

Authority: Ontario Land Tribunal Decision and Order effective on July 20, 2022 in File PL210317 and OLT-22-002413

CITY OF TORONTO

BY-LAW 686-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 938, 940, 942, 944 and 950 King Street West and 95, 97, and 99 Strachan Avenue.

Whereas the Owner of the lands in the year 2021 appealed a proposed zoning by-law amendment to the Ontario Land Tribunal pursuant to subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

Whereas the Ontario Land Tribunal pursuant to its Decision and Order effective on July 20, 2022, in File PL210317 and OLT-22-002413, upon hearing of the appeal under subsection 34(11) of the Planning Act R.S.O 1990, c. P.13, as amended, determined to amend Zoning By-law 569-2013, as amended, with respect to lands known municipally in the year 2022 as 938, 940, 942, 944 and 950 King Street West and 95, 97 and 99 Strachan Avenue; 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 pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, 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; and

Whereas the increase in density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The 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 municipally known in the year 2021 as 938, 940, 942, 944 and 950 King Street West and 95, 97 and 99 Strachan Avenue, as outlined by heavy black lines to CR 2.5 (c2.0; r2.5) SS2 (x308), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number 308 so that it reads:

Exception CR 308

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 938, 940, 942, 944 and 950 King Street West and 95, 97 and 99 Strachan Avenue, if the requirements in Sections (B) to (R), Section 6 and Schedule A of By-law 868-2023(OLT) are complied with, a **mixed-use building** may be constructed and used;
- (B) Despite Regulations 40.10.20.100(45), 150.5.20.1(1), (2), (4), and (6), and 150.5.40.40(1), a **home occupation** within a **dwelling unit**:
 - (i) may have employees in the **dwelling unit** who are not the business operator; and
 - (ii) does not have to be the principal residence of the business operator for the **dwelling unit**;
- (C) Despite Regulation 40.10.40.1(1):
 - (i) all residential use portions of the **building** must be located above non-residential use portions of a **building**, other than:
 1. residential lobby access; and
 2. **dwelling units** may be located in the first **storey** of a **building** if:
 - (a) the **dwelling units** have direct access to a **street** which is not a major street on the Policy Areas Overlay Map; and

- (b) the **dwelling units** are located to the rear of the non-residential uses on the first **storey**; and
 - (ii) the following uses may be provided in combination with a **dwelling unit** on the first **storey**: office, **custom workshop**, studio, **production studio**, **performing arts studio**, private art gallery, communications and broadcasting establishment, **custom workshop**, **software development and processing**, **artist studio**, and **personal service shop**;
- (D) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** is 12,650 square metres, of which:
 - (i) the required minimum **gross floor area** for non-residential uses is 120 square metres;
- (E) Despite Regulation 40.10.40.50(1), **amenity space** must be provided at a minimum of 3.7 square metres for each dwelling unit and maintained in accordance with the requirements of Schedule A of By-law 686-2023(OLT) and the following:
 - (i) a minimum of 1.4 square metres for each **dwelling unit** is indoor **amenity space**; and
 - (ii) a minimum of 2.3 square metres for each dwelling unit is outdoor **amenity space**;
- (F) The provision of **dwelling units** is subject to the following:
 - (i) a minimum of 15 of the **dwelling units** must contain three or more bedrooms; and
 - (ii) a minimum of 35 of the **dwelling units** must contain two bedrooms;
- (G) Despite Regulations 40.5.40.10(1) and (2), the height of the **building** or **structure** is the vertical distance between the Canadian Geodetic Datum elevation of 87.19 metres and the highest point of the **building** or **structure**;
- (H) Despite Regulation 40.10.40.10(2), the permitted maximum height of a **building** or **structure** is the numerical value, in metres, following the letters "HT" on Diagram 3 of By-law 686-2023(OLT);
- (I) Despite (H) above and Clause 40.5.40.10, the following elements, **structures**, equipment, or parts of a **building**, are permitted to project above the permitted maximum **height** as shown on Diagram 3 of By-law 686-2023(OLT) as follows:
 - (i) lightning rods, antennae, satellite dishes, window washing equipment, stair enclosures, wind screens, awnings, guard rails, railings and dividers, structures for open air recreation, pergolas, trellises, screens, stairs, chimneys, vents, terraces and landscape features, to a maximum of 3.0 metres; and

