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October 28th, 2025

Michael Kraljevic, Chair
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON M5G 1E5

Dear Chair Kraljevic:

**Re: Request for Review Pursuant to Section 23 of the *Ontario Land Tribunal Act*
Interim Decision of Member K. Smith, issued October 10, 2024
OLT-23-000155 and OLT-23-000156**

OVERVIEW

Aird & Berlis LLP acts for Woodcliffe Landmark Properties Limited (“**Woodcliffe**”) in respect of its of lands known municipally as 1196-1210 Yonge Street and 8 Birch Avenue (collectively, the “**Site**”). The Site is located on the northwest corner of Yonge Street and Birch Avenue, north of the CP rail corridor and to the south of the Yonge-St. Clair area.

Woodcliffe was the Applicant/Appellant in OLT Case Nos. OLT-23-000155 and OLT-23-000156, being appeals to the Ontario Land Tribunal (the “**Tribunal**”), pursuant to subsections 34(11) and 114(15) of the *Planning Act* (the “**Appeals**”).

Following the filing of its Appeals, Woodcliffe subsequently reach a settlement with the City of Toronto (the “**City**”) through the acceptance of a settlement offer by City Council in April, 2024.

Additionally, Woodcliffe reached a settlement with Medbers Limited (“**Medbers**”) the only other party to the proceedings which owns lands immediately to the west of the Site at 10-12 Birch Avenue (the “**Medbers Site**”). That settlement addressed built form issues specific to the interface between the Site and the Medbers Site, and secured the site plan as it related to transportation matters such as access/egress and loading.

The proposed development contemplated in the settlements reached respectively with the City and Medbers was approved in principle by the Tribunal in its Interim Order and Decision issued on October 10, 2024 (the “**Decision**”). The Decision withheld a Final Order until the Tribunal was advised by the parties on a future date that certain conditions were met.

In accordance with the reasons described below, including identified needs in the neighbourhood, and tenant relocation considerations and input from City staff, Woodcliffe is proposing a further revised development proposal (the “**Revised Proposal**”). The Revised Proposal further advances matters of provincial interest, addresses site specific conditions and community needs and has been developed with the direct involvement of City staff. In our submission the Revised Proposal either makes no material change to or enhances the relationship of the development to the Medbers Site.

Medbers has, through its counsel, been previously provided with certain of the materials including in this Review Request, including the updated architectural plans illustrating the Revised Proposal together with a supporting letter report from BA Group in respect of changes to the loading and vehicular ingress/egress. Medbers has indicated it will review the Revised Proposal. Medbers will also be served with this Review Request.

To implement the Revised Proposal, Woodcliffe requests a review of the Decision pursuant to section 23 of the *Ontario Land Tribunal Act, 2021*, which authorizes the Tribunal to review, rescind or vary any order or decision made by it in accordance with the rules.

TRIBUNAL AUTHORITY TO REVIEW THE DECISION

The Tribunal has been vested with broad statutory powers to “review, rescind or vary any order or decision made by it in accordance with the rules” pursuant to Section 23 of the *Ontario Land Tribunal Act, 2021*.

Rule 25 of the Tribunal's Rules provides guidance with respect to the process to be followed in making a request for a review of a decision. Specifically, Rule 25(e) provides that the Tribunal may consider evidence which was not available at the time of the hearing, but that is credible and could have affected the result.

In a decision issued on June 13, 2025, the Tribunal granted a request for a reconsideration of an Interim Decision as a result of new information¹ and amended the previously issued interim decision to add a condition that a Section 37 agreement be entered into prior to the issuance of a Final Order. The instruments, previously approved in principle by the Tribunal, were also amended accordingly. In so ordering, the Chair in that instance determined that the reconsideration and amendment was “in the public interest, represents good planning, and would be the most fair, just and expeditious manner” to address the issue². The Tribunal similarly varied an earlier interim decision to replace an instrument previously approved in principle with an updated instrument filed on consent of the parties³.

Woodcliffe respectfully requests that this request for review be granted to vary the Decision in order to approved the Revised Proposal in principle and the ZBLA which has been updated to implement same. Woodcliffe submits that the resulting development, including the improved approach to tenant relocation, the introduction of office uses and the delivery of more family sized units, all as described below, represents good planning in the public interest.

Woodcliffe seeks relief from the requirement in Rule 25 that a review request be made within 30 days of the Decision. Specifically, the improved approach for the rental replacement was known nor available to Woodcliffe at the time of the original proceeding before the Tribunal; the fact of this revised approach would have affected the result as it has consequential and material changes to both the grounds upon which Woodcliffe and the City reached a settlement and the specific details of the development proposal. To that end, the evidence of the Revised Proposal which

¹ *Menkes 4800 Yonge Street Inc. v. Toronto (City)*, 2025 CarswellOnt 10193

² *Ibid*; para 4.

³ *8185 Bridgeport Inc. v. Waterloo (City)*, 2025 CarswellOnt 3716

was not available at the time of the hearing is both credible and would have affected the result reached by the Tribunal in the Interim Decision.

Given the time sensitivity to the matter of the off-site residential rental replacement and Woodcliffe's reasonable need for certainty prior to proceeding with the acquisition of the additional property to facilitate the replacement of units off-site, we respectfully submit that this is "the most fair, just and expeditious manner" to address the matter.

BACKGROUND

The Site is generally rectangular with frontages of 35 metres on Yonge Street and 32 metres on Birch Avenue providing for an area of 1,062 square metres. Along Yonge Street, the buildings are four-storeys with flat roofs and retail at grade. On Birch Avenue, the low-rise structures frame a shared courtyard.

Woodcliffe's initial proposal for the Site sought to introduce a 15-storey mixed-use building with 200 square metres of grade-related retail, which would replace the existing eight (8) rental units and add 59 condominium units with 276 square metres of indoor amenity space and 135 metres of outdoor amenity space (the "**Initial Proposal**").

Woodcliffe's rezoning application for the Initial Proposal was deemed complete as of December 1, 2021. A Preliminary Report dated January 26, 2022, was considered by Toronto and East York Community Council, and a community consultation meeting was held on February 22, 2022. The Preliminary Report identified issues relating to the size, scale and fit of the Initial Proposal, as well as the conservation strategy of the property's potential heritage value.

On February 23, 2023, Woodcliffe filed appeals based on its disagreement with the issues raised in the Preliminary Report relating to the Initial Proposal's impact and overall fit within the existing and planned context, and to address Woodcliffe's concerns with the timing of related heritage appeals filed for certain properties on the Site.

In relation to the above-noted issues, and responsive to discussions with Community Planning, Urban Design and Heritage Planning staff, Woodcliffe filed a settlement offer dated December 15, 2023, with the City. Detailed design work and further discussions with City staff resulted in changes to the development proposal, which were arrived at through consultation with City staff as part of a full resolution of the above-noted Appeals.

On February 13, 2024, Aird & Berlis LLP submitted a second settlement offer, enclosing architectural plans, a heritage impact assessment, applications for permits pursuant to sections 33 and 34 of the *Ontario Heritage Act*, and a draft zoning by-law amendment (collectively, the "**February 2024 Settlement Proposal**") in support of Woodcliffe's second settlement offer to resolve the above noted appeals.

The February 2024 Settlement Proposal was accepted by City Council at its meeting commencing on April 17, 2024, resulting in the Decision, which was issued by the Tribunal on October 10, 2024, allowing the appeals in part, and approving the proposed development in principle, with a Final Order to be issued pending the satisfaction of certain conditions.

The Revised Proposal

In response to recent changes in market conditions and further discussions with City staff, including Community Planning, Heritage Planning and the Housing Secretariat, Woodcliffe is proposing certain revisions to the development proposed at the Site.

Woodcliffe has been working with Housing Secretariat staff on a proposed location for off-site rental replacement to allow for the office uses, rather than rental replacement in the podium as contemplated in the Settlement Proposal. The proposed off-site relocation of the replacement residential units has the distinct advantage of only having to relocate the tenants once, and on a more efficient timeline. **The Revised Proposal has been endorsed by City Housing staff as a preferred resolution.**

In place of the rental replacement units within the podium, Woodcliffe has proposed bespoke office opportunities in response to market demands in the area. This change in use has resulted in corresponding modest changes to the podium floor to ceiling heights, and the overall height of the development. Modifications to the ground floor are reflected in the revised site plan including relocating the residential entrance to Birch Street from Yonge, provision of an entrance for office users from Yonge and modifications to the loading and vehicular ingress/egress from Birch Street.

Woodcliffe has worked directly with City Planning & Development and Heritage Planning staff, who have advised that they have no objections to the Revised Proposal.

In addition to the changes related to the nature of uses, Woodcliffe has also worked to improve the efficiency of the site plan for the project, with particular emphasis on the location and design of both the loading facility and the ingress/egress to the underground automated parking system.

The changes are supported by an updated analysis from Woodcliffe's consultant, BA Consulting, which is included as part of the supporting affidavit filed with this request.

The changes to the Revised Proposal are set out below:

A. Massing

- The building has increased in height from 114m to 133.7m to allow for sufficient heights for office space in the podium (see below), additional habitable space and mechanical solutions to maintain clear height in residential units.

B. Unit Count

- The unit count has been **reduced** from 130 units, to 64 larger, family-sized units. As mentioned above, eight (8) rental replacement units will be permanently relocated to an off-site location.

C. Office

- The addition of approximately 1,998 sq. m of office space in podium levels 2-6 and a separate entrance for office users from Yonge Street.

D. Loading/Parking

- Reoriented ground floor to improve access to loading to the Type G loading space (provided on a turntable);
- The new loading configuration has been reviewed by private collection companies, which have all confirmed they can access and use the turntable for waste collection as designed; and
- Parking elevators shifted south (instead of at the northwest corner) for enhanced throughput, resulting in more efficient operation of the automated parking system.

E. Improved Pedestrian Realm

- The modifications above have allowed for enhanced layout for retail locations; and
- The entrance to the residential units has been relocated to Birch Avenue to allow for the more active office entrance to assist in animation along Yonge Street.

F. Heritage

- Added limited number of balconies on Yonge Street elevation in consultation with Heritage Planning Staff; the revised zoning by-law amendment will limit any projecting balconies on floors 5 and below and permit projecting balconies on floors 6 and above provided they are limited to a maximum of 60% of the width of each floor on the east elevation.

RELIEF REQUESTED

For all the reasons set out above, and in the supporting materials including the affidavit of Mr. Benjamin Larson, Woodcliffe respectfully requests that the Tribunal:

1. grant the Review Request in whole; and
2. vary the Interim Order and replace Attachment 1 to the Interim Order with the draft Zoning By-law Amendment attached hereto as Appendix C to this submission; or
3. in the alternative, grant the Review Request in part and order a motion, in writing, to consider the request and submission as directed in Rule 25.

Given the time sensitivity of the matter Woodcliffe respectfully requests that the Tribunal expedite its consideration of the Review Request and direction in respect of same.

DOCUMENTS & MATERIALS SUPPORTING THE REQUEST

Woodcliffe relies on the following materials and documents in support of this request and the Revised Proposal:

- Affidavit of Mr. Benjamin Larson RPP, sworn October 28, 2025, attached as **Appendix “A”**, including the following Exhibits:
 - o Exhibit A – Curriculum Vitae of Benjamin Larson
 - o Exhibit B – Acknowledgement of Expert’s Duty of Benjamin Larson
 - o Exhibit C - Decision and Interim Order in respect of the ZBA Settlement Hearing, issued October 10, 2024
 - o Exhibit D - Updated Zoning By-law Amendment implementing the Revised Proposal
 - o Exhibit E – Updated Architectural Plans from architectsAlliance
 - o Exhibit F – Letter from BA Consulting Group Ltd., supporting the proposed changes to the parking and loading as summarized above
- Our firm’s cheque in the amount of \$400, payable to the Minister of Finance, representing the filing fee for this request for review.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello
EPKC/NM/nh

APPENDIX “A”

ONTARIO LAND TRIBUNAL

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Woodcliffe Landmark Properties Limited
Subject:	Application to amend the Zoning By-law – Failure to make a decision
Description:	To facilitate redevelopment of the site for a 15-storey mixed-use building with 200 square metres of grade- related retail
Reference Number:	21 239174 STE 12 0Z
Municipality:	City of Toronto
Property Address:	1196-1210 Yonge Street & 2-8 Birch Avenue
OLT Case No.:	OLT-23-000155
OLT Lead Case No.:	OLT-23-000155
OLT Case Name:	Woodcliffe Landmark Properties Limited v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 114(15) of the *City of Toronto Act*, 2006, S.O. 2006, c. 11, Sched. A.

Appellant:	Woodcliffe Landmark Properties Limited
Subject:	Site Plan Control Application – Failure to Approve
Description:	To facilitate redevelopment of the site for a 15-storey mixed-use building with 200 square metres of grade- related retail
Reference Number:	21 239181 STE 12 RH
Municipality:	City of Toronto
Property Address:	1196-1210 Yonge Street & 2-8 Birch Avenue
OLT Case No.:	OLT-23-000156
OLT Lead Case No.:	OLT-23-000155
OLT Case Name:	Woodcliffe Landmark Properties Limited v. Toronto (City)

AFFIDAVIT OF BENJAMIN LARSON, MCIP, RPP

I, **BENJAMIN LARSON**, of the Town of Oakville, in the Province of Ontario, **MAKE OATH AND SAY:**

BACKGROUND

1. I am a Partner at Elevate Planning & Project Management (“**Elevate**”), a professional consulting firm specializing in land use planning and development management services.

I am a Registered Professional Planner in the Province of Ontario and I have been a practicing land use planner for over 15 years. My Curriculum Vitae and signed Acknowledgment of Expert's Duty are appended as **Exhibit "A"** and **Exhibit "B"** respectively.

2. Prior to Elevate's involvement with the Site (defined below), Hunter & Associates was retained to provide land use planning services for the redevelopment of the Site. Hunter & Associates and Elevate are affiliated companies, and this Site (as defined below) was transferred to Elevate when it was formed in 2024. I have been providing land use planning advice on this project, first at Hunter & Associates, and then later at Elevate, since 2021.
3. Hunter & Associates was initially retained by Woodcliffe Landmark Properties Limited ("**Woodcliffe**") in April 2017 to provide preliminary planning advice and assistance for a potential mixed-use redevelopment of the properties municipally known as 1196-1210 Yonge Street and 2-8 Birch Street, Toronto (the "**Site**"). As part of its retainer, Hunter & Associates conducted site visits, and reviewed the relevant planning policies and zoning for the Site.
4. In July 2021, Woodcliffe entered into discussions with the City of Toronto (the "**City**") in respect of a specific redevelopment proposal. Hunter & Associates (and later, Elevate) provided professional planning services and advice to Woodcliffe and its professional consultant team since the original Zoning By-law Amendment and Rental Housing Demolition and Conversion applications were submitted on November 10, 2021.
5. Woodcliffe is the appellant in OLT Lead Case No. OLT-23-000155, being an appeal to the Ontario Land Tribunal (the "**Tribunal**") pursuant to subsections 34(11) and 114(15) of the *Planning Act*.¹ Woodcliffe also appealed designating by-laws and a decision by City Council refusing demolition permits, under the *Ontario Heritage Act*,² but subsequently withdrew these heritage appeals, leaving only the Zoning By-law Amendment appeal (the "**ZBA Appeal**") and associated Site Plan Application appeal (the "**SPA Appeal**") (together, the "**Appeals**") to be dealt with at the settlement hearing.

