

Authority: Toronto and East York Community Council Item 27.3,
as adopted by City of Toronto Council on November 13, 14, 15 and 18, 2013

CITY OF TORONTO

BY-LAW No. 139-2014

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 501-521 Yonge Street, 6-8 Alexander Street and 23 Maitland Street.

Whereas the Council of the City of Toronto has been requested to amend its Zoning By-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, with respect to the lands known municipally in the year 2013 as 501-521 Yonge Street, 6-8 Alexander Street, 23 Maitland Street; 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 pursuant to Section 37 of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, 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 or matters in return for any 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 or matters; and

Whereas the *owner* of the lands hereinafter referred to has elected to provide the facilities, services or matters as are hereinafter set forth; and

Whereas the increase in the height and density permitted hereunder, beyond that otherwise permitted on the lands by By-law No. 438-86, as amended, is to be permitted subject to the provision of the facilities, services or matters set out in this By-law and to be secured by one or more agreements between the *owner* of the lands and the City of Toronto (hereinafter referred to as the "*City*"); and

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

Whereas Council has required the *owner* of the aforesaid lands to enter into one or more agreements to secure certain facilities, services or matters in connection with the aforesaid lands set forth in the By-law;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreement's pursuant to Section 37(3) of the *Planning Act*.

2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision 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 requirements.
3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement entered into with the *City* pursuant to Section 37 of the *Planning Act*, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of Section 2(1) with respect to the definition of *grade*, *height*, *lot*, *non-residential gross floor area*, *residential gross floor area*, *bicycle parking space - occupant*, and *bicycle parking space - visitor*, 4(2)(a), 4(5)(b) and (f), 4(12), 4(13)(a) and (d), 4(17), 8(3) Part I 1 and 3(a), 8(3) Part III 1(a), 12(2) 160, 12(2) 260, 12(2) 208 of By-law No. 438-86 of the former City of Toronto, as amended, shall apply to prevent the erection or use of a *mixed-use building* within the *lot* which may contain *dwelling units* and non-residential uses and *accessory* uses thereto including a *parking garage* provided that:
 - (a) the *lot* on which the uses are located comprises at least the lands comprising *Parcel A* and *Parcel B* as shown on Map 1 attached to and forming part of this By-law;
 - (b) the total combined *residential gross floor area* and *non-residential gross floor area* erected or used on the *lot* shall not exceed 53,190 square metres;
 - (c) the total *residential gross floor area* erected or used on the *lot* shall not exceed 51,920 square metres;
 - (d) the total *non-residential gross floor area* erected or used on the *lot* shall not exceed 1,270 square metres;
 - (e) the total number of *dwelling units* erected or used on the *lot* shall not exceed 776;
 - (f) at least ten percent (10%) of the total number of *dwelling units* erected or used on the *lot* shall have three or more bedrooms;
 - (g) the minimum floor to ceiling height of the ground floors of the building(s) erected or used along Yonge Street, Maitland Street and Alexander Street shall be 5 metres for a minimum depth of 5 metres;
 - (h) pedestrian weather protection with a minimum depth of 3 metres shall be provided along Yonge Street, Maitland Street and Alexander Street;

- (i) a minimum of 635 square metres or 0.818 square metres for each *dwelling unit*, whichever is greater, of outdoor *residential amenity space* for use by residents of the *lot*, is provided and maintained on the *lot* in a location adjoining or directly accessible to indoor *residential amenity space* required in subsection (j) herein which contains a kitchen and a washroom;
- (j) a minimum of 1,646 square metres or 2.1 square metres for each *dwelling unit*, whichever is greater, of indoor *residential amenity space* for use by residents of the *lot*, is provided and maintained on the *lot* in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom;
- (k) no portion of the *mixed-use building* shall be located otherwise than wholly within the areas delineated by heavy lines on Map 2 attached to and forming part of this By-law, with the exception of the following structures and elements:
 - (i) canopies, awnings and building cornices; and
 - (ii) window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, underground garage ramps, landscape and green roof elements, partitions dividing outdoor recreation area, trellises, wind mitigation and public art elements;
- (l) no portion of any building or structure erected or used on the *lot*, including the mechanical and roof top elements, shall exceed the *heights* in metres specified by the numbers following the symbol "H" on the attached Map 2, with the exception of the following structures and elements:
 - (i) canopies, awnings and building cornices; and
 - (ii) window washing equipment, lighting fixtures, ornamental elements, lightning rods, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, wheel chair ramps, vents, ventilating equipment, landscape and green roof elements, partitions dividing outdoor recreation areas, wind mitigation, chimney stack, exhaust flues, garbage chute overrun, and public art elements; and

