

Draft Zoning By-law Amendment – January 31, 2022

Authority: Ontario Land Tribunal Decision issued on ~ and its Order issued on ~ in Tribunal Case PL200441

CITY OF TORONTO

BY-LAW No. ~-2022 (OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 4050 Yonge Street.

Whereas the Ontario Land Tribunal pursuant to its Decision/Orders issued on ~, and on ~ in respect of Tribunal File PL200441, 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 the Zoning By-law for the City of Toronto, being By-law 569-2013, as amended, with respect to lands municipally known in the year 2021 as 4050 Yonge Street; 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. 569-2013, 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

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law No. 569-2013, as amended, is further amended as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.

3. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10, and applying the following zone labels: CR (x###), ON (x###) and ON as shown on Diagram 2 of this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Area Overlay Map in Section 995.10.1 and applying the following Policy Area label to these lands: PA3, as shown on Diagram 3 of this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Height Overlay Map in Section 995.20.1 and applying the following height label to these lands: HT 39.5, as shown on Diagram 4 of this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Lot Coverage Overlay Map in Section 995.30.1 and the Rooming House Overlay map in Section 995.40.1 with no label.
7. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number (x###) so it reads:

Exception CR (x###)

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 4050 Yonge Street, if the requirements of Section 10 and Schedule A of By-law [Clerks to insert By-law Number] are complied with, nothing shall apply to prevent the erection of **buildings** or **structures** that comply with (B) to (L) below;
- (B) Despite Regulation 40.5.40.10(1) and (2), the height of a **building** or **structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 133.35 metres and the elevation of the highest point of the building;
- (C) Despite Regulations 40.5.40.10(3), (4), (5), (6), (7) and (8) and Regulation (D) of this Exception, the following elements of a **building** or **structure** may project above the permitted maximum heights shown on Diagram 5 of By-law [Clerks to insert By-law Number]:
 - a. parapets, fences and safety railings, planters and elements or **structures** on the roof of the **building** used for outside or open-air recreation, safety or wind protection purposes, and landscape features, elements of a **green roof**, heating, ventilation or cooling equipment such as chimneys, mechanical roof, stacks and flues all of which may exceed the permitted maximum height by 3.5 metres;

- (D) Despite Regulation 40.10.40.10(2), the permitted maximum height of any **building** or **structure** is the numerical value, in metres, following the letters “HT” as shown on Diagram 5 of By-law [**Clerks to insert By-law Number**];
- (E) Despite Regulation 40.10.40.40(1), the total **gross floor area** must not exceed a maximum of 51,250 square metres, of which:
- a. A minimum **gross floor area** of 1,500 square metres is for retail, commercial and restaurant uses;
 - b. A minimum **gross floor area** of 3,900 square metres is for office uses;
- (F) Despite Regulations 40.5.40.60(1), Clause 40.10.40.60 and Regulation (G) of this Exception, the following **building** elements and **structures** are permitted to encroach into the required minimum **building setbacks** shown on Diagram 5 of By-law [**Clerks to insert By-law Number**]:
- a. cornices, lighting fixtures, architectural features, signs, ornamental **structures**, trellises, canopies, columns, window washing equipment, stairs, heritage features, mechanical fans, balustrades, safety or wind protection measures, elements of a **green roof** and landscape features, all of which may extend a maximum of 1.8 metres;
- (G) Despite Regulation 40.10.40.70(2), the required minimum **building setbacks above ground** are identified on Diagram 5 of By-law [**Clerks to insert By-law Number**];
- (H) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided at a minimum rate of:

Land Use	Parking Rate	Parking Occupancy Rate		
		AM	PM	Eve
Office	1.0 parking spaces per 100 square metres of gross floor area	100%	100%	10%
Retail	1.0 parking spaces per 100 square metres of gross floor area	35%	100%	95%
Restaurant	16 parking spaces per 100 square metres of gross floor area	30%	75%	100%
Residential Visitor	0.1 parking spaces per dwelling units	10%	35%	100%
Residential	0.35 parking spaces per dwelling units	100%	100%	100%

- (I) Despite Regulation (H) of this Exception, if a car-share **parking space** is provided the required **parking spaces** for residents of the **dwelling units** is reduced by 4 **parking spaces**, up to a maximum of 5 car-share **parking spaces**;
- (J) For the purposes of Regulation (I) of this Exception:
- i. Car-share is 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; and

- ii. a car-share **parking space** is a **parking space** that is exclusively reserved and actively used for car-sharing;

(K) A minimum of 10 percent of the total number of **dwelling units** on the **lot** must contain three or more bedrooms and a minimum 40 percent of the total number of **dwelling units** on the **lot** must contain two bedrooms or more;

(L) **Buildings** or **structures** and/or portions of **buildings** or **structures**, with the exception of a ground floor canopy, are not permitted within and may not protrude within, above or below grade, the 10 metre top-of-slope ON(x###) Zone as shown on Diagram 2 of By-law [**Clerks to insert By-law Number**].

