

Authority: Ontario Land Tribunal Decision issued on November 12, 2021 and its Order effective on August 11, 2022 in Tribunal Case PL171231 and PL170893

CITY OF TORONTO

BY-LAW 1148-2022(OLT)

To amend Zoning By-law 569-2013 with respect to the lands known municipally known in the year 2021 as 470-488 Wellington Street West.

Whereas the Ontario Land Tribunal, in its Decision issued on November 12, 2021, and its Order effective on August 11, 2022, in File PL171231 and PL170893, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 470–488 Wellington Street West; 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 as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force provides that Subsections 37(1) to (4) of the Planning Act shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; and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; and

Whereas pursuant to Section 39 of the Planning Act, as amended, a By-law passed under Section 34 of the Planning Act, may authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law;

The Ontario Land Tribunal, by Order, amends By-law 569-2013 as follows:

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 same 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 (x62), as shown on Diagram 2 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 a Policy Area label of PA1 to these lands, 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 subject to this By-law to the Height Overlay Map in Article 995.20.1, and applying a height label of HT 23.0 to these lands, 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 subject to this By-law to the Rooming House Overlay Map in Article 995.40.1, and applying a rooming house label of B3 to these lands, as shown on Diagram 5 attached to this By-law.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Lot Coverage Overlay Map in Article 995.30.1, and applying no value.
8. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.12.10 Exception Number 62 so that it reads:

(62) Exception CRE 62

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

Site Specific Provisions:

- (A) On 470-488 Wellington Street West, if the requirements of Section 10 and Schedule A of By-law 1148-2022(OLT) are complied with, a **building** or **structures**, may be constructed, used or enlarged in compliance with Regulations (B) to (Q) below;
- (B) 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 85.33 metres and the highest point of the **building** or **structure**;

- (C) The total permitted maximum non-residential **gross floor area** for all **buildings** and **structures** on the **lot** is 24,000 square metres;
- (D) Despite regulation 50.10.40.10(1) and (B) above, 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 1148-2022(OLT);
- (E) Despite (D) above and regulations 50.5.40.10(3), (4), (5), (6), (7) and (8) the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 6 of By-law 1148-2022(OLT):
- (i) elevator overruns, parapets, awnings, fences, roof access, including roof hatch and the access ladder, chimneys, stacks, vents, and water supply facilities, terraces, pipes, roof drainage, window sills, antennae, telecommunication equipment, satellite dishes, lightning rods, guard rails, railings, dividers, screens, balustrades, eaves, stairs, unenclosed **structures** providing safety or wind protection, privacy and wind screens, elements of a **green roof**, pergolas, trellises, light fixtures, architectural features, and landscape elements, by a maximum of 3.0 metres;
 - (ii) window washing equipment, by a maximum of 6.0 metres; and
 - (iii) For the area labelled as "MPH" on Diagram 6, only the equipment and **structures** permitted in (E)(i) above may project beyond the maximum height.
- (F) Despite regulations 50.10.40.30(1), 50.10.40.70(1) and (3), and article 600.10.10 the required minimum **building setbacks** and permitted maximum **building depth** are shown in metres on Diagram 6 of By-law 1148-2022(OLT);
- (G) Despite Clause 50.10.40.80, and article 600.10.10 the required minimum separation of **main walls** are as shown in metres on Diagram 6 of By-law 1148-2022(OLT);
- (H) Despite (F) and (G) above, regulations 50.5.40.60(1), and 50.10.40.60(1), (2), (3), (4), (5), (6) and (8) the following elements may encroach into the required minimum **building setbacks** and minimum **main wall** separation distance as follows:
- (i) canopies and supports, awnings, balconies, terraces, patios, decks, pillars, pergolas, trellises, privacy and wind screens, unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, architectural features, art and **landscaping** features and ornamental elements, up to 3.0 metres;
 - (ii) cornices, parapets, light fixtures, window projections, eaves, window sills, doors, site servicing features, ventilation shafts, railings, guards,

terrace platforms, landscape planters, underground garages and associated **structures**, up to 0.5 metres;

