

Authority: Ontario Land Tribunal Decision issued on May 19, 2021 and Order issued on May 25, 2022, in Tribunal Case OLT-22-002674 (formerly PL101093)

CITY OF TORONTO

BY-LAW 1284-2022(OLT)

To amend By-law 438-86 as amended by By-law 1174-2010 of the City of Toronto with respect to Keating Channel Precinct West with respect to lands municipally known in 2021 as 351 and 369 Lake Shore Boulevard East.

Whereas the owner of lands known municipally as 351 and 369 Lake Shore Boulevard East made application in April 2007 to amend Zoning By-law 438-86 of the former City of Toronto which zones the owner's lands; and

Whereas the application by the owner in June 2007 was deemed a complete application by the City of Toronto; and

Whereas the owner has appealed its proposed amendment to Zoning By-law 438-86 of the former City of Toronto to the Ontario Land Tribunal pursuant to section 34(11) of the Planning Act R.S.O. 1990, c. P.13 on Council's failure or refusal to amend the Zoning By-law Amendment as requested; and

Whereas Council of the City of Toronto on August 27, 2010 enacted Zoning By-law 1174-2010 pursuant to Section 34 of the Planning Act R.S.O. 1990, c. P.13 which amends By-law 438-86 of the former City of Toronto with respect to the Keating Channel Precinct West which includes the owner's lands; and

Whereas The owner has appealed Zoning By-law 1174-2010 pursuant to Section 34 (19) of the Planning Act R.S.O. 1990, c. P.13; and

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

Whereas authority is given to the City pursuant to Section 36 of the Planning Act to include holding zone "h" symbols within a Zoning By-law passed under Section 34 of the Planning Act; and

Whereas authority is given to the City pursuant to Section 37 of the Planning Act to provide for increased height and density in exchange for the provision of facilities, services and matters described in its Official Plan; and

Whereas the Holding provisions of the Zoning By-law may be one of the tools used by Council to monitor and secure the timely delivery of affordable housing, the interpretation of this by-law is clear that in the event of an appeal to the Ontario Land Tribunal to remove a holding symbol, pursuant to section 36(3) of the Planning Act, R.S.O. 1990, c. P.13, as amended, the Tribunal may settle the terms of the section 37 Agreement required for the removal of the Holding Symbol, and/or may amend the by-law to remove the holding symbol without the execution of a settled Section 37 Agreement, should the City neglect or refuse to execute such section 37 agreement after being given a reasonable amount of time to do so; and

Whereas this By-law is an implementation of the City of Toronto Central Waterfront Secondary Plan as contained in Official Plan Amendment 257 to the Official Plan of the former City of Toronto and related consolidated portions of the Official Plan for the City of Toronto for the Central Waterfront which the owner appealed has appealed to the Ontario Land Tribunal pursuant to Section 17(24) of the Planning Act R.S.O. 1990, c. P.13;

Therefore the appeals are allowed in part and By-law 438-86 of the former City of Toronto, as amended, is further amended by the Ontario Land Tribunal as follows:

1. Section 2 of By-law 1174-2010, District Map A is amended to incorporate the conceptual street network including Promenade Road and the woonerf, and block pattern shown on the attached Map A - District Use Map insofar as it affects the property municipally known in the year 2020 as 351 and 369 Lake Shore Boulevard East.
2. Section 3 of By-law 1174-2010, Height and Minimum Lot Frontage Map is amended to incorporate the conceptual street and block pattern shown on the attached Map B - Maximum Heights insofar as it affects the property municipally known in the year 2020 as 351 and 369 Lake Shore Boulevard East.
3. Section 4 of By-law 1174-2010, exception 12(1)(482) is amended by the deletion of the phrase ". . . land in the *Keating Channel Precinct West* . . ." to be replaced with the phrase ". . . the portion of the lands within the *Keating Channel Precinct West* described on Map A and Map B . . ."
4. Section 4 of By-law 1174-2010, exception 12(1)(482)(d)(i) is hereby amended by the deletion of the phrase . . . "Area B". . . from the text and the deletion of the corresponding Table Columns and Rows for Area B embedded therein.
5. Section 4 of By-law 1174-2010, exception 12(1)(482)(d)(iii) is hereby deleted.
6. Section 4 of By-law 1174-2010, exception 12(1)(482) (p)(ii) is hereby amended to delete the references to "Area B".
7. Section 4 of By-law 1174-2010, exception 12(1)(482) (q)(xvii) is hereby deleted.
8. Section 4 of By-law 1174-2010, exception 12(1)(482) (q) (xix) is hereby amended by deletion of the references to Area "B".

9. Map 1, 2, 3, 4 and 5 of By-law 1174-2010 are amended to delete the corresponding geographic area shown as "Area B" on Map 1 on each map.
10. By-law 1174-2010 is hereby amended by the addition of the following new Item 5 which reads as follows:

Pursuant to Section 37 of the Planning Act, R.S.O. 1990, c. P.13, Council may, in a by-law passed by under Section 34 of the Planning Act, authorize increases in height or density of development beyond those otherwise permitted by the by-law in return for the provision of such facilities, services and matters as set out in the by-law. Accordingly, Section 12(1) of By-law 438-86, as amended, is hereby further amended by adding the following exception:

- (505) to prevent the erection of buildings or structures or the use of the portion of the lands within the Keating Channel Precinct Plan West known municipally as 351 and 369 Lake Shore Boulevard East in the year 2021 in accordance with the following provisions:
- (a) the lands subject to this Exception are comprised of the lands net of any streets or highways within the lands delineated by heavy lines on Map 1 of this Exception.

Permitted Uses

- (b) the following uses shall be permitted within a CR district:
- (i) those residential uses permitted within a CR district in section 8(1)(f)(a), and subject to the qualifications in section 8(2), provided that:
- (1) only the qualifications in Section 8(2)1 and 8(2)3 shall apply; and
- (2) the *owner* of the *lot* elects to provide the facilities, services or matters referred to in paragraph (12)(1)(505)(dd) for which Council may require that the *owner* enter into one or more agreement(s) as referred to in sub-paragraph (dd)(i) to secure the implementation or satisfaction of such facilities, services or matters;
- (ii) those non-residential uses permitted within a CR district in section 8(1)(f)(b), and subject to the qualifications in section 8(2) where applicable, except:

- (1) Qualification 8(2)(11)(iii) does not apply, and a *parking station* is permitted subject to the qualifications in 8(2)(11)(i)(ii) and (iv), and provided that a flexible guard rail or fence, a wall, a landscaped barrier or a building containing other permitted uses is erected along the portions of the boundary abutting a street, excluding the portions used for access; and
 - (2) *An automobile service and repair shop, cold storage locker plant, car washing establishment or motor vehicle repair shop, class A* are not permitted;
 - (iii) a *commercial parking garage* of which the floor level, excluding any access ramp is at least 0.9 metres below *grade*;
 - (iv) a *parking garage*;
 - (v) a *district energy, heating and cooling plant* located below finished ground floor level on the lot or wholly contained within a building in which other uses are the primary use, and a vacuum waste collection facility; and
 - (vi) a *sales office*.
- (c) the following uses shall be permitted within a G district:
- (i) those uses permitted within a G and Gm district in section 5(1)(f);
 - (ii) community related uses, playing fields; and
 - (iii) a *temporary open air market*.
- (d) where the zoning for a CR district is followed by an "(h1)" and/or "(h2)" holding symbol, permitted uses prior to the removal of the "(h1)" and/or "(h2)" symbols shall be limited to the following:
- (i) those buildings and structures existing on the lands shown on Map 1 on the date of the passing of the by-law or an addition thereto or new construction on the lands shown on Map 1 not exceeding 130 square metres of *non-residential gross floor area* and those uses that are permitted and existing on the lands shown on Map 1 on May 25, 2022, which may include, but not be limited to, the open storage of vehicles, boats, industrial equipment, aggregates, soil, storage containers, and trailers, and the provision of temporary residences for persons requiring immediate shelter and assistance for a short period;
 - (ii) a *sales office*;

- (iii) a *temporary open air market*;
- (iv) a *commercial parking lot* subject to the requirements of section 8(2)(11); and
- (v) a *parking station* provided that:
 - (1) such use is subject to qualifications in 8(2)(11)(i)(ii) and (iv), and provided that a non-flexible guard rail or fence, a wall, a landscaped barrier or a building containing other permitted uses is erected along the portions of the boundary abutting a street, excluding the portions used for access.

Density

- (e) the maximum combined non-residential gross floor area and residential gross floor area shall not exceed 125,000 square metres of which a maximum of 113,600 square metres of residential gross floor area is permitted. The non-residential gross floor area, residential floor area, or any combination thereof to be erected and used within the North Block, the Central Block and the South Block, identified on Map 1, shall not exceed the amounts shown on the following table:

Block	Maximum Combined <i>Non- Residential Gross Floor Area and Residential Gross Floor Area (square metres)</i>	Maximum <i>Residential Gross Floor Area</i> (square metres)
North Block	48,000	46,000
Central Block, excluding <i>Victory Soya Mills Silos</i>	49,300	46,000
Central Block, <i>Victory Soya Mills Silos</i> only	7,700	0
South Block	23,000	23,000

- (i) Notwithstanding Section 12(1)(505)(e) above, the existing structure known as the "Victory Soya Mills Silo" and any non-residential gross floor area and/or residential gross floor area within the existing Victory Soya Mills Silo structure shall be excluded from the calculation of non- residential gross floor area and/or residential gross floor area.

Height

- (f) No portion of a building above *grade* is located otherwise than wholly within the heavy lines on Map 2 of this Exception.

- (g) No portion of a building shall have a greater *height* in metres than the *height* limits shown on Map 2 of this Exception.
- (h) Notwithstanding subsection (f) and (g) above, one *tower* may be located within each Permitted Tower Area shown on Map 3 of this Exception, in accordance with the following Permitted Tower Area Table, provided that no individual floor within the *tower* portion of a building shall have a *residential gross floor area* or *combined residential gross floor area* or *non-residential gross floor area* in excess of 750 square metres:

Permitted Tower Area Table

	Maximum Permitted Height
Permitted Tower Area A	130 metres
Permitted Tower Area B	151 metres
Victory Soya Mills Silo	70 metres

- (i) Notwithstanding paragraph (12)(1)(505)(h), the residential gross floor area, non-residential gross floor area, or any combination thereof, of any floor located above a height of 38 metres in Permitted Tower Area B may exceed 750 square metres provided it does not exceed 1,000 square metres up to a maximum height of 67 metres and does not exceed 840 square metres up to a maximum height of 103 metres.

