

Authority: Ontario Municipal Board Decision/Order issued July 17, 2015 in Board File No. PL060339

CITY OF TORONTO

BY-LAW No. 524-2016(OMB)

To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known as 40 Wellesley Street East.

Whereas the Ontario Municipal Board, by Order issued on July 17, 2015, pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known in the year 2014, as 40 Wellesley Street East; and

Whereas authority is given to the Ontario Municipal Board under Section 34(26)(b) of the *Planning Act* R.S.O. 1990, c. P.13, as amended, to approve this By-law; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an *owner* of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the *owner* to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the *owner* of the aforesaid has elected to provide the facilities, services and matters hereinafter set out; and

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

Whereas the Ontario Municipal Board has held a hearing in accordance with the *Planning Act*;

The Ontario Municipal Board amends former City of Toronto Zoning By-law No. 438-86, as amended, as follows:

1. In accordance with the City of Toronto Transition Protocol, By-law No. 569-2013 is amended to exclude the area of 40 Wellesley Street East, as outlined by heavy lines on the attached Map 1, such that 40 Wellesley Street East is exempt from By-law No. 569-2013 and shall appear as a "Hole" in the Zoning By-law Map for By-law No. 569-2013.
2. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *lot* are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 of this By-law, the provisions of

which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.

3. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 of this By-law, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.

4. None of the provisions of Section 2 with respect to the definition of *grade*, *bicycle parking space*, *bicycle parking space – occupant*, *bicycle parking space – visitor*, *storey*, Section 4(2)(a)(i) and (ii), 4(5)(b), 4(5)(i), 4(8), 4(12), 4(13), 4(16), 6(1), 6(3) Part I, 6(3) Part II, 6(3) Part III, 12(1)(3)(a), 12(1)(232) of By-law No. 438-86, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of land 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 area of the City of Toronto", as amended, shall apply to prevent the erection and use of a *mixed-use building*, on the lands municipally known as 40 Wellesley Street East (hereinafter referred to as the *lot*) provided:
 - (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1;
 - (b) the combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 19,200 square metres, provided that:
 - (i) the *residential gross floor area* on the *lot* does not exceed 18,870 square metres; and
 - (ii) the *non-residential gross floor area* on the *lot* shall not be less than 300 square metres;
 - (c) the *non-residential gross floor area* shall be limited to one or more uses permitted under Section 8(1)(f)(b)(iv) and 8(1)(f)(b)(ix) of By-law 438-86, as amended;
 - (d) the *residential gross-floor area* shall be limited to one or more uses permitted under Section 8.1 (a) of By-law No. 438-86, as amended;
 - (e) no portion of the building above *grade* is located otherwise than wholly within the area delineated by heavy lines on the attached Map 2 with the exception of cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, bay windows, wheel chair ramps, underground garage ramps and their associated structures and landscape features, all of which may extend beyond the heavy lines on the attached Map 2. Where crosshatched on Map 2, there shall be no windows or the windows shall be opaque, translucent or a *clerestory window*. Balconies are only permitted where shown on Map 2;

- (f) the *height* of any building or structure, or portion thereof, does not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 2, except for the following:
 - (i) a structure on a roof of the building, excluding the mechanical penthouse, used for outside or open air recreation, safety or wind protection purposes, chimney stack, window washing equipment, ornamental elements, parapets, stairs, stair enclosures and safety railings may exceed the *height* limit on the attached Map 2 by no more than 3.0 metres;
 - (g) the number of *storeys* of each portion of a building on the *lot* must not exceed the numbers as shown following the symbol "ST" on Map 2, excluding mechanical and roof top elements;
 - (h) a maximum 337 *dwelling units* shall be permitted on the *lot*;
 - (i) the minimum setbacks of the *mixed-use building* erected on the *lot* from all *lot* lines shall be as shown on Map 2 attached to and forming part of this By-law;
 - (j) a minimum of 1.25 square metres of indoor *residential amenity* space shall be provided for each *dwelling unit*;
 - (k) a minimum of 1.06 square metres of outdoor *residential amenity space* shall be provided for each *dwelling unit*;
 - (l) a minimum of 34 *parking spaces* shall be provided on the *lot*, of which a minimum of 4 *parking spaces* shall be devoted exclusively to service and other delivery vehicles;
 - (m) no *parking spaces* are required for visitors or non-residential uses;
 - (n) the minimum dimensions of 3 of the required *parking spaces* shall be: length 5.4 metres, height 2.0 metres and width 2.6 metres;
 - (o) a minimum of 0.9 *bicycle parking space* for occupants and 0.1 *bicycle parking space* for visitors are provided for each *dwelling unit*;
 - (p) ingress and egress to and from the parking facility must have a minimum width of 5.5 metres for two way operation and may be obstructed; and
 - (q) at least one *loading space type-G* shall be provided and maintained on the *lot*.
5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.

