

Authority: Toronto and East York Community Council
Item TE34.37, adopted as amended, by City of Toronto
Council on July 19, 20, 21 and 22, 2022

CITY OF TORONTO

BY-LAW 1047-2022

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 462 Wellington Street West and a portion of 489-539 King Street West.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; 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 provisions relating to the authorization of increases in height and density of development; and

Whereas Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) of the Planning Act as it read on the day before Section 1 of Section 17 to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37 (1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; and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 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 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 Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1, when read with Diagram 7, 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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10, and applying the following zone label to these lands: CRE (46) as shown on Diagram 2, when read with Diagram 7, attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Article 995.10.1 and applying the following Policy Area label to these lands: PA1, as shown on Diagram 3 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands to the Height Overlay Map in Article 995.20.1, and applying the following height label to these lands: HT 23, as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands to the Lot Coverage Overlay Map in Article 995.30.1, and applying no value.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands to the Rooming House Overlay Map in Article 995.40.1, and applying the following rooming house label to these lands: B3, as shown on Diagram 5 attached to this By-law.
8. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.12.10 Exception Number 46 so that it reads:

(46) Exception CRE 46

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 462 Wellington Street West and part of 489-539 King Street West, if the requirements of By-law 1047-2022 are complied with, a **mixed use building** containing a **nursing home, residential care home** or "retirement home" with **bedsitting rooms** and/or **dwelling units** may be constructed, used or enlarged in compliance with Regulations (B) to (X) below;
- (B) For the purpose of this exception, "retirement home" means **premises** used for semi-independent living accommodation for senior citizens in **bed-sitting rooms** and/or **dwelling units**, with common dining and lounge areas;

- (C) Despite Regulations 50.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 86.48 metres and the elevation of the highest point of the **building** or **structure**;
- (D) Despite Regulation 50.10.40.10(1) and (2), the permitted maximum height of a **building** or **structure** is the number in metres following the letters "HT" as shown on Diagram 6 of By-law 1047-2022;
- (E) Despite Regulations 50.5.40.10(3) to (8), 50.10.40.10 (3) and (D) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 6 of By-law 1047-2022:
- (i) enclosed stairwells, roof access, elevator overruns, maintenance equipment storage, elevator shafts, by a maximum of 3 metres;
 - (ii) architectural features, parapets, and elements and **structures** associated with a **green roof**, lighting fixtures, planters and landscape features by a maximum of 2 metres;
 - (iii) window washing equipment, flagpoles, and telecommunications equipment, by a maximum of 5 metres; and
 - (iv) trellises, pergolas, unenclosed **structures** providing safety or wind protection to rooftop **amenity spaces**, guard rails and railings, privacy and or divider screens and partitions on a balcony and/or terrace by a maximum of 3 metres;
- (F) Despite Regulations 50.5.40.10 (4) (A), and 50.10.40.10.3(A) and (E), mechanical equipment is not permitted to exceed the maximum permitted height on Diagram 6 of By-law 1047-2022 and must be wholly enclosed within the **building** envelope shown on Diagram 6 of By-law 1047-2022;
- (G) Despite Regulation 50.5.1.10 (3), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 22,360 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 14,790 square metres provided that the residential uses include a "retirement home", **nursing home** or **residential care home** with **bedsitting rooms** and/or **dwelling units**;
 - (ii) the permitted maximum **gross floor area** for non-residential uses is 7,570 square metres;
- (H) Despite (G) (i) above, a maximum number of 29 **dwelling units** is permitted on the **lot**;

- (I) In addition to Regulation 50.5.40.40(3), the **gross floor area** of a mixed use **building** is also reduced by the area in the **building** used for mechanical equipment, provided it is wholly enclosed within the **building**;
- (J) Despite Clauses 50.10.40.70, 50.10.40.71, 50.10.40.80 and 50.10.40.81 the required minimum **building setbacks** are shown in metres on Diagram 6 of By-law 1047-2022;
- (K) A required minimum ground floor **building setback** of 1.6 to 2.0 metres must be provided on the east side of the **building** from the east **lot line** as shown in metres by the dashed line on Diagram 6 of By-law 1047-2022;
- (L) A required minimum seventh floor **building setback** of 2.6 metres must be provided on the east side of the **building** from the east **lot line** as shown in metres by the dashed line on Diagram 6 of By-law 1047-2022;
- (M) A required minimum seventh floor **building setback** of 7.0 metres must be provided on the south side of the **building** from the south **lot line** as shown in metres by the dashed line on Diagram 6 of By-law 1047-2022;
- (N) Despite Regulation 5.10.40.70 (1) and Clause 50.10.40.60, the following elements may encroach into the required minimum **building setbacks** as follows:
- (i) balconies, guards, dividers, windscreens, railings, balustrades, art installations, landscape features, architectural elements, bay windows, pilasters, pillars, columns, wheel chair ramps, elements or **structures** used for outdoor or open-air recreation or **green roof** to a maximum of 1.5 metres;
 - (ii) porches, decks, canopies and awnings up to a maximum of 2.5 metres; and
 - (iii) window projections, sills, light fixtures, eaves, cornices and signage up to a maximum of 0.5 metres;
- (O) Despite Regulations 50.10.80.1(3), 200.5.10.1(1), Table 200.5.10.1, and Regulation 200.5.200.50(1), a minimum of 22 **parking spaces** must be provided and maintained on the **lot**;
- (P) If a **parking space** is provided as a stacked **parking space**, the elevating device is not considered an obstruction, as described in Regulation 200.5.1.10 (2) (D), and additional width for the **parking space** is not required;
- (Q) Despite Regulation 200.5.1.10(2)(D), electric **vehicle** charging equipment is not considered an obstruction provided that the equipment is located in the same **parking space** as the **vehicle** to be charged, and

