

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 1302-2019 (LPAT)

To amend the City of Toronto By-law 569-2013, as amended, with respect to lands known municipally 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 City of Toronto Zoning By-law 569-2013, 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 By-law 569-2013, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Local Planning Appeal Tribunal Orders:

1. The lands subject to this By-law are outlined by heavy black lines and referred to as Block 1 and Block 2 on Diagram 1 attached to this By-law.

2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to CR 4.0 (c4.0; r1.5) SS1 (x175) as shown on Diagram 2 attached to this By-law; and
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 175 so that it reads:

Exception CR 175

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) If the requirements of Clause 5 and Schedule A of By-law 1302-2019(LPAT) are complied with, clauses 40.10.40.10 and 40.10.40.40 do not apply to prevent the erection or use of an **85-storey mixed use building** permitted in compliance with the clauses below;
- (B) The **lot** consists of those lands shown as Block 1 on Diagram 1 attached to By-law 1302-2019(LPAT);
- (C) Despite regulation 40.5.40.10(1), height is measured from the Canadian Geodetic Datum elevation of 95.42 metres and the elevation of the highest point of the **building**;
- (D) Regulation 600.10.10 with respect to Building Setbacks does not apply;
- (E) Despite regulation 40.10.40.10(1), the height for any portion of a **building** or **structure** must not exceed the maximum height permitted by the letter "HT" as shown on Diagram 3 of By-law 1302-2019(LPAT);
- (F) Despite (E) above, 40.5.40.10(4), (5), (6) & (7), and provided these projecting elements are no higher than 299 metres above the Canadian Geodetic Datum elevation of 95.42 metres, the following elements of a **building** may project above the permitted maximum **building** heights shown on Diagram 3 of By-law 1302-2019(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, **ancillary** 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;
- (G) Despite 40.10.40.70(1) and 40.10.40.80(1), a **building** must be set back from the **lot lines** at least the distance shown on Diagram 3 of By-law 1302-2019(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:
 - (a) within the areas illustrated as 'Balcony Projection Zone' on Diagram 3; and,
 - (b) 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;

- (H) Despite 40.10.40.40(1):
- i. the maximum total residential and non-residential **gross floor area** is 94,500 square metres;
 - ii. the maximum residential **gross floor area** is 75,871 square metres;
 - iii. the maximum non-residential **gross floor area** is 18,629 square metres, of which a minimum of 6,682 square metres of **gross floor area** is provided for the following institutional uses or any combination thereof: medical office, **public school, community centre, day nursery, post-secondary school, performing arts studio, retail service, club, private school, religious education use, hospital**; and,
 - iv. Section 40.10.20.100 of By-law 569-2013 shall not apply to the institutional uses listed in (H)(iii);
- (I) A maximum of 1,106 **dwelling units** are permitted on the **lot**;
- (J) 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**;
- (K) Despite 200.5.10.1(1), **parking spaces** must be provided as follows:
- i. a minimum of 0.17 **parking spaces** per **dwelling unit** for the tenants in the **mixed use building**;
 - ii. no **parking spaces** are required for the visitors of residents to **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:
 - (a) these **parking spaces** may also be used by visitors of residents of the **dwelling units** in the **mixed use building**; and
 - (b) these **parking spaces** may be **public parking**;

- iv. a minimum of 6 **parking spaces** for 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.
- (L) Despite regulation 40.10.40.50(1):
- i. a minimum of 381 square metres of outdoor **amenity space** and a minimum of 2,212 square metres of indoor **amenity space** is required for the **dwelling units**; and
 - ii. no more than 25 percent of the outdoor **amenity space** component may be a **green roof**;
- (M) Despite 40.10.40.50(2), a minimum of 175 square metres of outdoor **amenity space** must be provided on the **lot** for the non-residential use;
- (N) Despite regulation 40.10.40.1(1), residential use portions of the **building** may also be located on the same level or below non-residential use portions;
- (O) Despite regulation 200.5.1.10(2) of By-law 569-2013, a maximum of 32 **parking spaces** may have minimum widths of 2.6 metres when obstructed on one side;
- (P) Despite 200.15 and By-law 579-2017, accessible **parking spaces** must be provided as follows:
- i. of the required **parking spaces** in (K) above, a minimum of 8 must be accessible **parking spaces** and must be provided in the underground **parking garage**;
 - ii. accessible **parking spaces** must have the following minimum dimensions:
 - (a) length of 5.6 metres;
 - (b) width of 3.4 metres; and
 - (c) vertical clearance of 2.1 metres;
 - iii. the entire length of an accessible **parking space** must be adjacent to a minimum 1.5 metre wide accessible barrier free aisle or path; and
 - iv. despite 200.15.1.5 and 200.15.1(4), accessible **parking spaces** may be located anywhere in the underground **parking garage**.
- (Q) Despite regulation 230.5.1.10(7), at least 2 shower and change facilities are required for each gender;

