

Authority: Toronto and East York Community Council
Item TE34.14, adopted as amended, by City of Toronto
Council on July 23, 24, 25, 26, 27 and 30, 2018

CITY OF TORONTO

BY-LAW 592-2019

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2018 as 495-517 Wellington Street West and 510-532 Front Street West.

Whereas authority is given to Council by Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass Zoning By-laws; and

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; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; 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 matter 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, 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 aforesaid lands 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 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law which are secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of development permitted in this By-law are permitted beyond that otherwise permitted on the lands shown on Map 1 attached to and forming part of this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A of this By-law and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
2. Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same.

3. The owner shall not use, or permit the use of, a building or structure erected with an increase in height or density pursuant to this By-law unless all provisions of Schedule A of this By-law are satisfied
4. Except as otherwise provided herein, the provisions of Zoning By-law 438-86 shall continue to apply to the *lot*.
5. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*' and '*lot*' and Sections 4(2)(a), 4(5), 4(8), 4(12), 4(13), 4(16), 7(3) Part II, 7(3) Part III, 7(3) Part IV, 9(1), 9(2), 9(3) and 12(1) 88, 12(1) 307, 12(2) 132, 12(2) 260, 12(2) 339 and 13: 650-91 of the aforementioned By-law 438-86, as amended, and By-law 1106-2016 shall apply to prevent the erection and use on the *lot* of mixed-use buildings which contain non-residential gross floor area, a commercial parking garage, a parking garage and other uses accessory thereto, provided that:
 - a. the *lot* comprises the lands delineated by heavy lines on Map 1 attached;
 - b. for each 10,000 square metres, or part thereof, of *gross floor area* of any *buildings* on the *lot*, with the exception of the *existing heritage buildings* as identified on Map 3 attached to and forming part of By-law 592-2019, a minimum of 9000 square metres of office *gross floor area* must be provided up to a minimum of 38,000 square metres of total office use *gross floor area* for the *lot*;
 - c. no portion of any building or structure erected on the *lot* and used above grade is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 3, except for:
 - i. Canopies and awnings, which may encroach into a required minimum building setback as follows:
 - A. in a rear yard, the lesser of 2.5 metres or 50 percent of the required rear yard setback, if it is no closer to a side lot line than the required side yard setback;
 - B. in a side yard that does not abut a street, a maximum of 1.5 metres, if it is at least 0.3 metres from the side lot lines; and
 - C. in a front yard or side yard that abuts a street, the lesser of 2.5 metres or 50 percent of the required minimum building setback if it is no closer to a lot line than 0.3 metres, or where it is higher than the first storey of the building may encroach into the required minimum building setback 1.5 metres;
 - ii. Cornices, eaves, skylights, ornamental elements, trellises, lighting fixtures, fences, landscape elements, retaining walls and railings may encroach into a required minimum building setback a maximum of 1.0 metres, if it is no closer to a lot line than 0.3 metres;

