

Authority: Toronto Community Council Report No.3(34), April 16, 1998,
as amended by a Notice of Motion by Councillor Rae,
seconded by Councillor McConnell, July 8, 9 and 10, 1998
Intended for first presentation to Council: July 8, 1998
Adopted by Council: July 10, 1998

CITY OF TORONTO

BY-LAW No. 463-1998

**To amend the Zoning By-law for the former City of Toronto, No. 438-86
with respect to lands known as 909, 931, 935 and 945 Bay Street,
14, 16, 20, 26, 30 and 38 Breadalbane Street and 11 and 25 Wellesley Street West
(North Block - East of Bay Lands)**

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the municipality may in a By-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the By-law 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 or matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities services and matters; and

WHEREAS the owner of the *lot* has elected to provide the facilities, services or matters as are set out in this by-law; and

WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the aforesaid *lot* by By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities services and matters set out in this By-law and to be secured by one or more agreements between the owner of the *lot* and the City of Toronto; and

WHEREAS the Council of the City of Toronto has required the owner of the *lot* to enter into one or more agreements dealing with certain facilities, services and matters in return for the increase in permitted height and density in connection with the *lot*;

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

1. None of the provisions of Sections 4(2)(a), 8(3) Part I 1 and 8(3) Part I 1(3)(a) of By-law No. 438-86 being "A By-law To regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the phased erection and use on the *lot* shown on Plan 1 attached to and forming part of this By-law, of not more than four buildings containing more *residential gross floor area* than otherwise permitted by By-law 438-86 and *non-residential gross floor area* used for no purpose other than *street-related and retail and service uses* provided:

- (1) the *lot* on which such buildings are located comprises at least those lands delineated by heavy lines on Plan 1 attached to and forming part of this By-law exclusive of the Proposed Widening 0.13 m and the Proposed Lane shown on Plan 1;
- (2) no portion of any building or structure located above *grade* is located otherwise than wholly within the areas delineated by heavy lines on Plan 2 attached hereto, exclusive of railings;
- (3) no portion of any building or structure erected or used on the *lot* is located above the *height limits* shown on Plans 3A and 3B attached hereto exclusive of parapets and of rooftop structures and elements permitted by and complying with Sections 4(2)(a)(i) or (ii) of the aforesaid By-law No. 438-86;
- (4) not more than 21 490 square meters of *residential gross floor area* is erected or used on that part of that *lot* shown on Plan 4A;
- (5) not more than 500 square meters of *non-residential gross floor area* is erected or used on that part of the *lot* shown on Plan 4A;
- (6) not more than 25 800 square meters of *residential gross floor area* is erected or used on that part of that *lot* shown on Plan 4B;
- (7) not more than 975 square meters of *non-residential gross floor area* is erected or used on that part of the *lot* shown on Plan 4B;
- (8) not more than 16 360 square meters of *residential gross floor area* is erected or used on that part of that *lot* shown on Plan 4C;
- (9) not more than 2 190 square meters of *non-residential gross floor area* is erected or used on that part of the *lot* shown on Plan 4C;
- (10) not more than 10 590 square meters of *residential gross floor area* is erected or used on that part of that *lot* shown on Plan 4D;
- (11) not more than 515 square meters of *non-residential gross floor area* is erected or used on that part of the *lot* shown on Plan 4D;
- (12) the parking facilities required by Section 4(5) of the aforesaid By-law No. 438-86 as amended, shall apply to each Parcel on the *lot* except that despite the provisions of that Section, parking shall be provided only in an underground garage located on the *lot*;

and in the case of *dwelling units* located on the *lot* save and except for *dwelling units* comprising *social housing*, or *senior citizens' housing*, parking shall be provided on the *lot* to meet the following standards:

not less than 0.3 *parking spaces* for each *bachelor dwelling unit*

not less than 0.7 *parking spaces* for each one *bedroom dwelling unit*

not less than 1.0 *parking spaces* for each two *bedroom dwelling unit*

not less than 1.2 *parking spaces* for each three or more *bedroom dwelling unit*, and

not less than 0.06 *parking spaces* for each *dwelling unit*, for visitors;

- (13) *residential amenity space* is provided on the *lot* such that the provisions of Section 4(12) of the aforesaid By-law 438-86 are complied with for each building on each Parcel;
- (14) the *lot* is developed in not more than four phases as shown on Plans 4A, 4B, 4C and 4D, and shall be constructed in order beginning with that part of the *lot* shown as 4A and ending with that part of the *lot* shown as 4D;
- (15) at least 60 per cent of the length of the *frontage* of each of Parcels 3 and 4 abutting Bay Street is used for the purpose of *street-related retail and service uses*;
- (16) at least 60 per cent of the length of the portion of the *frontage* of each of Parcels 4 and 5 abutting Wellesley Street West is used for the purpose of *street-related retail and service uses*;
- (17) a loading lane, at least 3.5 metres in width adjacent to the 1-way portion of the internal at *grade* driveway system is provided and maintained;
- (18) *colonnades* or *covered walkways* or a combination of both are continuously provided throughout the hatched areas shown on Plans 3A and 3B attached to and forming part of this By-law;
- (19) the *owner* of the *lot*, at their expense and in accordance with and subject to the agreement referred to in section 1(19) herein:
 - (a) pays to the City of Toronto \$150,000.00 in cash or provides security for that amount by letter of credit for *park improvements* at the time this zoning by-law is passed;
 - (b) constructs to City standards a new public lane shown as Proposed Lane on Plan 1, prior to the closing and conveyance of the existing lanes on the *lot*;
 - (c) provides space within the development for the construction of utility vaults and access holes;
 - (d) provides improvements including tree planting to the widened public and private sidewalks along Bay Street and Wellesley Street West to the City's standards, at no cost to the City;

