

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** November 26, 2021

**CASE NO(S):** PL171386

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: FCAM LP  
Subject: Application to amend Zoning By-law No. 438-86 and Zoning By-law No. 569-2013 - Neglect of the City of Toronto to make a decision  
Existing Zoning: Mixed Use (MCR) Zone under Zoning By-law 438-86 and Commercial Residential (CR) Zone under Zoning By-law 569-2013 (not in full force)  
Proposed Zoning: Site Specific (To be determined)  
Purpose: To permit a 27-storey mixed-use building  
Property Address/Description: 2400, 2430, 2440 and 2444 Yonge Street  
Municipality: City of Toronto  
Municipality File No.: 17 190823 NNY 16 OZ  
OLT Case No.: PL171386  
OLT File No.: PL171386  
OLT Case Name: Roselawn & Main Urban Properties vs. Toronto (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: FCAM LP  
Subject: Application to amend Zoning By-law No. 438-86 and Zoning By-law No. 569-2013 - Refusal of request by the City of Toronto  
Existing Zoning: Mixed Use (MCR) Zone under Zoning By-law 438-86 and Commercial Residential (CR) Zone under Zoning By-law 569-2013 (not in full force)  
Proposed Zoning: Site Specific (To be determined)  
Purpose: To permit a 27-storey mixed-use building  
Property Address/Description: 2400, 2430, 2440 and 2444 Yonge Street  
Municipality: City of Toronto  
Municipality File No.: 17 190823 NNY 16 OZ  
OLT Case No.: PL171386  
OLT File No.: PL180045

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	FCAM LP
Subject:	Request to amend the Official Plan - Refusal of request by the City of Toronto
Existing Designation:	Mixed Use Areas and Neighbourhoods
Proposed Designated:	Site Specific (To be determined)
Purpose:	To permit a 27-storey mixed-use building
Property Address/Description:	2400, 2430, 2440 and 2444 Yonge Street
Municipality:	City of Toronto
Approval Authority File No.:	17 190823 NNY 16 OZ
OLT Case No.:	PL171386
OLT File No.:	PL180013

**Heard:** November 5, 2021 by video hearing

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

FCAM LP	David Bronskill*
City of Toronto	Mark Piel*
Duplex Holdings	Ira Kagan*
Eglinton Park Residents Association	Thomas Cohan
Lytton Park Residents' Organization Inc.	Eli Aaron

**DECISION DELIVERED BY BRYAN W. TUCKEY AND INTERIM ORDER OF THE TRIBUNAL**

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[1] FCAM LP ("Applicant") has filed an appeal regarding the City of Toronto's ("City") failure to make a decision within 120 days on its application for an Official Plan Amendment ("OPA") pursuant to s. 22 (7) and a Zoning By-law Amendment ("ZBA") pursuant to s. 34(11) of the *Planning Act* to permit a mixed use development on property located at 2400, 2430, 2440, and 2444 Yonge Street ("Subject Property"). The proposal consists of two residential towers: townhouse dwellings fronting on Roselawn

Avenue and commercial uses fronting on Yonge Street.

[2] The Tribunal convened a settlement hearing. The five remaining parties of record attended the video hearing. The Tribunal received correspondence from representatives of the Toronto Lands Corporation dated September 27, 2021 advising that it “hereby withdraws as a party to this appeal”. No participants attended the hearing.

[3] The parties called one land use planning witness in support of the Proposed Settlement. Michael Goldberg is qualified as an expert in the discipline of Land Use Planning and gave evidence evaluating the proposal against relevant public policy. His Affidavit is Exhibit 3 to this proceeding.

## **BACKGROUND AND AREA CONTEXT**

[4] The Subject Property is located within the Yonge-Eglinton Centre area which consists of a mix of older large mid-rise, tall apartment buildings and more recent tall mixed-use towers that range in height from 6 – 65 storeys. The Subject Property is located in the ‘Mixed Use Areas’ or the ‘Neighbourhoods’ designations of the City’s Official Plan (“City OP”).

[5] The Subject Property is located on the west side of Yonge Street and includes five of the six properties between Roselawn Avenue and Montgomery Avenue. It is a large irregular shaped parcel of approximately 8,281 square metres (“sq m”). The lot frontage on Yonge Street is approximately 100.56 metres (“m”) and along Roselawn Avenue approximately 106.23 m. The lot depth along the south property line is approximately 60.87 m.

[6] The area is well serviced by rapid public transit with the Eglinton subway station being located approximately 350 m south of the subject property and a number of surface bus routes. The Eglinton Crosstown Light Rapid Transit line is targeted to be completed in 2023.

[7] The neighbourhood context is generally as follows:

1. it is well served with retail and service properties fronting on Yonge Street that include retail, service restaurant and service uses. The Yonge Eglinton Centre is a close walking distance;
2. being part of the Yonge-Eglinton Centre, in keeping with the policies of the Growth Plan, the area continues to see considerable change and an evolution of built form. It has existing apartment neighbourhoods and a variety of more recently constructed mixed use buildings.
3. is well served by several community facilities, indoor and outdoor recreational amenities, religious institutions, and educational facilities;
4. on both sides of Yonge Street and internal to the existing neighbourhoods are low density residential uses which are part of the Mount Pleasant East and Lawrence Park South neighbourhoods.

[8] Suffice it to say the matter has an extensive history. A brief overview is as follows:

1. an application for a ZBA was submitted in June 2017 for a mixed use building with a 27-storey tower, 23-storey tower, and a 9-storey podium. The application was deemed complete in July 2017;
2. a public consultation meeting was held in October 2017 and City planning staff released a report refusing the application in November 2017;
3. both the OPA and ZBA applications were appealed to the Tribunal in November and December 2017.
4. during the summer of 2020 a series of without prejudice mediation

sessions were held with City staff, neighbouring property owners and area ratepayer groups. The collaborative mediation resulted in the production of revised without prejudice architectural plans that were submitted to the City in March 2021.

5. in July 2021, a formal settlement offer was presented to and approved by City Council.

## **PROPOSED SETTLEMENT**

[9] Mr. Bronskill, Counsel for the Applicant made special note in his introductory statements of the extensive and successful mediation with respect to the proposal's changes. Mediation included City staff, local ratepayer groups and all other parties. The aim of the mediation was to arrive at a well designed and appropriate built form solution for the subject property. The mediation proved successful and the results are being presented as a proposed settlement to this Tribunal.

[10] The plans that the Applicant presented to the Tribunal are those prepared by Hariri Pontarini Architects dated March 26, 2021 found in Exhibit 2 Tab 12 c).

[11] The existing buildings will be demolished, and a mixed use building will be constructed which includes a 27-storey and a 21-storey residential tower with a six (6)-storey podium fronting on Yonge street consisting of commercial uses connecting the two towers.

[12] Relevant site statistics include:

1. On site parkland dedication – 1,232 sq m
2. Residential Gross Floor Area ("GFA") – 41,150 sq m
3. Non- residential GFA – 6,115 sq m

4. Total GFA – 47,265 sq m
5. Floor Space Index – 5.71
6. Number of dwelling units – 539
7. Total Tower Heights (including mechanical) – 101 m & 83 m
8. Tower Floor Plate – 785 sq m
9. Vehicle Parking – 252 and Bicycle Parking – 572
10. Indoor Amenity Space – 1,102 sq m
11. Outdoor Amenity Space – 1,053 sq m

[13] Other important considerations of the settlement proposal include:

1. incorporating and conserving existing heritage buildings into the proposed podium as a heritage façade.
2. vehicular access is provided by a two-way lane that leads to the lobby areas for the mixed use buildings, the ramp to the underground parking garage, loading spaces and garbage pick-up.
3. a proposed on-site parkland dedication of approximately 1,232 sq m located at the north west corner of the subject property. The parkland dedication is in excess of that required by the City by approximately 405 sq m.
4. two mid-block pedestrian connections are provided on-site in both an east/west and north/south direction. and

5. additional setbacks on Yonge Street and Roselawn Avenue frontages to enhance the public realm.

[14] City Council accepted the Proposed Settlement and Addendum at the July 14, 15, and 16, 2021 meeting subject to several conditions to be discussed later in this decision. (Exhibit 2 Tab 11)

## **PLANNING INSTRUMENTS**

[15] The revised proposal removes all the townhome and tall buildings elements from the Neighbourhoods designation. This change removes the need for an OPA to permit higher density residential uses but in order to implement the proposed settlement, an OPA to designate a portion of the subject lands to a Parks and Open Space designation is required. There are three instruments (“proposed instruments”) that are before the Tribunal for approval in principle being:

1. an OPA from ‘Neighbourhoods’ to ‘Parks and Opens Space’ to ensure the lands being secured for parkland dedication fronting on Roselawn Avenue are properly designated (Exhibit 2 Tab 12 (d)); and
2. two ZBAs to amend the former City Zoning By-law No. 438-86 (Exhibit 2 Tab 12 (e)) and the new City-wide Zoning By-law No. 569-2013 (Exhibit 2 Tab 12 (f)). These two ZBA’s will include the necessary zone standards to permit the proposed development, required setbacks, a maximum density (GFA), parking requirements and building heights.

