

Authority: Local Planning Appeal Tribunal Decision/Order  
issued on October 23, 2019 and February 6, 2020 in  
File PL150634

## **CITY OF TORONTO**

### **BY-LAW 852-2020(LPAT)**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to lands municipally known in the year 2019 as 10 St. Mary Street, 79, 81 and 85 St. Nicholas Street, 710-718 Yonge Street and Private Lane.**

Whereas the Local Planning Appeal Tribunal Decision/Order issued October 23, 2019 and February 6, 2020, in File PL150634, upon hearing an appeal under Section 34(11) of the Planning Act R.S.O. 1990, c. P.13, as amended, deems it advisable to amend By-law 438-86, as amended, for the former City of Toronto with respect to the lands municipally known in the year 2019 as 10 St. Mary Street, 79, 81 and 85 St. Nicholas Street, 710 to 718 Yonge Street and Private Lane; 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 Local Planning Appeal Tribunal orders:

1. Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, an increase in height and density of development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Appendix 1 hereof 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 Appendix 1 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 and density pursuant to this By-law unless all provisions of Appendix 1 are satisfied.
4. None of the provisions of Section 2, with respect to the definition of the terms, *bicycle parking space - occupant*, *bicycle parking space - visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, *residential gross floor area*, *residential amenity space*, and *street-related retail and service uses*, 4(2)(a) and (b), 4(5), 4(8), 4(10), 4(12), 4(13), 4(16), 4(17), 8(3) Part I, 8(3) Part II 1, 8(3) Part III 1, 8(3) Part XI 2, 12(2)259, 12(2)260 and 12(2)380 of general Zoning By-law 438-86 of the former City of Toronto, 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*, containing both residential and non-residential uses including uses *accessory* thereto, provided:
  - a. the *lot* comprises of the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
  - b. the combined total *gross floor area* of all buildings and structures erected or used on the *lot* shall not exceed 41,500 square metres;
  - c. the area of the buildings and structures occupied by residential uses shall not exceed a *gross floor area* of 32,000 square metres;
  - d. the area of the buildings and structures occupied by non-residential uses shall not exceed a *gross floor area* of 9,500 square metres, and excludes the *gross floor area* associated with a *commercial parking garage*;
  - e. not more than 485 *dwelling units* are erected on the *lot*;
  - f. of the total number of *dwelling units* provided:
    - i. A minimum of 25 percent shall be provided as two-bedroom *dwelling units* or larger; and
    - ii. A minimum of 10 percent shall be provided as three-bedroom *dwelling units* or larger;
  - g. the following elements of a building or structure may encroach into a required minimum building setback and a required minimum main wall separation distance as follows:
    - i. Privacy screens, planters, bollards, stairs, stair enclosures, underground garage ramps and associated structures, walls, and safety railings, wind

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- mitigation elements, trellises, guards, guardrails, retaining walls, wheel chair ramps, air intakes and vents, ventilating equipment, public art, bike share facilities, outdoor *residential amenity space* elements, landscape features, green roof elements, and art installations may project horizontally a maximum of 3.0 metres beyond the heavy lines shown on Map 2;
- ii. Lighting fixtures, cornices, sills, eaves, parapets, balustrades, ornamental or architectural features, bay windows, window washing equipment, gas meters and hydro meters, may project horizontally a maximum of 1.0 metre beyond the heavy lines shown on Map 2;
  - iii. Canopies and awnings may project a maximum of 5.0 metres beyond the heavy lines shown on Map 2;
  - iv. Balconies to a maximum horizontal projection of 1.6 metres beyond the heavy lines shown on Map 2; and
  - v. Structures, elements or enclosures permitted by subsection (h) below;
- h. no part of a building or structure erected or used above *grade* shall exceed the *height* limits specified by the numbers following the symbol "H" shown on the attached Map 2, with the exception of:
- i. Structures, elements or enclosures listed in subsection (g) above;
  - ii. Mechanical equipment, chimneys, vents, stacks, mechanical fans, cooling towers, elevators and related structural elements, parapets, roof assemblies, mass dampening devices, mechanical and architectural screens, lightning rods, and structures and elements associated with green energy and renewable energy facilities located on any roof, which may have a maximum vertical projection above the permitted *height* limits specified on Map 2 of:
    - A. 1.5 metres at or above the portion labelled as H170.0; and
    - B. 6.0 metres above any portion labelled less than H170.0; and
  - iii. Structures on any roof used for maintenance, window washing equipment, safety, wind or green roof purposes, outdoor *residential amenity space* or open air recreation, and vestibules providing access to outdoor *residential amenity space*, provided the maximum *height* of such elements is no higher than 3.5 metres above the *height* limits specified on Map 2;
- i. notwithstanding subsection (h) above, no portion of the building may be located:
- i. In Area A on Map 2 between a *height* of 12.0 metres and 104.0 metres, measured from *grade*;

