

Authority: Toronto South Community Council Report No. 4, Clause No. 2,
as adopted by City of Toronto Council on May 18, 19 and 20, 2004
Enacted by Council: June 24, 2004

CITY OF TORONTO

BY-LAW No. 468-2004

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 146 and 160 Wellesley Street East.

WHEREAS authority is given to Council of the City of Toronto by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this by-law; and

WHEREAS Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

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

WHEREAS the owner of the lands herein after referred to has elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increases in density and height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of facilities, services and matters set out in this by-law and are to be secured by one or more agreements between the owner of such lands and the City; and

WHEREAS Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this by-law;

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

1. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, 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 certain buildings and structures in various areas of the City of Toronto", shall continue to apply to the *lot*.

2. None of the provisions of Sections 2(1) with respect to the definitions of *alternative housing*, *grade*, *height*, *lot* and *nursing home*, *convalescent home or rest home*, 4(2), 4(5), 4(8), 4(12), 4(16), 6(1), 6(3) Part I 1, 6(3) Part II 1 to 6 inclusive, 6(3) Part III 1 to 3 inclusive, 6(3) Part IV 2, 6(3) Part VII 1, 6(3) Part IX 1, and 12(2) 260 of the aforesaid 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 one or more buildings or structures containing *residential gross floor area* and *non-residential gross floor area* and a *public park* on the lands, provided that:
- (1) the *lot* comprises those lands delineated by heavy lines and consisting of *Blocks 1 to 8* inclusive, all as shown on Plan 1 attached hereto;
 - (2) no building or structure on *Block 1* may be erected and used for any other purpose than *mixed use building*;
 - (3) no building or structure on *Block 3* may be erected and used for any other purpose than an *apartment building for alternative housing*;
 - (4) no building or structure on *Block 4* may be erected and used for any other purpose than a *nursing home, convalescent home or rest home*;
 - (5) none of the provisions of Subsection 2(2), 2(3) and 2(4) of this by-law shall apply to prevent the sharing of pedestrian and vehicular access, vehicular parking, loading and services between the buildings and structures to be erected and used on *Parcel A* and *Parcel B* on *Block 1*, and *Block 3* and *Block 4*;
 - (6) the maximum combined *residential gross floor area* and *non-residential gross floor area* permitted on the *lot* does not exceed 52,360 square metres, of which the *non-residential gross floor area* does not exceed 280 square metres;
 - (7) the maximum combined *residential gross floor area and non-residential gross floor area* permitted on *Block 1* does not exceed 37,160 square metres, of which a maximum of 280 square metres may be used for the uses listed in Section 8(1)(b)(iv) entitled RETAIL AND SERVICE SHOPS in By-law No. 438-86, as amended, on the ground floor of a building on *Parcel A* on *Block 1*;

- (8) no person shall erect or use a building or structure on *Block 1*, having a greater *height* in metres than the *height* limit specified by the numbers following the symbol “H”, shown on *Plan 2* and having a maximum number of *storeys* above *grade* permitted only by the six alternatives set out in the following table for *Parcel A* and the associated maximum corresponding storeys for *Parcel B*:

Alternative	Parcel A	Parcel B
1	29	9
2	31	7
3	33	6
4	35	5
5	37	4
6	39	3

and provided that:

- (a) the *residential gross floor area* of any floor above 16 metres above *grade* of the building to be erected and used on *Parcel A* does not exceed 880 square metres subject to the provisions of Subsection 2(8)(b); and
- (b) indentations on at least 2 corners of each floor above 16 metres above *grade* shall be provided on the building to be erected and used on *Parcel A* and further provided that the *residential gross floor area* of each floor shall not exceed 800 square metres;
- (9) subsection 2(8) does not apply to prevent the erection and use of a mechanical penthouse for the building to be erected and used on *Parcel A* on *Block 1*, provided that the *height* of the mechanical penthouse is no higher than the sum of 6 metres and the *height* of the building and the area of the mechanical penthouse does not exceed 50 percent of the area of the roof of highest *storey* of the building;
- (10) subsection 2(8) does not apply to prevent the erection and use of a mechanical penthouse for the building to be erected and used on *Parcel B* on *Block 1*, provided that the *height* of the mechanical penthouse is no higher than the sum of 6 metres and the *height* of the building and the area of the mechanical penthouse does not exceed 50 percent of the area of the roof of the highest *storey* of the building;
- (11) the maximum *residential gross floor area* permitted on *Block 3* does not exceed 6,000 square metres;