## **LAND USE PLANNING POLICY**

### *Provincial Policy*

[16] Mr. Goldberg described how the relevant Provincial policy related to the proposed settlement and is of the opinion it is consistent with the Provincial Policy

Statement 2020 (“PPS”) and the Growth Plan for the Greater Golden Horseshoe 2019 (“Growth Plan”).

[17] Mr. Goldberg opined that the proposed instruments are consistent with the PPS. The Planner noted that the PPS provides a policy framework that promotes and encourages intensification in centres and locations that are well served by municipal infrastructure. He made specific reference to

1. *Managing and Directing land use to Achieve Efficient and Resilient Development and Land Use Patterns* by making reference to s. 1.1.1 a), c) and e) – healthy, livable, and integrated communities and s. 1.1.2 – appropriate range and mix of land uses within settlement areas;
2. *Settlement Areas* - s. 1.1.3.2 – land use patterns within settlement areas; s. 1.1.3.3 – identification of appropriate locations and promoting opportunities for intensification and redevelopment; s. 1.1.3.4 – appropriate development standards to facilitate intensification; s. 1.1.3.5 – the establishment and implementation of minimum targets for intensification and redevelopment; and s. 1.1.3.6 – the efficient development of land adjacent to built up areas;
3. *Housing* - s. 1.4.1 a) - providing an appropriate range and mix of housing options and densities; and s. 1.4.3 – permitting and facilitating all forms of housing required to meet the social, health and well-being requirements of current and future residents;
4. *Infrastructure* - s. 1.6.6.2 – the optimization of existing infrastructure and facilities; and s. 1.6.7.2 – efficient use should be made of existing and planned infrastructure including through the use of transportation demand management strategies; and
5. s. 1.7.1 – supporting *economic prosperity*; s. 1.8.1 – *energy conservation*

and the promotion of compact forms and transit along with the reduction of greenhouse gases and climate change adaptation.

[18] Mr. Goldberg testified that the Growth Plan is a further expression and articulation of Provincial policy. It is a Provincial Plan that encourages compact, vibrant, complete communities that serve to optimize the use of land and infrastructure in order to support growth in a compact and efficient form.

[19] The Planner is of the opinion that the proposed development conforms to the Growth Plan and identified many of the similar themes found in the PPS. In support of this opinion. Mr. Goldberg made reference to a number of Growth Plan policy directions including the following:

1. supports the achievement of complete communities that offer more options for living, working, shopping and playing;
2. prioritizes intensification and higher densities in strategic growth areas that are well served by public transit;
3. supports a range and mix of housing types to meet the needs of all people at all stages of their life. The proposal will contribute to the much needed housing inventory and can co-exist comfortably and compatibility with surrounding uses;
4. is in a location that can readily accommodate forecasted growth in well a designed complete community. The subject lands are in one of the Growth Plans designated 'Urban Growth Centre' and identified as a 'Strategic Growth Area' by the City;
5. makes efficient use of land and resources by optimization the existing land supply that represents an intensification first approach to development and city-building;

6. provides for a compact urban form and a vibrant public realm while conserving the cultural heritage resources. As part of the proposed development the City will secure a new public park; and
7. represents an integrated planning program to accommodate forecasted growth.

[20] Mr. Goldberg testified that intensification on the subject lands serves to intensify an underutilized site located in the Yonge-Eglinton Urban Growth Centre where intensification and tall building development both exists and is planned to continue. The proposal is an efficient use of land and will make use of existing infrastructure in a cost-effective manner by using both existing infrastructure and community facilities while introducing a range of residential unit types in the community. The subject site is close to an existing subway station, well served by surface transit, employment uses, shopping, entertainment, and a variety of service uses. The high density compact urban form as proposed by the ZBA's is 'fitting for this Urban Growth Centre'.

[21] For all the reasons in his oral testimony and witness statement, it is Mr. Goldberg's opinion that the proposed development is consistent with the PPS and conforms to the Growth Plan. It serves to support and advance the policies as articulated by the relevant Provincial planning documents by optimizing the use of land, resources, and the existing and planned infrastructure thereby clearly implementing the various Provincial policies

[22] The Tribunal accepts Mr. Goldberg's evidence in its entirety and finds the proposal is consistent with the PPS and conforms to the Growth Plan.

*City of Toronto Official Plan ("City OP")*

[23] The in-force City OP was adopted by City Council in November 2002 and approved by the Ontario Municipal Board in July 2006. The subject lands are designated as follows:

1. The portion along Yonge Street is identified as 'Avenues' on Map 2 – Urban Structure and designated Mixed Use Areas on Map 17. Mr. Goldberg noted that most of the lands to the north and south of are also designated 'Mixed Use Areas' with a 'Neighbourhoods' designation to the rear; and
2. 'Neighbourhoods' for the western portion of the subject lands that are proposed to become a public park.

[24] Mr. Goldberg opined that the proposed instruments conform to Section 2 – Growth Management of the City OP. The subject lands meet the objectives of this section which include using land, infrastructure and services efficiently; is in an area that is well served by transit; is a mixed use development; serves to facilitate social interaction and is designed to protect adjacent neighbourhoods from the effect of nearby development.

[25] The Planner made special note that the subject lands are subject to the Yonge-Eglinton Secondary Plan (OPA 405) which provides a policy framework for the Yonge-Eglinton Centre (s. 2.2.2). This Centre is in Midtown Toronto and is very well served by transit; is a major residential area, employment centre and an important institutional, retail and entertainment destination. The Secondary Plan area incorporates a variety of streetscapes and neighbourhoods in a compact form. Mr. Goldberg made special note of "the diverse mix of uses, range of housing options and conveniently accessible transportation options, community facilities, parks and open spaces are enjoyed by a growing residential population and contribute to a complete and livable community".

[26] Mr. Goldberg outlined the policies related to the Avenues (s. 2.2.3) that are important corridors where reurbanization is anticipated and encouraged. Change along these Avenues will be tailored to and within each individual Avenues situational context. Changes will be managed using a ZBA that will establish the mix of uses, heights, densities, setbacks, and other required zone standards.

[27] Mr. Goldberg took the Tribunal through the Mixed Use Area (s. 4.5) and Built Form policies (s. 3.3.2). Mixed Use Areas are intended to consist of a broad range of commercial, residential uses in either single or mixed use buildings along with parks, open space, and utilities. There is an extensive list of criteria that new development must be evaluated against. All development in Mixed Use Areas must also conform to the City OP's Built Form policies. Objectives for these policies relate to the need for new development to be located and fit with its existing and/or planned context; serve to frame and support adjacent streets and to improve the safety, pedestrian interest and casual views to these spaces in an effort to ensure high quality urban development.

[28] Neighbourhood policies (s 4.1.1) relate to the western portion of the subject lands and are considered as "physically stable areas made up of residential uses in lower scale buildings..." Mr. Goldberg opined that the revised proposal includes a new public park which will serve as an appropriate transition between the mixed-use buildings and the low-rise dwellings to the west.

[29] Mr. Goldberg then proceeded to describe the Housing policies (s. 3.2.1) of the City OP. These policies advocate for a full range of housing in terms of form, tenure, and affordability to ensure both the current and future needs of residents are met across the City. The revised proposal has a variety of unit types being: Bachelor – 15%; One bedroom – 44.2%, Two Bedroom – 30.4% and Three Bedroom – 10.4%. The proposal increases much needed housing stock, provides a choice of options, and has a large proportion of family sized units.

[30] The Planner outlined how the heritage properties located on the subject lands and the Anne Johnston Station have been considered in the project design in keeping with the Heritage Impact Assessment. The heritage facades on the subject lands will be incorporated into the podium of the building and special care has been taken to adequately consider the integrity of the Anne Johnston Health Station and Toronto Fire Station 134.

[31] Mr. Goldberg outlined a variety of recent City OPA's and Guidelines that are

relevant to the proposed development. Suffice it to say that during his review of these various policy changes, the revised proposal was reviewed within the context and has appropriate regard for all. The relevant documents are:

1. OPA 405 which replaces the previous Yonge-Eglinton Secondary Plan;
2. OPA 289 introduced a new policy section relating to a Midtown Character Area and related policies; and
3. The Tall Building Guidelines.

