

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 01, 2024

CASE NO(S):

OLT-22-004312

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

Applicant and Appellant: 2599302 Ontario Ltd.
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Description: To permit the construction of a 13-storey hotel
Reference Number: 20 126617 WET 03 OZ
Property Address: 2157 Lakeshore Boulevard West
Municipality/UT: Toronto/Toronto
OLT Case No.: OLT-22-004312
OLT Lead Case No.: OLT-22-004312
OLT Case Name: 2599302 Ontario Ltd. 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: 2599302 Ontario Ltd.
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit the construction of a 13-storey hotel
Reference Number: 20 126617 WET 03 OZ
Property Address: 2157 Lakeshore Boulevard West
Municipality/UT: Toronto/Toronto
OLT Case No.: OLT-22-004313
OLT Lead Case No.: OLT-22-004312

Heard: January 26, 2024, by Video-Hearing

APPEARANCES:**Parties****Counsel**

2599302 Ontario Ltd.

Aaron Platt

City of Toronto

Ray Kallio

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. EISAZADEH ON
FEBRUARY 26, 2024, AND ORDER OF THE TRIBUNAL**

[Link to Interim Order](#)**INTRODUCTION**

[1] This appeal arises following a non-decision by the City of Toronto (“City”) with respect to applications made by 2599302 Ontario Ltd. (“Applicant”) for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBLA”) to facilitate the development of a 13-storey hotel building consisting of 154 guest suites and amenities typical of a hotel, including a lobby and restaurant on the ground level.

[2] Disposition of the matter has come before the Tribunal as a Settlement Hearing.

[3] A statistical summary comparing the original proposal to the settlement proposal that is currently before the Tribunal is illustrated in the following chart:

	Original Proposal (March 2020)	Settlement Proposal (August 2023)
Site Area	788 square metres (“m ² ”)	788 m ²
Total Non-Residential Gross Floor Area	7,810.5 m²	7,744 m²
Hotel Suites	44,260 m ²	7,501.2 m ²
Restaurant	655 m ²	242.8 m ²
FSI	9.91	9.83
Height	13-storey	13-storey
Storeys	44.6 metres (“m”)	43.35 m
Metres	(50.6 m to MPH)	(49.35 m to MPH)
Hotel Suites	165	156
Amenity Space	2,46 m²	477.20 m²
Indoor	2,46 m ²	347.90 m ²
Outdoor	n/a	129.3 m ²

Vehicular Parking (Including Off-Site)	54 spaces	26 spaces
Bicycle Parking	5 spaces	5 spaces
Long-term	1 space	1 space
Short-term/Visitor	4 spaces	4 spaces
Loading Spaces	One Type B loading space	One Type B loading space

[4] The proposed revisions also include, *inter alia*:

- i. changes to the built form design of the proposed development including the addition of cantilever designs at levels 3 and 4 which has the effect of increasing the podium to tower setback from 1 metre (“m”) to 2.5 m;
- ii. notched design elements at levels 11-13, approximately 3.8 m long by 1.5 m deep at the northern extent, and 1.3 m deep at the southern extent, allowing for the reshaping of the mechanical penthouse to reduce shadow impact, and adding 129 square metres (“m²”) of outdoor amenity space at penthouse level;
- iii. a high level of articulation and expression in the construction of the wall on the east elevation so that it integrates with the rest of the proposed development’s exterior design.

[5] The Tribunal confirms that it has received, reviewed and considered the following materials and submissions:

- i. The uncontested opinion evidence of David Huynh, a Registered Professional Planner and full member of the Canadian Institute of Planners, as tendered orally as well as contained within his comprehensive affidavit sworn January 23, 2024, with exhibits attached thereto (marked as Exhibit 1);
- ii. The oral submissions of Mr. Platt, Counsel for the Applicant, in support of the settlement;

- iii. The oral submissions of Mr. Kallio, Counsel for the City, including the adoption of the evidence of Mr. Huynh, in support of the settlement;
- iv. Draft instruments in support of the proposed settlement, including the draft OPA and draft ZBLA (marked as Exhibits 2, and 3, respectively); and
- v. A draft Order submitted to give effect to the relief jointly being sought.