¹ *Planning Act*, R.S.O. 1990, c. P.13

² *Ontario Heritage Act*, R.S.O. 1990, c. O.18

6. Together with Craig Hunter, another Partner at Elevate, I served as the land use planner in Woodcliffe's Appeals to the Tribunal for the Site. I was involved in this file from inception alongside Mr. Hunter. Mr. Hunter has now retired from matters before the Tribunal.
7. Along with Mr. Hunter, I was involved in the settlement discussions and reviewed the various materials related to the settlement of the Appeals, including the Minutes of Settlement and Mr. Hunter's Witness Statement, which was filed on consent for the settlement hearing of the ZBA Appeal held on September 13, 2024 (the "**ZBA Settlement Hearing**"). As such, I have direct knowledge of the matters to which I hereinafter depose.
8. As described in greater detail below, Woodcliffe reached a settlement with the City of Toronto which was approved by City Council in April, 2024. Woodcliffe and Medbers Ltd the owner of lands immediately adjacent to the Site, reached a resolution in respect of the proposal, which was documented through executed Minutes of Settlement.
9. In preparation for the ZBA Settlement Hearing, I assisted Mr. Hunter in preparing his oral and written evidence, which was marked as Exhibit 1 by the Tribunal. The February 2024 Settlement Proposal (defined below) was the subject of the ZBA Settlement Hearing, and was approved by the Tribunal.
10. I have reviewed the Tribunal's Decision and Interim Order in respect of the ZBA Settlement Hearing, which was issued October 10, 2024 (the "**Decision**"), attached as **Exhibit C** to this affidavit.

While not in attendance at the ZBA Settlement Hearing, through my discussions with Mr. Hunter and my review of the Decision, I was aware of how the ZBA Settlement Hearing proceeded. The following paragraphs reflect the best of my recollection and understanding of the resolution of the Appeals and the ZBA Settlement Hearing.

THE SITE AND PREVIOUS SETTLEMENT PROPOSALS

11. The Site is generally rectangular in shape, with frontages of 35 metres on Yonge Street and 32 metres on Birch Avenue, providing for an area of 1,062 square metres. Along Yonge Street, the existing buildings are four-storeys high with flat roofs and retail at grade. On Birch Avenue, the low-rise structures frame a shared courtyard.

12. Woodcliffe's initial proposal for the Site sought to introduce a 15-storey mixed-use building with 200 square metres of grade-related retail, which would replace the existing eight (8) rental units and add 59 condominium units with 276 square metres of indoor amenity space and 135 metres of outdoor amenity space (the "**Initial Proposal**").
13. Woodcliffe's rezoning application for the Initial Proposal was deemed complete as of December 1, 2021 (the "**ZBA Application**"). A Preliminary Report dated January 26, 2022, was considered by Toronto and East York Community Council, and a community consultation meeting was held on February 22, 2022. The Preliminary Report identified issues relating to the size, scale and fit of the Initial Proposal, as well as the conservation strategy of the property's potential heritage value. Woodcliffe also submitted an application for Site Plan Approval, which was deemed complete as of February 26, 2022 (the "**SPA Application**").
14. On February 23, 2023, Woodcliffe's legal counsel, Aird & Berlis LLP, filed appeals of the ZBA Application and SPA Application due to Council's failure to make a decision on both applications and based on Woodcliffe's disagreement with the issues raised in the Preliminary Report relating to the Initial Proposal's impact and overall fit within the existing and planned context, and to address Woodcliffe's concerns with the timing of related heritage appeals filed for certain properties on the Site.
15. To address the above-noted issues, and in response to discussions with Community Planning, Urban Design and Heritage Planning staff, Woodcliffe, through its legal counsel, filed a settlement offer dated December 15, 2023, with the City. Detailed design work and further discussions with City staff resulted in changes to the development proposal, which were arrived at through further consultation with City staff as part of a full resolution of the above-noted Appeals.
16. On February 13, 2024, Aird & Berlis LLP submitted a second settlement offer on behalf of Woodcliffe, enclosing architectural plans, a heritage impact assessment, applications for permits pursuant to sections 33 and 34 of the *Ontario Heritage Act*, and a draft zoning by-law amendment (collectively, the "**February 2024 Settlement Proposal**") in support of Woodcliffe's second settlement offer to resolve the above-noted appeals.
17. The February 2024 Settlement Proposal was accepted by City Council at its meeting commencing on April 17, 2024. As noted above, Woodcliffe also reached a settlement

with Medbers which addressed concerns related to vehicle loading, ingress and egress and the built form relationship to the Medbers property. A settlement hearing was conducted before the Tribunal resulting in the Decision issued by the Tribunal on October 10, 2024, allowing the appeals in part, and approving the development contemplated by the February 2024 Settlement Proposal in principle. The Decision stipulated a Final Order would be issued upon the satisfaction of certain conditions.

THE REVISED PROPOSAL AND THE REVIEW REQUEST

18. I understand that, in response to recent changes in market conditions and further discussions with City staff, including Community Planning, Heritage Planning and the Housing Secretariat, Woodcliffe is proposing certain revisions to the development proposed at the Site (the “**Revised Proposal**”). Further, I am advised and understand that to implement the Revised Proposal, Woodcliffe is requesting a review of the Decision pursuant to section 23 of the *Ontario Land Tribunal Act, 2021*,³ which authorizes the Tribunal to review, rescind or vary any order or decision made by it in accordance with the rules. The draft Zoning By-law Amendment for the Revised Proposal is attached as **Exhibit D** to this affidavit. The architectural plans in support of the Revised Proposal are attached as **Exhibit E** to this affidavit.
19. I understand that the revised approach to rental replacement as proposed by the Revised Proposal was not available to Woodcliffe at the time of the original proceeding before the Tribunal, or within the statutory 30-day review request appeal period stipulated by the Tribunal’s Rules.⁴
20. I further understand that Woodcliffe has been working with Housing Secretariat staff on a proposed location for off-site rental replacement to allow for the office uses, rather than having rental replacement in the podium. I understand the proposed off-site relocation of the replacement residential units has the advantage of only having to relocate the tenants once, and on a more efficient timeline. Further, I understand that Woodcliffe is required to complete the transaction for the property for the off-site rental replacement prior to the end of December, 2025.

³ *Ontario Land Tribunal Act, 2021*, S.O. 2021, c. 4, Sched. 6

⁴ Ontario Land Tribunal Rules of Practice and Procedure.

21. I further understand that, in place of the rental replacement units within the podium, Woodcliffe has proposed bespoke office opportunities in response to market demands in the area. I understand this change in use has resulted in corresponding changes to the podium floor to ceiling heights, and the overall height of the development.
22. I am informed by Woodcliffe that its representatives have worked directly with City Planning & Development and Heritage Planning staff, who have advised that they have no objections to the Revised Proposal.
23. In addition to the changes related to the nature of uses, I understand Woodcliffe has also worked with its consultants to improve the efficiency of the site plan for the project, with particular emphasis on the location and design of both the loading facility and the ingress/egress to the underground automated parking system. I understand these changes are supported by an updated analysis from Woodcliffe's consultant, BA Consulting, attached as **Exhibit F** to this affidavit.
24. The changes to the physical components in the Revised Proposal are set out below:
- (a) **Massing**
- The building has increased in height from 114m to 133.7m to allow for sufficient heights for office space in the podium (see below), additional habitable space and mechanical solutions to maintain clear height in residential units.
- (b) **Unit Count**
- The unit count has been reduced from 130 units, to 64 larger, family-sized units. As mentioned above, the eight (8) rental replacement units will be moved to a permanent offsite location.
- (c) **Office**
- Approximately 1,998 sq. m of office space has been added in podium levels 2-6, as well as a separate entrance for office users from Yonge Street.

(d) Loading/Parking

- The ground floor has been reoriented to improve access to loading to the Type G loading space (provided on a turntable);
- The new loading configuration has been reviewed by private collection companies, which have all confirmed they can access and use the turntable for waste collection as designed; and
- The parking elevators have been shifted south (instead of at the northwest corner) for enhanced throughput, resulting in more efficient operation of the automated parking system.

(e) Improved Pedestrian Realm

- The modifications above have allowed for enhanced layout for retail locations; and
- The entrance to the residential units has been relocated to Birch Avenue to allow for the more active office entrance to assist in animation along Yonge Street.

(f) Heritage

- A limited number of balconies on the Yonge Street elevation have been added in consultation with Heritage Planning Staff; the revised Zoning By-law Amendment will limit any projecting balconies on floors 5 and below and permit projecting balconies on floors 6 and above provided they are limited to a maximum of 60% of the width of each floor on the east elevation.

PLANNING OPINION

25. I agree with Mr. Hunter's opinion that the February 2024 Settlement Proposal represented good planning and was in the public interest. It is my opinion that his opinion on the planning merits of the February 2024 Settlement Proposal continues to apply to the Revised Proposal now before the Tribunal. The Revised Proposal continues to have

regard to matters of provincial interest under s. 2 of the *Planning Act* and conforms with the Official Plan.

26. Since the ZBA Settlement Hearing, a new Provincial Planning Statement 2024 (the “**PPS 2024**”) was approved by the Province, replacing the Provincial Policy Statement 2020. It is my opinion that the Revised Proposal is consistent with the PPS 2024, particularly those policies encouraging growth and intensification in close proximity to higher-order transit. More specifically, the Site is located in a “strategic growth area,” being the Summerhill Protected Major Transit Station Area which has now been delineated and approved by the Minister as of August 15, 2025. The PPS 2024 supports growth in such areas, as outlined in the following policies:

- Policy 2.2.21d) directs planning authorities to provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations.
- Policy 2.3.1.1 states that within settlement areas, growth should be focused in, where applicable, “strategic growth areas”, including “major transit station areas”.
- Policy 2.3.1.2 states that land use patterns within settlement areas should be based on densities and a mix of land uses which: efficiently use land and resources; optimize existing and planned infrastructure and public service facilities; support active transportation; and are transit-supportive, as appropriate.
- Policy 2.3.1.3 directs planning authorities to support general intensification and redevelopment to support the achievement of complete communities, including by planning for a range and mix of housing options and prioritizing planning and investment in the necessary infrastructure and public service facilities.
- Policy 2.4.1.1 encourages planning authorities to identify and focus growth and development in strategic growth areas.

- Policy 2.4.2.2 indicates that to support the achievement of complete communities, a range and mix of housing options, intensification and more mixed-use development, strategic growth areas should be planned:
 - a) to accommodate significant population and employment growth;
 - b) as focal areas for education, commercial, recreational, and cultural uses
 - c) to accommodate and support the transit network and provide connection points for inter- and intra-regional transit; and
 - d) to support affordable, accessible, and equitable housing.
- Policy 2.4.2.3(a) encourages planning authorities to promote development and intensification within major transit station areas, where appropriate, by planning for land uses and built form that supports the achievement of minimum density targets.
- Policy 6.1.12 indicates that density targets represent minimum standards and planning authorities are encouraged to go beyond these minimum targets, where appropriate, except where doing so would conflict with any policy of the PPS or any other provincial plan.

27. It is my opinion that Mr. Hunter's opinion regarding the February 2024 Proposal's conformity with the Official Plan continues to apply to the Revised Proposal. The revision of the location of the rental replacement off-site continues to conform with the approach to housing rental replacement outlined in the Official Plan, including the following:

- Policy 3.2.1.1 requires that a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents. A full range of housing includes: ownership and rental housing, affordable and mid-range rental and ownership housing, social housing, shared and/or congregate-living housing arrangements, supportive housing, emergency and transitional housing for homeless people and at-risk groups, housing that meets the needs of people with physical disabilities and housing that makes more efficient use of the existing housing stock.

- Policy 3.2.1.2 requires that The existing stock of housing will be maintained, improved and replenished. The City will encourage the renovation and retrofitting of older residential apartment buildings. New housing supply will be encouraged through intensification and infill that is consistent with this Plan.
- Policy 3.2.1.12 requires that new development that would have the effect of removing all or part of a private building or related group of buildings, and would result in the loss of one or more rental units or dwelling rooms will not be approved unless an acceptable tenant relocation and assistance plan is provided to lessen hardship for existing tenants.

CONCLUDING OPINION AND RECOMMENDATION

28. In conclusion, it is my professional planning opinion that the Revised Proposal for a 32-storey mixed-use building on this prominent corner site on Yonge Street, just north of downtown Toronto and within the in-force and effect Summerhill Protected Major Transit Station Area appropriately balances a diverse range of planning considerations and issues. Its high-quality architecture, including larger, more generously sized family units, and mixture of housing and commercial uses, including the new office spaces that are responsive to needs in the area, pedestrian-friendly design and conservation of heritage attributes, are all well-suited to the Site and context.
29. In my opinion, the Revised Proposal and its corresponding Zoning By-law Amendment are appropriate and compatible with the existing and planned context, with no adverse planning impacts. Further, the Revised Proposal conforms with the City's Official Plan, is consistent with the PPS 2024, and has regard for matters of provincial interest pursuant to section 2 of the *Planning Act*.
30. The Revised Proposal represents good planning and is in the public interest. I recommend the approval of the Revised Proposal and its corresponding Zoning By-law Amendment to the Tribunal.
31. I make this affidavit in support of Woodcliffe's request for a review of the Decision, and for no other or improper purpose.

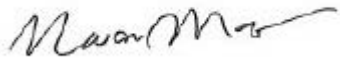
SWORN by BENJAMIN LARSON of the
Town of Oakville, in the Province of Ontario,
before me at the City of Toronto, in the
Province of Ontario, on October 28, 2025, in
accordance with O. Reg. 431/20,
Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

BENJAMIN LARSON, MCIP, RPP

This is **Exhibit "A"** referred to in the Affidavit of Benjamin Larson, sworn remotely on October 28, 2025, in accordance with O. Reg. 431/20: *Administering Oath or Declaration Remotely*.

A handwritten signature in dark ink, appearing to read "Naomi Mares", with a stylized flourish at the end.

NAOMI MARES

Commissioner for Taking Affidavits

**CURRICULUM VITAE OF
Benjamin Larson, MCIP, RPP**

Municipal Amendments, Site Plan Control and Plan of Condominium/Subdivision. Has appeared before the Ontario Land Tribunal, Toronto Local Appeal Body, Council, and Committee of Adjustment.

Representative Experience

Mixed Residential/Commercial

- **YMCA/Beechouse -** Mid-Rise planning approvals for a new YMCA at the base of a proposed 7-storey residential condominium building (approximately 95 units) at 873-907 Kingston Road and 218-220 Balsam Avenue in the upper Beach community in Toronto.
- **Dali Homes –** Planning for a new 7-storey mixed-use residential condominium on the s/e corner of O’Connor and St. Clair Avenue East.
- **Reserve Properties Ltd. -** Planning advice and services related to applications for Rezoning for a proposed 13-storey mixed use development on the west side of Yonge Street, south of Eglinton Avenue in Toronto.
- **Cresford –** Planning advice and services related to proposed 38-storey mixed use development on the southwest corner of Yonge and Gloucester Streets (Halo) and proposed 85-storey mixed use development on the southeast corner of Yonge and Gerrard Streets in Downtown Toronto.
- **Kingsett Capital.** Planning advice and services related to a number of real estate due diligence and planning and development approvals in Toronto and the Greater Toronto Area including: 700 Bay Street (LuCliff Place), 1255 Bay Street, 480-494 Yonge Street, 475 Yonge, 401 Yonge Street, 1467 Bathurst Street, Eglinton Square, Cumberland Terrace (2 Bloor Street West) and Valhalla Executive Centre (300-304 The East Mall).
- **Harhay/Carterra –** Planning advice and services related to applications for Rezoning, Property Plan Approval and Official Plan Amendment for four 20-storey buildings at 900-940 The East Mall.

Profile

Education

B.U.R.P. (Bachelor of Urban and Regional Planning), School of Urban and Regional Planning, Ryerson University, Toronto, On. (2007)

Experience

Elevate Planning & Project Management Inc.

March 2024 to Present, Partner

Hunter & Associates Ltd.