6. None of the provisions of By-law No. 438-86 of the former City of Toronto, as amended, or of this By-law shall apply to prevent the erection or use on the *lot* of a temporary sales office.
7. For the purposes of this By-law, the following definitions apply:
- (a) "*grade*" shall mean 107.8 metres Canadian Geodetic Datum;
 - (b) "*bicycle parking space*" shall mean an area that is equipped with a bicycle rack, bicycle ring, bicycle stacker or bicycle locker for the purpose of parking and securing bicycles and:
 - (i) where the bicycles are to be parked in a horizontal position, except in the case of a bicycle stacker and bicycle ring, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
 - (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
 - (c) "*clerestory window*" shall mean a window where the lowest level of such window is located at least 1.8 metres above the finished level of the interior floor;
 - (d) "*storey*" means the portion of a building above-*grade* that is between the top of a floor and the top of the floor next above it, and if there is no floor above it, the portion between the top of the floor and the ceiling above it; and for the purpose of this By-law a mezzanine does not constitute a *storey*; and
 - (e) each word or expression that is italicized in this By-law and not otherwise defined herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended.

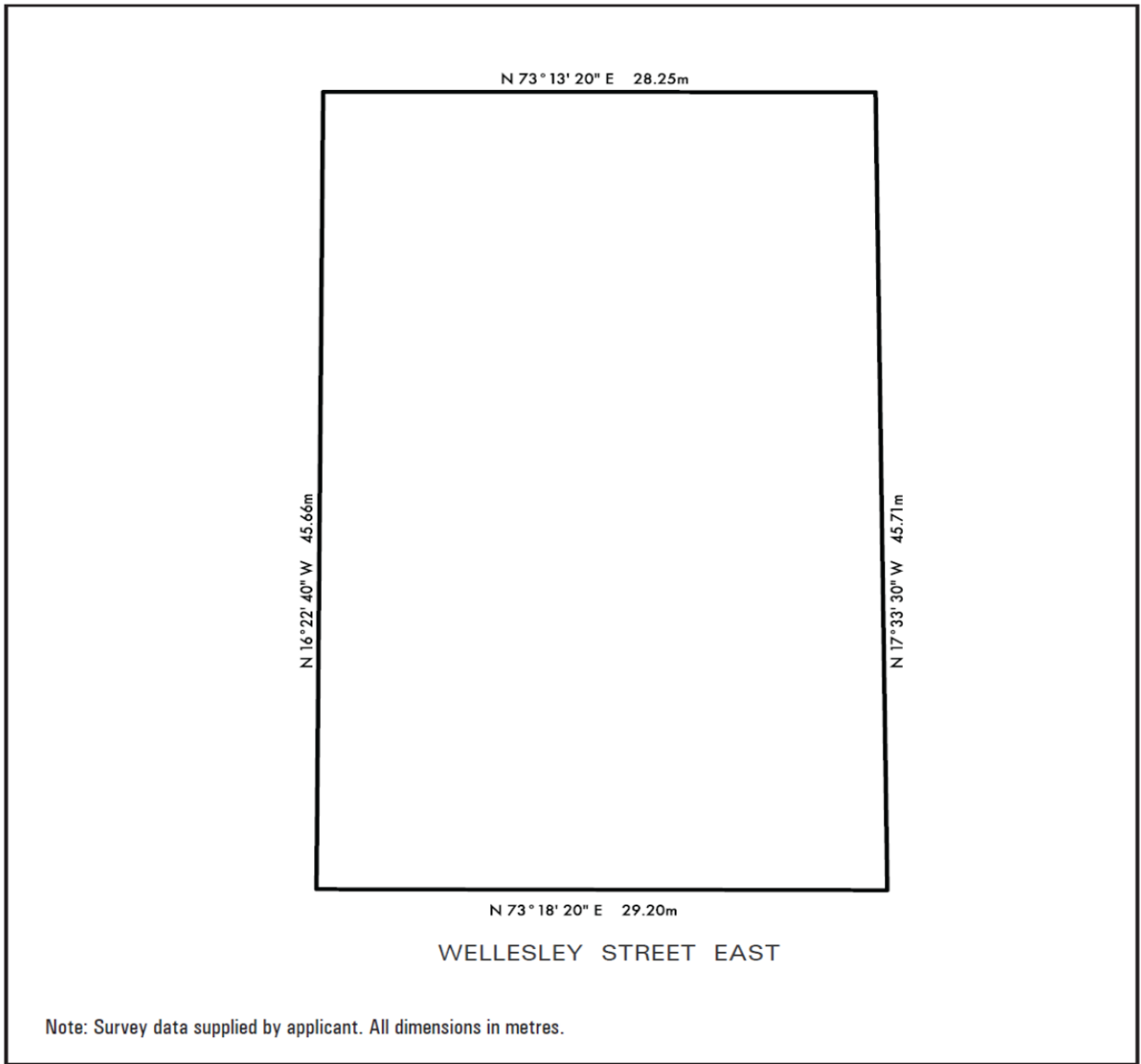
PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD
ISSUED JULY 17, 2015 IN BOARD FILE NO. PL060339.

