

Authority: Local Planning Appeal Tribunal
Decision issued March 17, 2020 and Order issued
September 15, 2020 in Tribunal File PL180340

CITY OF TORONTO

BY-LAW 898-2020(LPAT)

To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2019 as 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street.

Whereas the Local Planning Appeal Tribunal, pursuant to its decision in respect of Tribunal File PL180340 issued on March 17, 2020 after hearing the appeal under subsection Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, and Local Planning Appeal Tribunal Order issued September 15, 2020 in Tribunal File PL180340, deems it advisable to amend former City of Toronto Zoning By-law 438-86, as amended; 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/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 matters as are set out in the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and/or 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/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 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 and/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 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, 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;

By-law 438-86, as amended, of the former City of Toronto is further amended by the Local Planning Appeal Tribunal as follows:

1. Pursuant to Section 37 of the Planning Act, the heights and density of development permitted by this By-law are permitted subject compliance with the conditions set out in

this By-law and in return for the provision by the *owner* of the site 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 site 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 site 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 requirement.
3. Except as otherwise provided herein, the provisions of By-law 438-86, as amended shall continue to apply to the *lot*.
4. None of the provisions of Sections 2(1) with respect to the definition of *bicycle parking space - occupant*, *bicycle parking space - visitor*, *grade*, *height*, *lot*, *non-residential gross floor area*, and *residential gross floor area*, and Sections 4(2)(a), 4(5), 4(8), 4(10), 4(12), 4(13), 4(14), 8(3) Part I, 8(3) Part II, 8(3) Part III, 12(2)132, 12(2)259, 12(2)260, and 12(2)380 of Zoning 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*, including a *temporary sales office* and uses *accessory* thereto, provided that:
 - a. for the purposes of this By-law, the *lot* consists of the lands shown as Part A on Map 1 attached to this By-law;
 - b. the permitted maximum *gross floor area* on the *lot* is 37,500 square metres, of which a maximum of 37,030 square metres of *gross floor area* may be used for residential uses;
 - c. the provision of *dwelling units* is subject to the following:
 - i. a minimum of 25 percent of the total number of *dwelling units* must have two or more bedrooms;
 - ii. a minimum of 10 percent of the total number of *dwelling units* must have three or more bedrooms; and
 - iii. any *dwelling units* with three or more bedrooms provided to satisfy ii. above are not included in the provision required by i. above;
 - d. the permitted maximum *height* of any building or structure, including any mechanical penthouse containing equipment and structures used for the functional operation of the building, is the lesser of:

- i. 176.15 metres;
 - ii. the *height* in metres specified by the number following the HT symbol as shown on Map 2 attached to this By-law; or
 - iii. the maximum *height* resulting from application of the angular plane required by regulation e. below;
- e. despite regulation d. above, no portion of any building or structure may penetrate a 75 degree angular plane projected westward over the *lot*, measured at a line located at the Yonge Street *street* line at the Canadian Geodetic Datum elevation of 125.6 metres;
- f. the following elements of a building may project above the permitted maximum *height* in Map 2 attached to this By-law, provided that no portion of a building or structure may penetrate into the angular plane required by regulation e. above;
- i. window washing equipment, stairs, stair towers, stair enclosures, architectural features, parapets, lightning rods, and elevator overruns may project above the *height* limits to a maximum of 6.0 metres; and
 - ii. trellises, pergolas, railings, cornices, lighting fixtures, ornamental elements, planters, partitions dividing outdoor amenity spaces, guard rails, wheelchair ramps, fences, screens, structures associated with a green roof, and unenclosed structures providing safety or wind protection to rooftop amenity space may project above the *height* limits to a maximum of 3.0 metres;
- g. the permitted maximum number of *storeys* in a building is 55;
- h. for the purposes of regulation g. above, a partial *mezzanine* level located above the first floor and below the second floor of a building, with a maximum *gross floor area* of 950 square metres is not a *storey*;
- i. the required minimum building setbacks for a building or structure are shown on Map 2 attached to this by-law;
- j. the following may encroach into the required minimum building setbacks on Map 2 attached to this By-law, provided that no portion of a building or structure may penetrate into the angular plane required by regulation e. above;
- i. balconies may encroach up to a maximum of 1.5 metres only within the balcony projection areas shown on Map 2 attached to this By-law; and
 - ii. canopies, cornices, lighting fixtures, awnings, ornamental elements, trellises, eaves, window sills, architectural features, planters, guardrails, balustrades, railings, stairs, stair enclosures, wheelchair ramps, vents,

underground garage ramps, fences, balcony screens and landscape features may encroach up to a maximum of 1.5 metres;