Location of Buildings in Relation to "Victory Soya Mills Silo"

- (j) Any building or structure erected on top of the Victory Soya Mills Silo shall be set back a minimum of 1.5 metres measured from the outer most edge of the structure.

Setbacks

- (k) All buildings shall be set back a minimum of 7 metres along the lot line adjacent to Lake Shore Boulevard East.

Upper Level Step backs

- (l) Within the South Block, no building or structure whose main building wall faces lands zoned "G" may exceed a height of 11 metres unless:
- (i) the portion of the building above 11 metres is set back a minimum of 2 metres measured from the outer most building edge, and
 - (ii) the portion of the building above 23 metres is set back a minimum of 3 metres from the outer most building edge.

Separation of Buildings and Structures

- (m) Window separation requirements in section 8(3) Part II 1(a) shall apply except that the minimum distance referred to in section 1 (a)(i) shall be 15 metres and the minimum distance referred to in section 1(a)(ii) shall be 7.5 metres.
- (n) No *non-residential building* or the non-residential portion of a *mixed use building* may be erected or used on the *lot* in which a window in the building is closer than 10 metres to another non-residential building or the *non-residential* portion of a *mixed use building*.
- (o) No *residential building* or the residential portion of a *mixed use building* may be erected or used on the lot in which a window in the building is closer than 15 metres to another *non-residential building* or the non-residential portion of a *mixed use building*.
- (p) The requirements of section 8(3) Part II 1(a) and 12(1)(505)(n), (o) and (p) shall not apply to windows on walls which form an angle of 90 degrees or greater to each other, on a horizontal plane, or to windows of the same *dwelling unit*.
- (q) For the South Block:
 - (i) a minimum separation distance of 12 metres measured from the exterior facing walls is required between the main walls of any building(s) on the same *lot* for a maximum width of 40 percent of the facing distance; and
 - (ii) for the remaining 60 percent width of the facing distance of the same building(s) on the same *lot*, a minimum building(s) separation distance of 15 metres, measured from the exterior walls is required.

Build to Lines

- (r) For a *lot* subject to a Build-To Line as shown on Map 4, no building may be erected or used unless:
 - (i) an exterior face of the building is located no more than 0.5 metres back from the Build-To Line between *grade* and a *height* of 12 metres, for a minimum of 50 percent of the length of the *frontage* of the *lot* identified as a Build-To Line.

Permitted Projections

- (s) Notwithstanding Paragraph (12)(1)(505)(f) and (g) above, the types of structures listed in the column entitled "STRUCTURE" in the following chart are permitted to project beyond the building envelopes shown in Map B and Map 2 and above the *heights* permitted, provided they comply with the restrictions set out opposite the Structure in the column entitled "MAXIMUM PERMITTED HORIZONTAL PROJECTIONS" and "MAXIMUM PERMITTED VERTICAL PROJECTIONS AND OTHER APPLICABLE QUALIFICATIONS":

STRUCTURE	MAXIMUM PERMITTED HORIZONTAL PROJECTIONS	MAXIMUM PERMITTED VERTICAL PROJECTIONS AND OTHER APPLICABLE QUALIFICATIONS
Eaves	1.0 metre	
Cornices, and parapets	1.0 metre	1.2 metres above the permitted height, measured from finished floor
Balconies	2 metres from the wall to which it is attached	
Bay Window	The projection cannot exceed 1.0 metre from the wall to which it is attached	
Patios, uncovered platform	2.0 metres measured from the exterior main building wall	No more than 0.5 metres above finished ground level. Patios for non-residential purposes shall be located between a building and a public street or between a building and a publicly accessible open space
Privacy screens and privacy walls	No restrictions	Height shall be limited to 3.0 metres above the finished ground level and/or 3.0 metres above the finished roof floor and/or balcony

Guardrails, bollards, railings, fences, stairs, stair enclosures, trellises, vertical columns, wheel chair ramps and underground ramps and associated structures, <i>public art</i> , noise, odour and wind mitigation features, elements related to the generation of solar power	No restrictions	No restrictions
Landscape Features/Structures	No restrictions	Height shall be limited to 3.0 metres above finished level
Elevator shaft, heating, cooling or ventilating equipment, including vents and stacks or building maintenance units and window washing equipment on the roof of a building or a fence, wall, screen or structure enclosing such elements, such as a mechanical penthouse.	No restrictions	<p>The maximum height of the top of such elements shall be no higher than the sum of 6.0 metres and the height limit applicable to the <i>lot</i>, with the exception that such elements located on the roof of a tower within a Tower Area as shown on Maps 2 and 3 shall be no higher than 10.0 metres;</p> <p>Where such elements are not located on the roof of a tower within a Tower Area, the aggregate horizontal area of such elements, including the area contained within an enclosure measured at a point above the level of the height limit applicable to the <i>lot</i>, does not exceed 40 percent of the area of roof of the building</p> <p>In addition, window washing equipment and</p>

		building maintenance units with a maximum height of 6.0 metres can be located above the permitted height of a mechanical penthouse of a tower
Awnings, canopies	Permitted to a maximum projection of 3.0 metres beyond the exterior of the wall to which such awnings and canopies are attached.	Must be located below the level of the third storey.
Elements of a roof, green roof and/or green roof assemblies	No restrictions	The maximum height of such elements shall be 1 metre above the roof.
A structure on the roof of building used for outside or open recreation, or safety purposes	No restrictions	The maximum height of the top of such structures is no higher than the sum of 3.0 metres above the roof and the structure shall not enclose the space so as to constitute a form of penthouse or other room or rooms
Chimney stack for a <i>district heating, energy and cooling plant</i> , where permitted in accordance with paragraph (b)(v) which has been approved by the Ministry of the Environment and Climate Change	No restrictions	No restrictions
Pilaster, decorative column, sill, belt course or other similar architectural feature on a building	A maximum of 0.6 metres, provided the structure is no closer to a lot line than 0.3 metres	No restrictions

Enclosed structure on the roof of building to facilitate access to outdoor <i>residential amenity space</i> located on the rooftop, with a maximum <i>gross floor area</i> of 100 square metres.	N/A	The maximum height of such elements shall be 10.0 metres above finished level.
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Parking and Loading

- (t) *Parking spaces* shall be provided on the *lot* in accordance with the following minimum requirements:
- (i) 0.22 resident parking spaces per *dwelling unit*;
 - (ii) 0.06 visitor *parking spaces* per *dwelling unit*;
 - (iii) Notwithstanding subsection (i) and (ii) above, 0 resident and 0 visitor *parking spaces* per *dwelling unit* that is provided as *affordable rental housing*;
 - (iv) 1 *parking space* per 300 square metres of *gross floor area* devoted to office uses;
 - (v) 1 *parking space* per 100 square metres of *gross floor area* devoted to non- residential uses, not including office uses;
 - (vi) *Parking spaces* for all other uses shall be provided in accordance with Section 4(5); and
 - (vii) Required visitor *parking spaces* may be shared with non-residential uses and may be used commercially for profit.
- (u) The minimum number of residential visitor and non-residential *parking spaces* required shall be determined as follows:
- (i) for each of the morning, afternoon and evening parking periods, the minimum number of parking spaces required for each use is calculated using the respective parking space rate identified in (t) and occupancy rate outlined in the following chart:

Use	Parking Occupancy Rate		
	Morning	Afternoon	Evening
Residential visitor	10 percent	35 percent	100 percent
Office	100 percent	60 percent	0 percent
Non-residential uses, not including office uses	20 percent	100 percent	100 percent
Other uses	As per Section 4(5) Schedule 1		

- (ii) the minimum number of *parking spaces* required for each parking period is the total of the parking spaces required for all uses during that parking period; and
- (iii) the minimum number of *parking spaces* required for the lot is equal to the largest number of parking spaces required for any parking period.
- (v) The total minimum number of *parking spaces* required on the lot may be reduced at a rate of 1 parking space for each 5 *bicycle parking spaces* provided in excess of the minimum number of bicycle parking spaces required if the reduction of vehicle parking spaces is not greater than 20 percent of the total minimum vehicle parking spaces required.
- (w) For each *car share parking space* provided on the *lot*, the minimum number of resident parking spaces required for residents pursuant to subsection (t)(i) above may be reduced by four *parking spaces*, up to a maximum reduction as calculated by the following formula: 4 x (the total number of *dwelling units* on the lot divided by 60), rounded down to the nearest whole number.
- (x) Accessible parking spaces shall be provided if the total *parking space* requirement is 5 or more spaces, in compliance with the following:
 - (i) if the number of required *parking spaces* is 5 to 24, a minimum of 1 *parking spaces* must comply with the minimum dimensions for an accessible parking space;
 - (ii) if the number of required *parking spaces* is 25 to 100, a minimum of 1 *parking space* for every 25 *parking spaces* or part thereof must comply with the minimum dimensions for an accessible parking space; and

- (iii) if the number of required *parking spaces* is more than 100, a minimum of 4 *parking spaces* plus 1 *parking space* for every 50 *parking spaces* or part thereof in excess of 100 *parking spaces*, must comply with the minimum dimensions for an accessible *parking space*;
- (y) If the calculation of the number of required *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number, but there may not be less than 1 *parking space*.
- (z) A *parking space* must have the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 2.6 metres; and
 - (iii) vertical clearance of 2.0 metres.
- (aa) Notwithstanding (z) above, a maximum of 5 percent of the required *parking spaces* can be obstructed.
- (bb) An accessible *parking space* must have the following minimum dimensions:
 - (i) length of 5.6 metres;
 - (ii) width of 3.9 metres; and
 - (iii) vertical clearance of 2.1 metres.
- (cc) Loading facilities shall be provided in accordance with section 4(8).
- (dd) Bicycle parking shall be provided in accordance the following:
 - (i) a minimum of 0.1 *bicycle parking spaces visitor* shall be provided per *dwelling unit*;
 - (ii) a minimum of 0.9 *bicycle parking spaces occupant* shall be provided per *dwelling unit*;
 - (iii) the minimum number of *bicycle parking spaces visitor* required for all other non-residential uses shall be 3 spaces plus 0.3 *bicycle parking spaces* for each 100 sq. metres of interior floor area; and
 - (iv) the minimum number of *bicycle parking occupant* for all other non- residential uses shall be 0.2 spaces for each 100 sq. metres of interior floor area.

