

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: July 02, 2024

CASE NO(S).:

OLT-22-004296

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	415 Broadview GP Inc
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit 8-storey tower on top of an existing church building
Reference Number:	21 251348 STE 14 OZ
Property Address:	415 Broadview Avenue
Municipality/UT:	City of Toronto
OLT Case No.:	OLT-22-004296
OLT Lead Case No.:	OLT-22-004296
OLT Case Name:	415 Broadview GP Inc. v. Toronto (City)

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

Applicant and Appellant:	415 Broadview GP Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit 8-storey tower on top of an existing church building
Reference Number:	21 251348 STE 14 OZ
Property Address:	415 Broadview Avenue
Municipality/UT:	City of Toronto
OLT Case No.:	OLT-22-004297
OLT Lead Case No.:	OLT-22-004296

Heard: June 10, 2024 in writing

APPEARANCES:**Parties****Counsel/Representative***

415 Broadview GP Inc.

Rodney Gill
David Bronskill

City of Toronto

Matthew Longo

Neighbourhood Coalition of Lower
RiverdaleTom Grant*
Mark Sheeley***DECISION DELIVERED BY KURTIS SMITH AND INTERIM ORDER OF THE
TRIBUNAL**

[Link to Order](#)**INTRODUCTION AND BACKGROUND**

[1] The matter before the Tribunal is a Settlement Hearing regarding the property municipally known as 415 Broadview Avenue (“Subject Property”), in the City of Toronto (“City”). 415 Broadview GP Inc. (“Applicant”) sought an Official Plan Amendment and a Zoning By-law Amendment (“Applications”) to construct a 10-storey mixed-use building on the Subject Property, and more specifically, to add eight (8) storeys to the church building that is currently on the Subject Property. The Applications were appealed due to the failure of the City Council to make a decision within the statutory timelines prescribed in the *Planning Act* (“Act”).

[2] Through ongoing communication between the Parties, the Applicant made a number of adjustments to the Original Proposal, as shown below:

	Original Proposal (December 2022)	Settlement (January 2024)
Site Area	2,005 square metres	2,005 square metres
Gross Floor Area		
Total	5,434.98 square metres	4,638.00 square metres
Residential	4,892.98 square metres	3,759.00 square metres
Non-Residential	542 square metres	879 square metres
Density	2.71 FSI	2.31 FSI
Building Height	10 storeys (37.84 metres to top of mechanical penthouse)	6 storeys (24.4 metres to top of mechanical penthouse)
Dwelling Units		
Total	60	51*
Studio	7 (12%)	0 (0%)
1-Bedroom	40 (67%)	25 (49%)
2-Bedroom	8 (13%)	21 (41%)
3-Bedroom	5 (8%)	5 (10%)
		*3 of the units may be affordable
Amenity Space		
Total	184.54 square metres	141 square metres
Indoor Amenity Space	61.93 square metres	141 square metres
Outdoor Residential	122.61 square metres	0 square metres
Bicycle Parking Spaces		
Total	60 spaces	56 spaces
Long-Term	54 spaces	46 spaces
Short-Term	6 spaces	10 spaces
Vehicular Parking Spaces		
Total	31 spaces	30 spaces
Residents	29 spaces	25 spaces
Visitors	0 spaces	5 spaces
Non-Residential	2 spaces	0 spaces
Loading	One Type 'G'	None

[3] To support the Settlement Proposal the Tribunal, based on the respective Curriculum Vitae and executed Acknowledgement of Expert's Duty forms, qualified Courtney Heron-Monk and Michael McClelland to provide written opinion evidence in land use planning/urban design and heritage architecture/cultural heritage planning, respectively.

ANALYSIS AND FINDINGS

[4] Ms. Heron-Monk and Mr. McClelland provided the Tribunal with fulsome witness statements, which were marked as Exhibit 1 and Exhibit 2, respectively.

[5] Ms. Heron-Monk expressed the opinion that the Settlement Proposal has appropriate regard for s. 2 of the Act, is consistent with the Provincial Policy Statement, 2020 ("PPS"), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe ("Growth Plan"), and the City's Official Plan ("COP"). In addition, Ms. Heron-Monk reviewed the conditions of approval, and is of the opinion that they are appropriate and will ensure the orderly development of the Subject Property.