[32] Mr. Goldberg is of the opinion that the proposed settlement conforms to and serves to implement the policies found in the City OP for reasons including:

1. is designed in a manner that complements the subject lands within the Yonge-Eglinton Centre and is compatible to the surrounding communities;
2. has excellent transit availability, municipal infrastructure, and a variety of community service facilities in the immediate area;
3. optimizes the use of a large, well configured, under utilized site;
4. meets all land use, transportation, urban form, public realm, community services and parks and open space policies of relevant City OP documents;
5. is evaluated against and meets the Development Criteria found in the City OP 'Mixed Use Areas' policy. It frames the streets, has appropriate transition to adjacent land uses and has acceptable shadow impacts;
6. complements the 'Neighbourhoods' designation as the western portion of the subject site will be developed as a new public park thereby ensuring a

transition and enhancing the stability of the neighbourhood;

7. meets all the City OP's Built Form policies as the proposed development is located and organized to fit into both the existing and planned context while serving to frame and support adjacent streets. It represents appropriate built form and has incorporated many architectural design details;
8. the proposal serves to broaden housing types and choice in this neighbourhood by providing larger units for families, households with children and multi-family households. It contributes to the continued evolution of this complete community;
9. has included in the proposed development existing on-site heritage features in the façade of the podium and takes care to ensure the integrity of nearby heritage features in keeping with applicable City OP Heritage Resource policies;
10. has had appropriate regard for OPA 289 and is in conformity with OPA 405; and
11. the proposed buildings are designed in a way to generally satisfy the Tall Building Design Guidelines.

[33] In summary, Mr. Goldberg opined that the proposed settlement conforms or has appropriate regard for all relevant City OP policy and guidelines. The proposed settlement "is premised on a sound and reasonable planning analysis and represents a good planning solution and is in the public interest.

[34] The Tribunal accepts Mr. Goldberg's evidence in its entirety and finds the proposal conforms to the City OP, has appropriate regard to OPA 289 and 405 and is in keeping with the Tall Building Guidelines

## **AREA RATEPAYER ASSOCIATIONS**

[35] Two area ratepayer associations are parties in this matter. The Eglinton Park Residents Association represented by Thomas Cohan and the Lytton Park Residents' Organization Inc. represented by Eli Aaron. Both residents' groups contributed to all discussions; understand the details of the proposed settlement and are very experienced in Tribunal practices. Both are active participants in the changes that are being experienced within their respective neighbourhood. The result of their efforts are meaningful changes with respect to this proposal most notably the provision of a new public park that will serve to both enhance the local area and provide an appropriate transition to adjacent neighbourhoods.

[36] Both the Eglinton Park Residents Association and the Lytton Park Residents' Organization Inc. are in support of the proposed settlement and revised proposal.

## **CITY COUNCIL CONSIDERATION OF THE PROPOSED SETTLEMENT**

[37] City Council accepted the proposed settlement at the meeting of July 14, 15, and 16, 2021 subject a number of conditions that must be satisfied by the Applicant, The City requested that should the Tribunal allow the appeal, that the Final Order be withheld until the Tribunal has been advised by the City Solicitor that these conditions have been met.

[38] City Council conditions include a satisfactory final form of the OPA and ZBA; an executed Section 37 Agreement with respect to Community Benefits; updated supporting information and reporting relating to Transportation and Servicing; a detailed Conservation Plan with respect of the designated heritage properties; the owner enter into a Heritage Easement Agreement; and withdrawal of any outstanding applications or appeals with respect to any demolition application for the subject lands. Council adopted, as part of the motion, a series of detailed provisions and directions to a variety of City staff to ensure the proper execution of the various conditions.

[39] Both the Counsel for the City and Applicant requested that should the Tribunal allow the appeal, that the conditions of Council be part of the Interim Order to ensure clarity and consistency on what is required on a go forward basis. The Tribunal agrees.

## **TRIBUNAL ANALYSIS OF THE PROPOSED SETTLEMENT**

[40] The Tribunal accepts the uncontested evidence of the Mr. Goldberg in its entirety and finds the proposed instruments as put forward in the proposed settlement meet all the relevant policy tests of the *Planning Act*, PPS 2020, the Growth Plan and all relevant foundational policies of the City OP, has appropriate regard to OPA 289 and OPA 405 and is in keeping with the Tall Building Guidelines.. They represent good planning and are in the public interest.

[41] The Tribunal finds that the City has well established planning policy for the area surrounding the subject lands and has followed a careful, complete, and comprehensive planning review of the revised proposal. The proposed settlement aligns with established principles of both Provincial and City OP policy making it an appropriate location for the proposed development. Reasons include the following:

1. allows the development of an underutilized site with a high quality mixed-use development in the Yonge-Eglinton Centre. The revised proposal includes significant density and important land use considerations that speak directly to both Provincial and City policy;
2. is a good fit within both the existing and planned context that are important considerations of the City OP;
3. serves to continue the enhancement of the areas compact urban form and optimizes the use of land, infrastructure, and existing transit resources;
4. presents a built form that is of a high quality design in keeping with the established area character by providing support to the adjacent streets

and providing many interesting architectural design details;

5. the massing of the building transitions well to the existing neighbourhoods and provides for an important addition to the City's public park inventory for the enjoyment of all that live and work in the area;
6. serves to broaden housing types and choice in this neighbourhood by providing larger units for families, households with children and multi-family households. It assists in the continued evolution of this complete community; and
7. has incorporated existing on-site heritage features in the facade and has taken care to ensure the integrity of nearby heritage features in keeping with applicable City OP Heritage Resource policies.

[42] The supply of all forms of housing is an important policy objective of both the Province and the City. The Tribunal is pleased to see the proposed settlement includes a mix of residential uses that include two and three bedroom units suitable for families which will become an important addition to the housing supply in the City. Provincial and City housing policy is important in the Tribunal's consideration of the proposed settlement.

[43] Change of this nature is difficult and the Applicant has involved the surrounding ratepayer community in the building design and mediation process. The Tribunal appreciates the principled commitment made by both the Eglinton Park Residents Association and the Lytton Park Residents' Organization Inc. to their neighbourhood and the process to achieve the proposed settlement. This commitment is clearly demonstrated by Mr. Cohen and Mr. Aaron in their representation of their respective resident organization.

[44] The Tribunal is presented, with consent of all parties, a draft OPA and two draft ZBA for By-law No. 569- 2013 and By-law No. 438-86. These proposed instruments

would implement the proposed settlement. There is also a significant list of conditions requested by City Council should the Tribunal approve in principle what is proposed (Exhibit 2 Tab 11). It is evident that the Applicant has a substantial path of City approvals to follow before a Final Order may be issued. The Tribunal is prepared to give an Interim Order approving the proposed settlement in part. It is therefore appropriate that City conditions are part of this Interim Order to ensure all necessary matters and requirements are met prior to the Final Order being issued.

[45] The Tribunal finds that the proposed settlement, as presented, is an appropriate and desirable addition to the neighbourhood, it represents good land use planning, is consistent or in conformity with, and meets the objectives, of all requisite public policy and is in the public interest.

#### **INTERIM ORDER**

[46] Accordingly, the Tribunal Orders.

[47] **THAT** the appeals are allowed in part and:

- a. the proposed amendment to the City of Toronto Official Plan, as amended, is approved in principle in the manner set out in Attachment 1 to this Interim Order;
- b. the proposed amendment to Zoning By-law No. 569-2013 of the City of Toronto, as amended, is approved in principle in the matter as set out in Attachment 2 to this Interim Order; and
- c. the proposed amendment to Zoning By-law No. 438-86, as amended, of the former City of Toronto, as amended, is approved in principle in the manner as set out in Attachment 3 to this Interim Order.

[48] **THAT** the Final Order amending the City of Toronto Official Plan, as amended,

and City of Toronto Zoning By-law No. 569-2013, as amended, and the City of Toronto Zoning By-law No. 438-86, as amended, is withheld by the Tribunal pending written confirmation from the City Solicitor that the matters set out in Paragraph 10 of the City Council Resolution, attached hereto as Attachment 4 to this Interim Order have been satisfied.

[49] **THAT** upon receipt of such written confirmation, the Final Order will issue.

[50] If the City Solicitor does not submit the final drafts of the Official Plan Amendment and both Zoning By-law Amendments, and provide confirmation that all contingent pre-requisites to the issuance of the Final Order as set out in Paragraphs 47 and 48 above have been satisfied, and request the issuance of the Final Order, by **Friday, June 10, 2022**, the Applicant and the City shall provide a written status report to the Tribunal by that date, as to the timing of the expected confirmation and submission of the final form of the draft Official Plan Amendment and both Zoning By-law Amendments and the issuance of the Final Order by the Tribunal.

[51] The Panel Member will remain seized for the purposes of the issuance of the Final Order and with respect to the Provisional Interim Orders set out above. In the event any matters arise, which are related to the implementation of this Interim Order, the Tribunal may be spoken to.

*“Bryan W. Tuckey”*

BRYAN W. TUCKEY  
MEMBER

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

**OLT Case No.  
PL171386**

**ATTACHMENT 1  
OFFICIAL PLAN  
AMENDMENT**

***DRAFT – April 2021***

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on  
~, 2021

Enacted by Council: ~ 2021

***CITY OF  
TORONTOBY-LAW***

***No. ~2021***

**To adopt an amendment to the Official Plan for the City of Toronto respecting the lands  
known municipally in the year 2021 as 2400-2444 Yonge Street**

WHEREAS authority is given to Council under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

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*;

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

1. The attached Amendment No. ~ to the Official Plan is hereby adopted pursuant to the *Planning Act*, as amended.
2. This By-law shall come into force and take effect on the day of the final passing thereof.

