

Authority: Ontario Municipal Board Decision/Order issued on January 5, 2015, June 22, 2015 and February 26, 2016 in Board File No. PL130924

CITY OF TORONTO

BY-LAW No. 891-2016(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, respecting lands known municipally as 2131 Yonge Street and 32 Hillside Avenue East.

Whereas the Ontario Municipal Board pursuant to its Decision/Order issued on January 5, 2015, June 22, 2015 and February 26, 2016, upon hearing an appeal under Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend By-law No. 438-86, as amended of the former City of Toronto with respect to the lands known municipally in the year 2013 as 2131 Yonge Street and 32 Hillside Avenue East; and

Whereas the Official Plan for the City of Toronto contains such 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 or 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 lands elects to provide facilities, services or matters, in return for an increase in height or density of development, the owner may be required to enter into one or more agreements with the municipality in respect of 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;

By-law No. 438-86, of the former City of Toronto, is amended by the Ontario Municipal Board as follows:

1. District Map No. 51K-321 contained in Appendix "A" and "B" of By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, *height*, spacing of and other matters relating to 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, is further amended by redesignating from "R2" to "MCR T3.0 C2.0 R2.5" and "G" the lands identified as "MCR T3.0 C2.0 R2.5" and "G" on Appendix "A" as outlined on Plan 1 attached to and forming part of this By-law and by changing the *height* limit applicable to such lands shown as "MCR T3.0 C2.0 R2.5" on Appendix "B" to 16 metres as outlined on Plan 1 attached to and forming part of this By-law.

2. None of the provisions of Section 2 with respect to the definitions of the terms lot, grade, height, bicycle parking space occupant and bicycle parking space-visitors, and Sections 4(2)(a), 4(3), 4(12), 8(3) Part I, 8(3) Part II, 12(2) 63, 12(2) 118, and 12(2) 119, Section 12(2) 270 and Section 12(7) of the aforementioned Zoning By-law No. 438-86, as amended, shall apply to prevent the erection of a mixed use building on the lot which may contain dwelling units, non-residential uses and a commercial parking garage, including uses accessory thereto, provided that:
- (a) the lot comprises at least the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law; and
 - (b) the total combined residential gross floor area and non-residential gross floor area of the building does not exceed 51,075 square metres, provided that:
 - (i) the non-residential gross floor area shall not exceed 13,000 square metres; and
 - (ii) the calculation of non-residential gross floor area shall not include any portion of the building used for the purposes of a commercial parking garage;
 - (c) notwithstanding the graphic portrayal of the tower floor plate illustrated on Map 2 attached hereto and forming part of this By-law, and subject to the regulations restricting the location of the tower as contained in this By-law, including but not limited to Section 2(d) below, no individual residential tower floor plate within the tower shall have a gross construction floor area in excess of 890 square metres;
 - (d) the tower shall not exceed a width of 35.0 metres where the 35.0 metres width restriction is measured as follows:
 - (i) along the exterior main wall of the northwest corner of the tower to the exterior main wall of the northeast corner of the tower; and
 - (ii) along the exterior main wall of the southwest corner of the tower to the exterior main wall of the southeast corner of the tower;
 - (e) no portion of the mixed-use building, above finished ground level is located otherwise than wholly within the heavy lines on Map 2 attached hereto and forming part of this By-law; which provides for minimum setbacks, including the following:
 - (i) the tower shown on Map 2 shall be setback a minimum of 20.0 metres from the westerly property line shown on Map 1; and
 - (ii) the *tower* shown on Map 2 shall be setback a minimum 10.39 metres from the portion of the easterly property line shown on Map 1 as having a bearing of N15°43'25"W;
 - (f) no portion of the *mixed-use building* shall have a greater *height* in metres than the height limits specified by the numbers following the symbol "H" on Map 2 attached to and forming part of this By-law;

- (g) notwithstanding Section 2(e) and 2(f) of this By-law, the following building elements and structures are permitted to project beyond the heavy lines and above the *heights* shown on Map 2, subject to the limitations as noted below:

Permitted Projections	Limitation
eaves, cornices, light fixtures, ornamental elements, parapets, eaves, window sills, guardrails, bollards, balustrades, railings, fences, stairs, stair enclosures, wheel chair ramps and underground garage ramps and associated structures; architectural elements, landscape features, window washing equipment	No limit on extent of permitted projection, with the exception that ornamental and architectural elements are not permitted on the roof of that portion of the building subject to a maximum of 12 storeys as shown on Map 2
elevator shaft, heating, cooling or ventilating equipment, including vents and stack, on the roof of the building or a fence, wall, screen or structure enclosing such elements;	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>
structures used for outside or open air recreation, safety or wind protection purposes,	The maximum <i>height</i> of the top of the structure is no higher than the sum of 3.0 metres and the height limit applicable to the <i>lot</i> and the structures shall not enclose space so as to constitute a form of penthouse or other room or rooms
Awnings, canopies	Permitted to a maximum projection of 4.0 metres beyond the exterior of the wall to which such awnings and canopies are attached
elements of a green roof	The maximum height of such elements shall be 0.5 metres above the height limits applicable to the <i>lot</i>
Trellises, privacy screens, privacy walls	The maximum height of the top of such elements shall be no higher than the sum of 3.0 metres and the height limit applicable to the <i>lot</i>

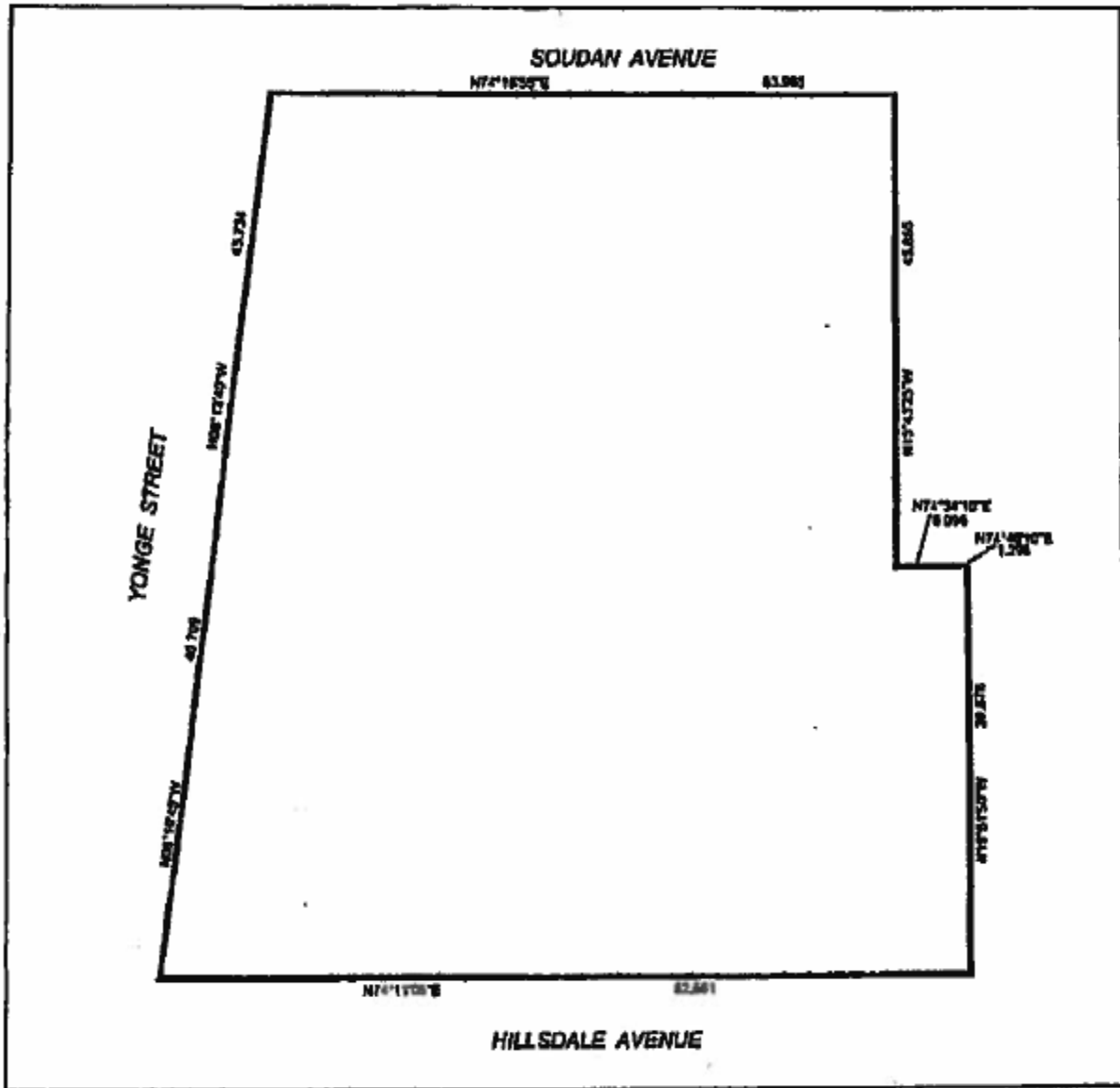
- (h) no portion of the building shall have a greater number of *storeys* than the number of *storeys* specified by the numbers circled on Map 2;
- (i) *parking spaces* for the residential occupants of and visitors to the building are provided and maintained on the *lot* in accordance with the following:

- (i) a minimum of 0.35 *parking spaces* for each *dwelling unit*; and
 - (ii) a minimum of 0.06 *parking spaces* per *dwelling unit* for visitors to the building;
 - (j) *parking spaces* for non-residential uses in the *mixed-use building* are provided and maintained on the *lot* at a ratio of not less than 1.0 *parking spaces* for each 100 square metres of *non-residential gross floor area*;
 - (k) the total number of *parking spaces* required to be provided under subsections (i), (ii) and (j) above may be provided on a non-exclusive basis for the shared use of residential visitors and non-residential uses and all such *parking spaces* may be provided within a *commercial parking garage*;
 - (l) the maximum number of *car-share parking spaces* shall be 3;
 - (m) for each *car-share parking space* provided on the *lot*, the minimum number of required residential *parking spaces* shall be reduced by 4 *parking spaces*;
 - (n) a minimum of 1.5 square metres of indoor *residential amenity space* for each *dwelling unit* on the *lot* shall be provided located in a multi-purpose room or rooms in the building (whether or not such rooms are contiguous), at least of which contains a kitchen and a washroom; and
 - (o) a minimum of 1.5 square metres of outdoor *residential amenity space* for each *dwelling unit* on the *lot* shall be provided.
3. None of the provisions of Zoning By-law No. 438-86 or this By-law shall apply to prevent a *temporary sales office* on the *lot*.
4. 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) "*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:
 - (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (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; and
 - (iii) where the bicycles are to be parked in bicycle stacker, has a horizontal dimension of at least 0.6 metres, by 1.8 metres and has a vertical dimension for each bicycle parking space of at least 1.2 metres;

- (b) "*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:
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres;
 - (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;
 - (iii) where the bicycles are to be parked in bicycle stacker, has a horizontal dimension of at least 0.6 metres, by 1.8 metres and has a vertical dimension for each bicycle parking space of at least 1.2 metres; and
 - (iv) may be located outdoors or indoors;
- (c) "*bicycle stacker*" means a device where by a bicycle parking space is positioned above or below another parking space and is accessed by means of an elevating device;
- (d) "*car-share*" means the practice whereby 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 to use a car-share vehicle, a person must meet the membership requirements of the car-sharing organization;
- (e) "*grade*" means 155.15 metres Canadian Geodetic Datum;
- (f) "*gross construction floor area*" means the total floor area of a floor plate of a building measured from the exterior face of all exterior walls;
- (g) "*height*" means the highest point of the roof above *grade*, except for those elements prescribed by this By-law;
- (h) "*lot*" means at least the lands delineated by heavy lines shown on Map 1, excluding the lands identified on Map 2 as Park Conveyance Lands and Road Conveyance Lands;
- (i) "*storey*" shall mean a level of a building, located between any floor and the floor, ceiling or roof immediately above it, provided the floor of such level is located above finished ground level;
- (j) "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of the first *dwelling units* to be erected on the *lot*; and
- (k) "*tower*" means the portion of the *mixed-use building* located above a *height* of 45.0 metres and located within the portion of the *lot* subject to a *height* limit of 92.9 metres as shown on Map 2.

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. By-law No. 21739, By-law No. 337-67 and Bylaw No. 327-69 are hereby repealed.
7. In accordance with the City of Toronto Transition Protocol, By-law 569-2013 is amended to remove the entirety of the lands shown on Map 1 attached hereto from By-law No. 569-2013.

Pursuant to Decision/Order of the Ontario Municipal Board issued on January 5, 2015, June 22, 2015 and February 26, 2016 in Board Case No. PL130924



