

Authority: Local Planning Appeal Tribunal Decision and Order issued on April 30, 2021 in Case PL200212, and Ontario Land Tribunal Order issued on August 15, 2022, effective as of August 12, 2022 in File OLT-22-003702

CITY OF TORONTO

BY-LAW 88-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 20 and 26 Maitland Street.

Whereas the Owner of the lands known municipally in the year 2021 as 20 and 26 Maitland Street appealed a proposed zoning by-law amendment to the Local Planning Appeal Tribunal pursuant to Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Local Planning Appeal Tribunal, by its Decision issued on April 30, 2021 and the Ontario Land Tribunal by its Order issued on August 15, 2022 determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally as 20 and 26 Maitland Street; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in the density of development; and

Whereas Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and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 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 density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out in Schedule A of this By-law in return for the increase in height and density permitted on the aforesaid lands by By-law 569-2013, as amended; and

Whereas Schedule A of this By-law requires the owner of the aforesaid lands to provide certain facilities, services or matters and enter into an agreement or agreements between the owner of the land and the City of Toronto prior to the issuance of a building permit;

The Ontario Land Tribunal orders:

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 subject to this By-law from a zone label of "R (d2.0) (x875)" to a zone label of "CR 2.0 (c0.0; r2.0) SS1 (x773)" and "O", as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by amending Article 900.11.10 Exception Number CR 773 so that it reads:

(773) Exception CR 773

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 20 and 26 Maitland Street, if the requirements of By-law 88-2023(OLT), are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (AA) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 106.21 metres and elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulations 40.10.20.10(1)(A) and 40.10.20.20(1)(A) the only non-residential uses permitted are as follows:
 - (i) **Art gallery;**
 - (ii) **Artist studio;**
 - (iii) **Automated banking machine;**
 - (iv) **Education use;**
 - (v) **Financial institution;**
 - (vi) **Massage therapy;**
 - (vii) **Medical office;**

- (viii) Office;
 - (ix) **Personal service shop;**
 - (x) **Day nursery;**
 - (xi) **Eating establishment;**
 - (xii) **Retail service;**
 - (xiii) **Retail store; and**
 - (xiv) **Take-out eating establishment;**
- (D) A maximum of 532 **dwelling units** are permitted on the lot, of which:
- (i) a minimum of 15 percent of the total number of **dwelling units** must have two or more bedrooms;
 - (ii) a minimum of 10 percent of the total number of **dwelling units** must have three or more bedrooms;
 - (iii) an additional minimum 15 percent of the total number of **dwelling units** must be a combination of **dwelling units** that have two or more bedrooms or that may be converted into two or three bedroom **dwelling units** through the use of accessible or adaptable design measures such as knock-out panels; and
 - (iv) any **dwelling units** with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above;
- (E) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** is 33,800 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 33,500 square metres;
 - (ii) the permitted maximum **gross floor area** for non-residential uses is 300 square metres;
 - (iii) the required minimum **gross floor area** for non-residential uses is 200 square metres;
 - (iv) no **gross floor area** for residential uses may be located above the 40th **storey**, with the exception of **amenity space**;