- ii. In Area B on Map 2 between a *height* of 12.0 metres and 122.0 metres, measured from *grade*; and
- iii. In Area C on Map 2 between a *height* of 30.0 metres and 36.0 metres, measured from *grade*;
- j. notwithstanding subsection (i) above, the elements listed in subsection (h) above may project vertically by a maximum of 6.0 metres above or below the *heights* identified for Area A, Area B, and Area C, respectively, noted in subsection (i) above;
- k. *residential amenity space* shall be provided as follows:
  - i. A minimum of 2.0 square metres per *dwelling unit* shall be provided as indoor *residential amenity space*;
  - ii. A minimum of 1.0 square metre per *dwelling unit* shall be provided as outdoor *residential amenity space*, of which at least 40 square metres shall be located adjoining to or directly accessible to indoor *residential amenity space*; and
  - iii. no more than 25 percent of the outdoor component may be a green roof;
- l. *parking spaces* shall be provided and maintained on the *lot* in accordance with the following requirements:
  - i. A minimum of 0.16 *parking spaces* per *dwelling unit* must be provided for residents;
  - ii. No *parking spaces* shall be required for residential visitors;
  - iii. A minimum of 14 *parking spaces* for all non-residential uses on the *lot*; and
  - iv. *Parking spaces* required by subsection (l)(iii) above, may be provided on a non-exclusive basis in a *commercial parking garage*;
- m. of the *parking spaces* required in subsection (l) above, a maximum of 2.0 such *parking spaces* may be *car-share parking spaces*;
- n. *parking spaces* provided on the *lot* for non-residential uses existing on the *lot* on the date of the passing of this by-law, shall have the following minimum dimensions:
  - i. Length of 5.6 metres;
  - ii. Width of 2.25 metres; and
  - iii. Vertical clearance of 2.0 metres;

- o. any *parking spaces*, other than those subject to subsection (n) above, shall have the following minimum dimensions:
  - i. Length of 5.6 metres;
  - ii. Width of 2.6 metres; and
  - iii. Height of 2.0 metres;
- p. *drive aisles* shall be provided as follows:
  - i. Two-way *drive aisles* shall be a minimum of 5.5 metres in width; and
  - ii. One-way *drive aisles* shall be a minimum of 3.0 metres in width;
- q. a minimum of 4.0 *parking spaces* shall be provided on the *lot* as accessible *parking spaces* as follows:
  - i. A minimum of 3.0 accessible *parking spaces* shall be provided for residential uses;
  - ii. A minimum of 1.0 accessible *parking space* shall be provided for non-residential uses; and
  - iii. Each accessible *parking space* shall have the following minimum dimensions:
    - A. length of 5.6 metres;
    - B. width of 3.4 metres; and
    - C. vertical clearance of 2.1 metres;
  - iv. A 1.5 metre wide accessible barrier-free aisle or path is required along the entire length of one side of an accessible *parking space*, and such aisle or path may be shared by 2 accessible *parking spaces*; and
  - v. An accessible *parking space* shall be located within 7.0 metres of an entrance to an elevator lobby with 1 or more passenger elevator(s) that provide access to the first storey of the building;
- r. 1 *loading space – type G* and 1 *loading space – type C* shall be provided and maintained for all uses on the *lot*;
- s. the slope of a driveway leading to a *parking space* shall be no greater than 21 percent;
- t. *bicycle parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum standards:

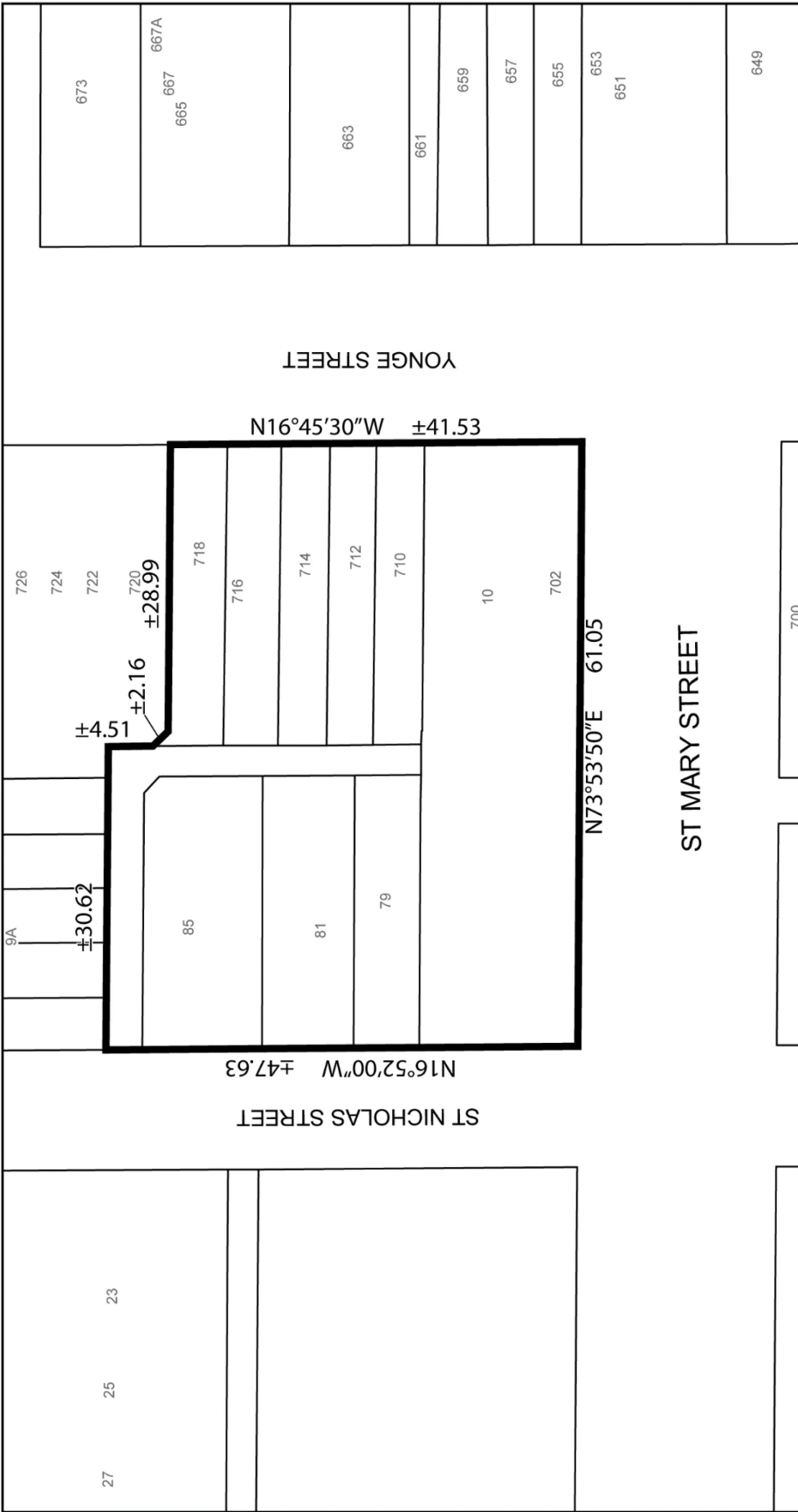
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- i. For *dwelling units*: 0.9 *bicycle parking spaces* for each *dwelling unit*, allocated as *bicycle parking spaces – occupant*;
  - ii. For residential visitors: 0.1 *bicycle parking spaces* for each *dwelling unit* allocated as *bicycle parking spaces - visitor*;
  - u. a minimum of 24 *bicycle parking spaces – occupant* shall be provided for all non-residential uses in the building;
  - v. a minimum of 24 *bicycle parking spaces – visitor* shall be provided for all non-residential uses in the building;
  - w. *bicycle parking spaces - visitor* and *bicycle parking spaces – occupant* may be provided in a *bicycle stacker*;
  - x. notwithstanding subsections (l), (r), (u), and (v) above, the existing building located on the lands municipally known in the year 2018 at 10 St. Mary Street may be occupied during construction of a new building or structure on the *lot* without the provision of required *parking spaces, bicycle parking spaces, and/or loading spaces*; and
  - y. *street-related retail and service uses* shall occupy a minimum of 60 percent of the *lot frontage* abutting Yonge Street, and the principal public entrance to such *street-related retail and service uses* shall be located within 6.0 metres of the *lot* line abutting Yonge Street.
5. For the purposes of this By-law, each word or expression that is italicized in this By-law shall have the same meaning as each such word or expression as defined in By-law 438-86, as amended, except for the following:
- a. "*bicycle parking space*" means an area used for storing bicycles having the following minimum dimensions:
    - i. Where the bicycles are to be parked on a horizontal surface, has a minimum length of 1.8 metres, a minimum width of 0.6 metres and a minimum vertical dimension from the ground of at least 1.9 metres;
    - ii. Where the bicycles are to be parked in a vertical position, has a minimum length or horizontal clearance from the wall of 1.2 metres, a minimum width of 0.6 metres and a vertical dimension of at least 1.9 metres; and
    - iii. where the bicycles are to be parked in a *bicycle stacker*, has a minimum width of 0.45 metres, a minimum length of 1.8 metres and a minimum vertical clearance of 1.2 metres for each *bicycle parking space*;
  - b. "*bicycle parking space – occupant*" means a *bicycle parking space* for use by the occupants or tenants of a building;
  - c. "*bicycle parking space – visitor*" means a *bicycle parking space* for use by visitors to a building;