DECISION AND INTERIM ORDER

[6] The Tribunal understands that the aforementioned sworn affidavit evidence of Mr. Huynh reflects the revisions to the applications before the Tribunal that were reached through the cooperative efforts of the Parties.

[7] The Tribunal accepts the opinion evidence of Mr. Huynh, tendered both orally as well as within his affidavit, and similarly finds that the subject applications, as revised, have regard to those applicable matters of Provincial interest found in s.2 of the *Planning Act*; are consistent with the Provincial Policy Statement, 2020; conform to the Growth Plan for the Greater Golden Horseshoe, 2020, the Metrolinx Regional Transportation Plan (2041) and the City Official Plan, including the Motel Strip Secondary Plan and the Christie's Secondary Plan; and that the subject applications otherwise reflect principles of good land use planning. In addition, as testified to by Mr. Huynh, the Tribunal finds that the proposal has sufficient regard to various guideline documents of the City, including the Humber Bay Shores Urban Guidelines Update and Public Plan, the Avenues and Mid-Rise Building Guidelines, and is consistent with the permitted uses and height provisions of the applicable Etobicoke Zoning Code.

[8] THE TRIBUNAL ORDERS THAT:

1. The appeals are allowed, in part, and the draft Official Plan Amendment and draft Zoning By-Law Amendment, set out in Attachments “1” and “2”, respectively, to this Interim Order, are hereby approved in principle.
2. The Tribunal shall withhold the issuance of its First Order contingent upon confirmation of the City Solicitor that the following matters have been resolved:
 - i. the final form and content of the draft Official Plan Amendment is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
 - ii. the final form and content of the Zoning By-law Amendment is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
 - iii. the Owner has submitted a revised Functional Servicing and Stormwater Management Report, which includes the determination of storm water runoff, sanitary flow and water supply demand resulting from the Proposal, and whether there is adequate capacity in the existing municipal infrastructure to accommodate the Proposal, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - iv. the Owner has submitted a revised Hydrological Review Assessment, Hydrological Review Summary Form and Servicing Report Groundwater Summary Form to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and

- v. the Tribunal has received, and approved, the Official Plan Amendment and Zoning By-Law Amendment submitted in a final form, confirmed to be satisfactory to the Parties.

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

[10] If the Parties do not submit the final draft of the Zoning By-Law Amendment, as set out in subparagraph [8]2.(v) above, by **Friday, July 5, 2024**, then 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 Official Plan Amendment and the Zoning By-Law Amendment for the Tribunal's approval and issuance of its Final Order.

[11] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional timelines and deadline for the submission of the final form of the Official Plan Amendment and Zoning By-law Amendment and the issuance of the Final Order.

"N. Eisazadeh"

N. EISAZADEH
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.

Attachment 1

Draft – January 25, 2024 – FOR DISCUSSION PURPOSES

Authority: Ontario Land Tribunal Decision issued on
--- in Tribunal File OLT-22-004312

CITY OF TORONTO

BY-LAW No. ~ 2024(OLT)

To adopt an amendment to the Toronto Official Plan respecting lands municipally known in the year 2023 as 2157 Lake Shore Boulevard West

WHEREAS authority is given to the Ontario Land Tribunal under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended to pass this By-law; and

Therefore the Official Plan of the City of Toronto, as amended, is further amended by the Ontario Land Tribunal as follows:

1. The attached Amendment No. [xxx] to the City of Toronto Official Plan is hereby adopted pursuant to the *Planning Act*, as amended.

Ontario Land Tribunal Decision and Order issued on XXX, 2024 in Tribunal File OLT-22-004312.

Draft – January 25, 2024 – FOR DISCUSSION PURPOSES

**AMENDMENT No. [xxx] TO THE OFFICIAL PLAN
LANDS KNOWN IN THE YEAR 2023 AS 2157 LAKE SHORE BOULEVARD WEST**

The following text and maps constitute Amendment No. [xxx] to the Official Plan for the City of Toronto.

