

Authority: Local Planning Appeal Tribunal Decision/Orders issued July 18, 2019, October 24, 2019 and May 18, 2021 in Tribunal File PL180020

CITY OF TORONTO

BY-LAW 442-2021(LPAT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands known municipally known in the year 2019 as 292-298 Dundas Street West, 129-137 McCaul Street and 170 St. Patrick Street.

Whereas the Local Planning Appeal Tribunal, by its decision/orders issued on July 18, 2019, October 24, 2019 and May 18, 2021 in Tribunal Case PL180020 approved amendments to the City of Toronto Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2017 as 292-298 Dundas Street West, 129-137 McCaul Street and 170 St. Patrick Street; 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 forth; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013, as amended, are to be 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 lands and the City of Toronto;

By-law 569-2013, as amended, is further amended by the Local Planning Appeal Tribunal 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 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 municipally known in the year 2017 as 292-298 Dundas Street West, 129-137 McCaul Street and 170 St. Patrick Street, as outlined in heavy black line to CR 2.5 (c2.0; r2.0) SS2 (x348), as shown on Diagram 3 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 348 so that it reads:

Exception CR 348

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) The **buildings, structures** and uses existing on March 31, 2021 on Parcel A as shown on Diagram 2 of By-law 442-2021(LPAT), are deemed to comply with Bylaw 569-2013;
- (B) On the lands identified as Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT) , if the requirements of Section 7 and Schedule A of By-law 442-2021(LPAT) are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Section (C) to (V) below;
- (C) Despite regulation 40.5.40.10(1), and (2), the height of a **building** or **structure** is the vertical distance between the Canadian Geodetic Datum elevation of 95.25 metres and the highest point of the **building** or **structure**;
- (D) Section 150.50, with regards to specific use regulations for a **Place of Worship**, does not apply to Parcel B;
- (E) Despite regulation 40.10.40.40(1), the permitted maximum **gross floor area** for all uses on Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT) is 22,966 square metres, of which:
 - (i) the permitted maximum **gross floor area** for residential uses is 20,833 square metres; and
 - (ii) the permitted maximum **gross floor area** for non-residential uses is 2,133 square metres, of which a minimum of 192 square metres shall be for non-residential uses on the ground floor;

- (F) A minimum of 10 percent of the **dwelling units** on Parcel B must contain three bedrooms, of which each **dwelling unit** shall have a minimum size of 840 square feet;
- (G) A minimum of 15 percent of the **dwelling units** on Parcel B must contain two bedrooms;
- (H) A maximum of 15 percent of the **dwelling units** on Parcel B are permitted to be bachelor **dwelling units**;
- (I) Despite regulation 40.10.40.50(1), **amenity space** must be provided on Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT) in accordance with the following:
- (i) A minimum of 1.5 square metres of indoor **amenity space** is required for each **dwelling unit**; and
 - (ii) A minimum of 1.5 square metres of outdoor **amenity space** is required for each **dwelling unit**;
- (J) Despite regulation 40.10.40.10(2), and 40.10.40.10(7) no portion of any **building** or **structure** on Parcel B may exceed the height in metres specified by the numbers following the symbol HT and the number of **storeys** following the symbol ST on Diagram 4 of By-law 442-2021(LPAT);
- (K) For the purpose of this By-law, the mechanical penthouse, mechanical penthouse corridor, and elevator machine room on Parcel B shall not constitute a **storey**;
- (L) On Parcel B, despite (J) above and regulations 40.5.40.10(4), (5), (6), (7) and (8), the following **building** elements and **structures** may exceed the permitted maximum height:
- (i) equipment used for the functional operation of the **building** and **structures** including electrical, utility, mechanical and ventilation equipment, enclosed stairwells and lobbies, washrooms, roof access, maintenance equipment storage and mechanical penthouse may exceed the applicable height limits shown on Diagram 4 to maximum of 5.0 metres, and shall be limited to the hatched area as also shown on Diagram 4 of By-law 442-2021(LPAT);
 - (ii) cooling towers, generators, chimneys and vents may exceed the applicable height limits shown on Diagram 4 of By-law 442-2021(LPAT) to maximum of 5.0 metres;
 - (iii) elevator overrun may project up to a maximum height of 3.0 metres above the elements listed in (i) above to a maximum area of 30 square metres and shall be limited to the hatched area as shown on Diagram 4 of By-law 442-2021(LPAT);