- (iii) exterior stairs, uncovered ramp and wheelchair ramps, up to 4 metres; and
 - (iv) guards, railings, parapets, balustrades, terraces, fences, privacy and wind screens, landscape planters and terrace platforms, up to 3.5 metres.
- (I) Despite regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
- (i) a minimum of 52 **parking spaces** for the non-residential uses;
- (J) A maximum of 1 **parking space** required by (I) above may be a "small car" **parking spaces** with a minimum:
- (i) width of 2.4 metres;
 - (ii) length of 5.4 metres; and
 - (iii) vertical clearance of 1.8 metres.
- (K) Despite Regulations 200.15.1.5(1) and 200.15.10(1), a minimum of 3 accessible **parking spaces** must be provided below ground;
- (L) Despite regulation 200.15.1(1), an accessible **parking spaces** must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 3.4 metres; and
 - (iii) vertical clearance of 2.1 metres.
- (M) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (N) Despite regulations 230.5.1.10(4) and 230.5.1.10(10), "long-term" and "short term" **bicycle parking spaces** may be located in a **stacked bicycle parking space** having the following minimum dimensions:
- (i) length or vertical clearance of 1.2 metres;
 - (ii) width of 0.45 metres; and
 - (iii) horizontal clearance from the wall of 1.8 metres.

- (O) Despite regulation 230.50.1.20(2), "long-term" and "short-term" **bicycle parking spaces** may be located in a secured room, enclosure or bicycle locker, provided that such space is accessible to visitors;
- (P) Despite regulations 200.5.1.10(2)(A)(iv) and (D), a **bicycle parking space** placed in a vertical position on a wall, **structure** or mechanical device does not constitute as an obstruction to a **parking space**;
- (Q) Despite regulations 220.5.10.1(3), (4) and (5) a minimum of two Type "B" **loading spaces** and two Type "C" **loading spaces** must be provided.

Prevailing Bylaws and Prevailing Sections: (None Apply)

9. Temporary Uses

- (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of a temporary sales office or construction office on the **lot** for a period of not more than 3 years from the date this By-law comes into full force and effect.

10. 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.

11. Section 37 Provisions

- (A) Pursuant to Section 37 of the Planning Act, as it read the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, 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 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 By-law 1148-2022(OLT) 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 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 of By-law 1148-2022(OLT) are satisfied.

Pursuant to Ontario Land Tribunal Decision issued on November 12, 2021 and its Order issued on August 11, 2022 in Board Case PL171231.

Schedule A
Section 37 Provisions

Prior to the issuance of any building permit, the Owner shall register agreements 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 and pursuant to Section 37 of the Ontario Heritage Act.

The facilities, services and matters set out below are required to be provided to the City by the owner at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown on Diagram 1 attached to this By-law in accordance with and as secured in an agreement or agreements under Section 37(3) of the Planning Act (the "**Section 37 Agreement**"), whereby the owner agrees as follows:

1. Prior to the issuance of the first above-grade building permit, the Owner shall provide a financial contribution to the City in the amount of \$1,380,000 to be allocated as follows:
 - a. \$1,180,000.00 for above-base streetscape improvements on the north side of Wellington Street West between Spadina Avenue and Portland Street to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - b. \$100,000.00 for the maintenance of or the provision of new affordable housing in Ward 10; and
 - c. \$100,000.00 toward the Toronto Community Housing Corporation revolving capital fund for repairs to Toronto Community Housing Corporation housing in Ward 10.
2. In the event the financial contributions referred to in Sections 1.a., b., and c. above, have not been used for the intended purpose within three (3) years of the By-law(s) coming into full force and effect, the financial 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 is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.
3. The financial contribution referred to in Section 1 above is to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Ontario Land Tribunal decision to the date of payment.
4. The Owner shall covenant that not less than 22,000 square metres of the floor space on the lands shall always remain zoned and constructed for office use, with such area of office space being attributed toward the required office replacement for the subject applications and for the related owner's development application proposed for 504 Wellington Street West.

