

## **Residential Demolition Application – 101 Heath Street West**

**Date:** January 3, 2024  
**To:** Toronto and East York Community Council  
**From:** Director and Deputy Chief Building Official  
Toronto Building, Toronto and East York District  
**Wards:** Ward 12 (Toronto-St. Paul's)

### **SUMMARY**

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This staff report is regarding a matter for which the Toronto and East York Community Council has delegated authority to make a final decision.

In accordance with city-wide residential demolition control under the Toronto Municipal Code Chapter 363, under the authority of Section 33 of the Planning Act, the application for the demolition of an existing two-storey single detached house at 101 Heath Street West (Application No. 21 180101 DEM 00 DM) is being referred to the Toronto and East York Community Council for consideration to refuse or grant the application, including any conditions, if any, to be attached to the permit application because a building permit application for a replacement building has not been made.

### **RECOMMENDATIONS**

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The Director and Deputy Chief Building Official, Toronto Building, Toronto and East York District recommends that the Toronto and East York Community Council give consideration to the demolition application and:

1. Refuse the application to demolish the existing two-storey single detached house because there is no permit to replace the building on the site at this time; or
2. Approve the application to demolish the existing two-storey single detached house without any conditions; or
3. Approve the application to demolish the existing two-storey single detached dwelling with the following conditions:
  - a) That construction fences be erected in accordance with the provisions of Toronto Municipal Code, Chapter 363, Article 7, if deemed appropriate by the Chief Building Official;

- b) That all debris and rubble be removed immediately after demolition;
- c) That sod be laid on the site and that the site be maintained free of garbage and weeds, in accordance with Toronto Municipal Code Chapter 629-10, paragraph B and 629- 11; and
- d) That any holes on the property are backfilled with clean fill.

## **FINANCIAL IMPACT**

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There are no financial impacts to the City resulting from the recommendations in this report.

## **DECISION HISTORY**

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The Deputy Chief Building Official and Director, Toronto Building, Toronto East York District submitted a Staff Report dated January 27, 2022 for the property located at 101 Heath Street West for the consideration of Toronto and East York Community Council held on February 16, 2022 (Item -2022.TE31.23).

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.23>

The Toronto and East York Community Council's decision was to defer the matter and unless the application made under section 33 of the Planning Act is withdrawn, to direct the Director and Deputy Chief Building Official to report back to Toronto and East York Community Council on recommendations for the application after the City Solicitor has advised that the Ontario Land Tribunal has disposed of, and issued a final and binding decision on the variance appeal made pursuant to section 45 of the Planning Act (Application A0266/21 TEY).

Prior to the May 26, 2023, Ontario Land Tribunal hearing, the parties confirmed that a settlement had been reached and was presented to the Ontario Land Tribunal for approval. The Ontario Land Tribunal ordered that the appeals be allowed, in part, and the variances to the City of Toronto Zoning by-law are authorised subject to conditions.

## **COMMENTS**

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On June 5, 2020, an application for site plan approval (20 152778 STE 12 SA) was made to facilitate the redevelopment of the site with a three-storey apartment building and is currently under review.

On July 6, 2021, an application was submitted to the City to demolish the existing two-storey single detached house at 101 Heath Street West.

The request for the issuance of the demolition permit is to accommodate further environmental investigations of the soils and the extent of soil remediation.

The existing building is not currently on the list of designated historical buildings.

The land is not within a Toronto and Region Conservation Authority regulated area.

## **CONTACT**

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Diana Yacoub, Manager, Plan Review, Toronto and East York District  
T (416) 395-7534 E-mail: Diana.Yacoub@toronto.ca

## **SIGNATURE**

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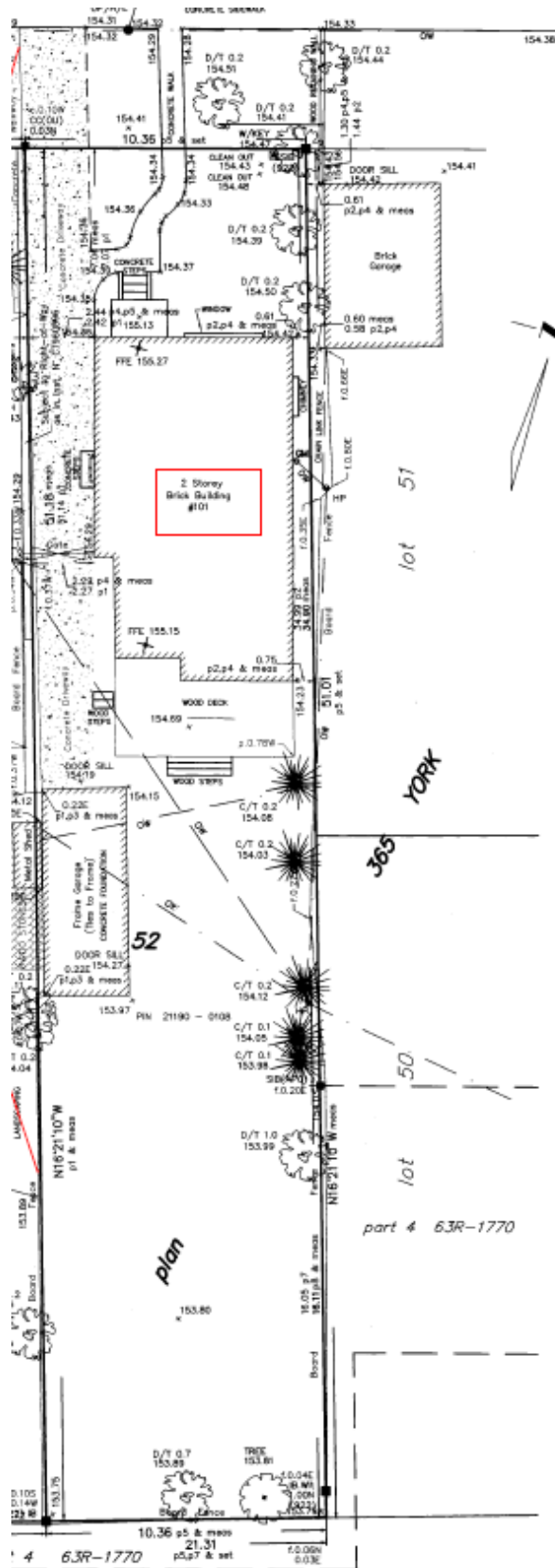
Natasha Zappulla  
Director and Deputy Chief Building Official, Toronto Building