- k. *residential amenity space* must be provided at a minimum rate of:
 - i. 2.0 square metres per *dwelling unit* of indoor *residential amenity space*;
 - ii. 1.3 square metres per *dwelling unit* of outdoor *residential amenity space*; and
 - iii. *residential amenity space* may include up to 3 guest suites which do not constitute *dwelling units* for the purposes of this By-law;

- l. *parking spaces* must be *provided* and maintained in accordance with the following:
 - i. a *minimum* of 0.15 *parking spaces* per *dwelling unit* must be provided for the use of residents of the *mixed use building*;
 - ii. a minimum of 0.045 *parking spaces* per *dwelling unit* must be provided for visitors with or without a fee; and
 - iii. no *parking spaces* are *required* for non-residential uses in the *mixed use building*;

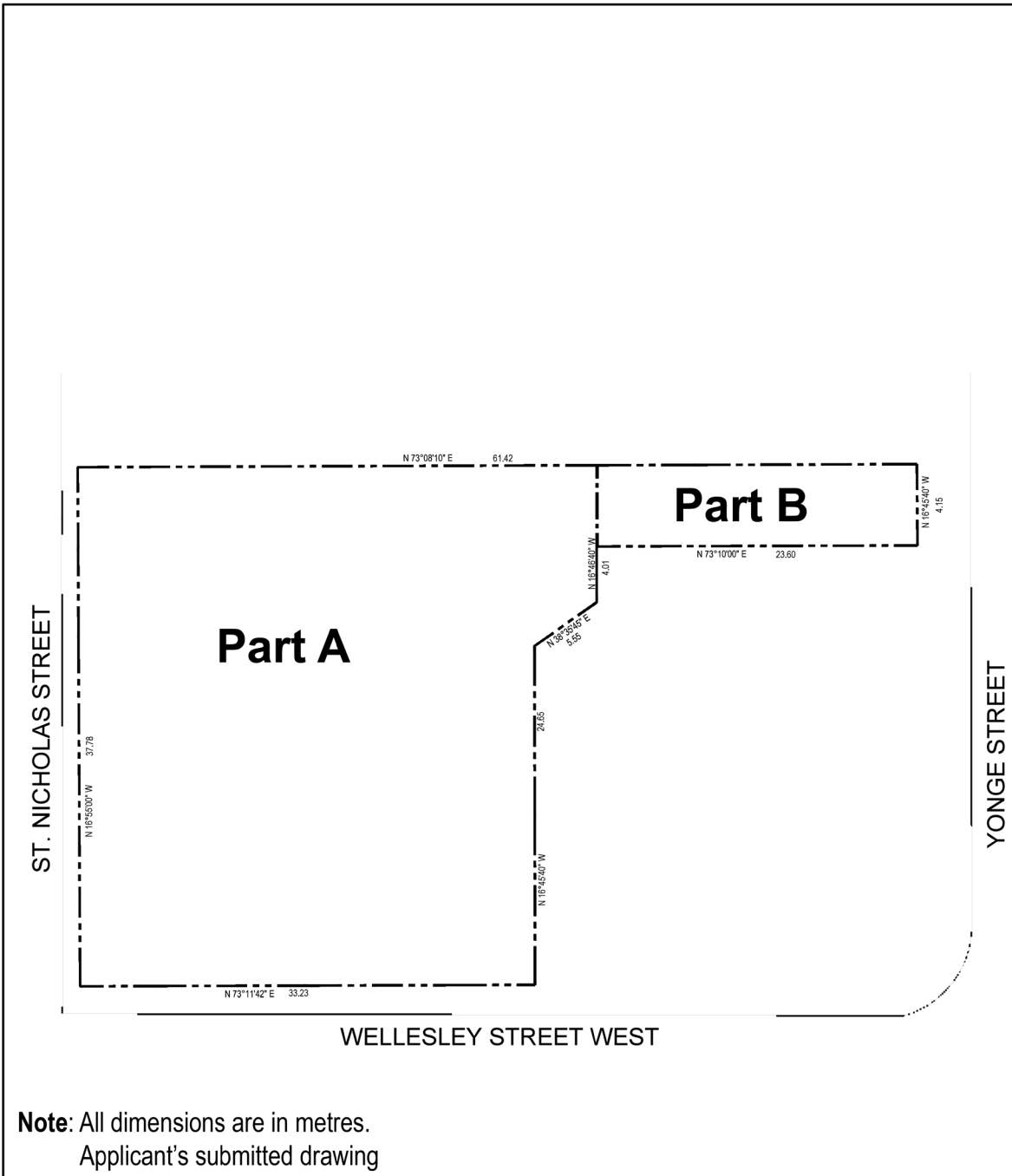
- m. a *maximum* of 15 parking spaces may be obstructed on one or two sides in accordance with Section 4(17)(e) without a requirement to increase the minimum width by 0.3 metres;