for the sake of clarity, only a mechanical penthouse and portions of the structures or elements set forth in (i) and (ii) herein, may be located within each of the areas respectively identified on Map 2 as "H 86.0m (mechanical penthouse)" and "H 170.0m (mechanical penthouse)";
- (m) a minimum of 185 *parking spaces* for residents of the *lot*, 47 *parking spaces* for residential visitors to the *lot* and 3 *car-share parking spaces*, are provided and maintained on the *lot* in a *parking garage*; for the sake of clarity, no *parking spaces* shall be required for non-residential uses on the *lot*;

- (n) despite Section 5(m) herein, up to 31 of the *parking spaces* required to be provided for residential visitors to the *lot* may be provided off-site in a parking facility located within 300 metres of the *lot*;
- (o) despite Section 4(17) of By-law No. 438-86, as amended, *parking spaces* required pursuant to Section 5(m) and (n) herein shall have minimum dimensions of 5.6 metres in length and 2.6 metres in width with the exception of up to 4 *parking spaces* which may have minimum dimensions of 5.6 metres in length and 2.45 metres in width;
- (p) at least one *loading space-type G* and one *loading space-type B* are provided and maintained on the *lot*;
- (q) the number of *bicycle parking spaces* provided and maintained on the *lot* shall be as follows:
 - (i) for residential uses, a minimum of 1.0 *bicycle parking space* for each *dwelling unit*, comprised of 0.8 *bicycle parking spaces - occupant* and 0.2 *bicycle parking spaces - visitor*; and
 - (ii) for uses listed in Section 8(1)(f)(b)(iv), (v) and (vi) of By-law No. 438-86, as amended, the number of *bicycle parking spaces* shall be provided and maintained in accordance with Section 4(13) of such By-law;
- (r) if the *mixed-use building* is constructed in phases, the first phase of construction shall occur on *Parcel B* and despite Sections 5(b), (c), (i), (j), (m) and (q) herein, prior to the completion of construction on *Parcel A*:
 - (i) the combined *residential gross floor area* and *non-residential gross floor area* erected or used on *Parcel B* shall not exceed 42,405 square metres, of which not more than 41,135 square metres shall be *residential gross floor area* and not more than 1,270 square metres shall be *non-residential gross floor area*;
 - (ii) a minimum of 109 *parking spaces* for residents of the *lot*, 36 *parking spaces* for residential visitors to the *lot* and 3 *car-share parking spaces*, are provided and maintained on the *lot*;
 - (iii) despite Section 5(r)(ii) herein, up to 23 of the *parking spaces* required to be provided for residential visitors to the *lot* may be provided off-site in a parking facility located within 300 metres of the *lot*;
 - (iv) a minimum of 892 square metres of indoor *residential amenity space* is provided in a multi-purpose room or rooms, at least one of which contains a kitchen and a washroom, and a minimum of 306 square metres of outdoor *residential amenity space* in a location adjoining or directly accessible to such required indoor *residential amenity space* which contains a kitchen and a washroom, are provided and maintained on the *lot* for use by residents of the *lot*; and

- (v) a minimum of 486 *bicycle parking spaces-occupant* are provided and maintained on the *lot* for use by residents of the *lot*, and a minimum of 115 *bicycle parking spaces -visitor* shall be provided and maintained on the *lot* for visitors to the *mixed-use building*; and
 - (s) none of the provisions of this By-law shall apply to prevent a temporary *sales office* on the *lot*.
6. Within the *lot*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
7. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:
- (a) "*above-grade permit*" means the first *building permit* issued respecting all or any part of the *lot* that permits the erection of any above *grade* portion of a building and for clarity does not include a foundation permit;
 - (b) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle stacker or locker for the purpose of parking and securing bicycles, and:
 - (i) where the bicycles are to be parked in a horizontal position, and except in the case of a bicycle stacker, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (c) "*bicycle parking space - occupant*" means a "*bicycle parking space*" provided in a secured room or area;
 - (d) "*bicycle parking space - visitor*" means a "*bicycle parking space*" that may be provided outdoors or indoors but not within a secured room, enclosure or locker;
 - (e) "*building permit*" means a permit issued under the *Building Code Act, 1992*, S.O. 1992, c. 23 as amended or re-enacted from time to time, but it does not include any permit issued to construct a temporary *sales office* or a portion thereof;