**March 2013 to February 2024
Development, Senior Planner/Associate**

Armstrong Hunter & Associates

**January 2008 to March 2013
Development, Planner**

Memberships

Ontario Professional Planners Institute (OPPI), Full Member

Canadian Institute of Planners (CIP), Full Member

- **Urban Capital - Planning advice and services related to applications for Rezoning and Property Plan Approval for an 8-storey mixed-use building at 784 The Queensway.**
- **Worsley Urban Partners – planning advice and services for a several infill redevelopment sites in Toronto including: a 7-storey mixed use residential building at 998 College Street, an 8-storey mixed-use building with townhomes at 422-430 Roncesvalles/76 Howard Park, an 8-storey mixed-use building at 840 St. Clair Avenue West, and a 24-storey mixed-use building at 2699 Keele Street.**

Residential

- **The RW Suites Corporation – Rezoning approval (in principle by OLT) for a 36-storey residential building at 124 Broadway Avenue (Toronto)**
- **The RW 136 Land Corporation – Rezoning approval (in principle by OLT) for a 30-storey residential building at 136 Broadway Avenue (Toronto)**
- **Balogna Developments Limited - Fourplex minor variance approval, 206 Oakwood Avenue (Toronto)**
- **Solotex – Rezoning and SPA for proposed 4-storey, stacked-townhome redevelopment at 1682 Victoria Park Avenue in Toronto and preliminary planning for a stacked townhome development at 189 Dundas Street West in Mississauga.**

Office

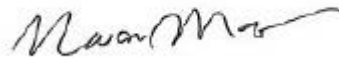
- **First Gulf Ontario Street Corporation - Planning advice and services related to proposed 22-storey office building at 25 Ontario Street in Downtown Toronto.**

Other Planning Assignments

- **Planning Analysis on various sites in south-western Ontario.**
- **Various Property Plan, Zoning By-law Amendment, Rental Housing Demolition, Draft Plan of Condominium, Part Lot Control and Committee of Adjustment Applications (including Consent and Minor Variance) in Toronto.**
- **Property Specific Zoning By-law Amendments including the following:**
- **45-storeys, mixed-use building at 89-99 Church Street, Toronto.**
- **85-storeys, mixed-use building at 363-391 Yonge Street & 3 Gerrard Street East, Toronto.**

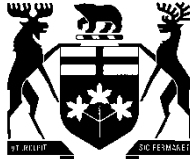
- 32-storeys, residential buildings at 79-85 Shuter Street, Toronto.
- 30 to 36 storeys, mixed-use building at 1467 Bathurst Street, Toronto.
- 8-storeys, mixed-use building at 784 The Queensway, Toronto.
- 7-storeys, mixed-use building, 873-907 Kingston Road and 218-220 Balsam Avenue, Toronto.
- 4-storeys, residential, 1682 Victoria Park Avenue, Toronto.
- 47 to 61 storeys, mixed-use, Cumberland Terrace (2 Bloor Street West), Toronto.
- 21 to 37 storeys, mixed-use, Valhalla Executive Centre (300-304 The East Mall), Toronto.
- 11 storeys, mixed-use, 327-333 College Street, Toronto.

This is **Exhibit "B"** referred to in the Affidavit of Benjamin Larson, sworn remotely on October 28, 2025, in accordance with O. Reg. 431/20: *Administering Oath or Declaration Remotely*.

A handwritten signature in dark ink, appearing to read "Naomi Mares", is centered on the page.

NAOMI MARES

Commissioner for Taking Affidavits



Ontario

Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

Acknowledgment Of Expert's Duty

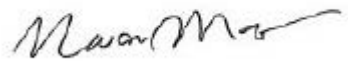
OLT Case Number	Municipality
OLT-23-000155	City of Toronto

1. My name is.....Benjamin Larson.....(*name*)
I live at the Town of Oakville.....(*municipality*)
in the..... Region of Halton.....(*county or region*)
in the Province of Ontario.....(*province*)
2. I have been engaged by or on behalf of..... Woodcliffe Landmark Properties Limited..... to provide evidence in relation to the above-noted Ontario Land Tribunal ('Tribunal') proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise;
 - c. to provide such additional assistance as the Tribunal may reasonably require, to determine a matter in issue; and
 - d. not to seek or receive assistance or communication, except technical support, while under cross examination, through any means including any electronic means, from any third party, including but not limited to legal counsel or client.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date..... May 14, 2024.....


Signature

This is **Exhibit "C"** referred to in the Affidavit of Benjamin Larson, sworn remotely on October 28, 2025, in accordance with O. Reg. 431/20: *Administering Oath or Declaration Remotely*.

A handwritten signature in black ink, appearing to read "Naomi Mares", is centered on the page.

NAOMI MARES

Commissioner for Taking Affidavits

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 10, 2024

CASE NO(S):

OLT-23-000155

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Woodcliffe Landmark Properties Limited
Subject:	Application to amend the Zoning By-law – Failure to make a decision
Description:	To facilitate redevelopment of the site for a 15-storey mixed-use building with 200 square metres of grade-related retail
Reference Number:	21 239174 STE 12 0Z
Municipality:	City of Toronto
Property Address:	1196-1210 Yonge Street & 2-8 Birch Avenue
OLT Case No.:	OLT-23-000155
OLT Lead Case No.:	OLT-23-000155
OLT Case Name:	Woodcliffe Landmark Properties Limited v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 114(15) of the *City of Toronto Act*, 2006, S.O. 2006, c. 11, Sched. A.

Appellant:	Woodcliffe Landmark Properties Limited
Subject:	Site Plan Control Application – Failure to Approve
Description:	To facilitate redevelopment of the site for a 15-storey mixed-use building with 200 square metres of grade-related retail
Reference Number:	21 239181 STE 12 RH
Municipality:	City of Toronto
Property Address:	1196-1210 Yonge Street & 2-8 Birch Avenue
OLT Case No.:	OLT-23-000156
OLT Lead Case No.:	OLT-23-000155
OLT Case Name:	Woodcliffe Landmark Properties Limited v. Toronto (City)

Heard: September 13, 2024 by Video Hearing

APPEARANCES:

<u>Parties</u>	<u>Counsel/Representative</u>
Woodcliffe Landmark Properties Limited	Eileen Costello
City of Toronto	Gabe Szobel
Medbers Limited	Johanna Shapira

**DECISION DELIVERED BY KURTIS SMITH AND INTERIM ORDER
OF THE TRIBUNAL**

INTRODUCTION/BACKGROUND

[1] This Decision and Interim Order came to fruition because of the ongoing productive discussions and meetings between the Parties. As a result, Woodcliffe Landmark Properties Limited (“Woodcliffe”) made a number of alterations to their original redevelopment proposal for the property Municipally known as 1196-1210 Yonge Street and 2-8 Birch Street (“Site”) in the City of Toronto (“City”).

[2] Leading up to the Hearing, Woodcliffe withdrew their Heritage Act appeals as they are no longer necessary, leaving only the Zoning By-law Amendment appeal (“ZBLA”) and the associated Site Plan Application appeal.

[3] Resolution between Woodcliffe and Medbers Limited through the execution of Minutes of Settlement answered the issues pertaining to vehicular visitor parking, maximum balcony depth, and revisions relating to the site plan (“Site Plan”) which will be contemplated subsequent to this disposition.

[4] In support of the Settlement Proposal, the Tribunal, based on the curriculum vitas and Acknowledgement of Expert Duty form of J. Craig Hunter and Anne McIlroy, qualified Mr. Hunter and Ms. McIlroy to provide opinion evidence in the field of land use planning and urban design respectively.

The Settlement Plans

[5] Once fully developed, the Site will contain a slender residential tower atop a retail/residential podium which incorporates the existing and original heritage attributes of the current heritage structure.

[6] Below grade, a four-storey automated parking system will house 140 spaces, three of which are visitor parking, all accessed at grade level via Birch Ave.

[7] Along Yonge Street, the building will mirror the heritage characteristics while creating refreshed retail units at grade and introduce the main entrance and lobby to the residential tower totalling 31 stories from ground to mechanical penthouse. Contained within the heritage levels are the eight (8) residential replacement units as well as 130 bike locker units.

[8] The tower steps back from the façade of the heritage levels to provide visual distinction between “new” and “old” along Yonge Street, and simultaneously steps back at the rear. Additional step-backs occur to the north at the eighth level to mirror the proposed development happening at 1216 Yonge Street and a further step back at the 16th level. One hundred and twenty-two new residential units are planned within the tower. Ms. McIlroy provided on page 9 of Exhibit 2 full component details of the tower, including balcony sizes and locations.

Witness Summaries

[9] Mr. Hunter provided the Tribunal with oral and written evidence (Exhibit 1) to support his findings. He opined that the settlement plans and revised ZBLA are consistent with the Provincial Policy Statement, 2020 (“PPS”), conform with the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”), and conform to the City of Toronto Official Plan (“OP”). Mr. Hunter stated that the proposed Site represents appropriate intensification as it is within the Council-adopted Projected Major Transit Station Area (“PMTSA”), and ultimately represents good planning and is in the public interest to approve.

[10] Ms. McIlroy provided the Tribunal with oral and written evidence (Exhibit 2) to support her findings that the settlement plans conform to the OP and will align with the intent of the Tall Building guidelines, and that they demonstrate principles of architectural design excellence, balanced urban design approaches, and offer a mix of residential unit sizes and types, including rental replacement units, while maintaining commercial units along the Yonge Street corridor.

[11] The above-mentioned planning documents relating to the Settlement Plans have several common themes and are implemented by the ZBLA, including:

- a. the efficient and optimal use of land and infrastructure;
- b. support of an appropriate level of intensification that is supported by public transit;
- c. provision of an appropriate and desirable urban design, contributing to the changing neighbourhood character through built-form transitions and setbacks;

- d. a range of housing unit options (size and type, including rental replacement units);
- e. conservation of heritage attributes.

Site Plan Application Appeal

[12] Counsel for Woodcliffe, Ms. Costello, provided the Tribunal with a draft order that includes matters related to the Site Plan Appeal. Ms. Costello explained that the Site Plan will be fully revised and resubmitted to the City to align with the updated ZBLA and requested that the Tribunal approve in principle the Site Plan dated August 15, 2024, and await the draft Notice of Approval Conditions for the Tribunal's consideration.

FINDINGS

[13] The Tribunal accepts the uncontested evidence and opinions of Mr. Hunter and Ms. McIlroy and is satisfied that the Zoning By-law (Amendment) appeal, through the proposed settlement amendments, represents good planning, has regard for matters of Provincial interest, is consistent with the PPS, conforms to the Growth Plan and the OP, and has appropriate regard for the Tall Building Guidelines.

[14] As it relates to the Site Plan, the Parties have indicated that they have reached a resolution and will align the Site Plan and conditions with the ZBLA. Therefore the Tribunal will adjourn the approval of conditions of Tribunal Case No. OLT-23-000156 *sine die*.

INTERIM ORDER

[15] The appeal of Woodcliffe Landmark Properties Limited pursuant to subsection 34(11) of the *Planning Act* as it relates to lands known municipally as 1196-1210 Yonge Street and 2-8 Birch Avenue (the "Site") is allowed, in part.

[16] The development proposal for the Site, as contemplated in the architectural plans prepared by KPMB Architects Inc. and dated August 15, 2024, support the (draft) Zoning By-law Amendment attached herein as Attachment 1, and hereto is approved in principle.

[17] The Tribunal shall issue a Final Order approving the Zoning By-law Amendment once it has been advised by the Parties that the following conditions have been addressed:

- a. that the final form and content of the Zoning By-law Amendment meets the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b. that, in addition to condition (a), above, the Zoning By-law Amendment:
 - i. secures the provision of a minimum of three (3) vehicular parking spaces below-grade for visitors;
 - ii. permits a maximum balcony depth of 2.0 m for levels five (5) through eight (8) of the tower portion of the building;
- c. that the applicant has provided confirmation of water, sanitary and stormwater capacity to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or, that the Chief Engineer and Executive Director, Engineering and Construction Services has determined that holding provisions are required in the Zoning By-law Amendment;
- d. that the Applicant has addressed all outstanding issues raised by Urban Forestry, Tree Protection and Plan Review as they relate to the Zoning By-law Amendment application, to the satisfaction of the Supervisor, Tree Protection and Plan Review; and

- e. that City Council has dealt with the Rental Housing Demolition Application 21 239181 STE 12 RH under Chapter 667 of the Toronto Municipal Code to demolish eight (8) existing residential rental dwelling units at 1196-1210 Yonge Street and 2-8 Birch Avenue.
- f. confirmation of site plan draft Notice of Approval Conditions has been prepared to the satisfaction of City of Toronto;
- g. confirmation that the final site plan package, as it relates to matters of vehicular access, egress, and design thereof, and loading and waste facilities, is materially the same as shown in the site plan dated August 15, 2024; and
- h. the final site plan package has been updated to include a pavement marking and signage plan prepared by LEA Consulting dated June 17, 2024 to illustrate pick-up and drop-off processes within the Site.

[18] The Appellant's appeal pursuant to s. 114(15) of the *City of Toronto Act*, being Tribunal Case No. OLT-23-000156, is adjourned *sine die*.

"Kurtis Smith"

KURTIS SMITH
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Without Prejudice and Confidential
August 21, 2024

D

CITY OF TORONTO BY-LAW XXXX-2024(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2024 as 1196-1210 Yonge Street and 2-8 Birch Avenue

R

Pursuant to the Ontario Land Tribunal Decision/Order issued XXXX, XXXX in Tribunal File OLT-23-000155, By-law 569-2013 of the City of Toronto, as amended, is further amended as follows:

A

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 No. 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;R2.5) SS2 (XXXXX), as shown on Diagram 2, attached to this By-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number XXXX so that it reads:

F

(XXXX) Exception CR XXXX

T

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 1196-1210 Yonge Street and 2-8 Birch Avenue, if the requirements of By-law XXX-2024(OLT) are complied with, a **building, structure** may be constructed, used or enlarged in compliance with (B) to (T) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building or structure** is the vertical distance between the Canadian Geodetic Datum of 123.13 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 Diagram 3 of this By-law;
- (D) Despite Regulations 40.5.40.10 (3) to (8), and (C) above, the following **building** elements and **structures** are permitted to project above the permitted maximum

heights shown on Diagram 3 of this By-law;

- (i) projections related to heritage buildings which may project a maximum of 1.5 metres above maximum permitted heights shown on Diagram 3 of this By-law;
- (ii) guardrails, railings, bollards, balustrades, parapets, eaves, roof drainage, balcony and terrace guards, fences, skylights, planters, cornices, seating areas, retaining walls, balcony and terrace dividers, decorative/acoustic/privacy doors and screens, wheelchair ramps and ramps to underground, solar panels and equipment, ornamental elements, landscape elements, which may project a maximum of 3.0 metres above maximum permitted heights shown on Diagram 3 of this By-law;
- (iii) structures used for outside or open air recreation including pools and associated equipment, light fixtures, pergolas, architectural features, trellises, awnings and canopies, elements of a green roof, which may project a maximum of 4.0 metres above maximum permitted heights shown on Diagram 3 of this By-law; and,
- (iv) mechanical equipment, stairs and stair enclosures, enclosures of mechanical equipment, wind mitigation, elevator overruns, lighting rods, ventilation or cooling equipment, chimney stacks, flues, vents, air intakes and exhausts, antennas, satellite dishes, and cellular arrays, window washing equipment, which may project a maximum of 6.0 metres above maximum permitted heights shown on Diagram 3 of this By-law;

(E) Despite (D) above and with the exception of elements of a green roof, vents, air intakes and exhausts, stairs and stair enclosures, parapets, safety railings, lightning rods and window washing equipment which may project vertically to the maximum extent described in (D) above, nothing can project beyond a maximum **height** of 114.0 metres on Diagram 3 of By-law XXX-2024(OLT);

(F) Despite regulations 40.5.1.10(3) and 40.10.40.40(1), the permitted maximum **gross floor area** for all uses on the **lot** is 18,100 square metres, of which:

- (i) a maximum of 17,500 square metres of **gross floor area** may be used for residential uses; and
- (ii) a maximum of 600 square metres of **gross floor area** may be used for non-residential uses on the **lot**;

(G) Despite Regulation 40.5.40.70(1) and Regulation 40.10.40.70(2), 40.10.40.80, 40.10.40.70.2(b), and 40.10.40.70.2(c), the required minimum **building setbacks** are identified in metres on Diagram 3 of this By-law;

(H) Despite Regulations 40.10.40.60(1) to (8) and (G) above, the following **building** elements and **structures** may encroach into the required minimum **building setbacks** as follows:

- (i) Cornices, architectural or ornamental features, structural elements including columns and structural slabs may extend a maximum of 0.5 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
 - (ii) Eaves, windowsills or sills, projections related to heritage buildings, damper equipment to reduce building movement, satellite dishes, pergolas, guardrails, balustrades, railings, parapets, planters may extend a maximum of 1.0 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
 - (iii) Balconies, balcony and terrace dividers may extend a maximum of 2.4 metres beyond the heavy lines shown on **Diagram 3** of this By-law; and,
 - (iv) pillars, decorative/acoustic/wind mitigation doors and screens, light fixtures, awnings and canopies, trellises, stairs and stair enclosures, wheelchair ramps, fences, public art installations, art and landscape features, ventilation shafts and elements required for the functional operation of a building, site servicing features, window washing equipment may extend a maximum of 3.0 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
- (I) Despite (H) above:
- (i) the total combined width of projecting balconies within the “balcony restriction zone” illustrated on **Diagram 3** of this By-law is limited to a maximum of 60% of the west elevation;
 - (ii) west facing balconies on floors 5 to 8 of the tower portion of the **building** may extend a maximum of 2.0 metres beyond the westerly edge of the diagonal lines illustrating the “balcony restriction zone” on **Diagram 3** of this By-law; and,
 - (iii) no projecting balconies are permitted in the “projecting balcony prohibition zone” illustrated on **Diagram 3** of this By-law. For clarity, this does not restrict inset balconies on the north, south and east elevations.
- (J) Regulation 40.10.40.70(2)(G), with respect to **angular plane** requirements does not apply;
- (K) The following applies to **amenity space**:
- (i) Despite regulation 40.10.40.50(1) **amenity space** must be provided at a minimum rate of 3.65 square metres for each dwelling unit; and,
 - (ii) When calculating the provision in square metres of indoor **amenity space**, the area is measured as the area bounded by the interior surface of demising walls separating **amenity spaces** from other spaces and the interior surface of all exterior walls, and includes areas within the **amenity space** occupied by mechanical/utility and structural columns;

- (L) Despite Regulation 200.5.1.10(2), Regulation 200.5.10.1(1), Regulation 200.15.10(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 **parking spaces** for residential occupants;
 - (ii) a minimum of 0 **parking spaces** for non-residential uses;
 - (iii) a minimum of 3 **parking spaces** for residential visitors which must be located below ground;
 - (iv) a minimum of 0 accessible **parking spaces**; and
 - (v) No maximum amount of **parking spaces** applies; and,
 - (vi) the **parking spaces** may be in an **automated parking system**;
- (M) **parking spaces** must comply with the **parking space** dimensions in clause 200.5.1.10 with the exception that:
- 1. the minimum length of a **parking space** is 5.4 metres;
 - 2. the minimum width of a **parking space** is 2.2 metres; and,
 - 3. **parking spaces** provided within an **automated parking system** will not be subject to clause 200.5.1.10.
- (N) Despite 200.15 and By-law 579-2017:
- (i) accessible **parking spaces** must have the following minimum dimensions:
 - 1. length of 5.6 metre;
 - 2. width of 3.4 metres; and
 - 3. vertical clearance of 2.1 metres.
 - (ii) the entire length of an accessible **parking space** must be adjacent to a minimum 1.5 metre wide accessible barrier free aisle or path;
 - (iii) despite 200.15.1.5 and 200.15.1(4), accessible **parking spaces** within an **automated parking system** may be located anywhere above or below ground; and,
 - (iv) accessible **parking spaces** within an **automated parking system** do not need to comply with the dimensional requirements in (N)(i) and (N)(ii) above.
- (O) Despite 200.5.1.10(13), the access requirements to **parking spaces** does not apply to an **automated parking system**.
- (P) In addition to the **building** elements 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** used for:
- i. Hallways and elevator vestibules below ground;
 - ii. Balconies;
 - iii. mechanical rooms on any level of the **building**; and,
 - iv. areas provided as **amenity space** in excess of the required amount;
 - v. Ramps and car elevators to access **parking spaces** and the **automated parking system**;

- (Q) Despite Regulation 230.5.1.10(9)(A), "long-term " **bicycle parking spaces**, including **stacked bicycle parking spaces**, may be located in a secured room, in a locker, or area on any floor of a **building** above or below ground level, in any combination of vertical, horizontal or stacked positions if a bicycle elevator is provided;
- (R) Despite Regulation 230.40.1.20(2), a "short term" **bicycle parking space** may be located more than 30 metres from a pedestrian entrance and may be located on any floor of a **building** above or below ground level;
- (S) Despite Regulations 230.5.1.10(4) and (5) **stacked bicycle parking spaces** must have minimum dimensions as follows:
- (i) minimum length of 1.8 metres;
 - (ii) minimum width of 0.45 metres, and,
 - (iii) minimum vertical clearance for each **bicycle parking space** of 1.0 metres.
- (T) Despite Article 220.5.10, one Type "G" **loading space** must be provided and maintained on the **lot**.

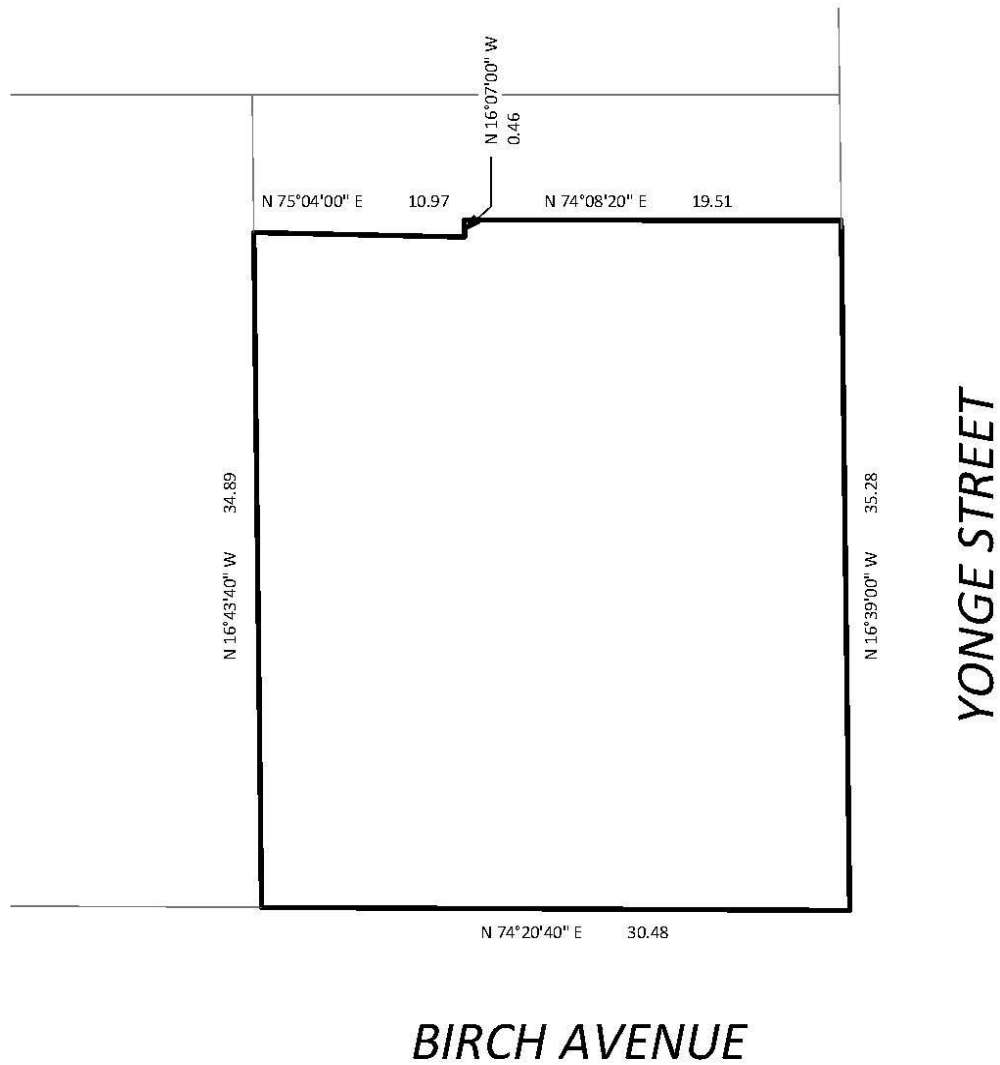
Prevailing By-laws and Prevailing Sections: By-law 438-86 does not apply.

5. For the purposes of interpreting By-law XXX-202X "**automated parking system**" means a mechanical system for the purpose of parking and retrieving cars without drivers in the vehicle during parking and without the use of ramping or driveway aisles, and which may include but is not limited to, a vertical lift and the storage of cars on parking pallets. Automated manoeuvring of other vehicles may be required in order for cars to be parked or to be retrieved. Parking pallets and parking elevators will not conform to the parking space and accessible parking space dimensions set out in City of Toronto Zoning By-law 569-2013 and above in By-law XXX-202X. For clarity, parking pallets will be considered as a parking space or as an accessible parking space for the purpose of determining compliance with the requirements in City of Toronto Zoning By-law 569-2013 and relevant clauses above in By-law XXX-202X.
6. Despite any future severance, partition or division of the lot as shown on Diagram 1, the provisions of this By-law must apply as if no severance, partition or division occurred.
7. Temporary Uses
 - (A) None of the provisions of this By-law or By-law 569-2013, as amended, apply to prevent the erection and use of a Construction Office/Sales Office on the lands identified on Diagram 1 of this By-law where a Construction Office/Sales Office means buildings, structures, facilities or trailers, or portions thereof, used for the purpose of the administration and management of construction activity and/or for selling or leasing dwelling units and/or non-residential

6

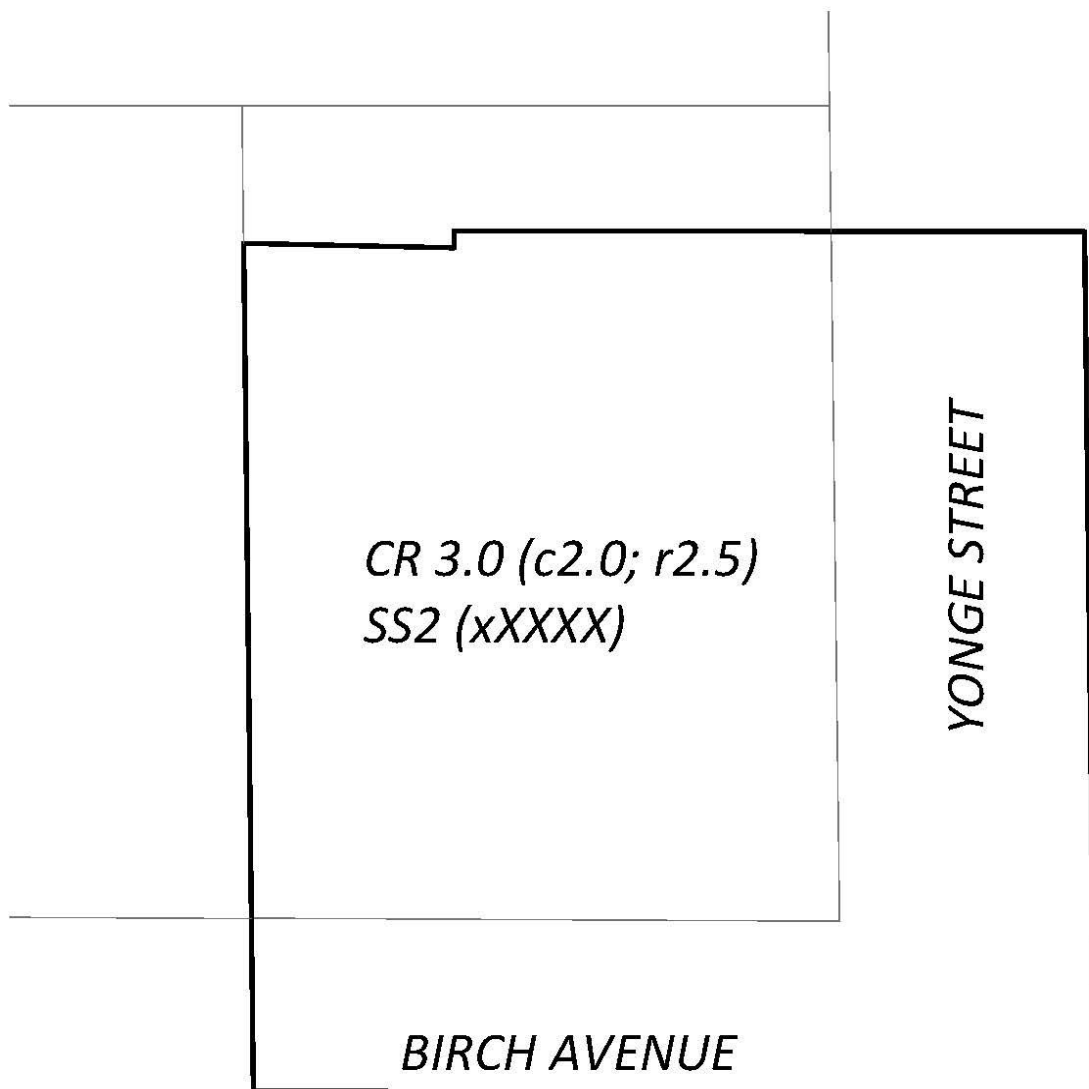
City of Toronto By-law No. XXX-2024

INSERT DIAGRAM 1 – LOCATION



⁷
City of Toronto By-law No. XXX-2024

INSERT DIAGRAM 2 – ZONING

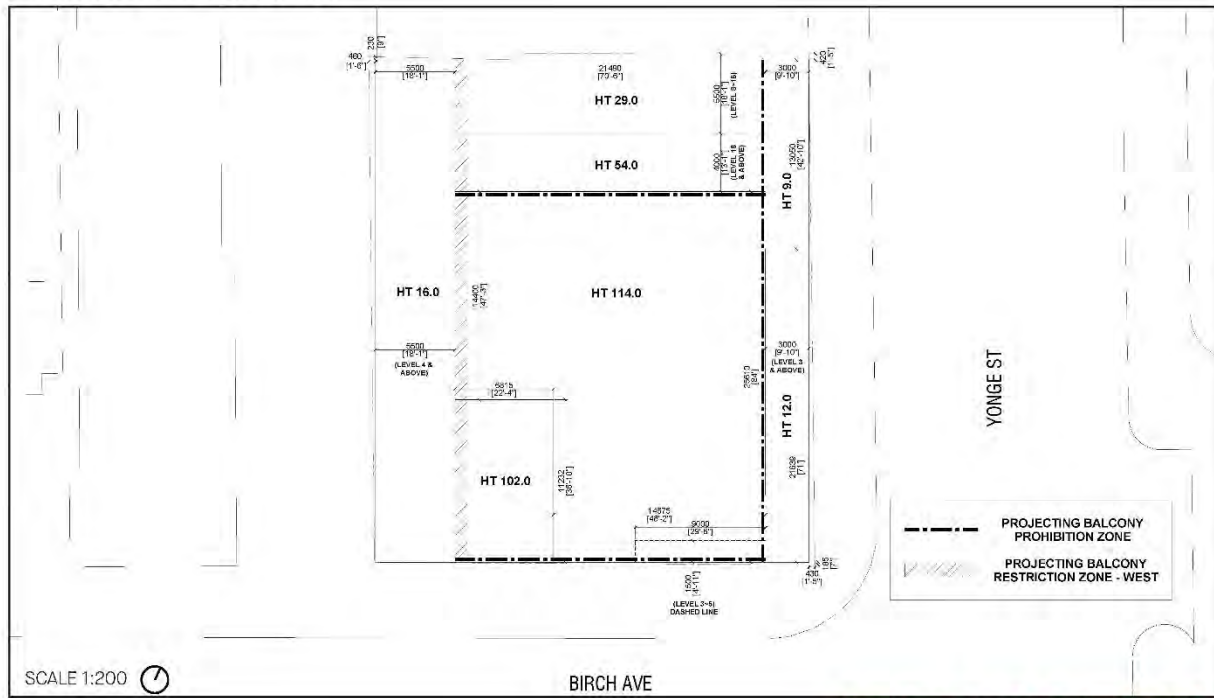


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City of Toronto By-law No. XXX-2024

INSERT DIAGRAM 3 – HEIGHT/SETBACK

HEIGHT MAP DIAGRAM



SCALE 1:200

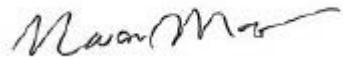
KPMB

BIRCH AVE

35

CONFIDENTIAL - DRAFT/ WITHOUT PREJUDICE
 1196-1210 YONGE STREET AND 2-8 BIRCH AVENUE AUG 15, 2024

This is **Exhibit "D"** referred to in the Affidavit of Benjamin Larson, sworn remotely on October 28, 2025, in accordance with O. Reg. 431/20: *Administering Oath or Declaration Remotely*.

