

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

CITY OF TORONTO

BY-LAW 853-2020(LPAT)

To amend Zoning By-law 569-2013 of the 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.

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 569-2013, as amended, with respect to lands municipally known 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, authorizes increases in the height or 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 569-2013, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law that 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. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined in heavy black line to CR 3.0 (c2.0; r3.0) SS1 (x191) as shown on Diagram 2 attached to this By-law.

4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number 191 so that it reads:

(191) Exception CR 191

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On lands municipally known in the year 2018 as 10 St. Mary Street, 79, 81 and 85 St. Nicholas Street, 710 to 718 Yonge Street, and Private Lane shown on Diagram 1 to By-law 853-2020(LPAT), if the requirements of Section 5 and Schedule (A) of By-law 853-2020(LPAT) are complied with, a **building** or **structure** may be erected and used in compliance with (B) to (H) below;
- (B) The **lot** comprises the lands outlined by heavy lines and identified on Diagram 1, attached to By-law 853-2020(LPAT);
- (C) Despite Regulation 40.10.20.20(1), **public parking, eating establishment, and take-out eating establishment** are permitted uses;
- (D) Despite Regulation 40.10.20.40(1)(B) **mixed-use buildings** are permitted **building** types for **dwelling units**;
- (E) Despite Regulations 40.5.1.10(3)(A) and 40.10.40.40.(1) the total **gross floor area** of **buildings** and **structures** must not exceed a maximum of 41,500 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 32,000 square metres; and
- (ii) the permitted maximum **gross floor area** for non-residential uses is 9,500 square metres, and excludes the **gross floor area** associated with the **public parking**;
- (F) The permitted maximum number of **dwelling units** is 485;
- (G) Of the total number of **dwelling units** provided:
- (i) a minimum of 25 percent must be two-bedroom **dwelling units** or larger; and
- (ii) a minimum of 10 percent must be three-bedroom **dwelling units** or larger;
- (H) Despite Clauses 40.10.40.70 and 40.10.40.80 the required minimum **building setbacks** and the required minimum separation distances between **main walls** of **buildings** or **structures** above ground level is shown on Diagram 3 of By-law 853-2020(LPAT);

- (I) Despite Regulations 5.10.40.70(1) and (2), Clauses 40.5.40.60, 40.10.40.60, and Regulation (H) above, 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) 3.0 metres for privacy screens, planters, bollards, stairs, stair enclosures, underground garage ramps and associated **structures**, walls, and safety railings, wind mitigation elements, trellises, guards, guardrails, retaining walls, wheel chair ramps, air intakes and vents, ventilating equipment, public art, bike share facilities, outdoor **amenity space** elements, landscape features, green roof elements, and art installations projecting horizontally beyond the heavy lines shown on Diagram 3;
 - (ii) 1.0 metre for lighting fixtures, cornices, sills, eaves, parapets, balustrades, ornamental or architectural features, bay windows, window washing equipment, gas meters and hydro meters, projecting horizontally beyond the heavy lines shown on Diagram 3;
 - (iii) 5.0 metres for canopies and awnings, projecting horizontally beyond the heavy lines shown on Diagram 3;
 - (iv) balconies to a maximum horizontal projection of 1.6 metres beyond the heavy lines shown on Diagram 3; and
 - (v) structures, elements and enclosures permitted by Regulation (N) below;
- (J) Despite Clause 40.10.40.10, the permitted maximum **building** height in metres, measured from the average elevation of the ground along all **lot** lines that abut a **street** to the highest point of the **building or structure**, is the numerical value in metres following the HT symbol on Diagram 3 of By-law 853-2020(LPAT);
- (K) Despite Regulation (J) above, no portion of the **building** may be located:
- (i) in Area A on Diagram 3 of By-law 853-2020(LPAT), between a height of 12.0 metres and 104.0 metres, measured from the average elevation of the ground along all **lot** lines that abut a **street**;
 - (ii) in Area B on Diagram 3 of By-law 853-2020(LPAT), between a height of 12.0 metres and 122.0 metres, measured from the average elevation of the ground along all **lot** lines that abut a **street**; and
 - (iii) in Area C on Diagram 3 of By-law 853-2020(LPAT), between a height of 30.0 metres and 36.0 metres, measured from the average elevation of the ground along all **lot** lines that abut a **street**;
- (L) Despite Regulation (K) above, the elements listed in Regulation (N) below 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 Regulation (K) above;