- (f) "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (g) "*car-share parking space*" means a *parking space* used exclusively for the parking of a *car-share* motor vehicle;
- (h) "*grade*" means the established grade of 105.56 metres Canadian Geodetic Datum;
- (i) "*height*" means the vertical distance between *grade* and the highest point of the building or structure;
- (j) "*lot*" means the land comprising *Parcel A* and *Parcel B* as shown on the attached Map 1;
- (k) "*non-residential gross floor area*" means the aggregate of the areas of each floor and the spaces occupied by walls and stairs, above or below *grade*, of the non-residential portion of a *mixed-use building*, measured between the exterior faces of the exterior walls of the building at the level of each floor, exclusive of the following areas:
 - (i) a room or enclosed area, including its enclosing walls, within the building above or below *grade* that is use exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that service the building;
 - (ii) loading facilities above or below *grade* required by this By-law;
 - (iii) a part of the building above or below *grade* that is used for the parking or storage of motor vehicles or bicycles; and
 - (iv) a part of the building below *grade* that is used for storage or other *accessory* use;
- (l) "*Parcel A*" means that portion of the *lot* identified as *Parcel A* on Map 1 attached to and forming part of this By-law which is located at and above an elevation of 125.0 metres Canadian Geodetic Datum;
- (m) "*Parcel B*" means the lands identified as *Parcel B* on Map 1 attached to and forming part of this By-law together with that portion of the lands identified as *Parcel A* on Map 1 which are located below an elevation of 125.0 metres Canadian Geodetic Datum;
- (n) "*residential gross floor area*" means the aggregate of the areas of each floor and the space occupied by walls and stairs, above and below *grade*, of the residential portion of a *mixed-use building*, measured between the exterior faces of the

exterior walls of the building or structure, at the level of each floor exclusive of the following areas:

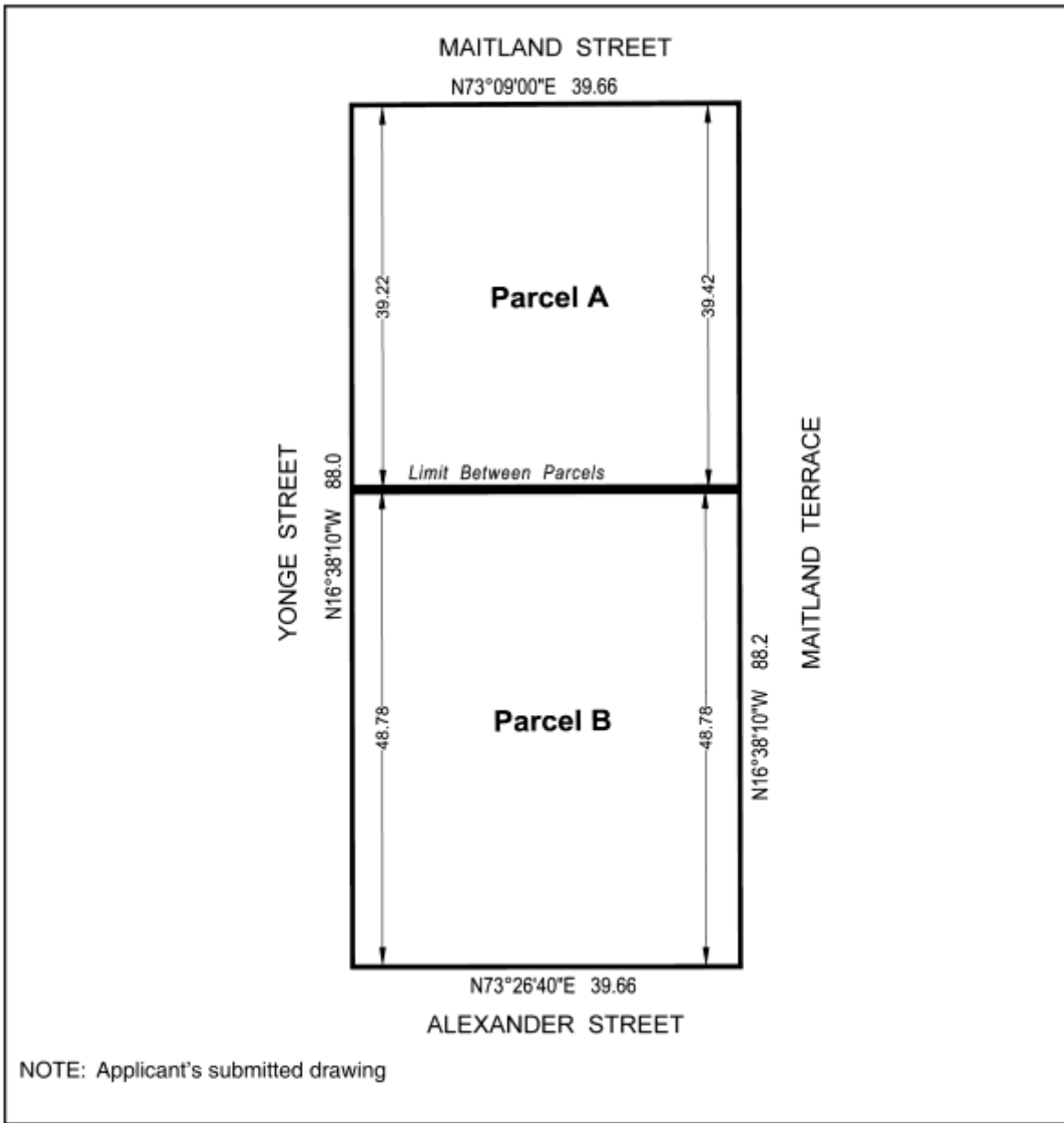
- (i) a room or enclosed area, including its enclosing walls, within the building above or below *grade* that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that service the building;
 - (ii) loading facilities above or below *grade* required by this By-law;
 - (iii) a part of the building above or below *grade* that is used for the parking or storage of motor vehicles or bicycles required by this By-law;
 - (iv) *residential amenity space* required by this By-law; and
 - (v) a part of the building below *grade* that is used for storage or other *accessory* use; and
- (o) "*sales office*" means a building, structure, facility or trailer on the *lot* used exclusively for the purpose of the initial sale and/or the initial leasing of *dwelling units* or the non-residential uses to be erected on the *lot*.
8. Notwithstanding any existing or future severances, 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 had occurred.
9. Within the *lot*, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
 - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