- (i) is within 0.25 metres of two adjoining sides of the **parking spaces** which are not adjacent and parallel to the **drive aisle** from which **vehicle** access is provided, measured at right angles; or
 - (ii) is at least 5.35 metres from a **drive aisle** from which **vehicle** access is provided measures at rights angles, and at least 1.0 metre from the ground.
- (R) Despite Clause 220.5.10.1, **loading spaces** must be provided and maintained on the **lot** as follows:
 - (i) A minimum of one Type "B" **loading space**; and
 - (ii) A minimum of one Type "C" **loading space**;
- (S) Despite Regulation 230.5.1.10(9)(A)(iii) and (B) (iii) required "long term" **bicycle parking spaces** for all uses, may be located on any level of the **building** below ground regardless of how much floor area is occupied by **bicycle parking spaces**;
- (T) Despite Regulation 230.50.1.20(1) "short term" **bicycle parking spaces** may be located up to 70 metres from the pedestrian entrance to the **building** on the **lot** and in the "privately owned publicly-accessible open space" at the rear of the **lot** as described in (V) below;
- (U) Despite Regulation 230.5.1.10(10), "short-term" **bicycle parking spaces** may also be located in a **stacked bicycle parking space**;
- (V) A "privately owned publicly-accessible open space" with a minimum area of 230 square metres must be provided on the ground level generally as shown within the area identified on Diagram 6 of By-law 1047-2022;
 - (i) for the purpose of this exception, "privately owned publicly-accessible open space" means a space on the **lot** situated at ground level within the area with diagonal lines shown on Diagram 6 of By-law 1047-2022, that is accessible to the public, secured through appropriate legal agreements and may include pedestrian walkways, seating areas, landscaped plaza, short term bicycle parking required by By-law 1047-2022, and ornamental **structures** and is used principally for the purpose of sitting, standing and other recreational uses;
- (W) Section 600.10 Building Setback Overlay District Map does not apply; and
- (X) Regulation 50.10.40.30(1), regarding maximum **building depth**, does not apply.

Prevailing By-laws and Prevailing Sections: None apply

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

10. Section 37 Requirements:

- (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 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 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 and enter into an agreement or agreements 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 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.

Enacted and passed on July 22, 2022.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

SCHEDULE A
Section 37 Requirements

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 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 any building permit, with the exception of demolition, shoring and building permits for construction of a trench, hydro vault/mechanical room and related matters to facilitate expansion of the Enwave network, the owner shall enter into an agreement and the agreement shall be registered on title to the lands to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure facilities, services or matters set out below:
 - (A) Prior to issuance of the first above-grade permit the owner shall make a cash contribution to the City in the amount of nine hundred thousand dollars (\$900,000.00 CAN), to be allocated to the following capital improvements, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor:
 - (i) \$720,000.00 towards the design and construction of the future park at 456 Wellington Street West; and
 - (ii) \$180,000.00 for the provision of new affordable rental housing units in or the capital improvement of existing affordable housing in Ward 10, to be directed towards the City of Toronto's Capital Revolving Fund for Affordable Housing.
 - (B) The Cash Contribution set out in Clause (A) shall 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 Table: 18-10-0135-01, or its successor, calculated from the date City Council adopts the zoning by-law amendment to the date of payment.
 - (C) In the event the Cash Contribution in Clause (A) has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity.

2. The following matters are to be secured in the Section 37 Agreement as legal convenience to support the development of the lands:
- (A) Prior to any non-residential or residential use or occupancy, including interim occupancy, except as otherwise agreed by the Chief Planner and Executive Director, City Planning, due to unforeseen delays (e.g. weather), the owner shall:
 - (i) construct, provide and thereafter maintain a privately owned publicly-accessible open space ("POPS") having a minimum area of 230 square metres generally in the location illustrated with diagonal lines on Diagram 6 of this By-law with the specific location, configuration and design to be determined and secured in the context of site plan approval for the development to the satisfaction of the Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor;
 - (ii) prepare all documents and convey to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, free and clear of encumbrances, for nominal consideration and at no cost to the City, a public access easement in perpetuity in favour of the City over the privately owned publicly-accessible open space on terms set out in the Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning Division; and
 - (iii) be responsible, at its own expense, to prepare, submit to the City for approval and deposit all required reference plans to describe the easement(s) being conveyed in Clause 2 (A) (ii) above.
 - (B) Prior to the commencement of any excavation or shoring work, the owner shall submit a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning, 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 the following construction-related details: noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, parking and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning and General Manager, Transportation Services, in consultation with the Ward Councillor;
 - (C) Prior to the earlier of site plan approval and issuance of the first building permit for all of any portion of the development, the owner shall make satisfactory arrangements with the Chief Engineer and Executive Director, Engineering and Construction Services to pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment in the Functional Servicing and Stormwater Management Report(s), as accepted by the Chief

Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades and/or improvements are required to such infrastructure to support the development; and

- (D) The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of the Toronto Green Standards, applicable at the time of site plan application for each building on the site.

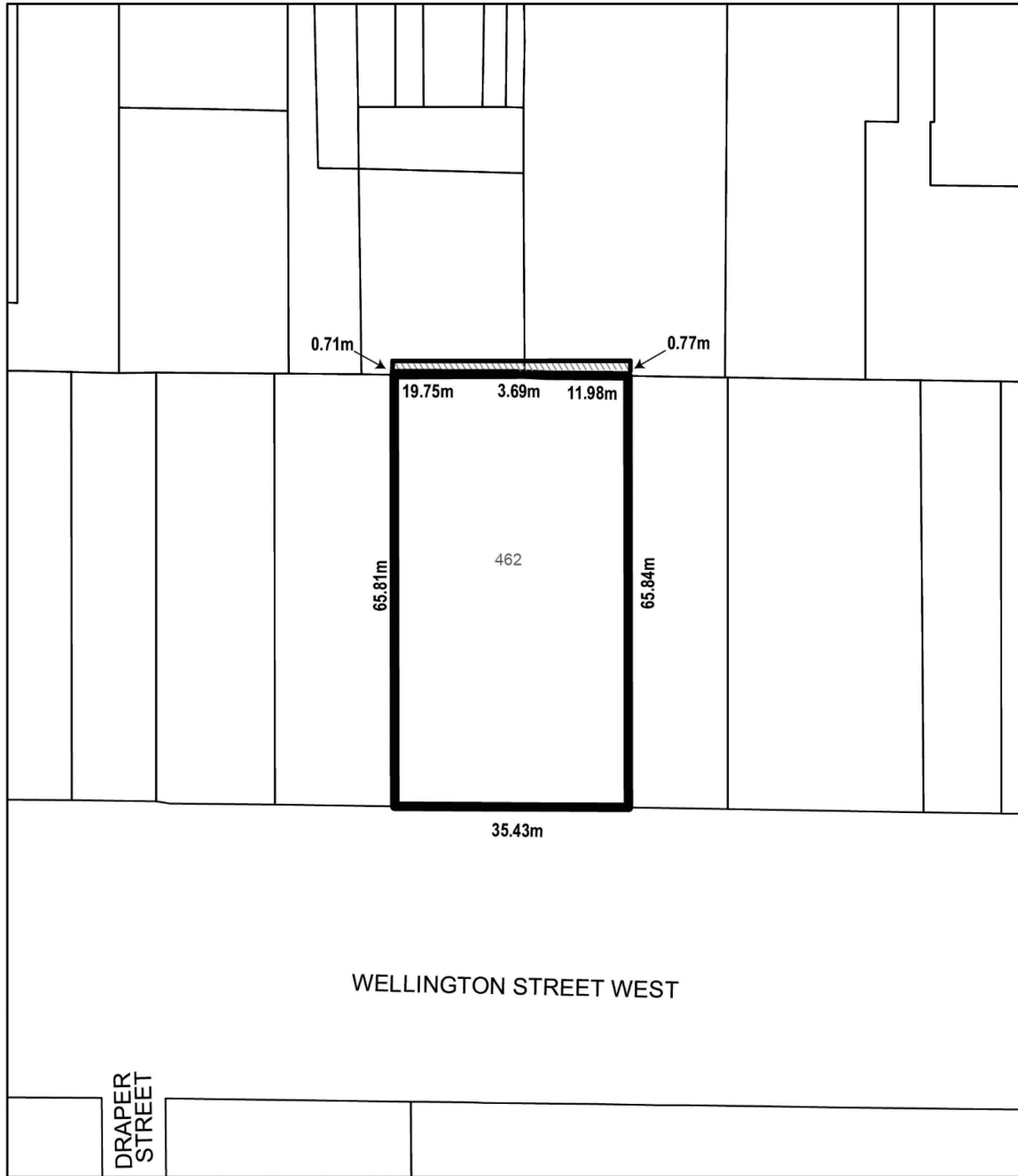


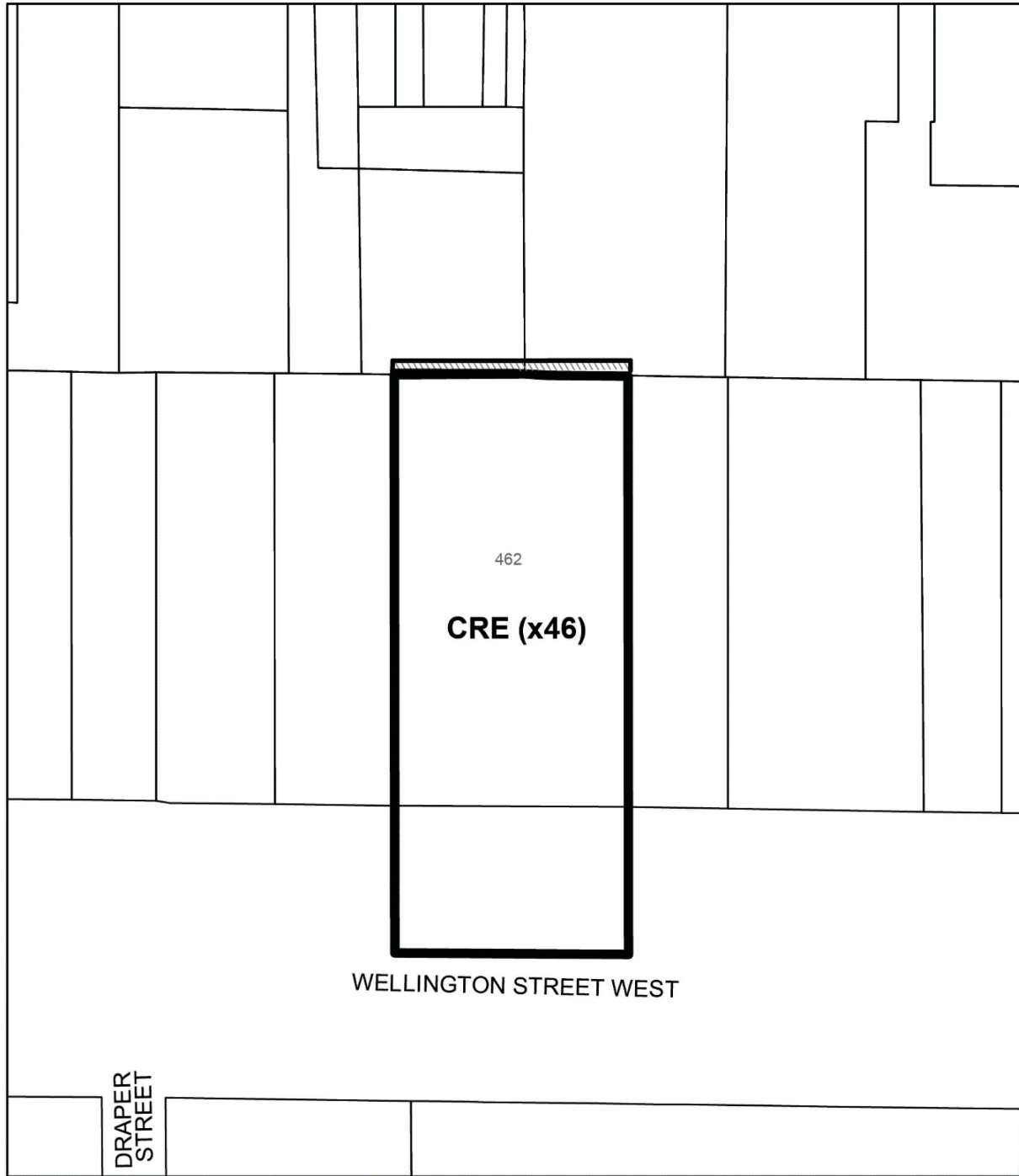



Diagram 1

462 Wellington Street West
& A Portion Of 489-539 King Street West
File #: 19 133227 STE 20 Z2

 To be read in conjunction with Diagram 7;
Below grade permanent easement



