

Attachment 4: Draft By-law 438-86

Authority: Toronto and East York Community Council Item ~, adopted as amended by City of Toronto Council on ~, 20~

CITY OF TORONTO

BY-LAW No. XXXX-20~

To amend the City of Toronto By-law No. 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; and

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Except as otherwise provided herein, the provisions of former City of Toronto By-law No. 438-86, as amended, shall continue to apply to the *lot*.

2. 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 No. 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) District Map No. 50K-313 contained in Appendix "A" and "B" of By-law No. 438-86, as amended, is further amended by re-designating the lands identified from “R2 Z2.0” to “CR” as outlined on Map 2 attached to and forming part of this by-law;

(c) 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*;

(d) 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*;

(e) 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;

(f) 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;

(g) a minimum of ten percent of the total number of *dwelling units* constructed on the *lot*, must contain three bedrooms or more;

(h) a minimum of twenty percent of the total number of *dwelling units* constructed on the *lot*, must contain two bedrooms;

(i) 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;

(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;

(j) no portion of any *building* or structures erected or used above *grade* is located otherwise 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;

(k) *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;

(l) 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;

(m) 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);

(n) 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;

(o) 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; and

(p) an area used to provide a stacked bicycle parking space must have a minimum vertical clearance of 2.3 metres.

3. 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.

4. 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 Diagram 2 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.

5. 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 No. 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) "*height*" means the *height* of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;

(d) "*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;

(e) "*car-share parking space*" shall mean a parking space exclusively reserved and signed for a car used only for car-share purposes;

(f) "*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*;

6. 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:

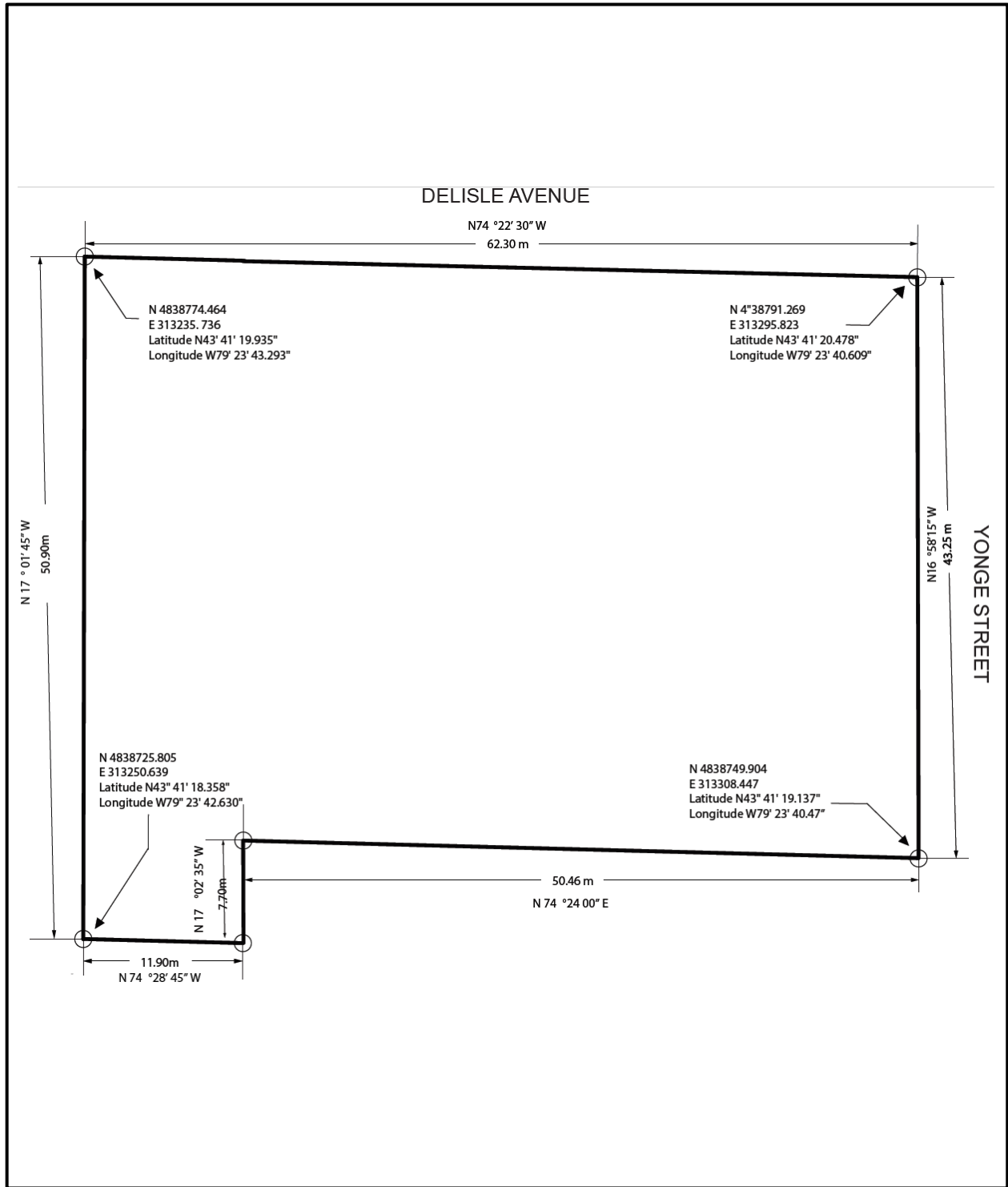
(i) within 0.3 metres of the side of the parking space, measured at right angles, and