- (ee) Notwithstanding (dd) above, *bicycle parking* may be located as follows:
- (i) On the ground floor up to second floor and on all levels below *grade*; and
 - (ii) Entry to the bicycle parking area does not need to be within 30 metres of the residential entrance.
- (ff) Except for the north face of the building on the north block, the portions of any other building used for parking of motor vehicles at or above finished ground floor level, excluding driveway entrances and exits, shall be recessed a minimum of 7.5 metres from the exterior walls of the building and the area within the 7.5 metres shall be occupied by another permitted use other than the parking of motor vehicles.

Sales Office

- (gg) Where a building or structure is erected and is used only for the purposes of a sales office, the provisions of sub-paragraph (r), as it pertains to the required Build-To Line, shall not apply to that building or structure.

Residential Amenity Space

- (hh) *Residential amenity space* shall be provided in accordance with section 4(12), except that:
- (i) indoor and outdoor *residential amenity space* for a building on a *lot* shall be provided at a combined rate of 3 square metres per *dwelling unit* for the first 100 *dwelling units* and at a rate of 2 square metres per dwelling unit thereafter;
 - (ii) indoor *residential amenity space* for a building on a *lot* shall be provided at a rate of 2 square metres per *dwelling unit* for the first 100 *dwelling units* and at a rate of 1 square metre per dwelling unit thereafter;
 - (iii) Required indoor *residential amenity space* may be provided in a room or rooms which are not contiguous;
 - (iv) Indoor *residential amenity space* required for a building on the *lot* may be provided within another building on the *lot* or on an abutting parcel of land provided that there is an interior connection between buildings at *grade* or above *grade*; and
 - (v) *residential amenity space* shall be required only for buildings containing 20 or more *dwelling units* which are not grade related and where access to all such *dwelling units* is by means of a common internal corridor.

Ground Floor Animation Areas

- (ii) no building or structure on a *lot* subject to a Ground Floor Animation Area requirement as shown on Map 5 may be erected or used unless:
 - (i) at least 70 percent of the length of the main exterior building wall of each portion of a building subject to a Ground Floor Animation Area on Map 5 is used for no purpose other than *ground floor animation uses*; and
 - (ii) no *dwelling unit* is located on the ground floor unless one or more other permitted uses are provided, in an enclosed structure, between any part of the building containing a *dwelling unit* and a frontage identified as a Ground Floor Animation Area.

Unit Breakdown

- (jj) Not less than 10 percent of all *dwelling units* within a phase, not including *affordable rental housing dwelling units*, must be three bedroom *dwelling units*, to be comprised as follows:
 - (i) a minimum of 5 percent of the total number of *dwelling units* within a phase shall be designed as three bedroom *dwelling units* in compliance with the provisions of the Ontario Building Code. The *dwelling units* will be shown on all marketing plans as three bedroom *dwelling units* and will be marketed as potential three bedroom *dwelling units*. In the event that these *dwelling units* are part of a condominium, they may be sold and/or constructed with fewer bedrooms provided that provision is made in the condominium documentation to permit the conversion of such *dwelling units* to three bedroom *dwelling units*. In the event that these *dwelling units* are part of a rental building, they may be constructed and/or rented with fewer bedrooms provided that they are capable of conversion to three bedroom *dwelling units*; and
 - (ii) a minimum of 5 percent of the total number of *dwelling units* within a phase shall be designed and constructed as three bedroom *dwelling units* as follows:
 - (1) a maximum of 40 percent of such three bedroom *dwelling units* (or 2 percent of the total number of *dwelling units*, not including *affordable rental housing dwelling units*) shall be constructed to a minimum unit size of 80 square metres, with no more than 1 of the 3 bedrooms being an interior bedroom with no window on an exterior wall, provided such bedroom complies with the Ontario Building Code; and

- (2) a minimum of 60 percent of such three bedroom *dwelling units* (or 3 percent of the total number of dwelling units, not including *affordable rental housing dwelling units*) shall be constructed to a minimum unit size of 88 square metres, and shall not contain an interior bedroom with no window on an exterior wall, such that all 3 bedrooms shall have windows on an exterior wall; and
- (iii) notwithstanding Sections (12)(1)(505)(jj)(ii)(1) and (2) above, if a higher percentage of three bedroom *dwelling units* is provided in a phase than is required by subparagraphs (i) or (ii) above, any surplus of three bedroom *dwelling units* can be applied to satisfy this requirement in future phases of the development within the *lot*.
- (kk) Not less than 15 percent of all *dwelling units* in a phase, not including *affordable rental housing dwelling units*, must be two bedroom *dwelling units*.
- (ll) Not less than 10 percent of all *affordable rental housing dwelling units* in a phase must be three-bedroom *dwelling units* and not less than 15 percent all *affordable rental housing dwelling units* in a phase must be two-bedroom *dwelling units*.

Section 37 of the Planning Act

- (mm) Pursuant to section 37 of the Planning Act, the provision of *gross floor area* in a development is permitted to the limits set out in this Exception in return for the provision by the *owner* and at the *owner's* expense of the facilities, services and matters set out in paragraphs (nn), (oo), (pp) and (qq) of this Exception and the Appendices hereof which Appendices form part of this Exception 12(1)(505), subject to and in accordance with the agreement(s) referred to in this paragraph constituted and/or governed as follows:
 - (i) prior to the issuance of the first *Building Permit* for any building on the *lot*, the *owner* shall have entered into the *Master Section 37 Agreement* with the City, and such agreement shall have been registered on title to the *lot*, which agreement has secured the section 37 contributions of paragraphs (nn), (oo), (pp) and (qq) and the Appendices and may provide for indexing of financial contributions, procedures to implement delivery of *affordable rental housing* requirements, indemnity, insurance, GST, termination and unwinding and registration and priority of agreement;

- (ii) issuance of an above *grade building permit* for any building or structure shall be dependent upon satisfaction of the provisions in this Exception and any applicable section 37 Agreement relating to *Building Permit* issuance, including the provision of any monetary payments and financial securities; and
 - (iii) upon execution and registration of an agreement or agreements with the *owner* pursuant to section 37 of the Planning Act securing the provision of the facilities, services and matters set out in this Exception and in the Appendices hereof, the site is subject to the provisions of this Exception, provided that in the event that the said agreement(s) requires the provisions of a facility, service or matter as a precondition to the issuance of a *Building Permit*, the *owner* may not erect or use such building until the *owner* has satisfied the said requirement.
- (nn) The *owner* shall provide for the equivalent of 20 percent of all residential gross floor area as affordable rental housing through the provision of dwelling units, delivered in accordance with the Appendices and with the following:
- (i) The provision and maintenance on the *lot* of not less than 6.5 percent of the total amount of residential gross floor area of the development as *affordable rental housing* and maintained with *affordable rents* for a term of not less than 99 years; or
 - (ii) The provision and maintenance on the lot of:
 - (1) not less than 6.5 percent of the residential gross floor area for either the North Block and South Block, or the Central Block and South Block, as *affordable rental housing* and maintained with *affordable rents* for a term of not less than 99 years; plus
 - (2) not less than 10 percent of the residential gross floor area for the remaining Block, being either the North Block or Central Block, as *affordable rental housing* for a term of not less than 25 years and maintained with *affordable rents* for a term of not less than 15 years; provided that:
 - (3) for the purpose of calculating the *affordable rental housing* requirements above, the residential gross floor area consists only of residential gross floor area attributable to dwelling units;

- (4) if *affordable rental housing* is provided on a given Block in an amount that exceeds the minimum amount identified in sub- clauses (1) or (2) above, such advanced *affordable rental housing* contributions shall reduce the *affordable rental housing* obligations on other Block(s) in the manner set out in the *Master Section 37 Agreement* such that less than 6.5 percent or 10 percent, as the case may be, of the residential gross floor area may be required to be provided on any given Block as *affordable rental housing*.
- (oo) The *affordable rental housing* units shall be provided on a timely basis at least commensurate with the rate of construction of the residential gross floor area that is not *affordable rental housing*, or as otherwise provided for in the Appendices of this Exception, however, where the required *affordable rental housing* is provided in an earlier phase of the development, the *owner* may be required to provide *affordable rental housing* units in a later phase of the development in the event the total percentage of affordable rental housing required for the development has not been achieved.
- (pp) The erection and maintenance in building(s) within a phase of development of not less than 5 percent of all ownership *dwelling units* with the following size restrictions:
- (i) A maximum *residential gross floor area* of 46.5 square metres for a bachelor dwelling unit;
 - (ii) A maximum *residential gross floor area* of 60.4 square metres for a one- bedroom dwelling unit;
 - (iii) A maximum *residential gross floor area* of 79 square metres for a two bedroom dwelling unit;
 - (iv) A maximum *residential gross floor area* of 93 square metres for a three bedroom dwelling unit;
 - (v) A maximum *residential gross floor area* of 120 square metres for a two bedroom *rowhouse/rowplex*; and
 - (vi) A maximum *residential gross floor area* of 135 square metres for a three bedroom *rowhouse/rowplex*.
- (qq) Matters related to the site plan application, public art, daycare contribution, heritage and the pedestrian easement shall be secured in accordance with Appendix 1.

Holding Symbol

- (rr) The "(h1)" symbol may be removed from any portion of the area of lands covered by this exception in accordance with this paragraph and such portion will be considered a phase of development.