City of Toronto By-law 569-2013
Not to Scale
06/27/2022




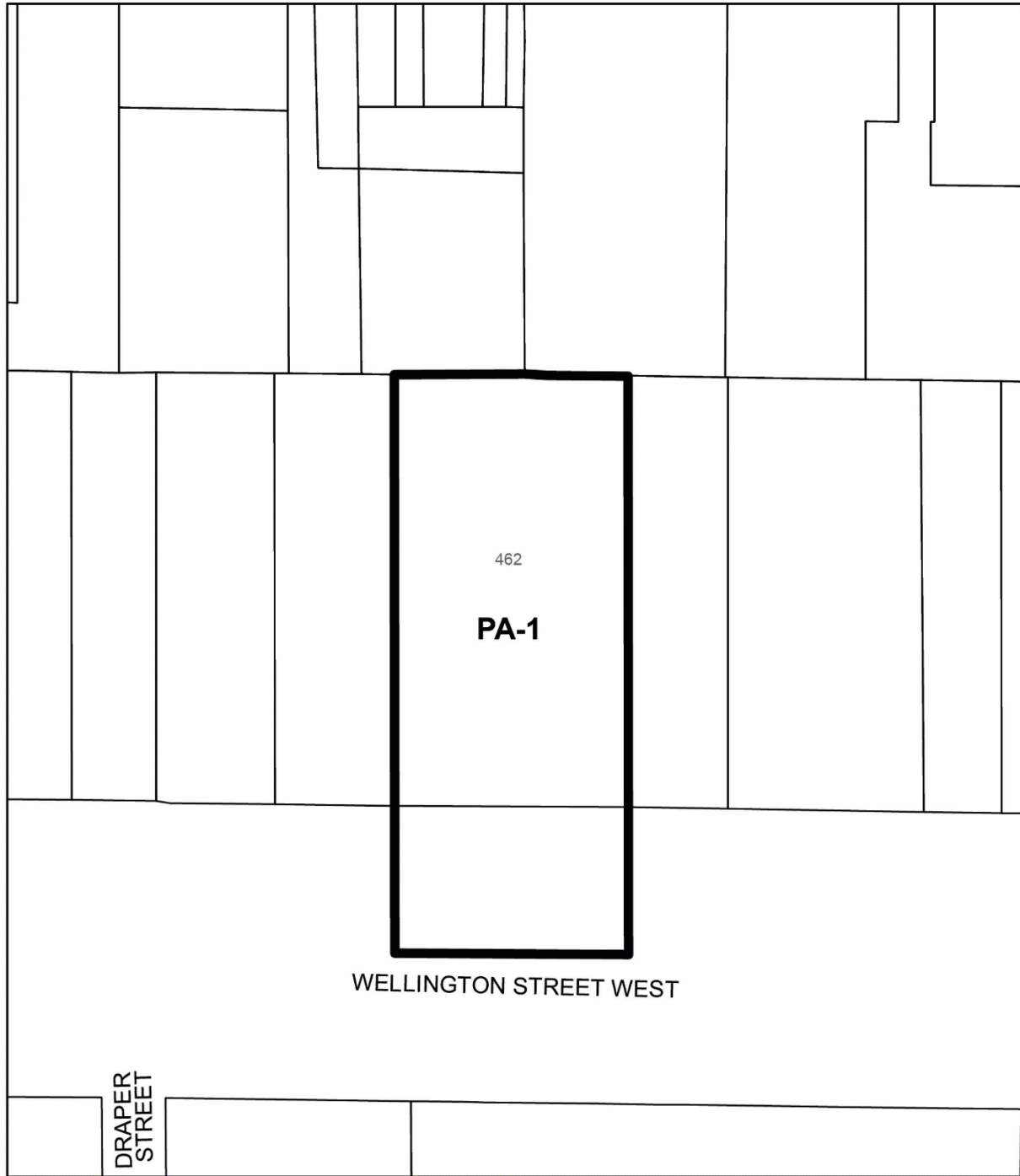
 **TORONTO**
Diagram 2

462 Wellington Street West
& A Portion Of 489-539 King Street West

File #: 19 133227 STE 20 0Z

 To be read in conjunction with Diagram 7;
Below grade permanent easement