- (F) Despite Regulation 40.10.40.1(1), five (5) **dwelling units**, residential **amenity space**, and residential lobby access may be located on the first **storey** of a **building**, adjacent to non-residential uses;
- (G) Despite Regulation 40.10.40.10(5), the required minimum height of the first **storey**, as measured between the floor of the first **storey** and the ceiling of the first **storey**, is 2.7 metres;
- (H) Despite Regulation 40.10.40.10(1), the permitted maximum height of a **building** or **structure** is the number following the HT symbol in metres as shown on Diagram 3 of By-law 88-2023(OLT);
- (I) Despite Regulations 40.5.40.10(3) to (8) and (H) above, the following equipment and **structures** may project beyond the permitted maximum height of a **building**:
- (i) Parapets, guardrails, balustrades, safety railings, bollards, vents, stacks, fences, privacy screens, landscape elements (including **green roofs**), terraces, thermal insulation and roof ballast, flues, access roof hatch, outdoor furniture, **structures** on the roof used for outside or open-air recreation including an outdoor pool, retaining walls, to a maximum of 1.8 metres;
 - (ii) Mechanical equipment, elevator overruns, canopies, heating, cooling or ventilating equipment or a fence, wall or **structure** enclosing such elements; washing equipment, to a maximum of 3.6 metres; and
 - (iii) Wind screen, architectural decorative elements, to a maximum of 6.0 metres;
- (J) Despite Regulation 40.10.40.50(1), a **building** with 20 or more **dwelling units** must provide **amenity space** in accordance with the following:
- (i) a minimum of 4.0 square metres of **amenity space** for each **dwelling unit**, of which:
 - (a) a minimum of 1,000 square metres of the requirement in (i) above must be outdoor **amenity space** which must be located adjoining or directly accessible to indoor **amenity space**; and
 - (b) no more than 25 percent of the outdoor component may be a **green roof**;
- (K) Regulation 40.10.40.50(2), with respect to **amenity space** for **buildings** with non-residential uses in SS1 Areas, does not apply;
- (L) Despite Regulation 40.10.40.70(1), the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 88-2023(OLT);

- (M) Despite Regulation 40.10.40.80(1), the required separation of **main walls** are as shown in metres on Diagram 3 of By-law 88-2023(OLT);
- (N) Despite Clause 40.10.40.60 and (L) and (M) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
- (i) Architectural fins, lighting fixtures, windows sills, balustrades, vents, decorative architectural features, to a maximum extent of 0.5 metres;
 - (ii) Balconies, roof overhangs, heating, cooling or ventilating equipment, window washing equipment, to a maximum extent of 1.8 metres; and
 - (iii) Canopies, to a maximum extent of 2.5 metres;
- (O) Regulation 40.10.50.10(3) with respect to a 1.5 metre strip of **soft landscaping** along any part of a **lot line** abutting another **lot** in the Residential Zone category or Residential Apartment Zone category, does not apply;
- (P) Despite Regulation 40.10.90.40(1) **vehicle** access to a **loading space** may be from a **street**;
- (Q) Despite Regulation 40.10.100.10(1)(A) **vehicle** access to the **lot** may be from a **street**;
- (R) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** in accordance with the following minimum requirements:
- (i) 0.15 **parking spaces** for each **dwelling unit** for residents;
 - (ii) 0.035 **parking spaces** for each **dwelling unit** for residential visitors;
 - (iii) A minimum of 2 **parking spaces** shall be provided for non-residential uses; and
 - (iv) a maximum of two (2) "car-share parking spaces" may be provided;
- (S) Despite Regulation 200.5.10.1(1), "car-share parking spaces" may replace **parking spaces** otherwise required for residential occupants, subject to the following:
- (i) a reduction of four resident occupant **parking spaces** will be permitted for each "car-share parking space" provided and that the maximum reduction permitted be capped by the application of the following formula:
 - (a) 4 multiplied by (total number of **dwelling units** divided by 60), rounded down to the nearest whole number;