Prevailing By-laws and Provisions: (None Apply)

- 8. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.41.10 Exception Number (x###):

Exception ON (x###)

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

(A) On 4050 Yonge Street, if the requirements of Section 10 and Schedule A of By-law [**Clerks to insert By-law Number**] are complied with, nothing shall apply to prevent the erection of **buildings** or **structures** that comply with (A) to (C) below;

(B) **Buildings** or **structures** and/or portions of **buildings** or **structures** are not permitted within and may not protrude within, above or below grade, the 10 metre top-of-slope ON(x###) Zone as shown on Diagram 2 of By-law [**Clerks to insert By-law Number**]; and

(C) Despite Regulation (B) of this Exception, bank stabilization works may be permitted within the ON(x###) Zone as shown on Diagram 2 of By-law [**Clerks to insert By-law Number**].

Prevailing By-laws and Provisions: (None Apply)

- 9. Despite any future severance, partition or division of the lands shown on Diagram 1, the provisions of this By-law shall apply as if no severance, partition or division occurred.

- 10. 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 Diagram 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.
- (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.

PURSUANT TO THE DECISION OF THE ONTARIO LAND TRIBUNAL ISSUED ON ~ AND ITS ORDER ISSUED ON ~ IN TRIBUNAL CASE PL200441

SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City by the owner at the owner's expense in return for the increase in height and density of the proposed development on the **lot** as shown on Diagram 1 attached to this By-law in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act (the "Section 37 Agreement"), whereby the owner agrees as follows:

- 1.** Prior to the first above grade building permit issued for the site, the owner shall make a cash payment to the City in the amount of \$1.0 million to be allocated towards improvements to path and trails within the West Don River Valley area adjacent to the site, improvements to Stewart A. McGregor Parkette, improvements to York Mills Valley Park, and improvements to the Don Valley Golf Course facility, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor;
- 2.** The cash contribution referred to in (1) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication 18-10-0135-01, or its successor, calculated from the date of the Section 37 Agreement to the date of payment;
- 3.** In the event the cash contribution referred to in (1) above has not been used for the determined purpose within three (3) years after the amending Zoning By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided the purpose is identified in Official Plan Policy 5.1.1 and will benefit the community in the vicinity of the lands; and
- 4.** The owner shall design, finance and construct an at grade/below-grade pedestrian tunnel connection linking the proposed development to the York Mills Subway Station on the east side of Yonge Street at no cost to the City or the Toronto Transit Commission, including the supply and installation of payment turnstiles/gates that provide access to York Mills Subway Station via the Toronto Transit Commission entrance connection (if determined to be required by the Toronto Transit Commission), and such below-grade Toronto Transit Commission entrance connection shall be designed, constructed, repaired and maintained to the City and Toronto Transit Commission standards at the sole cost and expense of the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Toronto Transit Commission.

The Section 37 Agreement will also secure the following matters as a legal convenience to support the development:

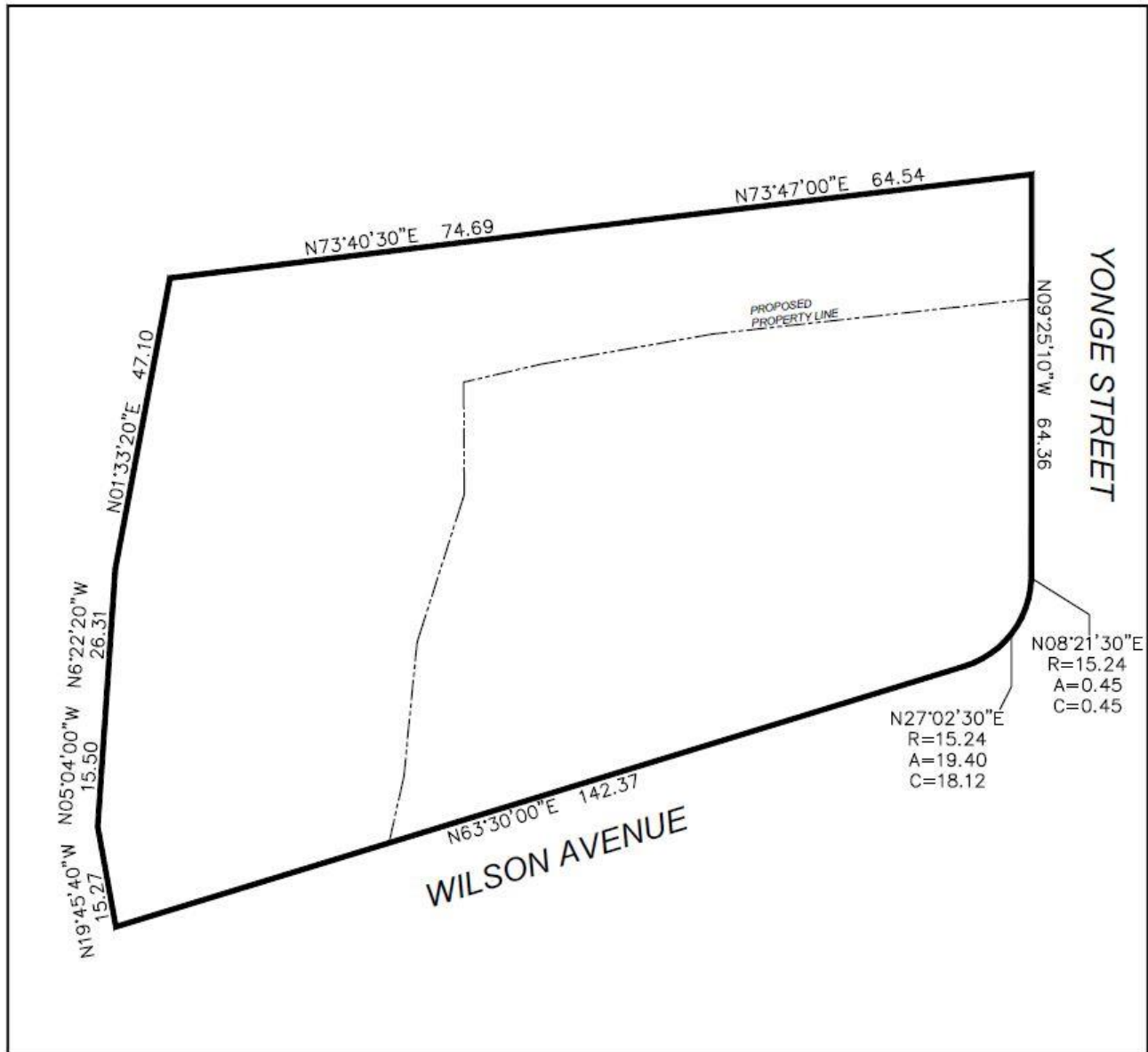
- 5.** Prior to the earlier of any residential use and the registration of the first residential condominium within the site under the Condominium Act, the owner will complete the Toronto Transit Commission Entrance Connection, at the sole cost and expense of the owner, and at no cost to the City or the Toronto Transit Commission, and a public access easement,