## **ATTACHMENTS**

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1. Survey for 101 Heath St W
2. Letter from Haven Developments (Applicant)
3. Ontario Land Tribunal Decision (Case No.: OLT-22-002223)

# Attachment 1: Survey for 101 Heath St W



REGISTERED PLAN 365 TO  
PART OF LOT 7  
REGISTERED PLAN 623 YO  
CITY OF TORONTO

SCALE 1 : 150



SCHAEFFER DZALDOV BENNETT LTD.

### BEARING REFERENCE

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE CONDOMINIUM PLAN N° 715, HAVING A BEARING OF N16°

### METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND BY D.3048.

### LEGEND

SB	STANDARD IRON BAR
IB	IRON BAR
CC	CUT CROSS
■	FOUND
□	SET
meas	MEASURED
Inst.	INSTRUMENT
Wit.	WITNESS
BRW	BLOCK RETAINING WALL
c.	CONCRETE
f.	FENCE
GM	GAS METER
HP	HYDRO POLE
p.	PORCH
WK	WATER KEY
OW	OVERHEAD WIRES
APC	AKSAN PILLER CORPORATION LTD.
GP	GUIDO PAPA SURVEYING LTD.
OU	ORIGIN UNKNOWN
SVN	SPEIGHT AND VAN NOSTRAND LIMITED
p1	BUILDING LOCATION SURVEY BY VLADIMIR KF DATED OCTOBER 29, 1987 (JOB N°: 87-237)
p2	SURVEYOR'S REAL PROPERTY REPORT BY KF DATED FEBRUARY 7, 2010 (JOB N°: 10-007)
p3	METROPOLITAN TORONTO CONDOMINIUM PLAN PLAN OF SURVEY BY REUBAN, DATED MAY 18, 1971
p4	PLAN OF SURVEY BY SPEIGHT, VAN NOSTRA DATED MAY 4, 1943
p6	PLAN 66R-8825
p7	PLAN 63R-1770
p8	PLAN OF SURVEY BY SPEIGHT, VAN NOSTRA DATED JANUARY 2, 1958
D1	INSTRUMENT N° CT960896
922	SCHAEFFER DZALDOV BENNETT LTD.

### SURVEYOR

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UPDATED ON JULY 12, 2019 TO SHOW TOPOGRAPHIC FFAT!

## Attachment 2: Letter from Applicant



Wednesday, January 3, 2024

Mr. Frank Stirpe,  
Manager of Plan Review, Toronto Building, Toronto & East York District,  
City of Toronto, 100 Queen Street West, 16th Floor,  
City of Toronto, ON,  
M5H 2N2

RE: DEMOLITION APPLICATION FOR 101 HEATH STREET WEST, -TE31.23 - RESIDENTIAL DEMOLITION AP-  
PLICATION - 101 HEATH STREET WEST

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Dear Mr. Frank Stirpe,

On behalf of 101Heath Holdings Inc., please accept this addendum justification letter to our previous letter dated May 2021 regarding our request for City Council and the Building Department to grant us approval in proceeding with the demolition of the existing structure located on the municipal lands known as 101 Heath St W, Toronto, ON, M4V 1T5. The previous letter remains valid for our rationale for our request. As such, the item was postponed on February 16, 2022, by The Toronto and East York Community Council postponed consideration of this item for the following reason:

- *The Toronto and East York Community Council defer the matter and, unless the application made under section 33 of the Planning Act is withdrawn, direct the Director and Deputy Chief Building Official, Toronto Building, Toronto and East York District to report back to Toronto and East York Community Council on recommendations for the application after the City Solicitor has advised that the Ontario Land Tribunal has disposed of, and issued a final and binding decision on, the variance appeal made pursuant to section 45 of the Planning Act under Application No. AO266/21TEY.*

On May 26, 2023, the Ontario Land Tribunal, ( OLT), issued a final and binding decision as part of the settlement hearing between both parties for the minor variance appeal for 101-103 Heath St W (Application # OLT-22-002223). As such, this pre-requisite condition for minor variance appeal be resolved, prior to Toronto and East York Community Council granting approval for the demolition permit for 101 Heath Street West, has been satisfied. We have enclosed the final order and decision regarding the appeal with respect to our minor variance approval ( *Application No. AO266/21TEY*).



We wish to be granted approval for the demolition of the existing structure for 101 Heath St W as a means to conduct additional environmental investigations of the soils and this demolition permit is required for the purpose of project financing.

If you have any questions, please do not hesitate to contact me directly.

