

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 02, 2023

CASE NO(S): OLT-22-003352
(Formerly PL200155)

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

Applicant and Appellant: 2540740 Ontario Inc.
Subject: Request to amend the Official Plan – Failure of City of Toronto to adopt the requested amendment
Existing Designation: Neighbourhoods
Proposed Designation: Site specific amendment
Purpose: To permit a 7 unit townhouse block
Property Address/Description: 2 Sandfield Road
Municipality: City of Toronto
Approval Authority File No.: 19 244276 NNY 15 OZ
OLT Case No.: OLT-22-003352
Legacy Case No.: PL200155
OLT Lead Case No.: OLT-22-003352
Legacy Lead Case No.: PL200155
OLT Case Name: 2540740 Ontario 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: 2540740 Ontario Inc.
Subject: Application to amend City of Toronto Zoning By-law No. 569-2013 and former City of North York Zoning By-law No. 7625 – Refusal or neglect of the City of Toronto to make a decision
Existing Zoning: One-Family Detached Dwelling First Density Zone (A1) under the former City of North York Zoning

By-law No. 7625 and zoned Residential Detached under the City of Toronto Zoning By-law No. 569-2013

Proposed Zoning: Site specific (To be determined)
 Purpose: To permit a 7 unit townhouse block
 Property Address/Description: 2 Sandfield Road
 Municipality: City of Toronto
 Municipality File No.: 19 244276 NNY 15 OZ
 OLT Case No.: OLT-22-003365
 Legacy Case No.: PL200156
 OLT Lead Case No.: OLT-22-003352
 Legacy Lead Case No.: PL200155

Heard: March 22 to 26, 2021 by Video Hearing

APPEARANCES:

Parties

City of Toronto ("City")

2540740 Ontario Inc.

Counsel

Joanna Wice
 Jason Davidson

Amber Stewart

DECISION DELIVERED BY G.C.P. BISHOP AND INTERIM ORDER OF THE TRIBUNAL

[1] This was an appeal under subsection 22(7) of the Planning Act ("Act") of the City Council's failure to adopt a request for an Official Plan Amendment ("OPA") and, under subsection 34(11) of the Act, the Council's failure to consider an application for zoning by-law amendments ("ZBLA") to amend Consolidated Zoning By-law No. 569-2013 and the former City of North York Zoning By-law No. 7625, in relation to a property municipally known as 2 Sandfield Road (the "Site"), in the City.

SITE AND AREA CONTEXT

[2] The Site is located at the southwest corner of Sandfield Road and York Mills Road, which is located east of the intersection of York Mills Road and Bayview Avenue. Sandfield Road is a "T" intersection and commences in a southerly direction only from its intersection with York Mills Road. The north property line of the Site tapers from east to west. The lot area is 1,582 square metres, with frontages of 35.1 metres on Sandfield Road, and 50.1 metres on York Mills Road. The Site presently contains one single family dwelling.

[3] Directly across from the Site, on the north side of York Mills Road, from west to east, are the rear yards of 16 and 14 Kirtling Place, which is a small cul-de-sac running off York Mills Road that contains 8 properties. Directly to the east of 14 Kirtling Place, northeast of the Site, is the York Mills Collegiate Institute.

[4] 16 Kirtling Place was subject to an Official Plan Amendment, permitting townhouses ("TH") on that site, which was approved on November 17, 2020. The accompanying applications for zoning by-law amendments were refused by the Tribunal and with an altered proposal, a settlement hearing was convened on February 22, 2021, approving 7 TH units on this site.

[5] York Mills Road is a 4 lane, 36 m wide, Major Street on Map 3 of the City of Toronto Official Plan ("TOP") and a Major Arterial Road accommodating a high volume of traffic. The intersection of York Mills Road and Sandfield Court is a signalized intersection with crosswalks for pedestrian access which leads to the bus stop on the north side of York Mills Road.

[6] The general subdivision layout that has taken place along both sides of York Mills Road, between Bayview Avenue to the west and Leslie Street to the east, have generally two distinct design features. The section of York Mills Road, from Bayview Avenue to Sandfield Road have been generally designed with the abutting subdivision

lots having direct frontage along York Mills Road. The section of York Mills Road, from Sandfield Road to Leslie Avenue have been designed with a continuous strip of parkland between the internal lot layout and York Mills Road. The exception to this pattern is the higher density development at the two main intersections, at either end of York Mills Road and the institutional uses, of York Mills Collegiate Institute and Étienne Brûlé Secondary School located beside each other, between Sandfield Road and Chipstead Road.

[7] The Official Plan designates the subject site as Neighbourhoods on Map 16 - Land Use of the TOP.

PROPOSAL DESCRIPTION

[8] The Application proposes to develop the subject site with seven townhouse units, organized into one block fronting onto York Mills Road. Vehicular access would be provided from the flanking street, Sandfield Road, by way of a six metre wide driveway.

[9] The proposed OPA would amend Chapter 7, Site and Area Specific Policies of the TOP, for the subject site, to permit Townhouse dwelling units. Amendment to former City of North York Zoning By-law 7625 ("BL7625") and the new City Wide By-law 569-2013 ("BL2013") is required. The subject site is zoned R1 by BL7625 and RD (f30.0;a1100)(x69) by BL2013. The ZBLA requires a rezoning to RM6(with exception) to BL7625 and RT(with exception) -Residential Townhouse Zone to BL2013, to permit the proposed TH development.

[10] The current allowable lot coverage is 25% with 46% proposed. Both BL7625 and BL2013 limit dwellings to 3 storeys with maximum heights of 9.5 m and 11.5 m respectively. The proposal is for six attached 3 storey units with varying heights of 11.6 m, 11.9 m and 12.3 m in an easterly direction consisting of 2 units, 2 units and 3 units respectively.

[11] Townhouses are generally a permitted use in the Neighbourhoods designation, subject to criteria.

PLANNING EVIDENCE

[12] Two experts were sworn to give opinion evidence in the discipline of land use planning. Michael Goldberg was qualified and gave evidence in support of the proposal and Michelle Corcoran was qualified and gave evidence against the proposal.

[13] Mr. Goldberg stated that the TOP was adopted in November of 2002 and was granted final approval on July 6, 2006. OPA 320 was approved with modifications on December 7, 2018 which provides updated City OP policies regarding the Neighborhoods land use policies. It is Mr. Goldberg's position that OPA 320 was not a conformity exercise to implement the 2019 or 2017 versions of the Growth Plan as the City is currently undertaking a comprehensive review to update its OP.

[14] Section 4.1.1 of the TOP states that "Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes, and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys". It is Mr. Goldberg's opinion that due to the existing and evolving building forms and types along Bayview Avenue on York Mills Road, the proposed three story townhouses are one of the building types contemplated by the Neighbourhoods land use policies for this site. Upon Mr. Goldberg's review of the Neighbourhoods OP policies, it is his opinion that an Official Plan Amendment is not required for the development proposed on this site.

[15] When examining the character of the surrounding area, Mr. Goldberg focused on the arterial corridor lands along Bayview Avenue, north and south of York Mills Road and along York Mills Road, between Bayview Avenue and Leslie Street. He opined that this corridor context is consistent with the arterial edge of the subject site which is distinct from the single detached lot pattern in the interior of the neighbourhood.

[16] Leaving the Bayview corridor aside, Mr. Goldberg's surrounding area, along York Mills Road, include a 343 unit townhouse complex, at the corner of Bayview Avenue and York Mills Road, and two approved sites, one at 2 and 4 Harrison Road, located beside the townhouse complex and 16 Kirtling Place, located opposite the subject site, on the north side of York Mills Road.

