



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

100 Broadway Avenue and 223-233 Redpath 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

An application was submitted to amend the Zoning By-law for the lands at 100 Broadway Avenue and 223 to 225 Redpath Avenue to permit the construction of a 34-storey (107 metre) apartment building. The proposed building would contain a total of 329 residential dwellings units including 52 rental replacement dwelling units, and 120 square metres of non-residential uses. An application was also submitted under Chapter 667 of the Municipal Code, pursuant to Section 111 of the City of Toronto Act, for the demolition of 52 residential rental units existing on site. The Zoning By-law amendment application was appealed to the Ontario Municipal Board (OMB) for Council's failure to make a decision on the application within the prescribed timelines in the *Planning Act*. Pre-hearings were held at the OMB on January 11, 2017 and August 11, 2017, and a one day hearing was held on December 18, 2017.

The OMB allowed the appeal in part and the zoning by-law amendments to permit the redevelopment of 100 Broadway Avenue and 223-225 Redpath Avenue were approved in principle, based on a settlement approved by City Council on November 7, 8 and 9, 2017. The OMB's final order was withheld pending receipt of the final form of the zoning by-law amendments, in a form satisfactory to the City Solicitor, and confirmation of the following: a Section 37 agreement was executed between the City and the applicant; City Council has approved rental housing demolition application No. 15 231391 NNY 25 RH, under Chapter 667 of the Toronto Municipal Code pursuant to s. 111 of the *City of Toronto Act, 2006*, to demolish the 52 existing rental dwelling units located at 100 Broadway Avenue and 223-225 Redpath Avenue; City Council has approved a rental housing demolition application under Chapter 667 of the Toronto Municipal Code pursuant to s. 111 of the City of Toronto Act, 2006, to demolish the existing rental units located at 174-180 Broadway Avenue; the Chief Engineer, Engineering and Construction Services has received a satisfactory Functional Servicing

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and Stormwater Management Report and a satisfactory Hydrological Report from the Applicant; and the General Manager of Transportation Services has received a satisfactory Transportation Impact Study. These conditions remain to be satisfied, and as such the OMB, now continued at the Local Planning Appeal Tribunal (the "LPAT") has not issued a final order.

The applicant now wishes to revise the approved development proposal for 100 Broadway Avenue and 223-225 Redpath Avenue, as described in the with prejudice settlement offer attached as Appendix "A" to this report (the "Settlement Offer"). The applicant has secured additional rental properties at 227-233 Redpath Avenue which now form part of the revised development proposal. Revised drawings illustrating the revised development concept are attached as Appendix "B" to this report.

On April 10, 2019, the LPAT conducted a further Pre-Hearing Conference with respect to the revised development concept, and scheduled another Pre-Hearing Conference for July 25, 2019.

The purpose of this report is to request further instructions for the LPAT Pre-Hearing Conference that is scheduled for July 25, 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 to discuss complete application submission requirements. The application was submitted on September 25, 2015. A Preliminary Report on the application was adopted by North York Community Council on January 19, 2016, authorizing staff to conduct a community consultation meeting with an expanded notification area. The Preliminary Report and the Community Council Decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.NY11.30>

On September 22, 2016, the landowner appealed Council's failure to make a decision within 120 days to the Ontario Municipal Board, now continued as the LPAT.

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 does not apply to this application.

City Council on July 4, 5, 6 and 7, 2017 adopted confidential Recommendations in a Request for Direction report from the City Solicitor dated June 27, 2017, related to the OMB appeal of the applications. The City Council Decision and City Solicitor Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC31.15>

On November 7, 8 and 9, 2017 City Council adopted confidential recommendations in a Request for Direction report from the City Solicitor dated October 30, 2017, related to the OMB appeal. Council accepted a settlement offer dated October 25, 2017 and directed the City Solicitor and staff to attend the Ontario Municipal Board in support of the revised development concept described in that settlement offer. At the same time, Council deferred making a decision on the application for a Section 111 permit in accordance with Municipal Code Chapter 667 to demolish the 52 existing rental dwelling units at 100 Broadway Avenue and 223-225 Redpath Avenue. The City Council Decision and City Solicitor Report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item+2017.CC34.9>

On January 22, 2018, the OMB rendered a decision with respect to the application. The OMB decision can be found at the following link:

<https://elto.gov.on.ca/tribunals/lpat/e-decisions/>

The Settlement Offer now proposes that 100 Broadway be the recipient site for the rental housing replacement units for which demolition is either approved or proposed at 100 Broadway Avenue, 223-225 Redpath Avenue, 117-127 Broadway Avenue and 174-180 Broadway Avenue. 174-180 Broadway Avenue presently serves as the offsite parkland dedication for the OMB-approved developments at 100 and 117-127 Broadway Avenue and 223-225 Redpath Avenue.