- (iv) architectural features, parapets, elements and structures associated with a **green roof**, equipment used for the exterior maintenance of the **building**, and window washing equipment, may project up to a maximum of 2.0 metres;
 - (v) planters, **landscaping** features, guard rails, divider screens on a balcony and/or terrace may project up to a maximum of 2.0 metres; and
 - (vi) trellises, pergolas and unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, all of which may project up to a maximum of 3.0 metres;
- (M) Despite regulations 40.10.40.70(2) and 40.10.40.80(2), and Article 600.10.10 the required minimum **building setbacks** for any **building** or **structure** on Parcel B are shown on Diagram 4 of By-law 442-2021(LPAT);
- (N) Despite regulations 40.5.40.60(1), and 40.10.40.60(1), (2), (5) and (6), the following **building** elements and **structures** may encroach into the required minimum **building setbacks** for Parcel B shown on Diagram 4 of By-law 442-2021(LPAT);
- (i) balconies, cornices, canopies, awnings, parapets, decks, guardrails, balustrades, railings, equipment used for the exterior maintenance of the **building** and window washing equipment may encroach to a maximum of 1.5 metres;
 - (ii) above the third **storey** on the south side of the **building** on Parcel B from the **main wall**, balcony platforms and railings may encroach to a maximum of 0.3 metres;
 - (iii) architectural features may encroach to a maximum of 2.7 metres;
 - (iv) art and **landscaping** features, pilasters and eaves, window sills and light fixtures may encroach to a maximum of 1.0 metres;
 - (v) stairs, stair enclosures, doors, wheelchair ramps, screens, site servicing features and underground garage ramps and associated structures; and
 - (vi) guards, railings, parapets, terraces, privacy and wind screens, landscape planters and terrace platforms may project beyond the required building setback to the extent of the main wall of the **storey** below;
- (O) Despite regulations 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** for the **building** on Parcel B must be provided and maintained on Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT) in accordance with the following:

- (i) a minimum of 49 **parking spaces** must be provided and a maximum of 60 **parking spaces** are permitted for the use of the residents of the **building**; and
 - (ii) no **parking spaces** are required for residential visitors or non-residential uses;
 - (P) Despite regulation 200.5.1.10(13), access to a **parking space** may be provided by motor vehicle elevators, provided each motor vehicle elevator is readily accessible at all times for the parking and removal of a motor vehicle and a minimum of two (2) motor vehicle elevators are provided and maintained in the **building** for the use of residents of Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT);
 - (Q) Despite regulation 200.5.1.10(12), the **vehicle** entrance may be 0.0 metres from the **lot line** abutting the **street**;
 - (R) Despite regulations 200.15.1(1) and 200.15.10(1), a minimum of 4 accessible **parking spaces** must be provided on Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT) with the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 3.4 metres; and
 - (iii) vertical clearance of 2.1 metres;
 - (S) Despite clause 220.5.10.1, one Type "G" **loading space** must be provided and maintained on Parcel B as shown on Diagram 2 of By-law 442-2021(LPAT);
 - (T) Despite regulation 230.5.1.10(4)(A)(ii) a **stacked bicycle parking space** on Parcel B must have a minimum width of 0.45 metres;
 - (U) Despite regulations 230.5.1.10(9) and 230.40.1.20(1) "long-term" **bicycle parking spaces** may be located on any level of the **building** on Parcel B below-ground;
 - (V) For the purpose of determining compliance with regulations 600.20.10(1)(A) and (B), The first **storey** of a **mixed-use building** must provide a minimum of 60 percent of the **building** frontage abutting the priority retail street for those uses described in regulations 600.20.10(1)(A) and (B), instead of the **lot frontage**;
5. Despite any future development of the lands outlined by heavy black lines on Diagram 1, the provisions of Section 4 (B) to (V) of this By-law shall not apply to the lands identified as Parcel A on Diagram 2 of By-law 442-2021(LPAT).