[17] Mr. Goldberg sees this proposal as an evolution of built form along York Mills Road, similar to what has occurred along Bayview Avenue, all happening one property at a time. With the bus route connecting with the Yonge Street subway line, this corridor is suitable for a moderate increase in density.

[18] Ms. Corcoran opines that the proposed development would intensify lands designated Neighbourhoods in a manner that does not conform to the policies of the Provincial Policy Statement, A Place to Grow: The Growth Plan for the Greater Golden Horseshoe, or the Toronto Official Plan, through the introduction of a lot configuration, building type, massing, height, and pattern of setbacks and landscaped open space that does not respect and reinforce the existing physical character of the geographic neighbourhood.

[19] Ms. Corcoran's analysis is premised on a number of factors. When examining the character of the neighbourhood, the study area uses York Mills as the northern boundary. The lot configuration along Bayview Avenue generally faces the street, whereas the lot configuration along York Mills Road is generally either a sideline or rear lot line that abuts York Mills Road. The proposed lot configurations, height and setbacks, together, would create a massing and pattern of landscape open space that does not respect and reinforce the existing physical character of the geographic neighbourhood, and would not fit with the existing and planned context, as required by the Official Plan.

[20] It is Ms. Corcoran's position that the intensification and reconfiguration of neighbourhood lots to face York Mills Road should first be considered through an

existing work plan underway under the Expanding Housing Options and Neighbourhoods (EHON) initiative that was endorsed by City Council in July of 2020.

[21] Ms. Corcoran stated that the broader context, in her opinion, is limited to the south side of York Mills Road, east of the ravine lands of Paisley and Windfields Parks due to the human made dividing feature of York Mills Road being a major arterial road. With respect to the immediate context, her study area is defined as the small section of Sandfield Road which includes 1 to 23 Sandfield Road.

[22] The Tribunal does agree that there is limited opportunity to intensify along the York Mills Road corridor, given the general lot pattern, existence of parks and parkland strips and existing institutional uses but this study is not complete nor is it in front of the Tribunal. In this case the subject site has direct frontage on York Mills Road.

ASSESSMENT OF GEOGRAPHIC CONTEXT

[23] To properly assess the policy regime it is important to assess the limits of the geographic context in both the broader context and immediate context.

[24] Mr. Goldberg views the section of York Mills, from Bayview Avenue to Leslie Street as the broader geographic context. He also uses a portion of the Bayview Avenue corridor as an example of arterial edge development that has now been accepted by the City which include the production of the 2015 Bayview Townhouse Design Guidelines. Mr. Goldberg goes on to refer to developments within the vicinity of the subject property, located both directly across and to the west of the subject site, for the more immediate context.

[25] Although this may be how Bayview Avenue is building out, with respect to the broader context, the Tribunal does agree with Ms. Corcoran that there is a physical divide to the west of the subject property being the area of Wilket Creek that runs in a northwest/southeast direction, crossing York Mills Road and then Bayview Avenue, just

north of the intersection of Your Mills and Bayview. But the Tribunal does point out that, in the broader context, this includes the Bayview Mills Townhouse complex consisting of 343 units, located on the north side of York Mills Road, east of Bayview Avenue.

[26] On the other hand the Tribunal finds that immediate context is not limited to the south side of Don Mills Road, as Ms. Corcoran suggests. Although the subject property is located on a major arterial road, the Tribunal does not see that as a barrier to pedestrians in this immediate area. There is easy access to the north side of Don Mills Road because the subject property is located at the southwest corner of a signalized intersection. This intersection has priority transit with bus stops on both sides of York Mills Road, with schools to the immediate east of this intersection, on the north side of Don Mills Road. The immediate context includes the north side of Don Mills Road and also captures the newly proposed development at 16 Kirtling Place, directly across the road from the proposed development.

[27] By limiting the immediate context to Sandfield Road, the Tribunal understands Ms. Corcoran's argument is that the proposed development should not occur. One must accept that the block of single residential lots in isolation, with no consideration of the unique attributes that both 1 and 2 Sandfield Road possess and the relationship to the immediate context on the opposite side of York Mills Road. This draws Ms. Corcoran to the conclusion that the proposed development is not in conformity to the Provincial Policy Statement and the Growth Plan, given the stringent area of local context.

PPS AND GROWTH PLAN

[28] The Tribunal finds no conflict with either the PPS or the Growth Plan. As stated by Mr. Goldberg, many of the Provincial policy themes enunciated in the PPS have been further articulated, augmented and strengthened in the Growth Plan and in the event of any conflict, the Growth Plan prevails. Although the PPS and Growth Plan does focus on greater intensification in strategic growth areas to make efficient use of land and infrastructure and support transit viability, the priority is focused on directing growth

to settlement areas, in which this proposal is situated. This is not a high intensity development that is better suited in a strategic growth area.

[29] Policy 2.2.1.2.b of the Growth Plan states:

Within settlement areas, growth will be focused in:

- i) delineated built-up areas;
- ii) strategic growth areas;
- iii) locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
- iv) areas with existing or planned public service facilities.

Policy 2.2.1.3.a states:

Upper- and single-tier municipalities will undertake integrated planning to manage forecasted growth to the horizon of this Plan, which will establish a hierarchy of settlement areas, and of areas within settlement areas, in accordance with policy 2.2.1.2;

[30] There was no argument that the proposed development is located within a delineated built-up area. But there was a difference of opinion whether the proposal is within a strategic growth area. The Tribunal sees that this diverging opinion directly relates to focus placed on development as directed by the province, through the PPS and the Growth Plan and whether it has ultimately been integrated into the TOP by the City.

[31] It is Ms. Corcoran's position that the TOP does not designate this section of York Mills Road as a strategic growth area. Although this is true for this document the current Growth Plan does consider York Mills Road, by definition, a Strategic Growth Area and is defined as:

Strategic Growth Areas: Within settlement areas, nodes, corridors and other areas that have been identified by municipalities or the Province to be the focus for accommodating intensification and higher-density mixed uses in a more compact built form. Strategic growth areas include urban growth centres, major transit station areas, and other major opportunities that may include infill, redevelopment, brownfield sites, the expansion or conversion of existing buildings, or greyfields.

Lands along major roads, arterials or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas."

[32] The Tribunal finds that the subject property is along a major road with an existing frequent transit service that qualifies this corridor as a strategic growth area in the current Growth Plan. The Growth Plan augments the PPS and this mild form of development is consistent with the PPS and in conformity with the Growth Plan.

TORONTO OFFICIAL PLAN

[33] Ms. Corcoran stated that milder forms of redevelopment are contemplated within Neighbourhoods, provided the policies of Chapter 4.1 are met. Generally, these policies allow for the redevelopment of individual sites at a higher intensity than currently exists, if the building type proposed already exists in significant numbers within the geographic neighbourhood, and the proposed development standards conform to the OP.

[34] It is Mr. Goldberg's opinion that Townhouses are generally a permitted use in the Neighbourhoods designation, subject to criteria and the criteria has been met. He takes the position that a site specific OPA is not required.

[35] The Official Plan designates the subject site as Neighbourhoods on Map 16 - Land Use of the TOP. Mr. Goldberg directed the Tribunal to Policy 4.1.1 which states that Neighbourhoods are considered "physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys."