- (ii) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
 - (iii) for the purpose of this exception, "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (T) A maximum of 10 percent of the required **parking spaces** may be small car **parking spaces** with the following dimensions:
 - (i) A minimum length of 5.3 metres;
 - (ii) A minimum width of 2.4 metres; and
 - (iii) A minimum vertical clearance of 1.8 metres;
- (U) Despite Regulation 200.15.1(1) and 200.15.15.4(1), an accessible **parking space** must have the following minimum dimensions:
 - (i) Length of 5.6 metres;
 - (ii) Width of 3.4 metres;
 - (iii) Vertical clearance of 2.0 metres; and
 - (iv) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (V) Despite Regulation 200.15.1(4) , accessible **parking spaces** may be located within the below-ground **parking garage** provided they are located a maximum of 20 metres from an entrance to an elevator lobby with one or more passenger elevator(s) that provide access to the first **storey** of the **building**;
- (W) Despite Regulation 220.5.10.1(2), one Type "G" **loading space** and one Type "C" **loading space** are required;
- (X) Despite Regulation 230.5.1.10(6), "long-term" **bicycle parking spaces** for non-residential uses may be located outside;
- (Y) Regulation 230.10.1.20(2), with respect to the location of "short-term" **bicycle parking spaces**, does not apply;
- (Z) Despite Regulation 230.5.1.10(10), "long-term" and "short-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space**; and

- (AA) Despite Regulation 230.5.1.10(4)(A)(i) and (ii), a **stacked bicycle parking space** may have the following dimensions:
- (i) A minimum length of 1.5 metres; and
 - (ii) A minimum width of 0.4 metres.

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any existing or future severance, partition or division of the lot, the provisions of this By-law shall apply to the whole of the lot as if no severance, partition or division occurred.
6. Section 37 Provisions:
 - a. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 3 attached to this by-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 1 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 1 of this By-law requires the owner to provide certain facilities, services or matters and enter into an agreement or agreements prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
 - 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 1 are satisfied.

Local Planning Appeal Tribunal Decision and Order issued on April 30, 2021 in Case PL200212, and Ontario Land Tribunal Order issued on August 15, 2022, effective as of August 12, 2022 in File OLT-22-003702.

Schedule 1

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City by the owner at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown on Diagram 1 of By-law 88-2023(OLT) in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act, in a form satisfactory to the City (the "Section 37 Agreement"), whereby the owner agrees as follows:

1. Prior to the issuance of any Building Permit, the owner shall enter into an agreement or agreements to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the facilities, services or matters set out below.

Section 37 Contribution

2. Prior to the issuance of the first Above-Grade Building permit for a part or all of the Lands, the Owner shall pay to the City the sum of Seven Million Eight Hundred Fifty Thousand DOLLARS (\$7,850,000.00) in Canadian funds, subject to Upward Indexing in accordance with this Agreement from the date of this Agreement to the date of payment (herein referred to as the "**Cash Contribution**") and the Cash Contribution shall be used by the City for the purpose of community benefits in accordance with the terms of this Agreement on the proportions set out below:
 - a. \$2,500,000.00 to be allocated towards new and existing capital improvements for City owned affordable housing in Ward 13;
 - b. \$2,500,000.00 to be allocated towards new and existing capital improvements in City owned community, cultural, and recreational centres in Ward 13;
 - c. \$2,500,000.00 to be allocated towards establishing a new non-profit City owned childcare centre in Ward 13; and
 - d. \$350,000 to be allocated towards local area streetscape and park improvements;
3. The amount of the cash contribution in Paragraph 2 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the funds by the Owner to the City; and
4. In the event that the cash contribution in Paragraph 2 above has not been used for the intended purpose within three (3) years of the Zoning By-law Amendment coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site.

Matters Secured as a Legal Convenience

5. The owner shall provide an on-site parkland dedication having a minimum area of 279 square metres and located on the western portion of the lands with a minimum 5.31 metre frontage on Maitland Street and a 3 metre setback from the west podium face of the development, in satisfaction of the Owner's required parkland contribution pursuant to Section 42 of the Planning Act; the on-site parkland dedication will be conveyed to the City in base park condition.
6. The owner shall construct and maintain the development of the lands in accordance with Tier 1 performance measures of the Toronto Green Standard, and the owner will be encouraged to achieve Toronto Green Standard, Tier 2 or higher, where appropriate.

