

Authority: Ontario Land Tribunal Decision issued on July 25, 2022 in Case OLT-21-001370

CITY OF TORONTO

BY-LAW 1286-2022(OLT)

To amend the former City of North York Zoning By-law 7625, as amended, with respect to lands municipally known in the year 2021 as 5800 Yonge Street.

Whereas the Ontario Land Tribunal pursuant to its Decision issued on July 25, 2022 in Case OLT-21-001370, approved amendments to By-law 7625 of the former City of North York, as amended, with respect to the lands; and

Whereas authority is given to Council by Section 34 and Section 36 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to impose the Holding Symbol (H) and to remove the Holding Symbol (H) when Council is satisfied that the conditions relating to the Holding Symbol have been satisfied; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of a Holding (H) symbol with conditions in the Zoning By-law; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in the height or 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 or the provisions of such facilities, services or matters as set out in the by-law; and

Whereas subsections 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services, or matters in return for an increase in the height or density of development, a 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 herein after set out;

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law 7625 of the former City of North York, as amended, is further amended as follows:

1. Schedules "B" and "C" of By-law 7625 of the former City of North York, as amended, are amended in accordance with Schedule 1 and Schedule RM6 (285)(H) attached to this By-law.
2. Section 64-20-A of By-law 7625, as amended, is further amended by addition the following subsection:

"64.20-A (285) RM6 (285)(H)

DEFINITIONS

BICYCLE PARKING

- (a) For the purpose of this exception, "bicycle room" shall mean an enclosed indoor space that is designed and equipped exclusively for the purpose of parking and securing bicycles.
- (b) For the purpose of this exception, "bicycle parking space" shall mean an area that is equipped with a bicycle rack, bicycle stacker, or a locker designed exclusively for the purpose of parking and securing bicycles, and:
 - i. where the bicycles are to be parked on a horizontal surface, has horizontal dimensions of at least 0.6 metres by 1.8 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
 - iii. where bicycles are to be parked in a bicycle rack or in a stacked manner, bicycles may be parked in a secured room or area, in bicycle lockers or on a rack/hook on a wall associated with a vehicle parking space on any parking level so long as such rack/hook does not encroach into a vehicle parking space and in all such cases the dimensions in (i) and (ii) shall not apply.

CAR-SHARE

- (c) For the purpose of this exception, "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 be refundable.
- (d) For the purpose of this exception, "car-share parking space" means a parking space exclusively reserved and signed for a car used only for car-sharing purposes.

ESTABLISHED GRADE

- (e) For the purpose of this exception, "established grade" shall mean the geodetic elevation of 190.82 metres.

GROSS FLOOR AREA

- (f) For the purpose of this exception, "gross floor area" shall mean the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding any part of the building used for:

- i. mechanical floor area;
- ii. any space in a parking garage below established grade or on the first level used exclusively for motor vehicle and bicycle parking and access thereto, including loading areas;
- iii. the floor area of unenclosed residential balconies;
- iv. indoor Recreational Amenity Space up to a maximum of 1.5 square metres per dwelling unit;
- v. the area of a city-owned child care facility; and,
- vi. the area of street related retail space up to a depth of 30 metres.

For greater certainty, but not so as to restrict generality:

- a. *the calculation of gross floor area shall exclude* – architectural features affixed to or extending beyond the exterior faces of exterior walls; floor slab openings and other voids, including, pipe space enclosures throughout, including within residential units; mechanical areas within residential units, including HVAC spaces; stormwater storage tanks; parking ramps and aisles to or within a parking garage; bicycle rooms contained within a parking garage; accessory uses to parking areas within a parking garage including: airlock rooms adjacent to elevators or exits; exit stairs that lead directly from a parking garage to the exterior of the building without serving any other areas; supporting columns, walls or other like structures in a parking garage; pedestrian walkways within a parking garage; motor vehicle loading spaces, access thereto and adjacent bin staging areas; dead areas adjacent to parking spaces between columns, in corners and around curves or provided to facilitate vehicular turnaround; other spaces in a parking garage not accessible and/or usable due to structural design; and
- b. *the calculation of gross floor area shall include* – general storage spaces of any kind, including lockers and rooms; bicycle rooms not contained within a parking garage; vestibules other than airlock rooms; garbage and recycling rooms; stairs, landings and hallways other than those that lead directly from a parking garage to the exterior of the building without serving any other areas; elevator lobbies; the floor areas of elevator cabs.