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

- 1) Chapter 6, Section 11, Motel Strip Secondary Plan, is amended by:
 - a. Amending Subsection 11.10.5 by renumbering policy d) as policy f) and adding new policies d) and e) as follows:
 - “d) A 13-storey hotel building with a maximum height of 44 metres, not including mechanical penthouse is permitted within Mixed Use Area “B”
 - e) The maximum density within Mixed Use Area “B” shall be 9.93 times the gross lot area of 788 square metres.

Attachment 2

Draft: January 25, 2024 – FOR DISCUSSION PURPOSES

Authority: Ontario Land Tribunal Order and Decision issued on ~, 2024, in Tribunal Case No. OLT-22-004312

CITY OF TORONTO

BY-LAW ~~XXXX~~-2024(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2023 as 2157 Lake Shore Boulevard West.

Whereas the Ontario Land Tribunal, by its Decision issued on [date] and its Order issued on [date], in respect of Tribunal File OLT-22-004312, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P13, as amended, determined to amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2023 as 2157 Lake Shore Boulevard West; and

Whereas the Ontario Land Tribunal has the authority pursuant to Section 34 of the Planning Act, as amended, to pass this By-law; 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 Orders:

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 adding the lands subject to this By-law to the Zoning By-law Map in Section 990.1, and applying the following zone label to these lands: CR (~~xxxxx~~) 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 the following Policy Area label to these lands: PA 4, as shown on Diagram 4 attached to this Bylaw.
5. 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 no value.
6. 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 13.0, as shown on Diagram 3 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 Section 995.30 and applying no value;
8. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number ~~XXXX~~ so that it reads:

(XXXX) Exception CR (xXXXX)

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 2157 Lake Shore Boulevard West, if the requirements of By-law [Clerks to insert By-law #] are complied with, a **building or structure** may be constructed, used or enlarged in compliance with Regulations (B) to (O) below;
- (B) Despite regulations 40.5.40.10(1) and (2), the height of a **building or structure** is the distance between the Canadian Geodetic Datum of **84.35** metres and the elevation of the highest point of the **building or structure** [Clerks to insert By-law ##];
- (C) Despite regulation 40.10.40.10(3), 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 regulation 40.10.40.10(5), the permitted minimum height of first floor of the building is 5.5 metres;
- (E) Despite regulations 40.5.40.10(3) to (8) and (C) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 5 of By-law [Clerks to insert By-law number]:
 - (i) equipment used for the functional operation of the **building and structures**, including those that enclose, screen, or cover the equipment, electrical, utility, mechanical and ventilation equipment, as well as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, elevator overruns, chimneys, flues and ancillary mechanical projections, and vents, by a maximum of **[3.5]** metres;
 - (ii) architectural features, parapets, and elements and **structures** associated with a **green roof, general roof assembly including pavers and roof build-up and drainage** by a maximum of **[1.5]** metres;
 - (iii) **building** maintenance units and window washing equipment, by a maximum of **[3.0]** metres;
 - (iv) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace, by a maximum of **[2.5]** metres;
 - (v) antennae, flagpoles and satellite dishes, lightning rods, light fixtures by a maximum of **[2.5]** metres; and
 - (vi) trellises, pergolas, and unenclosed **structures** providing safety or wind protection to rooftop **amenity space**, by a maximum of **[3.0]** metres;
- (F) Despite Regulation 40.10.40.40(1), the maximum non-residential **gross floor area** including above and below grade, on the lot must not exceed **7,825** square metres of which the maximum gross floor area for an eating establishment must not exceed 243 square

metres;

