



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**51-77 Quebec Avenue and 40-66 High Park Avenue –
Zoning By-law Amendment Application – Request for
Directions Report**

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| Date: | August 18, 2014 |
| To: | City Council |
| From: | City Solicitor |
| Wards: | Ward 13 – Parkdale-High Park |
| Reason for Confidential Information: | This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. This report contains advice or communications that are subject to solicitor-client privilege. |
| Reference Number: | 13 101816 WET 13 OZ |

SUMMARY

High Park Bayview Inc. ("**Owner**") proposed to demolish two existing blocks of townhouses, containing 16 rental units, and construct two new 26-storey residential apartment buildings and a two-storey amenity building at 51-77 Quebec Avenue and 40-66 High Park Avenue ("**Proposed Development**").

The Owner appealed the zoning by-law amendment application to the Ontario Municipal Board ("**OMB**") due to Council's failure to make a decision within the time period prescribed under the *Planning Act*.

Pre-hearing conferences were held on March 21 and June 6, 2014. There is a hearing scheduled for September 8, 2014 for 10 days to hear the appeal. It is urgent that City Council consider this matter at this time so that staff may receive instructions for the OMB hearing.

A settlement offer was submitted to the City Solicitor on August 11, 2014 which revises the Proposed Development that was appealed to the OMB ("**Settlement Proposal**").

Attached to this report as Attachment 1 is the planning review of the Settlement Proposal which was prepared by the City Planning Division. City Planning staff recommends acceptance of the Settlement Proposal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council provide instructions to City staff by adopting the Confidential Recommendations contained in Attachment 3 to this report; and
2. City Council authorize the public release, at the end of the Council meeting, of the Confidential Recommendations in Attachment 3, if adopted by City Council.

Financial Impact

The confidential attachment to this report comments on financial impacts.

DECISION HISTORY

The Zoning By-law Amendment and Rental Housing Demolition and Conversion applications were submitted on January 7, 2013.

A Preliminary Report outlining these applications was considered by Etobicoke York Community Council on April 9, 2013. The Preliminary Report can be viewed at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY23.4>

On November 27, 2013, the solicitors representing the Owner of the lands municipally known as 51-77 Quebec Avenue and 40-66 High Park Avenue appealed the zoning by-law amendment application to the OMB, citing Council's failure to make a decision within the time prescribed by the *Planning Act*.

A Request for Directions Report was considered on City Council on March 20, 2014. This report can be viewed at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY31.3>

A settlement offer was submitted to the City Solicitor on August 11, 2014.

COMMENTS

The purpose of this report is to seek Council's direction for the appeal of this application to the OMB. It is City Planning staff's opinion that the Settlement Proposal is appropriate with respect to the built form and site design and are recommending that the Settlement Proposal be accepted.

CONTACT

Ray Kallio, Solicitor, Legal Services; tel: 416-397-4063, fax:416-397-5624;
Email: rkallio@toronto.ca

SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1: City Planning Division Review
Attachment 2: Proposed Settlement Site Plan
Attachment 3 - Confidential Information

ATTACHMENT 1

City Planning Division Review

Rezoning File No.: 13 101816 WET 13 OZ and 13 101863 WET 13 RH

Settlement Proposal

The Owner submitted the Settlement Proposal to the City to address the comments contained in the February 5, 2014 Request for Directions Report. The Settlement Proposal reduces the mass and height of the buildings, improves the amount and location of indoor amenity space, increases the number of proposed bicycle parking spaces and provides for improvements to the existing rental apartment building and site. The Proposed Settlement site plan is attached to this report as Attachment 2.

The building mass has been modified by:

- reducing the height of both the High Park and Quebec Avenue towers from 26 storeys to 25 storeys (72.4 m);
- reducing the height of the mechanical penthouse for both towers from 9 metres to 6 metres. The entire floor plate can be used for the mechanical penthouse;
- increasing the setback for each of the tower portions of the buildings on High Park Avenue and Quebec Avenue from 7 metres from the property line to 10 metres from the property line;
- stepping the heights of the podium portion of the buildings on High Park Avenue and Quebec Avenue from 3 storeys (9.6 metres) to 5 storeys (15.6 metres) with the fourth and fifth storeys of the podiums being stepped back 4.5 metres from the third storey (front and side);
- increasing the total amount of indoor amenity space from 1,068 m² to approximately 1,435 m², which would equate to 1.2 m² per unit of indoor amenity space for the total Proposed Development (proposed and existing units);
- the indoor amenity space would be located in two new pavilion buildings and within the proposed apartment buildings;
- a two-storey amenity block of not less than 1,000 m² with a direct indoor underground connection to the existing rental buildings that includes an exercise room of not less than 400 m²;
- relocation of the existing outdoor pool within a new two-storey amenity block with change rooms;

- an additional indoor amenity pavilion of not less than 275 m²; and
- a maximum of 43 m² of indoor amenity space to be provided in the new High Park building for the exclusive use of the Owners and tenants of this building and a maximum of 39 m² of indoor amenity space to be provided in the new Quebec building for the exclusive use of the Owners and tenants of this building.