ENACTED AND PASSED this ~ day of ~, A.D. 2021.

JOHN TORY,

Mayor

ULLI S. WATKISS,

City Clerk

(Corporate Seal)

**AMENDMENT NO. ~ TO THE OFFICIAL PLAN**

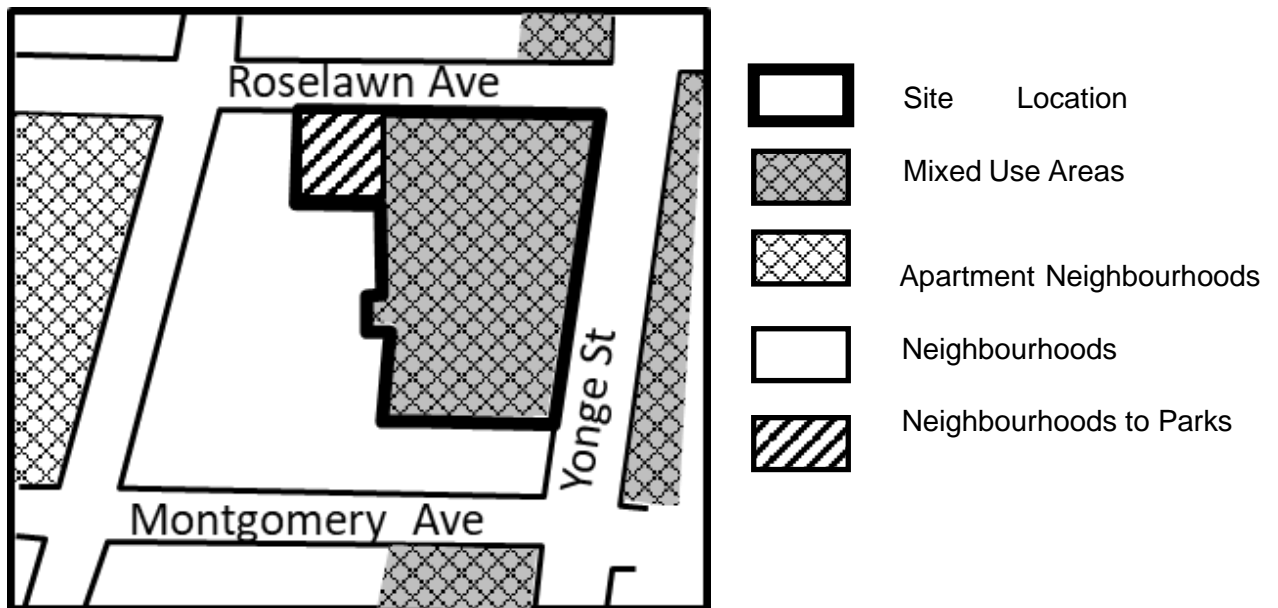
**LANDS MUNICIPALLY KNOWN IN THE YEAR 2021 AS**

***2400-2444 Yonge Street***

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The Official Plan of the City of Toronto is amended as follows:

1. Map 17, Land Use Plan, is amended, as shown on the attached Schedule 1, by redesignating lands from *Neighbourhoods* to *Parks and Open Space Areas – Parks* at 2400-2444 Yonge Street.



Revisions to Land Use Map 17 to redesignate *Neighbourhoods to Parks and Open Spaces – Parks* for the lands known municipally as 2400-2444 Yonge Street.



File # \_\_\_\_\_

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Not to Scale

**ATTACHMENT 2**

**AMENDMENT TO ZONING BY-LAW NO. 569-2013**

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on  
~, 2021

Enacted by Council: ~, 2021

***CITY OF  
TORONTO BY-LAW  
No. ~-2021***

**To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally  
known in the year 2021 as 2400-2444 Yonge Street**

Whereas Council of the City of Toronto has the authority to 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  
hasheld at least one public meeting in accordance with the *Planning Act*, and

The Council of the City of Toronto enacts:

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 No. 569-2013, Chapter 800 Definitions;
3. Zoning By-law No. 569-2013, as amended, is further amended by adding Article  
900.11.10 Exception Number \_\_\_\_\_ so that 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 2400-2440 Yonge Street, none of the requirements of 5.10.40.1(3), 5.10.40.40(1), 5.10.40.80(1), 40.5.40.10, 40.5.40.70, 40.10.40.1(1), 40.10.40.10(2), 40.10.40.40(1), 40.10.40.50(1), 40.10.40.60, 40.10.40.70(2), 40.10.50.10, 40.10.90.40(3), 40.10.100.10(1), 200.5.10.1, 220.5.10.1(1), 230.5.1.10(4), (5), (7) and (9), 230.5.10.1(1) and (5), 230.40.1.20(1)(C), and 230.40.1.20(2), apply to prevent the use or erection of a **mixed use building**, including **ancillary** uses thereto on the **lot** in accordance with Sections B. to P. below:
- B. The **lot** comprises the lands delineated by heavy lines on Diagram 1, attached to By-law ### **[NTD: City Clerk to provide By-law #]**;

- C. Despite the uses listed in Article 40.10.20.10(1)(B) and 40.10.20.20(1)(B), the uses permitted under the letter 'r' are a **Dwelling Unit** in a **Mixed Use Building** and **Townhouses**;
- D. Despite the uses listed in Article 40.10.20.20(1), the only conditional use permitted is: **Public Parking**, which is a permitted use conditional upon being provided within a **parking garage** located below **established grade**;
- E. No portion of any **building** or **structure** erected on the **lot** must not exceed the maximum height in metres specified by the numbers following the symbol HT as shown on Diagram 2, attached to By-law ### [NTD: City Clerk to provide By-law #];
- F. No portion of any **building** or **structure** may extend beyond the minimum **building setbacks** for **buildings** and **structures** on the **lot** as shown on Diagram 2, attached to By-law ### [NTD: City Clerk to provide By-law #];
- G. Despite E) and (F) above, the following **building** elements and **structures** are permitted to exceed the maximum **heights** as delineated by the letter “HT” as shown on Diagram 2, and the following **building** elements, **structures**, and projections are permitted to extend into required **building setbacks** shown on Diagram 2 attached to By-law ### [NTD: City Clerk to provide By-law #] and beyond the heavy lines referred to herein:
- i. Architectural features, air intake and handling units, awnings, balconies, bay windows, bicycle racks, bollards, canopies, chimneys, communication equipment, cooling tower, cornices, columns, eaves, elevator enclosures and overruns, fences, flues, green roof, guardrails, insulation and roof surface materials, landscape and public art features, lighting fixtures, mechanical penthouses, ornamental elements, parapets, pipes, planters, platforms, railings, retaining walls, satellite dishes, screens, stacks, stairs, stair enclosures, terraces, trellises, utility and mechanical equipment, underground garage ramps and their associated structures, vents, walkways, wheel chair ramps, wind protection, window sills, and window washing equipment; and
  - ii. Elements or structures on any portion of a roof used for outside or open air recreation, including required residential **amenity space**;

- H. The total **gross floor area** of all **buildings** and **structures** must not exceed a maximum of 47,300 square metres which includes:
- i. A maximum of 41,250 square metres for residential uses;
- I. Despite Section 40.10.40.50.(1), indoor **amenity space** must be provided on the **lot** at a minimum rate of 2.0 square metres per **dwelling unit** and outdoor amenity

space must be provided on the **lot** at a minimum rate of 1.60 square metres per *dwelling unit*;

- J. Despite Sections 200.5.10.1 (1), (7), (8), (9), and (11) and 200.5.200, **parking spaces** shall be provided and maintained on the **lot** in accordance with the following minimum requirements:
  - i. For residents, a minimum of 190 **parking spaces**; and
  - ii. For residential visitors, a minimum of 62 **parking spaces**.
- K. Required residential visitor **parking spaces** may be shared with retail commercial uses and may be used commercially for profit;
- L. Despite Section 200.5.1.10.(2), **parking spaces** may be obstructed;
- M. Despite Section 230.5.10.(7), one shower and change facilities must be provided for each gender;
- N. A minimum of 1 Type “C” **loading space**, one Type “G” **loading space** and three Type “E” **loading spaces** shall be provided and maintained on the **lot**;
- O. Despite regulation 800.50.820, **storey** means a level of a **building**, other than a basement, located between any floor and the floor, ceiling or roof immediately above it. For the purposes of this By-law, a mezzanine is not a **storey**;
- P. Despite any provisions of By-law 569-2013, as amended, and By-law ### **[NTD: City Clerks to provide By-law #]**, a temporary **sales office** shall be permitted on the **lot**;
- Q. For the purposes of this By-law, the words highlighted in bold type in this Exception have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions, save and except for:
  - i. **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 to 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;