- iii. Exterior stairways providing access to a building or structure may encroach into a required minimum building setback, if the stairs are:
 - A. no longer than 1.5 horizontal units for each 1.0 vertical unit above-ground at the point where the stairs meet the building or structure;
 - B. no wider than 2.0 metres; and
 - C. no closer to a *lot* line than 0.3 metres; and
- iv. Vents may encroach into a required minimum building setback if they are no closer to the *lot* line than 0.3 metres, a maximum of 0.6 metres into a rear yard setback or side yard setback;
- d. no portion of the buildings on the *lot* shall have a greater height in metres than the height limit specified by the numbers following the symbol HT, shown on Map 2, with the exception of the following: parapets, screens, stairs, roof drainage, window washing and mechanical equipment, lightning rods, architectural features, landscaping and elements of a green roof. All of the above permitted projections have a maximum vertical projection of 3.0 metres. Projections above the maximum permitted *height* are prohibited in areas shown as "No projection Zone" on Map 2;
- e. no portion of the *pedestrian easement space* and the *privately-owned publically-accessible open spaces* on the *lot* shall have a lesser unobstructed height above grade than the minimum unobstructed height specified by the numbers following the symbol HT, shown on Map 3, with the exception of: structural elements, architectural features; public art elements; window washing equipment; light fixtures; sprinkler heads and signage. Where no minimum unobstructed height is specified the *pedestrian easement space* and the *privately-owned publically-accessible open space* is to be unobstructed and open to the sky;
- f. despite Section 4(5)(b), the minimum number of *parking spaces* shall be provided and maintained on the *lot*, is 212;
- g. despite Section 4(17), up to a maximum of 30 *parking spaces*, up to but not in excess of the maximum permitted *parking spaces* on the *lot*, required by subsections f. above, may have the following minimum dimensions: metres 2.4 width, 5.6 metres length and 2.0 metres height;
- h. a minimum of 211 *bicycle parking spaces* shall be provided and maintained on the *lot* as horizontal, vertical or stacked bicycle parking spaces, in accordance with the following:
 - i. For non-residential occupants and all visitors, not less than 211 *bicycle parking spaces* – visitor, and may be provided underground;
 - ii. If a *stacked bicycle parking space* is provided, the minimum vertical clearance for each bicycle parking space is 1.2 metres; and

- iii. An area used to provide *stacked bicycle parking spaces* must have a minimum vertical clearance of 2.4 metres;
 - i. two (2) loading spaces – type B and three (3) loading spaces – type C shall be provided and maintained on the *lot*; and
 - j. no less than two *privately-owned publicly-accessible open spaces* (POPS) with a combined minimum area of 405 square metres shall be provided on the ground level within the hatched area shown on Map 4 attached to and forming part of this By-law.
6. For the purpose of the By-law:
- a. "*existing heritage buildings*" means the existing buildings known municipally as 495 and 517 Wellington Street West and accessory structures, located on the *lot* in the year 2018 as shown on Map 3;
 - b. "*grade*" means 84.50 metres Canadian Geodetic Datum;
 - c. "*height*" means the height above grade as shown on Map 2;
 - d. "*lot*" means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
 - e. "*stacked bicycle parking space*" means a horizontal bicycle parking space that is positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces;
 - f. "*Privately-owned publicly-accessible open space*" means a space on the *lot* situated at ground level within the hatched area shown on Map 4 attached to and forming part of this By-Law that is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, seating areas, landscaped plazas, and ornamental structures and is used principally for the purpose of sitting, standing and other recreational uses, and may be used for temporary commercial activities and for activities by the Owner in accordance with the Section 37 Agreement for the Site;
 - g. "*pedestrian easement space*" means a paved, sodded or landscaped exterior area or areas on a *lot* which provides amenities for the benefit and enjoyment of pedestrians and which:
 - i. Adjoins and is directly accessible from a *street*, other than a lane;
 - ii. Contains, but is not limited to, at least two of the following elements: landscaping such as grass, shrubs, trees and flowers; refuse receptacles/recycling bins; outdoor seating;

- iii. Is located within 2 metres of *grade* and is accessible by a ramp not exceeding a gradient of 1 in 12, or by stairs and a ramp not exceeding a gradient of 1 in 12;
 - iv. Is not narrower than 2.5 metres; and
 - v. Is not for the purposes of a driveway, vehicular ramp, loading or servicing area, outdoor storage, motor vehicle parking, vent or stairs; and
 - h. each other word or expression that is italicized in this By-law shall have the same meaning as that word or expression as defined in the said By-law 438-86, as amended.
7. Within the lands shown on Map 1 attached to this By-law, no person shall use any land or erect or use any building or structure on the lot unless the following municipal services are provided to the lot line and the following provisions are complied with:
- a. all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
 - b. all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
8. Notwithstanding 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 has occurred.