INDOOR RECREATIONAL AMENITY AREA

- (g) For the purpose of this exception, "indoor recreational amenity area" shall mean an area set aside for social and/or recreational purposes such as exercise rooms, children's play area, lounges, meeting or party rooms, dog care facilities, guest suites and other similar uses, which is common to all residents in the building.

MECHANICAL FLOOR AREA

- (h) For the purpose of this exception, "mechanical floor area" shall mean floor area within a building or structure used exclusively for the accommodation of mechanical equipment necessary to physically operate the building, including but not limited to heating, ventilation, air conditioning, electrical, plumbing, fire protection, telephone, telecommunication, cable and elevator equipment, garbage chutes and compactors, stormwater management and irrigation facilities.

LANDSCAPING

- (i) For the purpose of this exception, "landscaping" shall mean trees, shrubs, grass, flowers and other vegetation, decorative stonework, walkways, patios, screening or other horticultural or landscape architectural elements, or any combination of these, but not driveways or parking areas and directly associated elements such as curbs or retaining walls.

OUTDOOR RECREATIONAL AMENITY AREA

- (j) For the purpose of this exception, "outdoor recreational amenity area" shall mean an area(s) set aside for social and/or recreational purposes such as playgrounds, outdoor swimming pools and seating areas, which is common to all residents of the building.

SALES OFFICE

- (k) For the purpose of this exception, "sales office" shall mean an office located on the lands in a temporary or existing building, structure, facility or trailer satisfactory to the City's Chief Planner used exclusively for the purpose of selling or leasing the residential dwelling units or the non-residential gross floor area to be erected within the site.

TYPE "B" LOADING SPACE

- (l) For the purpose of this exception, a "Type "B" Loading Space" shall have the following minimum dimensions:
- i. length of 11.0 metres;
 - ii. width of 3.5 metres; and
 - iii. vertical clearance of 4.0 metres.

TYPE "C" LOADING SPACE

- (m) For the purpose of this exception, a "Type "C" Loading Space" shall have the following minimum dimensions:
- i. length of 6.0 metres;

- ii. width of 3.5 metres; and
- iii. vertical clearance of 3.0 metres.

TYPE "G" LOADING SPACE

- (n) For the purpose of this exception, a "Type "G" Loading Space" shall have the following minimum dimensions:
 - i. length of 13.0 metres;
 - ii. width of 4.0 metres; and
 - iii. vertical clearance of 6.1 metres.

PERMITTED USES

- (o) Notwithstanding the provisions of Section 20-A.1 and Section 6(22) the only permitted uses shall be as follows:
 - i. Residential Uses
 - (a) apartment house dwellings; and
 - (b) accessory uses, including guest suites, and indoor and outdoor amenity spaces.
 - ii. Non-Residential Uses
 - (a) office uses
 - 1. accessory uses;
 - 2. business and professional offices, including banks and other financial institutions;
 - 3. clinics;
 - 4. health science research laboratories;
 - 5. information processing centres or facilities;
 - 6. sales office; and
 - 7. professional medical offices.
 - (b) Retail and Service Commercial Uses
 - 1. accessory uses;

2. retail stores, including grocery stores, supermarkets and pharmacies;
3. fitness centers;
4. cafes;
5. personal service shops;
6. restaurants including take-out;
7. retail branches of banks and other financial institutions;
8. car share services; and
9. day nurseries and associated outdoor play area.

EXCEPTION REGULATIONS

MAXIMUM GROSS FLOOR AREA (PRIMARY GFA)

- (p) Except as provided for in subsection (dd) of this exception, the maximum gross floor area permitted on the Lands shall not exceed 85,195 square metres.