The following table provides a comparative summary of the original Proposed Development filed on January 7, 2013 and the Settlement Proposal:

| | Proposed New Res. Units | Total Number of Res. Units | Building Height (metres) | Building Height in (Storeys) |
|--|-------------------------|----------------------------|---|------------------------------|
| Original Proposed Development (Jan. 2013) | 610 | 1,269 | 88.3 m (97.3 m to the mechanical penthouse) | 31 |
| Proposed Development Appealed to OMB (Nov. 2013) | 558 | 1,217 | 75.2 m (84.2 m to the mechanical penthouse) | 26 |
| Settlement Proposal | 538 | 1,197 | 72.4 m (78.4 m to the mechanical penthouse) | 25 |

Density, Height and Massing

The Settlement Proposal would reduce the height of the proposed towers from 26 storeys (75.2 metres) to 25 storeys (72.4 metres) and reduce the height of the mechanical penthouse from 9 metres to 6 metres. The elimination of one storey and reduction in height of the mechanical penthouse would result in a tower similar in height to the existing building at 35 High Park Avenue. It is staff's opinion that the proposed height is acceptable.

The proposed setback for the tower portion of the two buildings has increased from 7 metres to 10 metres. The proposed setbacks for the towers would be more in keeping with the existing context for High Park Avenue and Quebec Avenue. Staff is of the opinion that the proposed setbacks of the tower portions of the buildings are acceptable.

The height of both base buildings would remain 5 storeys (15.6 metres); however, in the Settlement Proposal, the fourth and fifth storeys of the base portions of the buildings would be stepped back from the third storey by approximately 4.5 metres on both the front and side elevations. It is staff's opinion that the proposed step back of 4.5 metres for the upper floors responds to the context of the streets and the proposed bases would in

keeping with the scale and character of the existing built form along Quebec Avenue and High Park Avenue.

Staff is of the opinion that the height of the Settlement Proposal, the setback of the tower portions of the buildings and the massing of the base portion of the buildings are acceptable. The Settlement Proposal addresses staff's concerns with height, massing and shadow impacts.

Sun and Shadow

A shadow study previously submitted with the Proposed Development showed for all times of the year that the amount of sunlight on the outdoor pool and deck would be reduced. With the Settlement Proposal, the pool would be enclosed minimizing the concerns of shadow on this amenity area.

Wind

The Owner submitted an updated pedestrian wind study (dated July 16, 2014) for the November 2013 Proposed Development for two 26-storey buildings. The wind study notes that wind comfort conditions are not expected to change substantially with the addition of the proposed buildings and that at many locations the wind comfort conditions will improve over existing conditions and, for the locations measured on and around the site, wind speeds will decrease more often than they will increase. The study also notes appropriate wind comfort conditions are expected throughout most of the Proposed Development and at all off-site amenity areas. Where higher wind conditions are expected the report recommends mitigation measures to minimize the impact.

An updated wind study for the Settlement Proposal identifying expected wind conditions and required mitigation measures will be addressed through the site plan approval process.

Amenity Space

The Settlement Proposal includes both indoor and outdoor amenity space. The indoor amenity space is proposed in a new two-storey amenity building, an additional purpose-built amenity pavilion and on the ground floor of each of the proposed buildings. The total amount of indoor amenity space has been increased from 1,068 m² to approximately 1,436 m² which would equate to approximately 2.7 m² indoor amenity space for the proposed units or 1.2 m² of indoor amenity space per unit for the total Proposed Development (proposed and existing).

The two-storey amenity block would be approximately 1,000 m² with a direct indoor underground connection to the existing rental buildings that includes an exercise room of not less than 400 m² and additional indoor amenity space adjacent to active outdoor amenity space. This building would contain the relocated outdoor pool and the addition of change rooms.

An additional indoor amenity pavilion of not less than 275 m² containing all finishing, fixtures and equipment necessary to serve a variety of uses including, but not limited to, a

kitchenette, movable tables and chairs, and storage cabinets is also proposed. This additional indoor amenity pavilion can be located in the area encompassing the existing outdoor pool and deck (which would require removal of the outdoor pool and deck).

At-grade connections are proposed from the rear of the existing rental buildings, including paved pathways and related soft landscaping to allow for ease of access and egress to the interior of the block and amenity buildings.

Access to these indoor amenity spaces would be provided to all owners and tenants of the site, save and except for the following spaces:

- i) a maximum of 43 m² of indoor amenity space to be provided in the new High Park building for the exclusive use of the owners and tenants of this building; and
- ii) a maximum of 39 m² of indoor amenity space to be provided in the new Quebec building for the exclusive use of the owners and tenants of this building.