- (ii) parapets, architectural features and balustrades, to a maximum of 0.5 metres;
- (J) Despite Regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **building** is 14, excluding the mechanical penthouse and the mezzanine located between the first and second **storeys**;
- (K) Despite Regulation 40.10.40.70(1), the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law 686-2023(OLT);
- (L) Despite (K) above, Clause 40.10.40.60 and Regulation 40.5.40.60(1), the following are permitted to encroach into the required **building setbacks** as shown on Diagram 3 of By-law 686-2023(OLT), as follows:
 - (i) parapets, columns and support structures up to a maximum of 1.5 metres;
 - (ii) canopies, light fixtures, awnings, ornamental elements, architectural features, windowsills, planters, guardrails, railings, stairs, wheelchair ramps, vents, screens and landscape features up to a maximum of 1.5 metres; and
 - (iii) balconies up to a maximum of 1.5 metres are only permitted on the north and east facing **building** walls and there shall be no balcony projections permitted on the south and west facing **building** walls;
- (M) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided as follows:
 - (i) zero (0) **parking spaces** for the residents of the **building** are required; and
 - (ii) a minimum of fourteen (14) **parking spaces** for the shared use of residential visitors and non-residential uses;
- (N) Despite Regulation 200.15.10(1), a minimum of 1 accessible **parking space** must be provided and maintained below ground;
- (O) Despite Regulation 200.15.1(1), an accessible **parking space** must be provided with the following dimensions:
 - (i) a minimum length of 5.6 metres;
 - (ii) a minimum width of 3.4 metres; and
 - (iii) a minimum vertical clearance of 2.1 metres;
- (P) Despite Clauses 220.5.10.1 and 40.10.90.1, one Type "G" **loading space** must be provided;
- (Q) Despite Regulation 230.5.1.10(10), short-term and long-term **bicycle parking spaces** may be located in a **stacked bicycle parking space**; and

- (R) Despite Regulation 230.40.1.20(1), **bicycle parking spaces** for a **dwelling unit** may be located in a secured room, enclosure or bicycle locker.

Prevailing By-law and Prevailing Sections (none apply)

5. Despite any future severance, partition or division of the lands as shown on Diagram 1 attached to this By-law, the provisions of this By-law will apply as if no severance, partition or division occurred.
6. Section 37 Provisions
- (A) Pursuant to Section 37 of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18, as amended, came into force, 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 as CR (308) on Diagram 2 of By-law 686-2023(OLT) 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*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18, as amended, came into force, that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule A of By-law 686-2023(OLT) 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 of By-law 686-2023(OLT) are satisfied.

Ontario Land Tribunal Decision and Order effective on July 20, 2022 in File PL210317 and OLT-22-002413.

SCHEDULE A**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lot. The owner shall enter into an agreement, on such terms and conditions, to the satisfaction of the City Solicitor pursuant to Section 37(3) and (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, S.O. 2020, C.18*, as amended, came into force, to secure the community benefits below, whereby the owner agrees as follows:

1. Prior to the issuance of any Building Permit, the owner shall enter into an agreement pursuant to Section 37(3) and (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, S.O. 2020, C.18*, as amended, came into force and register such agreement on title to the satisfaction of the City Solicitor.
2. The owner shall design and construct at least twenty-two (22) affordable rental **dwelling units** comprising approximately 743 square metres of residential **gross floor area** within the building on the **lot** in accordance with the following and on the terms set out in the Section 37 Agreement:
 - (A) The owner shall provide and maintain at least sixteen (16) **dwelling units** as bachelor affordable rental **dwelling units** and six (6) **dwelling units** as one-bedroom affordable rental **dwelling units** in the new 14-storey mixed-use building on the **lot**, as follows, with any changes to the satisfaction of the Chief Planner and Executive Director, City Planning and the Executive Director, Housing Secretariat, in consultation with the City Solicitor:
 - (i) the minimum size of the bachelor units shall be at least 27 square metres and the minimum average unit size of the bachelor affordable rental **dwelling units** shall be at least 27.9 square metres;
 - (ii) the minimum size of the affordable one-bedroom units shall be at least 41 square metres and the minimum average unit size of the one-bedroom affordable rental **dwelling units** shall be at least 41.8 square metres; and
 - (iii) the general configuration and layout of the twenty-two (22) affordable rental **dwelling units** in the new 14-storey mixed-use building shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (B) The owner shall provide and maintain the twenty-two (22) affordable rental **dwelling units** as rental **dwelling units** for a minimum of 20 years, or if Open Door Incentives are approved then a minimum of 40 years, beginning with the date each such unit is first occupied, with the applicable period of affordability to be referred to as the "Affordability Period". No affordable rental **dwelling unit** shall be registered as a condominium or any other form of ownership such as life

lease or co-ownership which provide a right to exclusive possession of a **dwelling unit**, and no application for conversion for non-rental housing purposes, or application to demolish any affordable rental **dwelling unit** shall be made for at least the Affordability Period. Upon the expiration of the Affordability Period, the owner shall continue to provide and maintain the affordable rental **dwelling units** as rental **dwelling units**, unless and until such time as the owner has applied for and obtained all approvals necessary to do otherwise;