A handwritten signature in dark ink, appearing to read "Naomi Mares", with a stylized flourish at the end.

NAOMI MARES

Commissioner for Taking Affidavits

WITHOUT PREJUDICE

Without Prejudice and Confidential

September 4, 2025

CITY OF TORONTO BY-LAW XXXX-2024(OLT) To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2024 as 1196-1210 Yonge Street and 2-8 Birch Avenue

Pursuant to the Ontario Land Tribunal Decision/Order issued XXXX, XXXX in Tribunal File OLT-23-000155, By-law 569-2013 of the City of Toronto, as amended, is further amended as follows:

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 No. 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;R2.5) SS2 (xXXXX), as shown on Diagram 2, attached to this By-law.
4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number XXXX so that it reads:

(XXXX) Exception CR XXXX

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 1196-1210 Yonge Street and 2-8 Birch Avenue, if the requirements of By-law XXX-2024(OLT) are complied with, a **building, structure** may be constructed, used or enlarged in compliance with (B) to (W) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the vertical distance between the Canadian Geodetic Datum of 123.13 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 Diagram 3 of this By-law;
- (D) Despite Regulations 40.5.40.10 (3) to (8), and (C) above, the following **building** elements and **structures** are permitted to project above the permitted maximum

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heights shown on Diagram 3 of this By-law;

- (i) projections related to heritage buildings which may project a maximum of 1.5 metres above maximum permitted heights shown on Diagram 3 of this By-law;
- (ii) guardrails, railings, bollards, balustrades, parapets, eaves, roof drainage, balcony and terrace guards, fences, skylights, planters, cornices, seating areas, retaining walls, balcony and terrace dividers, decorative/acoustic/privacy doors and screens, wheelchair ramps and ramps to underground, solar panels and equipment, ornamental elements, landscape elements, which may project a maximum of 3.0 metres above maximum permitted heights shown on Diagram 3 of this By-law;
- (iii) structures used for outside or open air recreation including pools and associated equipment, light fixtures, pergolas, architectural features, trellises, awnings and canopies, elements of a green roof, which may project a maximum of 4.0 metres above maximum permitted heights shown on Diagram 3 of this By-law; and,
- (iv) mechanical equipment, stairs and stair enclosures, enclosures of mechanical equipment, wind mitigation, elevator overruns, lighting rods, ventilation or cooling equipment, chimney stacks, flutes, vents, air intakes and exhausts, antennas, satellite dishes, and cellular arrays, window washing equipment, which may project a maximum of 6.0 metres above maximum permitted heights shown on Diagram 3 of this By-law;

(E) Despite (D) above and with the exception of elements of a green roof, vents, air intakes and exhausts, stairs and stair enclosures, parapets, safety railings, lightning rods and window washing equipment which may project vertically to the maximum extent described in (D) above, nothing can project beyond a maximum **height** of 133.7 metres on Diagram 3 of By-law XXX-2024(OLT);

(F) Despite regulations 40.5.1.10(3) and 40.10.40.40(1), the permitted maximum **gross floor area** for all uses on the **lot** is 18,100 square metres, of which:

- (i) a maximum of 18,100 square metres of **gross floor area** may be used for residential uses; and
- (ii) a maximum of 2,600 square metres of **gross floor area** may be used for non-residential uses on the **lot**;

(G) Despite Regulation 40.5.40.70(1) and Regulation 40.10.40.70(2), 40.10.40.80, 40.10.40.70.2(b), and 40.10.40.70.2(c), the required minimum **building setbacks** are identified in metres on Diagram 3 of this By-law;

(H) Despite Regulations 40.10.40.60(1) to (8) and (G) above, the following **building** elements and **structures** may encroach into the required minimum **building setbacks** as follows:

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- (i) Cornices, architectural or ornamental features, structural elements including columns and structural slabs may extend a maximum of 0.5 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
 - (ii) Eaves, windowsills or sills, projections related to heritage buildings, damper equipment to reduce building movement, satellite dishes, pergolas, guardrails, balustrades, railings, parapets, planters may extend a maximum of 1.0 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
 - (iii) Balconies, balcony and terrace dividers may extend a maximum of 2.4 metres beyond the heavy lines shown on **Diagram 3** of this By-law; and,
 - (iv) building maintenance unit cranes, pillars, decorative/acoustic/wind mitigation doors and screens, light fixtures, awnings and canopies, trellises, stairs and stair enclosures, wheelchair ramps, fences, public art installations, art and landscape features, ventilation shafts and elements required for the functional operation of a building, site servicing features, window washing equipment may extend a maximum of 3.0 metres beyond the heavy lines shown on **Diagram 3** of this By-law;
- (I) Despite (H) above (*NTD – Wording Subject to Future Refinement*):
- (i) the total combined width of projecting balconies within the “projecting balcony restriction zone - west” illustrated on **Diagram 3** of this By-law is limited to a maximum of 60% of the width of each floor on the west elevation;
 - (ii) For balconies in the “projecting balcony restriction zone - east” illustrated on **Diagram 3** of this By-law:
 - 1. no projecting balconies are permitted on floors 5 and below however, for clarity, this does not restrict inset balconies on the east elevation; and,
 - 2. balconies are permitted on floors 6 and above provided they are limited to a maximum of 60% of the width of each floor on the east elevation
 - (iii) west facing balconies on floors 5 to 8 of the tower portion of the **building** may extend a maximum of 2.0 metres beyond the westerly edge of the diagonal lines illustrating the “balcony restriction zone” on **Diagram 3** of this By-law; and,
 - (iv) no projecting balconies are permitted in the “projecting balcony prohibition zone” illustrated on **Diagram 3** of this By-law. For clarity, this does not restrict inset balconies on the north, south and east elevations.
- (J) Regulation 40.10.40.70(2)(G), with respect to **angular plane** requirements does not apply;
- (K) The following applies to **amenity space**:
- (i) Despite regulation 40.10.40.50(1) **amenity space** must be provided at a minimum rate of 3.65 square metres for each dwelling unit; and,
 - (ii) When calculating the provision in square metres of indoor **amenity space**, the area is measured as the area bounded by the interior surface of demising walls separating

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amenity spaces from other spaces and the interior surface of all exterior walls, and includes areas within the **amenity space** occupied by mechanical/utility and structural columns;

- (L) Despite Regulation 200.5.1.10(2), Regulation 200.5.10.1(1), Regulation 200.15.10(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 **parking spaces** for residential occupants;
 - (ii) a minimum of 0 **parking spaces** for non-residential uses;
 - (iii) a minimum of 3 **parking spaces** for residential visitors which must be located below ground;
 - (iv) a minimum of 0 accessible **parking spaces**;
 - (v) No maximum amount of **parking spaces** applies; and,
 - (vi) the **parking spaces** may be in an **automated parking system**;
- (M) **parking spaces** must comply with the **parking space** dimensions in clause 200.5.1.10 with the exception that:
- 1. the minimum length of a **parking space** is 5.4 metres;
 - 2. the minimum width of a **parking space** is 2.2 metres; and,
 - 3. **parking spaces** provided within an **automated parking system** will not be subject to clause 200.5.1.10.
- (N) Despite 200.15 and By-law 579-2017:
- (i) accessible **parking spaces** must have the following minimum dimensions:
 - 1. length of 5.6 metre;
 - 2. width of 3.4 metres; and
 - 3. vertical clearance of 2.1 metres.
 - (ii) the entire length of an accessible **parking space** must be adjacent to a minimum 1.5 metre wide accessible barrier free aisle or path;
 - (iii) despite 200.15.1.5 and 200.15.1(4), accessible **parking spaces** within an **automated parking system** may be located anywhere above or below ground; and,
 - (iv) accessible **parking spaces** within an **automated parking system** do not need to comply with the dimensional requirements in (N)(i) and (N)(ii) above.
- (O) Despite 200.5.1.10(13), the access requirements to **parking spaces** does not apply to an **automated parking system**.
- (P) In addition to the **building** elements 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** used for:
- i. Hallways and elevator vestibules below ground;
 - ii. Balconies;
 - iii. mechanical rooms on any level of the **building**;
 - iv. areas provided as **amenity space** in excess of the required amount; and,

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City of Toronto By-law No. XXX-2024

- v. Ramps and car elevators to access **parking spaces** and the **automated parking system**;

(Q) Despite Regulation 230.5.1.10(9)(A), "long-term " **bicycle parking spaces**, including **stacked bicycle parking spaces**, may be located in a secured room, in a locker, or area on any floor of a **building** above or below ground level. in any combination of vertical, horizontal or stacked positions if a bicycle elevator is provided;

(R) Despite Regulation 230.40.1.20(2), a "short term" **bicycle parking space** may be located more than 30 metres from a pedestrian entrance and may be located on any floor of a **building** above or below ground level;

(S) Despite Regulations 230.5.1.10(4) and (5) **stacked bicycle parking spaces** must have minimum dimensions as follows:

- (i) minimum length of 1.8 metres;
- (ii) minimum width of 0.45 metres, and,
- (iii) minimum vertical clearance for each **bicycle parking space** of 1.0 metres.

(T) Despite Regulation 230.5.10.1(5)(A), a minimum of 1.0 **bicycle parking spaces** for each **dwelling unit**, allocated as 0.9 "long-term" **bicycle parking space** per **dwelling unit** and 0.1 "short-term" **bicycle parking space** per **dwelling unit** is required.

(U) Despite Regulation 230.5.10.1(1), no **bicycle parking space** are required for the non-residential uses.

(V) Despite Regulation 230.5.1.10(7), no shower and change facilities are required for non-residential uses.

(W) Despite Article 220.5.10, one Type "G" **loading space** must be provided and maintained on the **lot**.

Prevailing By-laws and Prevailing Sections: By-law 438-86 does not apply.

5. For the purposes of interpreting By-law XXX-202X "**automated parking system**" means a mechanical system for the purpose of parking and retrieving cars without drivers in the vehicle during parking and without the use of ramping or driveway aisles, and which may include but is not limited to, a vertical lift and the storage of cars on parking pallets. Automated manoeuvring of other vehicles may be required in order for cars to be parked or to be retrieved. Parking pallets and parking elevators will not conform to the parking space and accessible parking space dimensions set out in City of Toronto Zoning By-law 569-2013 and above in By-law XXX-202X. For clarity, parking pallets will be considered as a parking space or as an accessible parking space for the purpose of determining

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City of Toronto By-law No. XXX-2024

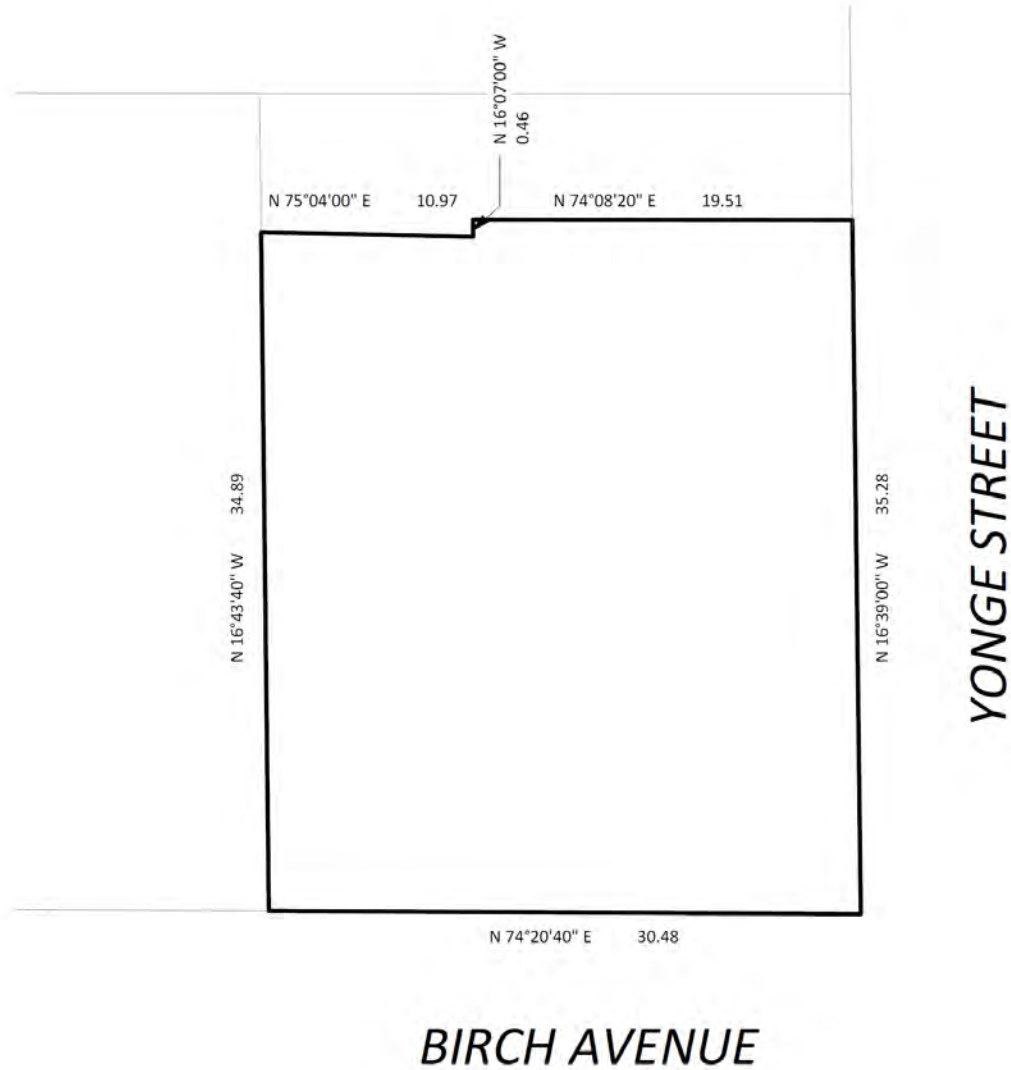
compliance with the requirements in City of Toronto Zoning By-law 569-2013 and relevant clauses above in By-law XXX-202X.