- ii. **Established Grade** means an elevation of 167.70 metres Canadian Geodetic Datum;
- iii. **Height** means the vertical distance between **grade** and the highest point of the **building** or **structure**, subject to permitted projections;

- iv. **Long-Term Bicycle Parking Space** means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
  - a. Where the bicycles are to be parked in a stacked horizontal manner, have dimensions of at least 2.0 m in length, a minimum width of 0.45 metres, and a minimum vertical clearance of 1.3 metres; and
  - b. May be located outdoors or indoors including within a secured room or enclosure.
- v. **Short-Term Bicycle Parking Space** means an area that is equipped with a bicycle rack for the purpose of parking and securing bicycles, and:
  - a. Where the bicycles are to be parked in a stacked horizontal manner, have dimensions of at least 2.0 m in length, a minimum width of 0.45 metres, and a minimum vertical clearance of 1.3 metres; and
  - b. May be located outdoors or indoors including within a secured room or enclosure.
- vi. **Sales Office** means a building, structure, facility or trailer on the **lot** used for the purpose of the sale of **dwelling units** to be erected on the lot and/or the administration and management of construction activity related to construction on the **lot**;
- vii. **Type G Loading Space** means a loading space that is a minimum of 4.0 metres wide, 13.0 metres long and has a minimum vertical clearance of 6.1 metres;
- viii. **Type B Loading Space** means a loading space that is a minimum of 4.0 metres wide, 11.0 metres long and has a minimum vertical clearance of 4.0 metres; and

- ix. **Type C Loading Space** means a loading space that is a minimum of 3.5 metres wide, 6.0 metres long and has a minimum vertical clearance of 3.0metres.
- x.

R. None of the following Prevailing Sections from City of Toronto By-law No. 438-86 shall apply to the **lot**:

- i. Section 12(2) 118
- ii. Section 12(2) 119
- iii. Section 12(2)269
- iv. Section 12(2)270(a)

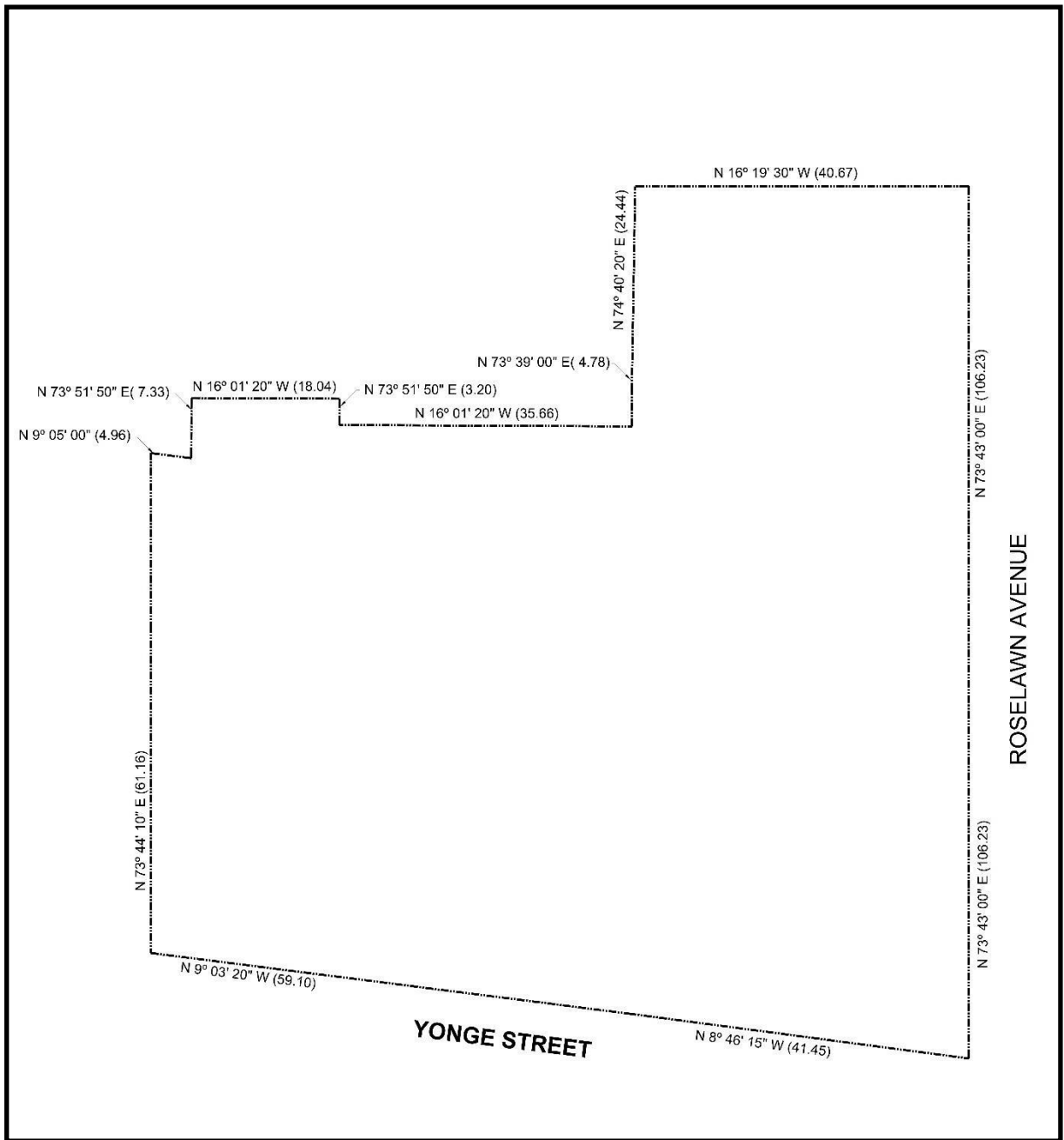
- S. Despite any existing or future consent, severance, partition or division of the lot, the provisions of By-law ### **[NTD: City Clerks to provide By-law #]**, shall apply to the **lot**, as identified on Diagram 1, as if no consent, severance, partition or division occurred.

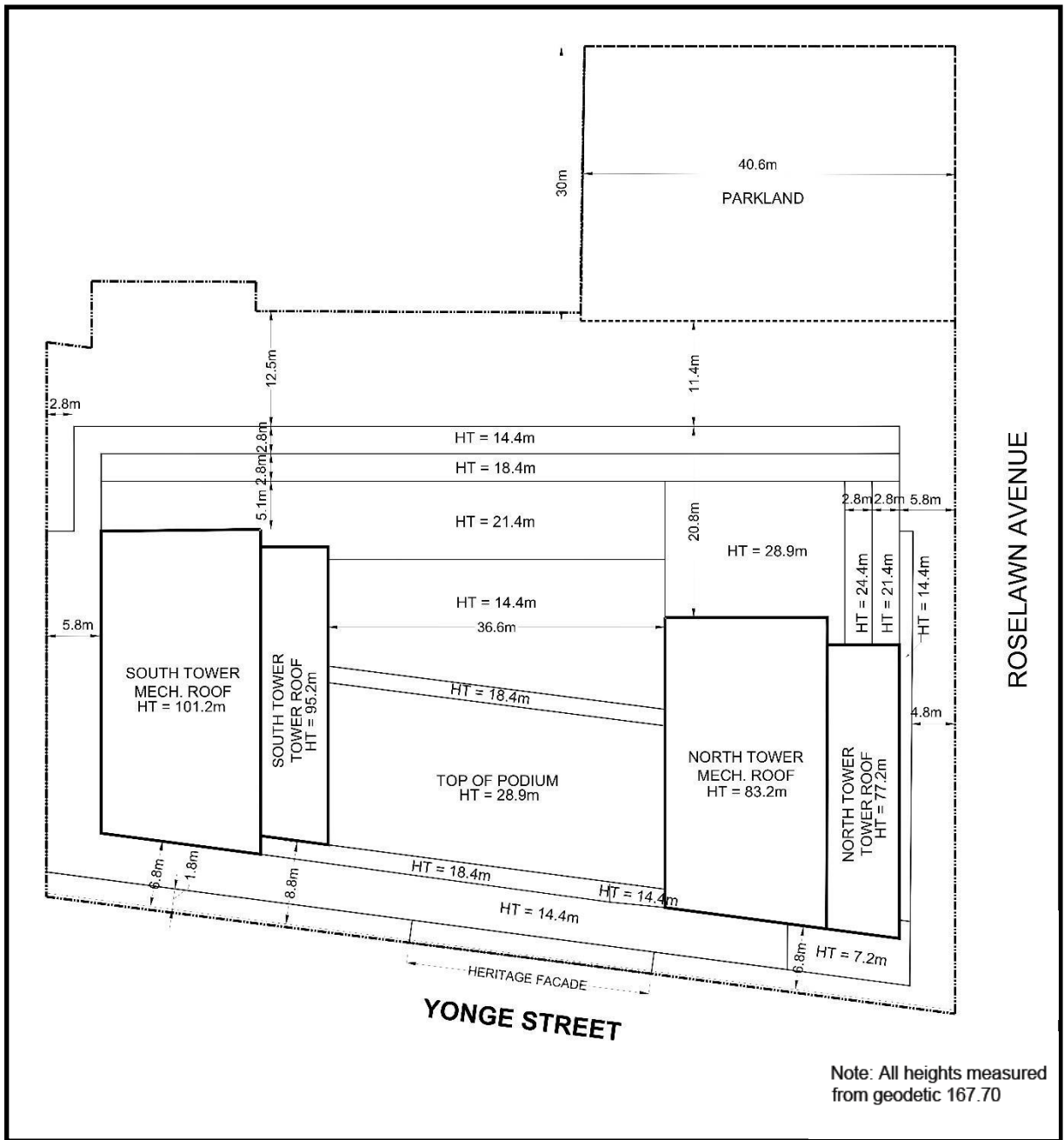
ENACTED AND PASSED this ~ day of ~, A.D. 20~.