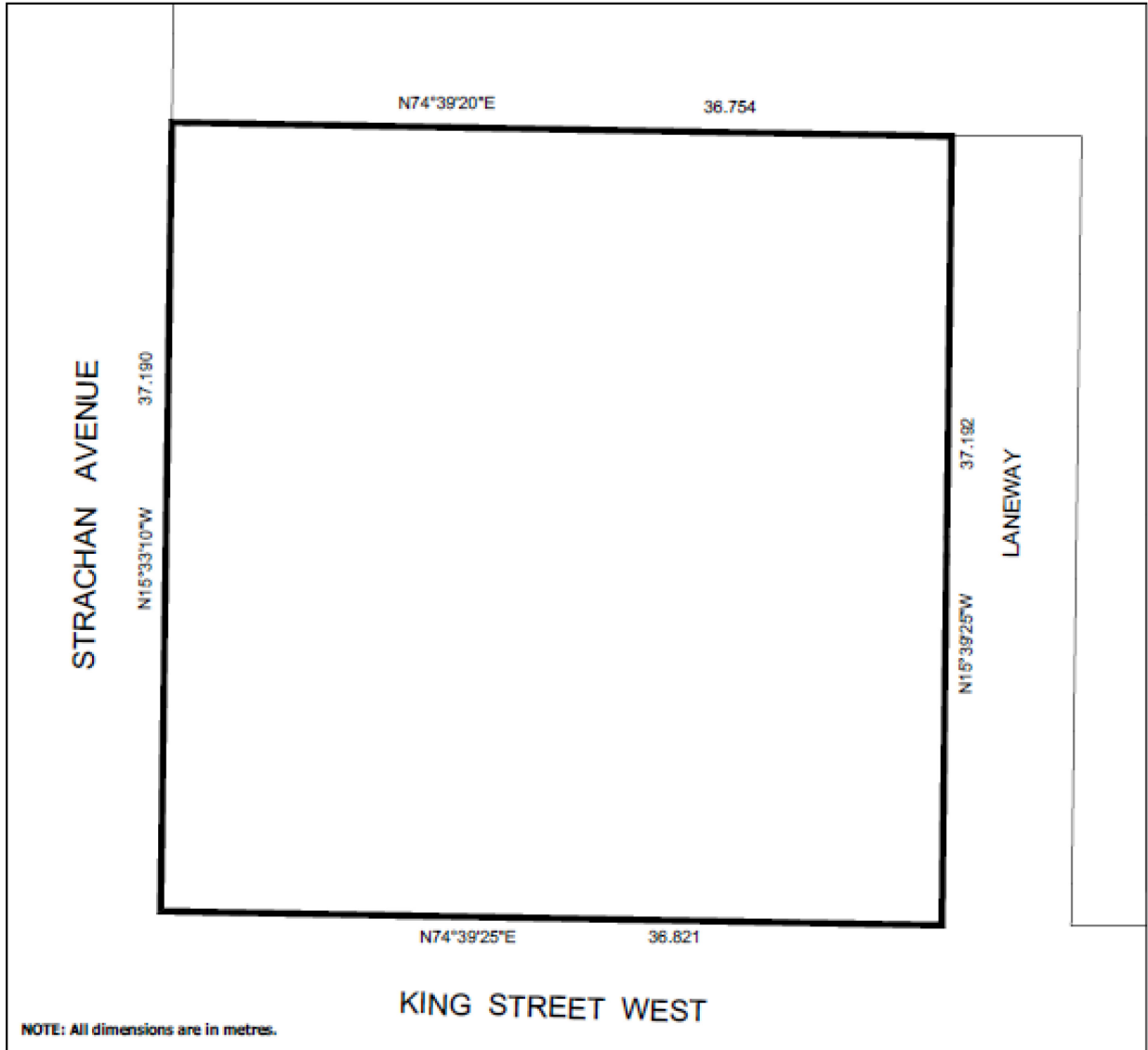
- (C) The owner shall provide and maintain the affordable rental **dwelling units** at ninety percent (90%) of Average Market Rent for at least the Affordability Period, and in accordance with the terms and conditions set out in the Section 37 Agreement. During the Affordability Period, increases to initial rents charged to tenants occupying any of the affordable rental **dwelling units** shall be in accordance with the Residential Tenancies Act and shall not exceed the Provincial rent guideline, regardless of whether such guideline is applicable to the units under the Residential Tenancies Act;
 - (D) The owner shall provide tenants of all twenty-two (22) affordable rental **dwelling units** with access to, and use of, all indoor and outdoor amenities in the proposed 14-storey mixed-use building at no extra charge. Access to, and use of, these amenities shall be on the same terms and conditions as any other resident of the building without the need to pre-book or pay a fee, unless specifically required as a customary practice for private bookings;
 - (E) the owner shall provide tenants of all twenty-two (22) affordable rental **dwelling units** with laundry facilities on the same basis as other units within the development, with no extra charges for appliances; and
 - (F) the owner shall provide tenants of the affordable rental **dwelling units** with access to permanent and visitor bicycle parking/bicycle lockers in accordance with the By-law 686-2023(OLT) and on the same basis as other units within the development.
3. The following matters are also to be secured in the Section 37 Agreement as a legal convenience to support the development of the **lot**:
- (A) the owner shall agree to develop and maintain an additional thirteen (13) affordable rental housing **dwelling units** comprised of no less than 650 square metres in total, or a reduced floor area as approved by the Executive Director, Housing Secretariat, subject to the City contributing a further three million six hundred thousand dollars (\$3,600,000.00) of City funding plus Open Door Program incentives on the same terms and conditions applicable to the 22 affordable rental housing **dwelling units** as detailed above;
 - (B) prior to the issuance of any **building** permit, including permits for excavation and shoring, the owner shall enter into a Municipal Capital Facility Agreement ("Contribution Agreement") with the City to provide Open Door Affordable Housing Program incentives for all affordable rental housing **dwelling units** to be developed on the lands that are approved for Open Door incentives and/or are

