



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

110, 114 and 120 Broadway Avenue - Request for Directions Regarding LPAT Hearing

Date: June 17, 2019

To: City Council

From: City Solicitor

Wards: Ward 15 - Don Valley West

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On August 18, 2017, the City received an application to amend the Zoning By-law for 110, 114 and 120 Broadway Avenue to permit 28-storey (92 metre) tower and a 35-storey (112 metre) tower connected by a six storey base building. The proposed development would consist of 822 residential units and 261 parking spaces in two levels of underground parking. The resulting density would be 9.45 times the lot area. An associated Rental Housing Demolition application sought approval to demolish all three existing buildings on the subject lands containing 121 rental dwelling units.

The applicant appealed City Council's neglect or failure to make a decision on its application for Zoning By-law Amendment (the "**Appeal**") to the Local Planning Appeal Tribunal (the "**LPAT**") on December 21, 2017.

In a report to City Council dated July 3, 2018, City Planning recommended opposition to the Appeal at the LPAT (the "**Request for Directions**"). City Planning concluded in the Request for Directions that the proposal was inconsistent with the Provincial Policy Statement, 2014, did not conform with the Growth Plan for the Greater Golden Horseshoe, did not conform to the Official Plan and the Yonge-Eglinton Secondary Plan, was inconsistent with Council-approved guidelines; did not fit within the existing and planned context along Broadway Avenue, did not provide an onsite park or sufficient onsite amenity space, and created adverse shadow impacts.

City Council adopted the recommendations in the Request for Directions to oppose the Appeal, but to continue discussions with the applicant to address the issues in the Request for Directions.

On June 17, 2019, the applicant submitted a with prejudice revised development proposal for 110, 114 and 120 Broadway Avenue (the "**Settlement Offer**"). The Settlement Offer proposes the development of a 33-storey (108.55 metre) tower and 21-storey (76.9 metre) tower connected by a 4- to 8-storey base building. The proposed development would consist of 751 residential units, including 121 rental replacement units and 50 affordable units to be provided at 100 Broadway Avenue. The development would have a total gross floor area of 46, 531 square metres and a density of 8.2 times the lot area. Underground vehicular parking would be shared with the residents at 100 Broadway Avenue, and accessed via a driveway on Redpath Avenue, along with loading and servicing located underground. A vehicular driveway onto the site from Broadway Avenue would provide visitor drop off and pick up on the east side of the site to the middle connecting building element. In addition, a midblock pedestrian connection would be provided along the east property line from Broadway Avenue and extending to the north property line. Privately owned, publicly accessible space would be provided along the west, south and east property lines. The revised drawings are attached as Appendix "A" to this report.

The purpose of this report is to request further instructions for the LPAT hearing that is scheduled to commence July 29, 2019.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

A pre-application consultation meeting was held with the applicant on June 5, 2017 to discuss complete application submission requirements. The application was submitted on August 18, 2017 and deemed complete on September 27, 2017. A Preliminary

Report on the application was adopted by North York Community Council on November 14, 2017 authorizing staff to conduct a community consultation meeting with an expanded notification area.

City Council on December 5, 2017 adopted a recommendation in the Preliminary Report to withhold any approvals on the application until the adoption of the revised Yonge-Eglinton Secondary Plan as part of the City-initiated Midtown in Focus: Growth, Built Form and Infrastructure Review.

The Preliminary Report and the Community Council and City Council Decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.NY26.15>

On December 21, 2017, the landowner appealed Council's failure to make a decision within 120 days to the Ontario Municipal Board, now continued as the LPAT.

At its meeting of July 23, 2018, City Council adopted the recommendations in a Request for Directions Report dated July 3, 2018, to oppose the Zoning By-law Amendment Application at the LPAT for a 28 and 35-storey two-tower proposal on the subject property, and directed the City Solicitor and appropriate staff to continue discussions with the applicant to address the issues outlined in that report.

A copy of the Request for Directions Report is available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY32.12>

A ten-day hearing is scheduled to commence July 29, 2019.

On July 12, 2016, City Council adopted the recommendations in the report from the Chief Planner and Executive Director, City Planning titled: "Midtown in Focus: Growth, Built Form and Infrastructure Review - Status Report."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=PG13.1>

The recommendations directed staff to use the draft built form principles in the report in the review of the development applications in the Yonge-Eglinton Secondary Plan area. Planning staff were also directed to use the emerging community infrastructure priorities identified in the status report as part of the development application review process.