JOHN TORY,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)





**ATTACHMENT 3**

**AMENDMENT TO ZONING BY-LAW NO. 438-86**

Authority: Toronto and East York Community Council Item \_\_\_\_\_

**CITY OF TORONTO**  
**BY-LAW No. \_\_\_\_-**  
**2021**

**To amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally as 2400-2440 Yonge Street in the year 2021**

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 lands known municipally in the year 2020 as 2400-2440 Yonge Street; and

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

1. None of the provisions of Sections 2(1) with respect to the definition of *bicycle parking space – occupant*, *bicycle parking space – visitor*, *grade*, *height*, *lot*, and Sections 4(2)(a), 4(3), (4)(4), 4(5), 4(8), 4(10), 4(13), 4(16), 8(3)Part I, 8(3)Part II, 8(3)PART IV, 12(2)118, 12(2)119, 12(2)269, and 12(2)270(a) of Zoning 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, shall apply to prevent the erection and use of a *mixed use building* on the *lot*, including uses *accessory* thereto, including *carshare*, provided that:
  - (a) For the purposes of this By-law, the *lot* consists of the lands delineated by heavy lines on Map 1 attached to this By-law;
  - (b) No portion of the building shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2;
  - (c) The total of *gross floor area* shall not exceed 47,800 square metres, of which a maximum of 41,700 square metres of *residential gross floor area* is permitted;
  - (d) No portion of any building erected above *grade* on the *lot* is located above the maximum height in metres as indicated by the following letter "HT" as shown on Map 2, attached to and forming part of this Bylaw;

- (e) No portion of any building or structure erected on the *lot* may extend beyond the minimum building setbacks for buildings and structures on the lot as shown on Diagram2, attached to By-law ### [NTD: City Clerk to provide By-law #];
- (f) Notwithstanding Section 1.(d) and (e) above of this By-law, the following building elements, structures and projections are permitted to extend beyond the heavy lines and above the *heights* as shown on Map 2, attached to and forming part of this By-law, and referred to therein:

- i. architectural features, air intake and air handling units, awnings, balconies, bay windows, bicycle racks, bollards, canopies, chimneys, communication equipment, cooling tower, cornices, columns, eaves, elevator enclosures and overruns, fences, flues, green roof, guardrails, insulation and roof surface materials, landscape and public art features, lighting fixtures, ornamental elements, parapets, pipes, planters, platforms, railings, retaining walls, satellite dishes, screens, stacks, stairs, stair enclosures, terraces, trellises, utility and mechanical equipment, underground garage ramps and their associated structures, vents, walkways, wheel chair ramps, wind protection, window sills, and window washing equipment; and
  - ii. elements or structures on any portion of a roof used for outside or open air recreation, including required *residential amenity space*;
- (g) *Parking spaces* shall be provided and maintained on the *lot* in in a *parking garage* accordance with the following requirements:
  - i. A minimum of 190 resident *parking spaces*; and
  - ii. A minimum of 62 residential visitor *parking spaces*;
- (h) Required residential visitor *parking spaces* may be shared with retail commercial uses and may be used commercially for profit.
- (i) Notwithstanding Section 4(17)(e), *parking spaces* may be obstructed;
- (j) *Bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
  - i. A minimum of 486 *bicycle parking spaces – occupant*; and
  - ii. A minimum of 54 *bicycle parking spaces – visitor*
- (k) Notwithstanding Section 4(6) and 4(7), a minimum of one *loading space – Type C*, one *loading space – type G* and three *loading space – Type E* shall be provided and maintained on the *lot*;
- (l) Indoor and outdoor *residential amenity space* shall be provided and maintained on the *lot* in accordance with the following requirements:

- i. A minimum of 1,070 square metres of indoor *residential amenity space*; and
  - ii. A minimum of 860 square metres of outdoor *residential amenity space*
2. None of the provisions of this By-law and By-law No. 438-86 shall apply to prevent a  
*“Temporary Sales Office”* on the lot;

3. For the purposes of this By-law, every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid Bylaw 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 or locker for the purpose of parking and securing bicycles, and:
  - i. Where the bicycles are to be parked in a stacked horizontal manner, have dimensions of at least 2.0 m in length, a minimum width of 0.45 metres, and a minimum vertical clearance of 1.3 metres; and
  - ii. May be located outdoors or indoors including within a secured room or enclosure.
- (b) “*bicycle parking space – visitor*” means an area that is equipped with a bicycle rack or locker for the purpose of parking and securing bicycles, and:
  - i. Where the bicycles are to be parked in a stacked horizontal manner, have dimensions of at least 2.0 m in length, a minimum width of 0.45 metres, and a minimum vertical clearance of 1.3 metres; and
  - ii. May be located outdoors or indoors including within a secured room or enclosure.
- (c) “*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 to 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;
- (d) “*grade*” means an elevation of 167.70 metres Canadian Geodetic Datum;
- (e) “*height*” means the vertical distance between *grade* and the highest point of the building or structure, subject to permitted projections;
- (f) “*lot*” means the lands outlined by heavy lines on Map 1 attached to this By-law;
- (g) “*storey*” means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it. For the purposes of

this By-law, a mezzanine is not a *storey*;

- (h) "*temporary sales office*" shall mean a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the *lot* and/or the administration and management of construction activity related to construction on the *lot*.

- (i) “*Type B Loading Space*” means a loading space that is a minimum of 4.0 metres wide,  
11.0 metres long and has a minimum vertical clearance of 4.0 metres;
  - (j) “*Type C Loading Space*” means a loading space that is a minimum of 3.5 metres wide,  
6.0 metres long and has a minimum vertical clearance of 3.0 metres; and
  - (k) “*Type G Loading Space*” means a loading space that is a minimum of 4.0 metres wide,  
13.0 metres long and has a minimum vertical clearance of 6.1 metres.
4. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

ENACTED AND PASSED this \_\_\_\_day of\_\_\_\_\_, A.D. 2021.