- (G) Despite Regulation 40.10.40.50, a minimum of 120 square metres of outdoor **amenity space** must be provided, of which can be located on the rooftop;
- (H) Despite Regulation 40.10.40.70(3), the required minimum **building setbacks** are as shown in metres on Diagram 5 of By-law [Clerks to insert By-law number];
- (I) Despite Clause 40.10.40.60 and (H) 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 [2.5] metres;
 - (ii) canopies and awnings and building maintenance units, by a maximum of [3.0] metres;
 - (iii) exterior stairs, access ramps and elevating devices, by a maximum of [3.0] metres;
 - (iv) cladding including any projecting panel system or elements of a cladding system 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, eaves, sill, belt course, or chimney breast, by a maximum of [1.5] metres;
 - (vi) window projections, including bay windows and box windows, light fixtures, by a maximum of [1.5] metres; and
 - (vii) air conditioners, satellite dishes, antennae, vents, and pipes, by a maximum of [1.5] metres;
- (J) Regulations 40.10.50.10 (1) and (3), with respect to landscaping requirements, do not apply;
- (K) Despite regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
 - (i) 0 parking spaces are provided for an eating establishment;
 - (ii) a minimum rate of 26 parking spaces shall be provided, of which:
 - (a) a minimum of 16 parking spaces shall be provided on the subject lands that can be accessed below-grade through the lands municipally known as 59 and 60 Annie Craig Drive; and
 - (b) a minimum of 10 parking spaces shall be provided off-site on the lands municipally known as 59 and 60 Annie Craig Drive.
- (L) Despite Regulations 200.15.1(1) to (2), 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. The entire length of an accessible **parking space** must be adjacent to a 1.5-metre-wide accessible and barrier-free aisle or path;
- (M) Despite Regulation 200.15.1(3), the entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle or path; and
- (N) Despite Regulation 200.15.1(4), accessible **parking spaces** must be within 30.0 metres of a barrier free entrance to a **building** or passenger elevator that provides access to the first storey of the **building**;
- (O) Despite Regulation 200.15.10.10(1), a minimum of 2 accessible **parking spaces** are required;
- (P) Despite Regulation 220.5.10.1(1), (3) and (6), a minimum of one Type “B” loading space must be provided upon full build out of the lands;
- (Q) Despite Table 230.5.10.1(1), a minimum of 5 bicycle parking spaces shall be provided on the lot, of which 4 “short-term” and 1 “long-term” bicycle parking spaces;

Prevailing By-laws and Prevailing Sections: (None Apply)

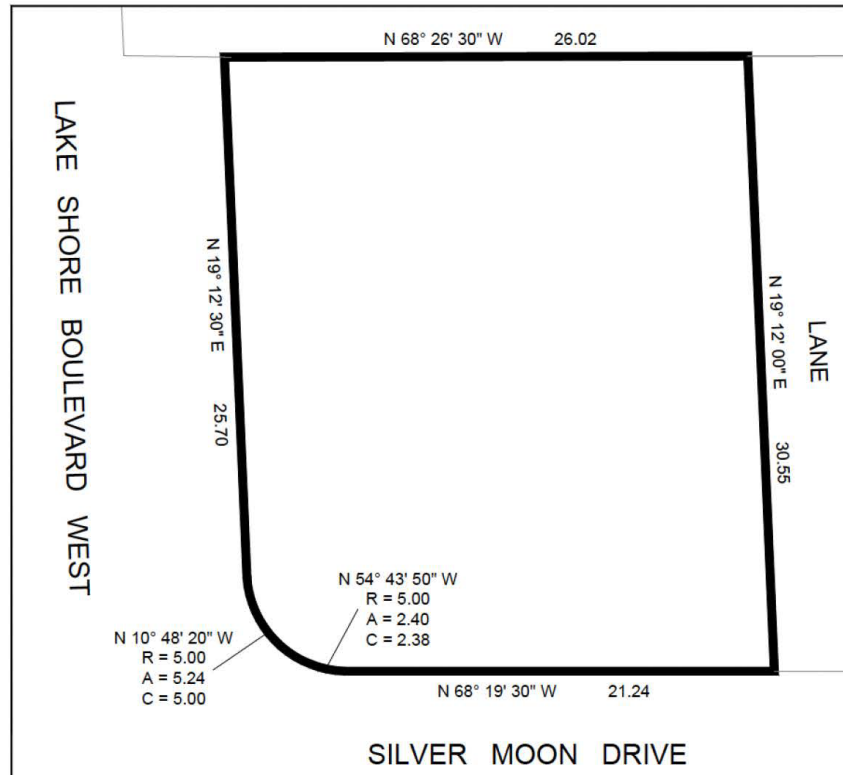
9. Temporary Use(s):

- (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 temporary sales or leasing office on the lot, used exclusively for the initial sale and/or initial leasing of **non-residential gross floor area** the lands to which this By-law applies for a period of 3 years from the date this By-law comes into full force and effect, after which this temporary use permission expires.