BUILDING ENVELOPE

- (q) No portion of any building or structure erected and used above established grade shall be located otherwise than whole within the building envelope identified on Schedule RM6 (285)(H) except for projections permitted in Section 6(9) of the By-law as well as terraces, wind mitigation features, lighting fixtures, awnings, ornamental elements, commercial signage, parapets, trellises, window sills, guardrails, balustrades, railings, vents, underground garage ramps and their associated structures, fences, screens, landscaping, planter boxes, intake and exhaust vents and architectural projections, all of which may project up to a maximum of 3.0 metres, and stairs and stair enclosures, which may project up to a maximum of 3.5 metres.
- (r) Notwithstanding (q) above, balconies are permitted to extend to a maximum of 2.0 metres where the building setbacks is 3.0 metres or less, and 3.0 metres where the building setback is greater than 3.0 metres.

BUILDING HEIGHT

- (s) The building height, measured from established grade, shall not exceed the maximum heights in metres shown on Schedule RM6 (285)(H) to this By-law excluding mechanical penthouses not exceeding 7 metres in height, parapets, railings, roof drainage, thermal insulation and roof ballast, terraces, terrace or balcony guards and dividers, planters, stairs, and stair enclosures, whether or not they are providing access to public or private amenity areas or to

mechanical floor area located on the roof, wall or structure enclosing such elements and railings, window washing equipment, stair towers, partitions, landscape elements, green roof elements, lighting fixtures, vents, flues, pipes, access roof hatch, generators, outdoor furniture, heating, cooling or ventilating equipment or a fence, and structures located on the roof used for outside or open air recreation, safety or wind protection purposes.

- (t) The area marked as "Bridge Amenity Zone" shown on Schedule RM6 (285)(H) shall have a minimum clearance above grade of 6.0 metres to provide open access at grade beneath the Bridge Amenity Zone.
- (u) Notwithstanding (s) above, mechanical penthouses permitted to exceed the maximum building height are required to be set back a minimum of 3.0 metres from the edge of the building they are located on.

NUMBER OF STOREYS

- (v) The number of storeys shall not exceed the maximum shown on Schedule RM6 (285)(H) excluding mechanical penthouses, parapets and other architectural features, mechanical equipment and other elements necessary for the functional operation of the building, and stairwells to access the roof.

MOTOR VEHICLE PARKING

- (w) Motor vehicle parking spaces shall be provided in accordance with the following requirements:
 - i. a minimum rate of 0.7 spaces for each residential dwelling unit;
 - ii. a minimum rate of 0.1spaces of visitor parking spaces for each dwelling unit;
 - iii. a minimum rate of 0.9 spaces per 100 square metres of retail space; and
 - iv. 5 parking spaces for daycare uses.

BICYCLE PARKING

- (x) Bicycle parking spaces shall be within the site in accordance with the following requirements:
 - i. 0.68 long-term bicycle parking space per residential unit;
 - ii. 0.07 short-term bicycle visitor parking space per residential unit;
 - iii. 0.13 long-term parking spaces per 100 square metres of retail use;
 - iv. 3 plus 0.25 short-term parking spaces per 100 square metres of retail use;

- v. 0.06 long-term parking spaces per 100 square metres of daycare use; and
- vi. 3 plus 0.06 short-term parking spaces per 100 square metres of daycare use.

LOADING

- (y) Loading spaces shall be within the site in accordance with the following requirements:
 - i. a minimum of 2 Type "B" loading spaces;
 - ii. a minimum of 2 Type "C" loading spaces; and
 - iii. a minimum of 2 Type "G" loading spaces.

INDOOR RECREATIONAL AMENITY AREA

- (z) A minimum of 1.5 square metres per dwelling unit of indoor recreational amenity area shall be provided on the site.

OUTDOOR RECREATIONAL AMENITY AREA

- (aa) A minimum of 1.5 square metres per dwelling unit of outdoor recreational amenity area shall be provided on the site at or above grade.