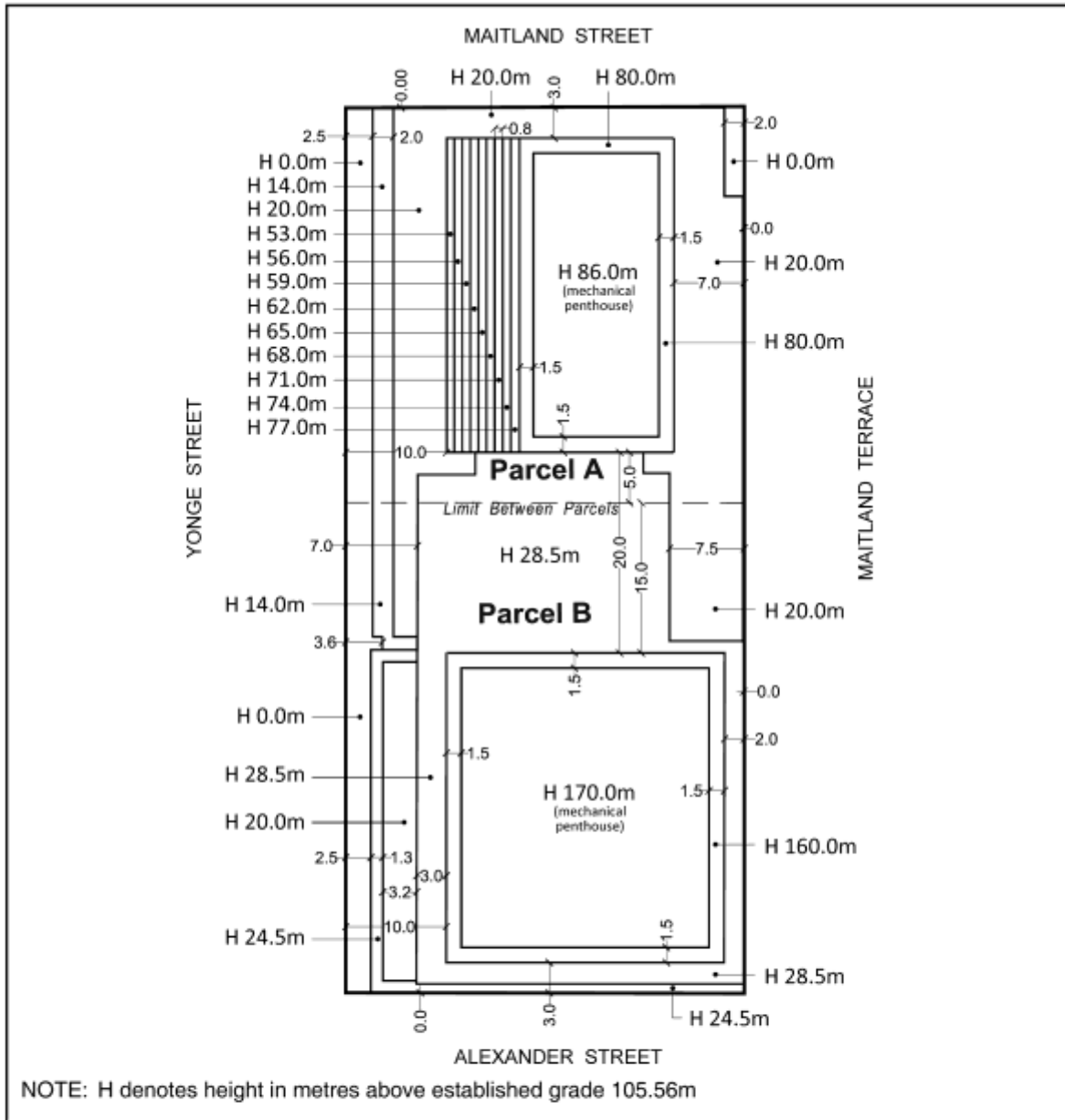
Enacted and passed on February 20, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)





APPENDIX 1
Section 37 Provisions

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

1. The *owner* shall pay to the *City* by certified cheque the sum of Five Million Dollars (\$5,000,000.00), as follows:
 - (a) Prior to the issuance of the first *building permit* for all or any part of the *lot*, the sum of Five Hundred Thousand Dollars (\$500,000.00), towards Public Art in accordance with the *City's* Percent for Public Art Program; and
 - (b) Prior to the issuance of the first *above-grade permit* for all or any part of the *lot*, the sum of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) by certified cheque, to be used by the *City* towards capital improvements as follows:
 - (i) Three Million Three Hundred Fifty Thousand Dollars (\$3,350,000.00), towards local streetscape improvements and laneway improvements not abutting the *lot*, in the local area including along Yonge Street and Maitland Terrace;
 - (ii) Four Hundred Fifty Thousand Dollars (\$450,000.00) towards affordable housing and Toronto Community Housing within Ward 27;
 - (iii) Two Hundred Thousand Dollars (\$200,000.00) towards capital improvements to The Hincks-Dellcrest Treatment Centre, a non-profit facility located on Jarvis Street; and
 - (iv) Five Hundred Thousand Dollars (\$500,000.00) towards parkland acquisition and/or park improvements in the area,

with the payments in this Section 1(a) and (b) of Appendix 1 to be increased by upwards indexing in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto calculated from the date of the execution of the Section 37 Agreement required in Sections 1 and 2 of this By-law, to the date of each such payment to the *City*;

Despite the foregoing, in the event all or any portion of the Five Million Dollar (\$5,000,000.00) payment to the *City* has not been used by the *City* for the intended purpose(s) set out herein, within three (3) years of this By-law coming into force and effect, such payment(s) to the *City* may be redirected by the *City* for other capital improvement purposes at the direction of the *Chief Planner* in consultation with the local Councillor, provided such purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*;

