

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 899-2020(LPAT)

To amend Zoning By-law 569-2013, 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 on September 15, 2020 in Tribunal File PL180340, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013; 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 569-2013, 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;

The Local Planning Appeal Tribunal enacts:

1. The lands subject to this By-law are outlined by heavy 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 municipally known in the year 2019 as 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street, shown as Part A on Diagram 1, to CR (x290) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013 as amended, is further amended by adding Exception Number CR (x290) to Article 900.11.10 so that it reads:

Exception CR (x290)

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 6-16 Wellesley Street West, 5-7 St. Nicholas Street and 586 Yonge Street, if the requirements of Section 6 and Schedule A of By-law 899-2020(LPAT) are complied with then a **mixed use building** may be constructed, used or enlarged in compliance with Sections (B) to (X) below;
- (B) For the purposes of this exception, the **lot** comprises the lands shown as Part A on Diagram 1 of By-law 899-2020(LPAT);
- (C) Despite regulations 40.5.1.10(3) and 40.10.40.40(1), the permitted maximum **gross floor area** of the **mixed use building** is 37,500 square metres, of which a maximum of 37,030 square metres of **gross floor area** may be used for residential uses;
- (D) 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;
- (E) Despite regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the vertical distance between the Canadian Geodetic Datum elevation of 107.2 metres and the highest point of the **building** or **structure**;

- (F) Despite regulations 40.5.40.10(4) and (5), and 40.10.40.10(1), 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** described in 40.5.40.10(4), is the lesser of:
- (i) 176.15 metres;
 - (ii) the height in metres specified by the number following the HT symbol as shown on Diagram 3 of By-law 899-2020; or
 - (iii) the maximum height resulting from application of the **angular plane** required by regulation (G) below;
- (G) Despite regulation (F) 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 **lot line** at the Canadian Geodetic Datum elevation of 125.6 metres;
- (H) Despite regulations 40.5.40.10(4) to (7) and (F) above, the following elements of a **building** may project above the permitted maximum height in Diagram 3 of By-law 899-2020(LPAT), provided that no portion of a **building** or **structure** may penetrate into the **angular plane** required by regulation (G) 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;
- (I) Despite regulation 40.10.40.10(7), the permitted maximum number of **storeys** in a **building** is 55;
- (J) For the purposes of regulation (I) 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**;
- (K) Despite regulations 40.5.40.70 and 40.10.40.70(1), the required minimum **building setbacks** for a **building** or **structure** are shown on Diagram 3 of By-law 899-2020(LPAT);
- (L) Despite clause 40.10.40.60 and regulation (K) above, the following may encroach into the required minimum **building setbacks** on Diagram 3 of

By-law 899-2020(LPAT), provided that no portion of a **building** or **structure** may penetrate into the **angular plane** required by regulation (G) above;

- (i) balconies may encroach up to a maximum of 1.5 metres only within the balcony projection areas shown on Diagram 3 of By-law 899-2020(LPAT); 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;
- (M) Despite regulation 40.10.40.50(1), **amenity space** must be provided at a minimum rate of:
- (i) 2.0 square metres per **dwelling unit** of indoor **amenity space**;
 - (ii) 1.3 square metres per **dwelling unit** of outdoor **amenity space**; and
 - (iii) **amenity space** may include up to 3 guest suites which do not constitute **dwelling units** for the purposes of this exception;
- (N) Despite regulations 40.10.90.40(1) and (3) and 40.10.100.10(1), **vehicle** access to the lands, including **vehicle** access to a **loading space**, may be from St. Nicholas Street;
- (O) Despite clause 200.5.10.1 and Table 200.5.10.1, **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**;
- (P) Despite regulation 200.5.1.10(2)(A)(iv), a maximum of 15 **parking spaces** may be obstructed on one or two sides in accordance with 200.5.1.10(2)(D) without a requirement to increase the minimum width by 0.3 metres;
- (Q) Regulations 200.15.1.5(1) and 200.15.1(4) with respect to the location of accessible **parking spaces** do not apply;
- (R) Despite regulation 220.5.10.1(2), a minimum of one Type "G" **loading space** and one Type "C" **loading space** must be provided;

