

Authority: Toronto and East York Community Council  
Item TE16.4, as adopted by City of Toronto Council on  
July 28 and 29, 2020 and Toronto and East York  
Community Council Item TE23.14, as adopted by City of  
Toronto Council on March 10, 2021

## **CITY OF TORONTO**

### **BY-LAW 87-2022**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2020 as 1-15 Delisle Avenue and 1496-1510 Yonge Street.**

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; and

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

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the By-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, 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 Council of the City of Toronto enacts:

1. This by-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
2. District Map No. 50K-313 contained in Appendix "A" and "B" of By-law 438-86, as amended, is further amended by amending the zone label from "R2 Z2.0" to "CR" for the lands as outlined on Map 2 attached to and forming part of this by-law.

3. Except as otherwise provided herein, the provisions of former City of Toronto By-law 438-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Section 2 with respect to the definition of the terms *lot*, *grade*, *height*, *total floor area*, and Sections 4(2), 4(4), 4(7), 4(10), 4(13), 4(16), 8(1), 8(3), 12(2)260, 12(2)262, 12(2)263, and 12(2)267 of By-law 438-86, as amended, for the former City of Toronto, being "A by-law to regulate the use of land and the erection use, bulk, height, spacing of land and other matters relating to the buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto" as amended, shall apply to prevent the erection and use of a mixed use building on the lands municipally known as 1-15 Delisle Avenue and 1496-1510 Yonge Street provided that:
  - (a) the *lot* comprises the lands delineated by heavy black lines on Map 1, attached hereto and forming part of this by-law;
  - (b) in addition to those uses permitted pursuant to Section 8(1) of By-law 438-86, permitted uses on the *lot* shall also include *car-share parking spaces* and a *commercial parking garage*;
  - (c) within 10 metres of the west *lot* line, the only uses permitted at grade are: *public art gallery*, *private art gallery*, *artist's or photographer's studio*, education use, *massage establishment*, medical *office*, office, *patio*, park, *public park*, *public playground*, *communications and broadcasting establishment*, studio and wellness centre;
  - (d) the total combined *residential gross floor area* and *non-residential gross floor area* on the *lot* is 35,700 square metres, provided:
    - (i) the total *residential gross floor area* shall not exceed 34,000 square metres; and
    - (ii) the total *non-residential gross floor area* shall not exceed 1,700 square metres.
  - (e) the average gross floor area for each *storey* above the first storey shall not exceed 750 square metres; provided that:
    - (i) the average *gross floor area* for each *storey* between and including the twenty-eighth and thirty-fifth storey shall not exceed 720 square metres; and
    - (ii) the average *gross floor area* for each *storey* between and including the thirty-sixth and forty-fourth storey shall not exceed 670 square metres.
  - (f) a minimum of ten percent of the total number of *dwelling units* constructed on the *lot*, must contain three bedrooms or more;

- (g) a minimum of twenty percent of the total number of *dwelling units* constructed on the *lot*, must contain two bedrooms;
- (h) no part of any *building* shall exceed the *height* limits in metres specified by the numbers following the symbol "H" as shown on Map 3 attached hereto with the exception of any of the items listed below:
  - (i) window washing equipment and architectural screens enclosing such elements, provided the maximum *height* of such elements is not higher than 5 metres above the *height* limits shown on Map 3 of this by-law;
  - (ii) parapets, balustrades, bollards, elements associated with a green roof, insulation and building envelope membranes, decking, pavers, built-in planter boxes, pools, pool decks, heating, ventilation, and air conditioning condensing units within the required outdoor amenity space by not more than 1.5 metres above the *height* limits shown on Map 3 of this by-law; and
  - (iii) ornamental elements, railings, guardrails, architectural elements, pergolas, trellises, landscape features, light fixtures, mechanical, architectural, acoustical and privacy screens, sound and wind barriers, structures used for open air recreation or weather protection purposes within the required outdoor amenity space by not more than 4.0 metres above the *height* limits shown on Map 3 of this by-law.
- (i) no portion of any *building* or structures erected or used above *grade* is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 3 attached hereto, with the exception of the following:
  - (i) eaves, cornices, parapets, window sills, landscape features, trellises, wheel chair ramps, light fixtures, stairs and stair enclosures, balustrades, guardrails, bollards, awnings, canopies, balconies, ornamental elements, architectural elements; architectural fins, elements associated with a green roof, railings, fences, mechanical, architectural and privacy screens, vents, stacks, chimneys, retaining walls, underground garage ramp and its associated structures, damper equipment to reduce building movement, structures used for outside or open air recreation, and safety or weather protection purposes, provided no such encroachment exceeds 2 metres;
  - (ii) residential entrance canopy, provided no such encroachment exceeds 3 metres;
- (j) *parking spaces* shall be provided and maintained on the *lot*, in accordance with the following:
  - (i) a minimum rate of 0.41 *parking spaces* for each *dwelling unit* for residents; and