- d. "*bicycle stacker*" means a device where by a *bicycle parking space* is positioned above or below another *bicycle parking space* and is accessed by means of an elevating device;
- e. "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles and such car-share motor vehicles are made available to at least the occupants of the building for short-term rental, including hourly rental;
- f. "*car-share*" *parking space* means a *parking space* exclusively reserved and signed a car used only for car-share purposes;
- g. "*drive aisle*" means a vehicle passageway located within an area used for the parking or storage of three (3) or more vehicles;
- h. "*grade*" means 114.0 metres Canadian Geodetic Datum;
- i. "*gross floor area*" means the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
  - i. Parking, loading and bicycle parking below-ground;
  - ii. Required *loading spaces* at the ground level and required *bicycle parking spaces* at or above-ground;
  - iii. Storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below-ground;
  - iv. Shower and change facilities required by the By-law for required *bicycle parking spaces*;
  - v. *Residential amenity space* required by this By-law;
  - vi. Elevator shafts;
  - vii. Garbage shafts;
  - viii. Mechanical penthouse; and
  - ix. Exit stairwells in the building or structure;
- j. "*height*" means the highest point of the building or structure above *grade*, except for those elements prescribed by this By-law;
- k. "*lot*" means in aggregate the lands outlined by heavy lines on Map 1 of this By-law;
- l. "*residential amenity space*" means indoor or outdoor space on a *lot* that is communal and available for use by the occupants of a *building* on the *lot* for recreational or social activities; and

- m. "*street-related retail and service uses*" means one or more of the uses listed in section 8(1)(f)(b)(i), (ii) and (iv) of By-law 438-86, as amended, other than a *public park* or a public playground, where a maximum of 15 metres of *lot frontage* for any one of the uses listed in sections 8(1)(f)(b)(i) or (ii), or a *branch of a bank or financial institution* may be included as a *street-related retail and service use*.
6. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law and By-law 438-86, as amended, shall apply to the whole of the *lot* as if no severance, partition or division had occurred.