- (R) Despite regulation 230.5.1.10(9), long term and short term **bicycle parking spaces** for **dwelling units** or for non-residential uses may be located anywhere above or below ground in the **building**;
- (S) Despite regulation 230.5.1.10(10), long term and short term **bicycle parking spaces** for **dwelling** units or for non-residential uses may be provided in any combination of vertical, horizontal or stacked positions;
- (T) Despite regulations 230.5.10.1(1), (2) and (5):
- i. at least 0.9 **bicycle parking spaces** per **dwelling unit** must be allocated as long-term **bicycle parking spaces** for the **dwelling units**;
 - ii. at least 0.1 **bicycle parking spaces** per **dwelling unit** must be allocated as short-term **bicycle parking spaces** for the **dwelling units**;
 - iii. at least 83 **bicycle parking spaces** must be allocated as long-term **bicycle parking spaces** for the non-residential uses; and
 - iv. at least 61 **bicycle parking spaces** must be allocated as short-term **bicycle parking spaces** for the non-residential uses.
- (U) Despite regulation 230.40.1.20(2), a short-term **bicycle parking space** may be located more than 30 metres from a pedestrian entrance to the **building** on the **lot** and may be located in a secured room or an unsecured room;
- (V) Despite the requirements of 220.5.10.1, at least one (1) Type "G" **loading space**, two (2) Type "B" **loading spaces** and two (2) Type "C" **loading spaces** must be provided on the **lot**;
- (W) Despite regulation 40.10.100.10(1)(c), more than one **vehicle** access is permitted;
- (X) 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, elevator vestibules and **public parking** below ground; and
 - ii. mechanical rooms on any level of the **building**.
- (Y) For the purpose of this exception, levels of a **building** used for a mechanical penthouse or a mezzanine are not **storeys**;
- (Z) Despite 40.10.40.10(5), the minimum height of the first storey may be less than 4.5 metres;
- (AA) Despite 40.10.20.100(21), an **outdoor patio** is not limited in size or area;

- (BB) Despite 40.10.20.100(33) and 150.100, there is no maximum **interior floor area** for an **eating establishment**;
- (CC) Despite any severance, partition or division of the lands, the provision of this By-law apply to the whole of the lands as if no severance, partition or division occurred;
- (DD) Prevailing Sections 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 Prevailing By-law 194-97 do not apply;
- (EE) Despite 800.50(585), **post-secondary school** means **premises** used for educational purposes by a degree granting college or university under Province of Ontario legislation 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**;

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(1) 334 of former City of Toronto By-law 438-86;
- (B) Section 12(1)335 of former City of Toronto By-law 438-86;
- (C) Section 12(1)397 of former City of Toronto By-law 438-86;
- (D) Section 12(1)431 of former City of Toronto By-law 438-86;
- (E) Section 12(2)132 of former City of Toronto By-law 438-86;
- (F) Section 12(2)256 of former City of Toronto By-law 438-86;
- (G) Section 12(2)258 of former City of Toronto By-law 438-86;
- (H) Section 12(2)259 of former City of Toronto By-law 438-86;
- (I) Section 12(2)260 of former City of Toronto By-law 438-86;
- (J) Section 12(2)316 of former City of Toronto By-law 438-86;
- (K) Section 12(2)380 of former City of Toronto By-law 438-86; and
- (L) City of Toronto By-law 97-0194.