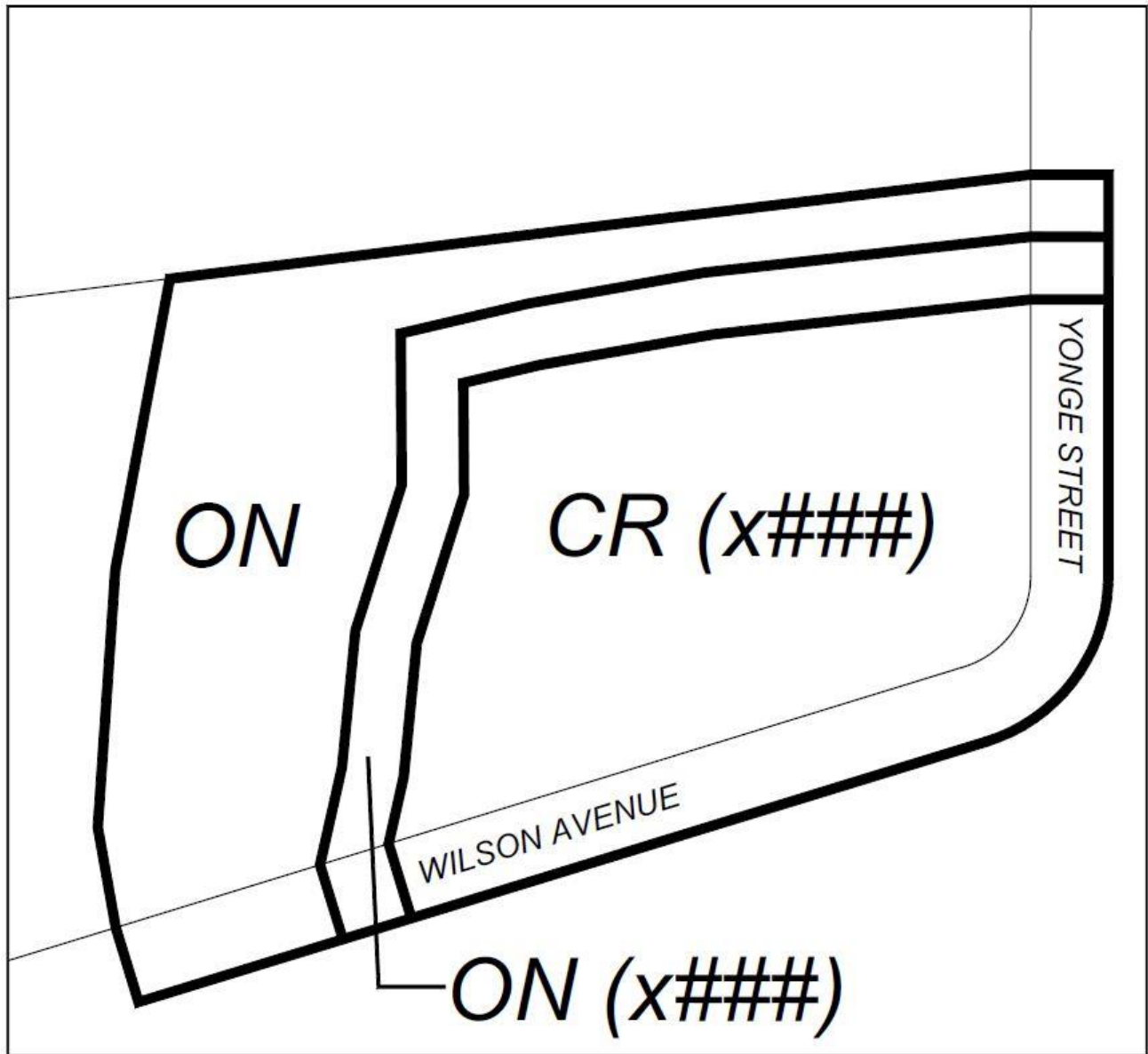
or license as applicable, shall be provided to the City concurrently to provide access through the interior of the proposed development to the Toronto Transit Commission entrance connection to the York Mills Subway Station in a manner and form satisfactory to the Director, Real Estate Services, the Toronto Transit Commission, and the City Solicitor;