[36] Mr. Goldberg also pointed to Policy 4.1.5 (i) which states, in part, that:

Lots fronting onto a major street shown on Map 3 and designated Neighbourhoods are to be distinguished from lots in the interior of the block adjacent to that street in accordance with Policy 6 in order to recognize the potential for a more intense form of development along major streets to the

extent permitted by this Plan.....Lots fronting onto a major street, and flanking lots to the depth of the fronting lots, are often situated in geographic neighbourhoods distinguishable from those located in the interior of the Neighbourhood due to characteristics such as:

- different lot configurations;
- better access to public transit;
- adjacency to developments with varying heights, massing and scale; or
- direct exposure to greater volumes of traffic on adjacent and nearby streets.

In those neighbourhoods, such factors may be taken into account in the consideration of a more intense form of development on such lots to the extent permitted by this Plan.....While prevailing will mean most frequently occurring for purposes of this policy, this Plan recognizes that some geographic neighbourhoods contain a mix of physical characters. In such cases, the direction to respect and reinforce the prevailing physical character will not preclude development whose physical characteristics are not the most frequently occurring but do exist in substantial numbers within the geographic neighbourhood, provided that the physical characteristics of the proposed development are materially consistent with the physical character of the geographic neighbourhood and already have a significant presence on properties located in the immediate context or abutting the same street in the immediately adjacent block(s) within the geographic neighbourhood.

[37] Although it is Mr. Goldberg's position that an OPA is not necessary, the Tribunal disagrees. Even with the Tribunal's position as to the area considered as immediate context, within this area there are limited examples of existing and proposed TH developments. Although TOP Policy 4.1.1 does consider THs and walk up apartments no higher than four storeys, the various characteristics must be assessed, in Policy 4.1.5, when considering the proposed form of development on the subject site.

[38] Ms. Corcoran argues that this development should be directed to a strategic growth area and this location is not within a strategic growth area as defined in the TOP. The Tribunal disagrees. The Tribunal sees that as a mild form of re-development within the Neighbourhood designation which is recognized as a possibility in the TOP. The issue comes back to the characteristics of the specific location itself, and in the Tribunal's view, not just based on the type of development proposed.

[39] The attributes of the subject property are: located on a corner lot along the edge of the existing neighbourhood; direct frontage on a busy arterial road; at the corner of a

signalized intersection; direct access to public transit on the north side of this signalized intersection; opposite a proposed 7 unit TH development and; Kitty corner to a full city block with the massing of two schools along its frontage.

[40] The attributes of the subject site and the immediate surrounding area assists Tribunal in making the determination that, on a site-specific basis, the subject property is worthy of this type and form of intensification.

[41] City witnesses express concerns over the proposed development creating a destabilization of the neighborhood. The Tribunal disagrees with this as well. Ms. Corcoran explained that there is an Expanding Housing Options in Neighbourhoods (EHON) initiative which is reviewing the neighbourhoods designated lands along major streets, as shown on Map 3 of the TOP. This process will consider zoning permissions which would allow for additional forms of low rise housing. As Ms. Corcoran stated, there is limited opportunity to intensify through this initiative along York Mills Road. The Neighbourhoods designation represents approximately 600 meters on the north and south sides of York Mills Road, with approximately 250 meters already being consumed by the Bayview Mills condominium development. The balance of the frontage along York Mills Road are designated Parks, Natural Areas or Apartment Neighbourhoods.

[42] The Tribunal agrees that there is limited opportunity to intensify along this small section of York Mills Road. Given these limited opportunities the Tribunal finds that by considering the approval of the proposed development will not contribute to any destabilization within the neighbourhood. Without this report being completed for consideration by the Tribunal, and given the fact that there is very limited intensification opportunities along this section of York Mills Road, the Tribunal finds that this further contributes to the need for a site specific OPA.

URBAN DESIGN

[43] Richard Wengle proffered expert opinion evidence in the area of Architecture and Urban Design. Mr. Wengle stated that his design was influenced by the policies of the Toronto Official Plan, the 2018 Townhouse & Low- Rise Apartment Guidelines, and Complete Streets Guidelines. Also, given the proximity to Bayview Avenue, he found the 2015 Bayview Townhouse Design Guidelines a helpful tool in evaluating the subject site.

[44] It is Mr. Wengle's opinion that the proposed orientation to York Mills Road, on a corner lot, will provide opportunity for a vibrant and attractive public realm. He sees the proposed density as a natural transition between the major arterial road and the internal lot structure. With respect to height mass and scale he utilized the more restrictive angular plane criteria from the 2015 Bayview Townhouse Design Guidelines along the rear of the town houses, against the neighbour to the south. The rear lot line setback is proposed at 9 meters to allow for a 6 metre laneway, for access to the garages that will house two cars each, and a 3 meter planting strip and buffer along the south lot line.

[45] Given the angle of the front lot line and the proposed townhouses being squared to the rear lot line this will create a visual effect of a step down, in height, and step back movement, in the fronts of the townhouses, along the street front. In his opinion this will create an interesting effect, be sensitive in human scale and break away from the look of a static blank wall.

[46] The existing dwelling has an existing set back from York Mills Road ranging from 4.4 to 5.6 meters but the southerly lots line set back have 1.92 meters. By turning the orientation of the proposed townhouses, the south lot line setback has been increased to 9 meters and the front yard setback, against York Mills Road, varies but always maintains a minimum 6 meters.

[47] It is Mr. Wengle's opinion that the proposed design is appropriate from an architectural and urban design context, is sensitive and compatible and properly mitigates any urban design impacts.

[48] Kaari Kitawi was qualified to give opinion evidence in the area of Urban Design and supported Ms. Corcoran's opinion that the proposed development does not "fit" within the existing context or physical character of the area. None of the residential developments front on York Mills Road and all have a front relationship with the internal streets, in this case Sandfield Road.

[49] Ms. Kitawi concluded that the proposed development does not meet the policies of the TOP and would introduce a new relationship for residential development along York Mills Road. That it is not in keeping with the built form orientation along York Mills Road, does not reflect the green street pattern and would not fit within the existing or planned context, or respect the existing physical character of the neighbourhood.

[50] The Tribunal could accept this argument if the immediate context was limited to Sandfield Road but with the inclusion of the opposite side of York Mills Road being within the immediate context, thus including both the proposed townhouses directly opposite the subject site and the massing of the schools directly to the northeast of the subject site, the Tribunal is satisfied that the subject site is appropriate for modest intensification but as stated earlier, the proposed OPA is required.

[51] The subject site and the site at 16 Kirtling Place have some similarities but also have different attributes as well. Unlike the subject site the Kirtling site has competing interests due to the dual frontage on both York Mills Road and the internal cul-de-sac. Due to this direct frontage on Kirtling, the Tribunal sees the necessity of softening the scale and massing of this project because the buildings are directly exposed to the many single-family dwellings along the length of this internal street. This has been achieved by breaking the massing of the building into two, 2.5 storey segments, joined

in the middle, from York Mills Road, with a one storey section linking the two larger masses.

[52] The proposed development on the subject site is not exposed to an internal street and care has been taken to soften the exposure to the property to the south by utilizing a 35 degree plane from the rear lot line. The height and mass of the 16 Kirtling site is also controlled by not only the break in the two sections but is 2.5 storeys with dormer style windows on the third floor with a sloped roof. The design for the subject property carries the front façade of the building up a half storey above the second floor to create balcony space between the second and third floor thus reducing the massing of the overall structure. The Tribunal is satisfied with the general size, massing a scale of the proposal and find that it minimizes the impacts to the surrounding area.