[6] Ms. Heron-Monk communicated that:

The proposal represents an appropriate level of intensification at a suitable location and in an appropriate built form based on the existing and planned context of the site. The proposed building location, height and massing would be appropriate for the site and compatible with its surroundings, would create new housing opportunities while allowing the existing congregation to remain, and would contribute to an expanded and enhanced public realm at the intersection.

[7] Likewise, through a heritage lens, Mr. McClelland wrote that:

the Settlement Proposal represents good cultural heritage planning. The Settlement Proposal incorporates a conservation approach that is consistent with the Standards and Guidelines, and in my opinion, represents a high-quality contemporary architectural response to the built heritage resource on the Subject Site. It constitutes a Rehabilitation project that sensitively adapts the existing church to make possible its continued use by the Congregation.

He goes on by stating that the Settlement Proposal is consistent with the heritage policies in the PPS, and conforms to the COP heritage policies.

[8] Moreover, Mr. McClelland is of the opinion that the alterations to the church and the residential addition are designed in such a way that they mitigate visual and physical impacts on the church which retains the integrity of the cultural heritage value and attributes.

[9] The Tribunal looks to the above-mentioned planning documents relating to the Settlement Proposal, which have several common elections that are implemented, including:

- a. Protects, manages, and uses a built heritage resource in a manner that ensures cultural heritage value is retained and the ongoing use of the church is maintained;
- b. Supports residential intensification and infill development within the built-up area;
- c. Provides an appropriate and desirable urban design, contributing to the neighbourhood character through built form transitions and setbacks; and
- d. Provides a range of housing unit options.

[10] The Tribunal accepts the uncontested planning evidence and opinions of Ms. Heron-Monk and Mr. McClelland and is satisfied that the revised Applications represent good planning, have regard for matters of provincial interest, are consistent with the PPS, conform to the Growth Plan, the COP, and constitute an appropriate site-specific amendment to the City's Zoning By-law. Moreover, the Settlement Proposal has appropriate regard for the applicable heritage guidelines and policies.

INTERIM ORDER

[11] **THE TRIBUNAL ORDERS THAT** the Appeals are allowed, in part, on an interim basis, contingent upon confirmation, satisfaction or receipt of those pre-requisite matters identified in paragraph 12 below and the draft Zoning By-law Amendment generally in accordance with the plans set out in Schedule C and in the form set out in the attached Schedule A, and the draft Official Plan Amendment, attached as Schedule B are hereby approved in principle.

[12] The Final Order is withheld pending written confirmation from the City Solicitor that:

- a. The Tribunal has received, and approved, the Zoning By-law Amendment and Official Plan Amendment in a finalized form confirmed to be satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;
- b. The Tribunal is advised that the Applicant has provided updated reports confirming adequate water, sanitary and stormwater capacity to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or the Chief Engineer and Executive Director, Engineering and Construction Services has determined that holding provisions are required in the draft Zoning By-law Amendment;
- c. The Tribunal is advised that the Applicant has resolved transportation-related matters including streetscape and curb extension provisions, site loading and access, as well as matters related to functional servicing and stormwater management, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- d. In the event that the updated reports referred to above identify required upgrades to servicing or functional items above, the Tribunal is advised that the Applicant has entered into agreement(s) for the construction of any such improvements to such services, as required, at no cost to the City and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- e. The Tribunal is advised that the Applicant has submitted a Revised Heritage Impact Assessment that includes a conservation strategy for the on-site significant heritage resource, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;

- f. The Tribunal is advised that the Applicant has entered into a Heritage Easement Agreement with the City for the property at 415 Broadview Avenue, substantially in accordance with plans and drawings plans attached as Schedule C, subject to and in accordance with the approved Plan required in paragraph [12]g. below, all to the satisfaction of the Senior Manager, Heritage Planning including execution of such agreement to the satisfaction of the City Solicitor;
- g. The Tribunal is advised that the Applicant has provided a detailed Conservation Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for the Lands, prepared by ERA Architects dated January 17, 2024, and details all future conservation efforts as part of this Application, all to the satisfaction of the Senior Manager, Heritage Planning;
- h. The Tribunal is advised that the Applicant has addressed all outstanding issues raised by Urban Forestry, Tree Protection and Plan Review, as they relate to the aforementioned Applications, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
- i. The Tribunal is advised that the Applicant has resolved all outstanding matters identified in the Memorandum prepared by Engineering and Construction Services, dated June 30, 2022; and
- j. The Tribunal is advised that the owner has obtained a permit from the Ministry of the Environment, Conservation and Parks for the removal and relocation of the chimney swift habitat on site, or has made other acceptable arrangements to the satisfaction of the City Solicitor.

