

Authority: Local Planning Appeal Tribunal Interim Order issued on October 23, 2018 and Final Order issued on October 2, 2019 in File No. PL171277

CITY OF TORONTO

BY-LAW 1301-2019(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East.

Whereas the Local Planning Appeal Tribunal, formerly the Ontario Municipal Board, by its Interim Order issued on October 23, 2018 and Final Order issued on October 2, 2019 in File No. PL171277, approved amendments to amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known municipally as 357½, 357A, 363 to 391 Yonge Street and 3 Gerrard Street East; and

Whereas the Local Planning Appeal Tribunal has the authority 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 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 density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality 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 Zoning By-law 438-86, 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 Local Planning Appeal Tribunal Orders:

1. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.

2. None of the provisions of Section 2(1) *height*, 4(2)(a), 4(5)(b), 4(8), 4(12), 4(13), 8(3) Part I 1, 2 & 3, 8(3) Part II 1(a), 8(3) Part III 1(a), 12(1)397, 12(1)431, 12(2)132, 12(2)258, 12(2)260, 12(2)316, and 12(2)380 of By-law 438-86 of the former City of Toronto, as amended and By-laws 1106-2016 and 194-97, shall apply to prevent the erection or use of an 85 *storey mixed-use building* which may contain *dwelling units* and non-residential uses including a *commercial parking garage* and a *parking garage* below *grade* on the *lot* provided that:
- (a) The *lot* comprises the lands shown as Block 1 on Map 1 attached to and forming part of this By-law;
 - (b) Despite Section 2(1) of By-law 438-86, *grade* shall mean a Canadian Geodetic Datum elevation of 95.42 metres;
 - (c) The *height* of any building or structure, including the mechanical penthouse, or portion thereof above *grade* shall not exceed those *heights* as indicated by the H symbol on Map 2;
 - (d) Despite (c) above, and provided these projecting elements are no higher than 299 metres above *grade*, the following elements of a *building* may project above the permitted maximum building heights shown on Map 2 of By-law 1301-2019(LPAT):
 - i. window washing equipment, lightning rods and wind mitigation features;
 - ii. structures and elements related to outdoor flooring and roofing assembly may project above the height limits by no more than 0.5 metres;
 - iii. safety railings, guard rails, railings, parapets, terraces, patios, planters, balustrades, bollards, stairs, accessory structures, retaining walls, wheelchair ramps and ornamental or architectural features may project above the height limits by no more than 1.5 metres;
 - iv. elements on the roof of the *building* or structure used for *green roof* technology and related roofing material may project above the height limits by no more than 2.0 metres;
 - v. mechanical elements, garbage chutes, vents, screens, emergency generators and lighting fixtures may project above the height limits by no more than 2.5 metres;
 - vi. landscape features, privacy screens, terrace dividers, covered stairs or stair enclosures and fences may project above the height limits by no more than 2.75 metres;
 - vii. cabanas and trellises may project above the height limits by no more than 3.6 metres; and

- viii. cooling towers may project above the height limits by no more than 6.0 metres;
- (e) A building or structure must be set back from the lot lines at least the distance shown on Map 2 of By-law 1301-2019(LPAT) with the exception of the following:
- i. bay windows, lighting fixtures, cornices, architectural cladding or design features, sills, eaves, awnings and art installations may encroach into a building setback by a maximum of 0.6 metres;
 - ii. balconies may encroach into a building setback by a maximum of 2.0 metres:
 - 1. within the areas illustrated as ‘Balcony Projection Zone’ on Map 2; and
 - 2. from the north face of the building provided these balconies are no closer than 11.3 metres to the Yonge Street *lot* line and 9.9 metres to the O’Keefe Lane *lot* line;
 - iii. canopies may encroach into a building setback by a maximum of 2.0 metres; and
 - iv. wind mitigation features;
- (f) The combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 94,500 square metres, of which;
- i. no more than 75,871 square metres may be *residential gross floor area*;
 - ii. no more than 18,629 square metres may be *non-residential gross floor area*, of which a minimum of 6,682 square metres of *non-residential gross floor area* is provided as an Institutional use or any combination thereof of uses within Section 8(1)(f)(b)(ii) and 8(1)(f)(b)(iii) of Zoning By-law 438-86; and
 - iii. Section 8(2) of By-law 438-86 shall not apply to the institutional uses permitted in (f)(ii);
- (g) A maximum of 1,106 *dwelling units* are permitted on the *lot*;
- (h) At least 10 percent of the *dwelling units* must have a floor area of at least 106 square metres, as measured to:
- i. the exterior side of a main wall;