[53] The Tribunal has no concern as to the question of orientation to the street with the proposed design on the subject property. The City argues that the orientation of the front entrances to the street is an unacceptable departure from the internal orientation along York Mills Road.

[54] The Tribunal sees this as an issue that can be addressed at the Site Plan stage. A passerby, either driving, bicycling or walking has little concept of the internal design and workings of the proposed townhouses proposed at 16 Kirtling Place. All that is seen is the entrances that lead from the units to the amenity space between the building and the sidewalk, along York Mills Road. Unless one were to drive internally, onto Kirtling Place, only then can a person interpret the orientation of these proposed units and not just assume that the entrances facing York Mills Road are not, in fact, a front entrance to the proposed units.

[55] The physical presence of the access to the proposed entrances into the units on the subject site could be manipulated to mimic the openings proposed at 16 Kirtling Place thus the entrances, and orientation of the internal space, could be perceived to be identical in design.

FORESTRY

[56] Peter Wynnyczuk is a Certified Arborist with over 40 years experience in his field. He is not the author of the Arborist Report and Tree Preservation Plan but does support conclusions and recommendations of the report prepared by Philip Rogic of Redbud Forestry Consultants ("Redbud"), dated October 28, 2019.

[57] Mr. Wynnyczuk took the Tribunal through the list of trees, either individually or as a group. A total of 38 trees were inventoried with 34 of these trees located on the subject site. All trees on site are categorized as in fair to poor condition. There is an existing pool in the rear yard with a number of Austrian Pines, planted in groupings, to the west and north of the existing pool, to create, as Mr. Wynnyczuk suggests, for a "quick screening". There exists another grouping of Austrian Pines in the northeast corner of the subject site. He stated that the canopies are wide, and the trees are competing for daylight and water.

[58] Of the 38 trees inventoried, 2 are Native, 2 are Non-native and the remainder are Ornamental. The majority of the ornamental trees are Austrian Pines representing a total of 28 of the trees that were inventoried on the subject site with one remaining Austrian Pine being located in the rear yard of 4 Sandfield Road.

[59] Mr. Wynnyczuk agreed with the tree inventory data that lists the condition of the 38 trees as: 2 trees are fair to good; 5 trees are fair; 16 trees are fair to poor and; 15 trees are poor.

[60] Mr. Wynnyczuk explained the importance of a range of assessments that include: botanic, based on the type of species themselves; structural, studying physical condition and ground conditions; adaptability and survivability, with comments that indicate, for example, diplodia tip blight infection.

[61] Mr. Wynnyczuk was cross examined on the potential shift in the footprint of the buildings or the elimination of the unit located at the west end of the block. His position was not shaken, given his opinion on the overall assessment of the existing trees and the various degree of health, grouping and infection. His position is to look at the planting and preservation, by a qualified arborist, at site plan stage. He sees opportunity to improve the quality of the tree canopy, through the planting of large and medium growing shade trees of native species. There is also some opportunity to increase the number of plantings on the site as well, beyond what is illustrated in the proposal.

[62] Stephanie Ulcar was qualified to deliver expert opinion evidence in the discipline of Urban Forestry, on behalf of the City.

[63] Ms. Ulcar did attend the site to assess the 38 trees that were inventoried in the redbud report. Her assessment of the condition of the trees is included in her report as follows: 33 trees are healthy; 4 trees are poor and: 1 tree is dead.

[64] Ms. Ulcar reviewed TOP policies, as they relate to landscaping improvements, tree planning and preservation, with the view that long term growth and the increase in the amount of healthy trees is a priority. The TOP also focuses on the preservation of existing mature trees whenever possible and incorporating them into the development site.

[65] Ms. Ulcar also reviewed the study of Toronto's urban forest inventory ("Every Tree Counts: A Portrait of Toronto's Urban Forest") and the City of Toronto Strategic Forest Management Plan 2012-2022.

[66] At the outset the Tribunal struggles with the large difference between the two reports when it comes to the condition of the trees. The evidence did conclude that Chapter 813 - Trees (Article II and III) of the City of Toronto's Municipal Code (the "Tree By-law") is restricted to choosing two options for the condition of the trees, being either healthy or poor. Ms. Ulcar's report appears to be limited to a peer review and her

assessment, placing the inventory of trees under either of these two options. There is no commentary with respect to Botanic, structural or physical location to assist the Tribunal when attempting to reconcile these differences.

[67] The Tribunal recognizes the City's use of only two options for condition of trees from a monetary perspective, but this appears to leave little room, in Ms. Ulcar's report, to objectively assess the long term viability of the existing tree canopy, given the existing age and life expectancy of these ornamental trees, the diplodia tip blight infection and the concentration of the large root balls.

[68] The Tribunal is satisfied with the conclusions of the Redbud report and Mr. Wynnyczuk's review and support of same and finds that the tree protection and plan review can be dealt with at the Site Plan stage. This doesn't mean that the Tribunal accepts all of the findings of the report, but leaves it to the parties to further investigate the large differences in tree conditions thus having a direct affect on the number of trees requiring either replacement or cash in-lieu and the possibility of increased options of numbers and types of plantings that may be reasonable.

CONCLUSIONS

[69] The Tribunal finds the proposed development, along a major arterial road, at a signalized intersection with direct access to frequent surface transit is an efficient and compact use of the land and infrastructure and is a mild form of intensification. The proposed development will offer a range and choice of housing opportunities within this existing neighbourhood.

[70] The Tribunal finds that the proposed OPA has regard to matter of Provincial interest, is consistent with the PPS and in conformity with the Growth Plan, represents good planning and in the public interest.

[71] The Tribunal also finds that, upon review of much of the same planning evidence, the proposed ZBAs is consistent with the policies of the PPS and conforms to the Growth Plan and is consistent with the TOP, as it is amended by the OPA.

ORDER

[72] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, and the Official Plan for the City of Toronto is further amended as set out in Attachment 1 to this Order.

INTERIM ORDER

[73] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, on an interim basis, contingent upon confirmation, satisfaction or receipt of those pre-requisite matters identified in paragraph [74] below, and the Zoning By-law Amendments set out in Attachment 2 and 3 to this Interim Order, are hereby approved in principle.

[74] The Tribunal will withhold the issuance of its Final Order contingent upon confirmation of the City Solicitor, of the following pre-requisite matters:

- a. The Tribunal has received and approved, the implementing Zoning By-law Amendments submitted in a final form, confirmed to be satisfactory to and signed by: the necessary City departments including the Chief Planner and Executive Director, City Planning and the City Solicitor and;
- b. The Tribunal is advised that Toronto Water and City Development Engineering outstanding comments, concerning zoning-related issues, are resolved;

[75] If agreement cannot be reached, then the Tribunal may be spoken to.

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

[77] If the Parties do not submit the final drafts of the Zoning By-law Amendments, and provide confirmation that all other contingent pre-requisites to the issuance of the Final Order set out in paragraph [74] above have been satisfied, and do not request the issuance of the Final Order, by **Friday, July 28, 2023**, 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 Amendments and issuance of the Final Order by the Tribunal. In the event the Tribunal fails to receive the required status report, and/or in the event the contingent pre-requisites are not satisfied by the date indicated above, or by such other deadline as the Tribunal may impose, the Tribunal may then dismiss the Appeal.

[78] 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.