- (ii) a minimum of 9 *parking spaces* for non-residential uses and residential visitors, which may be provided in a commercial parking garage on a non-exclusive basis.
  - (k) a maximum of 12 *parking spaces* may be obstructed and shall 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.
  - (l) the minimum required *parking spaces* for residents can be reduced by up to 4 *parking spaces* for each dedicated *car-share parking space* provided on the *lot*, where the maximum number of *car-share spaces* permitted is capped by the application of the formula (total number of *dwelling units* divided by 60, rounded down to the nearest whole number);
  - (m) a minimum of one *loading space* – type G and five *loading spaces* – type C are required, and may be located below finished ground on the *lot* or within 100 metres of the *lot* on an adjacent property with an underground connection to the *lot*, subject to the appropriate legal easements for site access and use of the adjacent property;
  - (n) the required bicycle parking space dimensions are:
    - (i) the required minimum width of a bicycle parking space if placed in a horizontal position is 0.6 metres;
    - (ii) the required minimum width of a bicycle parking space if placed in a vertical position on a wall, structure or mechanical device is 0.4 metres; and
    - (iii) the minimum dimensions of a stacked bicycle parking space are:
      - (a) minimum length of 1.8 metres;
      - (b) a minimum width of 0.6 metres; and
      - (c) a minimum vertical clearance of 1.15 metres.
  - (o) an area used to provide a stacked bicycle parking space must have a minimum vertical clearance of 2.3 metres.
5. Despite any future severance, partition or division of the lands as shown on Map 1 attached hereto, the provisions of this exception shall apply as if no severance, partition or division has 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 Map 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a *building* permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (c) The owner shall not use, or permit the use of, a *building* or structure erected with an increase in *height* and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

7. For the purposes of this By-law, each word or expression that is italicized in the By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, with the exception of the following terms:

- (a) "*lot*" means those lands outlined by heavy lines on Map 1 attached hereto and forming part of this By-law;
- (b) "*grade*" means an elevation of 148.7 metres Canadian Geodetic Datum;
- (c) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization and such car-share motor vehicles are made available to at least the occupants of the building for short term rental, including hourly rental;
- (d) "*car-share parking space*" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposes;
- (e) "*gross floor area*" means the sum of the total area of each floor level of a building or structure, above and below the ground, measured from the exterior of the main wall of each floor level, exclusive of any areas in a *building* or *structure* used for:
  - (i) parking, loading and bicycle parking below-ground;
  - (ii) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
  - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;