Lands zoned with the "(h1)" symbol shall not be used for any purpose other than as provided in paragraph (d) above until the "(h1)" symbol has been removed. An amending by-law to remove the "(h)" symbol in whole or in part, and in respect of specific uses, shall be enacted by City Council when the following conditions have been addressed by the *owner* at the *owner's* sole expense to the satisfaction of Council:

- (i) The *owner* has demonstrated to the satisfaction of Council that all infrastructure and servicing requirements necessary to accommodate development of the *lot* and that all necessary transportation, servicing and infrastructure improvements necessary to serve development of the *lot* for any phase have been secured and/or shall be provided;
- (ii) All flood remedial works are complete and deemed functional to the satisfaction of the City, the Toronto and Region Conservation Authority, the Province and any other applicable regulatory body, or:
- (1) occupancy of new buildings can be legally controlled to the satisfaction of the City, the Toronto and Region Conservation Authority (TRCA), the Province and any other applicable regulatory body until the required flood remedial works are complete and functional from a floodplain management perspective;
 - (2) Building Code requirements can be met to the satisfaction of the Chief Building Official; and
 - (3) risks to life and property are adequately addressed to the satisfaction of the City and the TRCA and any other applicable regulatory body;
- (iii) The *owner* has provided a phasing plan which addresses:
- (1) the sequencing of development phases, and
 - (2) the timing of, the provision of and the allocation of infrastructure and services required to develop the lot which may include various agreement(s) pursuant to the Development Charges Act;

- (iv) The *owner* has provided a streets and block plan satisfactory to the City demonstrating how the development proposed for any phase provides for new streets and blocks in relation to the existing and proposed system of streets which among other matters will include an implementation scheme which addresses:
 - (1) the manner in which the *owner* will secure land for conveyance to the City for the extension of Queens Quay East which may include further agreement(s) pursuant to the Expropriations Act;
 - (2) the manner in which a plan of subdivision, or such other arrangements satisfactory to Council, will provide for the dedication of land sufficient for the *owner's* share for the laying out of new streets, other than the extension of Queens Quay East, as are required to serve development on the *lot* which may include cost sharing arrangements among the owners and the City for the construction of such streets; and
 - (3) the manner in which the *owner* will provide any requested or required widening of Lake Shore Boulevard East;
- (v) The *owner* has submitted a complete application for Site Plan approval pursuant to section 114 of the City of Toronto Act including, *inter alia*, the requirements listed in Paragraph 5 of Appendix "1" hereto;
- (vi) The site plan application is reviewed and commented upon by the Waterfront Toronto Revitalization Corporation Design Review Panel or successor design review panel;
- (vii) The execution by the *owner* of a *Phase-Specific Section 37 Agreement* if required to secure any of the above subparagraphs;
- (viii) In the case of lands proposed for residential uses, and where *affordable rental housing* delivery is required for that portion of the lands, the execution by the *owner* of a *Phase-Specific Section 37 Agreement*, including the phase specific timely delivery requirements and implementing as necessary the *Master Section 37 Agreement* for the purpose of securing the affordable rental housing requirements of this Exception; and

- (ix) The *owner* has submitted supporting materials describing how *dwelling units* for *affordable rental housing* and which demonstrates how the *affordable rental housing* requirements of this Exception including the Appendices and the *Master Section 37 Agreement* are being met. Such materials will include all necessary information to permit the proposal to be reviewed by the City for this purpose, and when accepted, to be secured in a *Phase-Specific Section 37 Agreement*, constituted as follows:
- (1) A Housing Issues Report with information that:
- (A) identifies the details of how the *affordable rental housing* requirements will be provided and otherwise addresses the requirements of paragraph (nn);
- (B) identifies the order of development of all the land parcels subject to the by-law to remove the “(h1)” symbol, in order to meet the requirements for timely provision of this Exception’s requirements for affordable rental housing; and
- (C) describes the achievement of any previous *affordable rental housing* requirements for any of the lands in this Exception that were the subject of a previous by-law to remove the “(h1)” symbol, and a projection for how any *affordable rental housing* requirements remaining after the development of the lands subject to the current by-law to remove the “(h1)” symbol will be met;
- (2) Where *affordable rental housing* is being provided sufficient information provided pursuant to this paragraph to illustrate and detail, the number, location, unit mix, sizes and layouts of the units, and all related facilities;
- (x) Where *affordable rental housing* is to be provided in the form of *dwelling units*, the provision of drawings and/or plans for such dwelling units illustrating the following characteristics:
- (1) A unit mix, by number of bedrooms, similar to the unit mix of the proposed market housing on the *owner*’s lands, or slightly different proportion of units with a higher number of bedrooms, a reasonable range of sizes, location and functional layout of each of the unit types;

- (2) Related facilities including storage lockers, car parking, bicycle parking, laundry facilities, indoor and outdoor amenity space and such other facilities as are typically secured by the City for private market rental units; and
 - (3) The provision of an appropriate recreational and *residential amenity space* on site as are typically secured by the City for private market rental units, and reasonable accessibility to the public realm and related facilities and community amenities.
- (ss) Lands zoned with the "(h2)" symbol within a portion of the Central Block shall not be used for any purpose other than as provided in paragraph (d) above until the "(h2)" symbol has been removed. An amending by-law to remove the "(h2)" symbol in whole or in part, and in respect of specific uses, shall be enacted by City Council when the implementation of the following conditions at the *owner's* sole expense have been secured to the satisfaction of Council:
- (i) A Heritage Impact Assessment has been prepared to the satisfaction of the Chief Planner which provides for the conservation and adaptive re- use of the *Victory Soya Mills Silo* structure and addresses, at a minimum, the following:
 - (1) repairs to the concrete exterior;
 - (2) potential openings in the *Victory Soya Mills Silo* structure at *grade* level to provide for *ground floor animation uses*;
 - (3) potential addition of *residential gross floor area* in a structure above the existing *Victory Soya Mills Silo* structure, including provision of access to such *residential gross floor area*, either within the *silos flutes* or by means of exterior elevators and stairways; and
 - (4) potential public art installation within the *silos flutes*;
 - (ii) Upon lifting of the "h2" symbol, a maximum of 7,662 square metres of *non-residential gross floor area* shall be permitted on the associated portion of the Central Block. The 7,662 square metres is included in the *gross floor area* figures specified in paragraph (e).
- (tt) Notwithstanding paragraphs (d), (rr) and (ss), nothing in this Exception will prevent the issuance of a Building Permit for excavation or shoring on the lands zoned with the "(h1)" symbol or the "(h2)" symbol.

- (uu) In the event of an appeal to the Ontario Land Tribunal to remove a holding symbol, pursuant to section 36(3) of the Planning Act, R.S.O. 1990, c. P.13, as amended, nothing in this Exception will prevent the Tribunal from settling the terms of the Section 37 Agreement required for the removal of the Holding symbol, and/or to amending the by-law to remove the holding symbol without the execution of a settled Section 37 Agreement and to settle the plans called for under sub-paragraph (rr)(x) should the City neglect to or refuse to execute such Section 37 Agreement after being given a reasonable amount of time to do so.

Definitions

- (vv) For the purposes of this exception, each word or expression that is italicized in this exception shall have the meaning as each such word or expression as defined in said By-law 438-86, as amended, except for the following or where otherwise defined in this Exception:
- (i) "*affordable rental housing*" means *dwelling units with affordable rents*, which are rented or available for rent pursuant to the Residential Tenancies Act, but does not include a condominium-registered unit or a life-lease or co-ownership as defined in c.667 of the Toronto Municipal Code;
 - (ii) "*affordable rents*" means rents where the total monthly shelter cost (gross monthly rent including utilities - heat, hydro and water- but excluding parking and cable television charges) is initially at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation, and subject only to annual increases which do not exceed any guideline therefor published by the Province of Ontario and, if applicable, permitted above-guideline increases;
 - (iii) "*bicycle parking space occupant*" means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles, and:
 - (1) where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of 1.9 metres;
 - (2) where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance from the wall of 1.2 metres; and

- (3) where the bicycles are to be parked in a bicycle stacker, has a minimum width of 0.45 metres and minimum vertical clearance of 1.2 metres;
- (iv) "*bicycle parking space visitor*" means an area that is equipped with a bicycle rack, locker or *bicycle stacker* for the purpose of parking and securing bicycles, and:
 - (1) where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension of at least 1.9 metres;
 - (2) where the bicycles are to be parked in a vertical position, has a minimum length or vertical clearance of 1.9 metres, a minimum width of 0.6 metres and a minimum horizontal clearance from the wall of 1.2 metres;
 - (3) where bicycles are to be parked in a bicycle stacker, has a minimum width of 0.45 metres and minimum vertical clearance of 1.2 metres; and
 - (4) may be located outdoors or indoors and may be located in a secured and/or unsecured area;
- (v) "*bicycle stacker*" means a device whereby a bicycle parking space is positioned above or below another parking space and is accessed by means of an elevating device;
- (vi) "*Building Permit*" means a permit to construct a building or structure, or any part thereof, pursuant to Section 8 of the Building Code Act, 1992, S.O. 1992, c23, as amended, superseded or replaced from time to time, including, but not limited to, excavation, shoring, and building permits but shall not include any such permit issued in respect of a *sales office*;
- (vii) "*car share motor vehicle*" means a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the *lot*;
- (viii) "*car share parking space*" means a *parking space* that is provided exclusively for the use of vehicles that are used exclusively for the parking of a *car share motor vehicle*;

- (ix) "*district energy, heating and cooling plant*" means a building or structure that is used for production, upgrading, and/or storage of thermal energy at one or more linked locations and then is distributed to the users;
- (x) "*first floor*" means the floor of the building, other than an area used for parking, that is closest in elevation to the adjacent finished ground floor level;
- (xi) "*grade*" means 77.6 metres Canadian Geodetic Datum;
- (xii) "*ground floor*" means the first floor of a building or structure above *grade*;
- (xiii) "*ground floor animation uses*" shall have the same meaning as the expression *street-related retail and service uses*, except that, in addition to those uses listed in sections 8(1)(f)(b)(i), (ii), and (iv), an *artist's or photographer's studio*, or a *custom workshop* and an entrance to a residential building shall also be permitted;
- (xiv) "*height*" means the vertical distance between the *grade* and the highest point of the roof, building, structure or element;
- (xv) "*lot*" is as defined in Section (2) insofar as pertains to parcels of land existing or created within the lands shown on Map 1 net of any *street*;
- (xvi) "*Master Section 37 Agreement*" means an agreement pursuant to Section 37 of the Planning Act entered into for the purposes of paragraph (mm)(i) of this Exception;
- (xvii) "*owner*" means the owner of the parcels of lands shown on Map 1 and/or the owner of the lot or any part thereof;
- (xviii) "*Parking space*" means an area used for the parking or storing of a motor vehicle;
- (xix) "*Phase-Specific Section 37 Agreement*" means an agreement pursuant to Section 37 of the Planning Act entered into for the purposes of paragraph (rr) of this Exception and shall be limited to the implementation and elaboration of this Exception set out in the *Master Section 37 Agreement*;
- (xx) "*public art*" is a public art contribution provided in accordance with the requirements of Appendix "1" hereto;

- (xxi) "*sales office*" means a building, structure, facility or trailer, or part thereof, that is used as sales pavilion or construction office for the purposes of marketing, sales and other functions related to a building or buildings that will be constructed on the lands shown on Map 1 subject to this exception;
- (xxii) "*silo flutes*" refers to the cylindrical shape of each of the individual silos, which together form the "*Victory Soya Mills Silo*" located on the site known municipally in 2018 as 351 Lake Shore Boulevard East;
- (xxiii) "*Site Plan Application*" means an application for the approval of plans and drawings pursuant to Section 41(4) of the Planning Act, as amended or Section 114 the City of Toronto Act, 2006, as is applicable; and
- (xxiv) "*temporary open air market*" means an area where goods, wares, merchandise, substances, articles or things are offered for retail sale on a temporary basis and not a permanent building or structure.