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- (S) Despite regulations 230.5.1.10(4) and (10), **bicycle parking spaces** must be provided and maintained in accordance with the following:
- (i) a minimum of 0.9 long-term **bicycle parking spaces** per **dwelling unit**;
 - (ii) a minimum of 0.1 short-term **bicycle parking spaces** per **dwelling unit**;
 - (iii) both long-term and short-term **bicycle parking spaces** may be provided in a **stacked bicycle parking space** and for the purposes of this exception a **stacked bicycle parking space** may include horizontal or vertical **bicycle parking spaces**;
 - (iv) short-term **bicycle parking spaces** may be located indoors or outdoors in an enclosed or secured room or enclosure; and
 - (v) despite regulation 230.5.1.10(4), 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;
- (T) A long-term **bicycle parking space** may be located adjacent to and within 0.3 metres of a **parking space** provided that the **bicycle parking space** does not encroach into the **parking space** and such **parking space** is not considered to be obstructed in accordance with regulation 200.5.1.10(2)(D) provided that no portion of the adjacent **bicycle parking space** is situated more than 1.2 metres from the front or rear of the **parking space**;
- (U) Regulation 230.5.1.10(9) with respect to the location of long-term **bicycle parking spaces** does not apply;
- (V) Regulation 230.40.1.20(2) with respect to the location of short-term **bicycle parking spaces** does not apply;
- (W) Article 600.10.10 Building Setback Overlay District "A", does not apply; and
- (X) Prevailing Section 12(2) 132 of former City of Toronto By-law 438-86 does not apply.

Prevailing By-laws and Prevailing Sections:

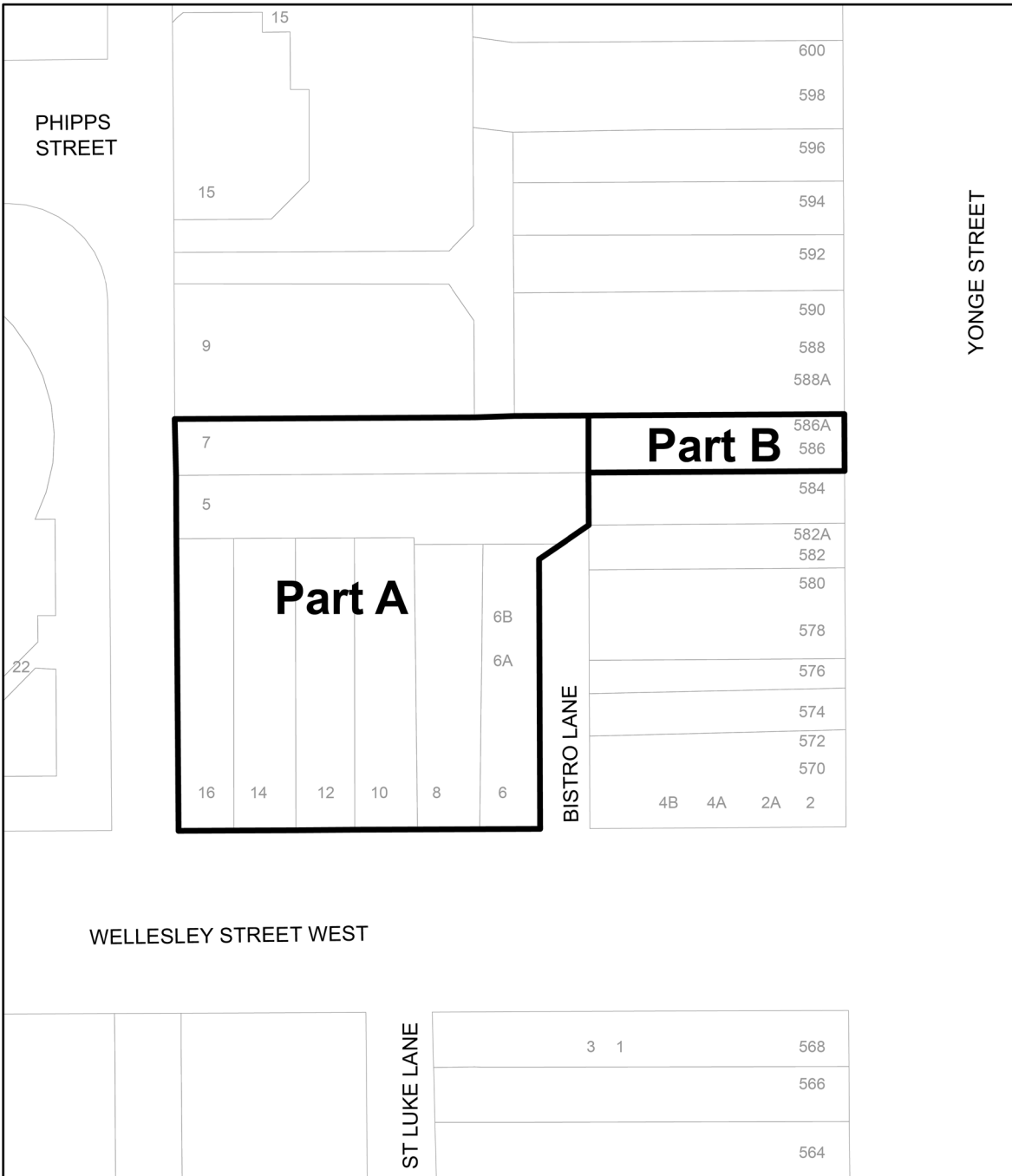
- (A) Section 12(2) 132 of former City of Toronto By-law 438-86;