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City of Toronto By-law XXXX-2024(OLT)

City of Toronto By-law No. ____ - 2024(OLT)



TORONTO

Diagram 1

2157 Lake Shore Boulevard West

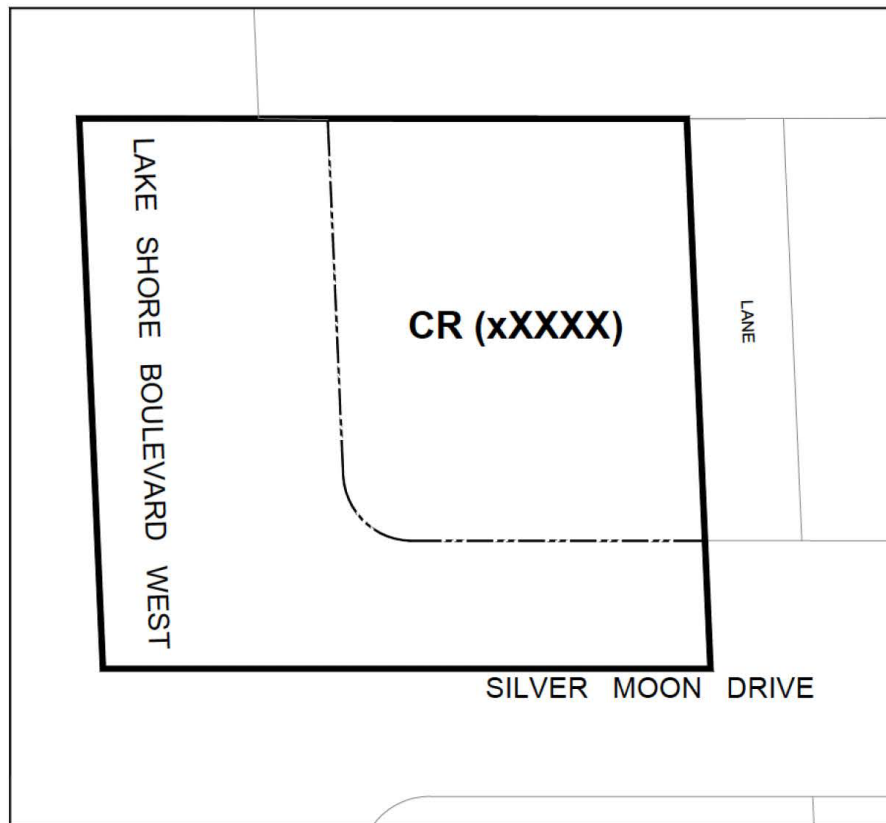
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Not to Scale

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City of Toronto By-law XXXX-2024(OLT)

City of Toronto By-law No. ____ - 2024(OLT)