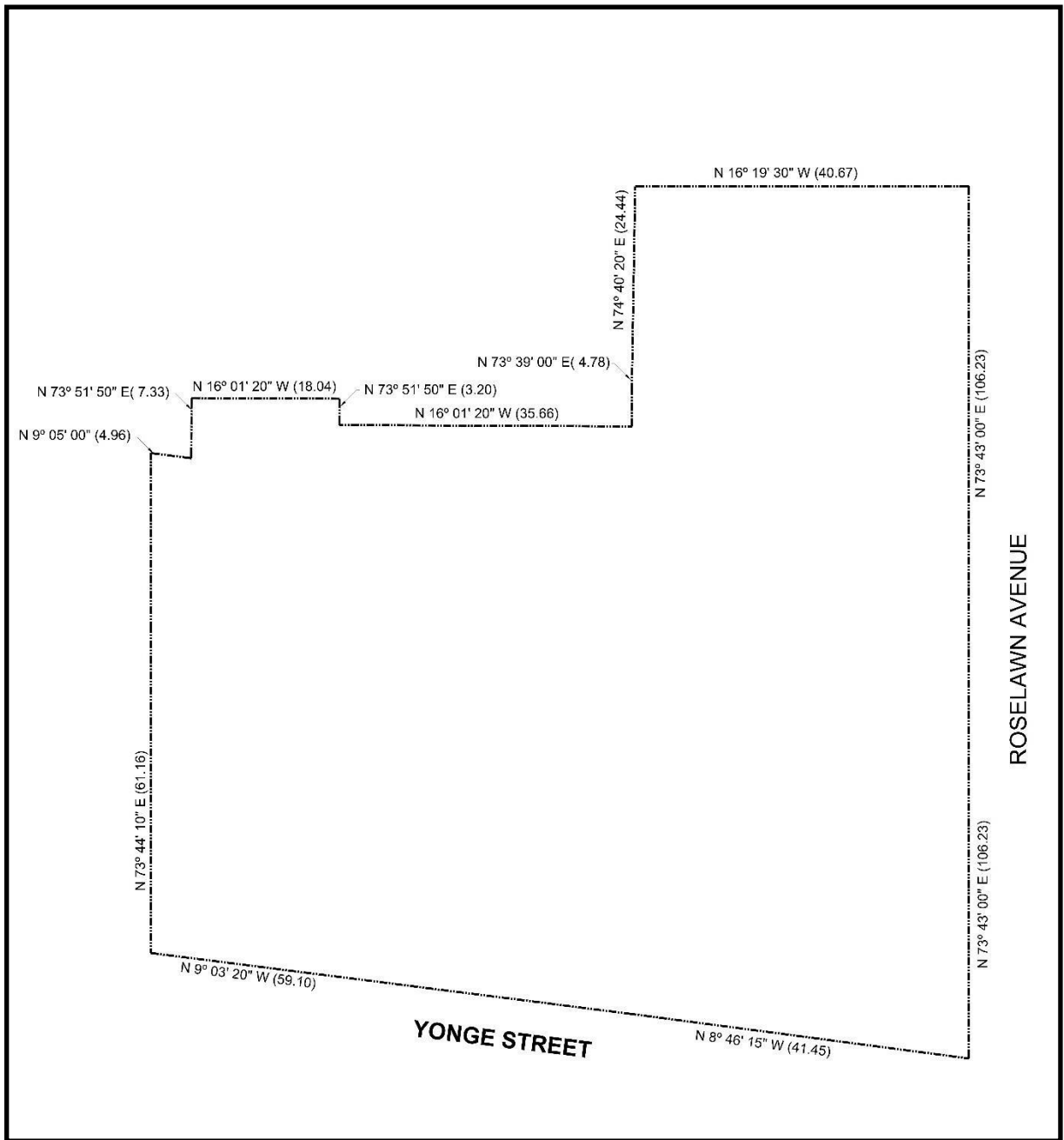
JOHN TORY

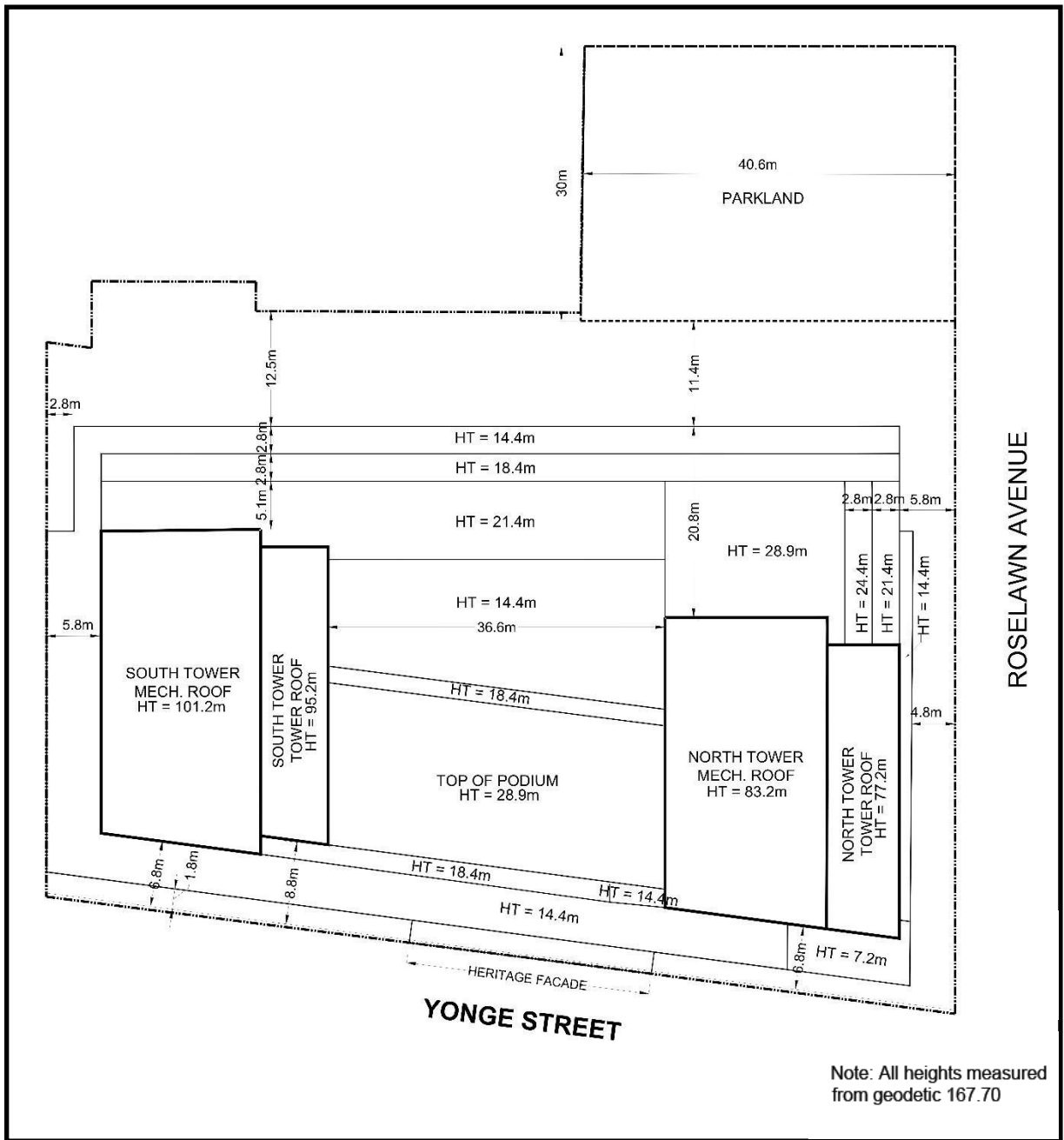
Mayor

(Corporate Seal)

ULLI S. WATKISS,

City Clerk





**ATTACHMENT 4**

**CITY COUNCIL RESOLUTION**



## Item

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### ***Tracking Status***

- [City Council](#) adopted this item on July 14, 2021 without amendments and without debate.
- See also By-law [811-2021](#)

### ***City Council consideration on July 14, 2021***

CC35.18	ACTION	Adopted on Consent		Ward: 8
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### **2400-2444 Yonge Street - Official Plan Amendment and Zoning By-law Amendment Applications - Request for Directions Report**

### ***City Council Decision***

City Council on July 14, 15 and 16, 2021, adopted the following:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to thereport (July 6, 2021) from the City Solicitor.

2. City Council authorize the public release of the confidential instructions to staff in Confidential Attachment 1 and Confidential Appendices A, B, C, D and E to the report (July 6,2021) from the City Solicitor.

3. City Council direct that the balance of Confidential Attachment 1 and Confidential Appendix F to the report (July 6, 2021) from the City Solicitor remain confidential as theycontain advice that is subject to solicitor-client privilege.

The confidential instructions to staff in Confidential Attachment 1 to the report (July 6, 2021) from the City Solicitor were adopted by City Council and are now public as follows:

1. City Council accept the Settlement Offer dated May 31, 2021 comprised of the letter attached as Confidential Appendix A and the plans and drawings attached as Confidential Appendix B to the report (July 6, 2021) from the City Solicitor subject to Parts 3 to 10 below.

2. City Council authorize the City Solicitor and appropriate City Staff to attend the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) on this matter in support of the revised proposed development set out in the Settlement Offer, with any necessary revisions to address the matters identified in Parts 3 to 10 below.

3. City Council accept an on-site parkland dedication of 827 square metres with frontage on Roselawn Avenue in satisfaction of the applicant's required parkland contribution pursuant to Section 42 of the Planning Act as described in the Settlement Offer; the on-site parkland to be conveyed to the City shall be free and clear, above and below grade, of all easements, encumbrances and encroachments and is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor in accordance with all applicable City policies dealing with the acquisition of lands for park purposes as a condition of development approval.

4. City Council approve a development charge credit against the Parks and Recreation component of the development charges for the design and construction by the owner of above base park improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the Owner of designing and constructing the above base park improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of development charges.

5. City Council approve the alterations to the designated heritage properties located within the development site and municipally known as 2430 Yonge Street and 2434 Yonge Street, in accordance with Section 33 of the Ontario Heritage Act, for the construction of the revised development proposal set out in the Settlement Offer with alterations to the designated buildings at 2430 Yonge Street and 2434 Yonge Street in conjunction with an appeal to the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) comprised of the plans and drawings prepared by Hariri Pontarini Architects, submitted with the Heritage Impact Assessment Addendum prepared by Goldsmith Borgal & Company Ltd. Architects, dated May 31, 2021, all on file with the Senior Manager, Heritage Planning, all subject to and in accordance with a Conservation Plan to be submitted by the owner to the satisfaction of the Senior Manager, Heritage Planning.