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SENIOR DEVELOPMENT MANAGER FOR 101 HEATH HOLDINGS INC.,

**Attachment 3: Ontario Land Tribunal Decision (Case No.: OLT-22-002223)**

**Ontario Land Tribunal**  
 Tribunal ontarien de l'aménagement  
 du territoire



**ISSUE DATE:** May 26, 2023      **CASE NO(S):** OLT-22-002223

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended.*

Appellant	Michael Guglietti
Appellant	Steven Guglietti
Appellant	Thomas Rahilly
Applicant	101 Heath Holdings Inc.
Applicant	103 Heath Holdings Inc.
Subject:	Minor Variance
Description:	Demolish a <u>2 storey</u> building and construct a <u>3 storey, 10 unit apartment</u>
Reference Number:	A0266/21TEY
Property Address:	101-103 Heath Street W (101-103 Heath Street West)
Municipality/UT:	Toronto/Toronto
OLT Case No:	OLT-22-002223
OLT <u>Lead</u> Case No:	OLT-22-002223
OLT Case Name:	Guglietti v Toronto (City)

**PROCEEDING COMMENCED UNDER** section 114(15) of the *City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A.*

Subject:	Site Plan
Description:	Demolish a <u>2 storey</u> building and construct a <u>3 storey, 10 unit apartment</u>
Reference Number:	20 152778 STE 12 SA
Property Address:	101-103 Heath Street W
Municipality/UT:	Toronto/Toronto
OLT Case No:	OLT-22-002444
OLT <u>Lead</u> Case No:	OLT-22-002223

<b>Heard:</b>	March 2, 2023 by video hearing
+	
<b>APPEARANCES:</b>	
<b><u>Parties</u></b>	<b><u>Counsel</u></b>
Michael Guglietti Katherine Euda	Christopher Tanzola Natalia Ast ( <i>in absentia</i> )
Steven Guglietti	Christopher Tanzola
Thomas Rahilly Jean Fraser	Christopher Barnett
101 Heath Holdings Inc. 103 Heath Holdings Inc.	David Bronskill
City of Toronto	Sarah O'Connor Daniel Elmadany ( <i>in absentia</i> )

## **DECISION DELIVERED BY BITA M. RAJAE AND S. BOBKA AND ORDER OF THE TRIBUNAL**

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### [Link to Final Order](#)

[1] This hearing was convened to consider the appeals by Steven Guglietti, Michael Guglietti and Katherine Euda, and Thomas Rahilly and Jean Fraser (together the “Appellants”) pursuant to s. 45(12) of the *Planning Act* (“Act”) resulting from the approval by the City of Toronto’s (“City”) Committee of Adjustment (“COA”) of a Minor Variance application (“MV Application”) submitted by 101 Heath Holdings Inc. and 103 Heath Holdings Inc. (“Applicants”). The Appeals pertain to lands known municipally as 101-103 Heath Street West in the City (“Subject Property”). The purpose of the Appeals is to facilitate the development of a three-storey, 10-unit apartment building on the consolidated lot.

[2] A Case Management Conference (“CMC”) previously took place on this matter,

wherein it was confirmed that Notice had been appropriately given with respect to this proceeding. At the CMC, the Deer Park Residents Group was granted Participant Status. No other group or individual requested status, Party or Participant, in this matter.

[3] Prior to the hearing, the Parties confirmed that a settlement had been reached and would be presented to the Tribunal for approval.

### **REQUESTED VARIANCES**

[4] The Applicants are seeking eighteen (18) variances to the City's Zoning By-law No. 569-2013 ("City's ZBL"), as detailed in Schedule A, which is attached to this Decision.

[5] The following are noted with respect to the variances:

1. The following variances were not in dispute amongst the Parties:  
Variances 4, 8, 10, 11, 13, 15, and 17.
2. The initial application sought nineteen (19) variances. However, the Parties confirmed that a height variance from By-law 438-86 is no longer required. On November 30, 2022, the OLT issued a Decision ("By-law 569-2013 OLT Decision") on Sub-phase 2 of Phase 2 of the ongoing appeal related to the City's ZBL. As it relates to the Subject Property, the Decision brought into force modified height provisions for the R zone of By-law 569-2013. Thus, a height-related variance from Zoning By-law 438-86 of the former City of Toronto is no longer required.
3. Variance 5 seeks an increase in height to 12.9 metres ("m") for the retained portion of the apartment building, whereas the maximum permitted building height is 12 m. At the time of the Application, the permitted height in the ZBL was 11 m, but has increased from 11 m to 12

m as per the Bylaw 569-2013 OLT Decision.

## **SITE PLAN APPEAL**

[6] In addition to the Minor Variances appeal, the Tribunal has received a Site Plan Application pertaining to this matter (entitled OLT-22-002444 at the Tribunal). At the commencement of the Hearing on March 2, 2023, the Applicants' Counsel advised that no evidence pertaining to the Site Plan would be tendered, as the matter of the minor variances would have to be resolved prior to the Site Plan being addressed.

[7] However, requests were made by the Parties that the Appellants in the current matter be granted Party Status in the Site Plan matter. All Parties agreed that the Appellants would remain actively involved with the Site Plan, and this was also confirmed in the Minutes of Settlement in relation to the Minor Variances appeal. The Tribunal recognizes the general practice of restricting the Parties in a Site Plan appeal to the owner and the municipality, and the good and valid reasons for such a practice, but opted to grant Party status to the Appellants given the unique circumstances particular to this appeal. In this case, the Parties requested that the Appellants be part of the Site Plan appeal because of the settlement and the specific details agreed to in arriving at that settlement. This request is granted, and the Appellants are now Parties in the OLT-22-002444 proceeding.

[8] The Applicants further requested that the Site Plan appeal remain adjourned *sine die*. This request was on consent of the Parties and is granted by the Tribunal.

## **SUBJECT PROPERTY**

[9] The Subject Property is 1,169 square metres ("m<sup>2</sup>") in size, with 23.19 m of frontage onto Heath Street West. It is located on the south side of Heath Street West, between Oriole Road and Deer Park Crescent and approximately 170 m north of St. Clair Street West. Currently, there are two buildings on the Subject Property: a three-

storey detached dwelling on 103 Heath Street West and a two-storey detached dwelling on 101 Heath Street West.