- (e) designs, constructs and maintains the project in accordance with an approved Noise Impact Statement;
- (f) investigates the *lot* and prepares and implements a satisfactory Soil and Groundwater Management Plan and a Demolition and Excavation Dust Control Plan for the entire *lot*, or in phases;
- (g) identifies and secures in as much detail as possible, obligations relating to the establishment of a park on the *lot*, including the maintenance and repair of the underground parking structure, conveyance, indemnification, insurance, legal descriptions and plans of survey, interim maintenance of the park, park improvements, letters of credit, public consultation, park utilities and services, design and construction drawings, changes, grading and fill and top soil quality and depth, inspection, certifications, default, warranties, remedial work, preparation and implementation of a tree plan, access and lighting of pathways, construction and maintenance of the park, park design, park design changes, load bearing capacity of the roof of the underground parking structure, drainage, the restoration of the park after construction, rough grading, ground and storm water management, the phasing of park improvements, operation of abutting private roadways, finished elevations, lighting of the park, condition of abutting lands and structures, linkage of the park to Bay Street and Wellesley Street West, and provision of interim landscaping on all unfinished Parcels;
- (h) installs and maintain satisfactory interim parkland on the *lot* until permanent parkland improvements are provided;
- (i) provides a payment of money instead of land for parks purposes as each Parcel is developed, Phase 3: \$331,388.00; Phase 4: \$403,498.00; Phase 5: \$279,549.00; Phase 6: \$167,352.00, escalated in accordance with the Toronto CMA Construction Price Index to be for parks improvements within Ward 24 of the City of Toronto, all in accordance with the Section 37 Agreement;
- (j) provides a plan for interim parkland improvements on the *lot* and provide and maintain appropriate utility services for irrigation lighting and drainage of the interim landscaping and parkland conveyed to the City;
- (k) maintains the underground parking garage and insures and indemnifies the City for damages in the event of failure of the garage to support parkland conveyed to the City;
- (l) amends the agreement made pursuant to Section 37 of the *Planning Act*, prior to development review approval for each phase to finalize the parks related matters, if required by the City Solicitor;
- (m) conveys a contiguous 2 017 square metre parcel of land to the City to create a new park on the *lots* as each of Parcels 3, 4, 5 and 6 are constructed, in accordance with the Section 37 Agreement;

- (n) conveys to the City, at nominal cost, prior to the issuance of a building permit, a 0.31 metre wide strip of land to the full extent of the *lot* abutting the west limit of the north-south public lane, such lands to be free and clear of all encumbrances, save and except for utility poles, and subject to a right-of-way for access purposes in favour of the owner until such time as said lands have been laid out and dedicated, by the City, for public highway purposes;
- (o) conveys to the City, at nominal cost, prior to the issuance of a building permit for construction above *grade*, a 5 metre wide strip of land to the full extent of the *lot* abutting the east limit of Bay Street, to a depth of at least 1.524 metres below *grade*, being contained within PARTS 1, 2 and 3 on Plan 64R-15883, all of such land to be remediated to the satisfaction of the Medical Officer of Health, to be free and clear of all encumbrances, save and except for utility poles, to not include the sub-surface elements or the Garage Protection System which may be installed above the parking garage roof slab, and to be subject to a right-of-way for access purposes in favour to the owner until such time as said lands have been laid out and dedicated, by the City for public highway purposes, provided acceptance of such conveyance be subject to satisfaction of the following conditions:
 - (1) that the Owner indemnify the City from and against all actions, suits, claims, or demands and from all loss, costs, damages, charges, and expenses that may result from the construction/existence of the garage beneath the public highway;
 - (2) that the Owner provide and maintain the structure in good and proper repair so as to provide drainage for the trees planted above and in a condition sufficient to support all foreseeable activities on the sidewalk as widened and the mature growth of trees, all to the satisfactory to the Commissioner of Works and Emergency Services and the Commissioner of Economic Development, Culture and Tourism;
 - (3) that the Owner indemnify the City from and against any loss or damage to the waterproofing and structure resulting from the maintenance and reconstruction of the street pavement, or the planting and maintenance of trees to maturity, unless such loss or damage is caused by the gross or willful negligence of the City or its contractors;
 - (4) that the Owner satisfy such other conditions as the City Solicitor, the Commissioner of Works and Emergency Services and the Commissioner of Economic Development, Culture and Tourism may deem necessary in the interests of the Corporation; and
 - (5) that the Owner convey a satisfactory easement of support for the lands to be conveyed to the City.