Local Planning Appeal Tribunal Decision/Order issued on October 23, 2019 and February 6, 2020 in File PL15063.





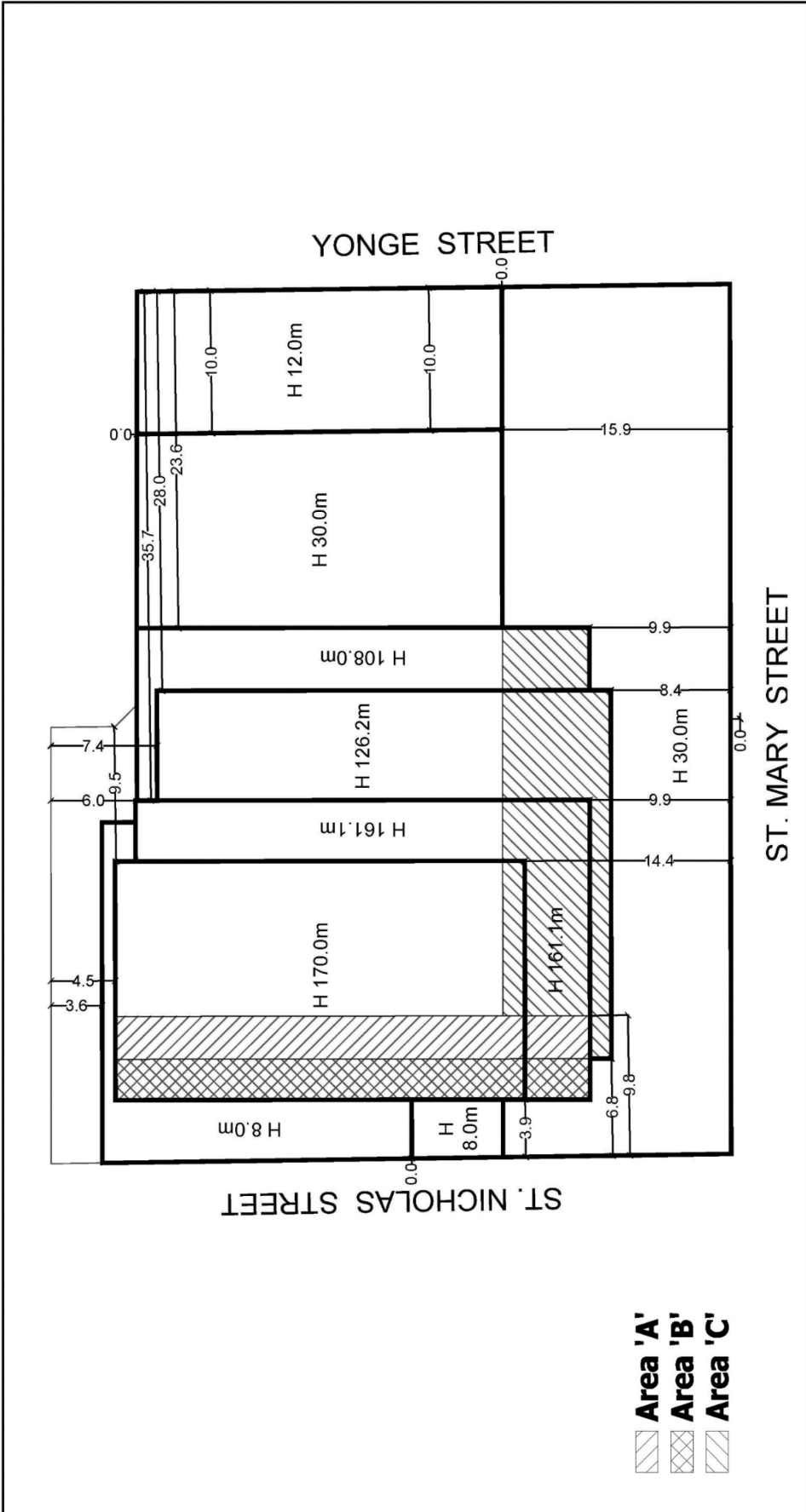
**Toronto**  
Map 1

**10 St. Mary Street**

File # 14 208729 STE 27 0Z



City of Toronto By-law 438-86  
Not to Scale  
5/16/2019



Area 'A'  
 Area 'B'  
 Area 'C'



10 St. Mary Street

File # 14 208729 STE 27 OZ

City of Toronto By-law 438-86  
 Not to Scale  
 5/16/2019

## APPENDIX 1

### 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 and density of the proposed development on the lands shown on Map 1 of this By-law, and secured in an agreement or agreements pursuant to Section 37(3) of the Planning Act, whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade building permit, other than for a building permit for a temporary sales or rental office or permit for demolition, excavation, shoring or foundation, the owner shall make a cash contribution to the City in the amount of three million, one hundred thousand dollars (\$3,100,000.00) towards capital improvements in close proximity to the subject site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the local Councillor.
2. In the event the cash contribution in Clause (1) of this Appendix have not been used for the intended purpose within three (3) years of the date of approval of By-law 852-2020(LPAT) coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the local Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the subject site.
3. The cash contribution in Clause (1) of this Appendix shall be indexed upwardly in accordance with the Non-Residential Building Construction Output Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Construction Price statistics Publication No. 62-007-XPB, or its successor from the date of execution of the Section 37 Agreement to the date the payment is made.
4. Prior to the issuance of any permit for all or any part of the properties at 10 St. Mary Street, 81 and 85 St. Nicholas Street and 710, 712, 714, 716 and 718 Yonge Street, including a heritage permit pursuant to the Ontario Heritage Act or a building permit but excluding permits for repairs, maintenance and usual and minor works acceptable the Senior Manager, HPS, the owner shall:
  - a. have obtained final approval for the necessary zoning by-law amendments required for the subject properties, such amendments to have been enacted by City Council and to have come into full force and effect;