5. The Owner agrees to pay for and construct any improvements to the municipal infrastructure in connection with the site servicing report, as accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development. Construction of such improvements shall be completed to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, prior to issuance of the final building permit.
6. The Owner shall implement any wind mitigation measures required as identified by the applicant's pedestrian level wind study, satisfactory to the Chief Planner and Executive Director, City Planning, to be submitted as part of an application for site plan approval.
7. Materials for the new building on the lands will be secured through site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
8. In the event the Owner connects to the Enwave District Heating and Cooling System, or another similar energy system, the height of the mechanical penthouse will be reduced, with the objective of eliminating any visual impact from the mechanical penthouse, to the satisfaction of the Chief Planner and Executive Director, City Planning.
9. Prior to Site Plan Approval, the Owner will submit a construction management plan for the development of the lands to address such matters as wind, noise, dust, street closures, parking and laneway uses, and access, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, and agree to implement the plan.

Diagram 1

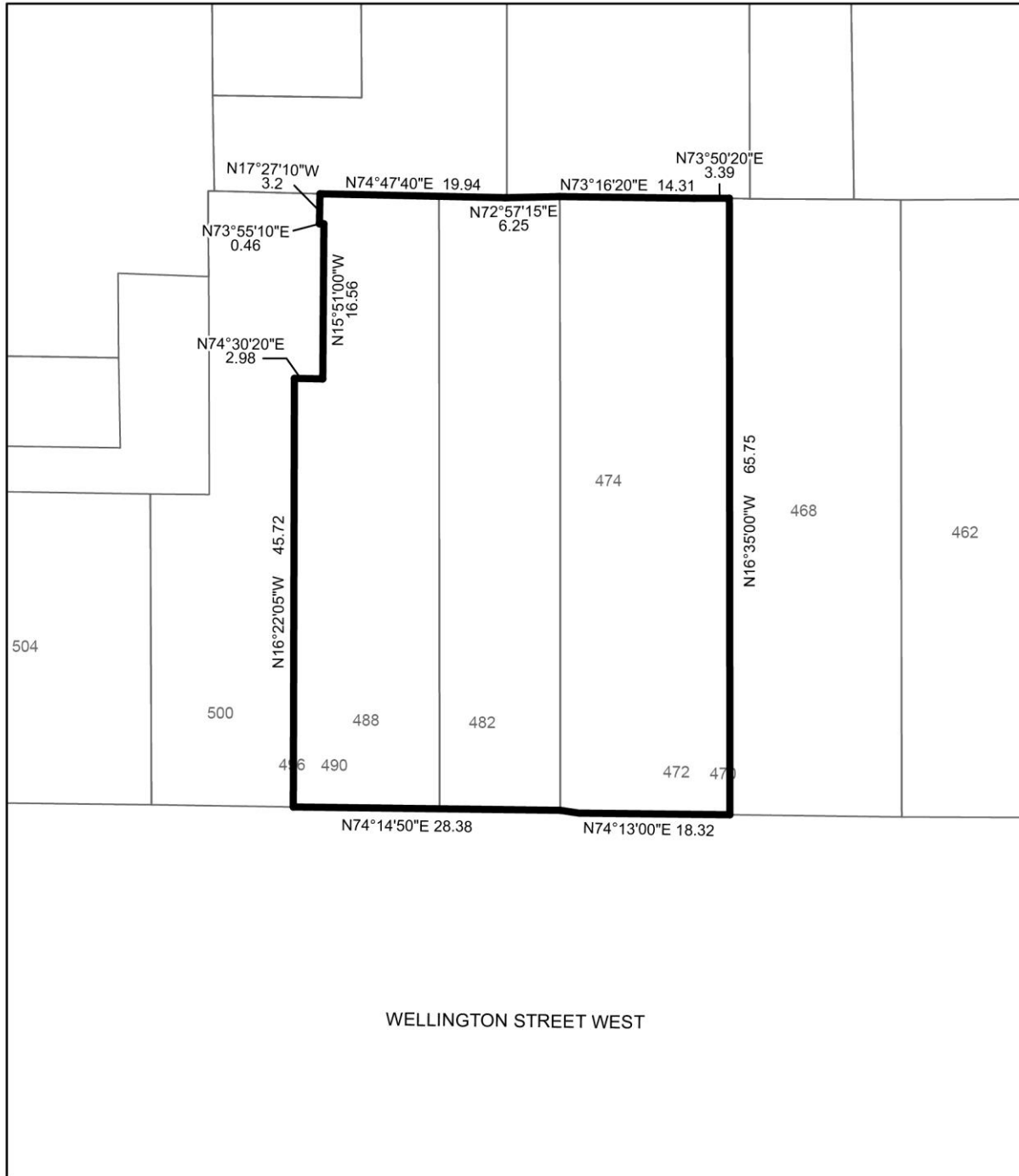
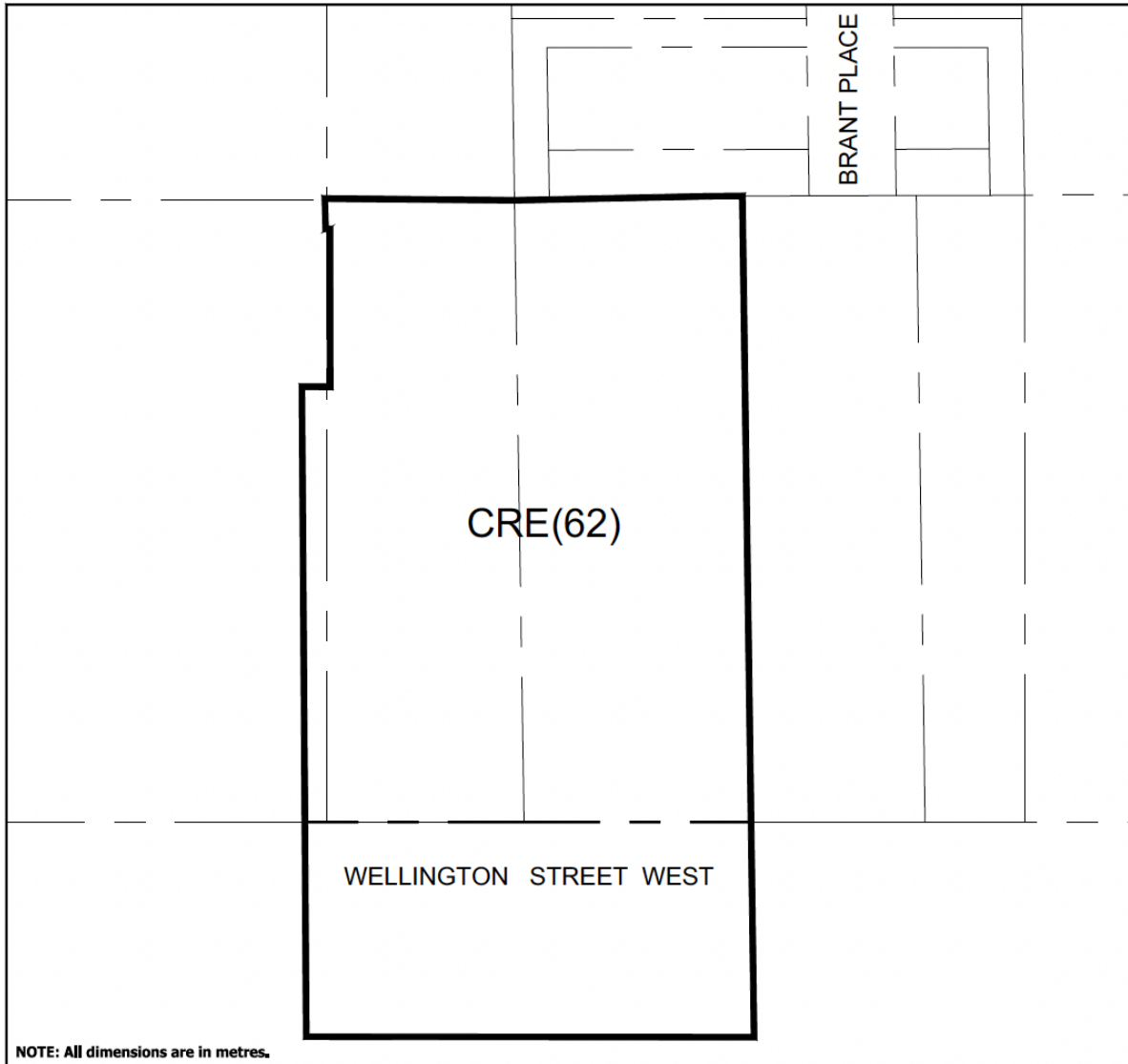