- (M) For the purpose of this Exception, the phrase "average elevation of the ground along all **lot** lines that abut a **street**" is the Canadian Geodetic Datum elevation of 114.0 metres;
- (N) Despite Clause 40.5.40.10 and Regulation (J) above the following elements of the **building** or **structure** may project above the permitted maximum **building** height limits shown on Diagram 3 of By-law 853-2020(LPAT) as follows:
- (i) **Structures**, elements and enclosures permitted by Regulation (I) 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 project vertically above the permitted **building** heights shown on By-law 853-2020(LPAT) by a maximum of:
 - (a) 1.5 metres at or above the portions labelled as HT 170.0; and
 - (b) 6.0 metres above any portion labelled less than HT 170.0; and
 - (iii) **structures** on any roof used for the purposes of maintenance, window washing equipment, safety, wind or **green roof** purposes, outdoor **amenity space** or open air recreation, and vestibules providing access to outdoor **amenity space**, may project vertically above the permitted **building** heights shown on Diagram 3 of By-law 853-2020(LPAT) by a maximum of 3.5 metres;
- (O) Despite Clause 40.10.40.50, **amenity space** is required for **dwelling units** and must be provided in accordance with the following:
- (i) a minimum of 2.0 square metres of indoor **amenity space** per **dwelling unit** must be provided;
 - (ii) a minimum of 1.0 square metre of outdoor **amenity space** per **dwelling unit** must be provided, of which at least 40 square metres of outdoor **amenity space** must be provided in a location directly accessible from an area containing indoor **amenity space**;
 - (iii) no more than 25 percent of the outdoor component may be a **green roof**; and
 - (iv) no **amenity space** is required for non-residential uses;
- (P) Despite Regulations 200.5.10.1(1), and 200.5.10.11(1), **parking spaces** must 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** are required for residential visitors;
 - (iii) a minimum of 14 **parking spaces** must be provided for all non-residential uses on the **lot**; and
 - (iv) **Parking spaces** required by Regulation (P)(iii) above may be provided on a non-exclusive basis in a **public parking** facility;
- (Q) Of the **parking spaces** required in Regulation (P) above, a maximum of (2) such **parking spaces** may be car-share parking spaces, and for the purpose of this exception:
- (i) "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; and
 - (ii) "car-share parking space" means a parking space exclusively reserved and signed for a car used only for car-share purposes;
- (R) Despite Regulation 200.5.1.10(2)(A), the non-residential **parking spaces** existing on the **lot** on the date of the passing of By-law 853-2020(LPAT), may have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 2.25 metres; and
 - (iv) vertical clearance of 2.0 metres;
- (S) Despite Regulation 200.5.1.10(2)(A) and (B), any **parking spaces** other than those subject to (R) above, must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 2.6 metres; and
 - (iii) vertical clearance of 2.0 metres;
- (T) Despite Regulation 200.5.1(3)(A), the following **drive aisle** widths leading to a **parking space** are required:
- (i) two-way **drive aisles** must be a minimum of 5.5 metres in width; and
 - (ii) one-way **drive aisles** must be a minimum of 3.0 metres in width;

- (U) Despite Section 200.15 and Regulation (S) above, of the **parking** spaces required by Regulation (P) above, a minimum of four (4) **parking spaces** must be provided on the **lot** as accessible **parking spaces** as follows:
- (i) a minimum of three (3) accessible **parking spaces** must be provided for residential uses;
 - (ii) a minimum of one (1) accessible **parking space** must be provided for non-residential uses;
 - (iii) each accessible **parking space** must 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** must 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**;
- (V) Despite Regulations 220.5.10.1(2), (3), (5) and (9), (1) Type "G" **loading space** and (1) Type "C" **loading space** must be provided and maintained for all uses on the **lot**;
- (W) Despite Regulations (P), (V) and (X) above, the existing building located on the lands municipally known in the year 2018 as 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** and/or loading spaces;
- (X) Despite Regulation 230.5.10.1(1):
- (i) a minimum of 24 "long-term" **bicycle parking spaces** must be provided for all non-residential uses in the building; and
 - (ii) a minimum of 24 "short-term" **bicycle parking spaces** must be provided for all non-residential uses in the building;
- (Y) Despite Regulation 230.5.1.10(4)(A)(ii) and (B)(ii), a **stacked bicycle parking space** must have a minimum width of 0.45 metres;
- (Z) Despite regulation 230.5.1.10(10), "short-term" **bicycle parking spaces** may be provided as **stacked bicycle parking spaces**;