Currently it is anticipated that there will be 1,197 units in total which would require a minimum of 1,436 m² of indoor amenity space to be provided. If there is a decrease or increase in the number of units, the amount of indoor amenity space to be provided would be adjusted accordingly at a ratio of 1.2 m² per unit. It is staff's opinion that the amount of indoor and outdoor amenity space proposed for the Settlement Proposal is sufficient.

Rental Housing Protection and Improvements

In keeping with Policy 3.2.1.5 of the Official Plan, the Owner would be required to secure the rental tenure of the existing apartment buildings at 77 Quebec Avenue and 40 High Park Avenue should the zoning by-law amendment application be approved. The Owner has agreed to secure the existing rental tenure for 659 rental units for a period of at least twenty (20) years.

In addition to securing the rental tenure, Policy 3.2.1.5 also provides for securing needed improvements and renovations to the rental buildings and their related facilities without costs being passed on to tenants. The policy is aimed at achieving improvements that will ensure the on-going viability and livability of the rental use in the future, as well as benefit residents of the existing building. To address this objective the Owner has agreed to provide the following improvements to the existing rental buildings and to the site:

- 1) the provision of new outdoor amenity areas and landscaped open space at the interior of the site including a BBQ area, sitting and lounge area and terrace (adjacent to the two new amenity buildings), and the provision of outdoor furnishings including benches, tables and equipment necessary to support the intended uses;

- 2) the provision of new indoor amenity space with shared access for residents of the existing rental building and new buildings including the following:
 - (a) a two-storey amenity block at the interior of the block of not less than 1,000 m² with a direct indoor underground connection to the existing rental buildings that includes an exercise room of not less than 400 m² and additional indoor amenity space adjacent to active outdoor amenity space;
 - (b) the relocation of the existing outdoor pool within the new two-storey amenity block with change rooms;
 - (c) an additional purpose-built indoor amenity pavilion of not less than 275 m² containing all finishing, fixtures and equipment necessary to serve a variety of uses including, but not limited to, a kitchenette, movable tables and chairs, and storage cabinets; and
 - (d) shared and equal access to all indoor amenity space to all owners and tenants of the site save and except for:
 - i) a maximum of 43 m² of indoor amenity space to be provided in the new building on High Park Avenue; and
 - ii) a maximum of 39 m² of indoor amenity space to be provided in the new building on Quebec Avenue building;
- 3) at-grade connections from the rear of the existing rental buildings substantially in accordance with the Landscape Plan dated July 29, 2014, including paved pathways and related soft landscaping to allow for ease of access and egress to the interior of the block;
- 4) upgrades to the existing laundry rooms at 77 Quebec Avenue and 40 High Park Avenue including new paint, new lighting, seating, tables and ventilation systems; and
- 5) creation of a bicycle storage room for approximately 120 bicycles parking spaces located within the underground parking garage.

It is staff's opinion that the proposed improvements to the existing rental apartment buildings and site are appropriate for the Settlement Proposal. The section 37 agreement would be used to secure the rental housing tenure and the improvements to the rental buildings and site.

Trees

Urban Forestry staff has advised that the Owner will be required to plant new 'large growing native shade' trees at a three-to-one ratio and that the current plans do not show enough new trees to satisfy the required plantings on private property. Urban Forestry staff also advised more trees should be planted on the High Park Avenue street allowance at this site and should contain a mix of Red Oak and Sweetgum, Shingle Oak and American Elm or Chinquapin Oak and Northern Catalpa trees. The requirements and related-approval process of the City's Tree By-laws will be addressed through the site plan approval process.

Natural Heritage

The Owner submitted a Natural Impact Study prepared by Ages Consulting Limited that was peer-reviewed for the City. The City's peer reviewer (Golder Associates) commented it agreed that the Proposed Development would have minor impacts as outlined in the Recommendations and Conclusions provided by Ages Consulting Limited.

Section 37

Given the increase in height and density represented by the Settlement Proposal, the Official Plan provides for the provision of section 37 contributions. The Owner has agreed to provide the following Section 37 benefits which would be secured in the Section 37 agreement:

- i) the provision of \$150,000 to the City for streetscape improvements in the vicinity of Bloor/High Park/Quebec streets at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor; and
- ii) the provision of \$850,000 to the City for local community improvements at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.

In addition to the above, the preservation of existing rental housing on the subject lands for a minimum of twenty (20) years and the related improvements to the existing rental buildings would be secured in the Section 37 agreement together with the requirements identified by the TTC and the Toronto District School Board.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), established Chapter 667 of the City's Municipal Code. It is one of the tools which implement the City's Official Plan policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the *City of Toronto Act, 2006*.