(ww) Despite any existing or future severance, partition, or division of the lands shown on Map 1, the provisions of this Exception shall apply to the whole of the lands shown on Map 1 as if no severance, partition or division occurred.

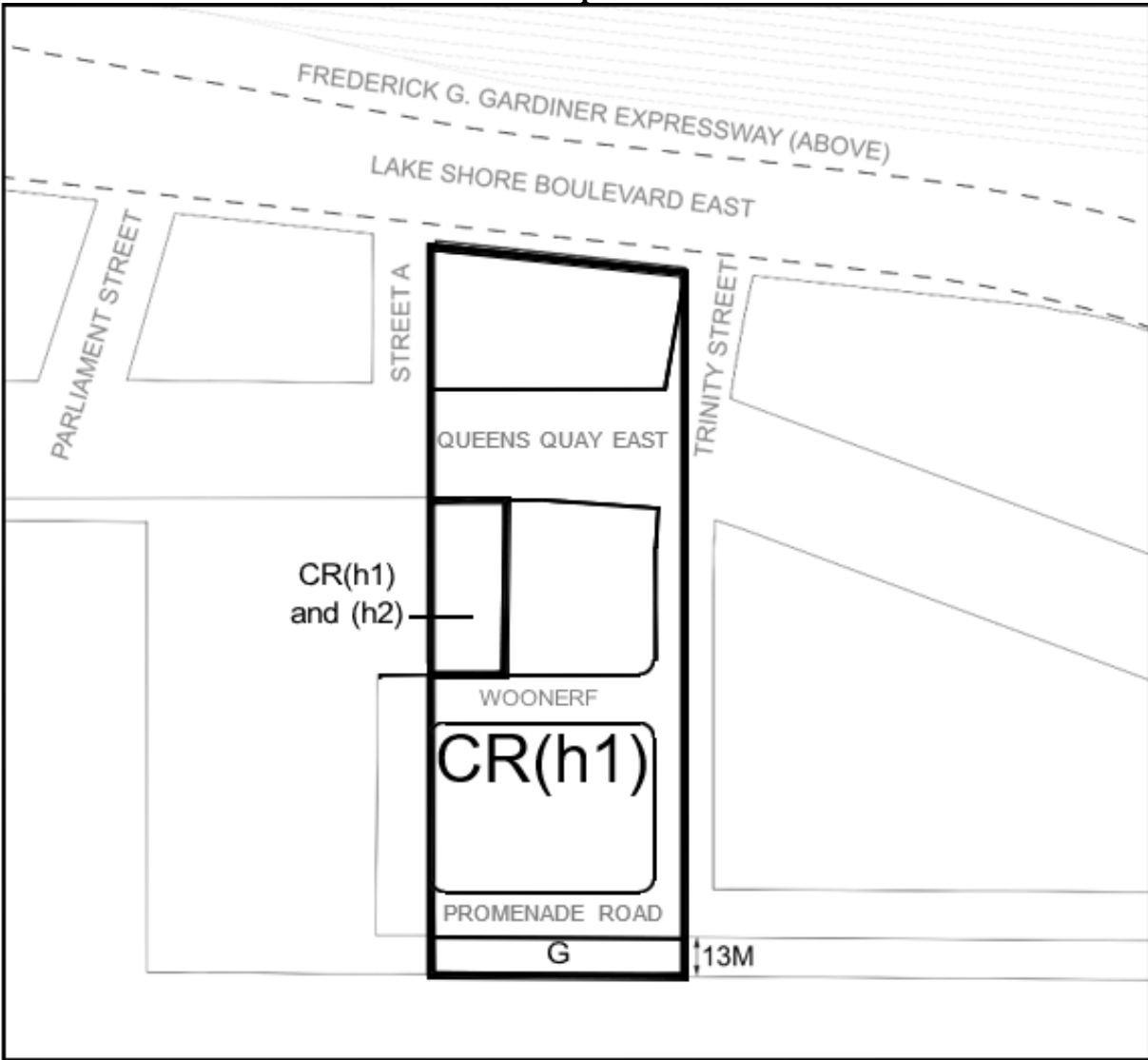
11. By-law 1174-2010 is hereby amended by the addition of:

- (a) Map 1 - Lands Subject to (Exception 505);
- (b) Map 2 - Permitted Building Envelopes (Exception 505);
- (c) Map 3 – Permitted Tower Areas (Exception 505);
- (d) Map 4 - Build-To Line (Exception 505);
- (e) Map 5 - Ground Floor Animation Areas (Exception 505);
- (f) Appendix “1” - Section 37 Provisions (Exception 505);

all of which pertain to and form part of Exception 12(1)(505).

Pursuant to the Ontario Land Tribunal Decision issued on May 19, 2021 and Order issued on May 25, 2022, in Tribunal Case OLT-22-002674 (formerly PL101093).