Enacted and passed on April 17, 2019.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height of the proposed development on the lands as shown on Map 1 of this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. Provide a cash contribution, of \$400,000 for the Bathurst Quay Neighbourhood Plan, payable prior to introducing the necessary Bills to City Council for enactment.
2. Provide a cash contribution, of \$400,000 for the Waterfront School playground at 635 Queens Quay West, Toronto, ON, M5V 3G3, payable prior to introducing the necessary Bills to City Council for enactment.
3. Provide a cash contribution, of \$380,000 for the provision of new affordable housing as part of the Alexandra Park and Atkinson Housing Co-Operative Revitalisation, to be directed to the Capital Revolving Fund for Affordable Housing, payable prior to the issuance of the first above-grade building permit.
4. Provide a cash contribution, of \$720,000 toward streetscape and public realm improvements to Wellington Street West, Portland Street, Draper Street and/or Front Street West to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, payable prior to the issuance of the first above-grade building permit.
5. The required cash contributions pursuant to recommendation 1 to 4 inclusive, are to be indexed upwardly in accordance with the Statistics Canada non-residential Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of execution of the Section 37 Agreement to the day the payment is made.
6. In the event the cash contributions in recommendation 1 to 4 inclusive above, have not been used for the intended purpose within five (5) years of the by-laws coming into full force and effect, the cash contributions may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the lands.
7. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development, at the owner's expense:
 - a. the owner shall provide, at its own expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, an area of not less than 280 square metres at grade for use by the general public as a privately-owned publicly accessible open space (POPS), located generally on the western side of the site fronting Portland Street and providing an entrance to the mews in a location to be identified through the Site Plan Approval process, and shall convey, prior to the issuance of Site Plan Approval, an easement along the

surface of the lands which shall constitute the POPS, for nominal consideration, to the City. The specific location, configuration and design of POPS shall be determined in the context of Site Plan Approval pursuant to Section 114 of the City of Toronto Act, 2006 and secured in a Site Plan Agreement with the City to the satisfaction of the Acting Director, Community Planning, Toronto and East York District. The owner shall own, operate, maintain and repair the POPS and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the POPS;

- b. the owner shall provide, at its own expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, an area of not less than 125 square metres at grade for use by the general public as a privately-owned publicly accessible open space (POPS), located generally at the southwest corner of the site in a location identified through the Site Plan Approval process, and shall convey, prior to the issuance of Site Plan Approval, an easement along the surface of the lands which shall constitute the POPS, for nominal consideration, to the City. The specific location, configuration and design of POPS shall be determined in the context of Site Plan Approval pursuant to Section 114 of the City of Toronto Act, 2006 and secured in a Site Plan Agreement with the City to the satisfaction of the Acting Director, Community Planning, Toronto and East York District. The owner shall own, operate, maintain and repair the POPS and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the POPS;
- c. prior to the issuance of Site Plan Approval, the owner shall convey to the City a public pedestrian easement for the life of the building, across the two publicly-accessible private open spaces (POPS) having a total minimum area of 405 square metres, to the satisfaction of the Acting Director, Community Planning, Toronto and East York District;
- d. prior to the issuance of Site Plan Approval, the owner shall convey to the City a public pedestrian easement for the life of the building, over the mid-block pedestrian mews, to the satisfaction of the Acting Director, Community Planning, Toronto and East York District;
- e. detailed landscape and lighting plans will be submitted and approved through the Site Plan Approval process to realize the objective of creating a 'green link' on Wellington Street West to connect Clarence Square with Victoria Memorial Square. These plans will be subject to the approval of the Chief Planner and Executive Director, City Planning Division and the General Manager, Transportation Services;
- f. prior to the issuance of the first building permit, the owner shall submit a Construction Management Plan to the satisfaction of the General Manager of Transportation Services and the Chief Building Official and Executive Director, Toronto Building, in consultation with the Ward Councillor and thereafter in support of the development, will implement the Plan during the course of construction. The Construction Management Plan will include, but not be limited

to, details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information and any other matters deemed necessary; and

- g. the owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on December 7, 2017, through the adoption of item PG23.9 of the Planning and Growth Committee.