6. Despite any future severance, partition or division of the lot as shown on Diagram 1, the provisions of this By-law must apply as if no severance, partition or division occurred.
7. Temporary Uses
 - (A) None of the provisions of this By-law or By-law 569-2013, as amended, apply to prevent the erection and use of a Construction Office/Sales Office on the lands identified on Diagram 1 of this By-law where a Construction Office/Sales Office means buildings, structures, facilities or trailers, or portions thereof, used for the purpose of the administration and management of construction activity and/or for selling or leasing dwelling units and/or non-residential

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City of Toronto By-law No. XXX-2024



 **Toronto**
Diagram 1

1196-1210 Yonge Street and 2-8
Birch Avenue

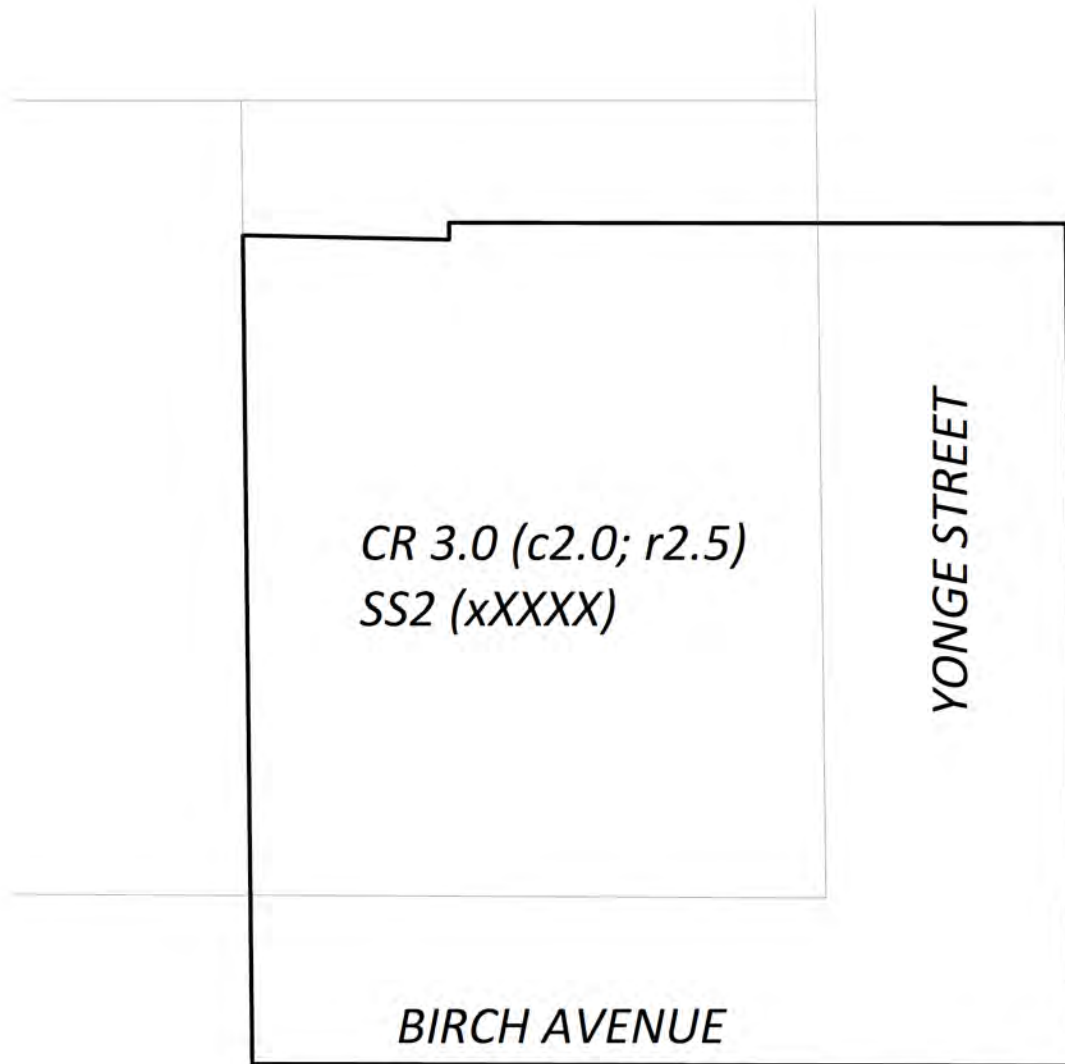
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Plot Date 11/09/21



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City of Toronto By-law No. XXX-2024



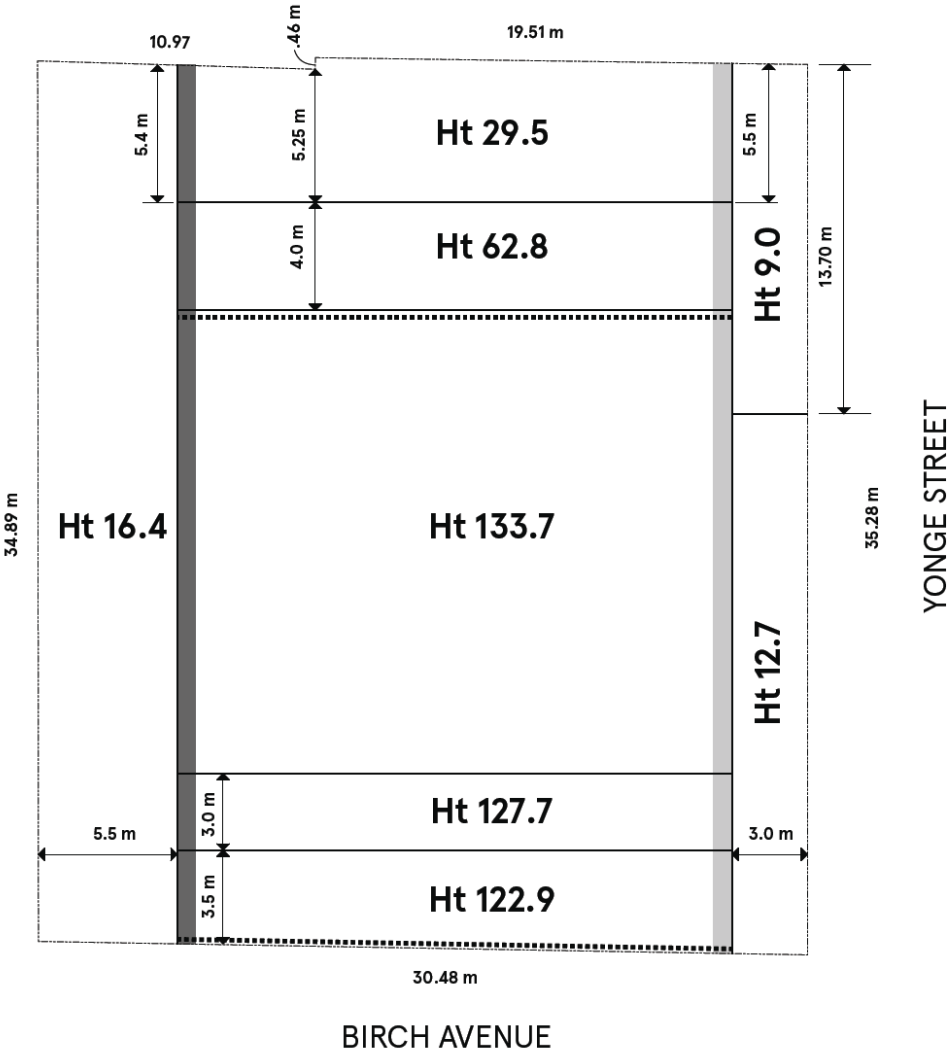
 **TORONTO**
Diagram 2

**1196-1210 Yonge Street and 2-8
Birch Avenue**

Scale 1 : 300
Plot Date 11/09/21



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ALL HEIGHTS (Ht) RELATIVE TO CANADIAN GEODETIC
ELEVATION OF 123.13 metres

- PROJECTING BALCONY RESTRICTION ZONE WEST
- PROJECTING BALCONY RESTRICTION ZONE EAST
- PROJECTING BALCONY PROHIBITION ZONE



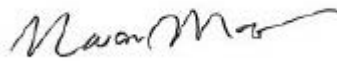
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City of Toronto By-law No. XXX-2024

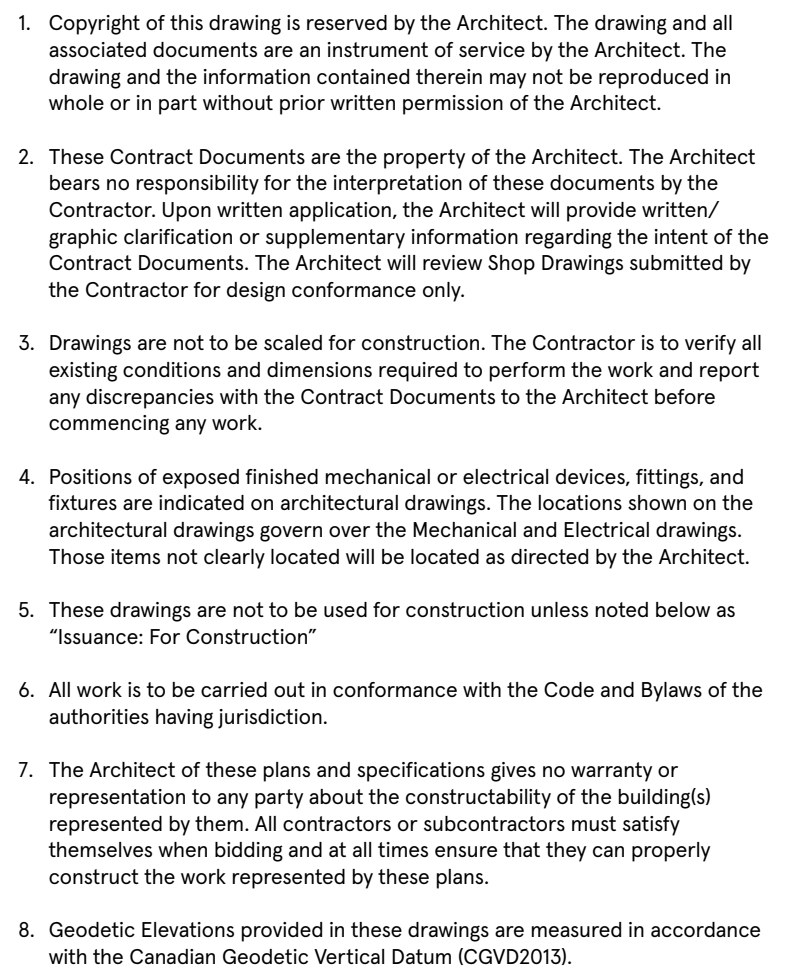
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This is **Exhibit “E”** referred to in the Affidavit of Benjamin Larson, sworn remotely on October 28, 2025, in accordance with O. Reg. 431/20: *Administering Oath or Declaration Remotely*.

A handwritten signature in black ink, appearing to read "Naomi Mares", is positioned above a horizontal line.

NAOMI MARES

Commissioner for Taking Affidavits



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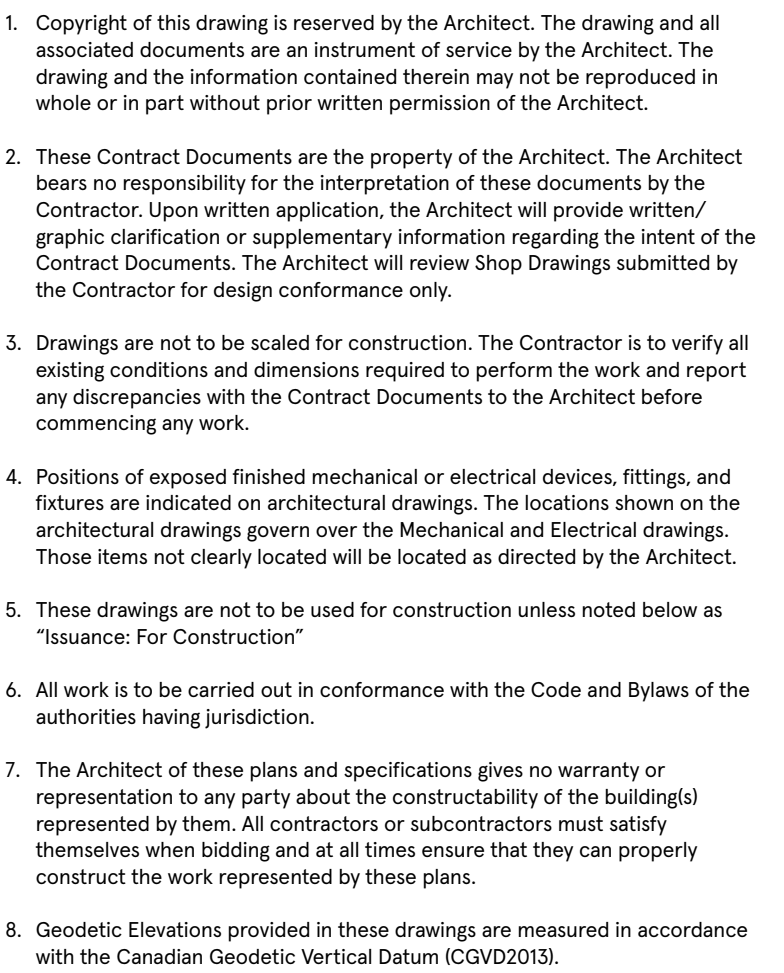
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Project No: 24049

13 September 2025

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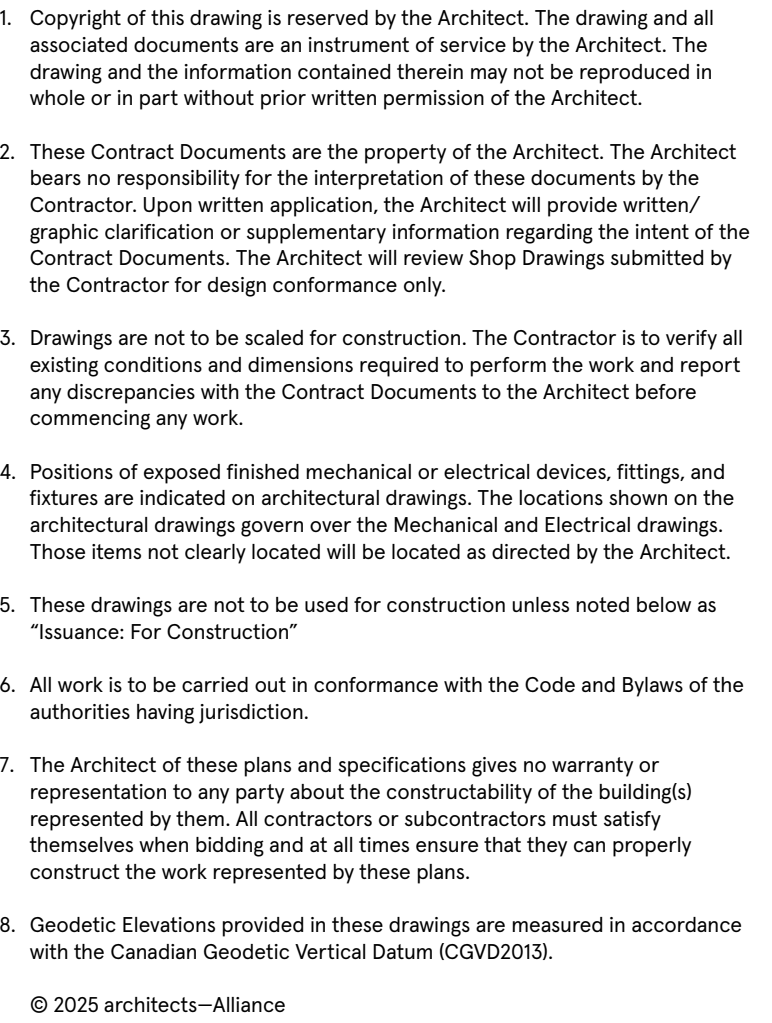
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Project Area Summary		
	Provided	
Site Area	1,069	
Total Res Units	64	
Res GFA	15,502	
Non-Residential GFA	2,519	
Total GFA	18,021	
Interior Res Amenity	295	
Exterior Res Amenity	180	
Total Amenity	475	
FSI	16.86	

[illegible]

155	2.42	0	0.00	115

Total	32	122.95	24,156	180	295	6,115	15,502	2,519	18,021	12,279	1,998		14,511	71.7%	80.5%
sq ft			259,802	1,938	3,175		166,867	27,111	193,979	132,170	21,504		156,192		



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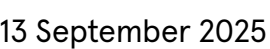


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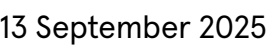


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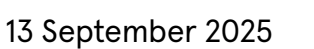