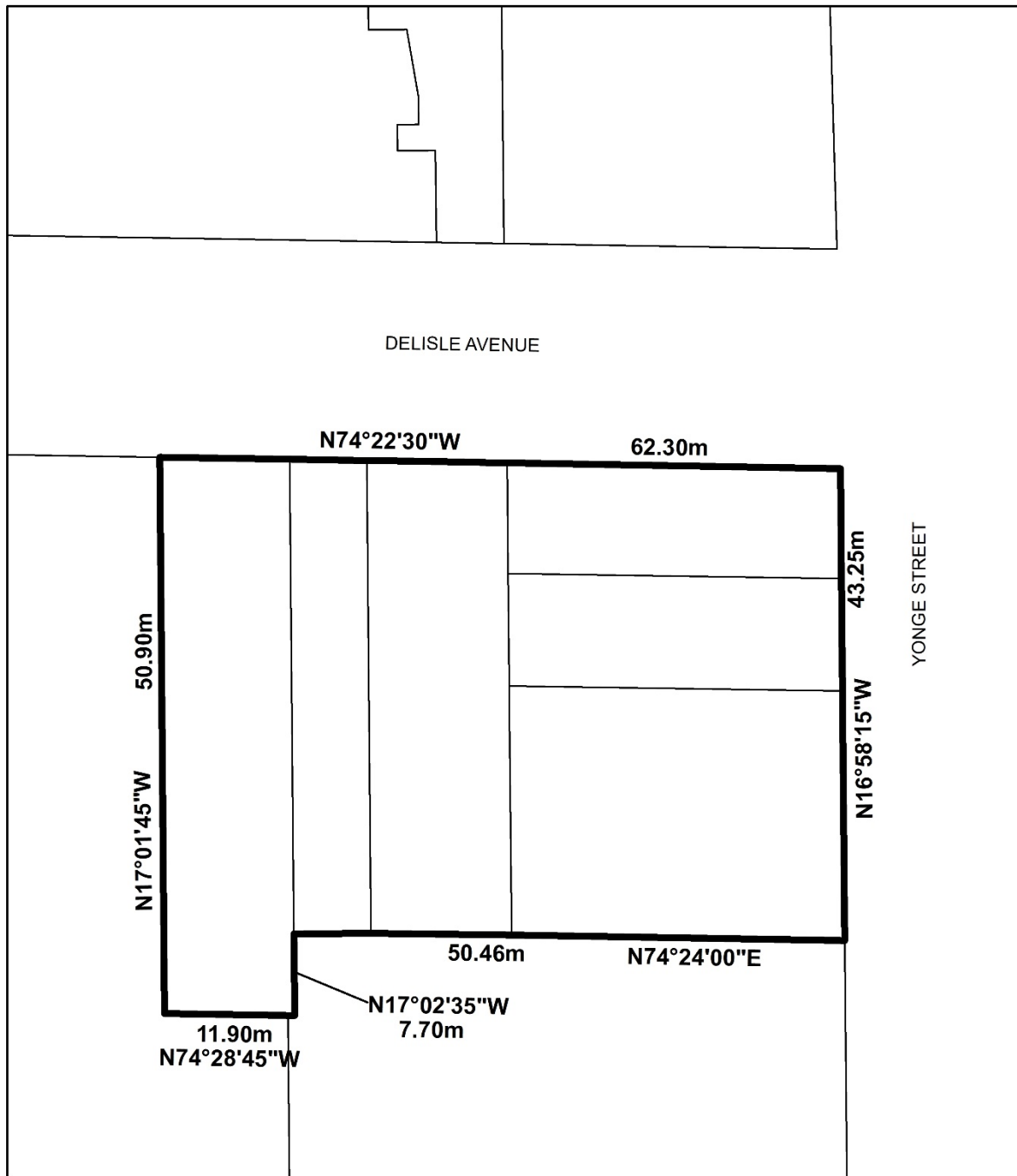
- (iv) shower and change facilities required by this By-law for required bicycle parking spaces;
  - (v) required amenity space;
  - (vi) elevator shafts;
  - (vii) garbage shafts;
  - (viii) mechanical penthouse; and
  - (ix) exit stairwells in the *building*.
- 8.** For the purposes of this By-law, the side of a parking space is obstructed if any part of a fixed object such as a wall, column, bollard, fence or pipe is situated:
- (i) within 0.3 metres of the side of the parking space, measured at right angles; and
  - (ii) more than 1.0 metre from the front or rear of the parking space.