6. City Council require the owner, prior to the issuance of any permit for all or any part of the development site with the municipal addresses of 2430 Yonge Street and 2434 Yonge Street, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Planning, to:

- i. obtain the Ontario Land Tribunal's (formerly Local Planning Appeal Tribunal) final order for the necessary Official Plan and Zoning By-law amendments required for the alterations to the property at 2430 Yonge Street and 2434 Yonge Street, such amendments having a form and content acceptable to City Council as determined by the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Planning;

- ii. provide building permit drawings, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan required in Part 5 above including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Planning;

iii. provide a Letter of Credit, including provision for upwards indexing in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Planning to secure all work included in the approved Conservation Plan, Heritage Lighting Plan, Landscape Plan and Interpretation Plan; and

iv. provide full documentation of the existing heritage property 2430 Yonge Street and 2434 Yonge Street, including two (2) printed sets of archival quality 8" x 10" colour photographs with borders in a glossy or semi-gloss finish and one (1) digital set on a CD in tiff format and 600 dpi resolution keyed to a location map, elevations and measured drawings, and copies of all existing interior floor plans and original drawings as may be available, to the satisfaction of the Senior Manager, Heritage Planning.

7. City Council authorize the entering into of an Agreement pursuant to Section 37 of the Planning Act as follows, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor:

a. the community benefits recommended to be secured in the Section 37 Agreement are as follows:

i. prior to the issuance of the first above grade building permit for the proposed development, the owner shall convey to the City the fee simple interest in a parkland over-dedication of no less than 405 square metres with frontage on Roselawn Avenue as described in the Settlement Offer; the parkland over-dedication to be conveyed to the City shall be free and clear, above and below grade, of all easements, encumbrances, and encroachments and is to be conveyed to the City prior to the issuance of the first above-grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor in accordance with all applicable City policies dealing with the acquisition of lands for park purposes as a condition of development approval;

ii. prior to the issuance of the first above-grade building permit for the proposed development, the owner shall pay a cash contribution of \$1,800,000.00 to be allocated by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, as follows:

a. \$1,500,000.00 to be allocated towards park acquisition and/or park improvements in the Yonge-Eglinton Area including, but not limited to, Eglinton Park and the new park being created at Duplex Avenue and Montgomery Avenue/Helendale Avenue; and

b. \$300,000.00 to be allocated to current and future streetscape improvements and landscaping upgrades along the Yonge Street and Montgomery Avenue frontages, including landscaping, seating and lighting improvements to the interface between the Anne Johnston Health Centre, new mid-block connections and the removal of existing boulevard parking; and

iii. the \$1,800,000.00 cash contribution is to 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 327-0058, or its successor, calculated from the date of the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) final order amending the Official Plan and Zoning By-law to the date of payment; and

b. the following are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development if approved by the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal):

i. prior to Final Site Plan approval, the owner shall design, financially secure and agree to maintain a 3 metre wide public access easement (the "mid-block connection") running east-west along the southerly boundary of the subject property and running north-south along the westerly boundary, directly adjacent to the proposed public parkland dedication; the owner shall be required to prepare all documents and convey to the City, at its own expense and for nominal consideration, a public access easement for use by the general public, including rights of support as applicable, all to the satisfaction of Director, Real Estate Services, the Chief Planner and Executive Director, City Planning and the City Solicitor, in consultation with the local Ward Councillor, in accordance with the terms of the Settlement Offer; and the obligations secured will include conveyance free and clear of all physical and title encumbrances unless otherwise agreed to by the Chief Planner and Executive Director, City Planning and provision of indemnification and insurance; and

ii. above base improvements for the parkland dedication referred to in Part 3 above and the parkland over-dedication referred to in Part 7.a.i. above, to the satisfaction of the General Manager, Parks, Forestry and Recreation on terms in accordance with the Settlement Offer;

iii. prior to Final Site Plan approval in connection with the development, the owner shall:

1. provide final site plan drawings including drawings related to the approved Conservation Plan required in Part 5 above;

2. provide an Interpretation Plan for the subject property, to the satisfaction of the Senior Manager, Heritage Planning thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;

3. provide a Heritage Lighting Plan that describes how the heritage property will be sensitively illuminated to enhance its heritage character to the satisfaction of the Senior Manager, Heritage Planning and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Planning;

4. submit a Signage Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Planning; and

5. submit a Landscape Plan for the proposed development to the satisfaction of the Senior Manager, Heritage Planning;

iv. prior to the release of the Letter of Credit required in Part 6.iii. above the owner shall:

1. provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work, required heritage lighting work, and the required interpretive work has been completed in accordance with the Conservation Plan, Lighting Plan, Landscape Plan and Interpretation Plan, and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Planning; and

2. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Planning; and

v. the matters in Part 6 above also be secured by the Section 37 Agreement to the satisfaction of the City Solicitor, in consultation with the Senior Manager, Heritage Planning.

8. City Council authorize the entering into of a Heritage Easement Agreement under Section 37 of the Ontario Heritage Act with the owner of 2430 Yonge Street and 2434 Yonge Street in a form and content satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning.

9. City Council authorize the City Solicitor to introduce the necessary Bill in City Council authorizing the entering into of a Heritage Easement Agreement for the property at 2430 Yonge Street and 2434 Yonge Street.

10. City Council instruct the City Solicitor to request the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) to withhold its Order on the Official Plan and Zoning

By-law Amendment applications until such time as the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) has been advised by the City Solicitor that:

a. the final form and content of the proposed Official Plan and Zoning By-law amendments are satisfactory to the Chief Planner and

Executive Director, City Planning and the City Solicitor;

- b. the City has received an executed a Section 37 Agreement securing the benefits outlined in Part 7 above and the Section 37 Agreement has been registered on title to the site, satisfactory to the City Solicitor;

c. the owner has resubmitted to the City for review updated supporting information and reports, including but not limited to a revised Traffic Impact Study, Parking and Loading Study, Functional Servicing Report, Stormwater Management Report, Hydrogeological Study and Waste Management Study, and a full submission of revised plans, all of which are to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Planner and Executive Director, City Planning;

d. the owner has provided a detailed Conservation Plan required in Part 5 above and prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment Addendum for 2430 Yonge Street and 2434 Yonge Street, prepared by Goldsmith Borgal & Company Ltd. Architects, dated May 31, 2021, all to the satisfaction of the Senior Manager, Heritage Planning;

e. the owner has entered into a Heritage Easement Agreement with the City for the properties at 2430 Yonge Street and 2434 Yonge Street substantially in accordance with plans and drawings prepared by Hariri Pontarini Architects, dated March 26, 2021, submitted with the Heritage Impact Assessment Addendum prepared by Goldsmith Borgal & Company Ltd. Architects, dated May 31, 2021, subject to and in accordance with the approved Conservation Plan required in Part 5 above, all to the satisfaction of the Senior Manager, Heritage Planning including execution of such agreement to the satisfaction of the City Solicitor; and

f. the owner has withdrawn any outstanding applications or appeals with respect to any demolition application for the site.

Confidential Appendices A, B, C, D and E to the report (July 6, 2021) from the City Solicitor are now public and can be accessed under Background Information (City Council).

The balance of Confidential Attachment 1 and Confidential Appendix F to the report (July 6, 2021) from the City Solicitor remain confidential in accordance with the provisions of the City of Toronto Act, 2006, as they contain advice that is subject to solicitor-client privilege.

***Confidential Attachment - advice or communications that are subject to solicitor-client privilege and information regarding potential litigation.***

### **Background Information (City Council)**

(July 6, 2021) Report from the City Solicitor on 2400-2444 Yonge Street - Official Plan Amendment and Zoning By-law Amendment Applications - Request for Directions Report (CC35.18)

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169115.pdf>)

## Confidential Attachment 1

Confidential Appendix A - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169117.pdf>)

Confidential Appendix B - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169118.pdf>)

Confidential Appendix C - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169119.pdf>)

Confidential Appendix D - Part 1 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169120.pdf>)

Confidential Appendix D - Part 2 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169161.pdf>)

Confidential Appendix D - Part 3 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169162.pdf>)

Confidential Appendix D - Part 4 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169163.pdf>)

Confidential Appendix E - Part 1 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169141.pdf>)

Confidential Appendix E - Part 2 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169164.pdf>)

Confidential Appendix E - Part 3 - made public on July 26, 2021

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169165.pdf>)

Confidential Appendix F - Part 1

Confidential Appendix F - Part 2

(June 16, 2021) Transmittal from the Toronto Preservation Board on 2430 Yonge Street and 2434 Yonge Street - Alterations to Designated Heritage Property and Authority to Enter into Heritage Easement Agreement (CC35.18a)

(<http://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-169171.pdf>)

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Source: Toronto City Clerk at [www.toronto.ca/council](http://www.toronto.ca/council)