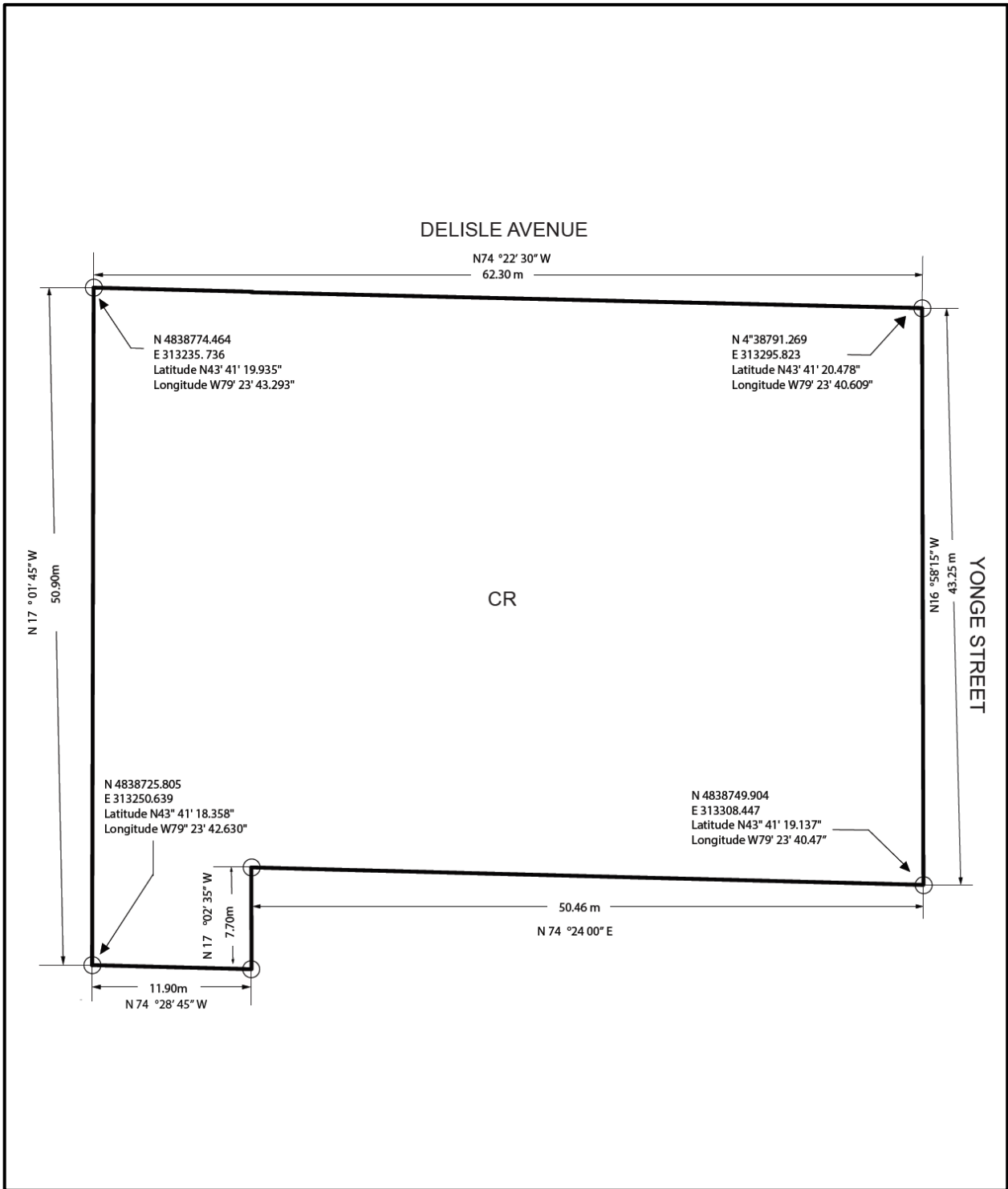
(ii) more than 1.0 metre from the front or rear of the parking space.