YARD SETBACKS

- (bb) The minimum yard setbacks shall be as shown on Schedule RM6 (285)(H).

PROVISIONS NOT APPLICABLE

- (cc) The provisions of Sections 6A (1), 6A (2), 6A(8), 6A (16), 15.8, 15.12 and 20-A are not applicable.

ADDITIONAL GROSS FLOOR AREA (INCENTIVE GFA)

- (dd) Notwithstanding the maximum gross floor area of 85,195 square metres set out in subsection (p) of this exception, additional gross floor area is permitted as follows:

First 33 percent of additional gross floor area

- (a) Up to a maximum of 28,115 square metres of additional density is permitted provided that:
 - (i) an upwardly indexed cash payment in Canadian funds, in a form satisfactory to the City of eight million six-hundred thousand dollars (\$8,600,000.00) is provided in accordance with Schedule 2.

Additional gross floor area

- (b) Up to a maximum of 37,742.2 square metres of additional density is permitted providing the following items are provided in accordance with Schedule 2:
 - (i) An over-dedication of parkland having a minimum area of 4,291.6 square metres;
 - (ii) The dedication of land having a maximum area of 3,000.1 square metres for the purposes of a city-owned childcare facility and the construction of a 929 square metre stand-alone childcare facility and associated outdoor place spaces and a cash contribution of five-hundred thousand dollars (\$500,000.00) toward the fit out and start-up costs of the childcare facility;
 - (iii) a maximum of 1.5 square metres per dwelling unit of indoor residential recreational amenity space;
 - (iv) a minimum of 1,700 square metres of retail floor area which is excluded from the definition of gross floor area calculation is provided within 30 metres of Yonge Street.
- (ee) The maximum gross floor area permitted in accordance with subsection (p) and (dd) on the site shall not exceed 151,052.2 square metres, of which:
 - i. a minimum of 250.00 square metres is non-residential gross floor area.

SECTION 37 PROVISIONS

- (ff) 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 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 on Schedule 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule 2 hereof and which are secured by one or more agreements pursuant to 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 came into force, that are in a form and registered on title to the Lands, to the satisfaction of the City Solicitor.
- (gg) Where Schedule 2 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.
- (hh) The owner shall not use, or permit the use of, a building or structure erected with an increase height and density pursuant to this By-law unless all provisions of Schedule 2 are satisfied.

SEVERANCE

- (ii) Notwithstanding any past or future severance, partition or division of the net site shown on Schedule RM6 (285)(H), the provisions of this By-law shall apply to the whole of the net site as if no severance, partition or division occurred."

HOLDING PROVISIONS

- (jj) The lands zoned with the "(H)" symbol delineated by heavy lines on Schedule 1 attached to and forming part of this By-law must not be used for any purpose other than those uses and buildings existing on the site until the "(H)" symbol has been removed. An amending by-law to remove the "(H)" symbol may be enacted by City Council when the following conditions have been fulfilled to the satisfaction of the City Solicitor, the Director, Community Planning, North York District, and the Chief Engineer and Executive Director, Engineering and Construction Services, and Council:
 - (a) the "H" shall be lifted from the lands shown on Schedule 1 at such a time as:
 - (i) The owner has submitted an acceptable Site Servicing Review (comprised of Functional Servicing Report, Stormwater Management Report and Hydrogeological Report) to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services (the "Chief Engineer");
 - (ii) The execution and registration of the City's standard Subdivision Agreement and all other appropriate agreements required by the City, between the owner of the Lands and the City, to financially secure and guarantee the satisfactory performance and completion of the new east-west public road (Block 8) from Yonge Street to the Beecroft Road extension, including all related municipal infrastructure, and any upgrades or improvements to municipal infrastructure external to the Lands that are determined to be required in support of the proposed development, all pursuant to an acceptable Functional Servicing Report and Stormwater Management Report, all to the satisfaction of the Chief Engineer;
 - (iii) The Owner has submitted acceptable detailed engineering drawings and other supporting documentation as outlined in the Subdivision Agreement and as required by the Chief Engineer for the new east-west public road (Block 8) from Yonge Street to the Beecroft Road extension, and any upgrades or improvements to municipal infrastructure external to the Lands that are determined to be required in support of the proposed development, has obtained all necessary agency approvals for the work including an ECA, has entered into all appropriate agreements required by the City including payment of engineering review and inspection fees and the posting of financial security to guarantee the satisfactory

performance and completion of the work, all to the satisfaction of the Chief Engineer and the City Solicitor; and