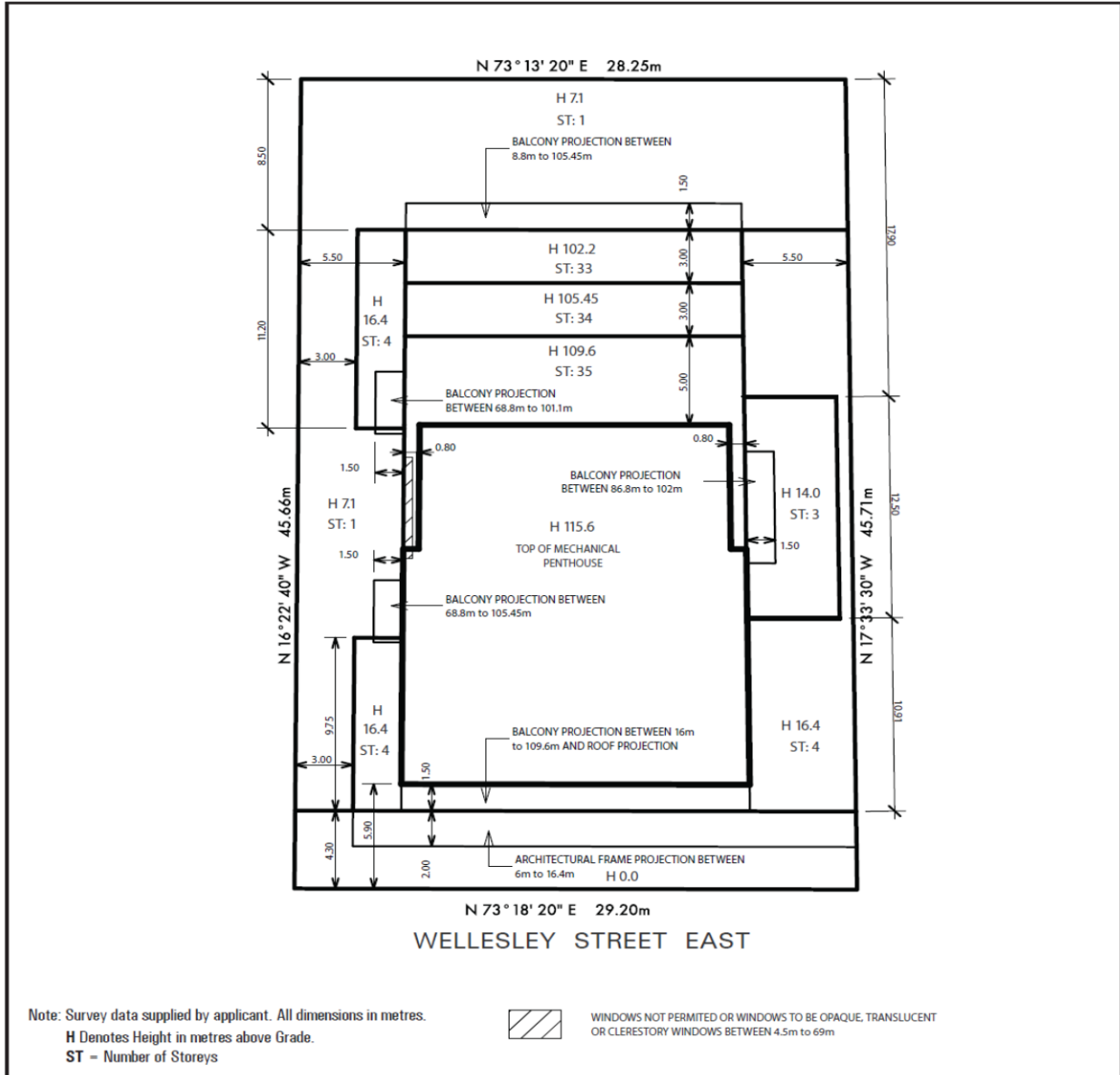
APPENDIX 1
Section 37 Provisions

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the *City* in accordance with one or more agreements pursuant to the Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement;

1. Prior to the issuance of the first above grade building permit, the *owner* must pay to the *City* a cash contribution in the amount of \$2,000,000.00, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of execution of the Agreement to the date of delivery of the payment by the *owner* is made, to be applied to the following:
 - (i) \$475,000.00 for Toronto Community Housing capital improvements or the creation of new affordable housing in Ward 27 in consultation with the Ward Councillor and the Chief Planner;
 - (ii) \$1,300,000.00 for local park and streetscape improvements in the Church-Wellesley Village in consultation with the Ward Councillor and the Chief Planner;
 - (iii) \$225,000.00 for capital improvements to community and cultural facilities in the Ward in consultation with the Ward Councillor and the City Manager;
 - (iv) the payment amounts referenced in Section 1(i), (ii) and (iii) to be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of execution of the Agreement to the date of delivery of the payment by the *owner* to the city.
2. In the event the cash contribution referred to in Section 1 have not been used for the intended purpose within three (3) years of the Date of Final Approval of the Amending By-law, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner, in consultation with the local Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the Site.
3. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support the development:
 - (i) The Owner shall make available the option of combined units on floors 5 to 33 of the development in response to interest expressed amongst interested purchasers for three-bedroom units.

- (ii) The Owner shall construct the development to include 7 units on the 34th floor and 35th floor in line with the following size requirements:
 - (a) Five units with a minimum floor area of 80 square metres
 - (b) Two units with a minimum floor area of 74.5 square metres.
- (iii) The Owner agrees to provide four short-term parking spaces on level P1 of the development that will be monitored and controlled by the building concierge for the sole purpose of accommodating short-term parking for service vehicles, courier vehicles and/or delivery vehicles.
- (iv) In addition to the required *loading space type-G*, the Owner agrees to provide one additional *loading space*, the equivalent in size of a *loading space type-C*, to the ground floor loading area to accommodate an additional short-term loading space for service vehicles, courier vehicles and/or delivery vehicles.





40 Wellesley Street East

Map 2

File # 05 _ 212275 STE 27 02



Not to Scale
04/07/2016