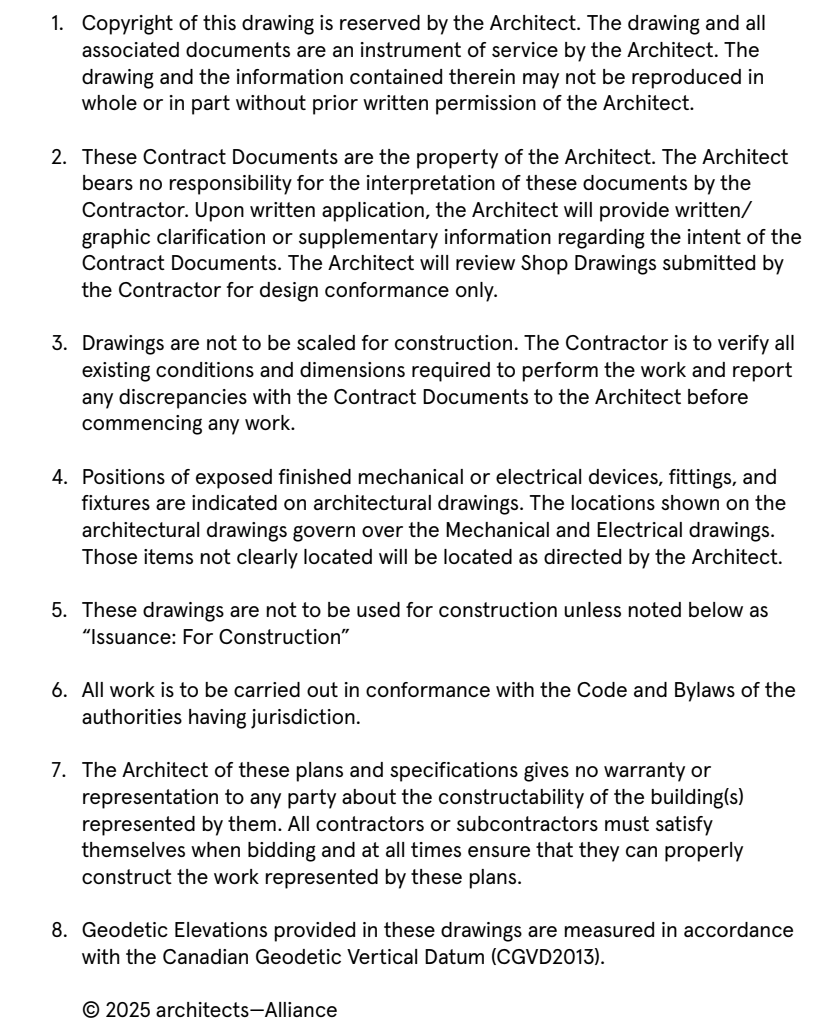
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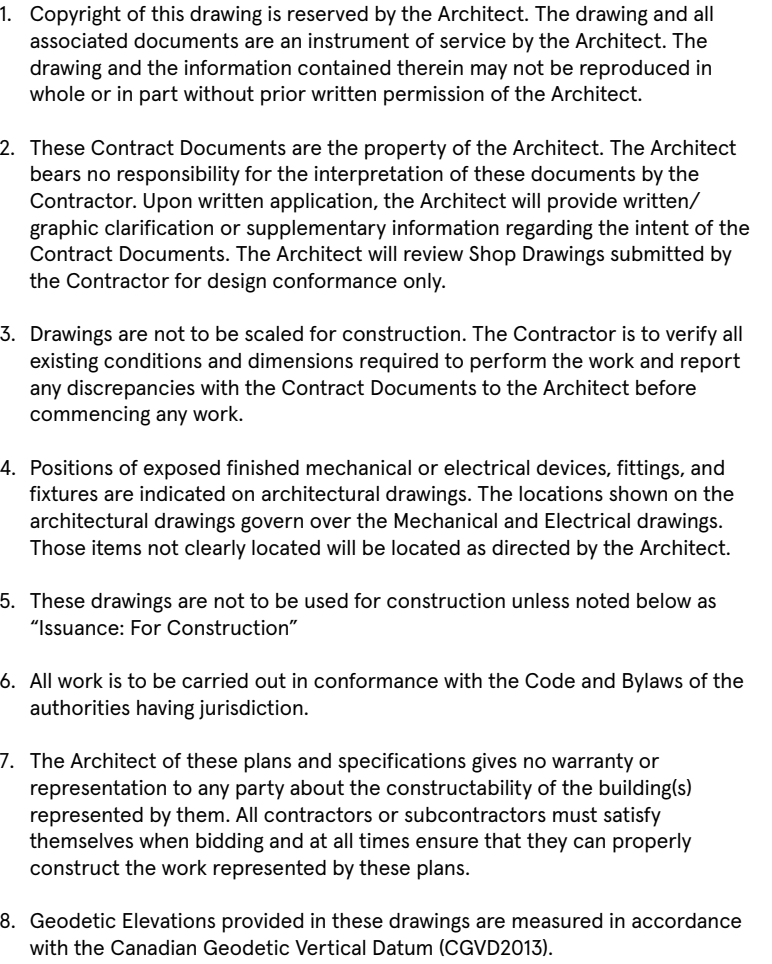




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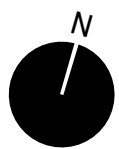
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Yonge & Birch
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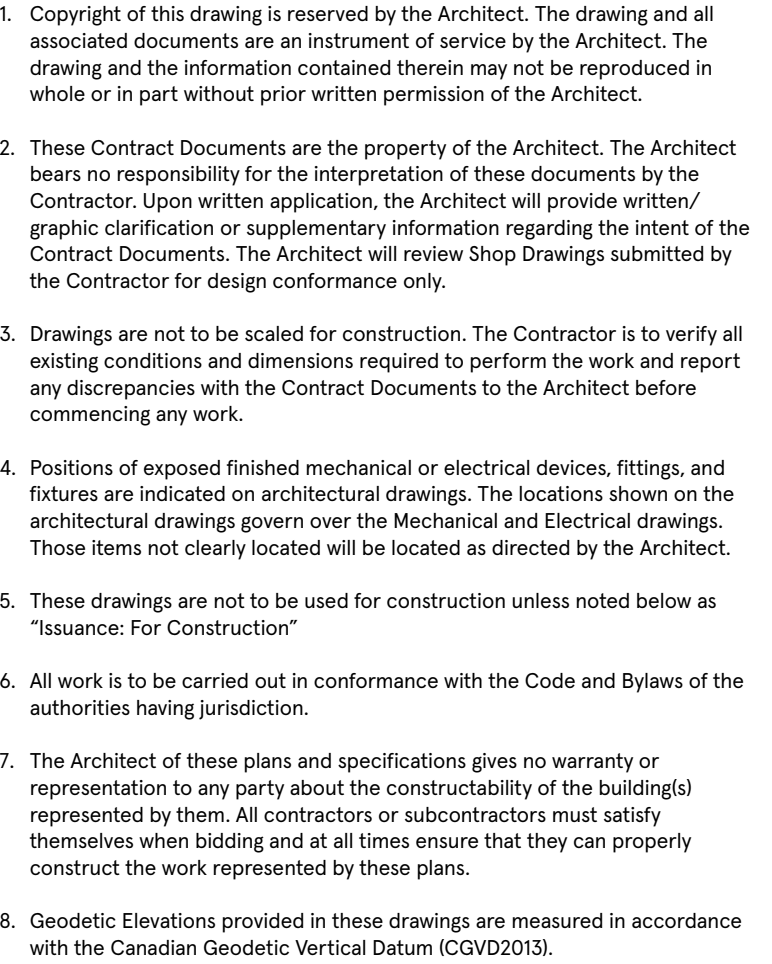
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Project No: 24049

13 September 2025



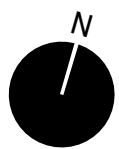
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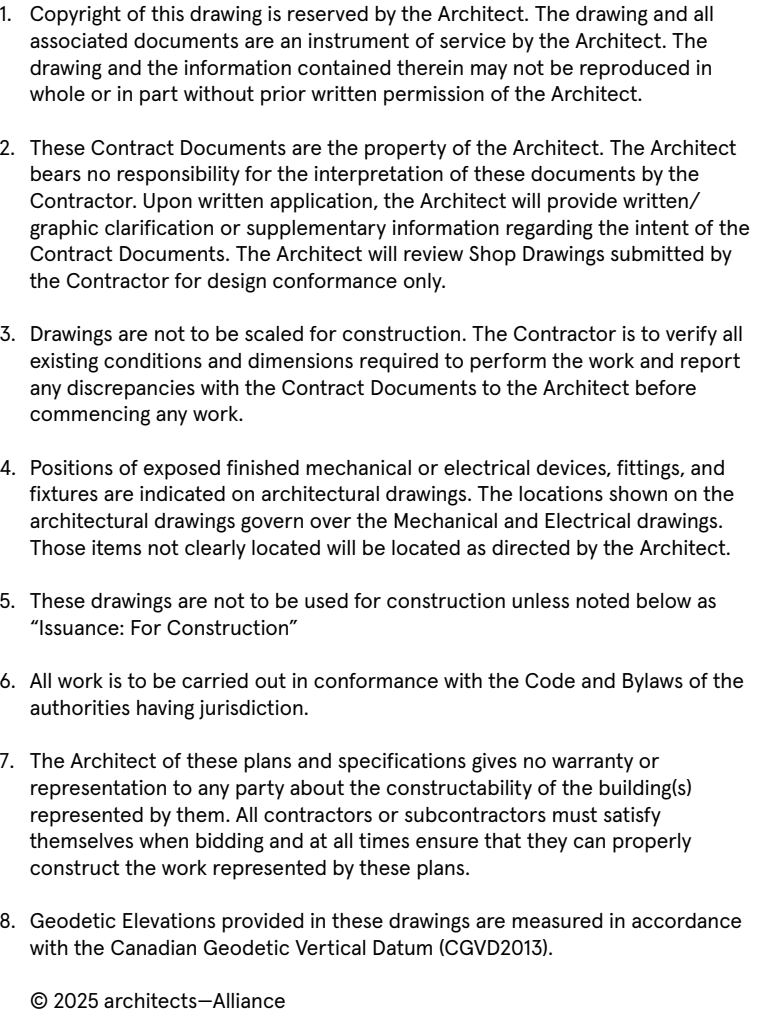
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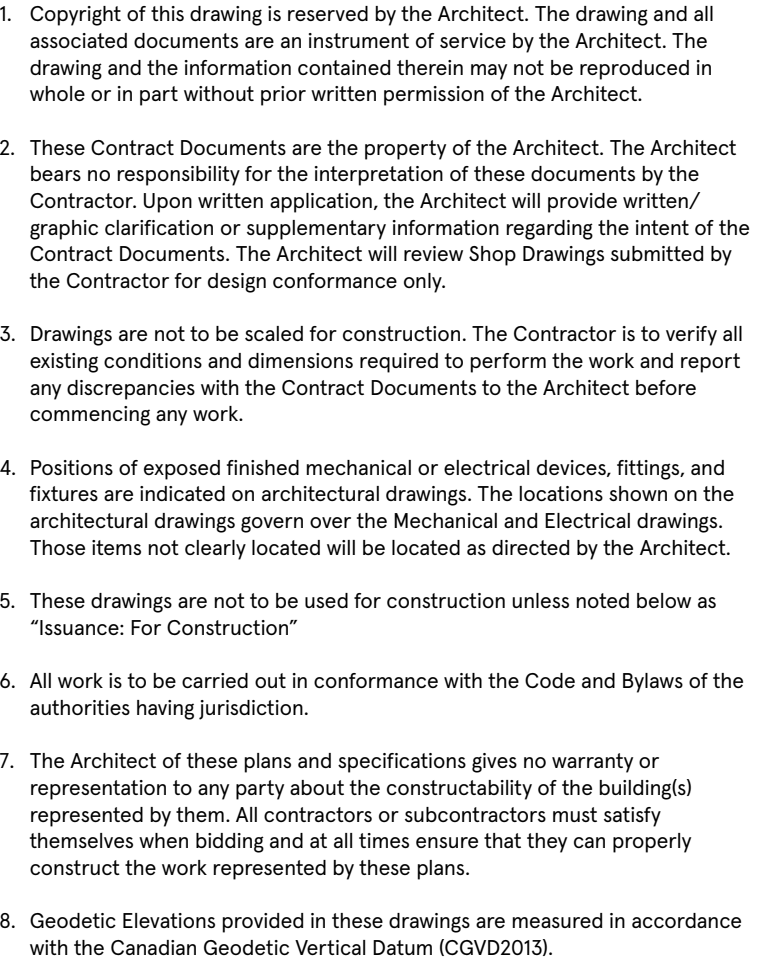
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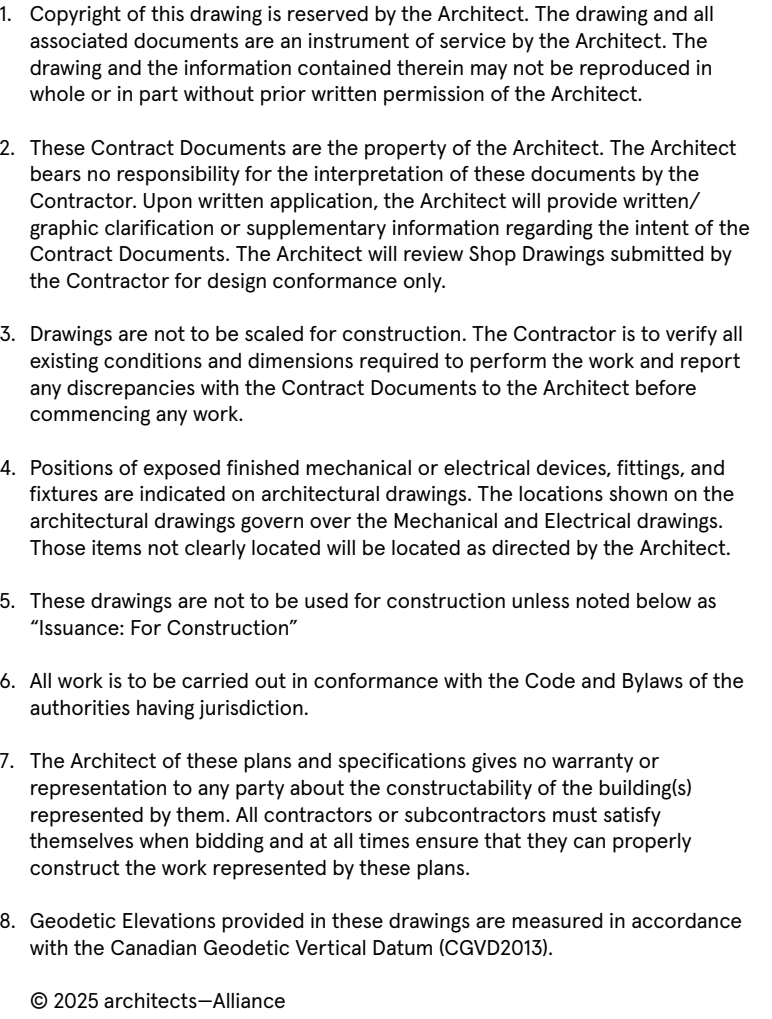
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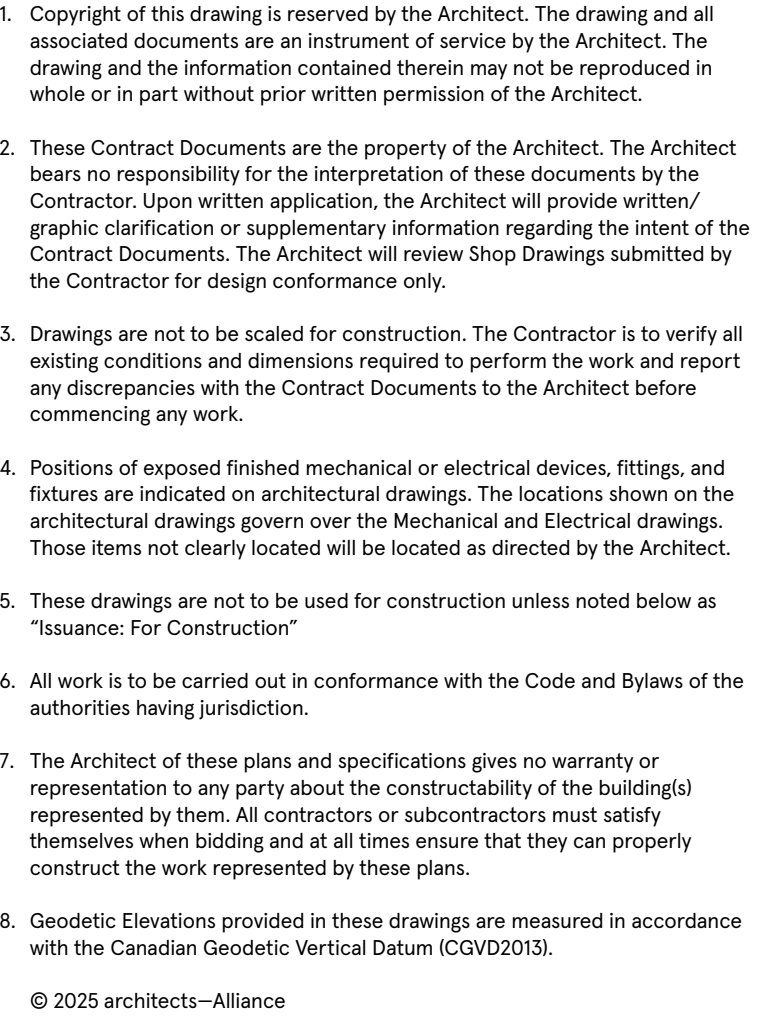
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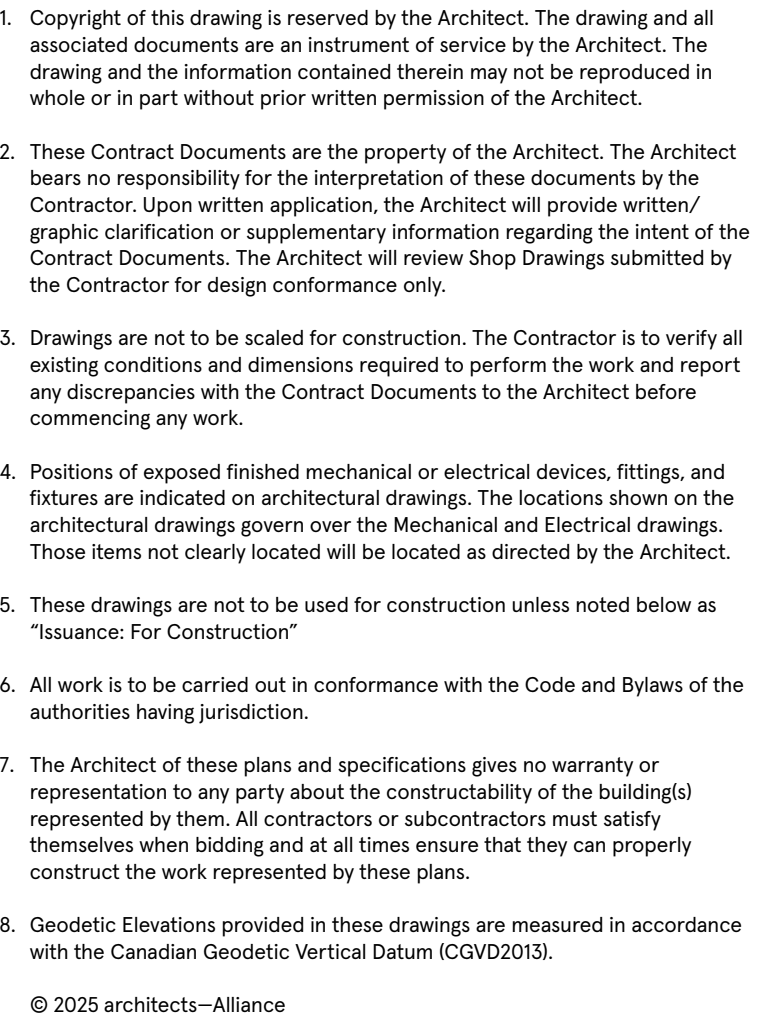


