

## **1-7 Yonge Street - OMB Hearing - Request for Direction**

**Date:** January 31, 2017

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 28 – Toronto Centre-Rosedale

### **SUMMARY**

---

The Owner of 1-7 Yonge Street has appealed their Official Plan and Zoning By-law Amendment applications to the Ontario Municipal Board (OMB), based on City Council's failure to make a decision within the required time period.

At its meeting of July 12, 13, 14 and 15, 2016, City Council authorized the City Solicitor, together with City Planning staff and any other appropriate staff to, among other matters, attend the OMB hearing in support of a settlement of the Official Plan and Zoning By-law Amendment applications for 1-7 Yonge Street.

The OMB settlement hearing is scheduled for February 14, 2017 and further instructions are required in advance of the settlement hearing.

### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. Item TE17.21 adopted by City Council at its meeting of July 12, 13, 14 and 15, 2016 be amended as follows:

- a. Clause 1.b.v. be removed and replaced with: the registration of a plan of subdivision and agreements, as appropriate, providing for amongst other things: the extension of Harbour Street through the site connecting Yonge Street to Freeland Street, including the proposed bi-directional cycle track on the south side of Harbour Street; intersection improvements for both the Yonge Street and Harbour Street and Yonge Street and Lake Shore Boulevard East intersections; and municipal services and infrastructure, all at the owner's expense, and including provisions for required conveyances and financial securities;

b. Clause 1.c.vii.B be removed and replaced with: a cash contribution currently estimated at \$8,500,000 towards the: two-way conversion of Harbour Street between Yonge and York Streets; full upgrade of Yonge Street from Queens Quay to Front Street; removal of the Bay Street on-ramp to the eastbound Gardiner Expressway; shortening of the Lower Jarvis off-ramp from the eastbound Gardiner Expressway; and/or re-construction of Lake Shore Boulevard East from Yonge Street to Lower Jarvis Street, all in accordance with the recommendations from the Lower Yonge Precinct Municipal Class Environmental Assessment (MCEA); and

c. Add clause 1.b.vi.: submission of a Master Functional Servicing Plan for the Lower Yonge Precinct satisfactory to the Executive Director, Engineering and Construction Services, including securing implementation of such plan;

d. Clause 3.a. be removed and replaced with: resolution of outstanding items outlined in the memo from City of Toronto, Development Engineering, dated May 4, 2016, particularly with respect to hydrogeological (i.e. groundwater) matters, to the satisfaction of the Executive Director, Engineering and Construction Services. Where it is not possible to fully resolve outstanding items prior to a February 14, 2017 settlement Ontario Municipal Board hearing date because resolution is contingent on incorporating information that will be provided through the completion of the Waterfront Sanitary Servicing Master Plan Environmental Assessment Update, these remaining outstanding items will be fully resolved to the satisfaction of the Executive Director, Engineering and Construction Services, through pre-approval condition(s) to any future site plan approval(s), required prior to the earlier of site plan approval for the first building and the issuance of any building permit, including conditional permits;

e. Clause 3.b. be removed and replaced with: submission of a Master Functional Servicing Plan for the Lower Yonge Precinct. The Master Functional Servicing Plan cannot be completed until after the Waterfront Sanitary Servicing Master Plan Environmental Assessment Update, currently being undertaken by Toronto Water, is completed and the Master Functional Servicing Plan is updated, as appropriate, to reflect the results. The Master Functional Servicing Plan will be completed to the satisfaction of the Executive Director, Engineering and Construction Services, as a pre-approval condition to any future site plan approval(s), required prior to the earlier of site plan approval for the first building and the issuance of any building permit, including conditional permits;

f. Clause 1.c.vii. be removed and replaced with: a cash contribution to the City prior to the issuance of the above-grade building permit for the second phase of development (Tower 1 at 95 storeys or 294.3 metres), identified as Phase 2 in Attachment 9 to the report (May 16, 2016) from the Director, Community Planning, Toronto and East York District with the contribution to be used by the City towards the following capital improvements, all to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the local Councillor:

g. Clause 1.f.vi. be removed and replaced with: the provision and maintenance of design excellence and materials for the tallest two towers, two tallest towers, Tower 1 not to exceed a height of 95 storeys (294.3 metres) and Tower 2 not to exceed a height of 80 storeys (250.8 metres);

h. Clause 1.f.v be removed and replaced with: the design, construction, provision and maintenance of above and below-grade PATH connections through the proposed development, including the conveyance at nominal costs to the City of easement(s) for use by the general public, and the commitment of the landowner to facilitate the design, construction, provision and maintenance of a PATH connection from the PATH network's current terminus northwest of the subject property to the subject property and from the subject property to the remainder of the Lower Yonge Precinct Plan area. Such PATH connections will be in accordance with the recommendations of the Lower Yonge Precinct Plan.

i. Clause 4.a. be removed and replaced with: the off-site parkland selected for public parkland purposes shall be equal to the size of the on-site dedication and shall satisfy all Section 42 requirements for the development as such development may be approved by the OMB. The location of the off-site parkland shall be within the Lower Yonge Precinct Plan area and shall be to the satisfaction of the General Manager, Parks, Forestry and Recreation in consultation with the Ward Councillor. The land to be conveyed as off-site parkland shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation;

j. Clause 3.f. be removed.

k. Add clause 2.d.:resolution, including securing, of mitigation measures addressing compatibility with Redpath Sugar's industrial operations at 95 Queens Quay East. Such measures may be secured in a 3 party agreement or other satisfactory agreement to the satisfaction of City planning and the City Solicitor.

2. City Council authorize the City to enter into an Agreement of Purchase and Sale with terms satisfactory to the City Solicitor and the General Manager of Parks, Forestry and Recreation, and the Chief Planner and Executive Director, City Planning for the conveyance of an approximately 1 hectare centralized park within the Lower Yonge Precinct.

3. City Council direct the General Manager of Parks, Forestry and Recreation to include the following projects in the 2018 Capital Budget and 2019-2027 Capital Plan submission:

a. project to fund the acquisition of approximately 3,000 m2 of parkland for the completion of the acquisition of the remainder of the approximately 1 hectare centrally located park at market value, with a 2024 cash flow, and

b. project for the Lower Yonge Street Community Centre finishing of space to be provided by the developer.

4. The approximately 1 hectare park to be conveyed to the City pursuant to such Agreement of Purchase and Sale would include the required parkland dedication pursuant to s. 42 of the Planning Act for 1-7 Yonge Street, 55-95 Lake Shore Boulevard East, 33-53 Freeland Street, and 2 and 15 Cooper Street calculated at the current rates for parkland dedication within the Lower Yonge Precinct.

## **FINANCIAL IMPACT**

---

Operating impacts for the community centre development and parkland acquisition of the remainder of the approximately 1 hectare centrally located park will be requested in future Operating Budget Submissions.

## **DECISION HISTORY**

---

The link to Item TE17.21 adopted by City Council at its meeting of July 12, 13, 14 and 15, 2016:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.21>

## **COMMENTS**

---

This report has been prepared in consultation with City staff including Planning, Parks, Transportation, Development Engineering and Toronto Water. In preparation for the February 14, 2017 Settlement Hearing for this matter, a number of revisions to the Council Authority are being recommended to better implement the Settlement approved by Council on July 12, 13, 14, 15, 2016 as discussed below.

### **Open Space/Parkland**

The City is seeking authority to enter into an Agreement of Purchase and Sale to achieve an approximately 1 hectare centralized park. This will be achieved through off-site parkland dedication by the landowner on the adjacent parcel at 55-95 Lake Shore Boulevard East, 33-53 Freeland Street and 2 and 15 Cooper Street (the "Menkes Parcel"), on-site dedications for the proposed development on the Menkes Parcel, and a City purchase of the remaining lands related to the third significant parcel at the eastern edge of the Lower Yonge Precinct.