Diagram 2



470-488 Wellington Street West, Toronto

Diagram 2

File #16 _____



Not to Scale

Diagram 3

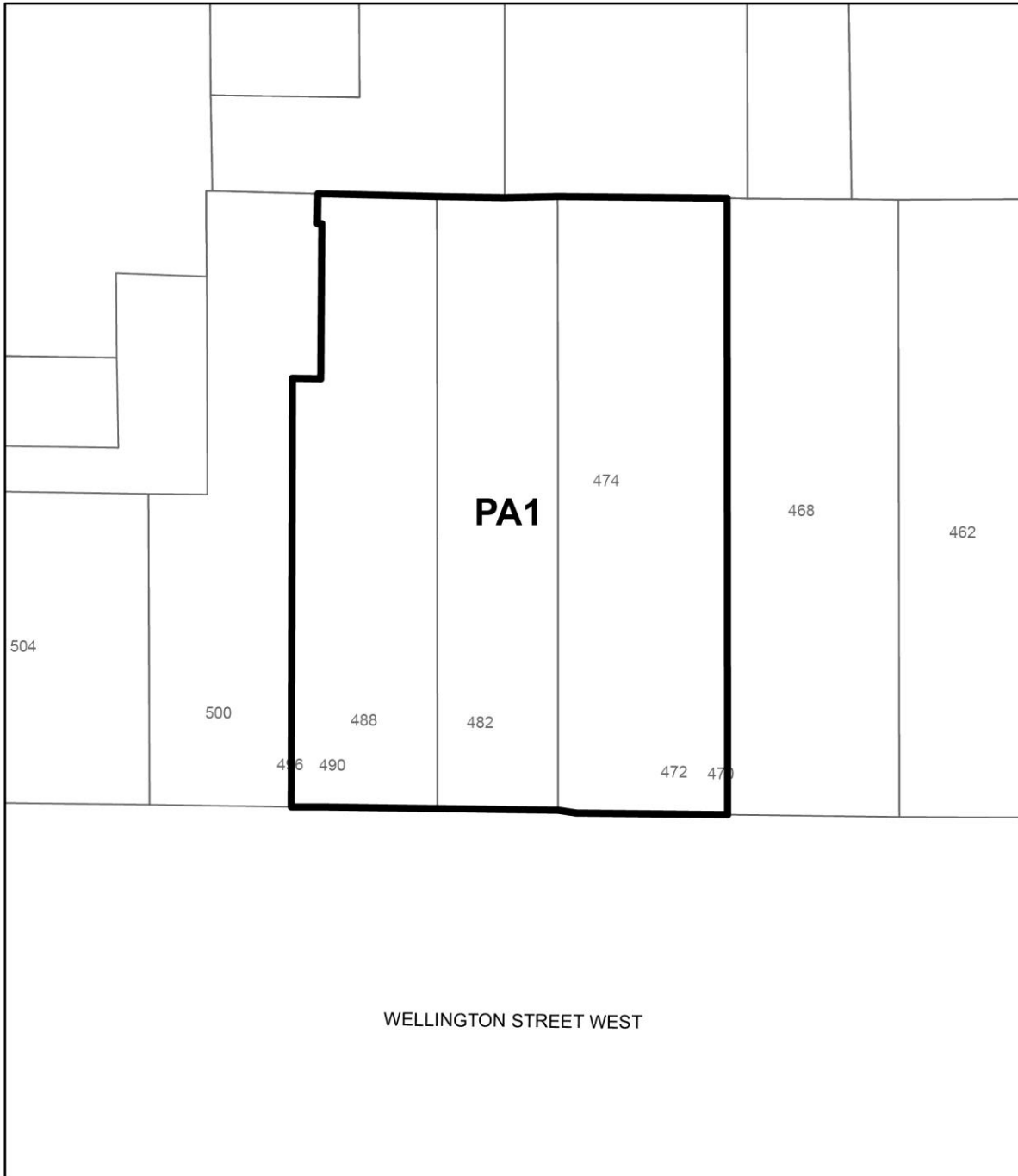


Diagram 4