6. Despite any future severance, partition or division of the lands identified as Parcel B on Diagram 2 of By-law 442-2021(LPAT), the provisions of this By-law shall apply as if no severance, partition or division occurred.
7. Section 37 Provisions
 - (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 2 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 and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Local Planning Appeal Tribunal Decision/Orders issued July 18, 2019, October 24, 2019 and May 18, 2021 in Tribunal File PL180020.

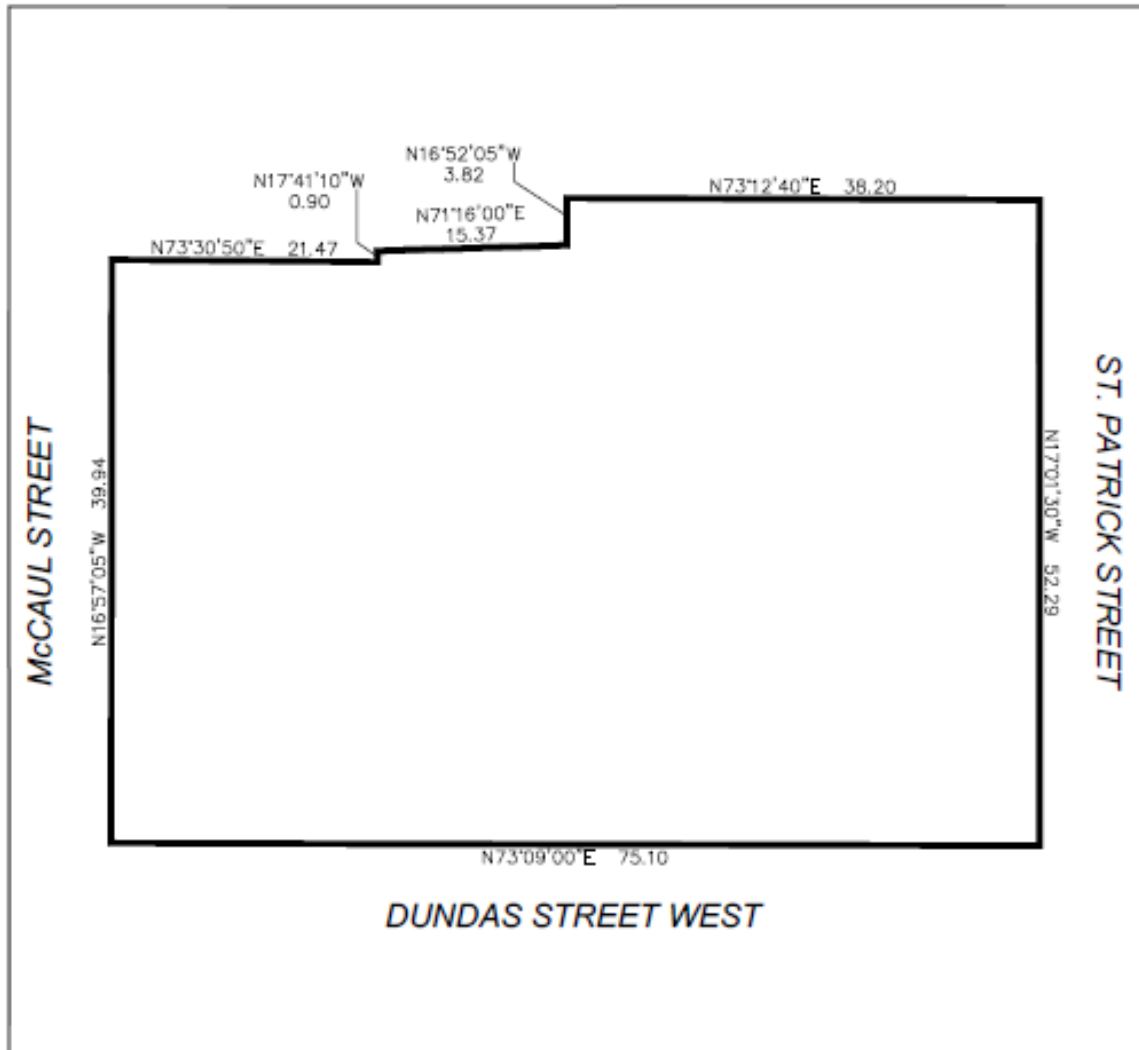
Schedule A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the owner of the lands at their expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. The conveyance of a fully equipped 62-spot day care, in accordance with the City's Child Care Development Guideline, 2016, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the General Manager, Children Services;
2. Prior to the issuance of the final order from the Local Planning Appeal Tribunal, the owner shall make a cash contribution in the amount of four hundred thousand dollars (\$400,000.00), to be allocated towards the relocation of the on-site daycare, with any remaining funds directed towards affordable housing in the local ward, with the allocation to be determined by and to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
3. The \$400,000.00 CAD contribution referred to in Section 2. above to be increased by upwards index in accordance with the apartment Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price indexes Publication 327-0058, or its successor, calculated from the date of the Section 37 Agreement to the date such payment is made;
4. In the event the cash contribution referred to in Section 2 and 3 above has not been used for the intended purpose(s) within three (3) years of this Zoning By-law coming into force and effect, the cash contribution may be redirected for another purposes(s), provided that the purposes(s) is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
5. The conveyance of no less than 0.0261 hectares (261 square metres) of the development site for public parkland purposes; the subject parkland conveyance is to be free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation;
6. The Owner agrees to design and construct the Above Base Park Improvements to the new park for a development charge credit against the Parks and Recreation component of the Development Charges to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the Owner of installing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of Development Charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time;