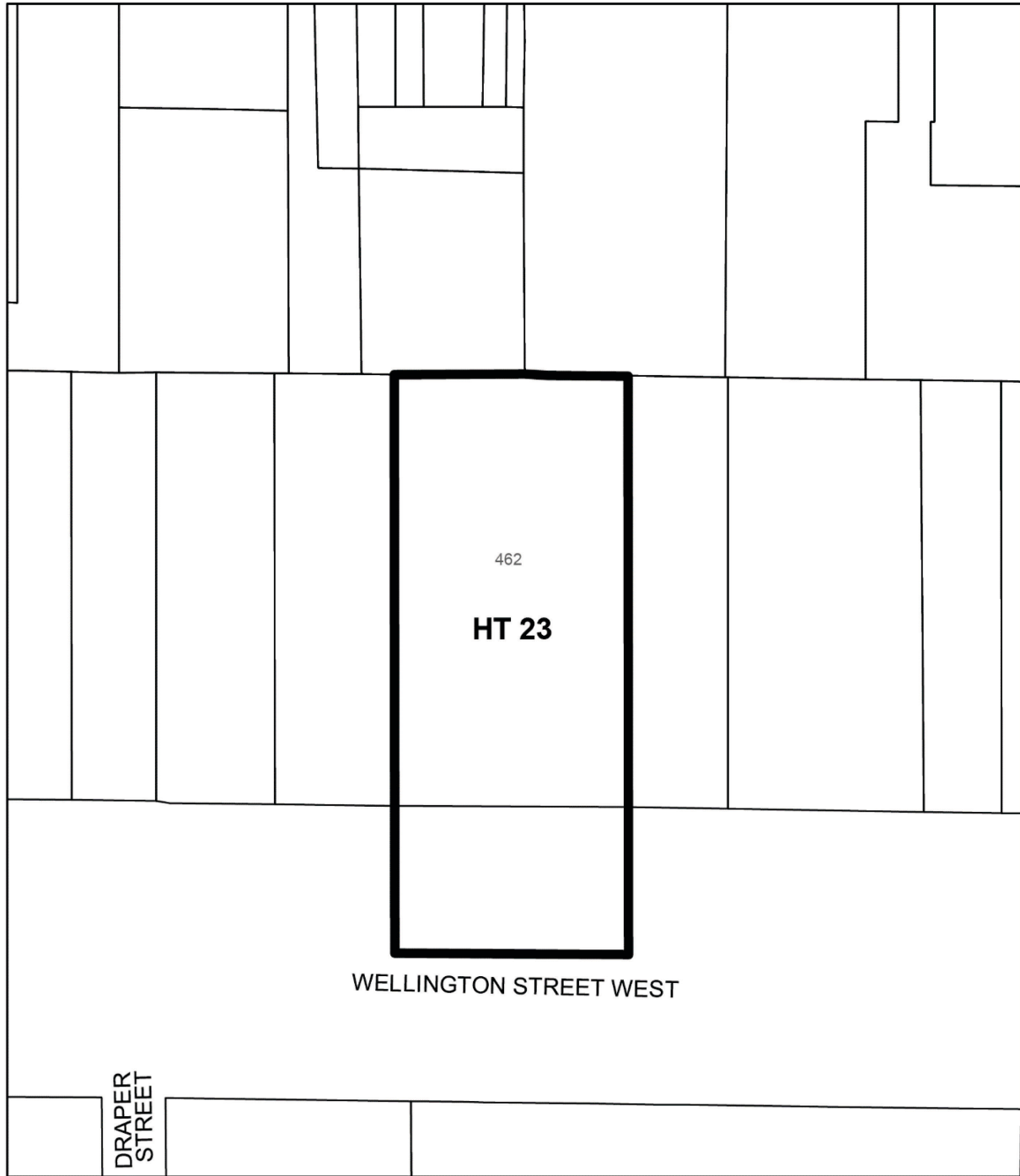

City of Toronto By-law 569-2013
Not to Scale
06/27/2022



 **TORONTO**
Diagram 3

462 Wellington Street West
& A Portion Of 489-539 King Street West

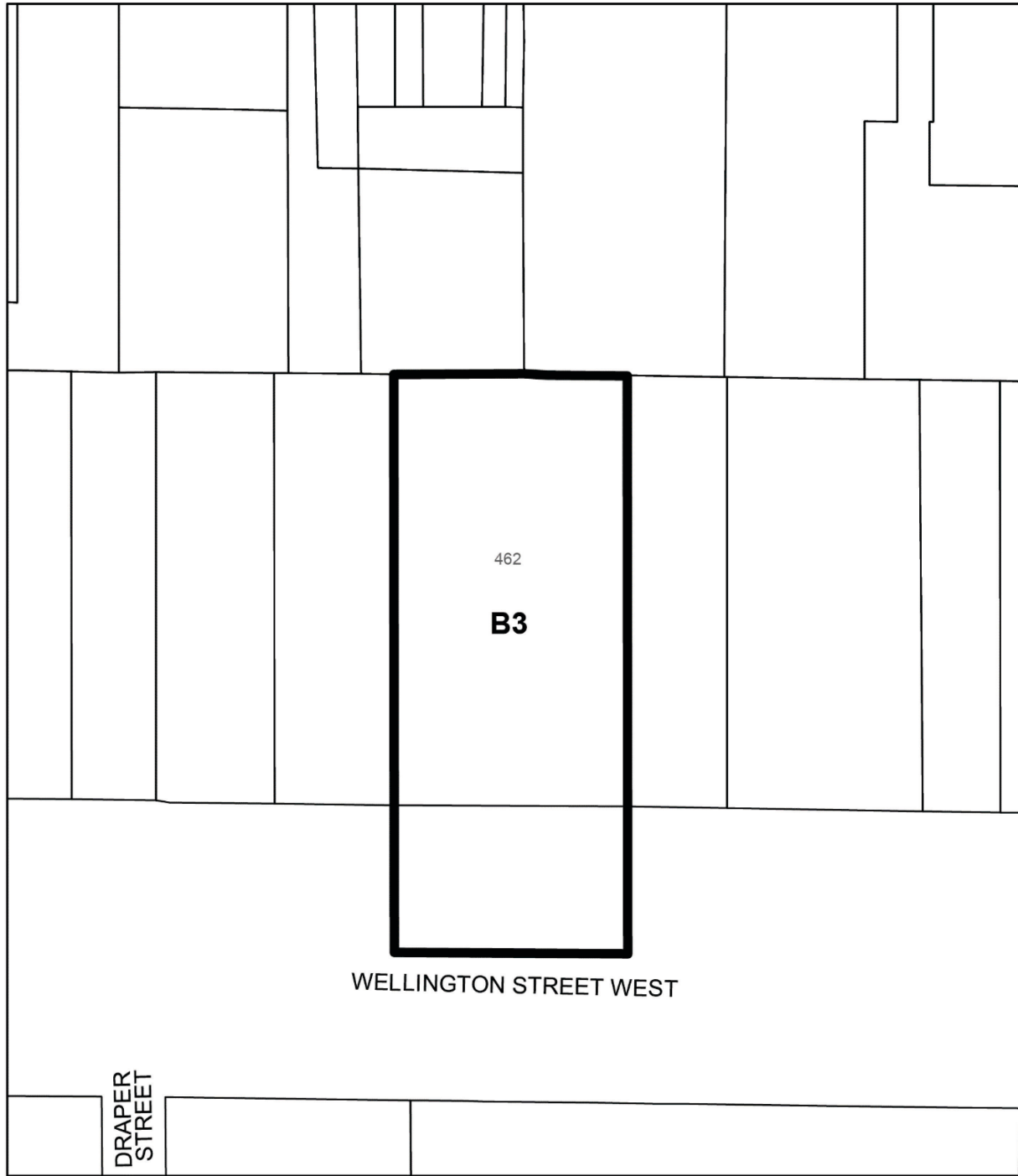
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 **TORONTO**
Diagram 4