2. Prior to the issuance of any site plan approval for all or any portion of the *lot* through the site plan approval process pursuant to Section 114 of the *City of Toronto Act, 2006*, as amended, or re-enacted from time to time ("*site plan approval*"):
 - (a) Despite the provisions of Section 1(b)(iv) of this Appendix 1, the *owner* instead of making the payment to the *City* required in such Section 1(b)(iv) may convey to the *City* for local area parks purposes land located in the immediate vicinity of the *lot* provided:
 - (i) Such land is acceptable to the *City's* General Manager Parks, Forestry and Recreation for such park purposes;
 - (ii) Such land has a value equal to not less than Five Hundred Thousand Dollars (\$500,000.00) as determined to the satisfaction of the *City's* Chief Planner and Executive Director City Planning (the "*Chief Planner*"); and
 - (iii) Such conveyance is the satisfaction of the City Solicitor and such General Manager;
3. The *owner* shall provide and maintain the wind mitigation measures identified in the approved Wind Study prepared by Theakston Environmental Consulting Engineers, dated August 30, 2013, date stamped received by the City Planning Division September 18, 2013, to the satisfaction of the *Chief Planner*;
4. At least ten percent (10%) of the total number of *dwelling units* to be constructed and maintained on the lot shall contain at least three or more bedrooms in compliance with the provisions of the Ontario Building Code (O.Reg. 332/12), as amended or replaced from time to time;
5. The *owner* shall pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the *City's* Executive Director of Engineering and Construction Services (the "*Executive Director EC*", should the *Executive Director EC* determine that improvements to infrastructure are required to support the development;
6. The *owner* shall design and construct upgraded streetscape for Yonge Street and for Maitland Terrace, from Maitland Street to Alexander Street, and for Alexander Street and for Maitland Street adjacent to the *lot*, including a pedestrian walkway (laneway only), upgraded pavement treatment and landscaping to the satisfaction of the *Chief Planner* in consultation with the *Executive Director EC*, to be further secured through the *site plan approval* process. Such walkway to be provided and maintained at the *owner's* expense and the specific location, configuration and design to be determined to the satisfaction of the *Chief Planner* prior to the earlier of the issuance of any *site plan approval* for such portion of the *lot* and the issuance of the first *building permit* for all or any adjacent lands located on the *lot*;

7. The *owner* shall design, construct and thereafter maintain:
- (a) Upgraded façade treatment for any above *grade* parking to be erected on the *lot*;
 - (b) Pedestrian weather protection to a minimum of 3 metres in width along Yonge Street, Maitland Street and Alexander Street, provided the *City* grants an encroachment agreement for such; and
 - (c) A maximum retail design expression for ground floor retail unit facades along the *lot's* Yonge Street frontage of 5.0 metres (+/-0.25 metres) intervals;

substantially in accordance with the plans for City Planning File No.11-187996 STE 27 OZ dated 21/03/2013 revision #3 dated 02/07/2013 entitled "Project Renderings", "North, West Elevations" and "South, East Elevations", and all to the satisfaction of the *Chief Planner*;

8. The *owner* shall provide and maintain privately owned, publicly accessible walkways on the *lot* for the purpose of extending the width of public sidewalks abutting the *lot* along each of the Yonge Street, Alexander Street and Maitland Street frontages of the *lot*, with the specific location, configuration and design of such walkways to be to the satisfaction of the *Chief Planner* and determined at the time of the applicable *site plan* approval for the *lot* or portion of the *lot*. Such walkways shall be maintained free and clear of encumbrances, for pedestrian use, in perpetuity, all to the satisfaction of the *Executive Director EC* and the City Solicitor;
9. Prior to the residential or non-residential use of any building erected on all or any part of the *lot* after the date of enactment of this By-law, save and except for a temporary *sales office*, the *owner* shall convey to the *City* the related non-exclusive easements for 24-hour, 7 days a week, public access to the walkways required in Section 8 of this Appendix 1 (the "*City Easements*"), all to the satisfaction of the *Chief Planner*, the *Executive Director EC* and the City Solicitor;
10. The *owner* shall construct, repair and maintain the publicly accessible pedestrian walkways required in Section 8 of this Appendix 1, to the satisfaction of the *Executive Director*;
11. Prior to the earlier of the issuance of each *site plan approval* for all or any portion of the *lot*, the issuance of any *building permit* for the *lot*, and in the case of phased development, prior to the issuance of the first *building permit* for each phase of development of the *lot*, the *owner* shall provide a detailed construction management plan for the *lot*, to the satisfaction of the *Chief Planner*; and
12. The *owner* enters into and registers on title to the *lot* one or more agreements with the *City* pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the *Chief Planner*, to secure the facilities, services and matters set forth in this Appendix 1.