“G.C.P. Bishop”

G.C.P. BISHOP
ALTERNATE CHAIR

Ontario Land Tribunal

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

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

ATTACHMENT 1

Authority: Local Planning Appeal Tribunal Decision issued _____, 202_ and Local Planning Appeal Tribunal Order issued on ●, 202_ in LPAT Case No. PL200155

**CITY OF TORONTO
BY-LAW No. _____**

To adopt Amendment No. ____ to the Official Plan for the City of Toronto with respect to lands municipally known as 2 Sandfield Road.

Whereas authority is given the Local Planning Appeal Tribunal under the Planning Act, R.S.O. 1990, c. P.13, as amended, upon hearing an appeal of the with respect to certain lands known municipally as 2 Sandfield Road to pass this By-law;

The Official Plan of the City of Toronto, as amended, is further amended by the Local Planning Appeal Tribunal as follows:

1. The attached Amendment No. ____ to the Official Plan is hereby adopted pursuant to the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
2. This By-law shall come into force and take effect on the day of the final passing thereof.

Local Planning Appeal Tribunal Decision issued _____, 202_ and Local Planning Appeal Tribunal Order issued on _____, 202_ in LPAT Case No. PL200155

2
City of Toronto By-law -202 (LPAT)

AMENDMENT ___ TO THE OFFICIAL PLAN

Lands municipally known in the year 2019 as 2 Sandfield Road.

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

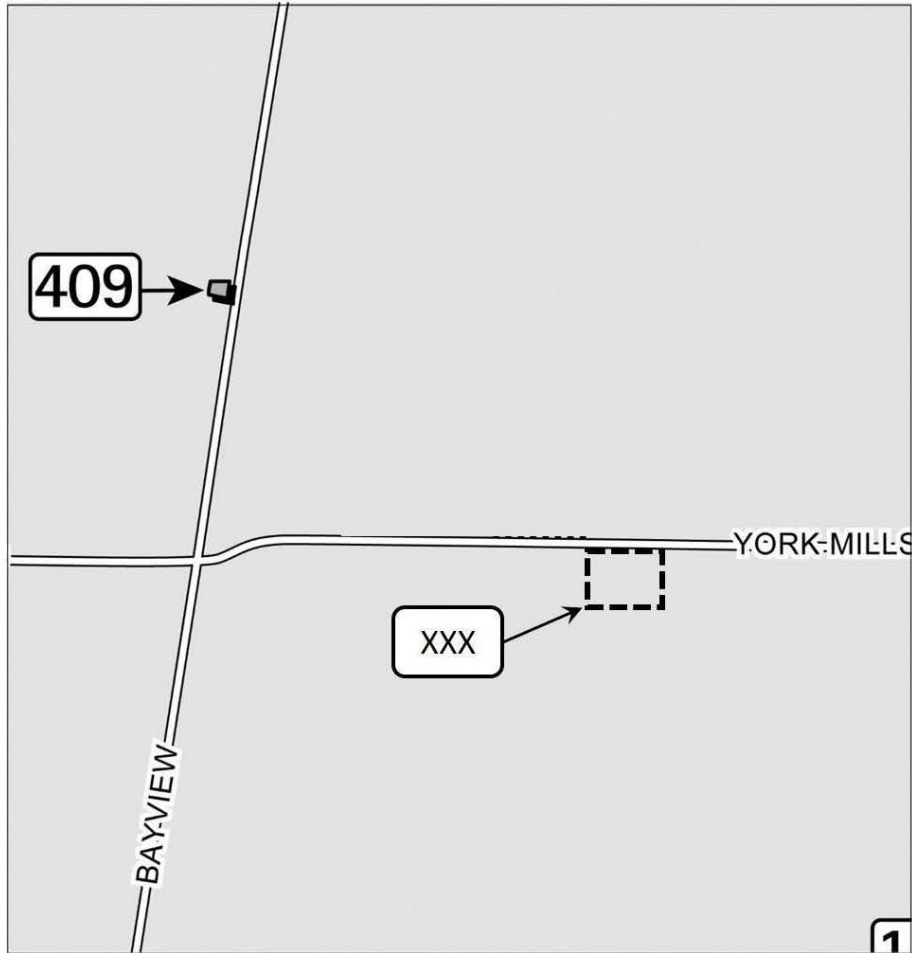
1. Chapter 7, Site and Area Specific Policies, of the City of Toronto Official Plan is hereby amended by adding Site and Area Specific Policy No. ___ as follows:

___ 2 Sandfield Road

Townhouse dwelling units are permitted.

2. Chapter 7, Map 27 and Map 30, Site and Area Specific Policies, is amended to add the lands known as 2 Sandfield Road, as shown on the attached "Schedule A", as Site and Area Specific Policy No. ___.

3
City of Toronto By-law -202 (LPAT)





TORONTO City Planning
Official Plan Amendment
 Revisions to Site and Area Specific Policies Map 27 & 30 by adding Site and Area Specific Policy Area

Schedule A

2 Sandfield Road

File# 19 244276 NNY 15 OZ

-  Official Plan Amendment Area
-  Site and Area Specific Policies


 Not to Scale
 15/10/2020

ATTACHMENT 2

Authority: Local Planning Appeal Tribunal decision dated ____, 202_ and the Local Planning Appeal Tribunal Order issued on ____, 202_ in LPAT Case No. PL200155

CITY OF TORONTO

BY-LAW ____2019

To amend Zoning By-law 7625 of the former City of North York, as amended, with respect to certain lands municipally known as 2 Sandfield Road.

Whereas the former Ontario Municipal Board, pursuant to its decision issued on March 15, 2016 and pursuant to the Local Planning Appeal Tribunal Order issued on ____, 2019 in Tribunal File No. PL141126 have determined to amend the former City of North York Zoning By-law 7625, as amended, with respect to the lands known municipally as 2655 and 2659 Bayview Avenue and 15 Old Colony Road;

The Local Planning Appeal Tribunal Orders:

1. Schedules "B" and "C" of the By-law 7625 of the former City of North York, as amended, are hereby further amended in accordance with Schedule "1" of this By-law; and
2. Section 64.16 of By-law 7625 of the former City of North York is amended by adding the following subsection:

Section 64.16 (102) RM1 (XXX)

DEFINITIONS

- (a) For the purposes of this exception, "*established grade*" for the purpose of establishing height shall mean the geodetic elevation of 162.92 metres.

GENERAL PROVISIONS

- (b) Permitted Projections Into Minimum Yard Setbacks:

Notwithstanding Section 6(9), bay windows shall be permitted to project into the minimum front yard setback not more than 0.8 metres.

PARKING AND LOADING REGULATIONS

- (c) Parking Requirements:

A minimum of 2 parking spaces per dwelling unit shall be provided in a detached garage.

- (d) Visitor Parking:

A minimum of 1 visitor parking space shall be provided.

2
City of Toronto By-law xxx-202 (LPAT)

PERMITTED USES

- (e) The only permitted uses shall be multiple attached dwellings.

EXCEPTION REGULATIONS**MAXIMUM NUMBER OF DWELLING UNITS**

- (f) The maximum number of dwelling units shall be 7.
- (g) The minimum unit width shall be as shown on Schedule "2".

LOT AREA

- (h) The minimum lot area shall be 1,580 square metres.

LOT COVERAGE

- (i) The maximum permitted lot coverage shall be 46 percent.

YARD SETBACKS

- (j) The minimum yard setbacks and distances will be as shown on Schedule "2" of this By-law.

BUILDING HEIGHT

- (k) The building height shall not exceed 12.3 metres and 3 storeys.

GROSS FLOOR AREA

- (l) A maximum gross floor area of 2,070 square metres shall be permitted.