 TORONTO

2157 Lake Shore Boulevard West

Diagram 2

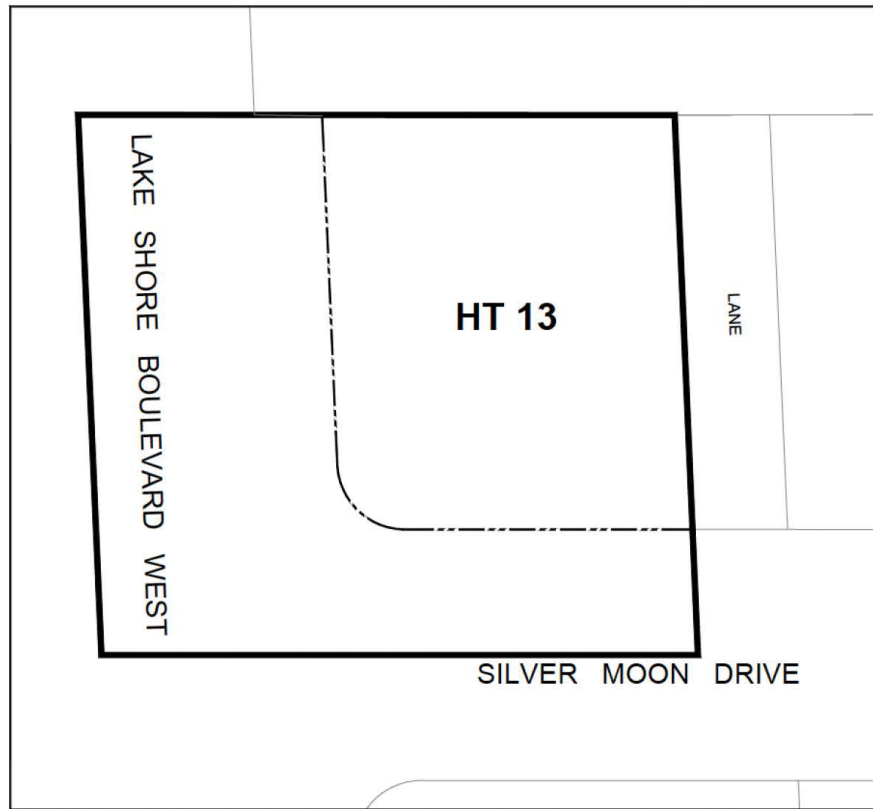
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City of Toronto By-law ~~XXXX~~-2024(OLT)

City of Toronto By-law No. ____ - 2024(OLT)

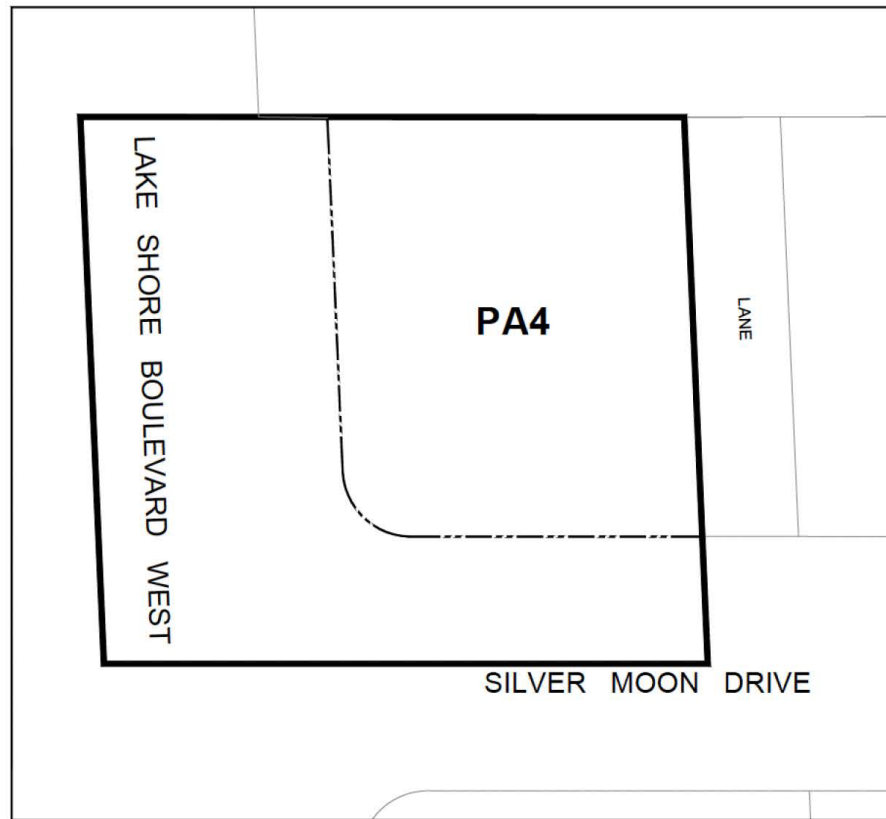


 **TORONTO**
Diagram 3

2157 Lake Shore Boulevard West

File #20 126617 WET 03 OZ


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 **Toronto****Diagram 4****2157 Lake Shore Boulevard West**

File #20 126617 WET 03 OZ



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City of Toronto By-law No. ____ - 2024(OLT)



File #20 126617 WET 03 OZ

