

Authority: Ontario Municipal Board Decisions/Orders issued October 15, 2015, February 17, 2016 and October 20, 2017 in Board File PL140555

## CITY OF TORONTO

### BY-LAW 398-2019(OMB)

#### **To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands known as 81 Wellesley Street East.**

Whereas the Ontario Municipal Board Decision issued October 15, 2015, Ontario Municipal Board Order issued February 17, 2016 and Ontario Municipal Board Order issued October 20, 2017, in Board File PL140555, 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 438-86, as amended, with respect to lands municipally known in the year 2014 as 81 Wellesley Street East; and

Whereas authority is given to the Ontario Municipal Board under Section 34(26)(b) of the Planning Act, 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 that 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 Section 37(3) of the Planning Act provides that, where an *owner* of land elects to provide facilities, services or matters in return for any increase in the height or density of development, the Municipality may require the *owner* to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

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

Whereas the increase in the density and height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which are to be secured by one or more agreements between the *owner* of such lands 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 the former City of Toronto Zoning By-law 438-86, as amended, as follows:

1. 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.
2. 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.

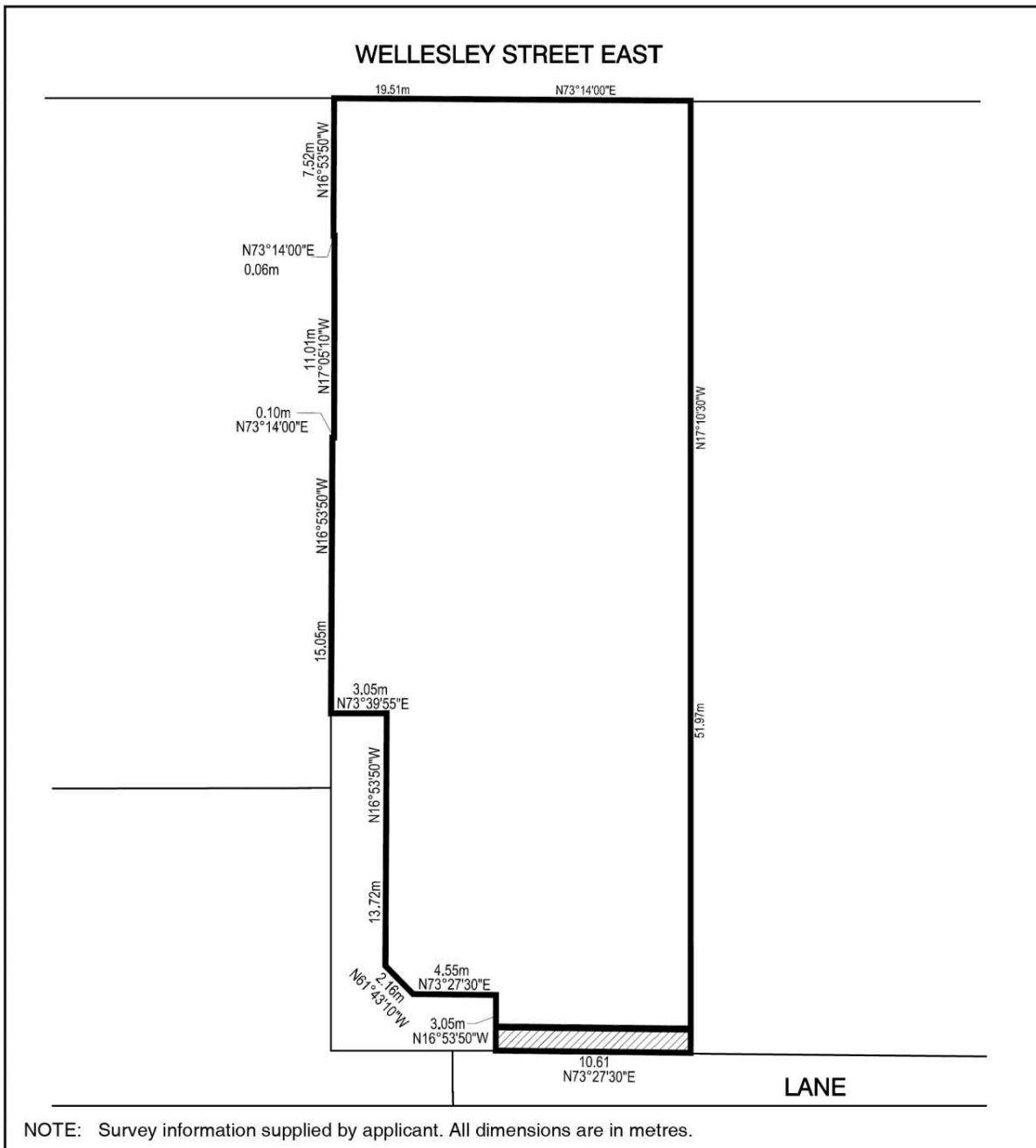
3. None of the provisions of Section 2 with respect to "*bicycle parking space*", "*bicycle parking space – occupant*", "*bicycle parking space – visitor*", "*grade*", "*height*", "*lot*" and Sections 4(2), 4(5), 4(10), 4(12), 4(13), 4(16), 8(3) Part I, 8(3) Part II, 8(3) Part III, 8(3) Part VII, 12(2)80, 12(2)131, 12(2)132 and 12(2)260 of By-law 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* provided that:
- a. the *lot* comprises 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 15,000 square metres, provided that:
    - i. The *residential gross floor area* on the *lot* will does not exceed 14,900 square metres; and
    - ii. The *non-residential gross floor area* on the *lot* is not less than 50 square metres;
  - c. the *height* of each portion of a building or structure erected above grade on the *lot*, in respect of each *building envelope* area, has a maximum height in metres as shown following the symbol H on Map 2 for the corresponding building envelope area, including mechanical and roof top elements, except for:
    - i. Lighting fixtures, cornices, sills, eaves, canopies, window washing equipment, parapets, railings, privacy screens, patios, decks, cabanas, swimming pool, swimming pool equipment enclosure, planters, balustrades, bollards, stairs, covered stairs or stair enclosures, elevator enclosures and elevator lobbies associated with an entrance or exit from an underground parking garage, awnings, fences and safety railings, trellises, underground garage ramps and associated structures, mechanical units, mechanical and architectural screens, guards, guardrails, retaining walls, wheel chair ramps, landscape features, and art installations may extend beyond the heavy lines and above the heights shown on the attached Map 2 attached to this By-law to a maximum of 2.0 metres;
    - ii. Structures on any roof used for outside or open air recreation, maintenance, safety, wind protection or green roof purposes may extend beyond the heavy lines and above the heights shown on the attached Map 2 attached to this By-law to a maximum of 4.5 metres; and