Diagram 1

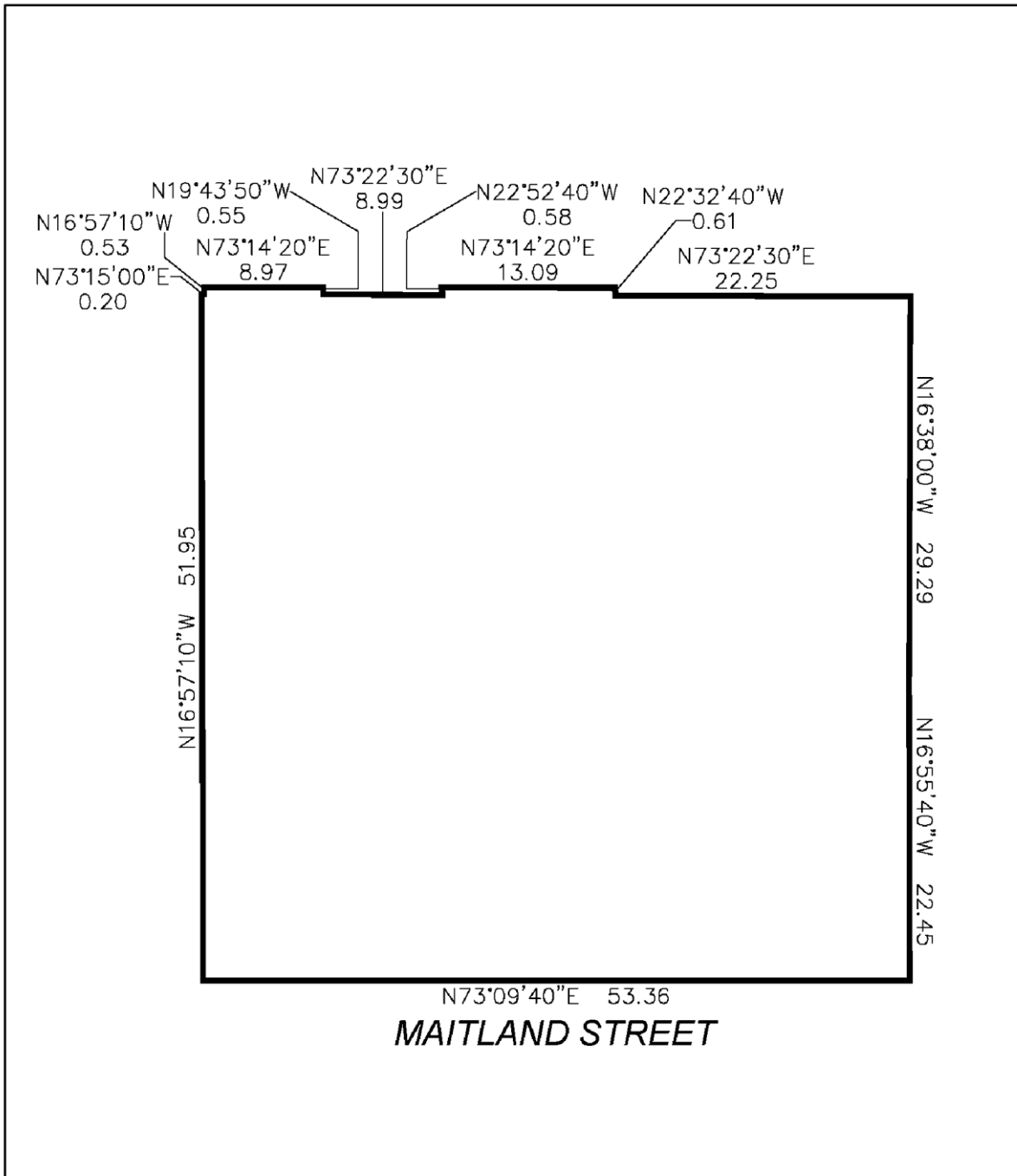


