

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 19, 2024

CASE NO.: OLT-22-003744

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: Hullmark Development Ltd.
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit the redevelopment of the site with a 25-storey mixed-use building with ground floor retail uses and 223 residential units above
Reference Number: 21 208078 STE 10 OZ
Property Address: 147 Spadina Avenue
Municipality/UT: Toronto/Toronto
OLT Case No.: OLT-22-003744
OLT Lead Case No.: OLT-22-003744
OLT Case Name: Hullmark Development Ltd. v. Toronto (City)

BEFORE:

SHARYN VINCENT)
VICE-CHAIR)
) Friday, the 19th
) day of January, 2024

THESE MATTERS having come before the Tribunal as a written a Hearing to consider a settlement between the City and Hullmark Development Ltd. on January 19, 2024, and the Tribunal having received and reviewed sworn, uncontradicted opinion evidence from Peter F. Smith, M.C.I.P., R.P.P., who has been qualified to assist the Tribunal in its deliberations through opinion evidence in areas of land use compatibility ad planning;

AND UPON CONSIDERATION OF THE FOLLOWING:

The development will support the achievement of numerous policy directions promoting intensification with in built up areas and the efficient use of land, particularly in this location which is well served by municipal infrastructure, including existing and planned higher order transit.

The proposal represents an appropriate form of residential mixed-use intensification at an appropriate height reduced to 24 stories to ensure that the development fits beneath a 45° angular plane taken from the curb of the north side of Queen St. and is in keeping with recently approved heights in the area.

The introduction of additional setbacks and step backs at the ground floor, base and tower sections result in appropriate and compatible relationships with the surrounding built form fabric.

THE TRIBUNAL ORDERS

1. The appeals of the Zoning By-law Amendment applications are allowed in part;
2. The amendment to the City of Toronto City-wide Zoning By-law 569-2013 filed as **Exhibit “D”** to the Affidavit of Peter F. Smith and attached hereto as Attachment 1 is approved in principle subject to the satisfactory final form being approved;
3. The development proposal as generally depicted on the plans prepared by Audax Architecture, dated September 1, 2023, filed as part of **Exhibit “C”, Tab 17** to the Affidavit of Peter F. Smith is approved in principle.
4. That the Final Order on the Zoning By-law Amendment be withheld until the Tribunal is advised by the City Solicitor that:
 - i. the proposed Zoning By-law Amendment is in a final content and form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;

- ii. the Owner has worked with City Planning and Urban Forestry staff to conserve as many of the five existing City trees as possible along the Spadina Avenue frontage; for any trees that do require removal to facilitate construction, the owner has submitted an application to remove City trees together with a Tree Planting Replacement Plan, to the satisfaction of Urban Forestry;
- iii. the Owner has withdrawn their site-specific appeals of the King-Spadina Secondary Plan (Official Plan Amendment 486) and the King-Spadina Heritage Conservation District Plan; and
- iv. the Owner has, at its sole cost and expense:
 - 1. submitted a revised Site Servicing and Stormwater Management Report, a Servicing Report Groundwater Summary, and a Hydrogeological Review Summary, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
 - 2. made satisfactory arrangements for the construction of any improvements to the municipal infrastructure in connection with the Functional Servicing Report, to be resubmitted for review and acceptance by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements to such infrastructure are required to support this development; and
 - 3. submitted appropriate documentation to demonstrate that required easements and/or agreements have been entered into to permit vehicular access to the property at 147 Spadina Avenue through the adjacent property at 388 Richmond Street West, to the satisfaction of the City

Solicitor. That the Tribunal may be spoken to in the event some matter should arise in connection with the implementation of this Order; and

The Member will remain seized.

“Euken Lui”

EUKEN LUI
ACTING REGISTRAR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Authority: Ontario Land Tribunal Decision issued on
---- in Tribunal File OLT-22-003744

CITY OF TORONTO BY-LAW xxx-2023(OLT)

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 147 Spadina Avenue.

Whereas the Ontario Land Tribunal, in its Decision issued on [date] and its Order issued on [date], in file OLT-22-003744 in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 147 Spadina Avenue.