7. The Owner is required to submit a design and cost estimate to be approved by the General Manager, Parks, Forestry and Recreation, and a letter of credit equal to 120 percent of the Parks and Recreation Development Charges payable for the development; and the design, cost estimate and ultimately the letter of credit will be required prior to the issuance of the first above grade building permit;
8. City Council approve a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Owner of the Above Base Park Improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the owner of designing and constructing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time;
9. Notwithstanding Chapter 415-28 of the Municipal Code, all parkland related work and timing of such work, including conveyance of the on-site parkland dedication as well as the build out of the park to Base and Above Base Park Improvements, is to be completed to the satisfaction of the General Manager, Parks, Forestry and Recreation;
10. Prior to the issuance of Site Plan Approval, the owner shall submit a Construction Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor and thereafter in support of the development will implement the plan during the course of construction. The Construction Management Plan will include, but not be limited to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting that does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary;
11. Prior to the earlier of Site Plan Approval and issuance of the first Above Grade Building Permit, the Owner shall enter into an agreement with the abutting property owner at 141 McCaul Street to ensure future separation distances between the two properties are not further affected, to the satisfaction of the City Solicitor; and
12. Prior to the earlier Plan Approval and issuance of the first Above Grade Building Permit, the Owner shall provide sufficient additional information to demonstrate that appropriate easement(s) have been acquired to use the abutting property, municipally known as 141 McCaul Street, in perpetuity, for the purpose of facilitating the loading truck maneuvering and the loading maneuvering easement has been registered, at the sole expense of the Owner, all to the satisfaction of the General Manager, Transportation Services in consultation with the City Solicitor.