On November 7, 8 and 9, 2017, Council adopted confidential recommendations in a Request for Direction report from the City Solicitor dated October 30, 2017, related to 117-127 Broadway Avenue. Council accepted a Settlement Offer dated October 30, 2017 with respect to the redevelopment of 117-127 Broadway Avenue and directed the City Solicitor and staff to attend the OMB in support of the revised development concept described in that settlement offer. At the same time, Council deferred making a decision on the application for a Section 111 permit in accordance with Municipal Code Chapter 667 to demolish the 131 existing rental dwelling units at 117-127 Broadway Avenue. The Request for Directions Report and Council decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC34.5>

On July 23, 2018, Council approved the application for a Section 111 permit in accordance with Municipal Code Chapter 667 to allow the demolition of 8 existing rental dwelling units at 174-180 Broadway Avenue, subject to conditions. The Final Report and Council decision can be found at the following link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY32.5>

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 which illustrate a revised development concept for the subject property (the "**Settlement Offer**"). In particular, the revised development concept seeks to coordinate the development of the subject property with the adjacent properties at 110, 114 and 120 Broadway Avenue, in order to comprehensively address site organization issues related to parkland dedication, POPS open spaces, mid-block pedestrian connection, building locations, and setbacks, among other matters.

The Settlement Offer dated June 17, 2019 now proposes that 100 Broadway be the recipient site for the rental housing replacement units for which demolition is either approved or proposed at 100 Broadway Avenue, 223-233 Redpath Avenue, 117-127 Broadway Avenue and 174-180 Broadway Avenue. The property at 174-180 Broadway Avenue is to serve as the offsite parkland dedication for the OMB-approved developments at 100 and 117-127 Broadway Avenue and 223-225 Redpath Avenue.

The Settlement Offer sets out a number of changes from the OMB-approved zoning for 100 Broadway Avenue and 223-233 Redpath Avenue, along with changes to the proposed development for 110-120 Broadway Avenue which is currently subject to an LPAT appeal. The key revisions that have been made by way of the Settlement Offer include the following: the provision of dedicated parkland (for 110-120 Broadway Avenue) and POPS open spaces, the consolidation of the vehicular parking, and loading and servicing underground, and affordable housing units. In addition, the property at 100 Broadway Avenue and 223-225 Redpath Avenue has been expanded to include the properties at 227-233 Redpath Avenue which equates to an approximate 937 square metres in area for an overall total of 2419 square metres. 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

	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.
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.
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	0.2m	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
Park 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 ; total which includes: 103m ² on-site and 464.6m ² off-site and includes 86.1m ² over dedication
POPS	0m ²	122m ²	0m ²	988.4m ²
Y/E 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 w/100 Broadway Ave.

The City Council adopted Settlement Offer on November 7, 8 and 9, 2017, for the properties at 100 Broadway Avenue and 223-225 Redpath Avenue included an off-site parkland dedication which would remain. Since that time, the site area has expanded to include 227-233 Redpath Avenue, and an additional parkland dedication requirement of 92.3 square metres would be provided on-site. A parkland dedication of 567.6 square metres would be also provided for the property at 110-120 Broadway Avenue, plus a surplus of 86.1 square metres for a total of 653.7 square metres. The parkland dedication requirements are being satisfied on and off-site on the nearby properties with the park located at the northeast corner of Broadway and Redpath Avenues, and 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 parkland dedication of 86.1 square metres would be credited as a Section 37 community benefit for 110-120 Broadway application.

Rental Replacement and Affordable Units

The applicant proposes to demolish 64 rental dwelling units across the subject lands. The applicant 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 110-120, 117-127 and 174-180 Broadway Avenue; a total of 324 replacement rental dwelling units and 89 non-replacement rental units.

The applicant has agreed to provide and maintain the 324 replacement rental dwelling units for at least 20 years. The affordability of the existing rental dwelling units, at the time of the applications, consisted of 150 rental units with affordable rents, 165 units with mid-range rents and 9 units with high-end rents, all as defined by the Official Plan. The rents for the 324 replacement rental dwelling units would be secured for at least 10 years, consistent with the existing affordability mix described above.

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.

Tenant Consultation Meetings as required by the Rental Housing Demolition By-law were held on November 8, 2018 for 100 Broadway Avenue and 223-225 Redpath Avenue, and on May 16, 2019 for 227-233 Redpath Avenue. The meetings communicated the proposed Tenant Relocation and Assistance Plan and reviewed the impacts of the proposal on tenants.

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 Direction Report should be considered with the companion Request for Direction Report related to the adjacent property at 110, 114 and 120 Broadway Avenue.

CONTACT

Laura Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-5624; Email: laura.bisset@toronto.ca

Cigdem Iltan, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-1652; Fax: (416) 397-5624; Email: cigdem.iltan@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Staff Report with confidential attachment for Action on 100 Broadway Avenue and 223-233 Redpath Avenue LPAT Hearing

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.