[10] There are two curb cuts, each served by a right-of-way easement. The first easement is found between the two buildings and is to be removed as part of the proposal. The second easement is situated along the westerly 1.83 m of 103 Heath Street West and is part of a mutual driveway serving 103 Heath Street and the adjacent property at 105 Heath Street West.

[11] The Subject Property has easy access to existing transit services. It is located approximately 415 m from the St. Clair subway station entrance on Yonge Street, a station which provides access south to downtown Toronto and north to North York. The St. Clair LRT line (Route 512) connects with the subway station and provides frequent service along St. Clair Avenue, running east-west along St. Clair Avenue West, with the nearest stops located either 295 m or 415 m away from the Subject Property. Moreover, the Subject Property is within proximity of a number of bus routes, including Route 5 (Avenue Road), Route 312 (St. Clair – Junction Blue Night), and Route 97 B/Route 320 (Yonge Street).

[12] The Subject Property is designated Neighbourhoods on Map 17 – Land Use Plan of the City's Official Plan ("City's OP"). The immediate surrounding lands have the same designation. The lands approximately 60 m south within the block and approximately 55 m southeast along Deer Park Crescent are designated Apartment Neighbourhoods. Further to the west, the lands along Avenue Road (approximately 130 m away) are also designated Apartment Neighbourhoods. With a few exceptions, these lands, as well as the Neighbourhoods-designated lands on the north side of Heath Street West, and the lands east, west, and south of the Subject Property are all zoned Residential, R (d0.6) (x905) in the City's ZBL.

[13] The surrounding neighbourhood is characterized by a mix of building types that include single detached, semi-detached, townhouses, and apartment buildings. There is

no clear “prevailing character” with respect to building type, or the pattern of public streets. The character of the Yonge-St. Clair neighbourhood, as a whole, is varied and eclectic.

[14] To the east of the Subject Property is a three (3)-storey duplex building. Two of the Appellants live south of this building in recently constructed three-storey detached dwellings. These dwellings required minor variances, which were approved. To the south of the Subject Property is the home of one of the Appellants, with its rear yard abutting the Subject Property. The building is set back approximately 18 to 20 m from the rear lot line. This dwelling also required minor variances, which were approved.

### **PROPOSED DEVELOPMENT**

[15] The Applicants intend to build a three-storey, ten (10)-unit, apartment building on the Subject Property (“Proposed Development”). To that end, the Applicants intend to demolish the existing dwelling at 101 Heath Street West and make alterations to the existing dwelling at 103 Heath Street West. There are to be seven 2-bedroom units and three 3-bedroom units. The Proposed Development will have a gross floor area of approximately 1,637 m<sup>2</sup> and, with respect to density, a Floor Space Index (“FSI”) of 1.4. The Proposed Development is described in further detail below.

[16] The MV Application was filed on February 26, 2021, with a resubmission made on March 11, 2021 following additional consultation with the City. There were numerous meetings with City staff (from June through October) to discuss potential changes to address concerns of staff and area residents including tree protection, heritage conservation, and privacy and overlook concerns. This resulted in a number of resubmissions with the final MV Application resubmission on November 15, 2021.

[17] On December 8, 2021, the COA considered and unanimously approved the MV Application. The MV Application was subsequently appealed to the Tribunal by the Appellants.

## ▲ THE HEARING

[18] In support of the settlement agreement reached between the Parties, the Applicants called one witness and provided the *Curriculum Vitae* and Acknowledgement of Expert Duty form for Mike Dror. Mr. Dror was qualified, without objection, to provide expert opinion evidence in the field of Land Use Planning.

### **SETTLEMENT PROPOSAL BEFORE THE TRIBUNAL**

[19] At the Hearing, the primary concerns raised by the Appellants related to height of the building (causing less sunlight), privacy concerns, landscaping issues, and building depth. Mr. Dror testified that a number of changes were made to the Proposed Development in order to address issues raised by the Appellants. Generally speaking, these changes related to additional privacy mitigation measures, including a reduction of height, the shifting of massing at the rear of the building, adjustments to setbacks, various screening/planting measures, and changes to window locations.

[20] Mr. Dror stated that the proposal continued to maintain and integrate the north elevation and portions of the west and east elevations (up to 10.55 m in depth) of the existing building at 103 Heath Street West, and to redevelop the Subject Property with a "T"-shaped three (3)-storey residential apartment building consisting of ten (10) dwelling units. However, changes have been made, as described below:

PROPOSED CHANGES	MR. DROR'S COMMENTS
ROOF HEIGHT	The proposed roof height has been reduced from 11.4 m to 10.235 m, resulting in a 1.165 m reduction, which is below the height limit in the

	ZBL of 12.0 m. The portion of the existing building being retained <u>has</u> a maximum height of 12.9 m which extends above the main roof.
SETBACKS	The Proposed Development maintains the existing front yard setback of 6.04 m from Heath Street West by preserving the existing façade of 103 Heath Street West, while the proposed building is set further back (approximately 6.95 m), <u>in order to</u> preserve views of the returning walls of the retained portions of the building. The building is proposed to be set back 0.45 m from the east lot line for the first approximately 17 m, <u>similar to</u> the existing east side yard setback of 101 Heath Street West which is 0.61 m. The setback increases to approximately 4.6 m for the next approximately 4.0 m, and 7.1 m for the rear portion of the building to preserve trees in the southeast portion of the Subject Property and mitigate impacts on the adjacent properties. A 7.5 m rear yard setback is provided above grade, and a 3.6 to 6.9 m rear yard setback is provided below grade, with the rear wall below grade angled to avoid the root zone of Tree 12. The west side yard setback is maintained at 2.5 m (matching the existing wall). Behind the retained walls of the existing building, a setback of 3.3 m is provided, resulting in a separation of approximately 11 m from the rear portion of the adjacent building at 105 Heath Street West.
PARKING	One level of underground parking is proposed with 9 parking spaces including 8 resident parking spaces, 1 accessible resident parking space, 11 bicycle parking spaces, 9 long-term bicycle parking spaces and 2 short-term bicycle parking spaces, with an access to the building's lobby, along with a pet/bike <u>wash room</u> . The parking garage is accessed via an internal ramp along the east side of the Proposed Development. The layout and shape of the underground garage has been modified significantly throughout the process <u>in order to</u>