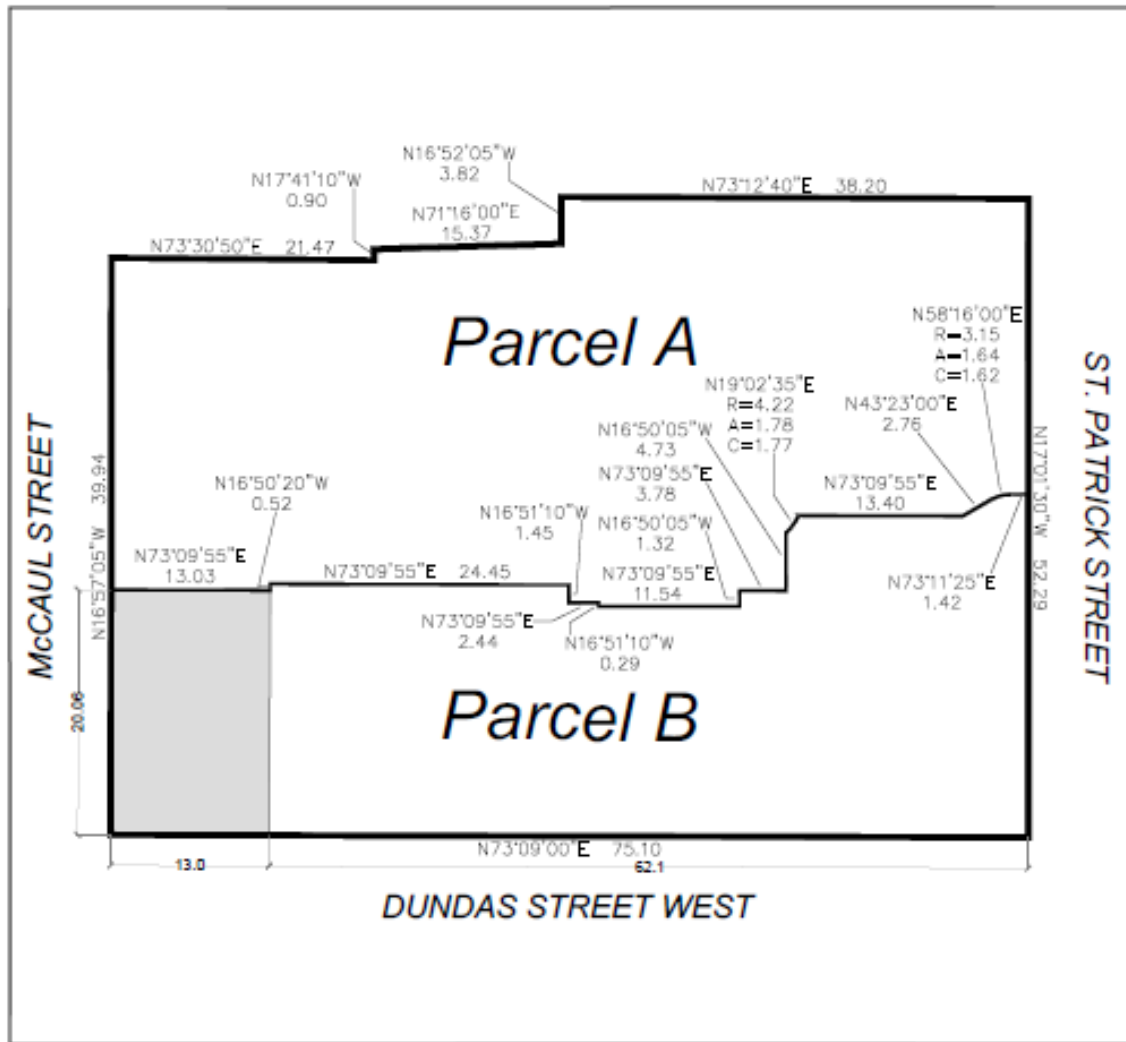
292-298 Dundas Street West, 129-137 McCaul Street
and 170 St. Patrick Street, Toronto

Diagram 1

File #17225847 STE 20 0Z



Not to Scale



292-298 Dundas Street West, 129-137 McCaul Street
 and 170 St. Patrick Street, Toronto