LANDSCAPING

- (m) Notwithstanding Section 15.8, a minimum of 865 square metres of landscaping shall be provided, of which 450 square metres shall be soft landscaping. Landscape buffers shall be provided as set out on Schedule "2".

OTHER REGULATIONS

- (n) The provisions of Section 16 of By-law 7625 shall not apply.
- (o) Within the lands shown on Schedule "1" attached to this by-law, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- (i) all new public roads have been constructed to a minimum of base curb and base

asphalt and are connected to an existing public highway; and

- (ii) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.
- (p) Except as provided herein, By-law 7625 of the former City of North York shall continue to apply.

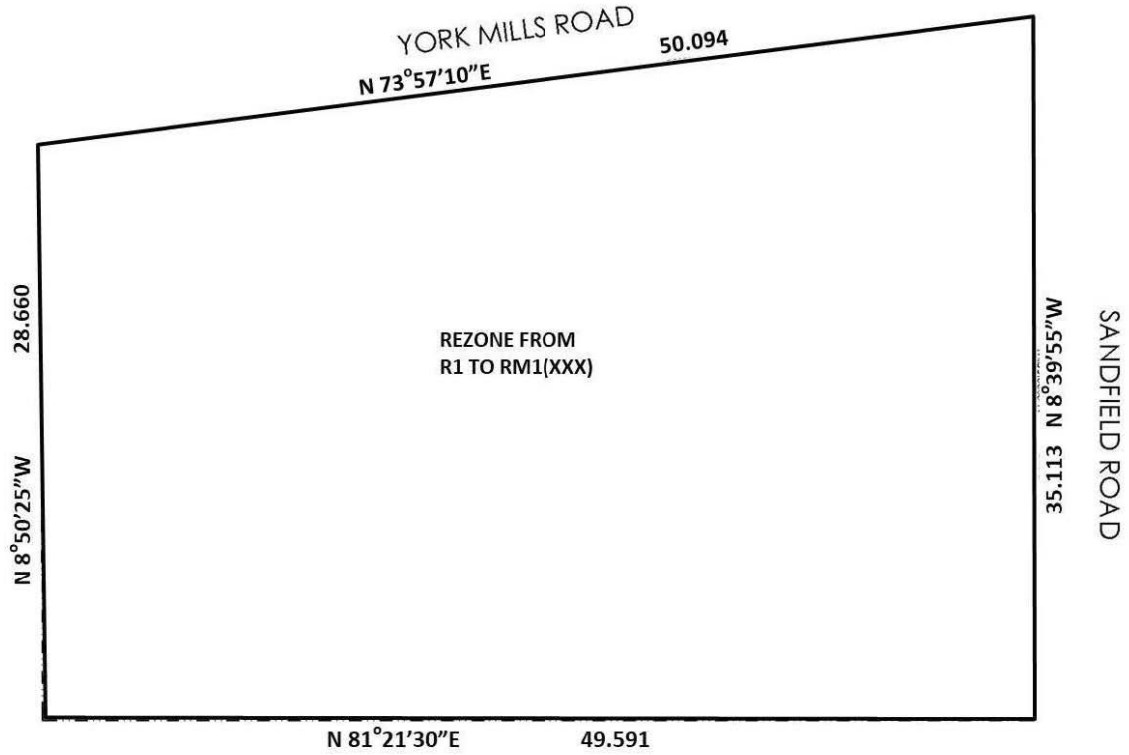
DIVISION OF LANDS

- (q) Notwithstanding any future severance, partition or division of the lands shown on Schedule "1", the provisions of this By-law shall apply to the whole of the lands as if no severance, partition or division occurred.

Local Planning Appeal Tribunal Order issued _____, 202_ in LPAT Case No. PL200155

4

City of Toronto By-law xxx-202 (LPAT)



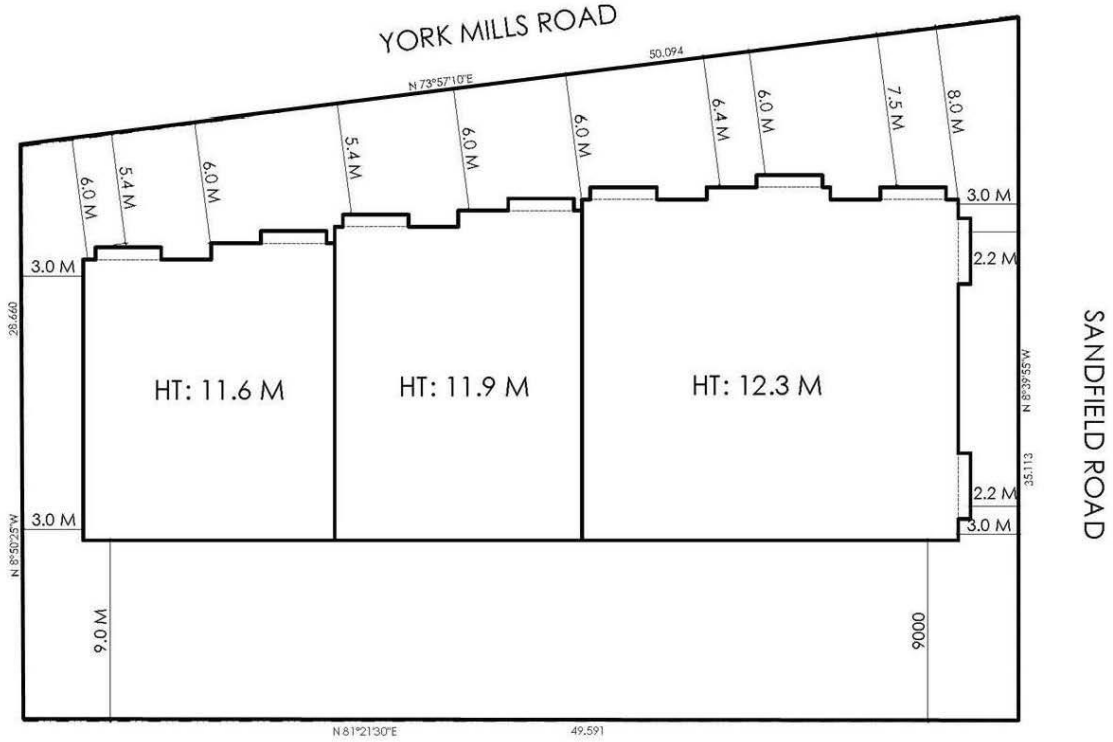
Schedule 1

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

File #TBD

Date: 29/10/2019
Approved by

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Schedule 2

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

File #TBD

Date: 29/10/2019
Approved by



ATTACHMENT 3

Authority: Local Planning Appeal Tribunal decision dated ____, 202_ and the Local Planning Appeal Tribunal Order issued on ____, 202_ in LPAT Case No. PL200155

CITY OF TORONTO

BY-LAW No. XXXX- 202_

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2019 as 2 Sandfield Road.