	accommodate tree root zones at the rear of the Subject Property (Trees 11, 12 and 13).
MITIGATION AGAINST PRIVACY IMPACTS	<p>On the second and third floors, planters, vegetative <u>screens</u> and fixed screens will surround the proposed easterly balconies with a minimum height of 1.2 m to 1.8 m to mitigate against privacy impacts.</p> <p>Furthermore, the proposed easterly balconies have been reduced in size as part of the recent settlement discussions. On the roof of the third floor are private terraces for Units 301, 302, 303 and 304 which are set back from the edges of the roof with planters and continuous guards. The fixed planters are proposed to have a depth of at least approximately 0.5 m, and up to approximately 1.5 m. In addition, 1.5-m fins have been included on the <u>third floor</u> terraces to focus views towards the rear yard and minimize views towards the east/west.</p>
ACCESS	<p>A 1.2-m-wide walkway is proposed along the westerly and southerly edges of the Subject Property as well as the south half of the easterly portion of the Subject Property. The north half of the east edge of the Subject Property is occupied by a proposed one-way ramp (with traffic light system) providing access to the underground garage. Landscape strips of at least 1.5 m are provided along the south half of the east <u>lot</u> line and along the south lot line.</p>
TREES	<p>Five trees (Trees 1, 2, 3, 5 and 17) are located within the public realm in front of the Subject Property. Two of those trees (Trees 5 and 17) will be retained and two new trees will be added. There are five boundary trees (Trees 4, 8, 9, 10 and 11) along the east property line. Four trees (Trees 4, 8, 9 and 10) are to be removed to accommodate the proposed building. However, significant efforts have been made to retain Tree 11 by setting back the building at grade and below <u>grade</u> through the rearrangement of the underground parking garage. Similar</p>



	<p>efforts were made to rearrange the underground and the design of the at-grade patios to retain Tree 12 on the Subject Property, and to ensure that Tree 13 (located on 16A Deer Park Crescent) is retained and protected. Trees 15 and 16 on the adjacent property to the west are also to be retained.</p>
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[21] With respect to some of the Appellants' specific concerns, the following was highlighted:

1. 16A Deer Park Crescent: This home abuts the Subject Property and has a floor-to-ceiling window facing the Proposed Development. Mr. Dror confirmed that a hedge, window screens, and architectural screens are all included in the proposal to protect the Appellants' privacy. These changes to the original proposal are now included in the revised version of the plans and are indicated in the Minutes of Settlement as conditions to the settlement.
2. 20-22 Deer Park Crescent: Mr. Dror confirmed that the increases in the setbacks and the reduction in the height were made to address the concerns in relation to these properties. The changes made, and confirmed in the settlement agreement, would allow for more sunlight in the backyards of these homes, allowing the Appellants to enjoy their properties.

[22] The Appellants confirmed, through their Counsels, that it was due to the Applicants' willingness to revise the Proposed Development in ways that addressed their concerns, and the mitigation measures taken, that the Parties were able to arrive at a settlement. The Appellants further stated that the revisions reflected the Applicants' willingness to propose a building that, while complying with provincial policy standards described below, also took into consideration the concerns of the existing residents and the characteristics of the existing neighbourhood. The variances proposed would allow

for this important balance to come to fruition. According to the Appellants, this proceeding demonstrated that, as the Province works towards achieving intensification, it is important to do so by acknowledging the valid concerns of the neighbourhood in ways that are consistent with good planning. The Appellants submitted that this settlement was representative of such land use planning.

[23] Finally, Mr. Dror testified that, although the MV Application has been revised from what was before the COA as a result of the settlement, the revisions are minor, and as a result, he opined that no further notice would be required, in accordance with s. 45(18.1.1) of the Act.

### ***PLANNING EVIDENCE***

[24] It was Mr. Dror's professional planning opinion that the Variances requested, and the Proposed Development they facilitate, have appropriate and adequate regard for matters of provincial interest, are consistent with the Provincial Policy Statement (2020) and conform to the Growth Plan for the Greater Golden Horseshoe (2019). Moreover, Mr. Dror stated that the Variances requested meet the four tests of s. 45(1) of the Act and are good planning.

### **PROVINCIAL POLICY STATEMENT, 2020 ("PPS")**

[25] In accordance with Section 3(5) of the Act, all decisions that affect a planning matter are required to be consistent with the PPS.

[26] Mr. Dror testified that the Variances, and the Proposed Development they would facilitate, are consistent with the PPS, specifically Policies 1.1.1, 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.4.3, 1.6.7.4, 1.7.1, 1.8.1 and 2.6.1. The proposal would facilitate the intensification of the Subject Property, which is located near transit, in a form that is compatible with the general height scale of other buildings in the surrounding neighbourhood. It would do so while retaining a large number of trees, and conserving

the heritage value of the existing building at 103 Heath Street. Moreover, Mr. Dror confirmed that consistency with the PPS was agreed to with the other experts involved in this matter prior to the settlement, as noted in the December 23, 2022 Agreed Statement of Facts (“ASF”).