- (AA) A minimum of 60 percent of the **lot frontage** abutting Yonge Street must:
- (i) include a principal public entrance located within 6.0 metres of the **lot** line abutting Yonge Street; and
 - (ii) contain one or more of the following uses listed below, provided that a maximum of 15 metres of **lot frontage** may be occupied by any one of the uses listed with an asterisk:
 - (a) Art Gallery;
 - (b) Auctioneer's Premises;
 - (c) **Automated Banking Machine***;
 - (d) **Cabaret***;
 - (e) **Club***;
 - (f) Commercial Baths*;
 - (g) **Day Nursery***;
 - (h) **Eating Establishment**;
 - (i) **Entertainment Place of Assembly***;
 - (j) **Financial Institution***;
 - (k) Fire Hall*;
 - (l) Medical Office*;
 - (m) **Museum***;
 - (n) **Nightclub***;
 - (o) **Non-Profit Organization***;
 - (p) **Outdoor Patio**;
 - (q) **Performing Arts Studio***;
 - (r) **Personal Service Shop**;
 - (s) **Pet Services**;
 - (t) **Place of Assembly***;
 - (u) Police Station*;

- (v) **Post-Secondary School***;
 - (w) **Recreation Use***;
 - (x) **Retail Service**;
 - (y) **Retail Store**;
 - (z) **Service Shop**;
 - (aa) **Sports Place of Assembly**;
 - (bb) **Take-out Eating Establishment**; and
 - (cc) **Wellness Centre***;
- (BB) Regulation 40.10.40.1(1) does not apply to restrict non-residential uses and **dwelling units** being located at the same elevation, if the **dwelling units** and non-residential uses are separated by contiguous walls and there is not direct access between the non-residential use and the **dwelling units** at the common elevation;
- (CC) Despite Regulation 40.10.40.1(2) for any non-residential use, the floor level of the first **storey** of a **building**, excluding that portion of a **building** as existing on the **lot** as of January 1, 2019, must:
- (i) be within 0.2 metres of the ground measure at the **lot** line abutting the **street** directly opposite each pedestrian entrance; and
 - (ii) have a pedestrian access, other than service entrances, which, if not level with the public sidewalk closest to the entrance, is accessed by a ramp that rises no more than 0.05 metres vertically for every 1.0 metre horizontally;
- (DD) Despite Regulation 40.10.100.10(1)(C):
- (i) **vehicle** access must be from a **street** that is not Yonge Street; and
 - (ii) a maximum of three (3) **vehicle** accesses are permitted;
- (EE) Regulation 200.5.1.10(12)(C) with respect to vehicle access to a **building** does not apply;
- (FF) Regulation 230.5.1.10(9)(B)(iii) with respect to "long-term" **bicycle parking space** location does not apply;
- (GG) Regulation 230.40.1.20(2) with respect to the location of "short-term" **bicycle parking space** relative to a **building** entrance does not apply;
- (HH) Section 600.10 with respect to the Building Setback Overlay District does not apply; and