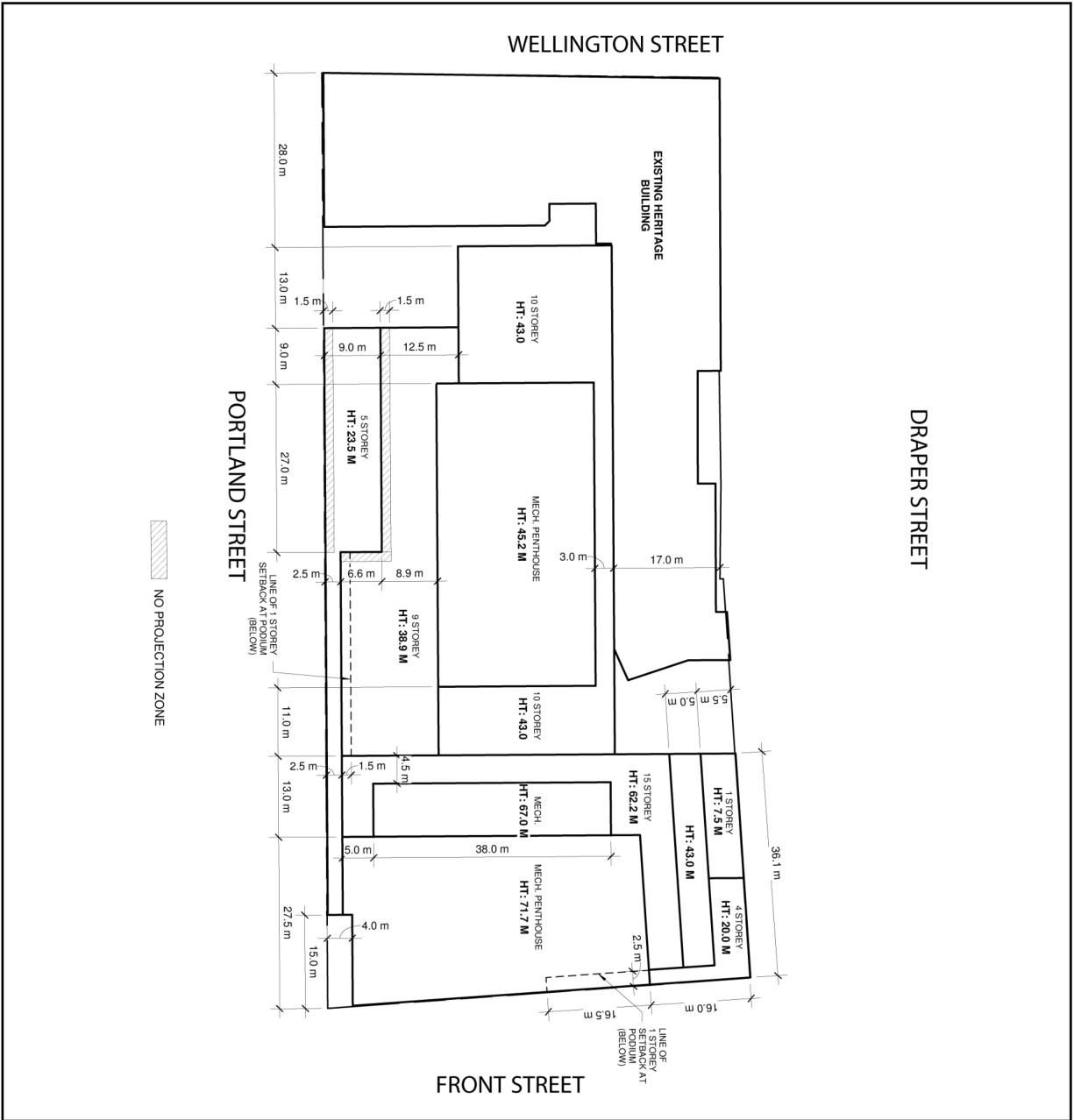


**495-517 Wellington Street
& 510-532 Front Street West**

File # 17 256142 STE 20 0Z



City of Toronto By-Law 438-86
Not to Scale
7/3/2018



495-517 Wellington Street
 & 510-532 Front Street West

File # 17 256142 STE 20 OZ