### **A PLACE TO GROW: GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE 2020 (“GROWTH PLAN”)**

[27] All decisions by an approval authority that affect a planning matter shall conform with the Growth Plan, subject to any legislative or regulatory provisions providing otherwise.

[28] Mr. Dror stated that the Variances, and the Proposed Development they will facilitate, conform with the Growth Plan, specifically the Guiding Principles in Section 1.2.1 and Policies 2.2.1(2)(c), 2.2.1(3)(c), 2.2.1(4), 2.2.2, 2.2.4 and 2.2.6. The proposal would facilitate the ongoing regeneration of homes in the surrounding area by allowing the development of one three (3)-storey apartment building in a form that is compatible with other dwellings in the neighbourhood. This would result in a more efficient built form that would provide additional housing options. The Subject Property is within the delineated St Clair PMTSA in OPA 570 (currently under review by the Minister of Municipal Affairs and Housing) and accordingly would be a considered part of a “strategic growth area.” Moreover, conformity with the Growth Plan was agreed to with the other experts as indicated in the ASF.

### **SECTION 45(12) OF THE *PLANNING ACT***

[29] Mr. Dror testified that the requested variances both individually and cumulatively meet the four tests outlined in s. 45(1) of the Act.

*Maintaining the General Intent and Purpose of the Official Plan*

[30] Mr. Dror stated that the variances, and the Proposed Development they facilitate, maintain the intent and purpose of the City's OP and conform with Policies 2.1(3), 2.3.1(1), 2.4(4), 2.4(8), 3.1.1(6), 3.1.1(12), 3.1.1(13), 3.1.3(1), 3.1.3(3), 3.1.3(4), 3.1.3(5), 3.1.3(6), 3.1.3(7), 3.1.3(9), 3.1.3(10), 3.1.3(13), 3.1.4(2), 3.1.4(3), 3.1.6(4), 3.1.6(5), 3.1.6(26), 3.1.6(27), 3.2.1(1), 3.2.1(2), 3.2.1(12), 4.1(1), 4.1(4), 4.1(5), 4.1(8), 5.3.2(1), and 5.6(1). Of note, since the filing of the initial application, additional amendments, namely OPA 479 and OPA 480, have been approved. Though the proposal is not bound by these policies, as it was filed prior to their adoption, Mr. Dror stated that he had reviewed both OPA 479 and OPA 480, and opined that the Proposed Development would continue to conform to these policies.

[31] Mr. Dror testified that the Subject Property is designated Neighbourhoods in the City's OP. Moreover, Mr. Dror clarified that the Subject Property is located within the Yonge-St. Clair Secondary Plan ("Secondary Plan"), which generally seeks to protect, promote and enhance the existing type and quality of Neighbourhoods and Apartment Neighbourhoods and maintain their stability, among other objectives (Policy 4.1). The OP supports a full range of housing in terms of form, tenure and affordability across the City and within neighbourhoods (Policy 3.2.1(1)) and Policy 3.2.1(2)). Policy 4.1(5), as amended by OPA 320, permits development in Neighbourhoods provided that it respects and reinforces the physical character of the neighbourhood, and meets certain criteria for development outlined in Policy 4.1(5).

[32] The proposal conforms with the Secondary Plan, and maintains the intent and purpose of the City's OP, as it would protect, promote and enhance the existing type and quality of the surrounding Neighbourhood, which includes a mix of built forms, and would do so in a compatible form in accordance with Policies 4.1(5) and 4.1(8). The Proposed Development, and the Variances requested which would facilitate it, has been organized and designed to conform to the OP's built form policies, such as Policies 3.1.3(1), 3.1.4(2), and (3).

[33] It was Mr. Dror's opinion that the proposal maintains the intent and purpose of

the City's OP public realm policies, as it would support active transportation and public transit through the reduced parking rate, its location near public transit, and the inclusion of more bicycle parking spaces than are required (11 rather than 10). The public realm in front of the Subject Property has also been improved through the retention of two trees and the inclusion of a new tree, as well as additional landscaping. In addition, the proposal will appropriately conserve a heritage resource in accordance with the heritage policies in Section 3.1.6 of the OP.

[34] Mr. Dror summarized that, in accordance with Policy 5.6(1), the proposal achieves a number of the OP's important objectives. These include increasing the housing supply, optimizing density near higher order transit stations, providing family-sized units for the needs of current and future residents, achieving gentle intensification in a convenient location near transit, conserving a heritage resource, and making best efforts to retain a significant number of trees. As such, the Variances maintain the intent and purpose of the OP.

[35] Mr. Dror also explained that the City's Low-rise Apartment and Townhouse Design Guidelines ("Guidelines") apply to the design, review, and approval of new low-rise, multi-unit building developments that are four (4) storeys or less. Mr. Dror opined that the Proposed Development has adequate regard for the Guidelines.

*Maintaining the General Intent and Purpose of the Zoning By-law*

[36] Mr. Dror stated that the Subject Property is zoned R (d0.6) (x905) in the City's ZBL. This zoning permits a range of residential building types including a detached house, a semi-detached house, townhouses, duplex, triplexes, fourplexes and apartment buildings. As mentioned at paragraph [5] of this Decision, Mr. Dror stated that there is no longer a need to review Zoning By-law No. 438-86 of the former City of Toronto, as amended, as it no longer applies.