- (p) conveys to the City, at nominal cost, prior to the issuance of a building permit for construction above *grade*, a 3 metre wide strip of land to the full extent of the *lot* abutting the south limit of Wellesley Street West, being PARTS 4, 8 and 10 on Plan 64R-15883, such land to be free and clear of all encumbrances, save and except for utility poles, to be remediated to the satisfaction of the Medical Officer of Health, and to be subject to a right-of-way for access purposes in favour to the owner until such time as said lands have been laid out and dedicated, by the City for public highway purposes;
- (q) conveys to the City, prior to the conveyance of any existing public lane to the Owner, a 6.1 metre wide strip of land, being PARTS 3, 11 and 14 on Plan 64R-15658, such lands to be free and clear of all encumbrances, save and except for utility poles, to be remediated to the satisfaction of the Medical Officer of Health and to be subject to a right-of-way for access purposes in favour of the owner until such time as said lands have been laid out and dedicated, by the City, for public highway purposes;
- (r) provides all Reference Plans of Survey, including a Strata Reference Plan of Survey in metric units and referenced to the Ontario Co-ordinate System that will be required for the various agreements, conveyances and/or land exchanges, including the lane conveyances and road widenings;
- (s) submits and has approved by the Commissioner of Works and Emergency Services, a grading and drainage plan for the entire *lot* prior to approval of the first building permit on any Parcel on the *lot*.
- (t) provides and maintains *public art* on the *lot* or on lands owned by the City in the vicinity of the *lot* with a total value of not less than one per cent of the cost of construction on the *lot*, provided that all costs related to the construction of pedestrian walkways, inclusive of *colonnades*, and public parks shall not be included in such valuation;
- (u) provides and maintains publicly accessible continuous *public pedestrian walkways* on the *lot* at least to the extent shown on Plans 3A and 3B, and which are open to the public 24 hours each day, each day of the year;
- (v) implements satisfactory City Council endorsed Urban Design and Site Plan Guidelines;
- (w) not apply for the issuance of above *grade* building permits on any Parcel until the Medical Officer of Health of the City receives a satisfactory site verification testing report, certifying that the remediation of the *lot*, or if the remediation is being done in phases, that the remediation of that Parcel, has been completed in accordance with the approved Soil and Groundwater Management Plan, that it does not have a negative impact on adjoining properties or other phases of the development and verification that a Record of Site Condition has been submitted to the Minister of the Environment and Energy;and

- (x) implements the facilities, services and matters set forth in sections 1(19)(a) to (w) herein within the time frames provided for each such facility, service or matter in the agreement referred to in section 1(20) herein; and
 - (20) the *owners* of the *lot* enter into an agreement with the City pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters referred to in section 1(19) herein, and consent to such agreement being registered on title to the *lot* as a first charge against the *lot*.
2. For the purposes of this by-law:
- (1) "*colonnade*" means an open air covered *public pedestrian walkway*
 - (a) with a row of columns on one side, adjacent to Bay Street and Wellesley Street West as widened and Breadalbane Street for 10 metres east of Bay Street as widened, and an exterior wall of the adjoining building on the *lot*, along the other side;
 - (b) with a clear height of not less than 6.5 metres;
 - (c) with a clear width, free of obstructions including columns and supports of not less than 3.5 metres perpendicular distance between the inside of the column and the exterior wall of the adjoining building on the *lot* at *grade*;
 - (2) "*covered walkway*" means a *public pedestrian walkway*:
 - (a) with a clear height of not less than 4.0 metres;
 - (b) with a clear width, free of obstructions including columns and supports of not less than 3.5 metres perpendicular distance between the outside edge of the cover over the walkway and the exterior wall of the adjoining building on the *lot* at *grade*; and
 - (c) with a cover over the walkway commencing on one side, adjacent to Bay Street and Wellesley Street West as widened and Breadalbane Street for 10 metres east of Bay Street as widened, to an exterior wall of the adjoining building on the *lot* along the other side;
 - (3) "*grade*" means
 - (a) for the lands shown on Plans 4A and 4B, 106.22 metres Canadian Geodetic Datum;
 - (b) for the lands shown on Plan 4B, 107.02 metres Canadian Geodetic Datum; and
 - (c) for the lands shown on Plan 4D, 105.99 metres Canadian Geodetic Datum;

- (4) "*height limit*" means the level above *grade* for each area shown outlined by heavy lines on Plans 3A and 3B;
- (5) "*lot*" means the lands outlined by a heavy line on Plan 1 on which is erected or is to be erected four buildings or structures, whether such buildings are erected simultaneously or at intervals and whether they are connected below the natural level of the ground and upon the conveyance of PARTS 3, 11 and 14 on Plan 64R-15658, to the City of Toronto, such land so conveyed shall be deemed not to be within the *lot*;
- (6) "*public art*" means site-specific artworks created to enhance the *lot* or City-owned lands through artistic interpretations that range from independent sculpture to integrated architectural treatment and landscape design and within or clearly visible from publicly accessible areas; and;
- (7) "*public pedestrian walkway*" means an exterior pedestrian walkway that:
 - (a) is open and accessible to the public at all times
 - (b) illuminated to a minimum average intensity of 10 lux on the walkway surface;
 - (c) maintained clear of snow and ice at all times;
 - (d) is designed and intended for and is used by the public; and
 - (e) is not used for commercial purposes, including retail areas, commercial display areas or other rentable space."
- (8) except where otherwise defined in this By-law, each other word or expression which is italicized in this by-law shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended.

3. Section 12(6) of By-law 438-86 does not apply to the lands shown as PARTS 3, 11 and 14 on Plan 64R-15658, provided the lands are conveyed to the City for fair market value.