Diagram 2

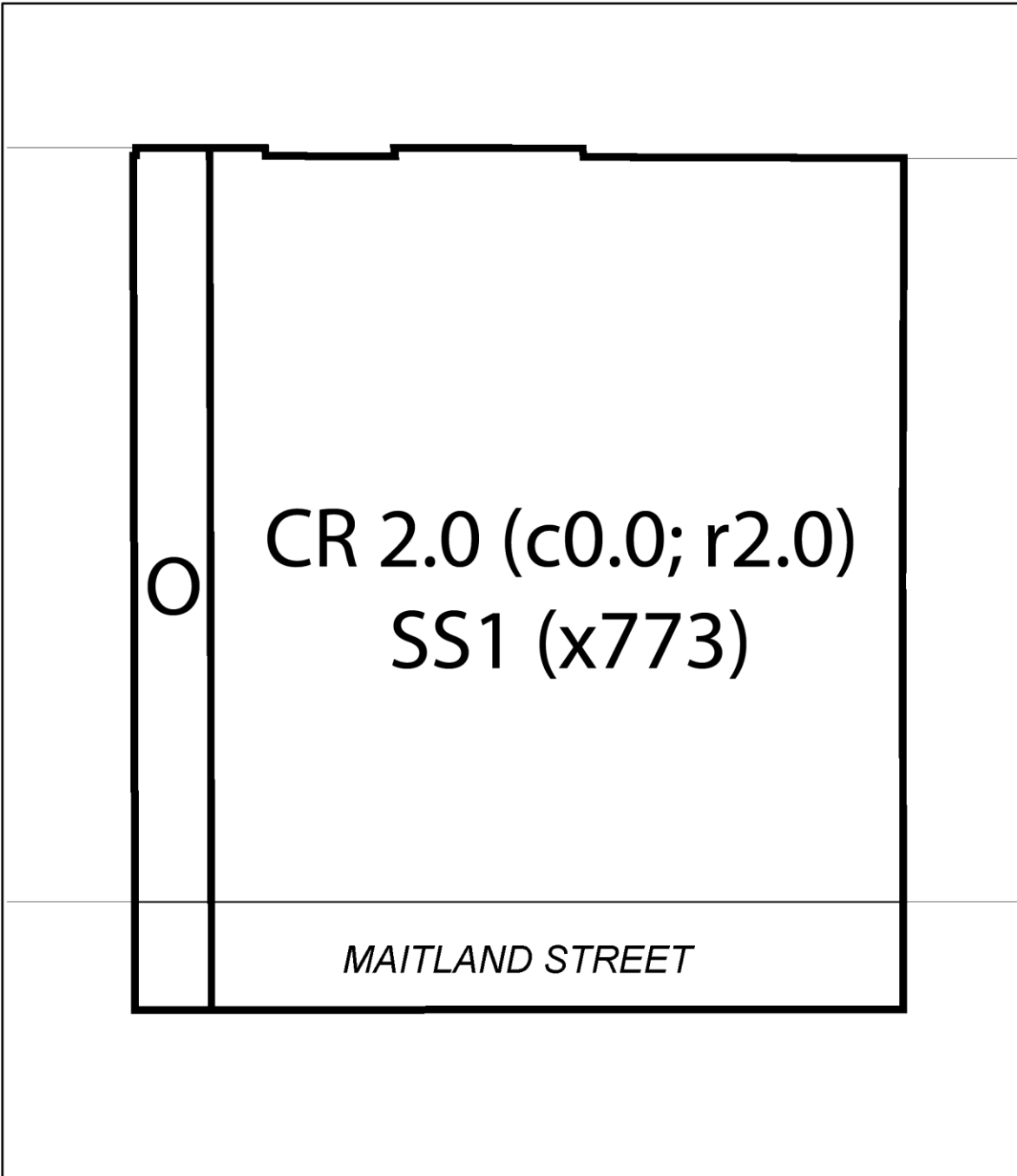


Diagram 3