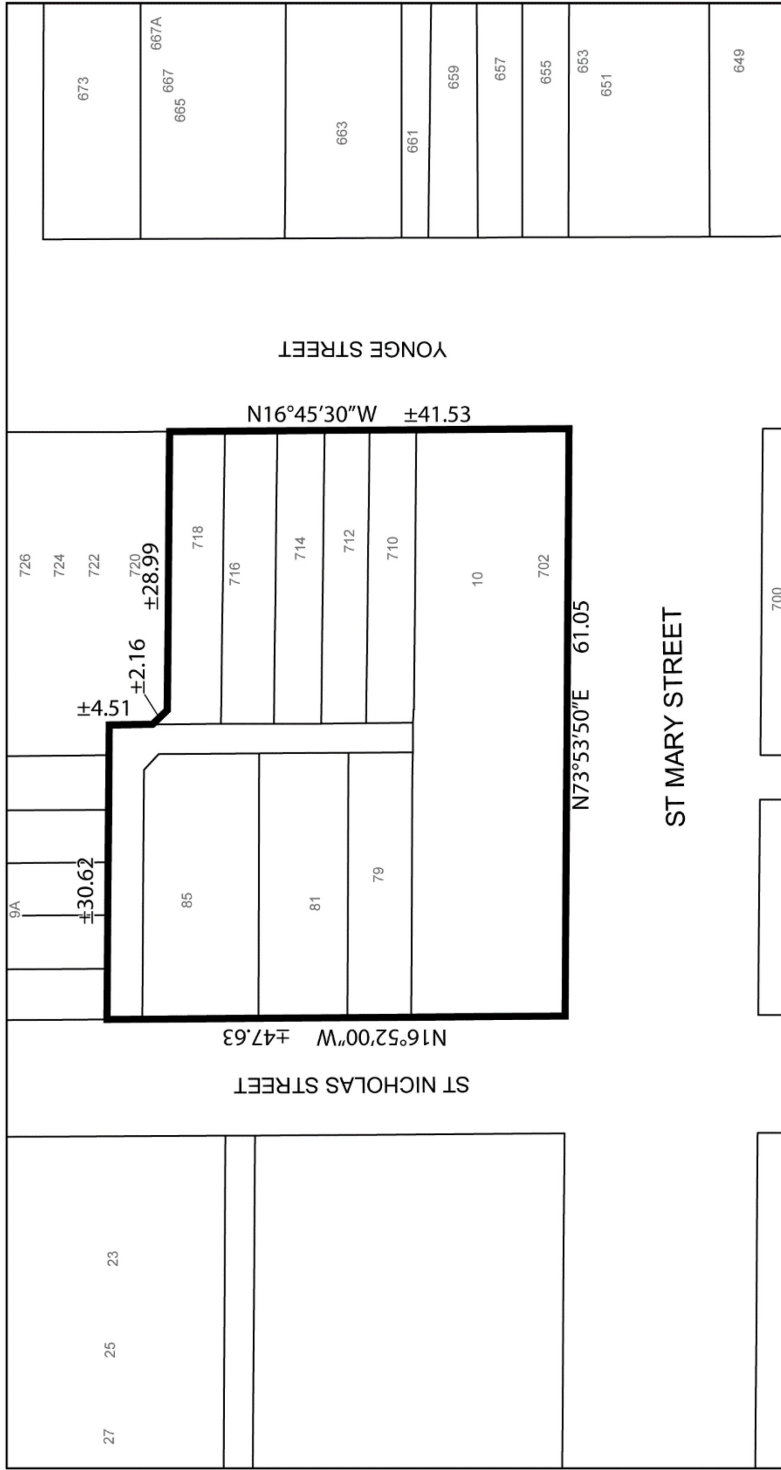
- (II) Despite any existing or future severance, partition, or division of the lands shown on Diagram 1 of By-law 853-2020(LPAT), the provisions of this Exception and By-law 569-2013 shall apply to the whole of the lands as one **lot** as if no severance, partition or division had occurred.

Prevailing By-law and Prevailing Sections: (None Apply)

5. Section 37 Provisions

- (A) pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown as CR (x191) on Diagram 2 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 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;
- (B) 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 the same; and
- (C) the owner must not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to Exception CR (x191) of By-law 569-2013, as amended, unless the provisions of Schedule A of such By-law are satisfied.