[13] The Panel Member will remain seized for the purposes of reviewing and approving the final draft of the Zoning By-law Amendment and Official Plan Amendment and the issuance of the Final Order.

[14] If the Parties do not submit the final drafts of the Zoning By-law Amendment and Official Plan Amendment and provide confirmation that all other contingent pre-requisites to the issuance of the Final Order set out in paragraph 12 above have been satisfied, and do not request the issuance of the Final Order by Friday, January 31, 2025 the Applicant and the City shall provide a written status report to the Tribunal by that date, as to the timing of the expected confirmation and submission of the final form of the draft Zoning By-law Amendment and Official Plan Amendment and issuance of the Final Order by the Tribunal.

[15] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional time lines and deadline for the submission of the final form of the instruments, the satisfaction of the contingent pre-requisites and the issuance of the Final Order.

[16] The Tribunal may be spoken to in the event that there are difficulties in satisfying the above conditions for the issuance of the Tribunal's Final Order in respect of the above mentioned Appeals.

"Kurtis Smith"

KURTIS SMITH
MEMBER

Ontario Land Tribunal

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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.

SCHEDULE A

Draft Zoning By-Law Amendment

Authority: Ontario Land Tribunal Decision issued on (date) and Ontario Land Tribunal Order issued on (date) in Tribunal File OLT-22-004296

CITY OF TORONTO BY-LAW [Clerks to insert By-law number]-2024 (OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2023 as 415 Broadview Avenue.

Whereas the Ontario Land Tribunal, in its Decision issued on (date) and its Order issued on (date), in file OLT-22-004296 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 2023 as 415 Broadview Avenue; and

Whereas pursuant to Section 39 of the Planning Act, as amended, the Council of a Municipality may, in a By-law passed under Section 34 of the Planning Act, 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 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 R (d1.0)(x7) and R (d0.6) (x736) to a zone label of R (XXX) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.2.10 Exception Number XXX so that it reads:

(XXX) Exception R (XXX)

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 415 Broadview 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 (X) below;

- (B) For the purpose of this exception, the **lot** comprises the lands outlined by heavy lines on Diagram 1 of By-law [Clerks to insert By-law number];
- (C) Despite regulation 10.5.40.10(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 93.5 metres and the elevation of the highest point of the **building** or **structure**;
- (D) In addition to the uses permitted by Regulation 10.10.20.10(1), a **place of worship** is permitted;
- (E) Despite Regulation 10.10.40.10(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];
- (F) Despite Regulations 10.5.40.10(2),(3) and (4), 10.10.40.10 (8) and (9) and (E) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 3:
 - (i) equipment used for the functional operation of the **building**, including electrical, utility, mechanical and ventilation equipment, as well as stairwells, roof access, roof assemblies, parapets, maintenance equipment storage, elevator shafts, chimneys, exhausts, and vents, as well as structures that enclose, screen or cover such equipment, by a maximum of 5.0 metres;
 - (ii) structures related to the habitat of Chimney Swifts, by a maximum of 5.0 metres;
 - (iii) architectural features, weathervanes, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 2.5 metres;
 - (iv) **building** maintenance units and window washing equipment, by a maximum of 6.0 metres;
 - (v) planters, **landscaping** features, trellises, pergolas, **structures** for outdoor **amenity space** or open air recreation, railings and guard rails, and divider screens on a balcony and/or terrace, by a maximum of 3.0 metres;
 - (vi) antennae, flagpoles and satellite dishes, by a maximum of 4.0 metres; and