- (iv) The Owner has granted an easement to the City, free and clear of all physical and title encumbrances, at no cost to the City, with the easement conveyance subject to all typical City environmental conditions, for the installation of utilities and/or services within the proposed east-west public road (Block 8) as part of the construction of the Becroft Road extension, all to the satisfaction of the Chief Engineer.
 - (b) Prior to the removal of the "H", the lands shown on Schedule 1 shall only be used for uses existing as of the date of passing of this By-law and a sales office.
3. Section 64.20-A of By-law 7625 of the former City of North York is amended by adding Schedule "RM6 (285)(H)" attached to this By-law.
 4. Within the lands shown on Schedule 1 attached to this By-law, no person shall use any land or erect or use any building or structure unless municipal services are provided to the lot line and the following provisions are complied with:
 - (a) the proposed east-west public road (Block 8), including all related municipal infrastructure, has been designed and constructed to a minimum of base curb and base asphalt condition, to the satisfaction of the Chief Engineer; and
 - (b) all municipal services, service connections and service tie-in's to existing municipal services, including utilities, storm sewers, sanitary sewers and watermains, including all appropriate appurtenances, have been installed and are operational for the proposed east-west public road (Block 8), to the satisfaction of the Chief Engineer and the General Manager, Toronto Water.
 5. Where any provision or Schedule of By-law 7625 of the former City of North York, as amended, conflicts with this By-law, this By-law shall prevail.

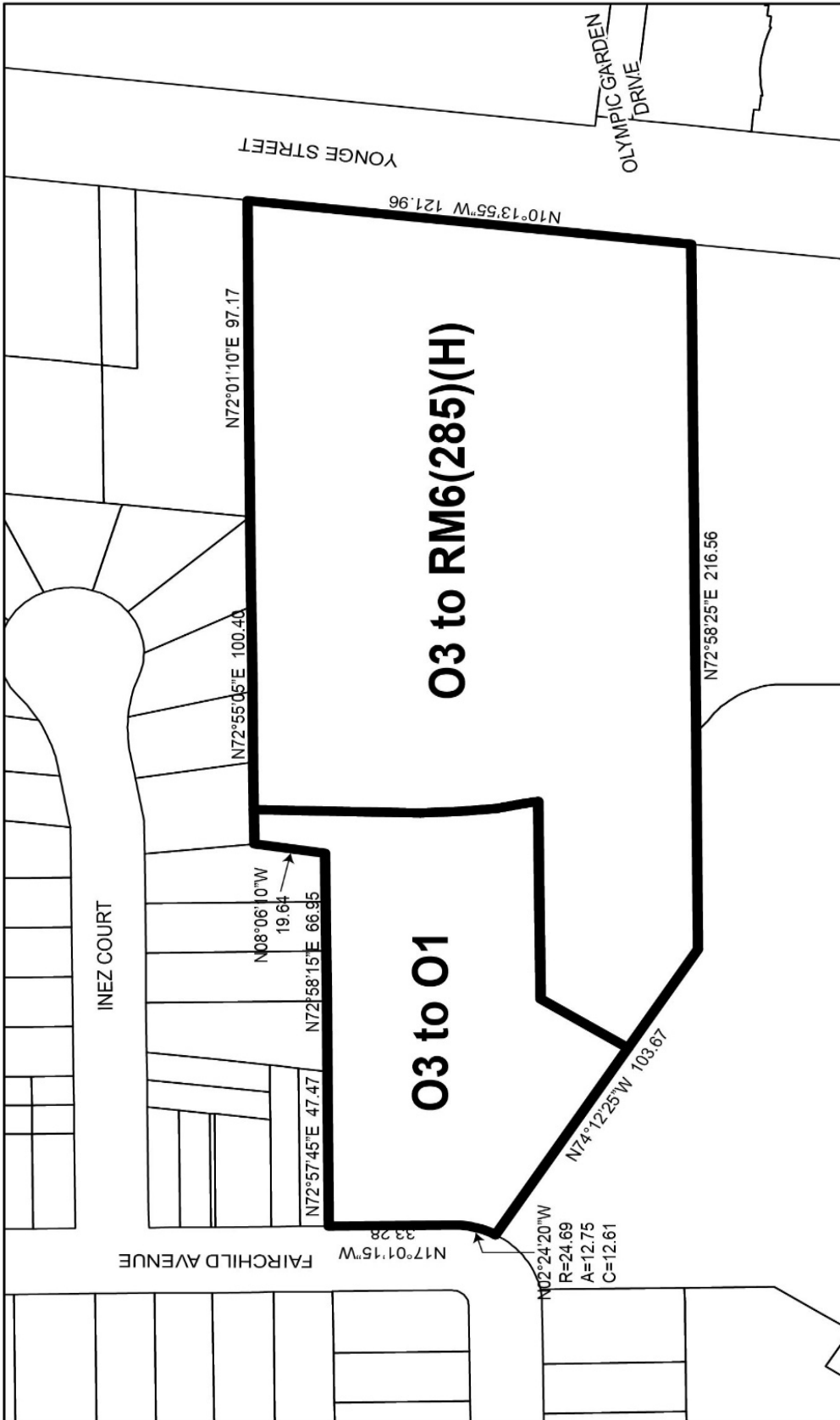
Ontario Land Tribunal Decision issued on July 25, 2022 in Case OLT-21-001370.