- ii. the centerline of an interior wall where the *dwelling unit* shares a wall with another *dwelling unit*; and
 - iii. the exterior side of an interior wall where the *dwelling unit* does not share a wall with another *dwelling unit*;
- (i) *Parking spaces* must be provided as follows:
- i. a minimum of 0.17 *parking spaces* per *dwelling unit* shall be allocated as long-term *parking spaces* for the *dwelling units* in the *mixed use building*;
 - ii. no short-term *parking spaces* are required for the *dwelling units* in the *mixed use building*;
 - iii. a minimum of 48 *parking spaces* are required for the non-residential uses in the *mixed use building* and:
 - 1. these *parking spaces* may also be used by visitors of residents of the *dwelling units* in the *mixed use building*;
 - 2. these *parking spaces* may be allocated in any combination of short-term or long-term *parking spaces*; and
 - 3. these *parking spaces* may be in a *commercial parking garage*;
 - iv. a minimum of 6 *car-share parking spaces* are required for the purposes of *car-share* and should there be a period of time where there is no *car-share* service provided, the *car-share parking spaces* shall still be counted toward meeting the by-law requirements; and
 - v. in the event that the calculation of the number of required *parking spaces* results in a number with a fraction, the number shall be rounded down to the nearest whole number.
- (j) At least 381 square metres of outdoor *residential amenity space* and at least 2,212 square metres of indoor *residential amenity space* is required for the *dwelling units*;
- (k) Despite regulation 4(17) of By-law 438-86, 32 *parking spaces* may have minimum widths of 2.6 metres when obstructed on one side;
- (l) *Bicycle parking spaces* shall be provided in accordance with the following:
- i. at least 0.9 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – occupant* for the residential use;
 - ii. at least 0.1 *bicycle parking spaces* per *dwelling unit* shall be allocated as *bicycle parking space – visitor* for the residential use;

- iii. at least 83 *bicycle parking spaces* shall be allocated as *bicycle parking space – occupant* for the non-residential uses;
 - iv. at least 61 *bicycle parking spaces* shall be allocated as *bicycle parking space – visitor* for the non-residential uses;
 - v. *bicycle parking spaces* may be provided in any combination of vertical, horizontal or stacked positions;
 - vi. *bicycle parking spaces* may be located anywhere above or below grade in the mixed-use *building*;
 - vii. at least 2 shower and change facilities are required for each gender;
 - viii. notwithstanding the definition of *bicycle parking space - occupant* and *bicycle parking space - visitor* in Section 2 of By-law 438-86, if *bicycle parking spaces* are provided in a horizontal *bicycle parking space* that is positioned above or below another *bicycle parking space* and equipped with a mechanical device providing floor level access to both *bicycle parking spaces*, the minimum vertical clearance for each *bicycle parking space* must be at least 1.2 metres; and
 - ix. notwithstanding the definition of *bicycle parking space - visitor* in Section 2 of By-law 438-86, *bicycle parking spaces - visitor* may be provided in a secured room;
- (m) At least one (1) *loading space - Type "G"*, two (2) *loading space - Type "B"* and two (2) *loading space - Type "C"* must be provided on the *lot*;
- (n) In addition to the elements mentioned in section 2(1) of By-law 438-86, the *residential gross floor area* and *non-residential gross floor area* of a *mixed use building* is also reduced by the areas in a building used for:
- i. hallways, elevator vestibules and a *commercial parking garage* below-ground; and
 - ii. mechanical areas on any level of the building;
- (o) Notwithstanding Section 2(1) of By-law 438-86, levels of the *mixed use building* used for a mechanical penthouse or mezzanine are not considered to be *storeys*;
- (p) A temporary *sales office* shall be permitted on the *lot*;
- (q) Despite 8(1)(f)(b)(iii) of Zoning By-law 438-86, the following underlined words are added to this permitted use: college or university, Royal Conservatory of Music, and any use that is naturally and normally incidental or subordinate and devoted to the principal use of the institution which may be on or off the lot;

3. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law 438-86, as amended, with the exception of the following:
- (a) "height" means the vertical distance between *grade* and the highest point of the building roof shown on Map 2;
 - (b) "temporary *sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot*.
 - (c) "car-share" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
 - (d) "car-share *parking space*" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposes;
 - (e) "green roof" means an extension to a building's roof that allows vegetation to grow in a growing medium and which is designed, constructed and maintained in compliance with the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code.
4. Despite any of the provisions of By-law 438-86, for the purposes of the building on the *lot*, the *residential gross floor area* and *non-residential gross floor area* shall be calculated in accordance with the applicable deductions in By-law 569-2013 and the deductions listed below:
- (a) areas in a building below-ground used for hallways, elevator vestibules and a *commercial parking garage*; and
 - (b) mechanical areas on any level of the building.
5. Within the lands shown on Map 1, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
6. Section 37 Provisions
- (a) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and/or density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and

matters set out in Schedule A hereof 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; and
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Local Planning Appeal Tribunal's Interim Order issued on October 23, 2018 and Final Order issued on October 2, 2019 in File No. PL171277.