TORONTO City Planning
Division

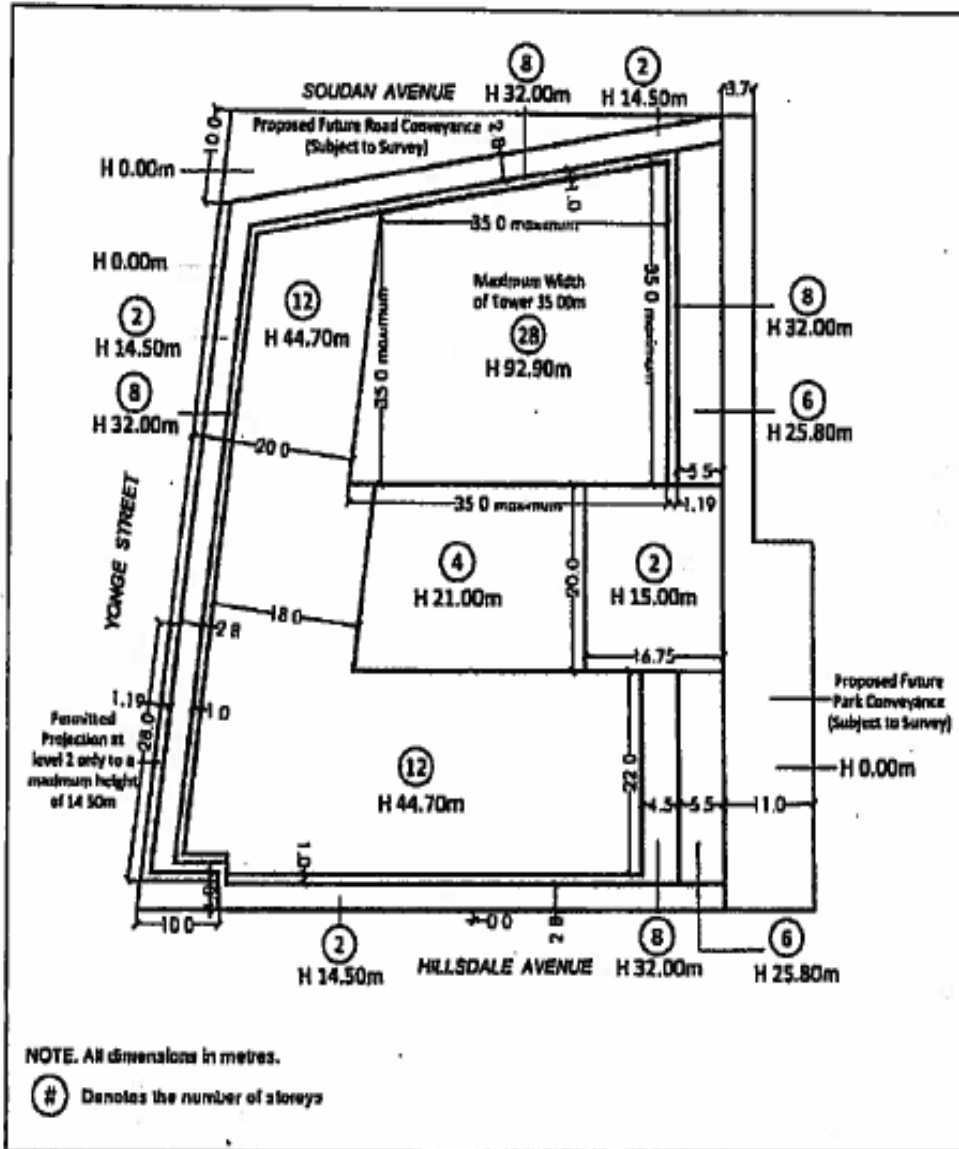
2131 Yonge Street, Toronto

Map 1

File #18 _____



Not to Scale



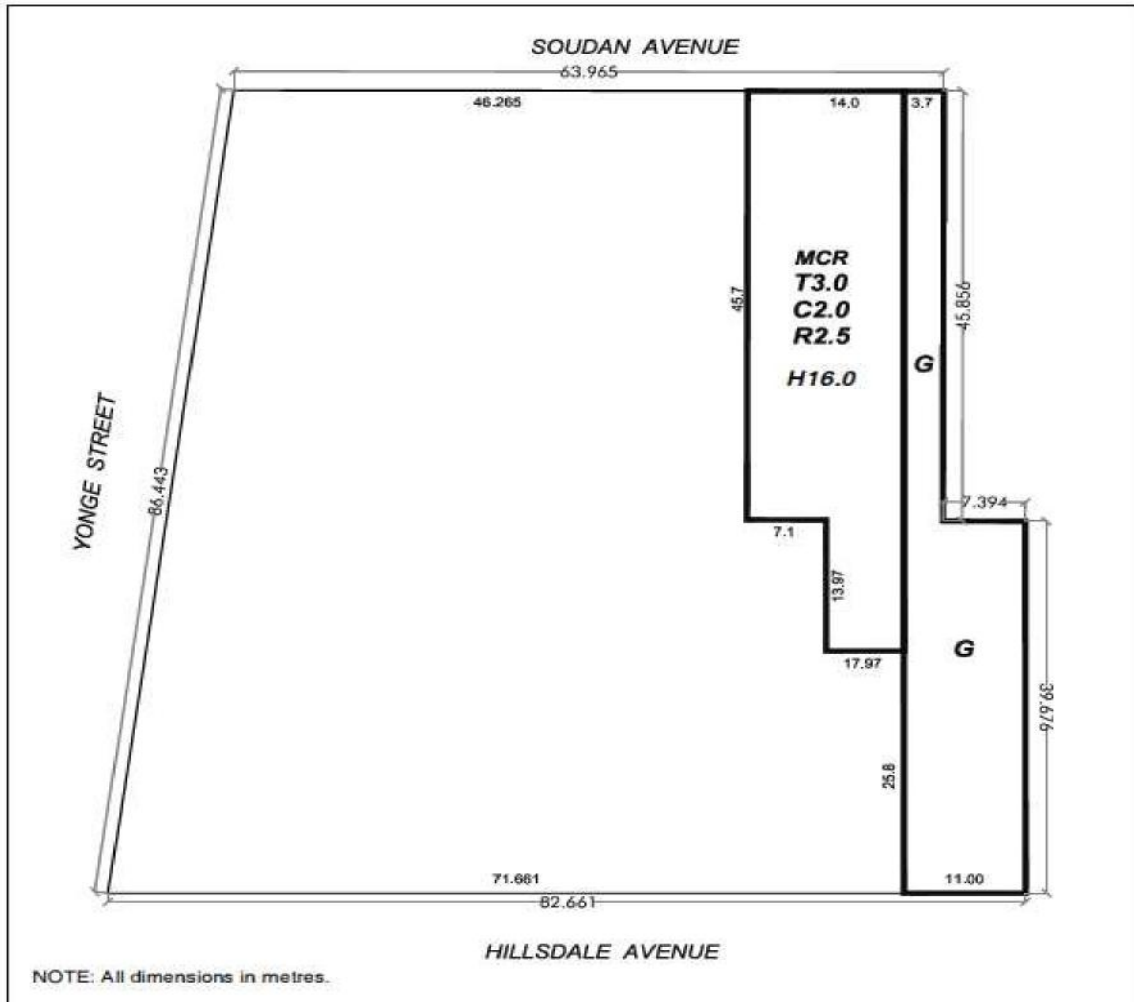
2131 Yonge Street and 32 Hillside Avenue East

Map 2

File # 13 105888 STE 22 02



Not to Scale
 12/03/2014



2131 Yonge Street and 32 Hillsdale Avenue East

Plan 1

File # 13 105888 STE 22 0Z



Not to Scale
12/03/2014

SCHEDULE 1

Section 37 Provisions

The facilities, services and matters set out below subject to and in accordance with terms of an agreement or agreements, 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* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

1. The *owner* shall provide the following in support of the development of the *lot*:
 - (a) Prior to the registration of the plan condominium on the *lot*, the *owner* shall convey lands for the purpose of a road widening to the City, and such lands are identified as Map 2 and have a minimum area of 290 square metres;
 - (b) Prior to the registration of the plan of condominium on the *lot*, the *owner* shall convey lands, identified on Map 2 as the Proposed Future Park Conveyance as well as the lands municipally known as 29 and 31 Soudan Avenue (the "New Linear Park Lands"), having a minimum area of 1 100 square metres in accordance with the following and on terms and conditions as are set out in the Section 37 Agreement:
 - (i) the aforementioned required conveyance is conditional upon the City providing a release of the existing lease (registered as Instrument No. CT614576) with respect to the existing parkette, known as Hillsdale Avenue Parkette;
 - (ii) the *owner* shall convey the New Linear Park Lands to the City in fee simple and in accordance with the provisions of Section 1 of this Schedule and to the satisfaction of the City Solicitor;
 - (iii) the *owner* shall complete base park improvements prior to conveyance of the New Linear Park Lands and registration of the plan of condominium for the *lot* to the satisfaction of the General Manager of Parks, Forestry and Recreation, subject to securing any outstanding improvement items related to seasonality by letter of credit; and
 - (iv) the City and the *owner* acknowledge and agree that the conveyance of the New Linear Park Lands is in fulfillment of City requirements with respect to the development to convey lands for public park or other public recreation purposes or to make a cash-in-lieu payment pursuant to the requirements of the *Planning Act*, the *Condominium Act (Ontario)* and any by-laws pursuant thereto but, for clarity, shall not include the requirements of the *Development Charges Act*;

- (c) All conveyances to the City, pursuant to Section 1(a) and (b) of this Schedule, shall be for nominal consideration, free and clear of encumbrances other than encumbrances satisfactory to the City Solicitor and, in addition, the owner shall be responsible to prepare, submit to the City for approval and deposit all required reference plans to describe all lands being conveyed.