approved to receive other City funding for the purpose of incentivizing affordable housing. The owner shall provide such affordable rental housing **dwelling units** in accordance with such agreement(s) to be entered into with the City, all to the satisfaction of the Executive Director, Housing Secretariat, the Chief Planner and Executive Director, City Planning and the City Solicitor;

- (C) prior to site plan approval for any development on the **lot**, the owner shall submit a revised Landscape Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning, and such matters arising from the Landscape Plan, including but not limited to public realm improvements where appropriate, shall also be implemented through site plan approval;
- (D) as part of any site plan application for the **lot**, the owner shall submit a detailed wind tunnel test complete with a statistical wind analysis to determine the impacts and efficacy of the recommended wind mitigation measures, evaluated to the satisfaction of the Chief Planner and Executive Director, City Planning, and the owner shall construct and maintain any required mitigation measures, to be secured through the site plan application review process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (E) prior to site plan approval for any development on the **lot**, the owner shall enter into an Encroachment Agreement with the City for the existing encroachments of existing building facade, canopies and open door encroachment associated with the existing heritage building within the King Street West and Strachan Avenue public rights-of-way, including any other such requirements and/or conditions as may be imposed by and to the satisfaction of the Executive Director, Corporate and Real Estate Management, the General Manager, Transportation Services and the City Solicitor;
- (F) the owner will construct and maintain the development of the **lot** in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for each building on the site;
- (G) the owner shall provide a construction management plan with the general matters included in the Section 37 Agreement, including but not limited to, noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, a communication strategy for the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services, in consultation with the Ward Councillor;
- (H) the owner shall provide an acceptable tenant relocation and assistance plan for all tenant households currently residing in one of the existing rental dwelling rooms proposed to be demolished on the lands, addressing the right to return to occupy

one of the new affordable rental **dwelling units** at similar rents and other assistance to mitigate hardship. The tenant relocation and assistance plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning;