SCHEDULE 2
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 Schedule 1 in this By-law and secured in an agreement or agreements under 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 came into force, whereby the owner agrees to provide as follows:

- (1) Prior to issuance of the first building permit for the development, or portion thereof, the owner shall:
 - (i) Make a cash payment in Canadian funds, in a form satisfactory to the City, calculated at a rate of eight-million six-hundred thousand dollars (\$8,600,000.00) for the first 33 percent density incentive, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Section 37 Agreement to the date the payment is made;
 - (ii) Provide a parkland dedication of not less than 8,230.1 square metres. 4,291.6 square metres of the total parkland dedication represents an over-dedication of parkland over and above what is required pursuant to the City's Park Land Dedication By-law and will be eligible as a density incentive, in accordance with the Local Planning Appeal Tribunal decision issued on xxxx regarding Case No. OLT-21-001370 and with subsection (aa) (b)(i) of this exception; and,
 - (iii) Enter into agreements to convey lands with a maximum area of 3,000.1 square metres and construct on the conveyed lands, at no cost to the City, a two-storey childcare facility being 929 square metres in area, plus outdoor play area of 278 square metres, parking and drop-off, all in accordance with the specifications as set out in section 4 of the City's Child Care Development Guideline (2021).
- (2) The owner shall provide and maintain the following:
 - (i) indoor residential recreational amenity space at a size of not less than 1.5 square metres per dwelling unit, eligible as a density incentive in accordance with subsection (aa) (b)(iii) of this exception; and,
 - (ii) street related retail space located on the ground floor along the Yonge Street frontage of an area not less than 2,000.00 square metres, eligible as a density incentive in accordance with subsection (aa) (b)(iv) of this exception.