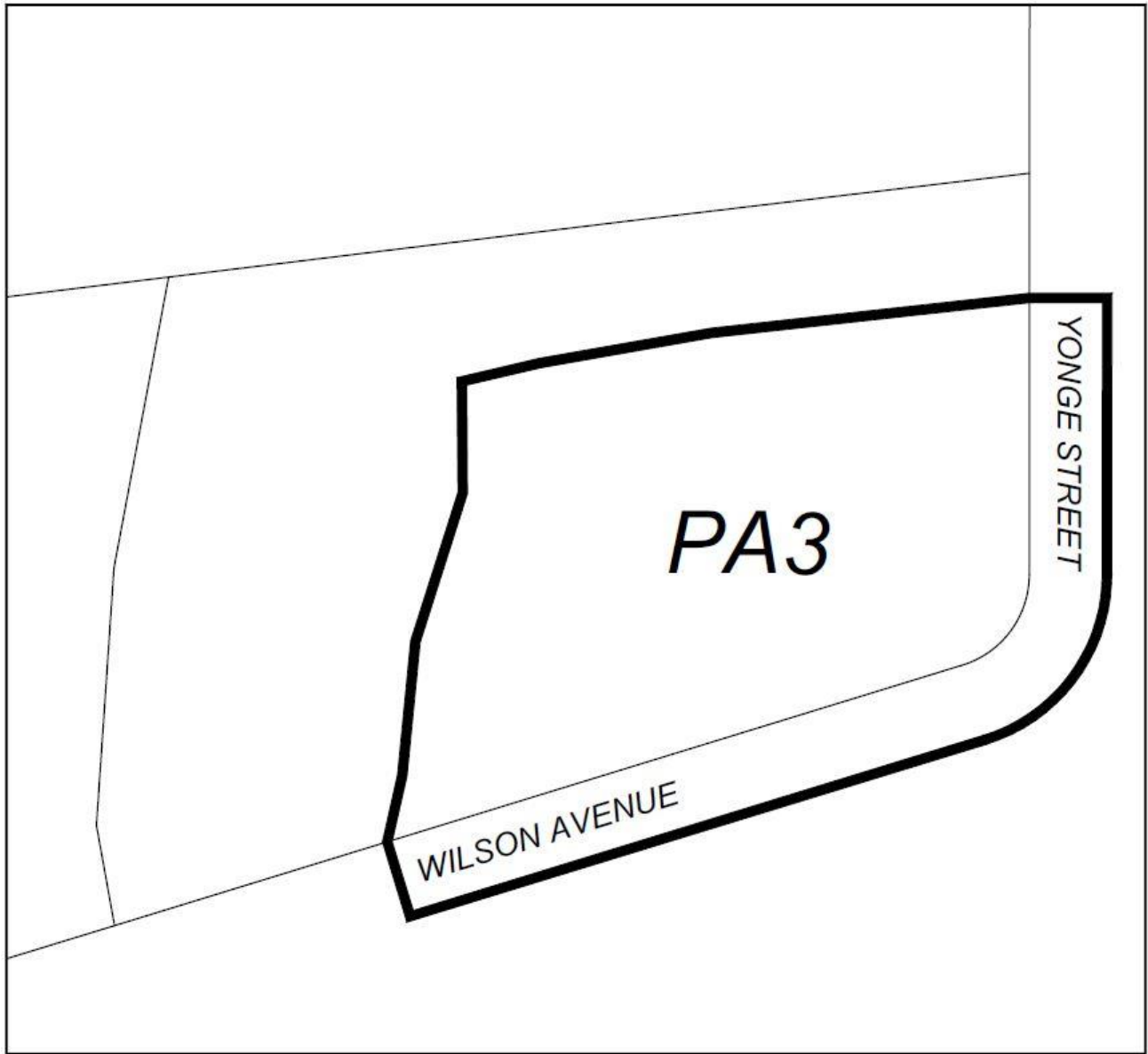
6. Prior to the first Site Plan Approval for the lands but in any event prior to the issuance of the first above grade building permit for the proposed development and prior to any works conducted within or below Yonge Street as it relates to the Toronto Transit Commission Entrance Connection, the owner shall obtain all necessary approvals and enter into a Tunnel Encroachment Agreement and/or an Entrance Connection Easement Agreement with the City and/or the Toronto Transit Commission, at no cost to the City and/or Toronto Transit Commission, regarding the Toronto Transit Commission Entrance Connection, which shall include the required maintenance, licensing permissions, any required letters of credit prior to the construction for a period of time as specified in the agreement, insurance, indemnity and any necessary provisions, to the satisfaction of the General Manager, Transportation Services, the Director, Real Estate Services, and the Toronto Transit Commission, and with such agreement(s) entered into, executed and registered on title satisfactory to the City Solicitor and subject to the following:
 - i. the owner shall be responsible for all costs relating to the preparation, execution registration of the Tunnel Encroachment Agreement and/or the Entrance Connection Easement Agreement, including, without limiting the generality of the foregoing: a Toronto Transit Commission Entrance Connection Fee as determined by the Toronto Transit Commission; the costs for providing any surveys or reference plans that may be required by the City and/or the Toronto Transit Commission; and all the registration costs relating to the registration of such agreements on title to lands owned by the owner in first priority subject to such permitted encumbrances as may be permitted by the City; and
 - ii. the owner satisfy any required pre-conditions and post-conditions, including any agreements, easements, maintenance arrangements, and fees of the Toronto Transit Commission and the City in relation to the Toronto Transit Commission Entrance Connection, to the satisfaction of the General Manager, Transportation Services, the Toronto Transit Commission, and the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning.
7. City Council require that the owner convey to the City, for nominal consideration and at no cost to the City or the Toronto Transit Commission, licences and/or public access easements, as may be required for public use of the proposed below-grade Toronto Transit Commission entrance connection, including any space internal to the building as required to access the below-grade Toronto Transit Commission entrance connection to the satisfaction of the City Solicitor;
8. Prior to the earlier of the registration of the first condominium corporation within the subject lands, the first residential occupancy of the lands, the owner shall grant a surface easement to the City along the Yonge Street frontage of the site to secure a pedestrian clearway of no less than 10 metres in width along the entire Yonge Street frontage of the site as shown on Drawing A.08, dated November 23, 2021, in Confidential Attachment 3 to the report (December 6, 2021) from the City Solicitor;