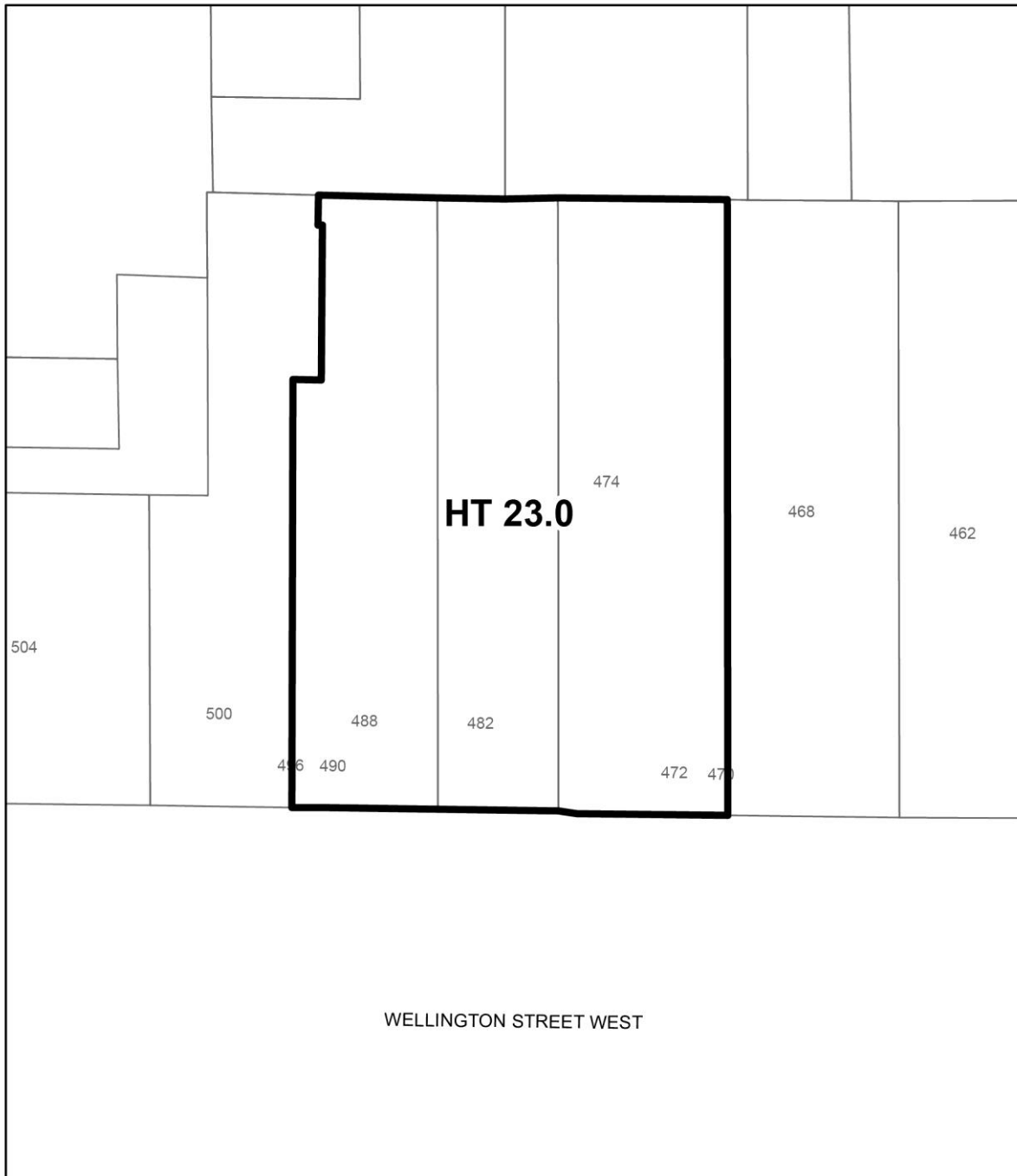


Diagram 5

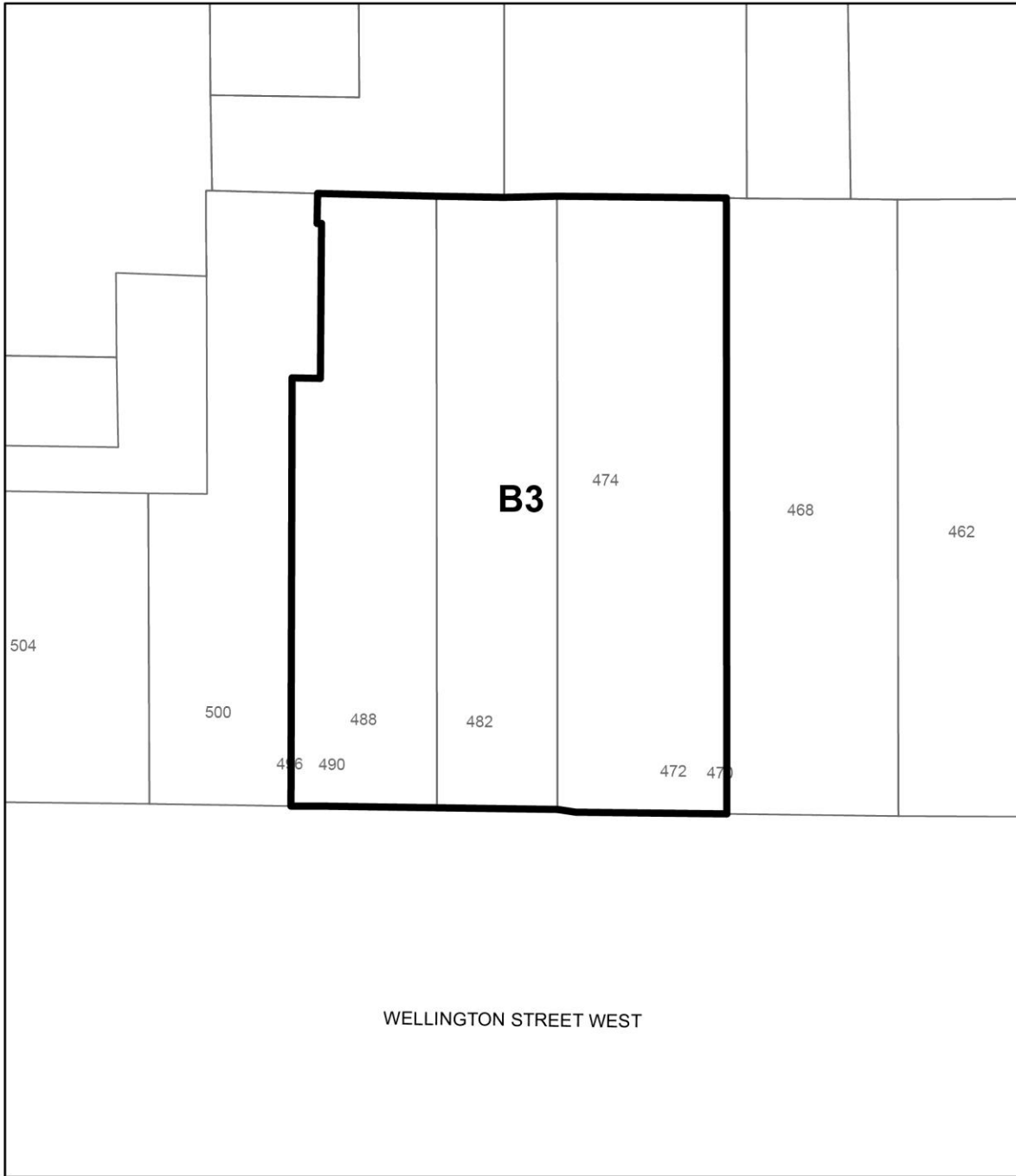


Diagram 6