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 meaning provided in Zoning By-law 569-2013, as amended, 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 990.1 respecting the lands outlined by heavy black lines from a zone label of CRE (x80) to a zone label of CRE (xXX) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by Article 900.12.1 Exception Number XX so that it reads:

(XX) Exception CRE XX

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 as 147 Spadina Avenue, if the requirements of By-law [Clerks to insert By-law number] are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with regulations (B) to (N) 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 90.0 metres and the elevation of the highest point of the **building** or **structure**;

- (C) Despite Regulation 50.10.40.10(1), the permitted maximum height of a **building** or **structure** is the number in metres following the letters "HT" as shown on Diagram 3 of By-law [Clerks to insert By-law number];
- (D) Despite Regulations 50.5.40.10(3) to (8) and (C) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 3 of By-law [Clerks to insert By-law number]:
- (i) equipment used for the functional operation of the **building**, including electrical, utility, mechanical and ventilation equipment, as well as stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, and vents, as well as structures that enclose, screen or cover such equipment, by a maximum of 7.0 metres;
 - (ii) architectural features, weather vanes, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 1.5 metres;
 - (iii) **building** maintenance units and window washing equipment, by a maximum of 6.0 metres;
 - (iv) planters, **landscaping** features, trellises, pergolas, **structures** for outdoor **amenity space** or open air recreation, guard rails, and divider screens on a balcony and/or terrace, by a maximum of 3.0 metres;
 - (v) antennae, flagpoles and satellite dishes, by a maximum of 4.0 metres; and
 - (vi) **structures** providing safety or wind protection by a maximum of 3.0 metres;
- (E) The maximum **gross floor area** of all **buildings** and **structures** is 16,500 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 16,100 square metres;
 - (ii) the permitted maximum **gross floor area** for non-residential uses is 400 square metres;
- (F) Despite Regulation 50.10.40.70(1) and Regulation 600.10.10(1), the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law [Clerks to insert By-law number];

- (G) Despite Regulation 5.10.40.70(1), 50.5.40.60 (1), 50.5.40.70(1), 50.10.40.60, Regulation 600.10.10(1) (D) to (F), and (F) above, the following elements may encroach into the required minimum **building setbacks** as follows:
- (i) decks, porches, and balconies, by a maximum of 2.0 metres beyond the heavy solid lines shown on Diagram 3 provided that no balcony projections are located on the east of the building;
 - (ii) canopies and awnings, by a maximum of 4.0 metres;
 - (iii) exterior stairs, access ramps and elevating devices, by a maximum of 1.0 metres;
 - (iv) cladding added to the exterior surface of the **main wall of a building**, by a maximum of 1.0 metres;
 - (v) architectural features, such as a pilaster, decorative column, cornice, sill, belt course, or chimney breast, by a maximum of 1.0 metres;
 - (vi) window projections, including bay windows and box windows, by a maximum of 1.0 metres;
 - (vii) eaves, by a maximum of 1.0 metres;
 - (viii) air conditioners, satellite dishes and antennae by a maximum of 1.0 metres; and
 - (ix) **structures** and elements used for open air recreation and **amenity space**, utility meters, vents and pipes;
- (H) Despite Regulation 50.10.40.80(3), if a **building** has windows, the required minimum above-ground distance between the windows and a **lot line** that does not abut a **street or park** is 5.5 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) No parking shall be required for residential uses;
 - (ii) A minimum of 2 **parking spaces** shall be barrier free;
 - (iii) No parking shall be required for non-residential uses; and
 - (iv) No parking shall be required for visitors;

- (J) Despite Regulation 200.15.1(4), accessible **parking spaces** must be within 23 metres of a barrier free entrance to a **building** or passenger elevator that provides access to the first **storey** of the **building**;
- (K) Despite Regulation 200.15.1(1) and By-law 579-2017, accessible parking spaces must have the following minimum dimensions:
- (i) length of 5.6 metres;
 - (ii) width of 3.4 metres;
 - (iii) vertical clearance of 2.1 metres; and
 - (iv) located adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (L) Despite regulation 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 0.2 metres; and
 - (iii) horizontal clearance from the wall of 1.8 metres;
- (M) Despite regulation 230.5.1.10(4), the minimum dimensions of a **bicycle parking space** if placed in a vertical position on a wall, structure or mechanical device is:
- (i) length or vertical clearance of 1.7 metres;
 - (ii) width of 0.2 metres; and
 - (iii) horizontal clearance from the wall of 0.9 metres;
- (N) Despite regulations 230.5.1.10(10) and 230.50.1.20, a "long-term" and "short-term" **bicycle parking space** may be located in a **stacked bicycle parking space**, which may be located within the building or outside, including within a secured room, enclosure or unenclosed space or any combination thereof, or bicycle locker.