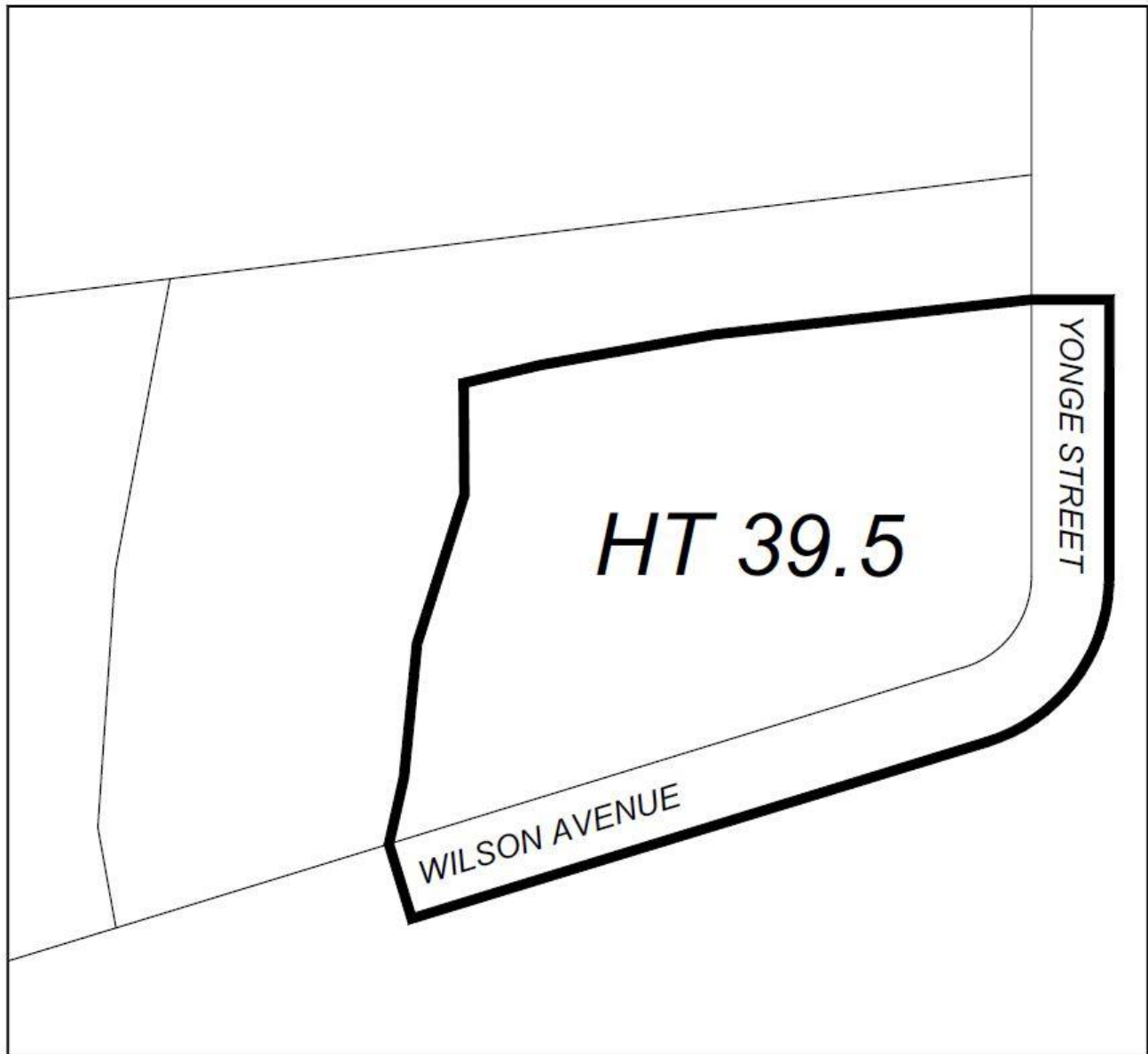
- 9.** The owner shall provide and maintain on-site transportation demand management measures as set out in the Transportation Demand Management Plan prepared by the BA Group, dated November 3, 2021, attached as Confidential Attachment 7 to the report (December 6, 2021) from the City Solicitor, to the satisfaction of the Chief Planner and Executive Director, City Planning; and

- 10.** The owner will construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for each building on the site.









Not to Scale