Map A



351 & 369 Lake Shore Boulevard East, Toronto

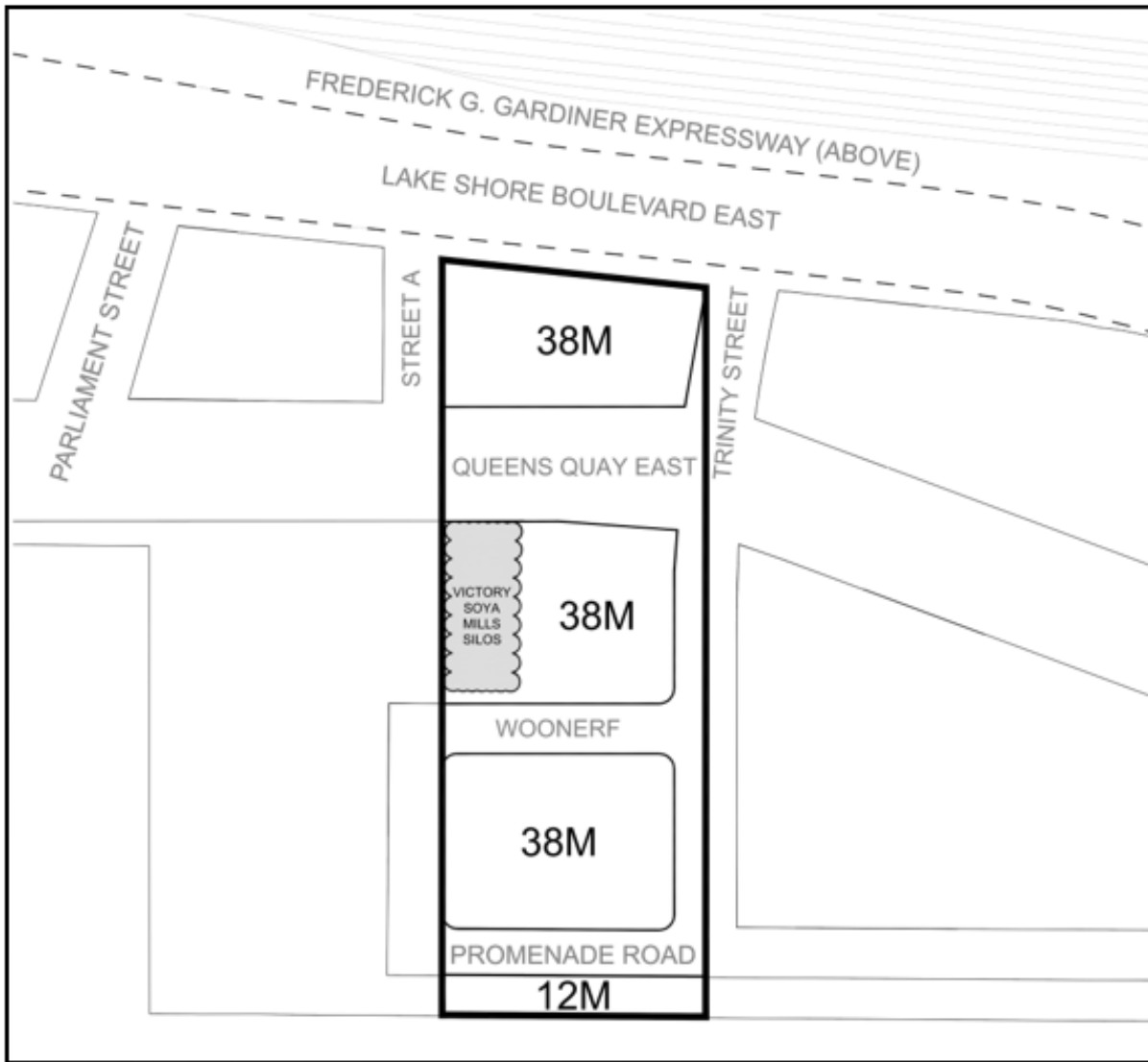
Map A - District Use Map

File #07 143093 STE 28 OZ



Not to Scale

Map B



351 & 369 Lake Shore Boulevard East, Toronto

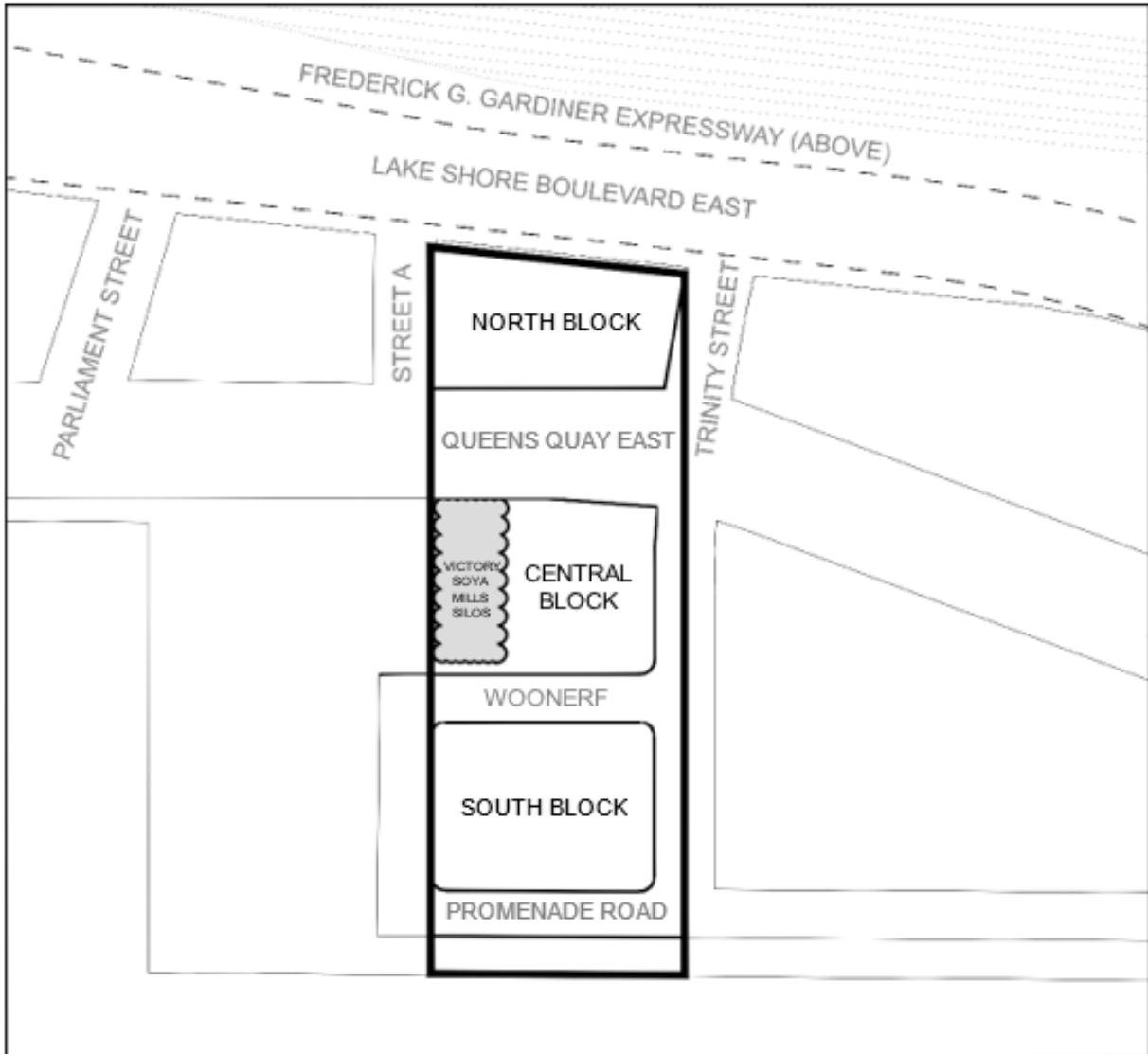
Map B - Maximum Heights

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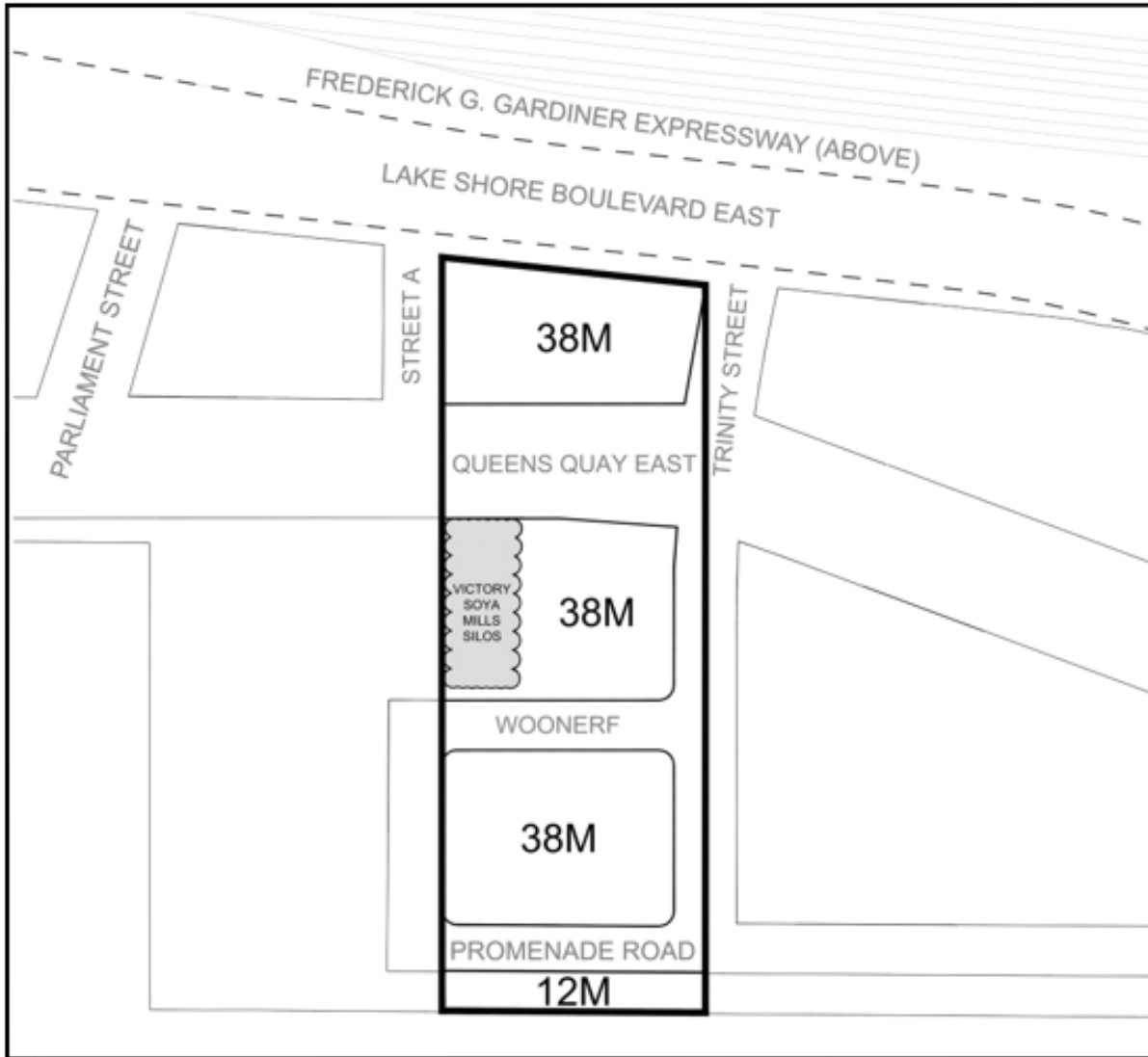