Schedule 1



 **Toronto**
Schedule 1

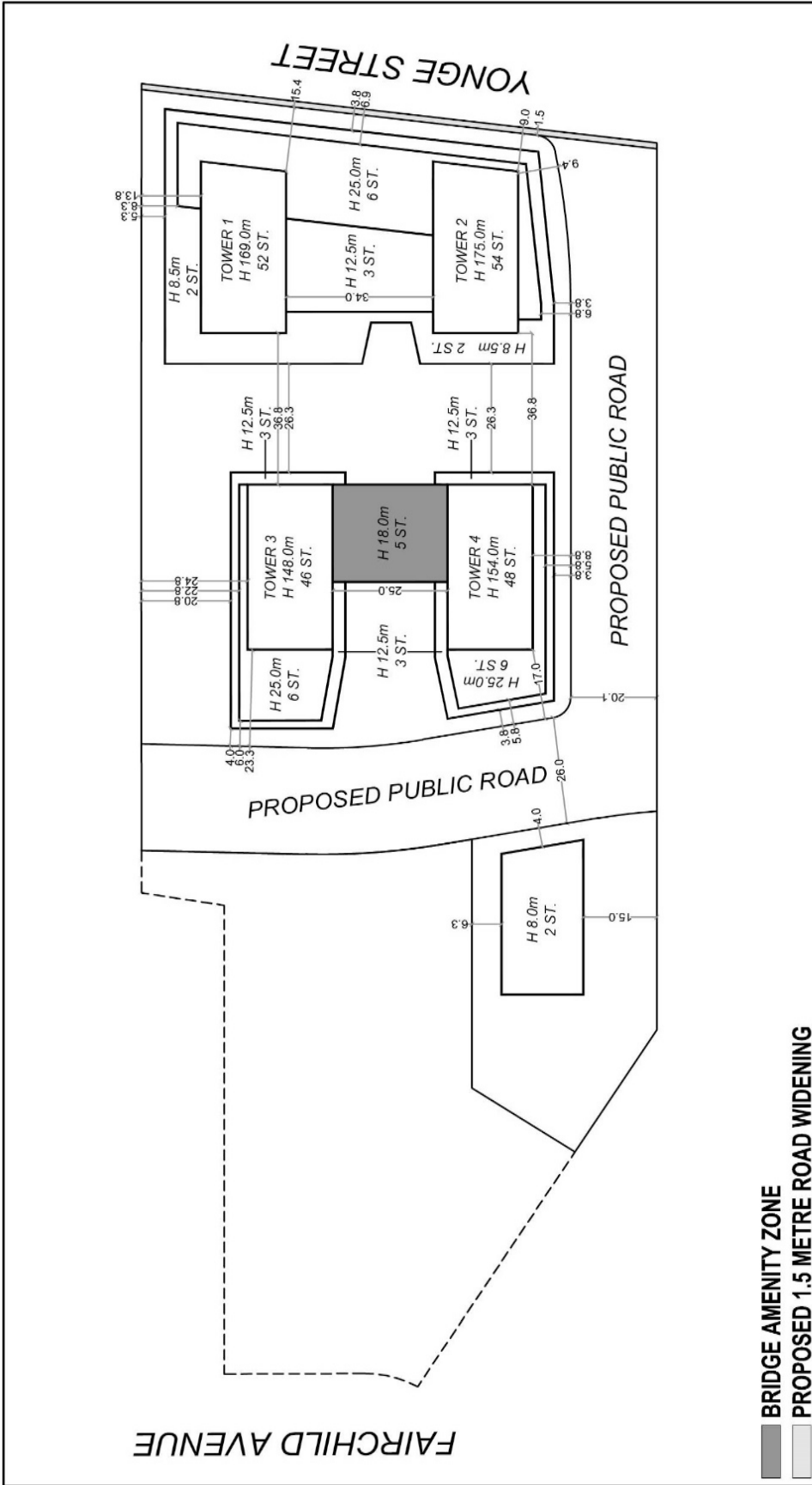
5800 Yonge Street

File # 20 110947 NNY 18 0Z



Former North York By-law 7625
Not to Scale
07/05/2022

Schedule RM6 (285)(H)



5800 Yonge Street

TORONTO
Schedule RM6 (285)(H)

File # 20 110947 NMY 18 0Z



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