5. Despite any severance, partition or division of lands, the provisions of this By-law apply to the whole of the lands as if no severance, partition or division occurred.

6. Section 37 Provisions

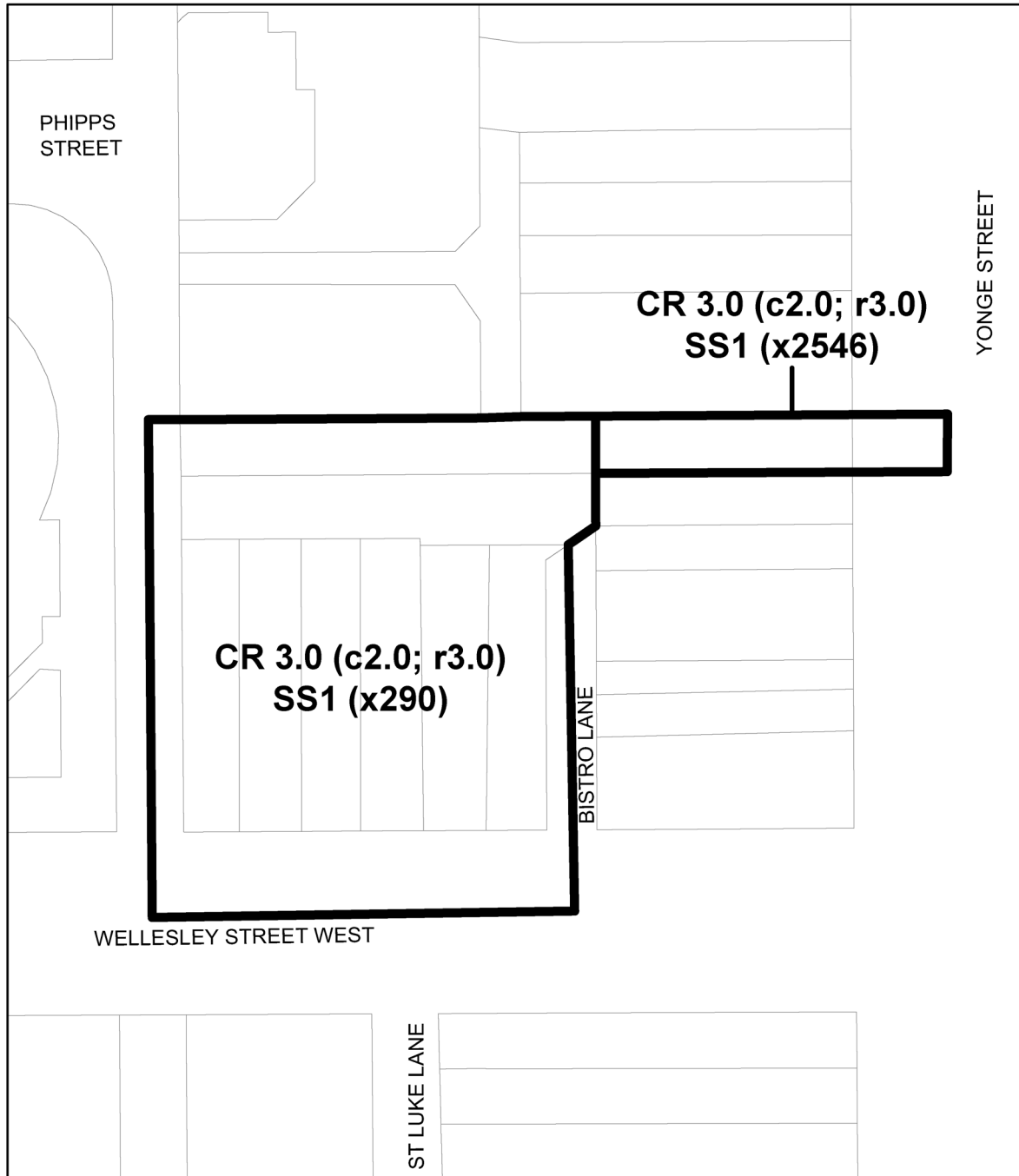
- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, 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.
- (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.
- (C) 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 Schedule A are satisfied.