On December 5, 2017, City Council adopted the recommendations in the report from the Acting Chief Planner and Executive Director, City Planning titled: "Midtown in Focus: Proposals Report"

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.10>.

City Council directed staff to review all Official Plan amendment and Zoning By-law amendment applications in the Yonge-Eglinton Secondary Plan area, submitted prior to November 15, 2017, in the context of the Midtown in Focus study, including the proposed Secondary Plan. City Council also directed staff to assess the potential cumulative impact of all applications in the Yonge-Eglinton Secondary Plan Area on the City's ability to provide the necessary infrastructure to support development, and use

planning mechanisms, including holding provisions, as necessary to ensure that growth and infrastructure needs are aligned.

City Council adopted the Yonge-Eglinton Official Plan Amendment (OPA 405) with amendments on July 23-27, 2018. City Council also endorsed a Parks and Public Realm Plan and Community Services and Facilities Strategy for Midtown. On August 9, 2018, OPA 405 was submitted to the Ministry of Municipal Affairs and Housing for review and approval pursuant to section 26 of the *Planning Act*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.7>

On June 6, 2019, the Minister of Municipal Affairs and Housing issued a decision modifying and approving OPA 405. As part of the decision the Ministry revised the Plan to add the following transition policy: "This Plan does not apply to applications for official plan amendment, zoning by-law amendment, draft plan of subdivision or condominium approval, site plan approval, consent or minor variance which were complete prior to the approval of this Plan and which are not withdrawn. In-force site-specific official plan and/or zoning by-law amendments shall be deemed to conform with this Plan."

Given that this application was complete prior to June 5, 2019, OPA 405, being the approved Yonge Eglinton Secondary Plan, does not apply to this application.

COMMENTS

On June 17, 2019, the landowner submitted a with prejudice Settlement Offer, along with Revised Drawings, which are attached respectively as Appendix "A" and Appendix "B," and illustrate a revised development concept for the subject property. In particular, the revised development concept seeks to coordinate the development of the subject property with the adjacent properties at 100 Broadway Avenue and 223-225 Redpath Avenue, in order to comprehensively address site organization issues related to parkland dedication, POPS open spaces, a mid-block pedestrian connection, building locations, and setbacks, among other matters.

The Settlement Offer sets out a number of changes from the OMB-approved settlement for 100 Broadway and the proposed development of 223-225 Redpath Avenue and the original 110-120 Broadway Avenue. The key revisions that have been made by way of the Settlement Offer include the following: the building height and transition, dedicated parkland and POPS open spaces, the consolidation of vehicular parking and loading and servicing underground, and replacement and new affordable rental housing units. Refer to the table below for statistics.

	Sept. 22, 2017 OMB Settlement 100 Broadway Ave. & 223- 225 Redpath Ave.	Revised Proposal 100 Broadway Ave., & 223- 233 Redpath Ave. w/expanded site	Original Application 110-120 Broadway Ave.	Revised Proposal 110-120 Broadway Ave.
Site Area	1482m2	2419m2	5675.9m2	5675.9m2
FSI	13.38	11	9.45	8.2
GFA	15,952m2	26,436m2	53,625m2	46,531.5m2
Total Units	319	413	822	751
Height	36-storeys 112.8m w/mech.	36-storeys 112.8m w/mech.	north: 28- storeys 98m w/mech. south: 35- storeys 118m w/mech. 6-storey connecting element	north: 21- storeys 76.9m w/mech. south: 33- storeys 108.6m w/mech. 8-storey connecting element
Shadows on Redpath Park	no	no	yes	no
Floorplate	558m2	750m2	792m2 north 792m2 south	760.5m2 north 775m2 south
	Sept. 22, 2017 OMB Settlement 100 Broadway Ave. & 223- 225 Redpath Ave.	Revised Proposal 100 Broadway Ave., & 223- 233 Redpath Ave. w/expanded site	Original Application 110-120 Broadway Ave.	Revised Proposal 110-120 Broadway Ave.