The final size of the park will be determined in part by the final Harbour Street alignment as it relates to the Lower Yonge Precinct Transportation Environmental Assessment, and through the planning application approval process for the proposed development of the Menkes Parcel.

Should City Council authorize this action, an Agreement of Purchase and Sale between the owners of the Menkes Parcel, the subject site and the City will be entered into with the final terms of the Agreement to the satisfaction of the City Solicitor, and General Manager, Parks, Forestry and Recreation and the Chief Planner.

## **Transportation**

A cost sharing framework has been established through the Lower Yonge Precinct Transportation Environmental Assessment, with locally attributed transportation costs attributed to area landowners proportionately. Pinnacle's share of these costs has been established at approximately \$8.5 million (2017 dollars, to be indexed annually to inflation).

In the recommendations respecting use of a "Holding" symbol in zoning, there is currently an obligation for the landowner to, through subdivision, pay for the full conversion of Harbour Street to two-way operations between Yonge Street and York Street. This conversion has been determined to be appropriately shared among area landowners, and so the landowner is being released from this obligation.

## **Servicing**

The Precinct landowners have submitted a Master Functional Servicing Plan, which has been reviewed by staff and comments provided. There are aspects of the final Master Functional Servicing Plan which will require completion of the City's Waterfront Sanitary Servicing Master Plan Environmental Assessment Update, which will not be complete by the February 14, 2017 Ontario Municipal Board settlement hearing date. Securing this plan's satisfactory completion can be accomplished prior to any permits being pulled, will be a condition of future site plan approvals, will also be secured through subdivision, and appropriately links to matters in the "Holding" provision-related direction.

## **Height**

In advancing site-plan level design, tower heights have increased (between 3 and 5 metres on the north block towers to top of roof slab; approximately 1 metre on the south block tower) from what was contemplated through the February 2016 submission. These increases are triggered by mechanical obligations (structural transfer slabs, mechanicals) not fully articulated in the February 2016 submission, as well as through accommodating functional requirements of the Community Centre in the first phase tower, Tower 3 (particularly the pool). Staff are comfortable that these increases are modest in nature, will not materially change the impacts of the towers, and are supportable. Comprehensive updates to shadow and wind studies have been required through the site plan approval process, and detailed design (including tower design, articulation and materiality) will be advanced through that review.

## **PATH Connection**

The revised recommendation is required to clarify the intent of the owner's obligations pertaining to the future PATH network. The PATH network will be extended to the Lower Yonge Precinct Plan area (the Precinct), from the existing PATH network northwest of the Lower Yonge Precinct, by way of an above-grade connection over Lake Shore Boulevard East. The PATH network will also be provided within the Precinct, thereby ensuring a seamless PATH connection to the Precinct and within the Precinct. The landowner will be required to provide PATH connections within their property, as well as facilitate the PATH connection to and from their site. The landowner is supportive of enhancing and completing the PATH connection in this location, which will be in accordance with the recommendations of the Lower Yonge Precinct Plan and associated Official Plan Amendment.

## **Redpath**

City staff, the landowner and representatives from Redpath have engaged in ongoing discussions to resolve appropriate mitigation measures that address compatibility with Redpath's industrial operations at 95 Queens Quay. While these matters still need to be formally resolved, and agreements formally secured, the discussions have progressed to a satisfactory point to allow the OMB hearing to progress. However, the change in location of original recommendation 3.f., to recommendation 2.d., will still ensure that matters related to compatibility with Redpath's industrial operations will be fully resolved and secured prior to the issuance of the Order by the Ontario Municipal Board. Therefore, a final Official Plan Amendment or Zoning By-law Amendment will not be in force until all required stakeholders are satisfied with the resolution of the mitigation measures that address compatibility with Redpath's industrial operations.

## **CONTACT**

---

Sharon Haniford, Solicitor, Legal Services Division, (416) 392- 6975,  
Sharon.Haniford@toronto.ca

Sara Amini, Solicitor, Legal Services Division, (416) 392-2723  
Sara.Amini@toronto.ca

## **SIGNATURE**

---

Brian Haley  
Interim City Solicitor