Whereas the former Ontario Municipal Board, pursuant to its decision issued on ____, 202_ and pursuant to the Local Planning Appeal Tribunal Order issued on ____, 202_ in Tribunal Case No. PL200155 have determined to amend the former City of North York Zoning By-law 7625, as amended, with respect to the lands known municipally as 2 Sandfield Road;

The Local Planning Appeal Tribunal Orders:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law XXX-2019; and
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions; and
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to RT(XXX) as shown on Diagram 2 attached to this By-law XXX-2019; and
4. Zoning By-law 569-2013, as amended, is further amended by amending the Lot Coverage Overlay Map in Section 995.30.1 for the lands subject to this By-law from a lot coverage label of 30 percent to 46 percent, as shown on Diagram 4 attached to this By-law XXX-2019
5. Zoning By-law 569-2013, as amended, is further amended by amending the Height Overlay Map in Section 995.20.1 for the lands subject to this By-law from a height label of HT 11.5, ST3 to HT 12.3, ST3, as shown on Diagram 5 attached to this By-law XXX-2019; and
6. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.5.10 Exception Number XXX so that it reads:

Exception RT 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) The minimum **lot area** is 1,582 square metres;
- (B) The minimum **lot frontage** is:

- (i) 50.0 metres for the entire **townhouse building** lot; and
- (ii) 6.0 metres for each **dwelling unit**;
- (C) Despite clause 10.60.40.70, the required minimum **building setbacks** are shown on Diagram 3 of By-law XXX-2019;
- (D) Established **Grade** is the Canadian geodetic elevation of 162.92 metres;
- (E) Despite regulation 5.10.30.20(1), the **front lot line** is York Mills Road;
- (F) A minimum of one **parking spaces** must be provided for each **dwelling unit**;
- (G) Article 200.15.10 shall not apply;
- (H) Despite clause 10.5.50.10, a minimum of 850 square metres of landscaping shall be provided, of which 450 square metres shall be **soft landscaping**.

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

3
City of Toronto By-law -202 (LPAT)

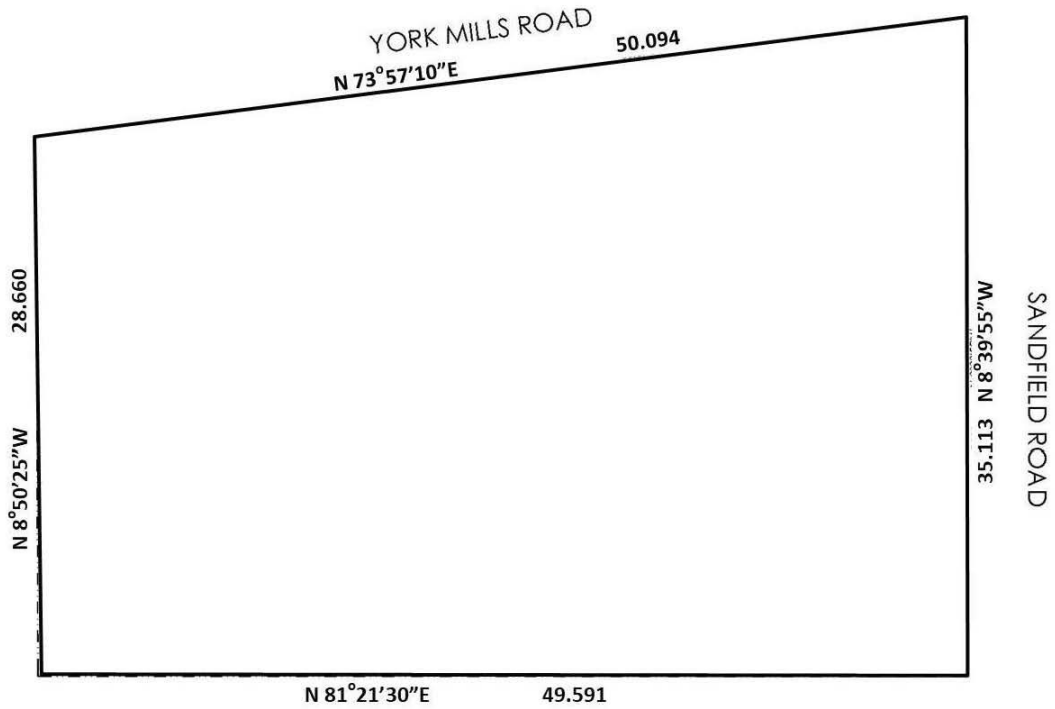


DIAGRAM 1

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

File #TBD

Date: 29/10/2019
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4
City of Toronto By-law -202 (LPAT)