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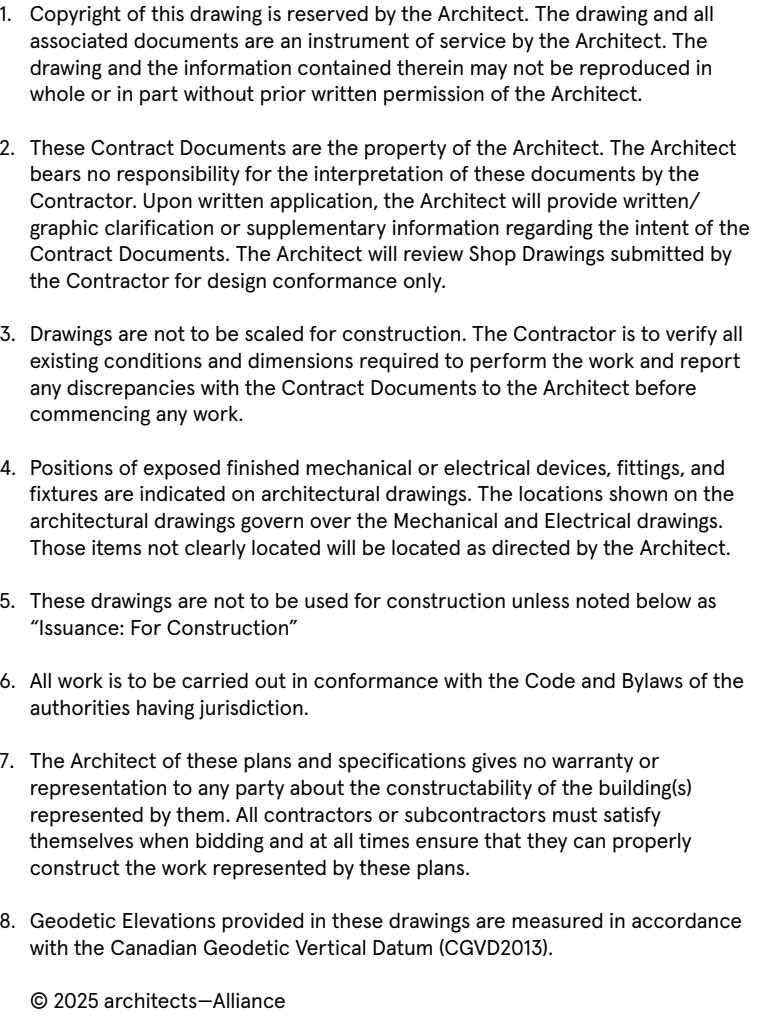
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Project No: 24049

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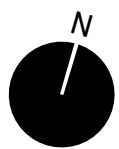
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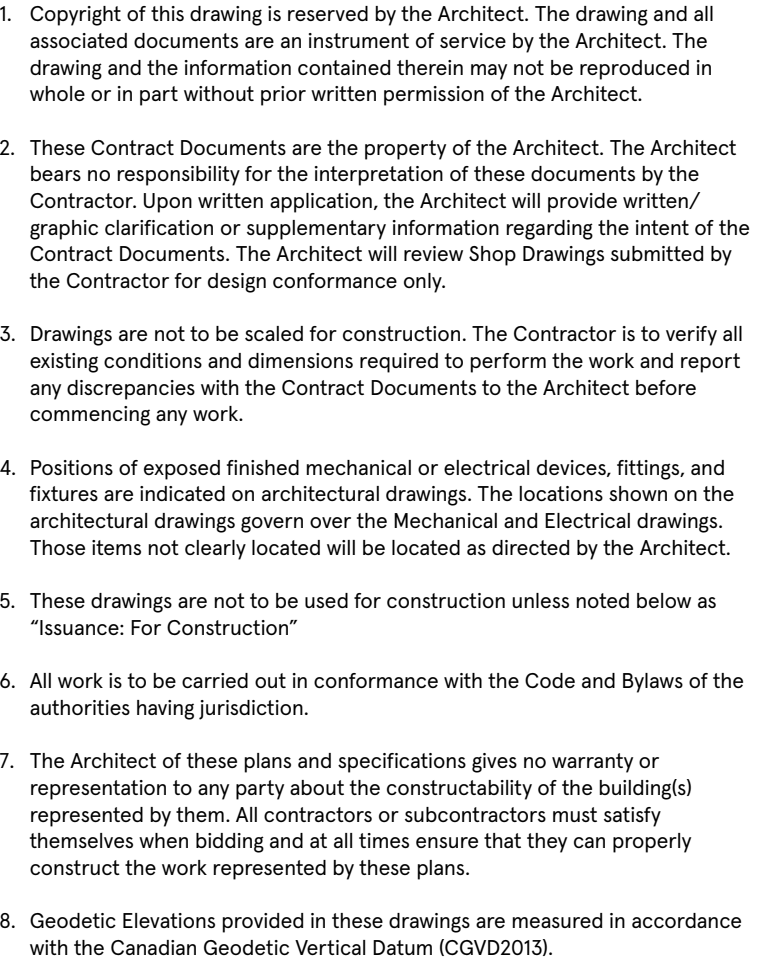
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Project No: 24049

13 September 2025

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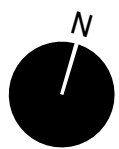
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L13

Scale: 1:100

Project No: 24049

13 September 2025

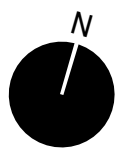
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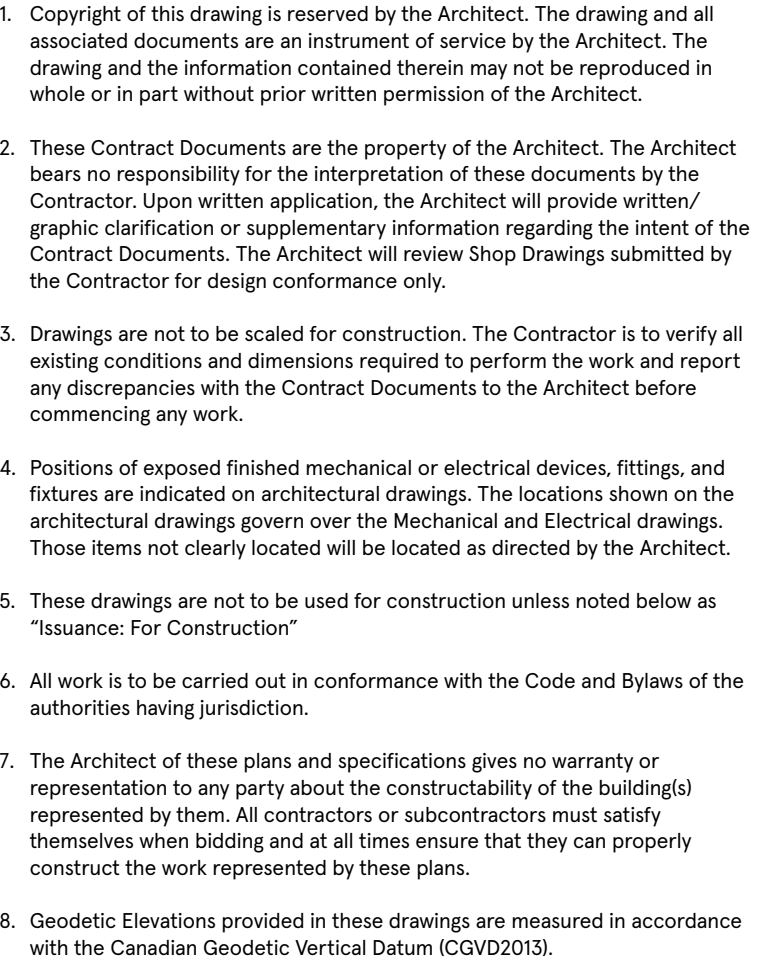
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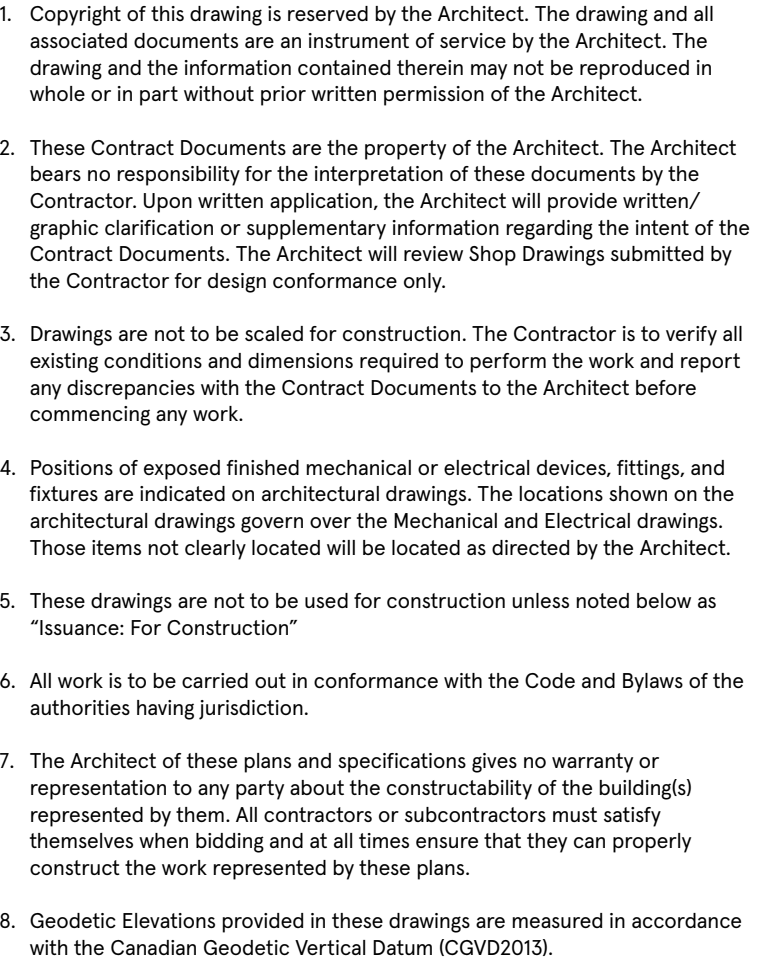
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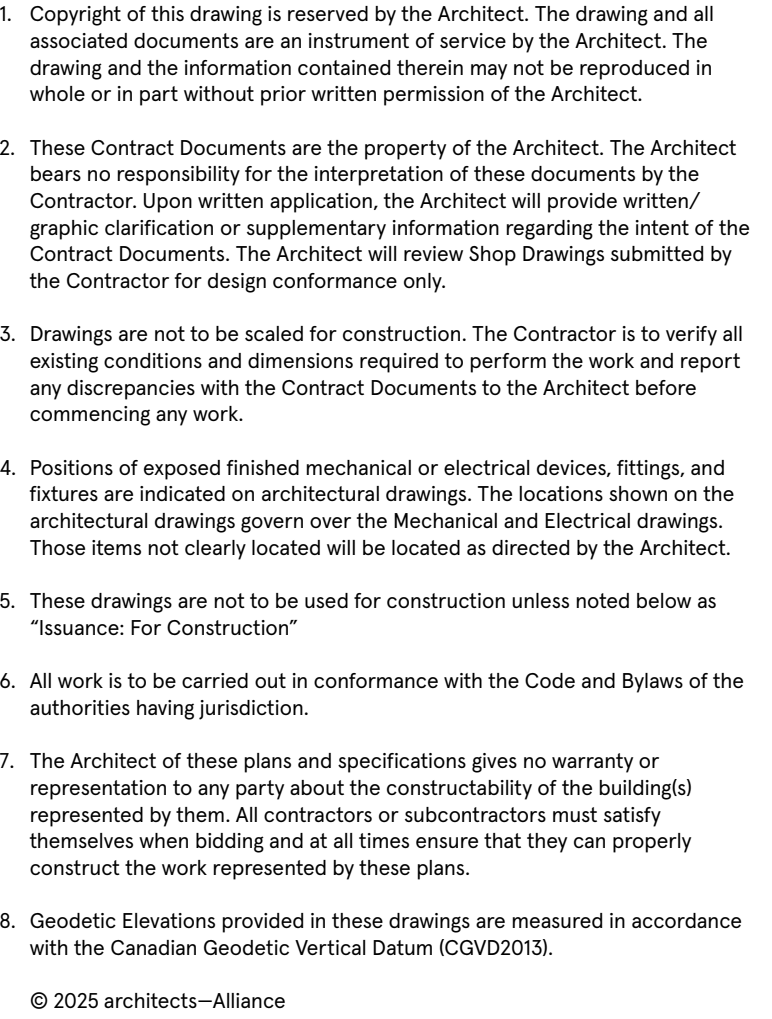
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