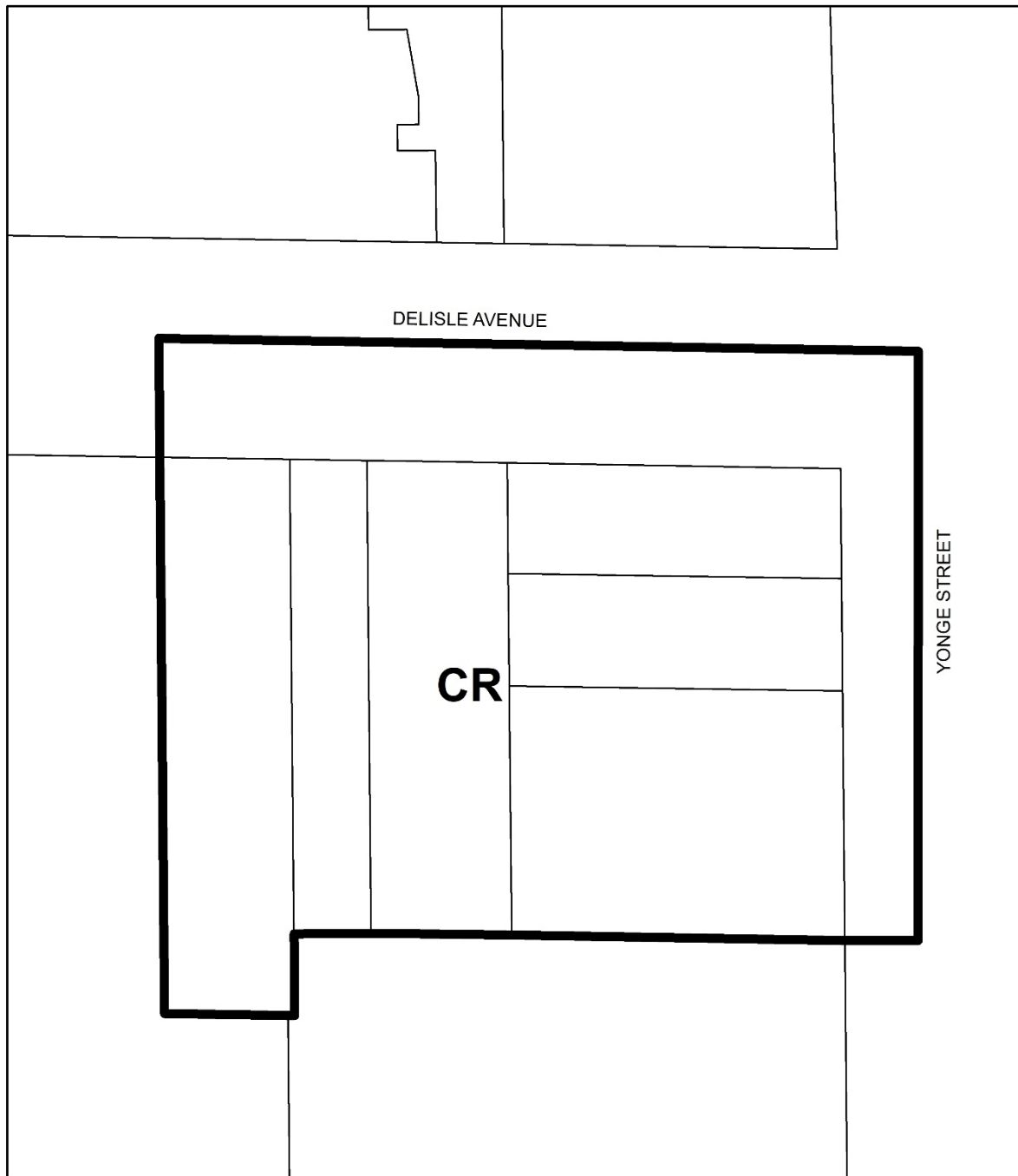
Enacted and passed on February 3, 2022.