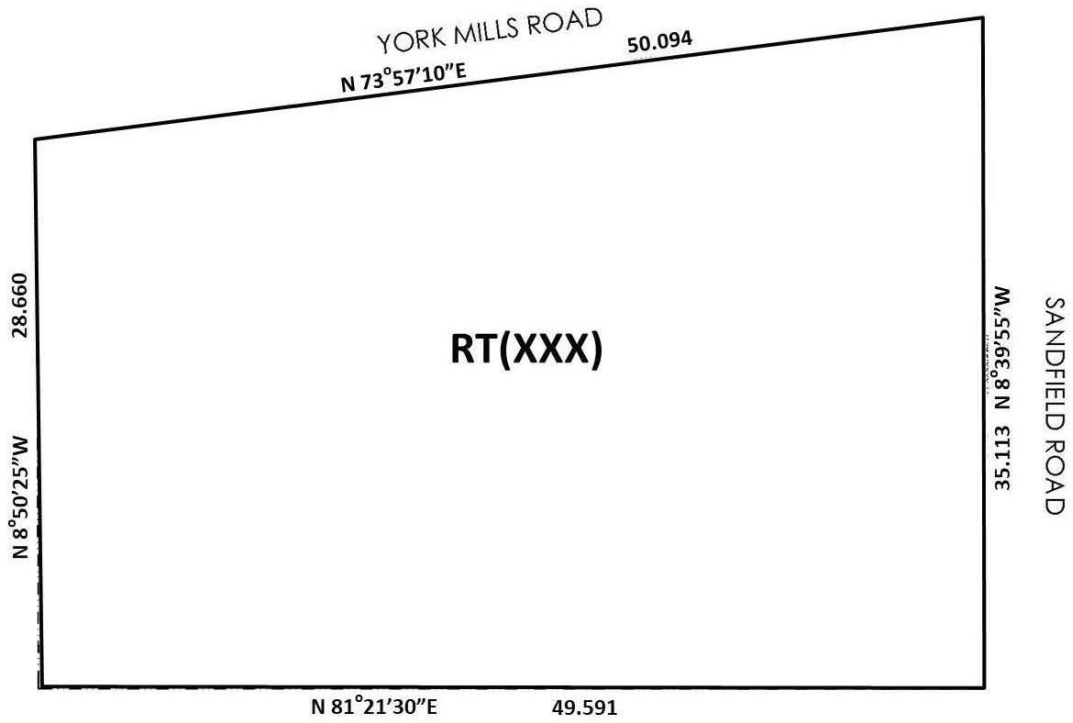


DIAGRAM 2

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

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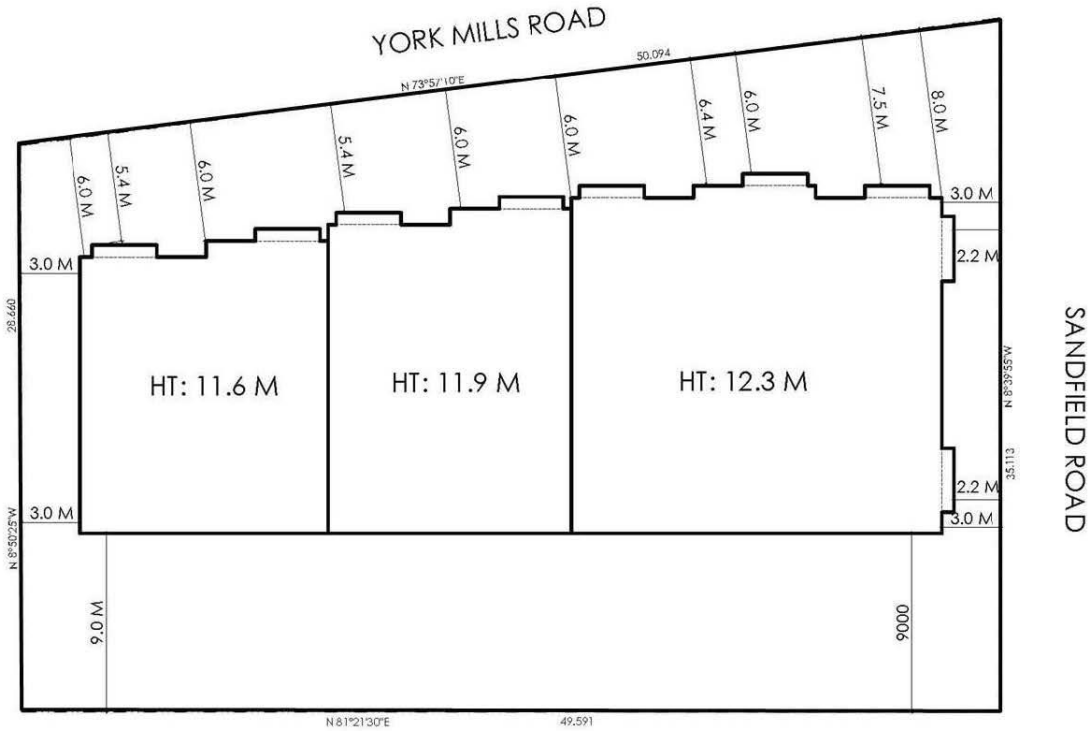


DIAGRAM 3

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

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Date: 29/10/2019
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6
City of Toronto By-law -202 (LPAT)

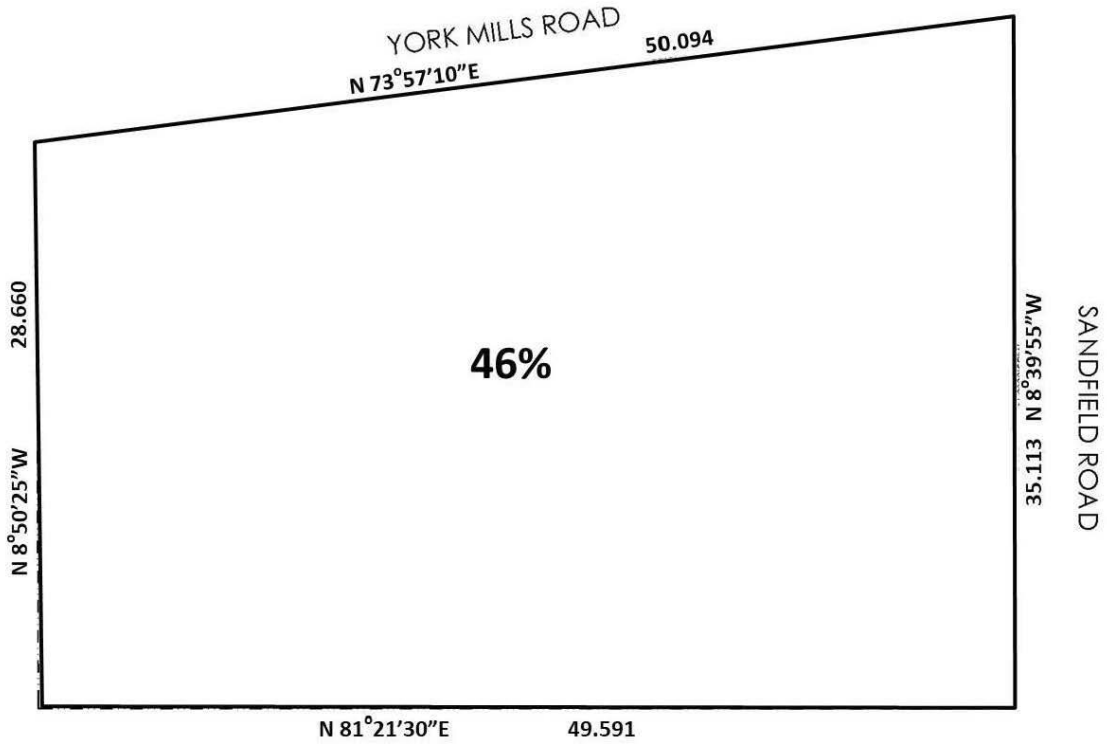


DIAGRAM 4

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

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7
City of Toronto By-law -202 (LPAT)

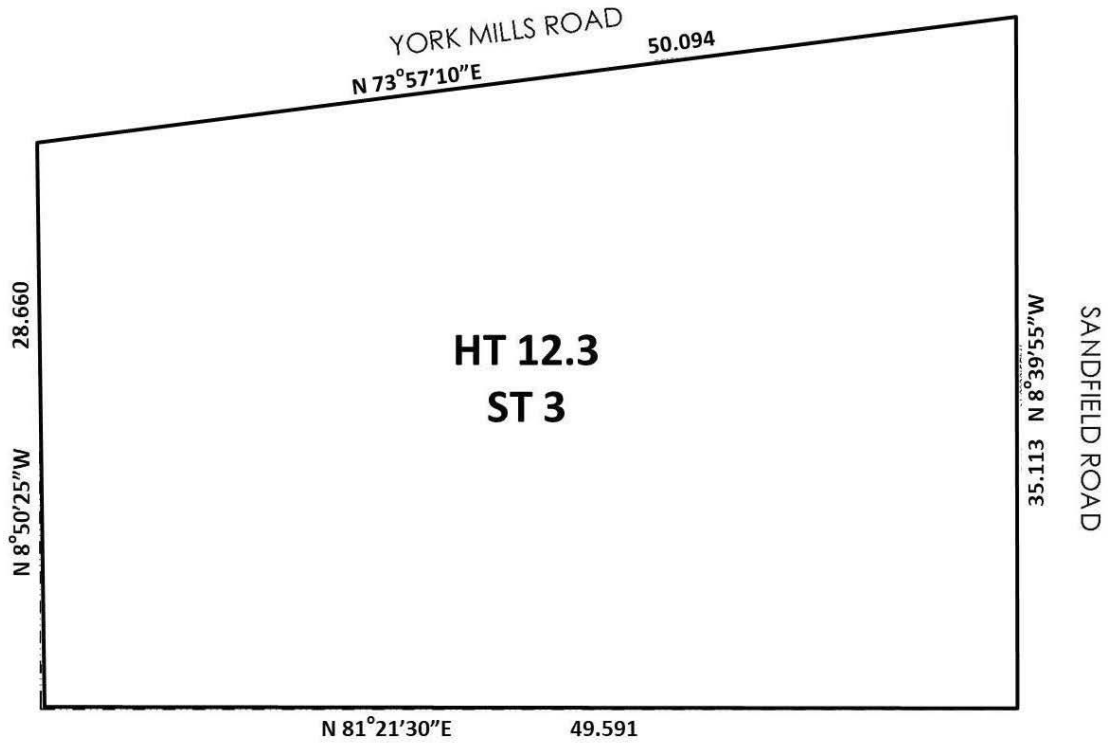


DIAGRAM 5

Lot 1 Registered Plan 5764 City of Toronto
Donald E. Roberts Ltd., O.L.S.

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Date: 29/10/2019
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