- (12) no person shall erect or use a building or structure on *Block 3*, having a greater *height* in metres than the *height* limited specified by the numbers following the symbol “H”, shown on Plan 2, but this paragraph does not apply to prevent the erection or use of:
- (a) a mechanical penthouse for the building provided that the *height* of the mechanical penthouse is no higher than the sum of 6 metres and the *height* of the building and the area of the mechanical penthouse does not exceed 50 percent of the area of the roof of the highest *storey* of the building;
- (13) the maximum *residential gross floor area* permitted on *Block 4* does not exceed 9,200 square metres;
- (14) no person shall erect or use a building or structure on *Block 4*, having a greater *height* in metres than the *height* limited specified by the numbers following the symbol “H”, shown on Plan 2, excluding mechanical penthouses and other such equipment;
- (15) no portion of the buildings above the finished ground level is located otherwise than wholly within the areas delineated by heavy lines as shown on Plan 2, with the exception of:
- (a) entrance canopies, any other canopies, parapets, cornices, balustrades, mullions, ornamental elements, landscape features, eaves, which may extend beyond the heavy lines shown on Plan 2;
- (16) parking spaces for any building or structure erected and used on *Block 1* shall be provided and maintained on *Block 1* at least in accordance with the following standards:
- (a) 0.3 *parking spaces* for each *bachelor dwelling unit*;
 - (b) 0.7 *parking spaces* for each *one-bedroom dwelling unit*;
 - (c) 1.00 *parking spaces* for each *two-bedroom dwelling unit*;
 - (d) 1.20 *parking spaces* for each *three-bedroom* or larger *dwelling unit*;
 - (e) 0.06 *visitor parking spaces* for every *dwelling unit* contained therein.
- (17) at least 12 *parking spaces* are provided for the *apartment building* for *alternative housing* on *Block 3* and at least 7 *parking spaces* are provided for the *nursing home, convalescent home or rest home* on *Block 4*;
- (18) at least 1 *loading space – Type G* is provided on *Parcel A* for any building or structure that is erected and used on *Parcel A* and *Parcel B*;
- (19) at least 1 *loading space – Type B* and 1 *loading space – Type C* are provided on *Block 4* for any building and structure that is erected and used on *Block 3* and *Block 4*; and

- (20) no person shall erect or use a building or structure containing 20 or more dwelling units on *Block 1* unless at least 2 square metres of indoor *residential amenity space* is provided for every *dwelling unit* in the building or structure, except for grade related *dwelling units* with private rear yards on *Parcel B* on *Block 1*;
3. The owner of the *lot* is required, pursuant to Section 37(3) of the *Planning Act*, to enter into an agreement with the City to secure the following facilities, services and matters:
- (1) create a *public park* on *Block 2* and convey the completed park to the City. The design and construction cost of the *public park* shall have an upset limit of \$1,000,000 in value, including taxes;
 - (2) provide \$500,000 to the City to be applied towards the maintenance of the *public park* on *Block 2*;
 - (3) provide an easement in favour of the City for a pedestrian right of way through the building or structure to be erected and used on *Parcel B* on *Block 1* in the hatched area shown on Plan 2, provided that the width of the right of way shall be at least 4 metres and the height of the right of way shall be at least 5.5 metres;
 - (4) provide an easement in favour of the City for a pedestrian right of way in the northerly side yard setback of any building or structure erected and used on *Block 3*, provided that the width of the right of way shall be at least 4 metres;
 - (5) comply with the City's 1 percent public art policy on *Block 1* and may include provisions directing the public art contribution towards a potential artist designed and fabricated wall element in the proposed park; and
 - (6) provide that a subdivision agreement with the City is entered into to provide the following, among other matters:
 - (1) construct and convey the Homewood Avenue Extension, including a temporary turnaround for vehicles, to the City;
 - (2) landscape the temporary turnaround for vehicles in a manner that is consistent with the *public park* to be constructed on *Block 2* upon completion of the Homewood Avenue Extension to Wellesley Lane;
 - (3) widen the east side of Wellesley Place and convey the completed widening to the City;
 - (4) widen the north side of Wellesley Street East and convey the completed widening to the City; and
 - (5) upgrade municipal services to service the development.