462 Wellington Street West
& A Portion Of 489-539 King Street West

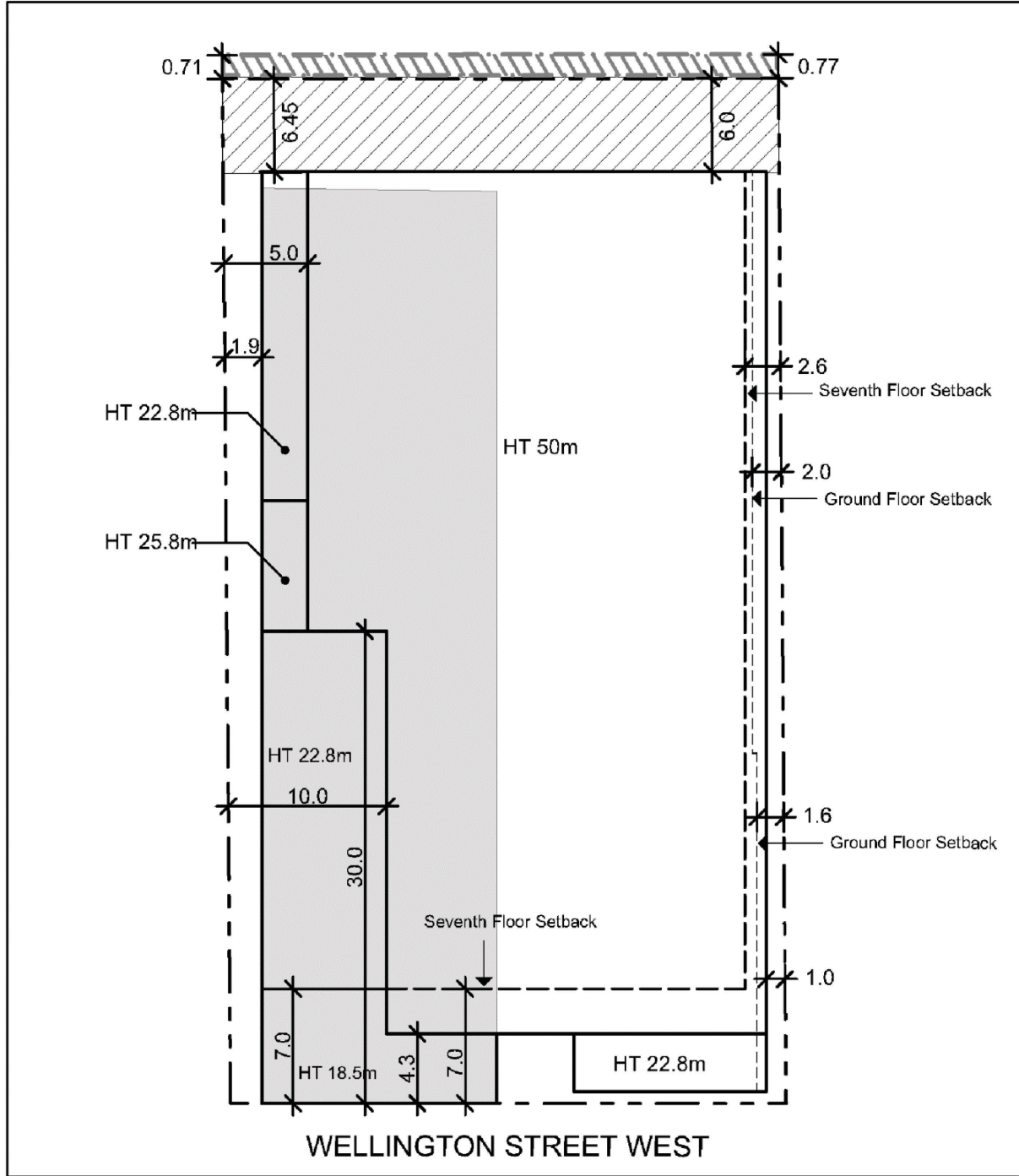
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 **TORONTO**
Diagram 5