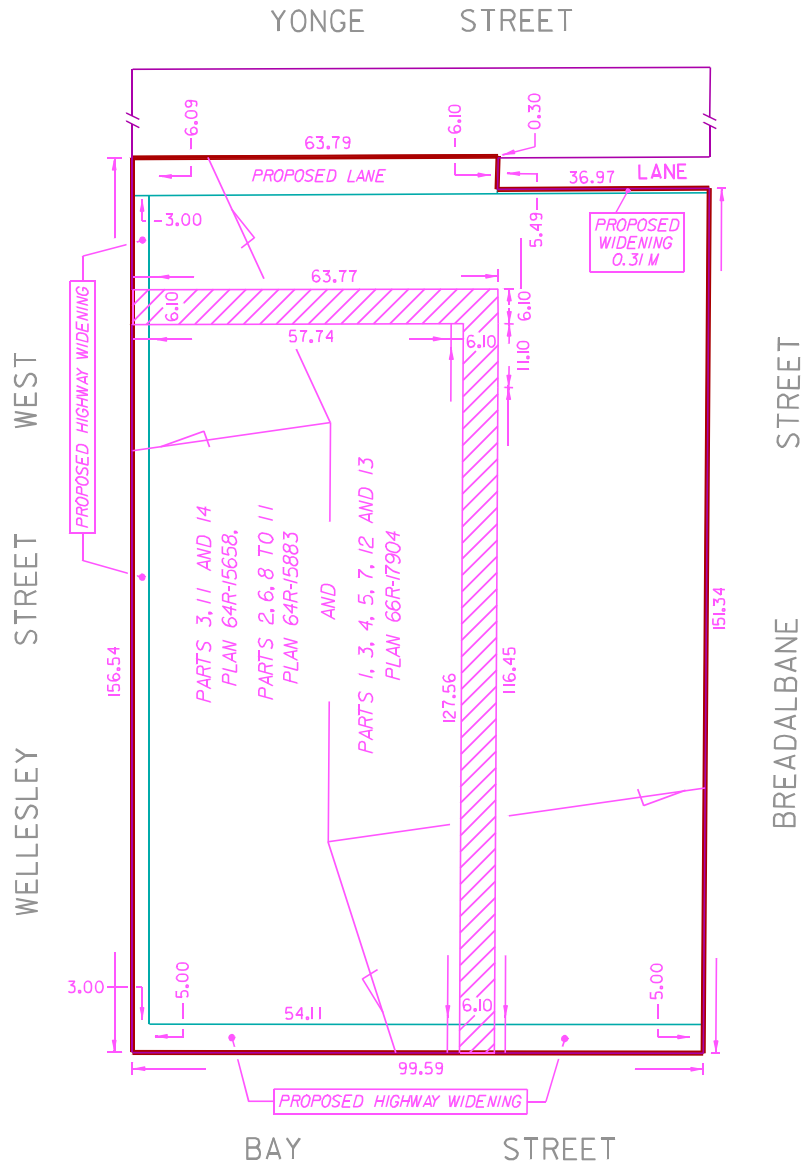
ENACTED AND PASSED this 10th day of July, A.D. 1998.

CASE OOTES,
Deputy Mayor

NOVINA WONG,
City Clerk

(Corporate Seal)

PLAN 1



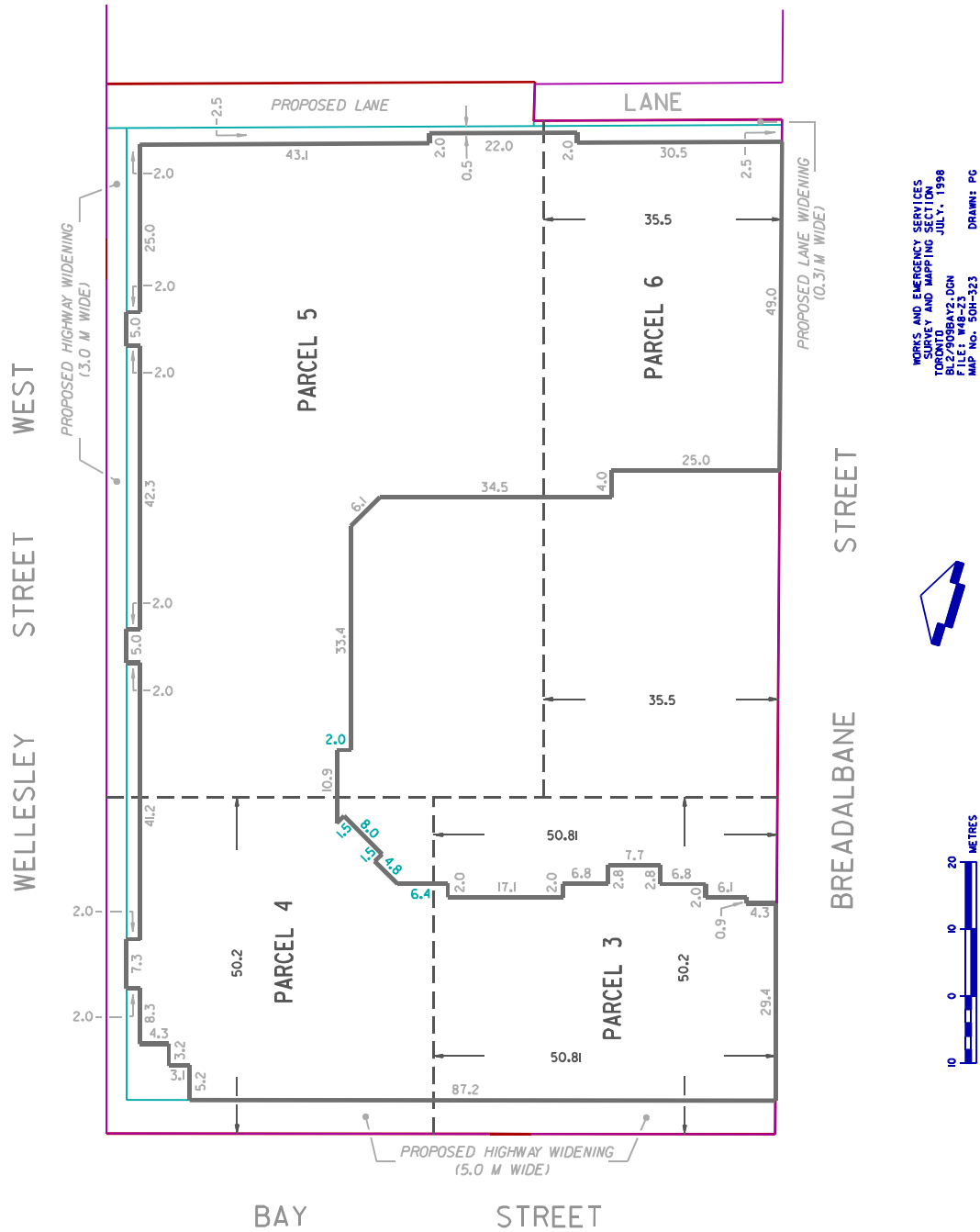
LANE TO BE CLOSED
(PARTS 2, 6, 8 & 9, PLAN 64R-15883)