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- (vii) **structures** providing safety or wind protection by a maximum of 3.0 metres;
- (G) Despite Regulation 10.10.40.40(1) the permitted maximum **gross floor area** of all **buildings** and **structures** is 5,200 square metres, of which:
- (i) The permitted maximum **gross floor area** for residential uses is 4,000 square metres;
 - (ii) the permitted maximum **gross floor area** for a **place of worship** is 1,200 square metres;
- (H) The calculation of **gross floor area** does not include the areas occupied by any non-structural architectural grid system or ornamental features that are attached to and project from the **main wall** of a **building**, or any areas that are partially enclosed by such features;
- (I) Despite Regulation 10.10.40.50(1), residential **amenity space** will be provided and maintained in accordance with the following minimum requirements:
- (i) A minimum of 1.4 square metres of indoor **amenity space** per dwelling unit must be provided; and
 - (ii) No outdoor **amenity space** is required;
- (J) Despite Clauses 10.5.40.70 and 10.10.40.70, the required minimum **building setbacks** are as shown in metres on Diagram 3 of By-law [Clerks to insert By-law number];
- (K) Despite Regulation 10.5.40.50(2), 10.5.40.60 (1), (2), (3), (4), (5) and (8), 10.5.40.70 (1) and (2) and 10.10.40.70 (1), (2), and (3), and (J) above, the following elements may encroach into the required minimum **building setbacks** and **main wall** separation distances as follows:
- (i) decks, porches, and balconies, by a maximum of 2.0 metres;
 - (ii) canopies, lighting fixtures, ornamental architectural drawings, and awnings, by a maximum of 4.0 metres;
 - (iii) exterior stairs, access ramps and elevating devices, by a maximum of 2.0 metres;
 - (iv) cladding added to the exterior surface of the **main wall** of a **building**, by a maximum of 1.0 metres;

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- (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, window sills and box windows, by a maximum of 1.0 metres;
 - (vii) eaves, by a maximum of 1.0 metres;
 - (viii) air conditioners, satellite dishes, antennae and pipes by a maximum of 2.0 metres; and
 - (ix) **structures** and elements used for open air recreation and **amenity space**, utility meters, vents and pipes;
- (L) Despite Regulation 10.5.50.10(1) a minimum of 10% of that portion of the **lot** zoned R as shown on Diagram 2 of By-law [Clerks to insert By-law number] must be provided as **landscaping**;
 - (M) Despite Regulation 150.50.50.10(A) and (C), soft landscaping is not required along the side and rear lot lines;
 - (N) Despite Regulation 10.5.50.10(5) and 150.50.50.10, a 1.5 metre wide **soft landscaping** strip is not required to be provided along any part of a **lot line** abutting another **lot** in the Residential Zone category;
 - (O) Despite Regulation 10.10.40.30(1)(B), the permitted maximum **building depth** is 80 metres;
 - (P) Despite Regulation 10.5.80.40(3)(A), **vehicle** access to a **parking space** on the **lot** may be from the **street**;
 - (Q) Despite Regulation 10.5.100.1(4)(B), a **driveway** may have a maximum total width of 7.5 metres;
 - (R) Despite Regulations 200.5.1(2), 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained on the **lot** in accordance with the following requirements:
 - (i) a minimum of 0.0 **parking spaces** for each **dwelling unit** for residential occupants;
 - (ii) **parking spaces** for residential occupants of the **building** may be provided at a maximum rate of:
 - (a) 0.7 **parking spaces** for each bachelor **dwelling unit** up to 45

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- square metres and 1.0 for each bachelor **dwelling unit** greater than 45 square metres;
- (b) 0.8 **parking spaces** for each one bedroom **dwelling unit**;
 - (c) 0.9 **parking spaces** for each two bedroom **dwelling unit**; and
 - (d) 1.1 **parking spaces** for each three or more bedroom **dwelling unit**;
- (iii) a minimum of 2.0 **parking spaces** plus 0.05 **parking spaces** for each **dwelling unit** for residential visitors;
 - (iv) no **parking spaces** are required to serve a **place of worship or religious education use**;
- (S) Despite Regulation 200.5.1.10(2), any parking spaces provided on the **lot** may be provided within an "automated parking system" and may have a minimum width of 2.6 metres, and be obstructed on any side, as described in Regulation 200.5.1.10(2)(D), without being required to provide additional width for the obstructed sides of the parking space;
- (i) for the purpose of this exception, an "automated parking system" means a mechanical system including an "automated transfer cabin" for the purpose of parking and retrieving vehicles without drivers in the vehicle during parking and without the use of ramping or drive aisles, and where automated maneuvering of other vehicles may be required for vehicles to be parked or retrieved;
- (T) Despite Regulation 200.15.10(1) and Clauses 200.15.10.5 and 200.15.10.10, accessible parking spaces are not required;
- (U) Regulations 200.5.1.10(5), (6) and (14) do not apply to parking spaces in an "automated parking system";
- (V) Despite Regulation 200.5.10.1(2), a Type G **loading space** is not required.
- (W) Despite Regulation 230.5.1.10(9)(b), require "long-term" **bicycle parking spaces** for a **dwelling unit** may be located on all levels of the **building**, including below-ground.
- (X) Despite Regulation 230.5.1.10(4), "long-term" and "short-term" **bicycle parking spaces** may be located in a stacked **bicycle parking space** having the following dimensions:
- (i) minimum length of 1.5 metres;