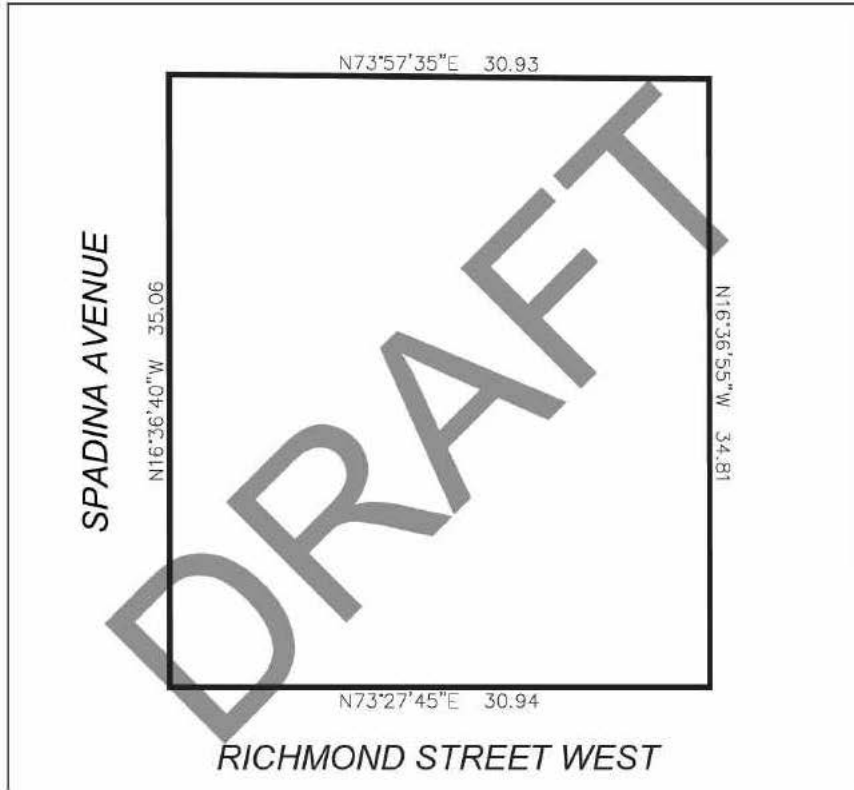
Prevailing By-laws and Prevailing Sections:

- (A) Section 12(2) 270 of former City of Toronto By-law 438-86.

- |
5. 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.

Ontario Land Tribunal Decision issued on [date] and Ontario Land Tribunal Order issued on [date] in Tribunal File OLT-22-003744