- n. a minimum of one *loading space - type G* and one *loading space - type C* must be provided;

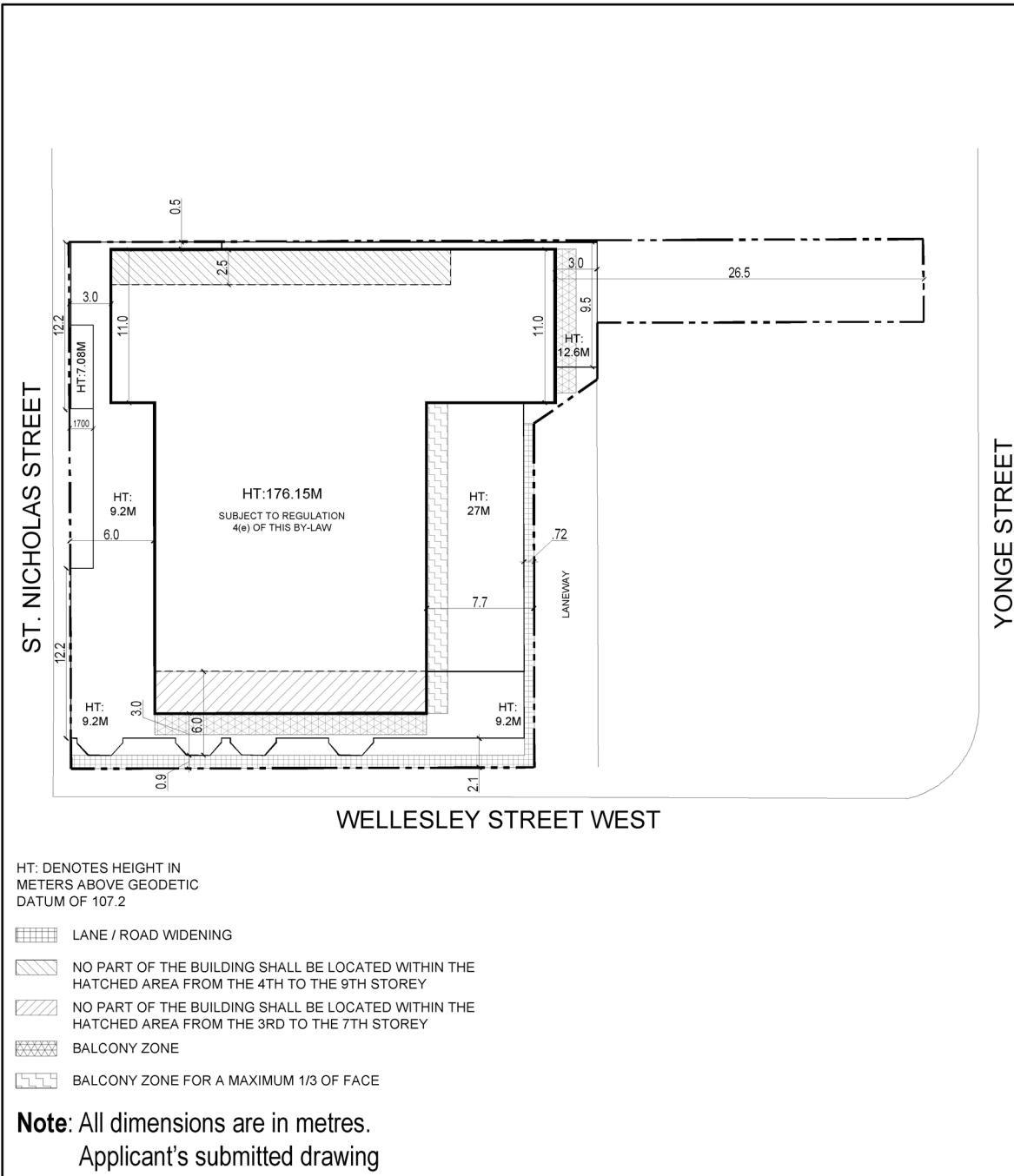
- o. *bicycle parking spaces* must be provided and maintained in accordance with the following:
 - i. a minimum of 0.9 *bicycle parking spaces - occupant* per dwelling unit;
 - ii. a minimum of 0.1 *bicycle parking spaces - visitor* per dwelling unit;
 - iii. both *bicycle parking spaces - occupant* and *bicycle parking spaces - visitor* may be provided in a *stacked bicycle parking space*;
 - iv. *bicycle parking spaces - visitor* may be located indoors or outdoors in an enclosed or secured room or enclosure;
 - v. the minimum dimensions of a *bicycle parking space* if placed in a horizontal position is:

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- A. minimum length of 1.8 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum vertical clearance from the ground of 1.9 metres, or 1.2 metres for each *bicycle parking space* if a *stacked bicycle parking space* is provided;
- vi. the minimum dimensions of a *bicycle parking space* if placed in a vertical position on a wall, structure or mechanical device is:
 - A. minimum length or vertical clearance of 1.9 metres;
 - B. minimum width of 0.6 metres; and
 - C. minimum horizontal clearance from the wall of 1.2 metres;
 - vii. despite regulations v. and vi. above, if a *stacked bicycle parking space* is provided in a mechanical device where any portion of a bicycle is situated above or below any portion of an adjacent bicycle, the minimum required width of each such *stacked bicycle parking space* is 0.35 metres;
- p. a *bicycle parking space - occupant* may be located adjacent to and within 0.3 metres of a *parking space* provided that the *bicycle parking space - occupant* does not encroach into the *parking space* and such parking space is not considered to be obstructed in accordance with Section 4(17)(e) provided that no portion of the adjacent *bicycle parking space - occupant* is situated more than 1.2 metres from the front or rear of the *parking space*;
5. None of the provisions of this By-law and By-law 438-86 shall apply to prevent a *"temporary sales office"* on the lot;
6. For the purposes of this By-law:
- a. *"bicycle parking space – occupant"* means a *bicycle parking space* for the use of occupants or tenants of a building;
 - b. *"bicycle parking space – visitor"* means a *bicycle parking space* for use by visitors to a building;
 - c. *"grade"* means 107.2 metres Canadian Geodetic Datum;
 - d. *"gross floor area"* means the sum of the total area of each floor level of a building or structure above and below finished ground level, measured from the exterior main wall of each floor level, exclusive of any areas in a building or structure used for:
 - i. *parking spaces* and loading facilities below *grade*;

- ii. required loading facilities at the ground level;
 - iii. storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms below *grade*;
 - iv. facilities for bicycle parking, including the area occupied by *bicycle parking spaces* and required shower and change facilities;
 - v. indoor residential *amenity space*;
 - vi. elevator shafts, garbage shafts;
 - vii. mechanical penthouses; and
 - viii. exit stairwells in the building or structure;
- e. "*height*" means the vertical distance between *grade* and the highest point of the building or structure, subject to permitted projections;
- f. "*lot*" means those lands shown as Part A on Map 1 attached to this By-law;
- g. "*stacked bicycle parking space*" means a *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*; and
- h. "*temporary sales office*" means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of *dwelling units* to be erected on the lot and/or the administration and management of construction activity related to construction on the *lot*.
7. 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.
8. 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 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.



6 - 16 Wellesley Street West, 5 - 7 St. Nicholas Street
 And 586 Yonge Street
 File # 17 267875 STE 27 0Z



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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/or density of the proposed development on the lands as shown in Map 1 in 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. Prior to the issuance of the first above-grade building permit, except for issuance of a building permit solely for the demolition, excavation, shoring or foundation of a building, a building permit for the construction of a temporary sales centre or a building permit for repairs, maintenance and usual and minor works, the *owner* shall pay to the City the sum of \$8,000,000.00 to be allocated toward affordable housing, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. The cash contributions outlined in (1) above are to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication 327-0058, or its successor, and calculated from the date that the Section 37 Agreement is registered on title.
3. In the event any portion of the cash contribution has not been used for the intended purposes within three (3) years of the date of execution of the section 37 agreement, such cash contribution may be redirected for another purpose at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, provided that the new purpose is identified in the City's Official Plan and will benefit the community in the vicinity of the lands outlined by heavy lines on Map 1 attached to this By-law.
4. The *owner* shall enter into an appropriate agreement or restriction, satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor, to limit future redevelopment on the Yonge Street portion of the *owner's* lands at 586/586A Yonge Street.