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



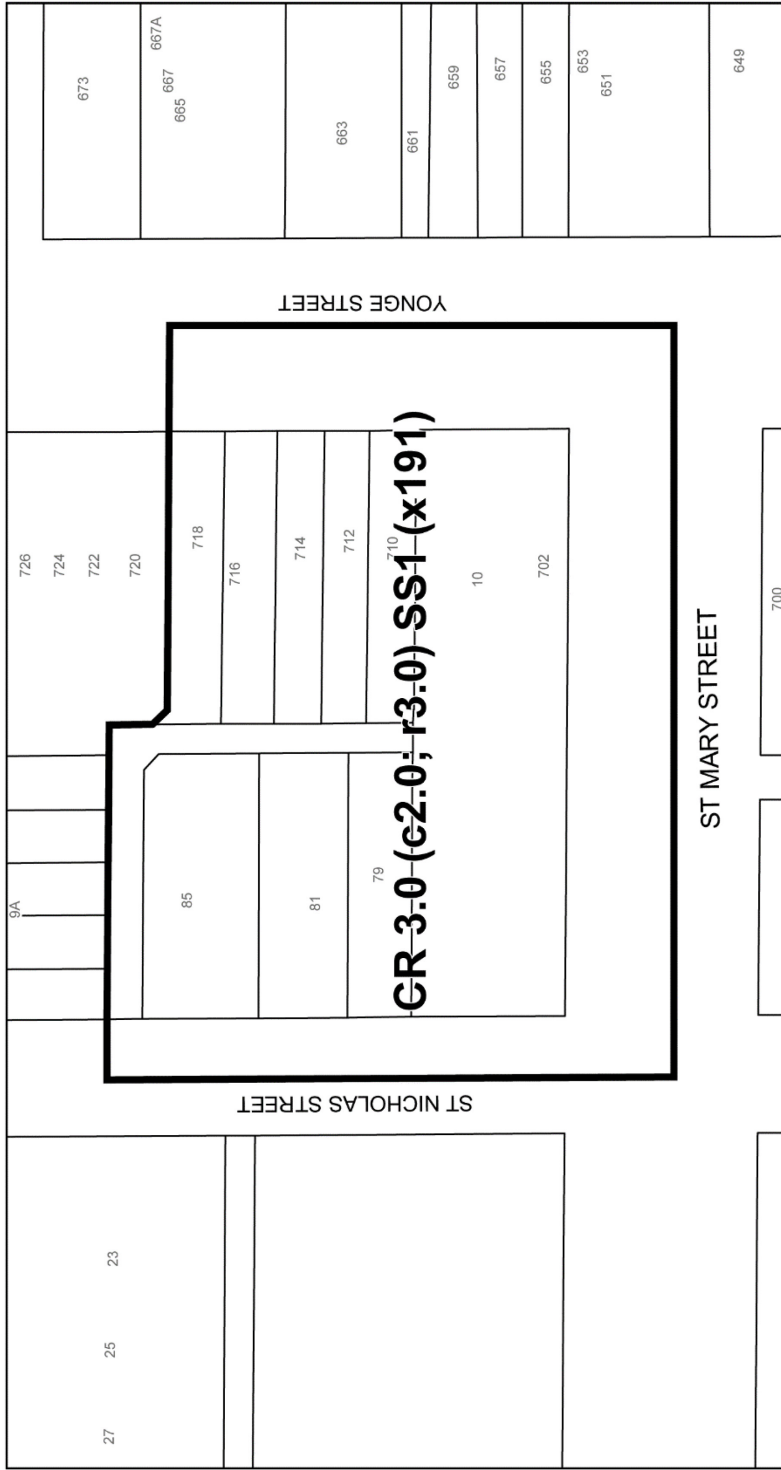
Toronto
Diagram 1

10 St. Mary Street

File # 14 208729 STE 27 0Z



City of Toronto By-law 569-2013
Not to Scale
5/16/2019



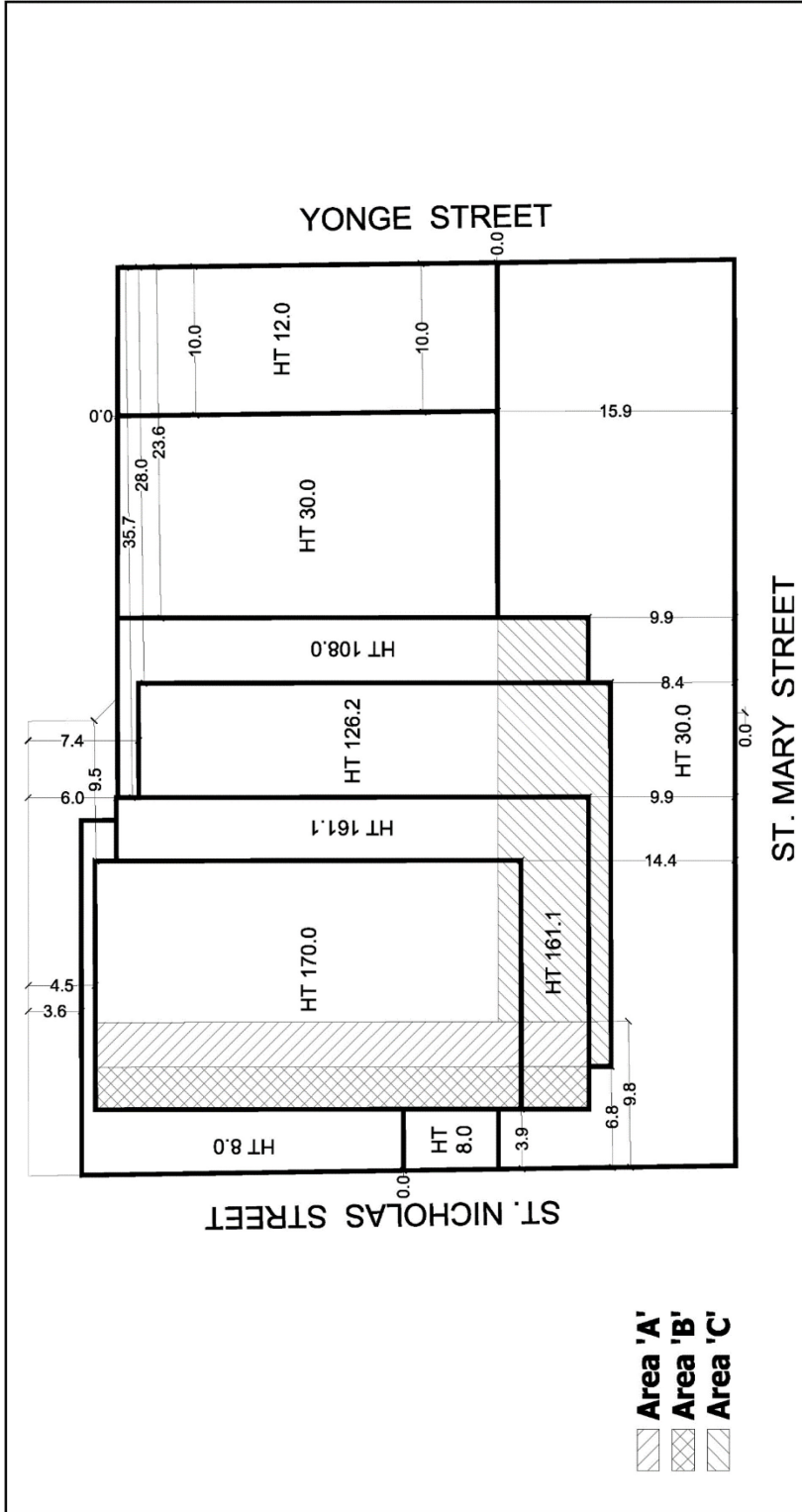
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Diagram 2

10 St. Mary Street

File # 14 208729 STE 27 0Z



City of Toronto By-law 569-2013
Not to Scale
5/16/2019



10 St. Mary Street

File # 14 208729 STE 27 0Z

Toronto
Diagram 3

City of Toronto By-law 569-2013
Not to Scale
5/16/2019

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 and density of the proposed development on the lands shown as CR 3.0(C2.0; r3.0) SS1 (x191) on Diagram 2 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 Schedule have not been used for the intended purpose within three (3) years of the date of approval of By-law 853-2020(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 Schedule 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 Schedule, 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.