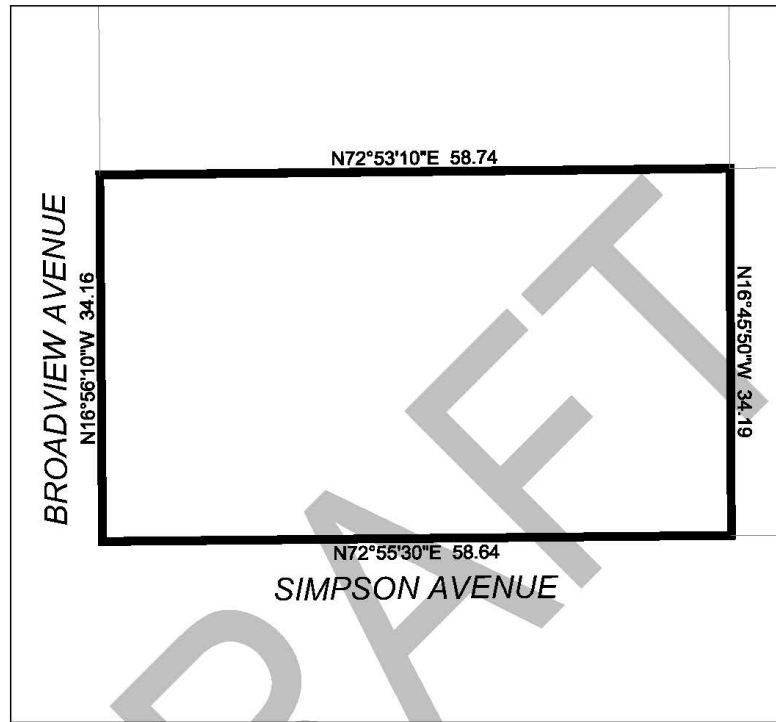
(ii) minimum spacing of 0.3 metres; and

(iii) minimum overhead clearance of 2.1 metres.

Prevailing By-laws and Prevailing Sections: None Apply.

5. Despite any severance, partition or division of the lands outlined in heavy lines on Diagram 1 of By-law [Clerks to insert By-law number], the provisions of this By-law shall apply to the whole of the lands as one lot, as if no severance, partition or division occurred.
6. Temporary Use(s):
- (A) None of the provisions of Zoning By-law 569-2013, as amended, or this By-law apply to prevent the erection and use of a temporary sales or leasing office on the lot, used exclusively for the initial sale and/or initial leasing of **dwelling units** on the lands to which this By-law applies for a period of 4 years from the date this By-law comes into full force and effect, after which this temporary use permission expires.

Pursuant to Ontario Land Tribunal Decision issued on [date] and Ontario Land Tribunal Order issued on [date] in Tribunal File OLT-22-00429.