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147 Spadina Avenue, Toronto

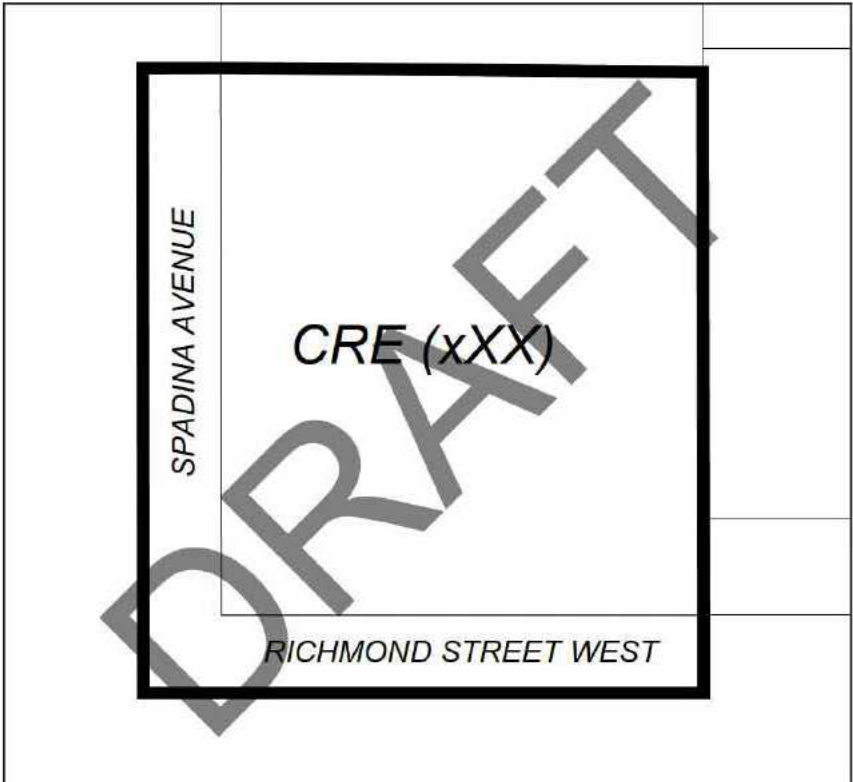
Diagram 1

File #21 _____



Not to Scale
City of Toronto By-law 569-2013

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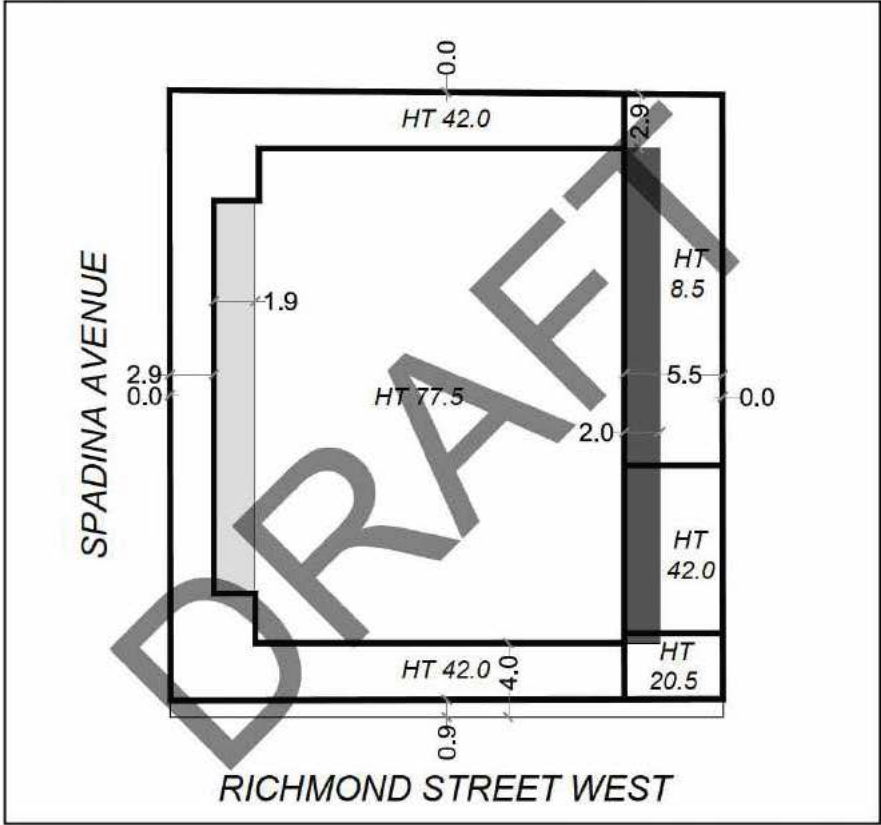
147 Spadina Avenue, Toronto

Diagram 2

File #21 _____



Not to Scale
City of Toronto By-law 569-2013



TORONTO
Diagram 3

177 Spadina Avenue, Toronto

File #21 _____

No building permitted between a height of 42.0 metres and 44.0 metres

No balcony projection zone

Not to Scale
City of Toronto By-law 569-2013