10 0 10 20
METRES

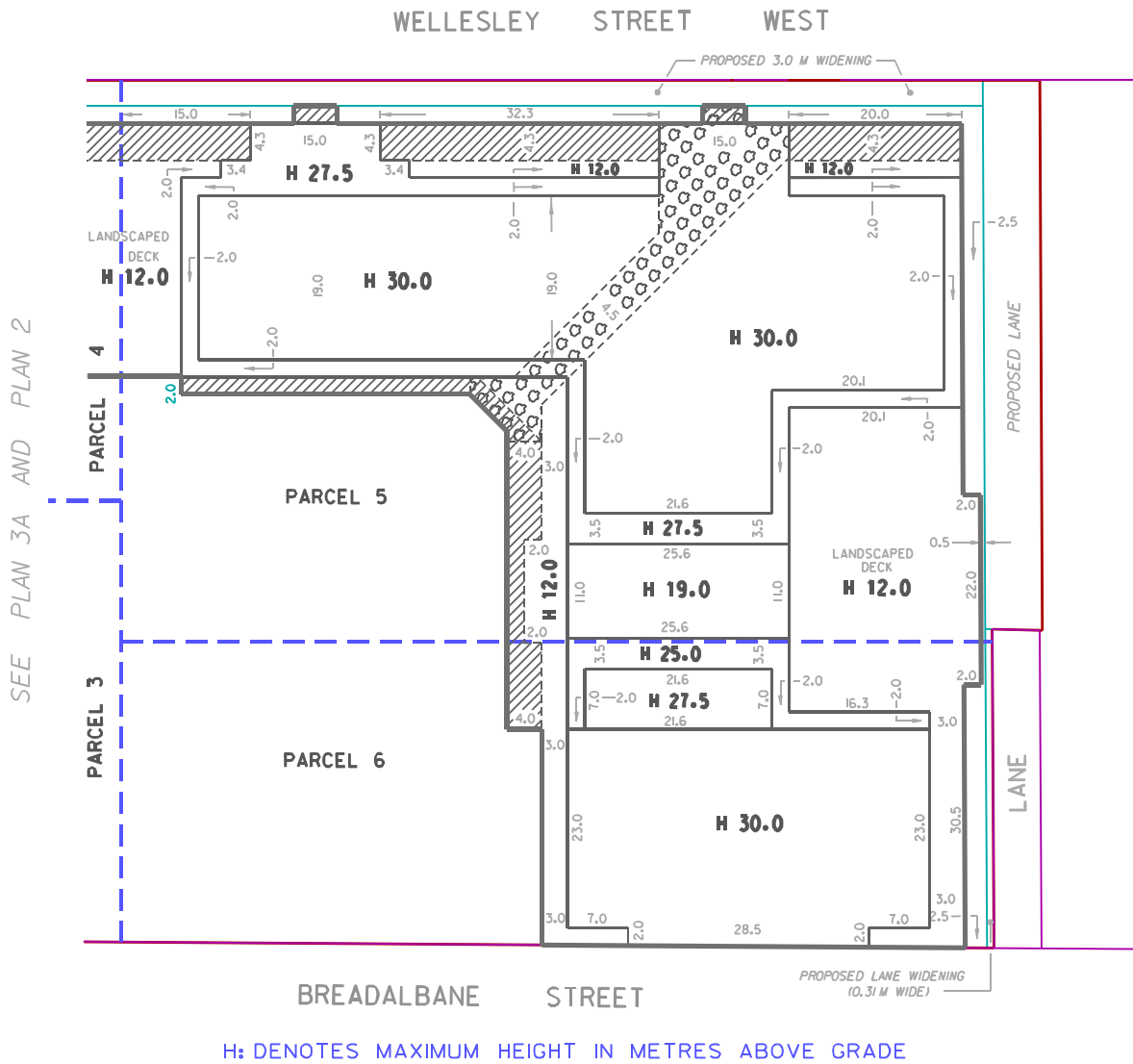




WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO
BL2/909BAY1.DGN
FILE: W48-23
MAP No. 50H-323
DRAWN: PG