- iii. Aircraft warning lights, lightning rods, exhaust flues, chimneys, vents and stacks;
- d. the number of *storeys* of each portion of a building above grade on the *lot* must not exceed the numbers as shown following the symbol ST on Map 2 for the corresponding *building envelope* area, excluding mechanical and roof top elements;
- e. no portion of the building erected on the *lot* may be located above grade other than wholly within the *building envelope* area delineated by heavy lines on the attached Map 2 subject to the following:
  - i. The erection or use of the structures, elements and enclosures permitted by Clause c. of this exception; and
  - ii. Balconies and associated architectural structures may project beyond the heavy lines as shown on Map 2 attached to this By-law;
- f. notwithstanding any provision of this By-law to the contrary, no portion of the building between finished ground level and 6.0 metres above finished ground level shall be located within the dashed outline shown on the attached Map 2 with the exception of the following structures and elements:
  - i. Columns, piers, beams and other structural elements, soffit and fascia, heating and insulating elements, window and door sills, door swings, elements for utilities, and lighting;
  - ii. Glass art walls, art, seating and tables, water features, planting beds and planting, and access hatches;
  - iii. Vents and grills flush with finished ground level; and
  - iv. Signage, excluding signage affixed to the ground;
- g. a maximum 181 *dwelling units* shall be permitted on the *lot*;
- h. a minimum of 1.83 square metres of indoor *residential amenity space* shall be provided for each *dwelling unit* on the *lot*;
- i. a minimum of 1.0 square metres of outdoor *residential amenity space* shall be provided for each dwelling unit on the lot;
- j. an outdoor privately owned publicly accessible open space shall be provided on the ground floor level having a minimum area of 106 square metres;
- k. *parking spaces* must be provided and maintained on the lot in accordance with the following requirements:
  - i. A minimum 0.37 *parking spaces* per *dwelling unit*;