462 Wellington Street West
& A Portion Of 489-539 King Street West

File #: 19 133227 STE 20 0Z



TORONTO
 Diagram 6

462 Wellington Street West
 & A Portion Of 489-539 King Street West

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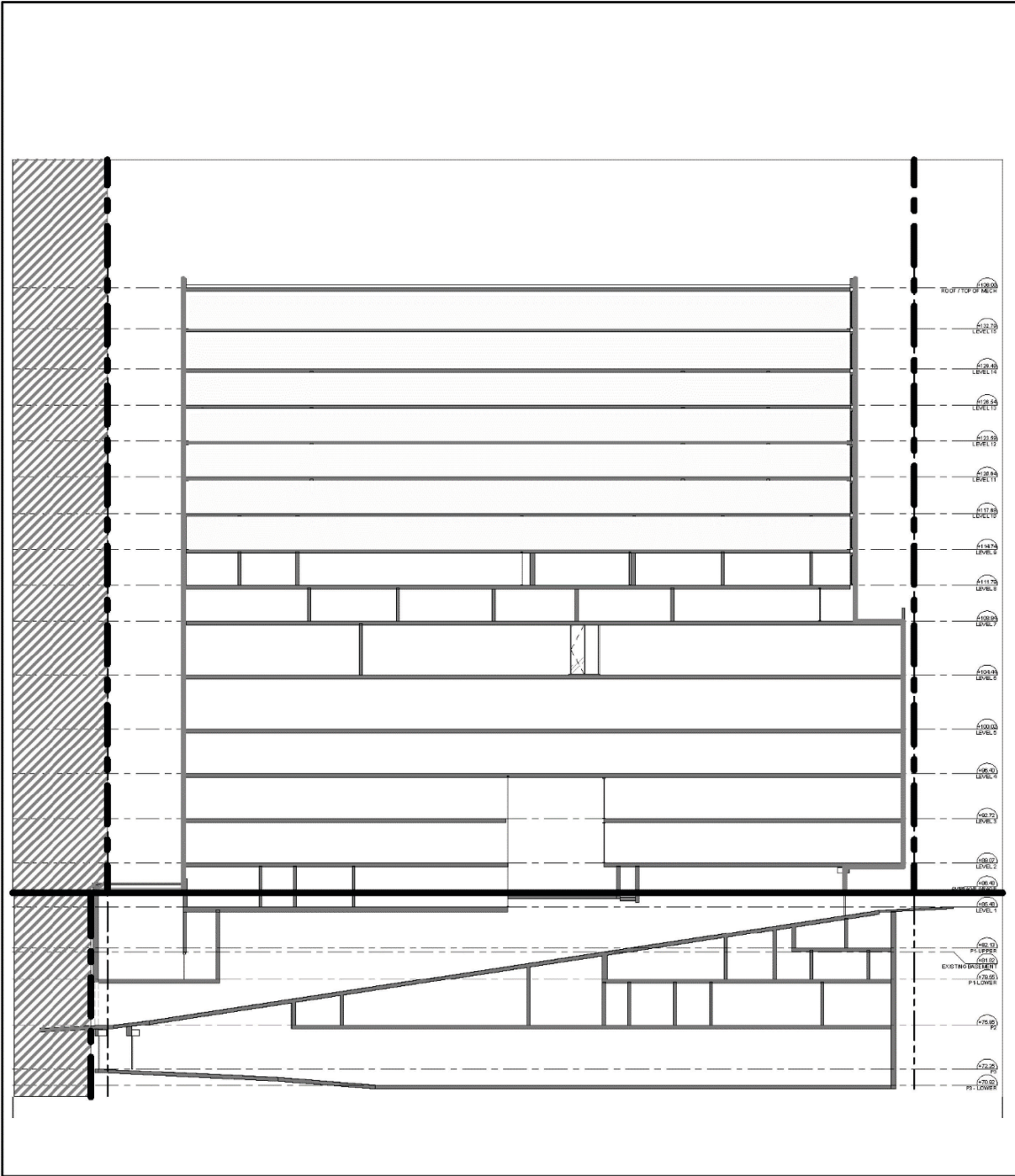
Heritage Building

Below Grade Permanent Easement

Privately Owned Publicly-Accessible Open Space

City of Toronto By-law 569-2013
 Not to Scale
 06/27/2022






TORONTO
Diagram 7

462 Wellington Street West
& A Portion Of 489-539 King Street West
File #: 19 133227 STE 20 0Z

To be read in conjunction with Diagrams 1
& 2; Below grade permanent easement

 Hatched Area Excluded From By-Law


City of Toronto By-law 569-2013
Not to Scale
06/27/2022