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands shown on Map 1 in this By-law and secured in an agreement under Section 37(3) of the Planning Act where the Owner agrees as follows:

1. That the Owner provide Section 37 agreement contributions to the City as follows:
 - a. a community and/or cultural space to be located on the third level of the Development, which shall be a minimum of 241.5 square metres, with access from grade, finished to shell condition, to be conveyed to the City. Prior to the issuance of the first Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$350,000;
 - b. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$4,000,000 towards the provision of new affordable rental housing in Ward 13;
 - c. prior to the issuance of the first Above-Grade Building Permit, the Owner shall:
 - i. pay an upwardly indexed cash contribution to the City in the amount of \$850,000 for the provision of public art;

OR

- ii. prepare and submit to the Toronto Public Art Commission for recommendation a public art plan for the public art works equal in value to \$850,000, indexed upwardly, and obtain Council approval of the public art plan, which plan will detail the possible locations of any public art works on the site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;

OR

- iii. provide a combination of cash contribution and commissioned public art works, as detailed in a public art plan, provided the total amount of the cash contribution and the public art works is equal to the upwardly indexed amount of \$850,000;
 - d. an above-grade elevated or below-grade pedestrian weather protected connection from the east elevation of the proposed tower to Ryerson University's Jorgensen Hall, in a manner acceptable to Ryerson University and in a location satisfactory to the City, in consultation with Ryerson University. Prior to the issuance of the first Above-Grade Building Permit for the development, the Owner shall:
 - i. Confirm to the City in writing that the Owner has obtained consent from Ryerson University to the construction of the pedestrian connection and

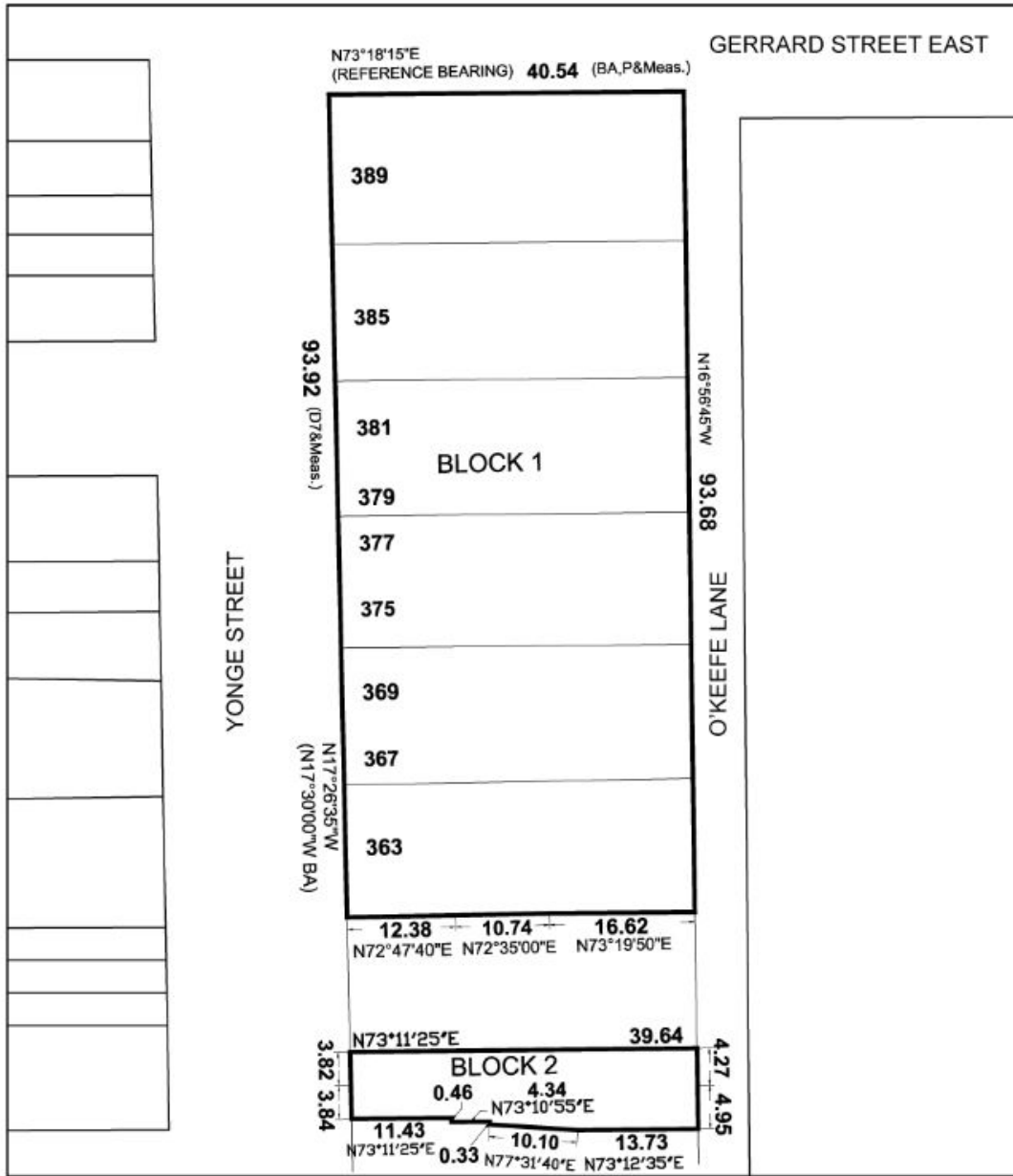
has posted a financial security in the amount of \$1,200,000 to guarantee the construction of the pedestrian connection;