4. For the purpose of this By-law:

- (1) “*Block 1*”, “*Block 2*”, “*Block 3*”, “*Block 4*”, “*Block 5*”, “*Block 6*”, “*Block 7*”, “*Block 8*”, “*Parcel A*” and “*Parcel B*” mean the areas identified as “*Block 1*”, “*Block 2*”, “*Block 3*”, “*Block 4*”, “*Block 5*”, “*Block 6*”, “*Block 7*”, “*Block 8*”, “*Parcel A*” and “*Parcel B*” on *Plan 1*;
- (2) “*alternative housing*” means *dwelling units* or *dwelling rooms* which are operated by a government agency, a *charitable institution*, or a *non-profit institution* for the residential accommodation of persons who by reason of their financial, emotional, mental, social or physical condition or legal status require ongoing supervision and support services of a personal nature or medical nature or nursing nature associated with their residential accommodation;
- (3) “*grade*” shall mean:
 - (a) 108.3 metres Canadian Geodetic Datum for *Parcel A*;
 - (b) 111.5 metres Canadian Geodetic Datum for *Parcel B*;
 - (c) 111.5 metres Canadian Geodetic Datum for *Block 3*;
 - (d) 109.675 metres Canadian Geodetic Datum for *Block 4*;
- (4) “*nursing home, convalescent home or rest home*” means a building operated by a non-profit organization which supplies lodging with or without meals and, if required, provides nursing, medical or similar care and treatment but does not include a *rooming house, hotel, hospital, children’s home, home for the aged* or other establishment otherwise classified or defined in By-law No. 438-86, as amended;
- (5) “*lot*” comprises those lands delineated by heavy lines and consisting of *Blocks 1, 2, 3, 4, 5, 6, 7 and 8* as shown on the attached *Plan 1*. *Blocks 1, 2, 3, 4, 5, 6, 7 and 8* shall be deemed to be one *lot* regardless of whether or not two or more buildings or structures are erected or are to be erected on any part or parts thereof and regardless of any conveyance or easements made or granted after the day this by-law comes into force;
- (6) “*height*” means the vertical distance between *grade*; and
 - (a) in the case of a pitched roof building, the mean height level between the eaves and the ridge of the roof;
 - (b) in the case of another kind of roof, the highest point of the roof; and

(c) where there is no roof, the highest point of the structure;

however, it excludes a roof top garden, roof top landscaping features, railings and parapet walls; and

(7) 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 the aforesaid By-law No. 438-86, as amended.

5. 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 not severance, partition or division occurred.
6. By-law No. 88-80 is hereby repealed and deleted from Section 13 of By-law No. 438-86.
7. This by-law repeals By-law No. 446-2004.

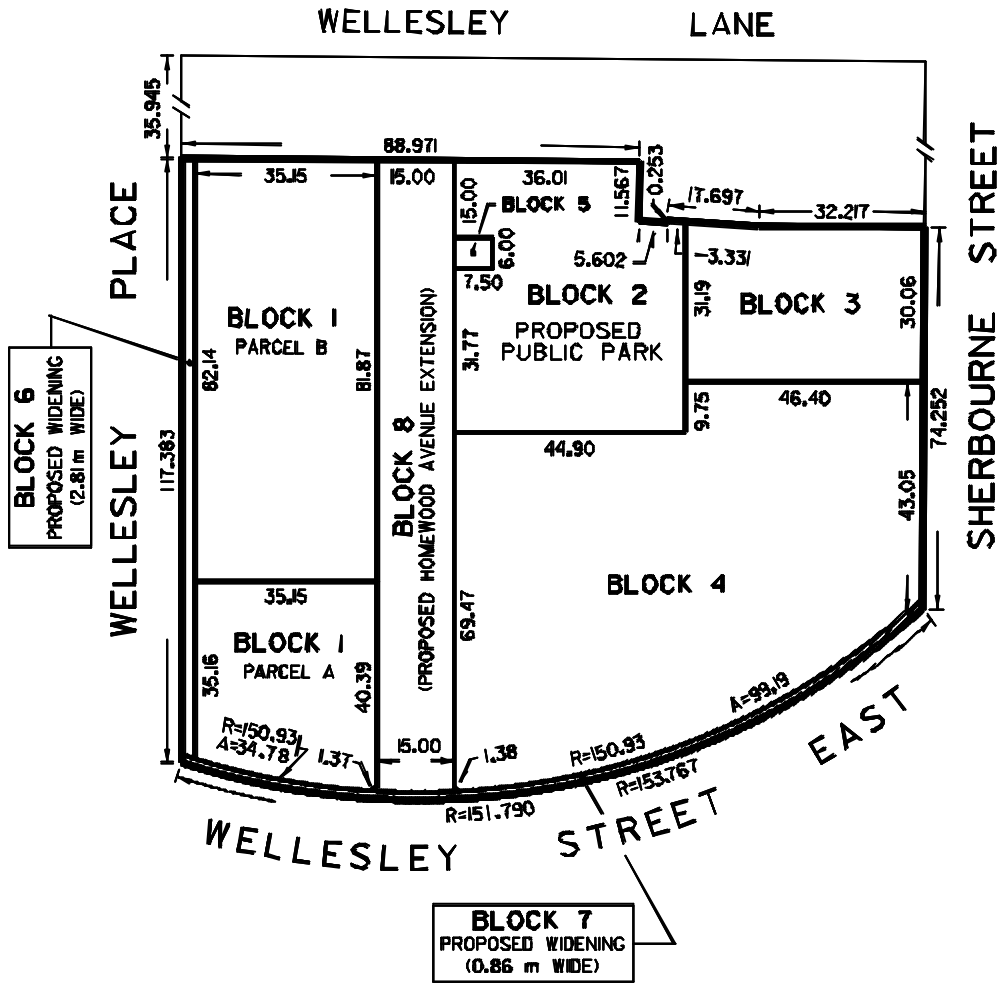
ENACTED AND PASSED this 24th day of June, A.D. 2004.