PLAN 2



PLAN 3B



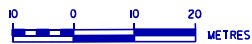
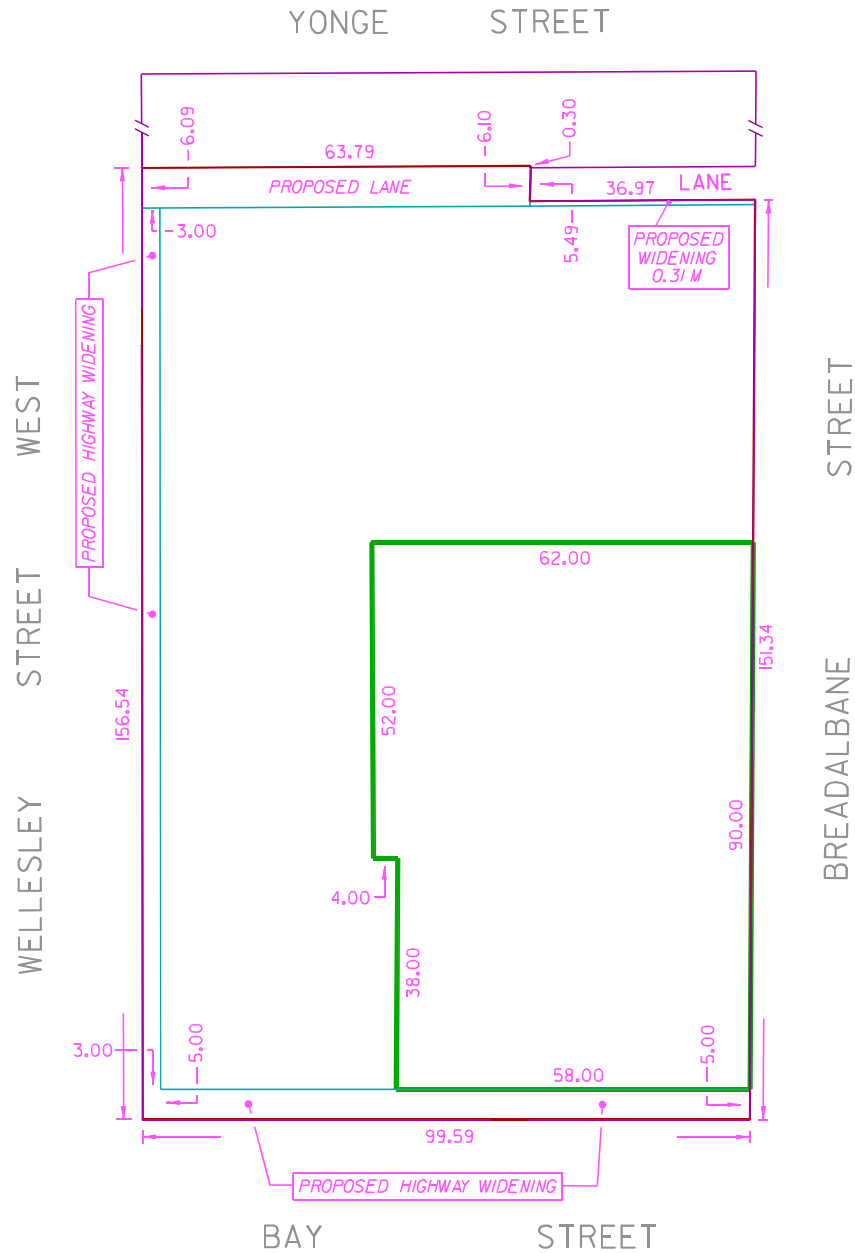
-  LOCATION OF PEDESTRIAN WALKWAY
-  LOCATION OF COLONNADES OR CANOPIES H 12.0