	Sept. 22, 2017 OMB Settlement 100 Broadway Ave. & 223- 225 Redpath Ave.	Revised Proposal 100 Broadway Ave., & 223- 233 Redpath Ave. w/expanded site	Original Application 110-120 Broadway Ave.	Revised Proposal 110-120 Broadway Ave.
Building setbacks:				
Tower separation:	10m to east property line	25m to all towers	27m for on-site towers & 22.5m to 100 Broadway Ave.	25m to all towers
Base building:				
South lot line	7.5m	23m	7.5m	7.5m
West lot line	0 to 2m	0 to 2m	9m	min. 7.5m
East lot line	0.20m	1.5m	5.5m	min. 7.5m
north lot line	1.8 to 0m	0m	1.5m	7.5m
park	n/a	5m to bldg	n/a	5m to bldg
Parkland dedication	148m ² (off-site)	Plus 92.3m ² on-site to reflect additional properties at 227-233 Redpath Ave. in addition to original 148m ² off-site.	0m ²	653.7m ² ; 103m ² on-site and 464.6m ² off-site at 100 Broadway Ave., and includes an 86.1m ² overdedication
POPS	0m ²	122m ²	0m ²	988.4m ²
Yonge/Eglinton Secondary Plan midblock connection	n/a	n/a	no	yes
Affordable housing	0 units	0 units	0 units	50 units to be provided at 100 Broadway Avenue

	Sept. 22, 2017 OMB Settlement 100 Broadway Ave. & 223- 225 Redpath Ave.	Revised Proposal 100 Broadway Ave., & 223- 233 Redpath Ave. w/expanded site	Original Application 110-120 Broadway Ave.	Revised Proposal 110-120 Broadway Ave.
Loading & servicing	No consolidation	Consolidated with 110-120 Broadway Ave.	No consolidation	Consolidated with 100 Broadway Ave.

The property at 110-120 Broadway Avenue has a parkland dedication requirement of 567.3 square metres. The parkland dedication requirement is being satisfied through the provision of 103 square metres on-site and 464.6 square metres off-site at 100 Broadway Avenue and 223-233 Redpath Avenue. A surplus off-site dedication of 86.1 square metres is also being provided on the 100 Broadway Avenue property. The total parkland provide through the application at 110120 Broadway Avenue is 653.7 square metres.

The 653.7 square metre parkland dedication for 110-120 Broadway Avenue is expanded by 92.3 square metres of parkland dedication from the properties at 227-233 Redpath Avenue, which are being incorporated into the 100 Broadway Avenue and 223-225 Redpath site.

The park would be generally rectangular in shape at approximately 41.7 metres in length and 18 metres in width with frontage on Broadway and Redpath Avenues providing a highly visible and prominent park space. The surplus park area of 86.1 square metres would be credited as a Section 37 community benefit.

The applicant proposes to demolish 121 rental dwelling units across the subject lands. The applicant has agreed to provide and maintain 121 replacement rental dwelling units at 100 Broadway Avenue and 223 - 233 Redpath Avenue for at least 20 years. The rents for the 121 replacement rental dwelling units would be secured for at least 10 years, consistent with the existing affordability mix described above. The affordability of the existing rental dwelling units, at the time of the applications, consisted of 68 rental units with affordable rents and 53 units with mid-range rents all as defined by the Official Plan.

The owner has proposed a purpose-built rental building at 100 Broadway Avenue containing 413 rental dwelling units. The building would be comprised of replacement rental dwelling units and new rental dwelling units. Replacement rental units would be derived from the subject site and 100 Broadway Avenue, 117-127 Broadway Avenue and 174-180 Broadway Avenue; for a total of 324 replacement rental dwelling units and 89 non-replacement rental units.

The applicant has agreed to secure the rents for 50 of the non-replacement rental dwelling units with affordable rents as part of the Section 37 contribution for 110-120 Broadway Avenue. The affordable rents for the 50 rental units would be secured for at least 15 years. The rents for the remaining 39 rental units would be unrestricted.

The applicant has agreed to develop a Tenant Access Plan for the 50 non-replacement affordable rental units, alongside the replacement affordable and mid-range rental units not reoccupied by returning tenants. This would ensure the benefit of the affordable units is linked to households in need of affordable housing.

A Tenant Consultation Meeting is required under the Rental Housing Demolition By-law to review the impact on of the proposal on the tenants of the residential rental property and to communicate a proposed Tenant Relocation and Assistance Plan, and would typically occur following any LPAT Order.

CONCLUSION

The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

This Request for Directions Report should be considered with the companion Request for Directions Report related to the adjacent properties at 100 Broadway Avenue and 223-233 Redpath Avenue.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Appendix "A" to Public Report - With Prejudice Settlement Offer dated June 17, 2019

Appendix "B" to Public Report - Revised Drawings on file with the City Clerk for the purpose of the June 18 and 19, 2019 City Council meeting.

Confidential Attachment 1 - Confidential Recommendations and Confidential Information