- (I) once the development is constructed on the lands, the owner shall agree to provide and maintain all **dwelling units** within the development, together with the associated facilities and amenities, as rental **dwelling units** for a minimum of twenty (20) years beginning from the date of first residential occupancy with no applications for demolition or conversion from residential rental use made during such twenty (20) year period, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- (J) the owner shall provide an acceptable tenant assistance plan for the tenant household currently residing at 99 Strachan Avenue proposed to be demolished on the lands, addressing assistance to mitigate moving costs. The tenant assistance plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning;
- (K) the owner shall participate in a working group exercise to the satisfaction of the Executive Director, Housing Secretariat, the General Manager, Shelter Support and Housing Administration and the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, engaging with experienced non-profit affordable housing operators for the purpose of developing a successful and liveable affordable housing program model with potential health and/or social supports, to assist in determining the most desirable layout and number of affordable rental **dwelling units** within the development, and to inform an affordable housing access plan;
- (L) prior to site plan approval for any development on the **lot**, the owner shall work with City Planning staff to review the detailed design of grade-related retail and live/work units in the context of the post-pandemic retail recovery; and
- (M) prior to site plan approval for any development on the **lot**, the owner shall work with City Planning staff to further mitigate the potential for privacy and overlook concerns due to north-facing windows.