5. 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 Diagram 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 Diagram 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;

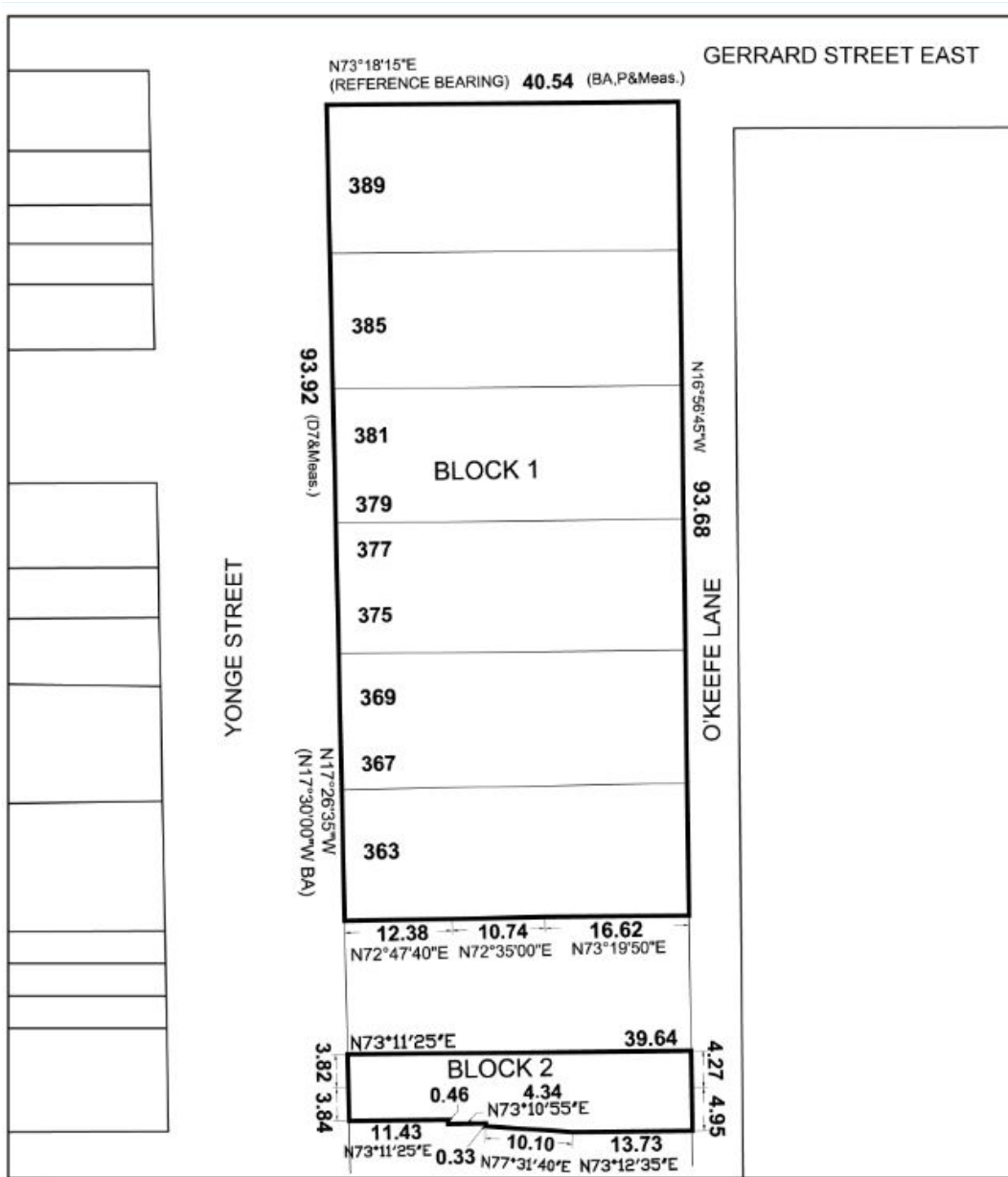
OR

- 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.