[37] Mr. Dror opined that the Variances requested, and the Proposed Development

they would facilitate, maintain the general intent and purpose of the ZBL. He reviewed the various types of Variances requested, including but not limited to those with respect to lot frontage, maximum height, density, setback, landscaping, parking and vehicular access, and platforms. With respect to each, he explained the intent and purpose of the ZBL and how the Variance requested met it. Moreover, he explained that the Variances resulted in a built form that was generally compatible with the character and other properties in the area. He further explained that a number of the Variances were technical in nature, such as that for height, some of the setbacks, vehicle driveway access, and width of the existing front stairs at 103 Heath Street West (which is to be maintained as is). The landscaping Variances represented an improvement over the existing condition by, for example, reducing the paved area. In addition, as part of the key revisions throughout the process, two trees in the rear yard have been retained along with a tree on the adjacent property, among others. Lastly, mitigation measures have been taken, if required, to minimize the impact of the proposal on the public realm, such as with respect to the Variance requested relating to the transformer or the side platforms on the second and third floors that have been designed to be screened along their east edges in order to mitigate overlook into the rear yards of properties fronting Deer Park Crescent.

#### *Minor in Nature*

[38] Mr. Dror testified that the Variances are minor from both a quantitative and qualitative perspective. The assessment of "minor" is not simply a numerical calculation; rather, it is based on an analysis of fit and impact on the immediate context and surrounding neighbourhood. In this regard, the Proposed Development would not create any significant additional adverse impacts onto the surrounding area. Rather, some of the Variances would have a positive impact, such as the landscaping plans or the increase in density, resulting in gentle intensification in proximity to transit. The proposed lot frontage, landscaping, ancillary structure, height, depth, density, setbacks, platforms, parking and vehicular access, and exterior structures would result in a building that is compatible with its surroundings. To address some of the Appellants'

concerns, multiple screening measures (such as planters lining each balcony/terrace, 1.8 m high architectural and vegetative screens, trellised window "surrounds" on the rear-facing upper-storey windows, and 1.5 m architectural fins on the third floor and upper terrace) would mitigate views onto abutting properties.

*Desirable and Appropriate for the Development of the Land*

[39] Mr. Dror stated that the requested Variances are appropriate and desirable, as they would facilitate a Proposed Development that would permit the gentle intensification of an underutilized property and encourage infill within built up urban areas to provide for the efficient use of land and municipal infrastructure. Moreover, he stated that:

... From a land use perspective, the proposed apartment building is permitted under the as-of-right zoning regulations. The proposed development reflects a positive cycle of renovations and reinvestment in an older neighbourhood that is adjacent to higher order public transit and consists of a broad range of dwelling types ....

[40] The proposed apartment building would provide ten new family-sized (seven 2-bedroom and three 3-bedroom) purpose-built rental units, for families looking to move into the neighbourhood or for empty-nesters looking to downsize and age in place. It was Mr. Dror's opinion that the proposal would maintain the existing house-form design of 103 Heath Street West, conserve its heritage attributes, provide adequate landscaping, retain existing trees, and locate all parking below grade in an underground garage. Overall, the Proposed Development would result in a well-designed building and a modest increase in density, and would be generally in keeping with the permissions of the underlying zoning. Thus, it is desirable and appropriate

*Conclusion*

[41] Mr. Dror concluded that, based on the foregoing, the requested Minor Variances and the Proposed Development they facilitate represent good planning.

## PROPOSED CONDITIONS TO THE MINOR VARIANCES

[42] Mr. Dror explained that two conditions to the Minor Variances approval have been proposed, as follows:

1. The Applicants shall construct and maintain the building substantially in accordance with the Architectural Plans and Landscape Plans, including with respect to building height and setbacks and the details and location of balconies, privacy screening, and windows.
2. Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details shall be submitted to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning and a heritage permit shall be obtained under the provision of Section 33 of the *Ontario Heritage Act*.

[43] He indicated that these conditions were appropriate and recommended these as Conditions to be attached to the authorization of the Minor Variances.

## FINDINGS

[44] The Tribunal finds that the proposal supports gentle intensification in an appropriate location on an underutilized site that is near public transit. It will provide additional types of housing in a built form that will fit in with character of the surrounding neighbourhood. The proposal has been developed carefully and thoughtfully in order to mitigate the overlook, shadow and privacy concerns of the neighbours, while conserving heritage features, providing appropriate landscaping and preserving trees. The Tribunal recognizes that it is because of the compromise and mitigation-measures taken by the Applicants that a settlement was achieved in this case.

[45] The Tribunal is satisfied by the evidence provided by Mr. Dror, through his uncontroverted testimony, that the four tests outlined in s. 45 of the Act have been satisfied, and that the proposal has proper regard for matters of provincial interest, is consistent with the PPS and conforms to the policies of the Growth Plan. Mr. Dror's testimony, as well as the totality of evidence before the Tribunal, supports the authorization of the Minor Variances before the Tribunal, along with the above-noted conditions. The Tribunal finds that the proposal is representative of good planning in the public interest.

## ORDER

[46] **THE TRIBUNAL** has been asked to consider an application that has been amended from the original application, and the Tribunal has determined, as provided for in s. 45(18.1.1) of the Act, that no further notice is required.

[47] **THE TRIBUNAL ORDERS** that the appeals are allowed, in part, and the variances, attached as Schedule A to this Decision, to the City of Toronto Zoning By-law No. 569-2013 are authorized subject to the following conditions:

- a) The Applicants shall construct and maintain the building substantially in accordance with the architectural plans prepared by RAW dated February 22, 2023 (marked as Exhibit 3 at the Hearing), and the landscape plan prepared by STUDIOtla, dated February 22, 2023 (marked as Exhibit 4 at the Hearing), including with respect to building height, setbacks, and the details and location of balconies, privacy screen and windows.
- b) Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details shall be submitted to the satisfaction of the Senior Manager, Heritage Planning/Urban Design, City Planning and the Applicants shall obtain a heritage permit under section 33 of the Ontario Heritage Act.