  - b. provide building permit drawings for the specific phase of work for which the permit is being sought, including notes and specifications for the conservation and protective measures keyed to the approved Conservation Plan, including a description of materials and finishes to be prepared by the project architect and qualified heritage consultant to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - c. provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage

Preservation Services to secure all work included in the approved Conservation Plan and the Interpretation Plan.

5. Prior to the release of the letter of credit required in Clause 4(c) of this Appendix, the owner shall:
  - a. have obtained final site plan approval pursuant to section 114 of the City of Toronto Act, 2006 for the subject properties;
  - b. provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the required conservation work has been completed in accordance with the Conservation Plan and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - c. provide replacement Heritage Easement Agreement photographs to the satisfaction of the Senior Manager, Heritage Preservation Services.
  
6. Prior to the issuance of final site plan approval pursuant to section 114 of the City of Toronto Act, 2006 for all or any portion of the lot, the owner shall:
  - a. provide final site plan drawings substantially in accordance with the approved Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - b. have obtained final approval for the necessary zoning by-law amendments required for the subject properties, such amendment to have come into full force and effect;
  - c. provide an Interpretation Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - d. provide a Heritage Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their heritage character to the satisfaction of the Senior Manager, Heritage Preservation Services and afterwards shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services;
  - e. provide a detailed Landscape Plan for the subject properties, to the satisfaction of the Senior Manager, Heritage Preservation Services; and
  - f. submit a Signage Plan to the satisfaction of the Senior Manager, Heritage Preservation Services.