- ii. No visitor *parking spaces* or parking spaces for non-residential uses are required to be provided on the *lot*;
  - l. notwithstanding 4(17)(a) of By-law 438-86, as amended, a maximum 4 parking spaces which are obstructed on one or two sides in accordance with 4(17)(e) of By-law 438-86, as amended, may have minimum dimensions of 5.6 metres in length and 2.6 metres in width;
  - m. vehicle access to the *lot* may be provided from Wellesley Street East and the abutting lane;
  - n. ingress and egress access to parking spaces below grade may be accessed by a passageway with a minimum unobstructed driveway width of 6.0 metres and access may be provided by car elevator;
  - o. *bicycle parking spaces* must be provided and maintained on the lot in accordance with the following requirements:
    - i. A minimum 0.9 *bicycle parking spaces – occupant per dwelling unit*;
    - ii. A minimum 0.1 *bicycle parking spaces – visitor per dwelling unit*; and
    - iii. No *bicycle parking spaces* for non-residential uses are required to be provided on the lot.
4. None of the provisions of By-law 438-86 shall apply to prevent a "temporary *sales office*" on the *lot* as of the date of the passing of this By-law.
5. For the purposes of this By-law:
- a. "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle ring, bicycle stacker or bicycle locker for the purposes 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 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;
  - b. "*building envelope*" means a building envelope for each height area as shown by an H, and as delineated by the heavy lines on Map 2 attached;
  - c. "*City*" means the City of Toronto;
  - d. "*grade*" means 107.8 metres Canadian Geodetic Datum;

- e. *"height"* means the vertical distance between *grade* and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;
  - f. *"lot"* means those lands identified as "81 Wellesley Street East" on Map 1 attached;
  - g. *"temporary sales office"* means a temporary building, structure, facility or trailer on the *lot* used for the purpose of the initial sale of *dwelling units* to be erected on the *lot*; and
  - h. 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 438-86, as amended.
6. 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.



Ontario Municipal Board Decisions/Orders issued October 15, 2015, February 17, 2016 and October 20, 2017 in Board File PL140555



