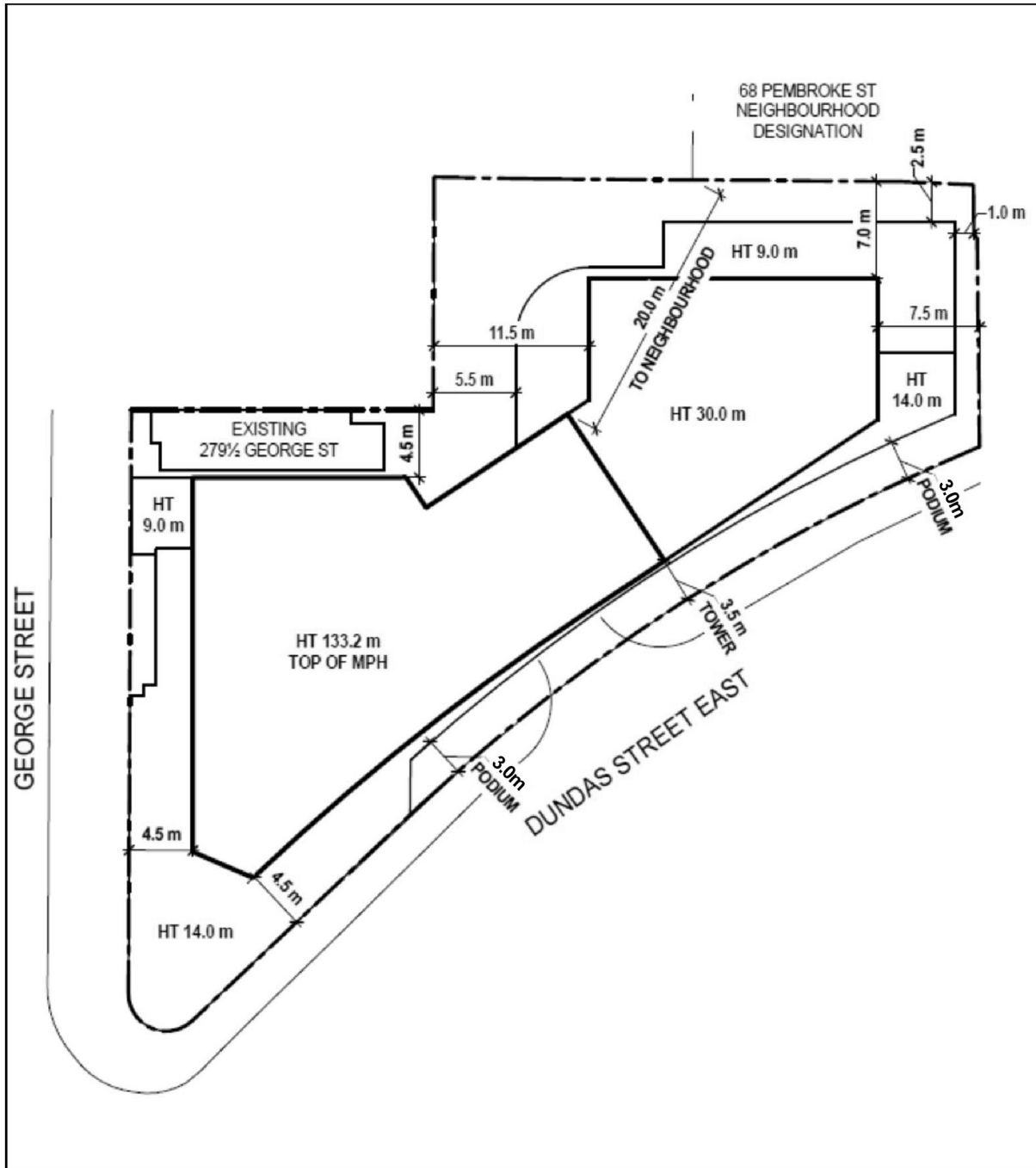


 **TORONTO**
Diagram 2

**212-218 Dundas Street East
and 279 1/2 George Street**

File # 20 151363 STE 13 OZ

Diagram 3



 **TORONTO**
Diagram 3

**212-218 Dundas Street East
and 279 1/2 George Street**

File # 20 151363 STE 13 OZ