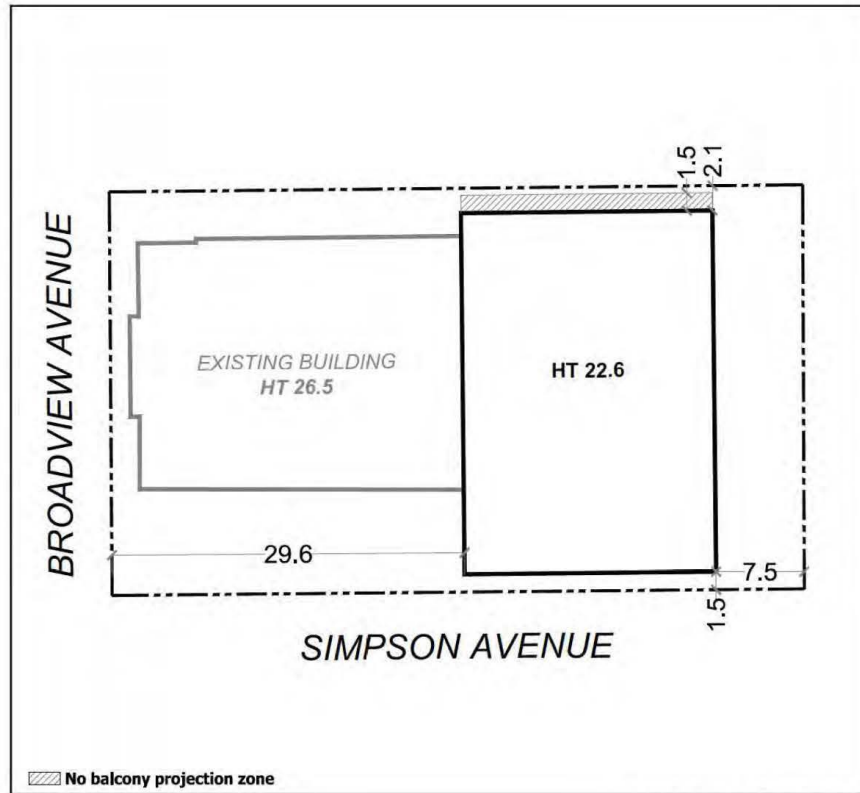


 **TORONTO**
Diagram 1

415 Broadview Avenue

File #21 251348 STE 14 02





 **Toronto**
Diagram 3

415 Broadview Avenue

File #21 251348 STE 14 OZ


Not to Scale

SCHEDULE B

Draft Official Plan Amendment

Authority: Ontario Land Tribunal Decision issued on (date) and Ontario Land Tribunal Order issued on (date) in Tribunal File OLT-22-004296

CITY OF TORONTO

BY-LAW No. XXX-2024 (OLT)

To adopt Amendment No. XXX to the Official Plan of the City of Toronto with respect to the lands municipally known as 415 Broadview Avenue.

WHEREAS the Owner of the lands appealed a proposed official plan amendment to the Ontario Land Tribunal pursuant to Section 22(7) of the Planning Act, R.S.O. 1990, c. P.13, as amended; and

WHEREAS the Ontario Land Tribunal, by its Decision issued on (date) in File OLT - 22-004296 and the Ontario Land Tribunal Order issued on (date) in File OLT-22-00429 approved amendments to the Official Plan for the City of Toronto with respect to the lands;

The Ontario Land Tribunal Orders:

1. The attached Amendment XXX to the Official Plan is hereby in force pursuant to the Planning Act, as amended.

Pursuant to Ontario Land Tribunal Decision issued on [date] and Ontario Land Tribunal Order issued on [date] in Tribunal File OLT-22-004296

City of Toronto By-Law XXX-2024 (OLT)

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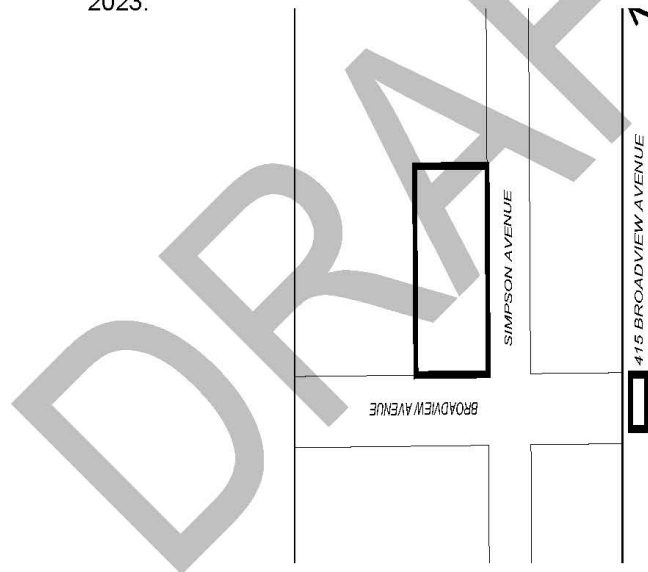
AMENDMENT NO. XXX TO THE OFFICIAL PLAN
LANDS MUNICIPALLY KNOWN IN THE YEAR 2023
AS 415 BROADVIEW AVENUE

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy No. XXX for the lands known municipally in 2023 as 415 Broadview Avenue, as follows:

Policy No. XXX: 415 Broadview Avenue

A 6-storey apartment building is permitted, provided the development conserves and incorporates the church building that existed on the site in 2023.



2. Chapter 7, Map 32, Site Area Specific Policies, is amended to add the lands known municipally in 2023 as 415 Broadview Avenue shown on the map above as Site and Area Specific Policy No. XXX.

Pursuant to Ontario Land Tribunal Decision issued on [date] and Ontario Land Tribunal Order issued on [date] in Tribunal File OLT-22-004296

NOT FOR
CONSTRUCTION