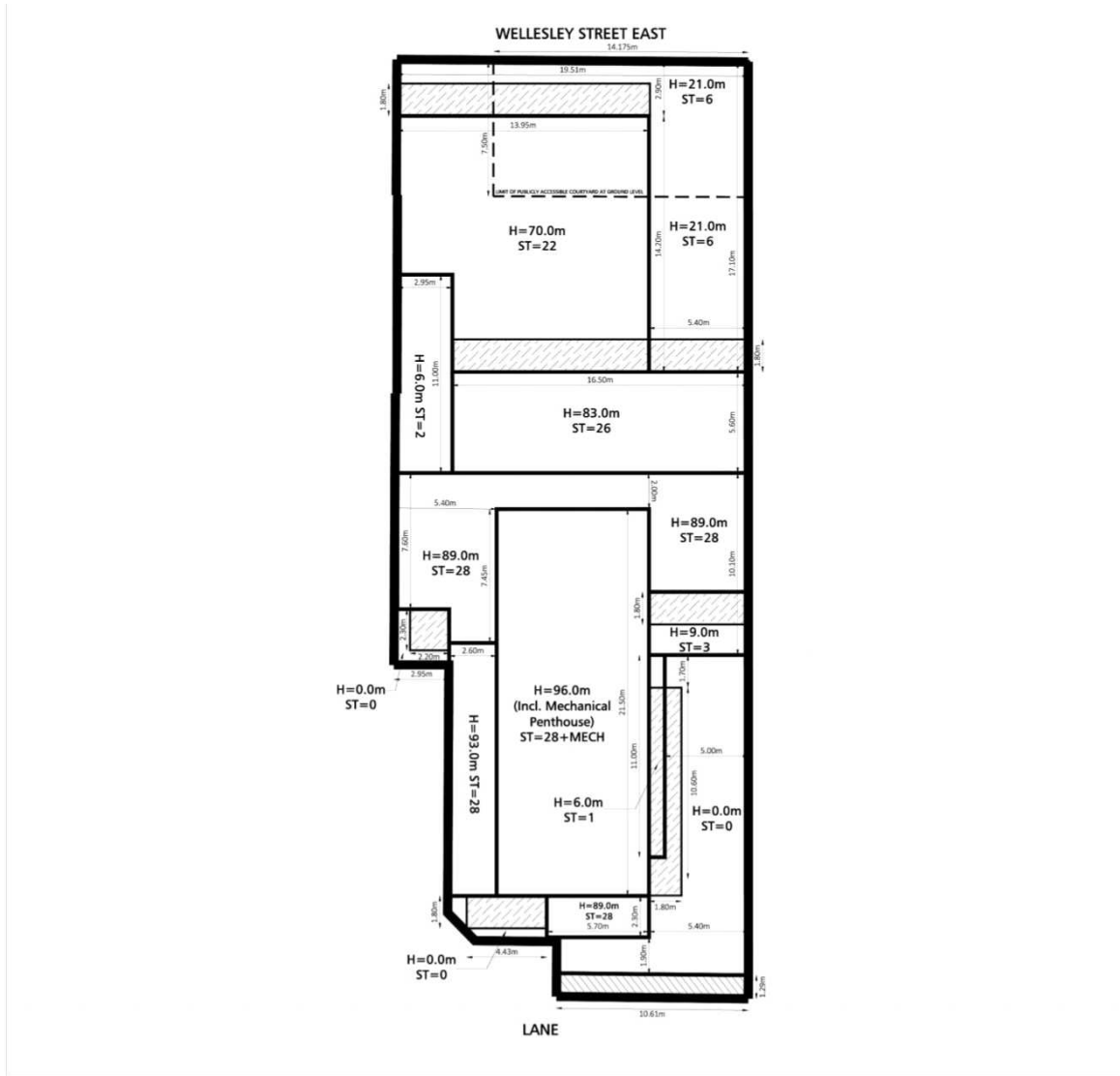
81 Wellesley Street East

Map 1

File # 13 225676 STE 27 OZ

-  Area affected by this by-law
-  1.29m Lane Widening

  
Not to Scale  
04/22/2015







Not to Scale

## MAP 2

### Zoning By-law Amendment

81 Wellesley Street East  
City of Toronto

-  Area affected by this by-law
-  1.29m Lane Widening
-  Area of Publicly Accessible Courtyard at Ground Level
-  Area of Balcony Projections

**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 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. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support the development:
  - i. in addition to the required loading space, the *owner* agrees to provide a short term *parking space* on the ground floor level for pick-up and drop-off and deliveries;
  - ii. the construction of a 106 square metre privately owned, publically accessible open space on the ground floor level fronting onto Wellesley Street East, located within the dashed outline shown on Map 2;
  - iii. the conveyance of a publically accessible open space easement to the City over the 106 square metres;
  - iv. the provision of public art to be located in the privately owned, publically accessible open space to a value of not less than \$329,424.00; and
  - v. the owner agrees, that if requested as a condition of site plan approval, the owner will agree to the conveyance of the lane widening, as shown on Map 2, to the City at no cost.