



## STAFF REPORT ACTION REQUIRED

### 43, 49 & 51 Gerrard Street West and 695 Bay Street - Zoning Amendment Application – Supplementary Report

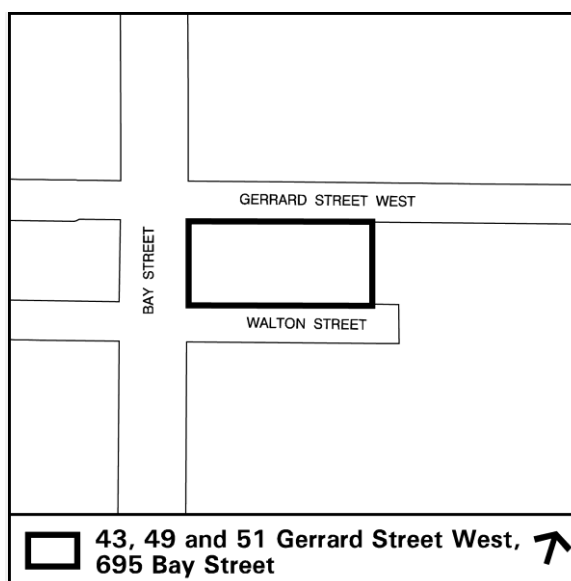
<b>Date:</b>	June 5, 2014
<b>To:</b>	City Council
<b>From:</b>	Chief Planner & Executive Director, City Planning Division
<b>Wards:</b>	Ward 27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	P:\2014\ClusterB\PLN\City Council\CC14084 (11 268259 STE 27 OZ)

#### SUMMARY

The applicant proposes to construct a 43-storey mixed-use building with retail at-grade for the location known municipally as 43, 49 & 51 Gerrard Street West and 695 Bay Street. While the applicant submitted their application in September, 2011, a pause was requested by the applicant until further processing was resumed in 2013.

The applicant has worked closely with City Planning Staff to modify the built form to preserve the view corridor to Old City Hall, reduce shadows on College Park and provide an attractive public realm. On May 13, 2014 Toronto and East York Community Council adopted recommendations of Staff approving the proposed residential mix-used building at 43 Gerrard Street West.

The application proposes a mid-block connection between Walton Street and Gerrard Street West. Subsequent to the approval of Staff's recommendations, Planning and Legal Staff were asked by the solicitor for the Eaton Chelsea Hotel to incorporate the requirement of a mid-block connection as a legal convenience in the Section 37 Agreement. Staff did not have authority to do so and a supplementary report was requested.



## RECOMMENDATIONS

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### **The City Planning Division recommends that:**

1. City Council amend recommendation 3 of the Toronto and East York Community Council contained in item TE32.12 by adding the following part "c":
  - "c. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
    - i. a mid-block pedestrian and vehicular connection between Walton Street and Gerrard Street West along the eastern property line of 43, 49 & 51 Gerard Street West & 695 Bay Street as a legal convenience,
    - ii. an easement agreement for the mid-block connection to the satisfaction of the Chief Planner and the City Solicitor, and
    - iii. the owner's covenant to indemnify the City in respect of the mid-block connection."

### **Financial Impact**

The recommendations in this report have no financial impact.

## DECISION HISTORY

This application is subject to site-specific By-law 440-85 which was enacted as an amendment to the former City of Toronto comprehensive By-law 20623. The by-law was part of the original approvals for the Delta Chelsea Hotel and allowed for the construction of an office building on the remaining parcels. This by-law was further amended by the Ontario Municipal Board to include a 9 metre gap between the Delta Chelsea Hotel and the proposed office building. On September 12, 2011, Toronto and East York Community Council directed staff to report on steps for protecting views to Old City Hall and City Hall from the south that are significant from a heritage and urban design perspective.

On November 22, 2011, Toronto and East York Community Council adopted the recommendations from the Director, Community Planning, Toronto and East York District to proceed with a community meeting on this site.

On May 13, 2014 the following recommendations were adopted by Toronto and East York Community Council:

The Toronto and East York Community Council recommends that:

1. City Council amend Zoning By-law 438-86 for the lands at 43, 49, 51 Gerrard Street West and 695 Bay Street, substantially in accordance with the draft Zoning By-law Amendment attached to the motion by Councillor Wong-Tam.

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into an Agreement pursuant to Section 37 of the Planning Act as follows:
  - a. The provision of a financial contribution in the amount of \$2,750,000, prior to the issuance of the first above-grade building permit, with the contribution to be used by the City for one or more of the following:
    - i. \$250,000 to be used for public art on the site at 43 Gerrard Street West, to the satisfaction of the Chief Planner and Executive Director City Planning or her designate.
    - ii. \$450,000 to be used for off-site streetscape improvements on Bay Street, Yonge Street, Gerrard Street West and/or Walton Street to the satisfaction of the Chief Planner and Executive Director, City Planning or her designate.
    - iii. \$300,000 to be used for capital improvements to Toronto Community Housing properties within Ward 27 to the satisfaction of the Chief Executive Officer, Toronto Community Housing Corporation, or their designate.
    - iv. \$1,750,000 to be used for new affordable housing or a community recreation centre in Ward 27 to the satisfaction of the Deputy City Manager, Cluster A, or her designate, in consultation with the Ward Councillor.
    - v. Require that the cash amounts identified in Recommendation 3.a.i., ii., iii. and iv. above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City.
  - b. The provision of a financial contribution in the amount of \$250,000 at the submission of a site plan application to be used by the City for the following:
    - i. \$250,000 to be used for new affordable housing or a community recreation centre in Ward 27 to the satisfaction of the Deputy City Manager, Cluster A, or her designate, in consultation with the Ward Councillor.

- ii. Require that the cash amounts identified in Recommendation 3.b.i. above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the Owner to the City.

## **ISSUE BACKGROUND**

As part of the application for the 43 storey residential mixed-use development at 43 Gerrard Street West the applicant is proposing a mid-block connection between Gerrard Street West and Walton Street directly adjacent to the eastern most property line abutting the Eaton Chelsea Hotel. The mid-block connection is intended for vehicular and pedestrian traffic and will be enclosed. The connection will be further improved by decorative paving and public art.

The solicitor for the Eaton Chelsea Hotel has requested that this mid-block connection be secured as a legal convenience within the Section 37 Agreement. The owners of 43 Gerrard Street West are in agreement with this approach.

The solicitor for the Eaton Chelsea contends that the connection is essential for the redevelopment of the property at 43 Gerrard Street West. City Staff do not agree with these findings and do not agree that it is necessary for servicing. City Planning Staff support the mid-block connection as proposed and always intended to secure it as part of the site plan process.

That being said, City Planning Staff have no objection to the matter being secured as a legal convenience within the Section 37 Agreement if the applicant consents to the request made by the Eaton Chelsea. However, if the connection is to be provided, as requested, it should also be secured by an easement in favour of the City for public access for vehicles and pedestrians and the owner should agree to indemnify the City in respect of the connection.

## **CONCLUSION**

Although not required for site servicing, City Planning Staff feel that the mid-block connection represents a number of positives for the public realm and have always supported the proposed connection. Although City Planning Staff had always intended to secure the connection at the time of Site Plan, it could be secured as a legal convenience within the Section 37 Agreement, provided it is further secured for public access with an easement agreement and an indemnity is provided by the owner.

## **CONTACT**

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## **SIGNATURE**

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