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



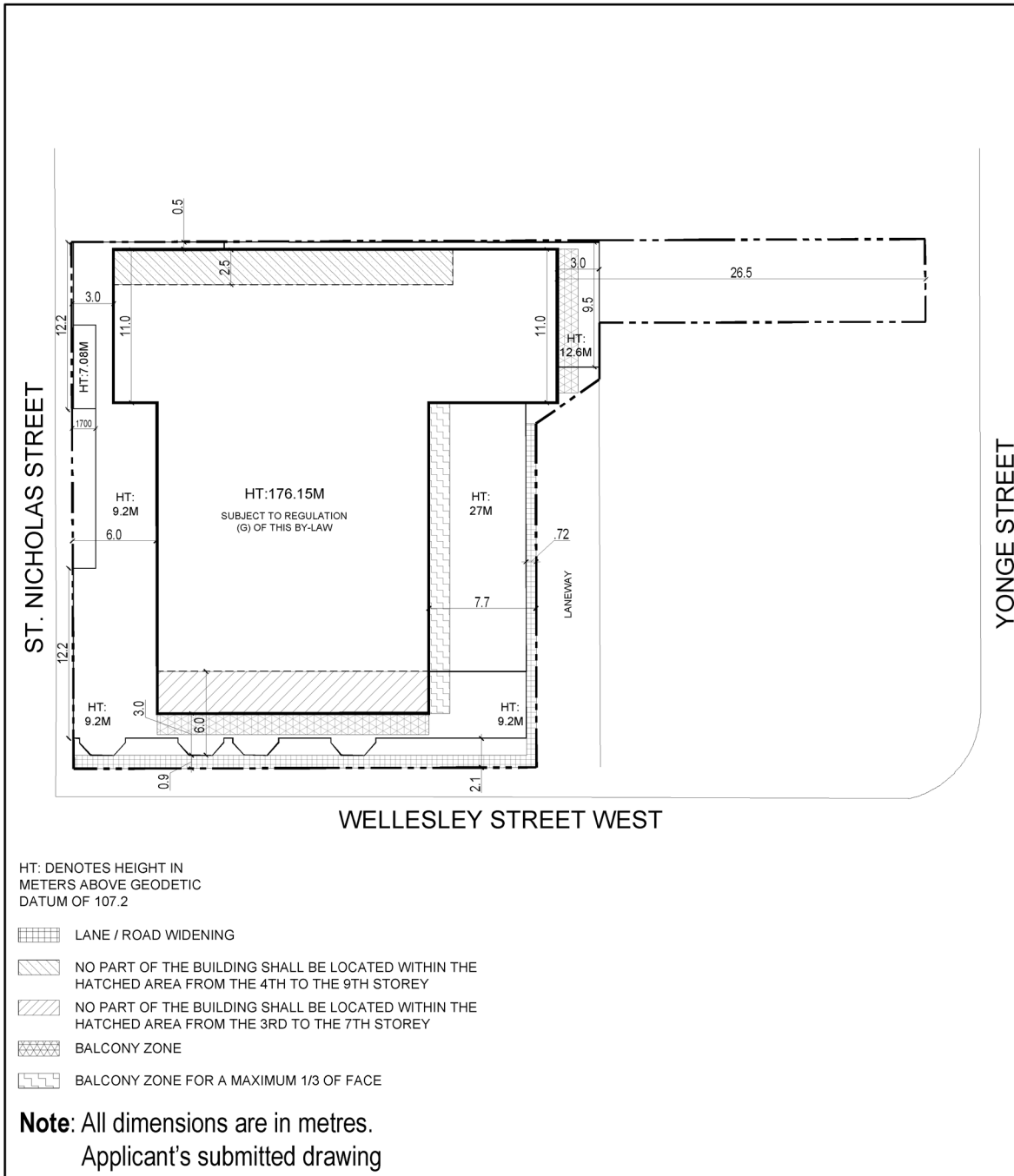
 **TORONTO**
Diagram 1

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



 **TORONTO**
Diagram 2

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



6 - 16 Wellesley Street West, 5 - 7 St. Nicholas Street
And 586 Yonge Street
File # 17 267875 STE 27 02

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/or density of the proposed development on the lands as shown in Diagram 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 Diagram 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.