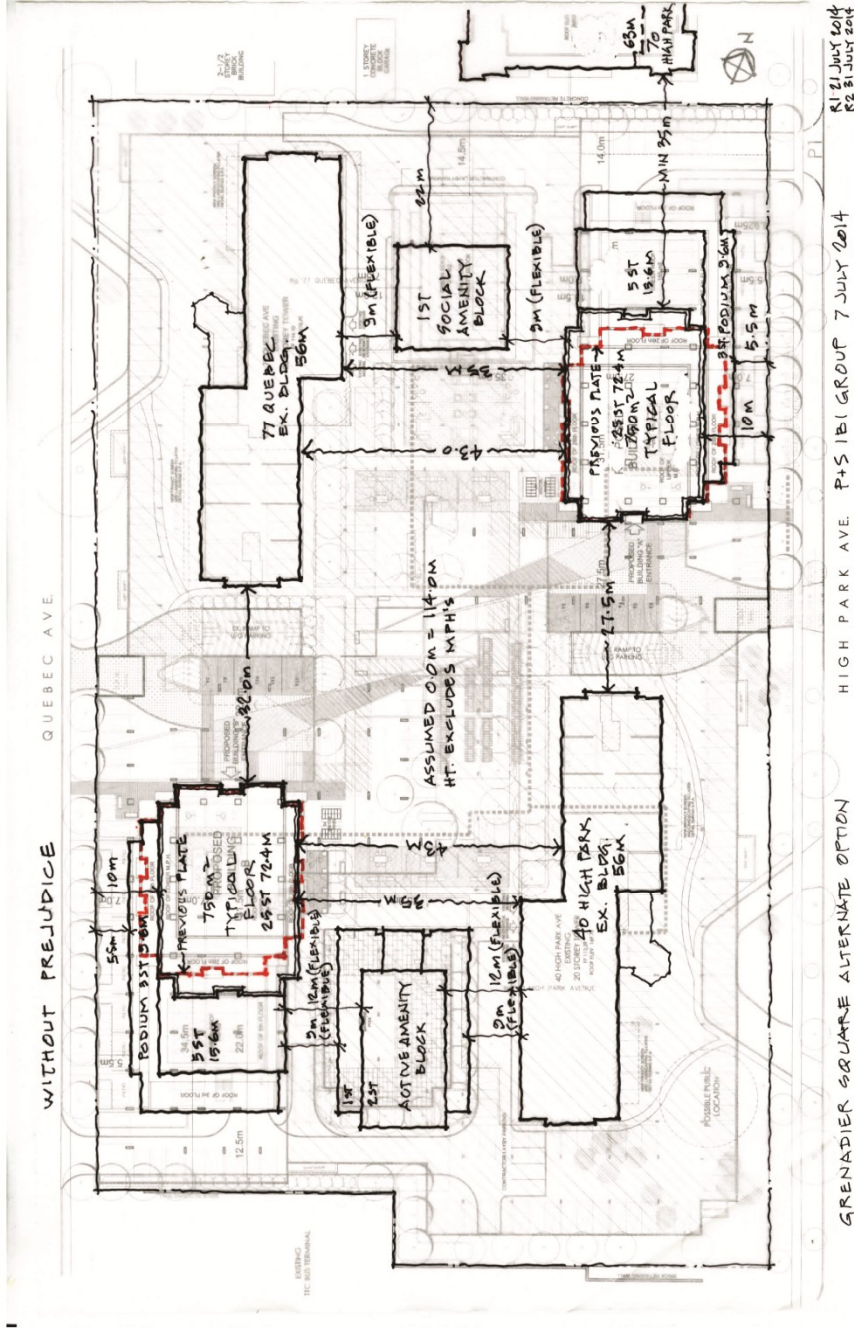
Proposals in which six or more rental housing units will be affected require a decision by City Council. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. Council approval of demolition under Section 33 of the *Planning Act* may also be required where six or more residential units are proposed for demolition before the Chief Building Official can issue a permit for demolition under the *Building Code Act*.

Where an application for rezoning triggers an application under Chapter 667 for rental demolition or conversion, City Council typically decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by City Council under By-law 885-2007 cannot be appealed to the OMB. The Owner has submitted an application for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code for the demolition of the existing rental units. A report on this application will be forthcoming when the outcome of the Zoning By-law Amendment application appeal is determined.

CONCLUSION

The Owner appealed the Zoning By-law Amendment application to the OMB on the basis that City Council had not made a decision within the timeframes prescribed by the *Planning Act*. The Owner has revised the Proposed Development to address the concerns noted in the Request for Directions Report and staff are recommending these revisions be used as a settlement of the appeal.

ATTACHMENT 2



51-77 Quebec Avenue and
40-66 High Park Avenue

Proposed Settlement Site Plan
Applicant's Submitted Drawing
Not to Scale
08/07/2014