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Map 1



Map 2



351 & 369 Lake Shore Boulevard East, Toronto

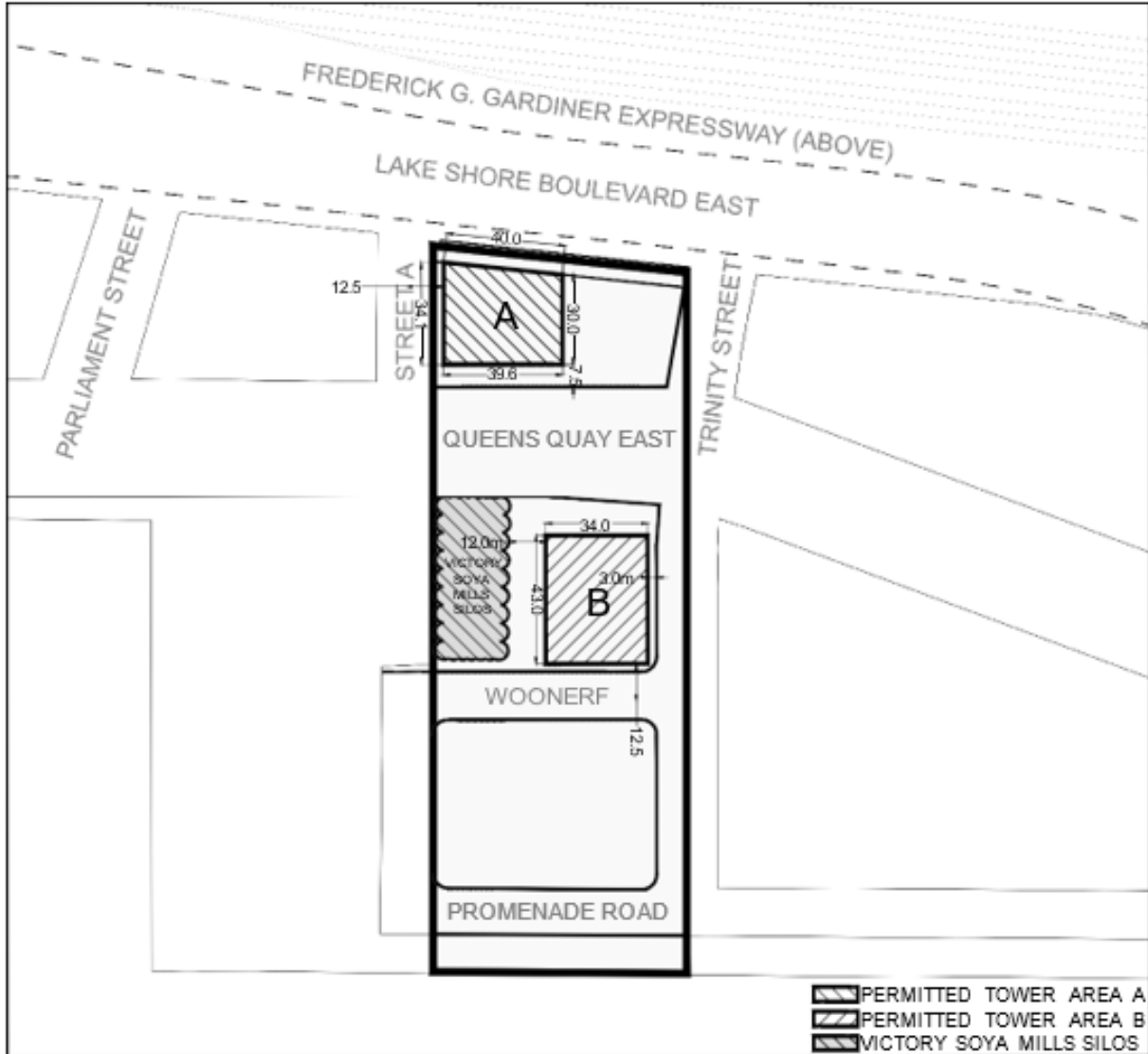
Map 2 - Permitted Building

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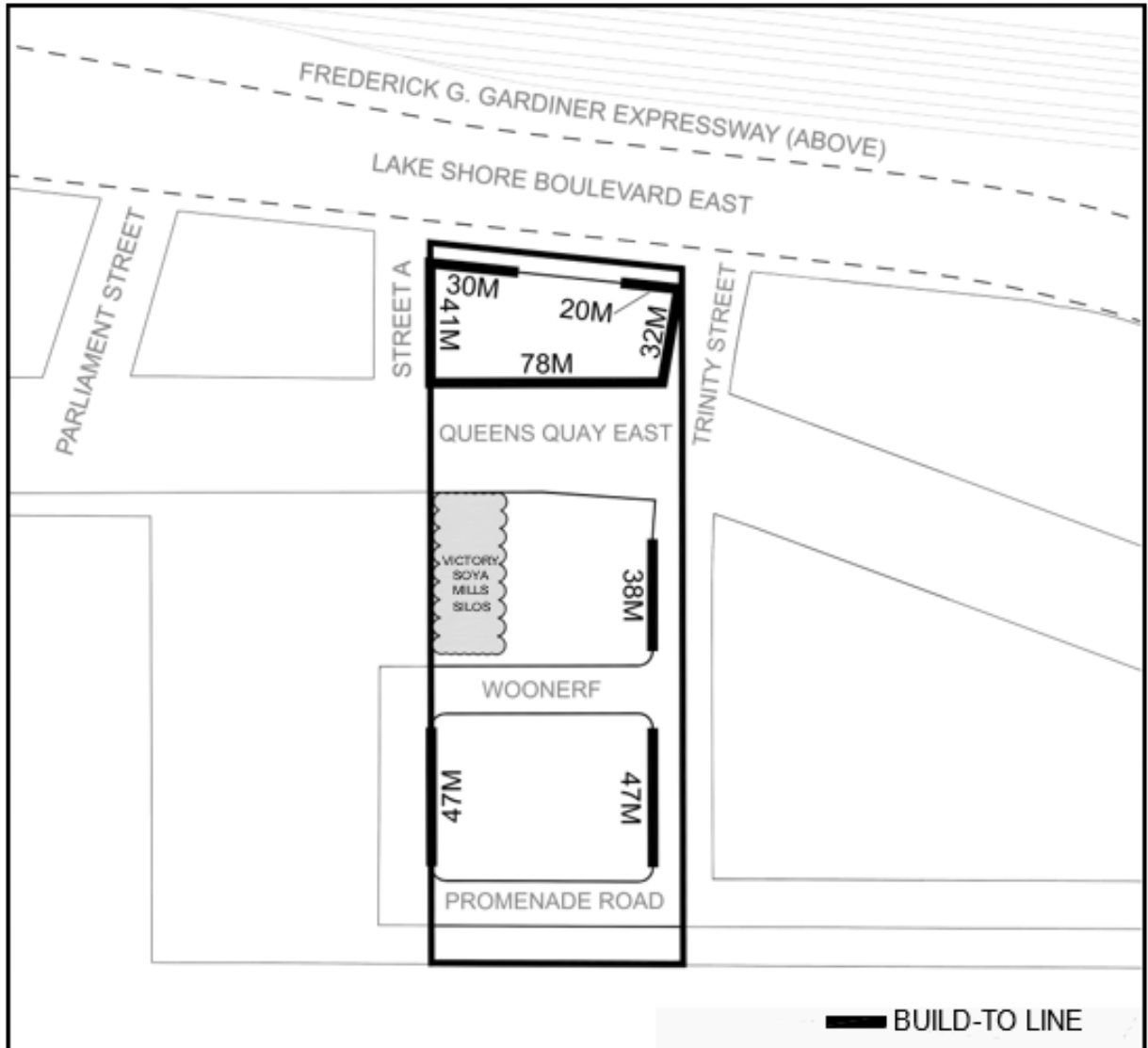


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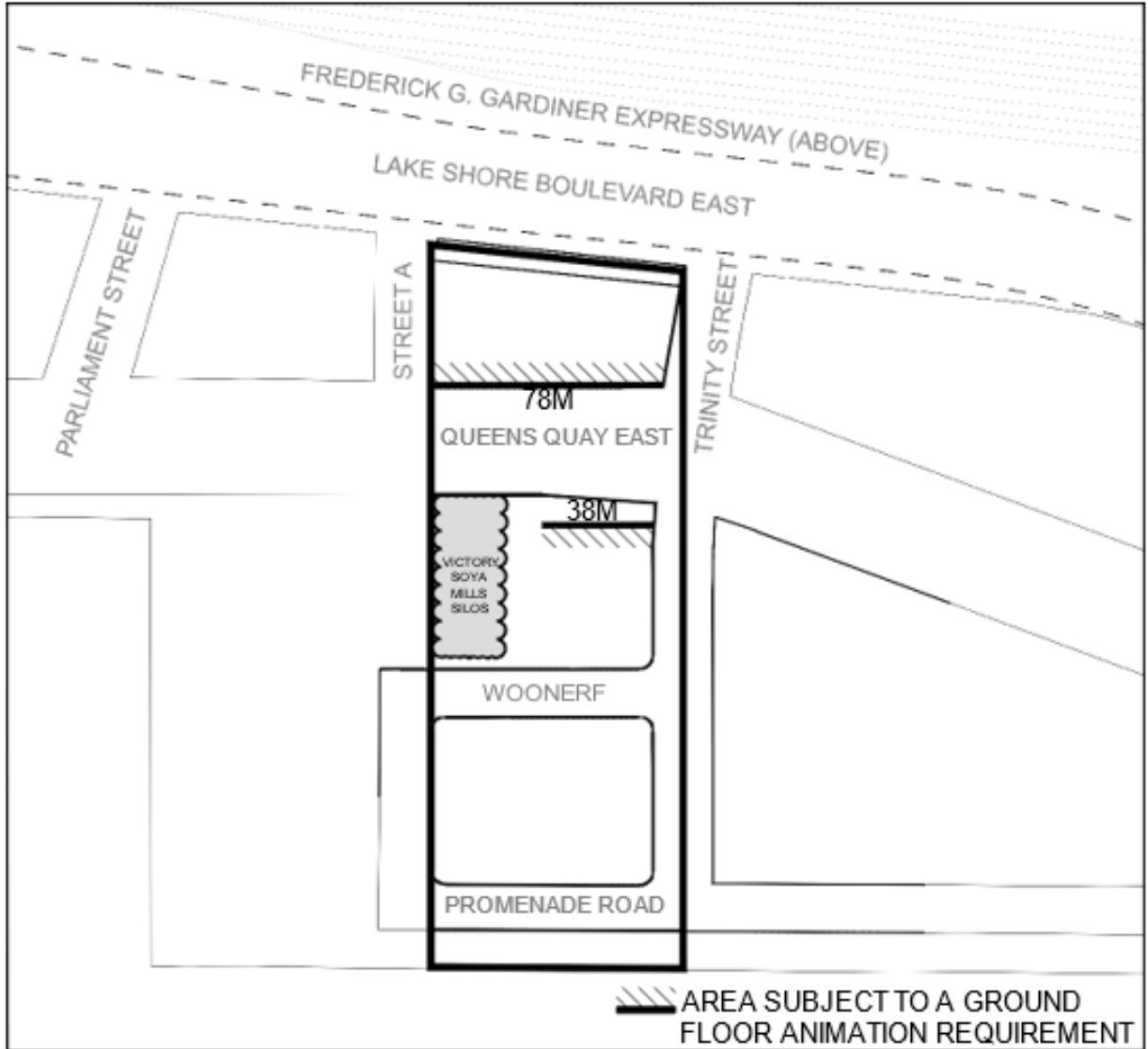
Map 3



Map 4



Map 5



APPENDIX "1"

SECTION 37 PROVISIONS - TO EXCEPTION 12(1)(505)

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the owner of the *lot*, at its expense, pursuant to Section 37 of the Planning Act, subject to and in accordance with agreement(s) pursuant to section 37 of the Planning Act which the City may require and which shall be provided in a form satisfactory to Council to secure the implementation or satisfaction of such facilities, services or matters:

Affordable Rental Housing

1. For the purposes of this Appendix 1:
 - (a) The "North Block" shall mean the portion of the lands shown on Map 1 that is north of the future extension of Queens Quay East, net of streets;
 - (b) The "Central Block" shall mean the portion of the lands shown on Map 1 that is south of the future extension of Queens Quay East and north of the new Woonerf;
 - (c) The "South Block" shall mean the portion of the lands shown on Map 1 that is south of the new Woonerf; and
 - (d) Each of the North Block, the Central Block, and the South Block shall constitute a "Block".

Provision of Dwelling Units

2. Where delivery of *affordable rental housing* is being provided by the owner based on a duration of 15 years as set out in paragraph (nn) of this Exception, then the owner shall provide and maintain the *affordable rental housing* in accordance with the following provisions:
 - (a) The *dwelling units* provided as *affordable rental housing* shall remain as rental housing for a period of at least 25 years, with no application for demolition without replacement, or for condominium registration or any conversion to any non-rental housing purposes;
 - (b) *Affordable rents* shall be charged to tenants who occupy a *dwelling unit* in the *affordable rental housing* during the first 15 years of its occupancy, subject to subparagraphs 2(c) and (d) of this Appendix such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type, and, upon turn-over, the rent charged to any new tenant shall not exceed the initial rent, increased annually by the provincial rent guideline and any above-guideline increase, if applicable, and over the course of the 15 year period, annual increases shall not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases;

- (c) Rents charged to tenants who first occupied a *dwelling unit* in the *affordable rental housing* during the first 10 years of the building's occupancy, and who continue to occupy such *dwelling unit* after the expiry of the 15 year period as set out in subparagraph 2(b) of this Appendix shall continue to be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, until the tenant has completed 10 full years of occupancy. Subsequently, such rents may rise to full market rates over 3 years with annual raises which are approximately equal, provided that no such phase-in to unrestricted market rents can commence before the expiry of the 15 year period set out in subparagraph 2(b) of this Appendix;
 - (d) Rents charged to tenants who first occupied a *dwelling unit* in the *affordable rental housing* during the 11th to 15th year after the initial occupancy of such *dwelling unit*, and who continue to occupy such *dwelling unit* after the expiry of the 15 year period as set out in sub-paragraph 2(b) of this Appendix shall continue to be subject only to annual increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, until the tenant has completed 7 full years of occupancy. Subsequently such rents may rise to full market rates over 3 years with annual raises which are approximately equal, provided that no such phase-in to unrestricted market rents can commence before the expiry of the 15 year period as set out in subparagraph 2(b) of this Appendix; and
 - (e) Rents charged to tenants newly occupying a *dwelling unit* which is no longer part of the *affordable rental housing* until after the completion of the 15 year period set out in subparagraph 2(b) of this Appendix will not be subject to restrictions by the City under the terms of the section 37 agreement entered into under this Exception.
3. Where delivery of *affordable rental housing* is being provided by the owner based on a duration of 99 years in accordance with paragraph (nn) of this Exception, then the owner shall provide and maintain the *affordable rental housing* in accordance with the following provisions:
- (a) The *dwelling units* provided as *affordable rental housing* shall remain as rental housing for a period of at least 99 years, with no application for demolition without replacement, or for condominium registration or any conversion to any non-rental housing purposes;
 - (b) *Affordable rents* shall be charged to tenants who occupy a *dwelling unit* in the *affordable rental housing* during the first 99 years of its occupancy, subject to subparagraphs 3(c) and (d) of this Appendix such that the initial rent for any new tenancy shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type. During a tenancy, annual rent increases shall not exceed the provincial rent guideline and, if applicable, permitted above-guideline increases.