Diagram 1



TORONTO
Diagram 1

**363-391 Yonge Street and
3 Gerrard Street East**

File # 15 146478 STE 27 0Z

Diagram 2

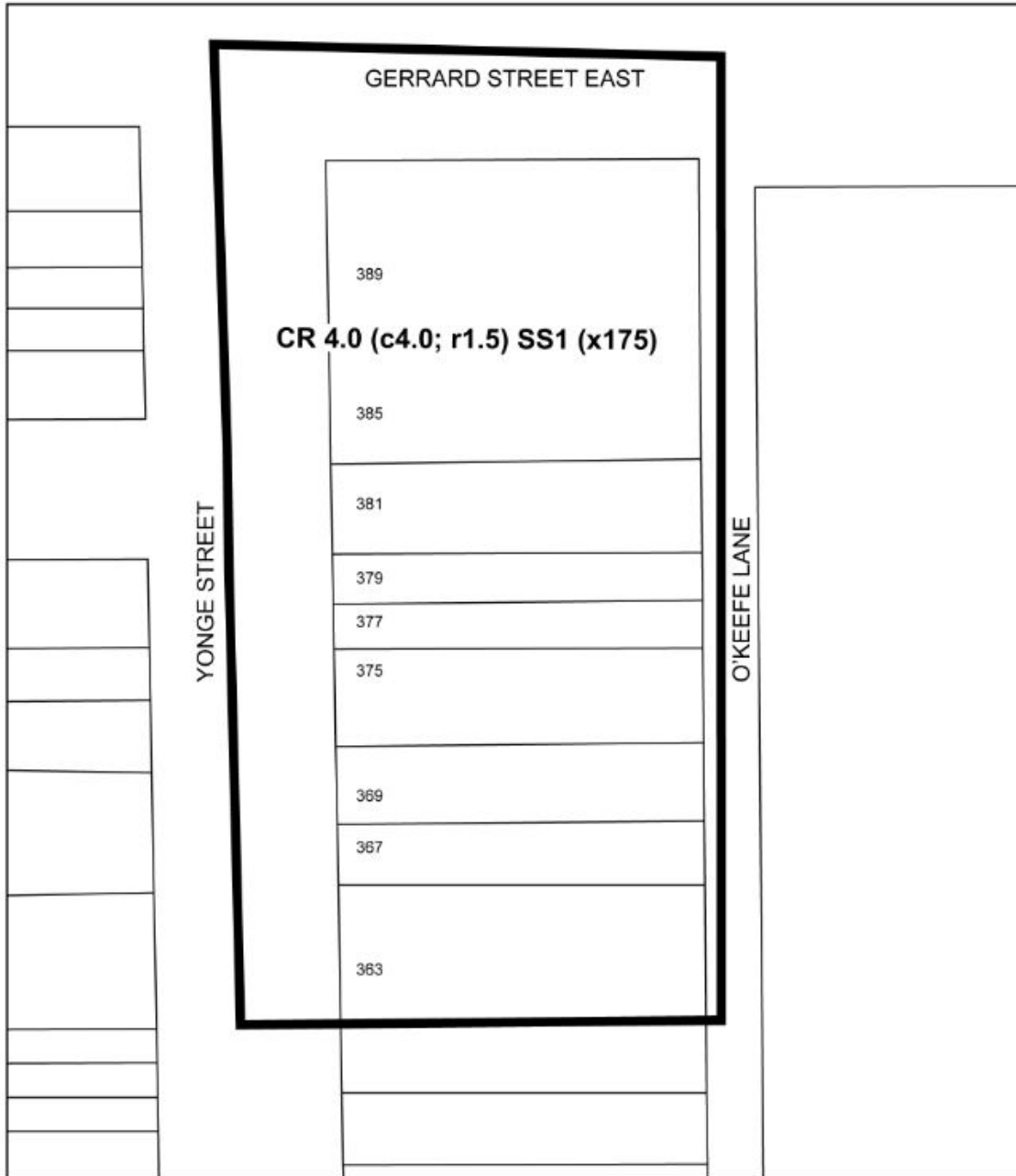


Diagram 3