DAVID R. MILLER,
Mayor

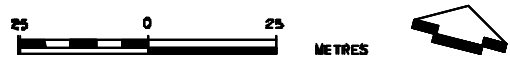
ULLI S. WATKISS
City Clerk

(Corporate Seal)

PLAN I

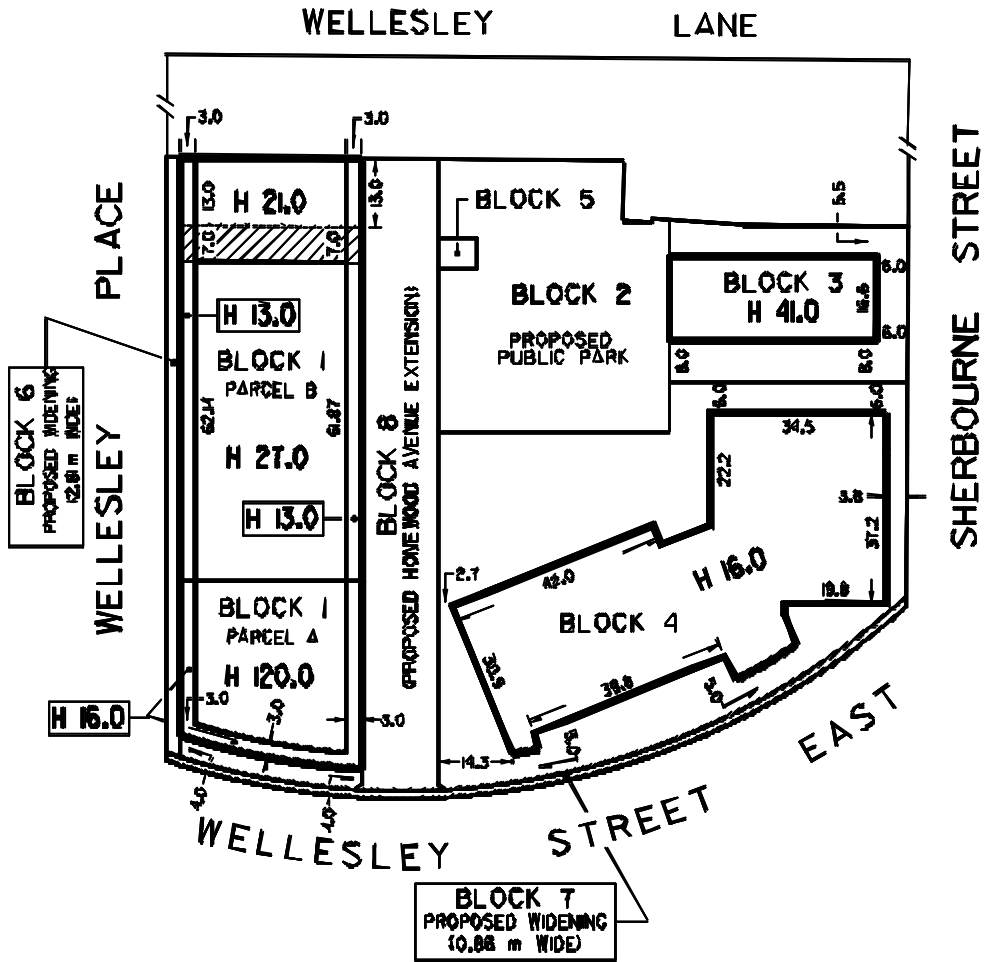


 **LANDS REFERRED TO AS THE "LOT"**
(PARTS 1 to 10, Inclusive, 13 and 14 on PLAN 66R-20383)



WORKS AND EMERGENCY SERVICES
SURVEY AND MAPPING SERVICES
TORONTO MAY 14, 2004
BLO4/160NELS1.DGN
FILE: E47-28
MAP No. 51H-322 DRAWN: D.-R.

PLAN 2



H_i DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

 PEDESTRIAN RIGHT - OF - WAY



WORKS AND EMERGENCY SERVICES
 SURVEY AND MAPPING SERVICES
 TORONTO JUNE 17, 2004
 BLDG/180WEL32-06N
 FILE# 147-28
 MAP No. 51H-322 DRAWN BY VC