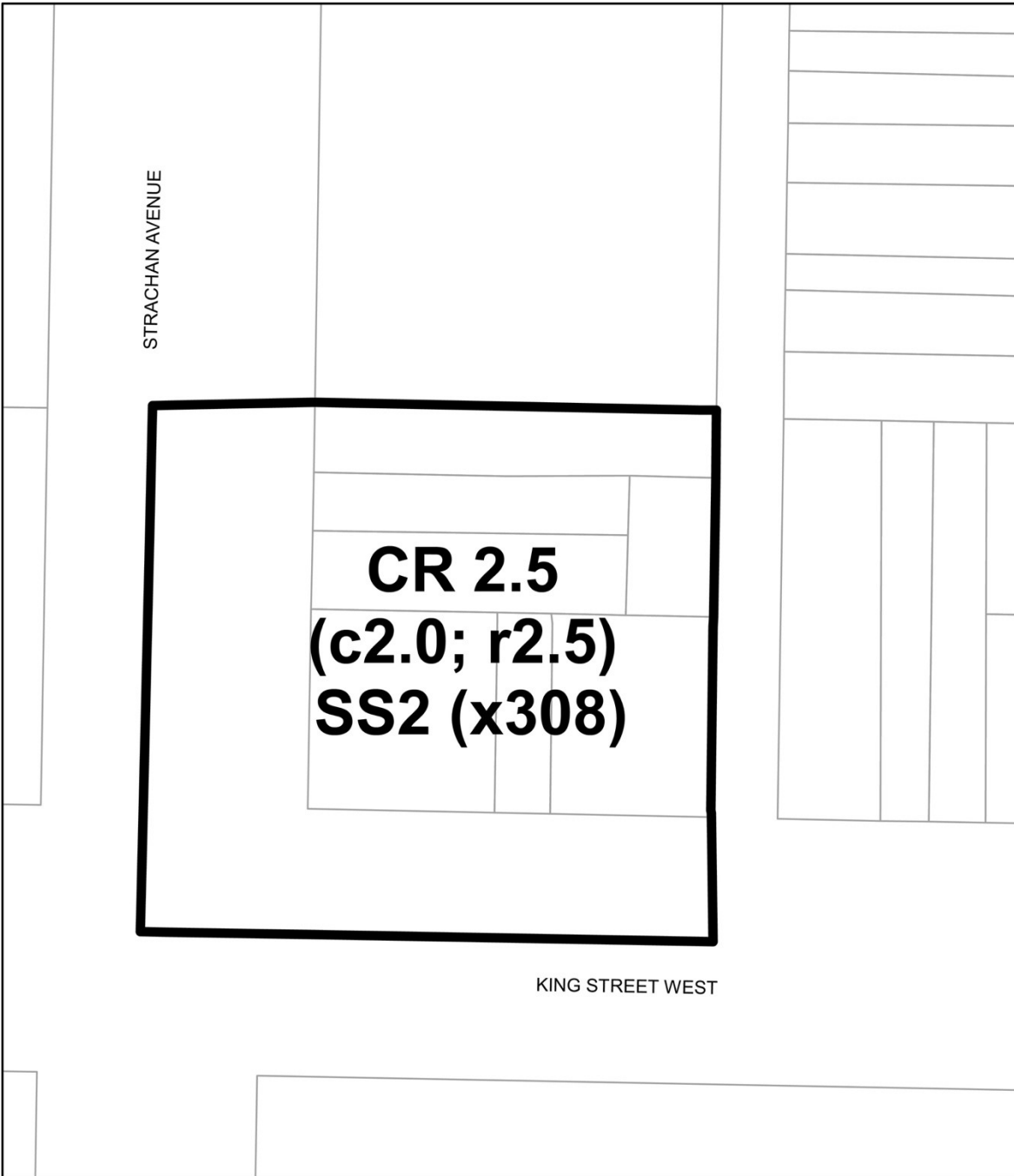
950 King Street West, Toronto

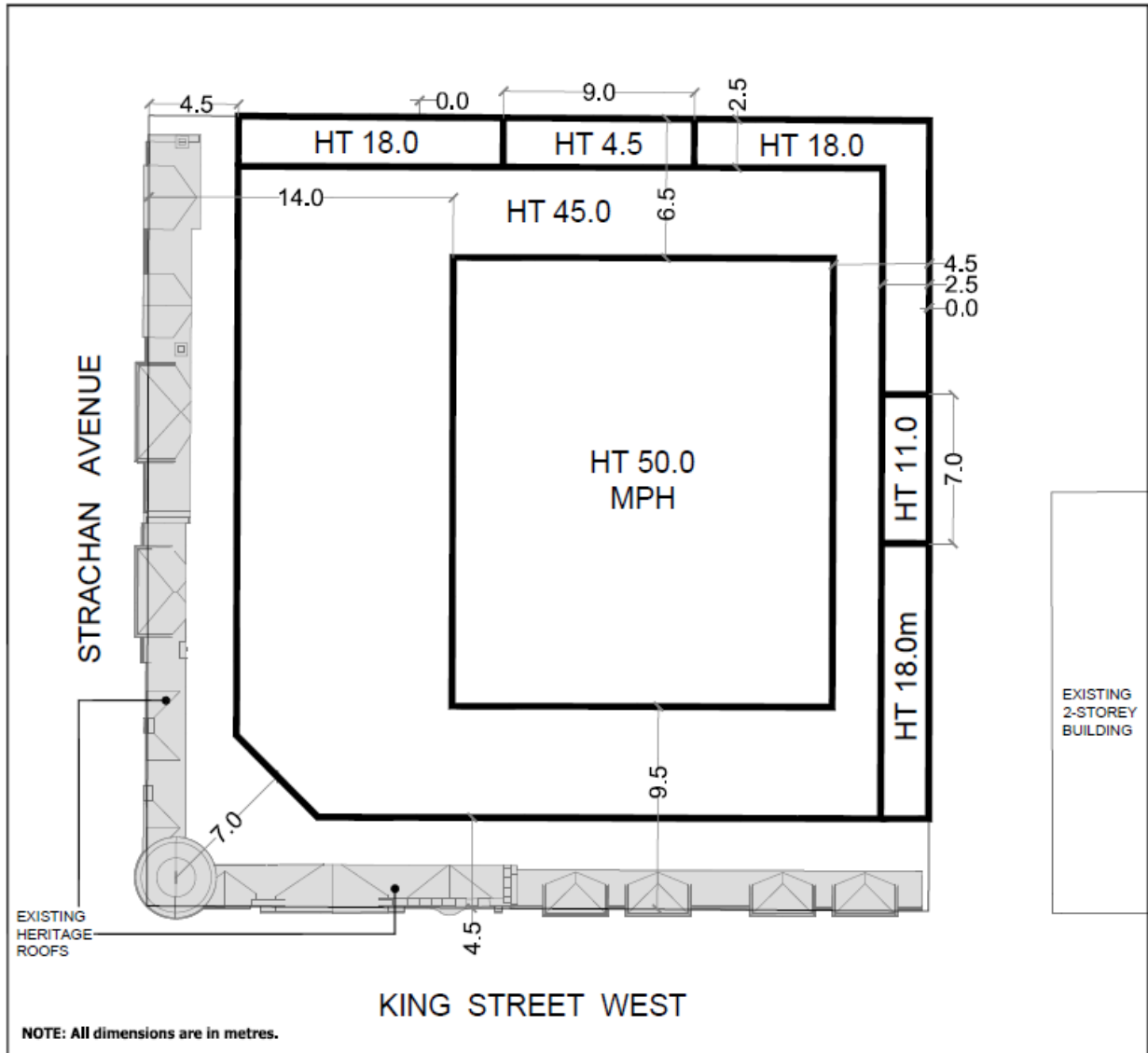
Diagram 1

File #17_____

Not to Scale







950 King Street West, Toronto

Diagram 3

File # _____

Not to Scale



City of Toronto By-law 569-2013