[48] **THE TRIBUNAL FURTHER ORDERS** that the related appeal of the Site Plan application (Case No. OLT-22-002444) remains adjourned *sine die*. The Appellants are granted Party Status to the Site Plan appeal.

*"Bita M. Rajae"*

BITA M. RAJAE  
MEMBER

*"S. Bobka"*

S. BOBKA  
MEMBER

### **Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.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.

**SCHEDULE A**

## List of Minor Variances:

*Landscaping***1. Chapter 10.5.50.10.(4)(A), By-law 569-2013**

A minimum of 50% (584.5 m<sup>2</sup>) of the lot area must be maintained as landscaping.

In this case, 38% (452 m<sup>2</sup>) of the lot area will be maintained as landscaping.

**2. Chapter 10.5.50.10.(4)(B), By-law 569-2013**

A minimum of 50% (292.25 m<sup>2</sup>) of the required landscaping must be provided as soft landscaping.

In this case, 40% (234 m<sup>2</sup>) of the required landscaping will be provided as soft landscaping.

**3. Chapter 10.5.50.10.(5), By-law 569-2013**

A 1.5 m wide minimum strip of soft landscaping must be provided for a lot with an apartment building, along any part of a lot line abutting a lot in a Residential Zone.

Other than in the rear yard, the minimum 1.5 m strip of soft landscaping will not be provided along the west or east lot lines.

*Ancillary Structure***4. Chapter 10.5.60.10.(1), By-law 569-2013**

An ancillary structure may not be located in the front yard.

In this case, the retaining wall/pad and transformer will be located in the front yard.

*Height***5. Chapter 10.10.40.10.(1)(A), By-law 569-2013**

The maximum permitted building height is 12 m.

The retained portion of the apartment building will have a height of 12.9 m.

*Depth***6. Chapter 10.10.40.30.(1)(B), By-law 569-2013**

The maximum permitted depth of an apartment building is 14 m. The apartment building will have a depth of 40.55 m.

*Density*

7. **Chapter 10.10.40.40.(1)(A), By-law 569-2013**  
 The maximum permitted floor space index of an apartment building is 0.6 times the area of the lot (701.4 m<sup>2</sup>).  
 The apartment building will have a floor space index equal to 1.40 times the area of the lot (1,637 m<sup>2</sup>).

*Setbacks*

8. **Chapter 10.5.40.70.(1)(A), By-law 569-2013**  
 The minimum required front yard setback is 7.33 m.  
 The apartment building will be located 6.04 m from the front (north) lot line.
9. **Chapter 10.10.40.70.(3)(C)(ii), By-law 569-2013**  
 The minimum required side yard setback is 7.5 m.  
 The apartment building will be located 0.45 m from the east side lot line and 2.5 m from the west side lot line.

*Platforms*

10. **Chapter 10.5.40.60.(1)(A)(i), By-law 569-2013**  
 A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required front yard setback 2.5 m if it is no closer to a side lot line than the required side yard setback: 7.5 m.  
 The front first storey platforms will encroach 0.4 m and 0.16 m into the required front yard setback and will be located 4.565 m from the east side lot line and 2.5 m from the west side lot line.
11. **Chapter 10.5.40.60.(1)(B), By-law 569-2013**  
 A platform without main walls, attached to or less than 0.3 m from a building, with a floor higher than the first floor of the building above established grade may encroach into the required front yard setback 1.5 m if it is no closer to a side lot line than the required side yard setback: 7.5 m.  
 The front third storey balconies will encroach 1.3 m into the required front yard setback and will be located 3.1 m from the east side lot line and 4.6 m from the west side lot line.
12. **Chapter 10.5.40.60.(1)(F), By-law 569-2013**  
 A platform without main walls, attached to or less than 0.3 m from a building, with a floor higher than the first floor of the building above established grade may encroach into the required side yard setback 1.5 m if the side yard abuts the street.

The second and third storey east and west side balconies will encroach into a side yard that does not abut a street.

#### *Exterior Structures*

**13. Chapter 10.5.40.60.(3)(A)(ii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no wider than 2 m. The first storey platform stairs will be 2.79 m wide.

**14. Chapter 10.5.40.10.(3)(C), By-law 569-2013**

Equipment used for the functional operation of the building may exceed the permitted maximum height for that building by 5 m. Structures may enclose equipment used for the functional operation of the building if the building has a height greater than 15 m.

In this case, the equipment and structures or parts of the building used for the functional operation of the building exceed the permitted maximum height for the building by 0.95 m. Structures that enclose the equipment used for the functional operation of the building will be on a building with a height less than 15 m.

#### *Parking*

**15. Chapter 200.5.1.(3)(A), By-law 569-2013**

If the centreline of a parking space is at an interior angle of 70 to 90 degrees to the centreline of the drive aisle providing vehicle access, the minimum permitted drive aisle width for that one or two lane drive aisle is 6 m.

In this case, the drive aisle width for the parking spaces at an interior angle of 90 degrees will be 5.5 m.

**16. Chapter 200.5.10.1.(1), By-law 569-2013**

The minimum required number of parking spaces for the proposed apartment building is 10 spaces and 2 visitor spaces.

In this case, there will be 9 spaces and 0 visitor spaces provided on the lot.

#### *Vehicular Access*

**17. Chapter 200.5.1.10.(12)(A), By-law 569-2013**

The minimum width for a vehicle entrance and exit for a two-way driveway is 5.5 m. In this case, the vehicle entrance and exit will have a width of 3.6 m.

*Lot Dimensions*

- 18. Chapter 900.2.10.(905)(B)(v), By-law 569-2013**  
The minimum required lot frontage for a lot with an apartment building is 30 m. The frontage of the lot will be 23.19 m.