- (c) After the expiry of the 99 year period as set out in sub-paragraph 2(b) of this Appendix, rents for tenants who took up occupancy of a *dwelling unit* provided as *affordable rental housing* within the 99 year period as set out in sub-paragraph 3(b) of this Appendix may be escalated in accordance with applicable Provincial law;
- (d) Rents charged to tenants newly occupying a *dwelling unit* which is no longer part of the *affordable rental housing* until after the completion of the 99 year period set out in subparagraph 3(b) of this Appendix shall be established in accordance with applicable Provincial law and will not be subject to restrictions by the City under the terms of the section 37 agreement entered into under this Exception;

Where delivery of *affordable rental housing* is being provided by the owner in accordance with paragraph (nn) of this Exception, then the owner shall provide and maintain the *affordable rental housing* in a manner satisfactory to the Chief Planner and Executive Director, Housing Secretariat, to be set out in a *Phase Specific Section 37 Agreement*.

Timely Delivery

- 4. *Affordable rental housing* on a *lot* shall be delivered on a timely basis in accordance with the following general provisions, and shall be at least commensurate with the rate of residential construction pursuant to paragraph (oo) of this Exception:
 - (a) Provisions for the timely delivery of *affordable rental housing* will be secured in one or more Section 37 Agreements, and will be secured in such an Agreement for any phase of development in which *affordable rental housing* requirements are being delivered;
 - (b) In the event that a phase includes more than one residential land parcel, the provisions in a *Phase-Specific Section 37 Agreement* may include the order of development of residential land parcels within the phase of development, and may include requirements that the Owner not request the issuance of *above-grade building permits* for residential buildings that are not exclusively *affordable rental housing* buildings until delivery of the required *affordable rental housing*, pursuant to the timely delivery requirements secured in Section 37 Agreements; and
 - (c) Where *affordable rental housing* is being provided by the owner, delivery is deemed to have commenced with the issuance of *above-grade building permits* for the *dwelling units*. There may also be provisions for the progress of construction of the *affordable rental housing* and there will be requirements for timely completion of the *affordable rental housing* construction, both of which may be linked to the withholding of *above-grade building permits* for other residential buildings.

Site Plan Application

5. As a matter of convenience, the owner shall agree that the provision of a complete application for Site Plan Approval prior to the removal of a holding zone symbol, will among other matters address the following:
- (a) The provision of a three dimensional computer model, prepared by a qualified consultant, which demonstrates to the satisfaction of the City that built form continuity has been addressed;
 - (b) The provision of a noise and vibration study, prepared by a qualified noise consultant which considers industrial uses in the area with the potential to impact the site and other noise sources in the vicinity of the site, and detailed design plans;
 - (c) The noise and vibration study shall be peer reviewed by the City at the owner's expense and shall demonstrate to the satisfaction of the City:
 - (i) that the proposal is expected to achieve the requirements of the applicable provincial noise guidelines and regulations, including NPC-300, as may be amended from time to time, or any alternative methodologies satisfactory to the City and the Ministry of the Environment, Conservation and Parks ("MECP"), as required;
 - (ii) how land use compatibility with respect to noise and vibration is proposed to be achieved and maintained between lawfully existing industrial operations and the proposed development, including appropriate measures (source and/or receptor) to mitigate noise from stationary sources and noise from ships and the method by which those mitigation measures will be secured;
 - (iii) that the owner will be responsible for implementing any mitigation required to achieve the requirements of subsections 5(c)(i) and 5(c)(ii) of this Appendix;
 - (iv) if on-building receptor-based mitigation is found to be necessary, prior to the removal of the holding symbol, the lands shall be classified as a Class 4 Area pursuant to NPC-300, as amended from time to time; and
 - (v) in this section, MECP approval means that the MECP has advised in writing that the proposed alternative method of noise assessment and/or noise mitigation is acceptable and that industry can rely on same in determining its compliance with MECP requirements applicable to industry, notwithstanding that such alternative method of noise assessment and/or noise mitigation may not be in compliance with existing MECP noise regulations and/or guidelines, such as NPC-300.

- (d) Concurrent with the provision of the noise and vibration study and detailed design plans to the City, the owner shall provide same to the owner of the cement facility at 54 Polson Street (the “cement facility”), provided the cement facility is in existence at the relevant time. The owner of the cement facility shall have a period of 45 days to review the study and submit comments in writing to the City. The City shall consider the comments received. In the event that the owner of the cement facility provides no written comments to the City in the specified time, it shall be deemed to agree with the analysis, contents and conclusions of the noise and vibration study;
- (e) The provision of a wind study, prepared by a qualified wind consultant, and detailed plans which demonstrate to the City that any necessary built form and other wind mitigation measures will be implemented, and such study shall be submitted to the City prior to the submission by the City of Site Plan Application(s) to the Waterfront Design Review Panel or any successor design review panel;
- (f) The submission of a soil and groundwater management strategy prepared by a qualified consultant which demonstrates to the satisfaction of the City that any contaminated soil and groundwater can be managed in a manner that is consistent with Provincial regulations;
- (g) The provision of plans and information demonstrating that the development to be erected on the *lot* or on a portion of the lot can be constructed and maintained in accordance with the Tier 1 performance measures of the Toronto Green Standard as adopted by Council; and
- (h) The provision for connection of buildings to a district energy system and/or on-site renewable energy sources, if available at costs comparable to other energy sources.

Public Art

- 6. Prior to the issuance of any above-grade building permit for the lot, the owner shall provide a public art contribution in accordance with the City’s public art program as it is constituted at the time of the execution of a section 37 Agreement at a value of 1 percent of the gross construction cost(s) of any building(s) to be erected on the lot or for the portion of the lot being developed, except for building(s) or parts thereof used for the purposes of *affordable rental housing*
- 7. 40 percent of any public art contribution provided will be directed to a pooled fund to be managed by Waterfront Toronto to realize the Villiers Island and Keating West Public Art Master Plan, with such funds to be directed towards off-site public art works on public sites in the general vicinity of the lot, all to be commissioned and managed by Waterfront Toronto.

Daycare Contribution

8. Prior to issuance of the first *Building Permit* for shoring for the second phase of the development (whether the second phase be the North Block, the Central Block or the South Block), the *owner* shall provide a cash contribution in the amount of \$1,500,000, subject to upwards indexing, to be allocated toward the capital costs of off-site daycare facilities within the Keating Channel Precinct.

Heritage

9. Prior to the issuance of any building permit for the lot, including for clarity any conditional permit or any demolition permit but excluding any building permit otherwise acceptable to the Senior Manager, Heritage Planning, the Owner shall:
 - (a) Consent to the designation of the existing Victory Soya Mill Silos property at 369 Lake Shore Boulevard East under Part IV, Section 29 of the Ontario Heritage Act;
 - (b) Provide a detailed Conservation Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 369 Lake Shore Boulevard East prepared by ERA Architects Inc., dated December 18, 2019, subject to revisions, to the satisfaction of the Senior Manager, Heritage Planning;
 - (c) Provide a detailed Stabilization Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in an approved Conservation Plan required in condition in subsection 9(b) of this Appendix for 369 Lake Shore Boulevard East, subject to revisions, to the satisfaction of the Senior Manager, Heritage Planning;
 - (d) Enter into a Heritage Easement Agreement with the City for the property at 369 Lake Shore Boulevard East in accordance with the Heritage Impact Assessment prepared by ERA Architects Inc., dated December 18, 2019, and in accordance with the Conservation Plan required in subsection 9(b) of this Appendix above, to the satisfaction of the Senior Manager, Heritage Planning including registration of such agreement to the satisfaction of the City Solicitor;
 - (e) Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in an approved Stabilization Plan; and
 - (f) Prior to the release of the Letter of Credit required in subsection 9(e) of this Appendix above, shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required work has been completed in accordance with the Stabilization Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning.

10. Prior to the earlier of final site plan approval or the issuance of any building permit on the Central Block, including for clarity any conditional permit or any demolition permit but excluding any building permit otherwise acceptable to the Senior Manager, Heritage Planning, the Owner shall:
- (a) Provide an updated Conservation Plan providing details on the proposed conservation or adaptive reuse of the Victory Soya Mill Silos, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 369 Lake Shore Boulevard East prepared by ERA Architects Inc., dated December 18, 2019, subject to revisions, to the satisfaction of the Senior Manager, Heritage Planning;
 - (b) Provide final site plan drawings for the Victory Soya Mill Silos, if site plan approval is required, substantially in accordance with an approved, updated Conservation Plan required in subsection 10(a) of this Appendix to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - (c) Provide a Heritage Lighting Plan that describes how the exterior of the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - (d) Provide a detailed landscape plan for the Central Block, satisfactory to the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - (e) Provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Planning including, but not limited to, commemoration of the original Victory Soya industrial complex and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;
 - (f) Submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;
 - (g) Obtain approval for alterations to the heritage properties under Section 34 of the Ontario Heritage Act;
 - (h) Provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in an approved and updated Conservation Plan required in subsection 10(a) of this Appendix; and

- (i) Prior to the release of the Letter of Credit required in subsection 10(h) of this Appendix above, shall provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required work has been completed in accordance with the Conservation Plan required in subsection 10(a) of this Appendix above and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning.

Pedestrian Easement

11. The owner will agree, if requested by the City at the time of Site Plan Approval, to grant to the City a two (2) metre pedestrian easement along the southerly boundary of the Central Block.