OR

- ii. Provide proof, to the satisfaction of the Chief Planner and Executive Director, City Planning that the Owner has paid an upwardly indexed cash contribution to the City in the amount of \$1,200,000 to be dedicated to community benefits/facilities in the Ward at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
- e. a mix of residential dwelling units with at least 10 percent of the total residential dwelling units having a minimum size of 106 square metres;
 - f. the design, construction and provision of improvements to the public realm for O’Keefe Lane, equal to an upwardly indexed amount of \$750,000, which will include, but not be limited to, details regarding hard and soft landscaping, paving and curbing details, animation of the land with the wrapping of retail or institutional uses onto a portion of the lane from the Gerrard Street East frontage. The details of the streetscape and landscape improvement shall be secured through the site plan approval process with input from Ryerson University, and shall be constructed by the owner no later than three years following the first residential or commercial occupancy;
 - g. a Child and Family Centre facility located on the third level of the Development which shall be a minimum of 485 square metres. The Child and Family Centre facility shall be located on the interior of the Development and, for greater clarity, there shall be no requirement for outdoor space associated with the facility. The Owner will lease the Child and family Centre Facility to the City for a term of 99 years. Prior to the issuance of the First Above-Grade Building Permit, the Owner shall provide an upwardly indexed financial security to the City in the amount of \$650,000; and
 - h. prior to the issuance of the first Above-Grade Building Permit, the Owner shall pay an upwardly indexed cash contribution to the City in the amount of \$1,080,000 towards improvements to Yonge Street.
2. That the Section 37 agreement referenced in paragraph 1 above, secure, as a legal convenience, the requirement for and associated details respecting the satisfaction of the following conditions:
- a. the Owner shall provide a minimum of 2,212 square metres of indoor amenity space and a minimum of 381 square metres of outdoor amenity space. It is acknowledged that any additional outdoor amenity space provided in association with the non-residential uses may be located on the lower podium levels. If for any reason the non-residential outdoor amenity space is not used for its intended purpose, it shall be reallocated as residential outdoor amenity space;

- b. the Owner shall construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009 as amended by City Council at its meeting of July 16, 17, 19 and 19, 2013;
- c. a minimum of 0.17 resident parking spaces per Dwelling Unit shall be allocated as resident parking spaces, 48 non-residential parking spaces and 6 car-share parking spaces, shall be provided;
- d. the provision of a minimum of 5 loading spaces (1 Type G, 2 Type B and 2 Type C);
- e. the execution of a restrictive covenant to be registered on title at 357A and 357 ½ Yonge Street, to the satisfaction of the City Solicitor;
- f. confirmation in writing from a duly authorized representative(s) of the Hospital for Sick Children and St. Michael's Hospital, to the satisfaction of the Chief Planner and Executive Director, City Planning, that there is no intrusion by the Development or by any structure or naturally growing object, into the helicopter flight path, in accordance with the requirements of By-law 1432-2017, as amended; and
- g. the completion by the Owner of a TTC Technical Review and receipt by the City of the TTC's written acknowledgment that the Owner has satisfied all of the conditions arising out of the review, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Map 1



 **TORONTO**
Map 1

**363-391 Yonge Street and
3 Gerrard Street East**
File # 15 146478 STE 27 0Z

Map 2