0 5 10
METRES



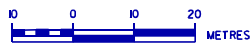
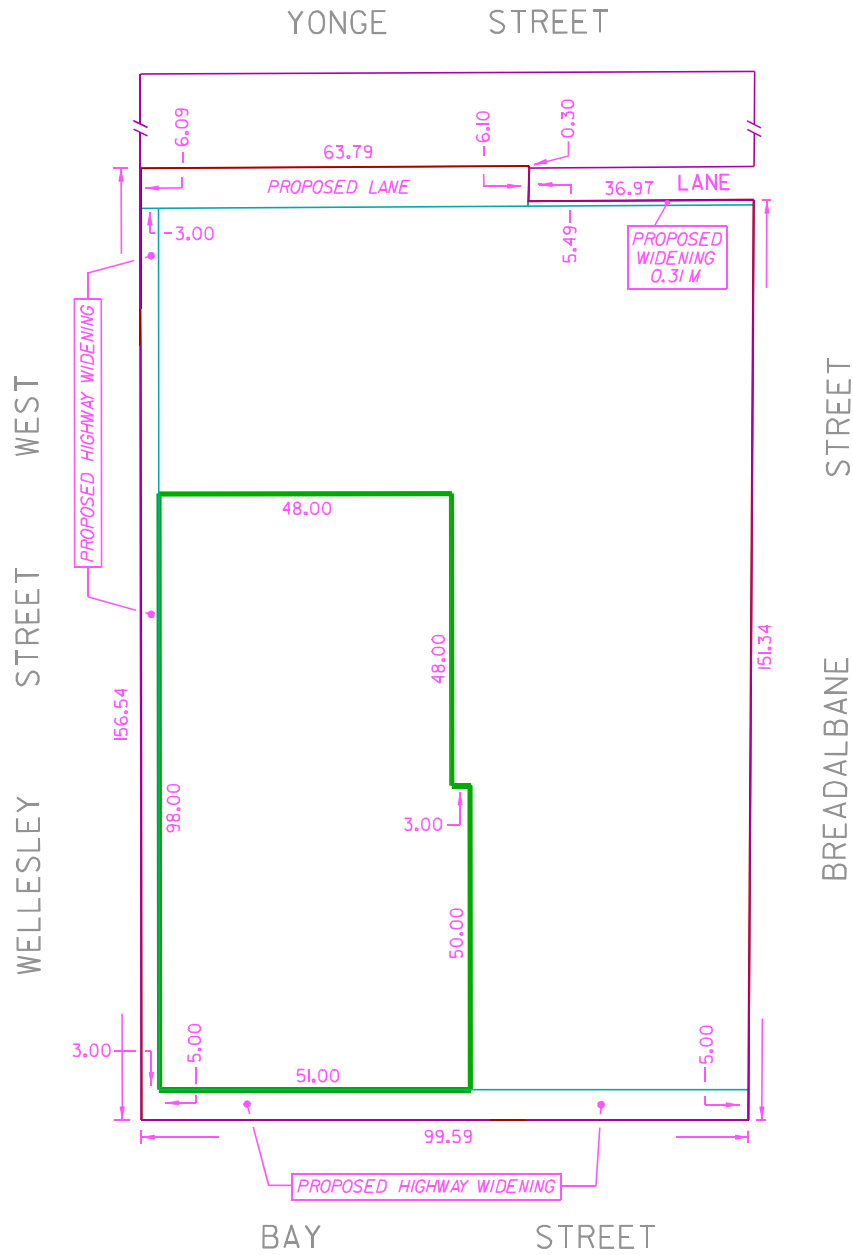
WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO
BL2/9098AY3B.DGN
FILE: W48-23
MAP No. 50H-323
JULY, 1998
DRAWN: PG

PLAN 4A



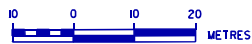
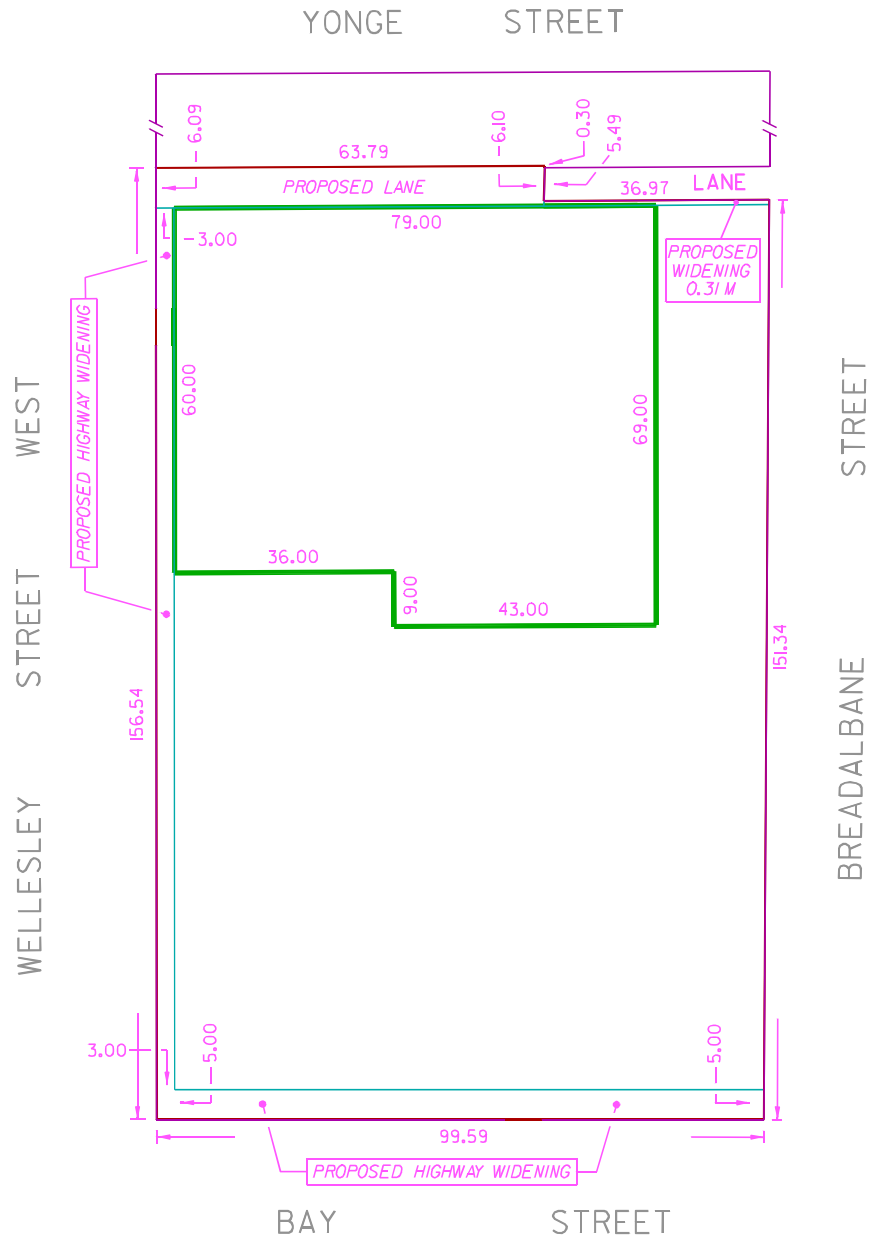
WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO
BL2/9098AY4A.DGN
FILE: W48-23
MAP NO. 50H-323
JULY, 1998
DRAWN: ME