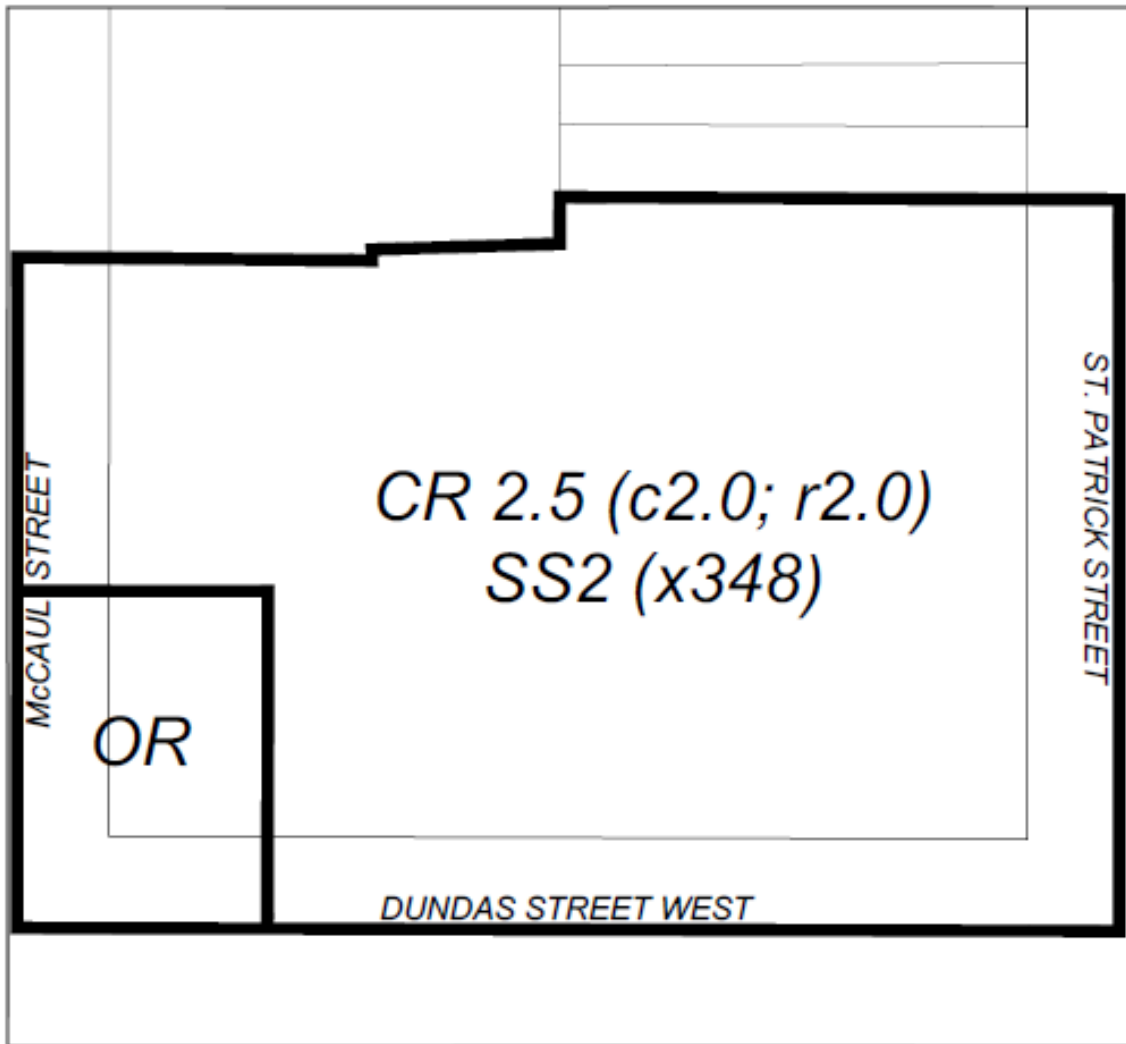
Diagram 2

File #17225847 STE 20 02

▭ Parkland dedication to the City



Not to Scale



292-298 Dundas Street West, 129-137 McCaul Street
and 170 St. Patrick Street, Toronto

Diagram 3

File #17225847 STE 20 02



Not to Scale