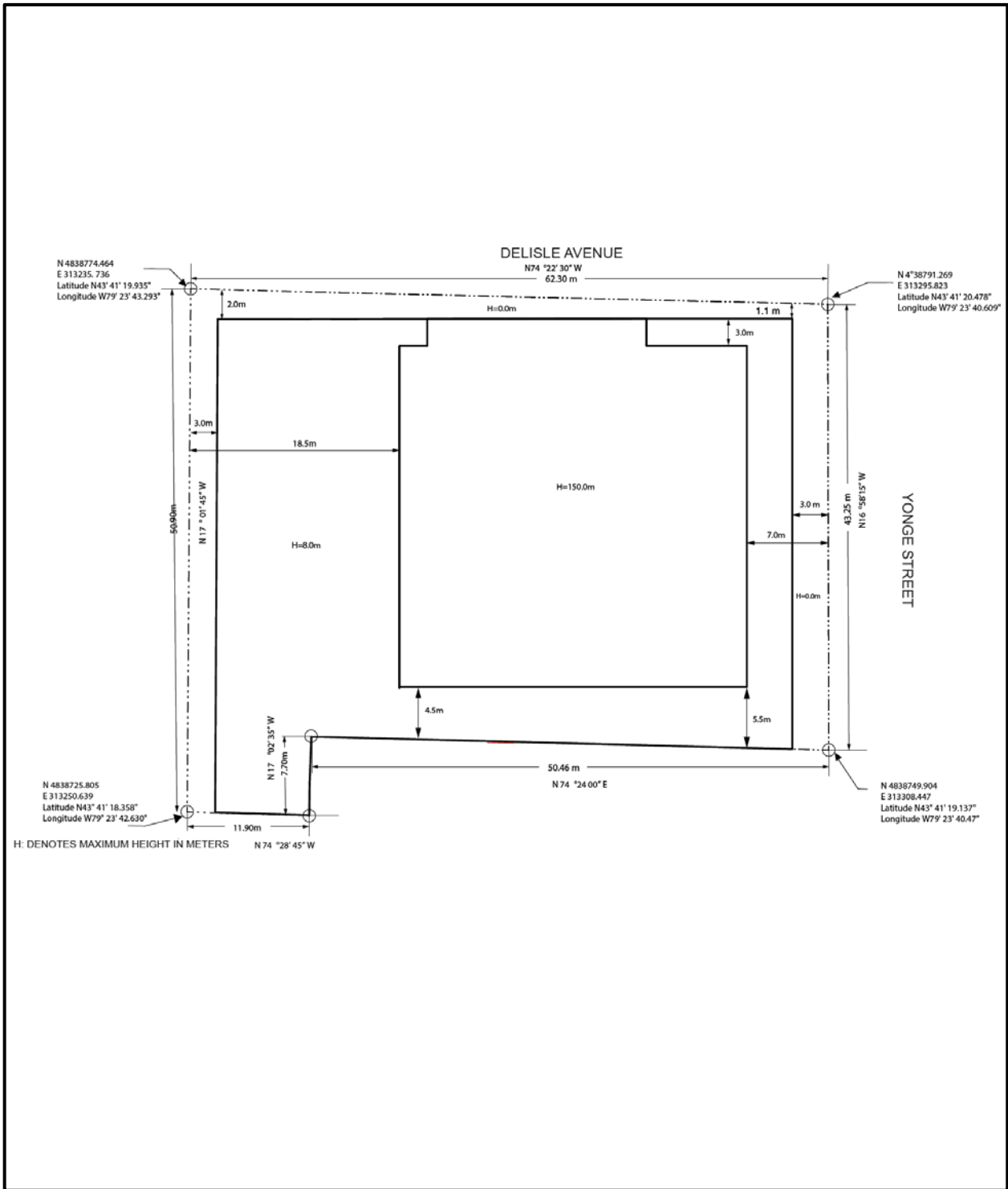
Enacted and passed on _____, 20~.

Frances Nunziata, Ulli S. Watkiss
Speaker 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 Diagram 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:

Community benefits and matters of legal convenience will be inserted.