PLAN 4B



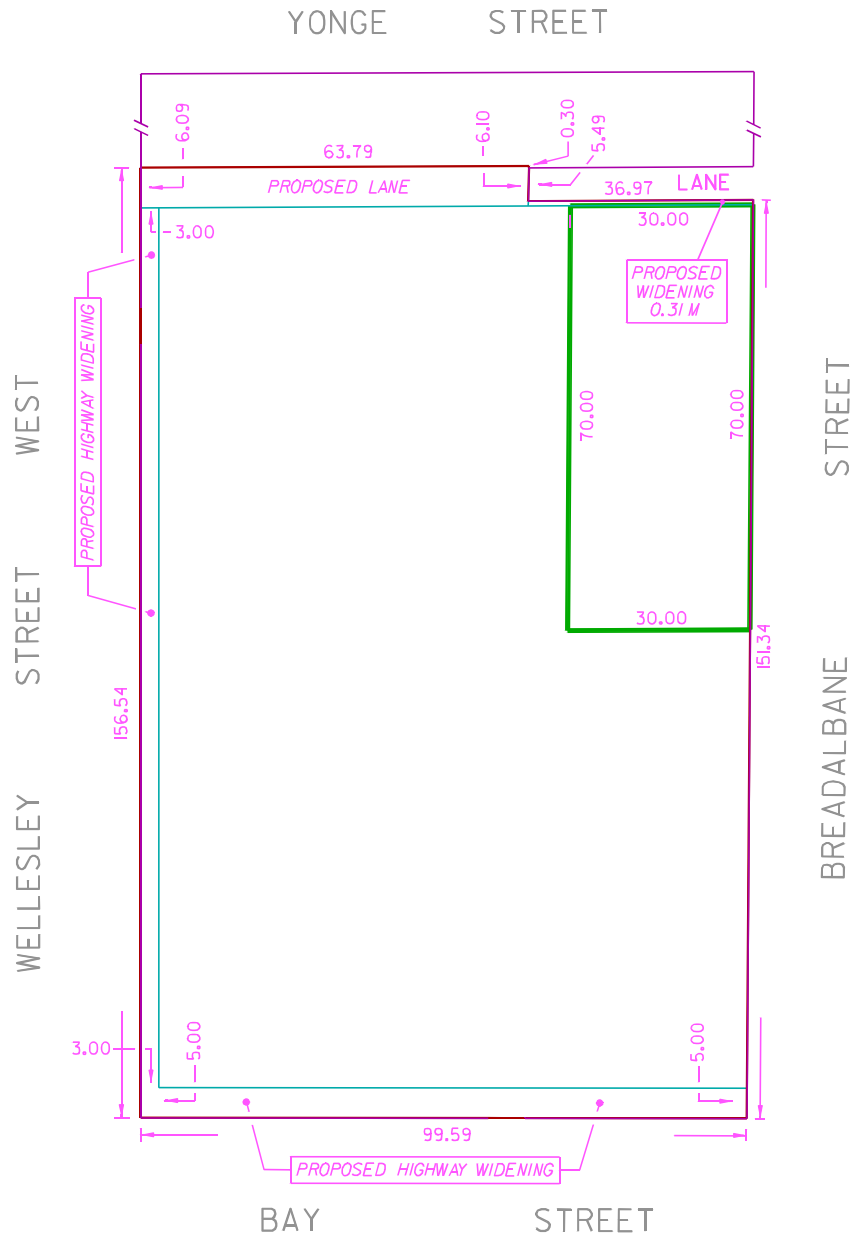
WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO
BL2/909BAY4B.DGN
FILE: W48-23
MAP NO. 50H-323
JULY, 1998
DRAWN: ME

PLAN 4C



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO
BL2/9098AY4C.DGN
FILE: W48-23
MAP No. 50H-323
JULY, 1998
DRAWN: ME

PLAN 4D



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SECTION
TORONTO JULY, 1998
BL2/909BAY4D.DGN
FILE: W48-Z3
MAP No. 50H-323 DRAWN: PG