Frances Nunziata,  
Speaker

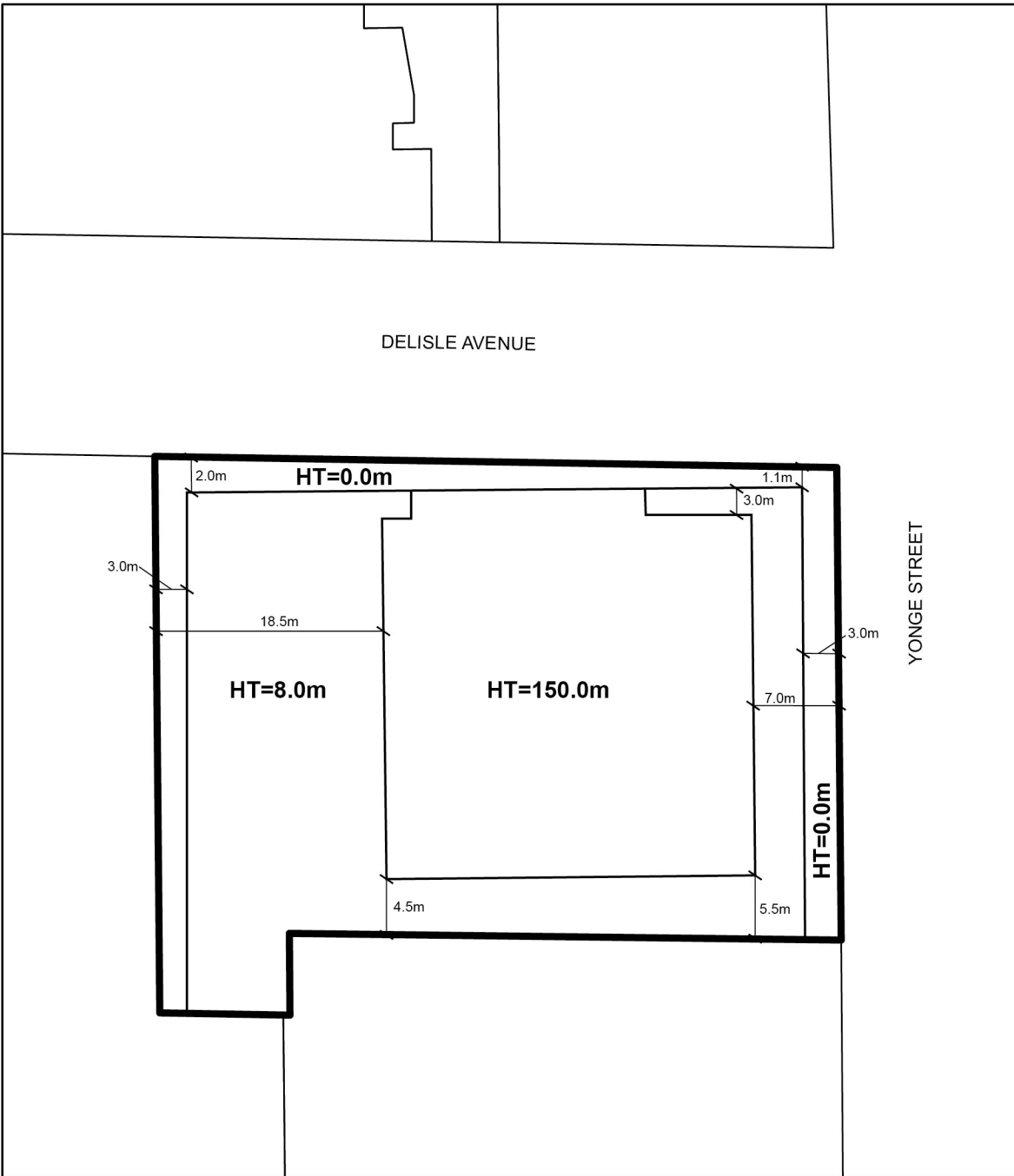
John D. Elvidge,  
City Clerk

(Seal of the City)









## SCHEDULE A

### Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the Owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Map 1 of this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act, and any other necessary agreement(s), whereby the owner agrees as follows:

- (1) Prior to the execution of the Section 37 Agreement or the issuance of any building permit, the owner(s) of 30 and 40 St. Clair Avenue West shall cause a section 118 Restriction under the *Land Titles Act* to be registered on the lands municipally known as 30 and 40 St. Clair Avenue West (including without limitation the parkland dedication lands) to the satisfaction of the General Manager, Parks, Forestry and Recreation prohibiting the transfer or charging of such lands without the prior written consent of the General Manager, Parks, Forestry and Recreation.
- (2) Prior to the enactment of the zoning by-law amendment bill, the owner shall provide a Reconstruction and Restoration Plan for the building at 1496-1500 Yonge Street, prepared by a qualified heritage consultant that is substantially in accordance with the approved Heritage Impact Assessment for 1496-1500 Yonge Street, to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (3) Prior to issuance of any building permit, the owner shall:
  - (a) provide a letter of credit, including provision for upwards indexing, in a form and amount satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Reconstruction and Restoration Plan required and the Interpretation Plan; and
  - (b) provide full documentation of the property at 1496-1500 Yonge Street, including two (2) printed sets of archival quality 8 inch x 10 inch colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (4) Prior to issuance of site plan approval or an above grade building permit the owner shall:
  - (a) provide a cash payment-in-lieu into the Municipal Parking Fund in lieu of any parking shortfall below the provision of six retail parking spaces on-site, if required;
  - (b) submit a Construction Management Plan and Neighbourhood Communication Strategy to the satisfaction of the Chief Planner and Executive Director, City

- Planning, in consultation with the Executive Director, Engineering and Construction Services and the Ward Councillor;
- (c) provide final site plan drawings substantially in accordance with the approved Reconstruction and Restoration Plan required, to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - (d) provide an Interpretation Plan for the property at 1496-1500 Yonge Street, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - (e) provide a Lighting Plan that describes how property at 1496-1500 Yonge Street will be sensitively illuminated to enhance its character as viewed from the public realm to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - (f) submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services.
- (5) Prior to issuance of an above grade building permit the owner shall:
- (a) provide a financial contribution in the amount of \$5,000,000.00 payable to the City, with such amount to be indexed upwardly in accordance with Statistics Canada Non-Residential Building Construction Price Index for the Toronto calculated from the date of the Section 37 Agreement to the date the payment is made, with the funds to be directed as follows:
    - (i) \$1,500,000.00 towards capital improvements for new or existing Toronto Community Housing and/or affordable housing, in consultation with the Ward Councillor;
    - (ii) \$1,500,000.00 towards capital improvements for new or existing cultural and/or community space, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor;
    - (iii) \$1,500,000.00 towards local area park or streetscape improvements, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Parks, Forestry and Recreation and the Ward Councillor; and
    - (iv) \$500,000.00 towards the provision and maintenance of a public art contribution.
  - (b) convey a total combined stratified park conveyance of a minimum 2,506 square metres (1,763 square metres pursuant to Section 42 of the Planning Act, and a minimum 743 square metres of additional parkland as a community benefit

pursuant to Section 37 of the Planning Act), with the final location, configuration and lower vertical limit of the off-site strata conveyance to be to the satisfaction of the General Manager, Parks, Forestry and Recreation, subject to the reservation of any easements in favour of the subjacent lands for support and maintenance and repair of the parking garage situate therein, and together with any easements in the subjacent lands in favour of the combined parkland dedication, in form and substance satisfactory to the City Solicitor.

- (6) The owner shall provide and maintain the following:
- (a) a publicly accessible pedestrian connection between St. Clair Avenue West and Delisle Park along the east side lot line of 40 St. Clair Avenue East with the specific size, configuration and design secured in a site plan agreement with the City to the satisfaction of the City Solicitor;
  - (b) a publicly accessible pedestrian connection between the Combined Parkland Dedication and the western façade of the building in a width and location to be determined to the satisfaction of the Director, Community Planning, Toronto and East York District and secured in a site plan agreement and public access easement in favour of the City between to the satisfaction of the City Solicitor; and
  - (c) a pick-up and drop-off area located on the ground floor level on the *lot*.
- (7) The owner shall provide the following to support the development of the lands;
- (a) a minimum of 10 percent family sized units in the development, containing at least three bedrooms;
  - (b) an impact mitigation strategy for any proposed non-residential uses on the lands known in 2020 as 15 Delisle Avenue with appropriate mitigation measures being secured during the site plan control application; and
  - (c) the owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report, to be resubmitted for review and acceptance by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements to such infrastructure are required to support this development.
- (8) In the event the cash contributions referred to in Section (5) above have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.