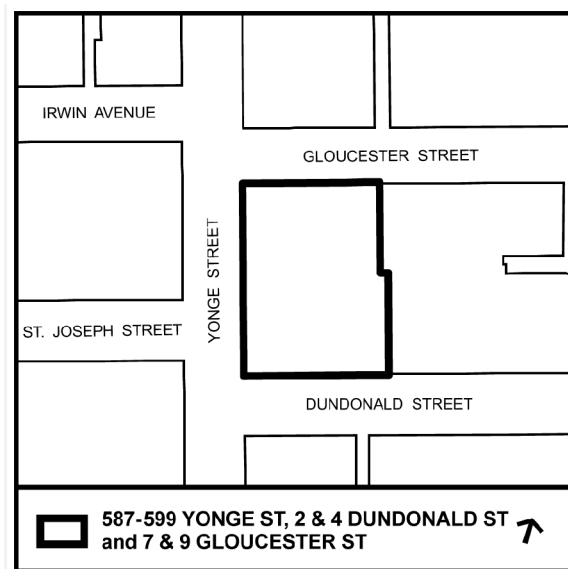


**587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street – Zoning Amendment Application – Supplementary Report**

<b>Date:</b>	June 11, 2014
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	12 235622 STE 27 OZ

**SUMMARY**

This report provides revised recommendations to clarify the wording for two of the Section 37 requirements for consideration for item TE33.17, *587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street – Zoning Amendment Application – Request for Direction* dated May 29, 2014 Toronto and East York Community Council Agenda. The applicant has appealed a Zoning By-law Amendment application to the Ontario Municipal Board (OMB) due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*. A pre-hearing has been scheduled for July 21<sup>st</sup>, 2014. Item TE33.17 seeks City Council's direction with respect to the position of the City at the Ontario Municipal Board pre-hearing including instructions regarding the applicant's revised submission for the rezoning application. The proposed development includes a 44-storey residential tower (148 metres including mechanical penthouse) on a 4-storey base containing retail commercial uses with 420 residential condominium units. There are four levels of below-grade parking proposed with 192 spaces and access from Gloucester Street on the north side of the site.



## RECOMMENDATIONS

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### The City Planning Division recommends that:

1. City Council authorize the City Solicitor together with City Planning staff and other appropriate staff to attend the Ontario Municipal Boarding hearing as necessary in support of the recommendations for the property at 587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street and substantially in accordance with the plans by Hariri Pontarini Architects, submitted to City Planning and date stamped March 14, 2014 and with the draft Zoning By-law Amendment (Attachment 1) and as further detailed in the report (May 29, 2014) from the Director, Community Planning, Toronto and East York District.
2. City Council support the draft Zoning By-law Amendment contained in Attachment 7 to the report (May 29, 2014) from the Director, Community Planning, Toronto and East York District, which implements this direction before the Ontario Municipal Board.
3. City Council require that the applicant provide sufficient parking on site as outlined in the Engineering and Construction Services memo of May 12, 2014 and discussed in the report (September 23, 2013) from the Director, Community Planning, Toronto and East York District.
4. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to continue to work with the applicant on the final form of the draft Zoning By-law Amendment to be presented to the Ontario Municipal Board.
5. City Council instruct the City Solicitor to request the Ontario Municipal Board to withhold its final order until the owner revises the Site Servicing Assessment and the Downstream Sanitary/Combined & Storm Sewer Analysis prepared by GHD Group to the satisfaction of the Executive Director, Engineering & Construction Services; and require the owner to pay for and construct any improvements to the municipal infrastructure should the Site Servicing Assessment and the Downstream Sanitary/Combined & Storm Sewer Analysis as accepted by the Executive Director, Engineering & Construction Services show that upgrades are required to support this development to the satisfaction of the Executive Director of Engineering and Construction Services.
6. City Council instruct the City Solicitor to request the Ontario Municipal Board to withhold its final order for the lands at 587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street until the Owner enters into one or more Agreement(s) pursuant to Section 37 of the Planning Act to secure the following at the owner's sole expense all to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with appropriate civic officials and the Ward Councillor:

- i. Enter into an agreement at the expense of the owner the following as Section 37 facilities, services and matters:
  - a. design and construct local park improvements in James Canning Park and in the immediate area to a maximum value of \$1,200,000 secured through a Letter of Credit to the satisfaction of the City and in consultation with the General Manager, Parks, Forestry and Recreation and the Ward Councillor and the Chief Planner and Executive Director, City Planning.
    - i. Prior to issuance of the first above-grade building permit, the Owner shall submit a cost estimate and all the necessary plans for the park improvement to be approved by the General Manager, Parks, Forestry and Recreation.
    - ii. Prior to issuance of the first above-grade building permit, the Owner shall post an irrevocable Letter of Credit in the amount of 120% of the value of the approved estimate to the satisfaction of the General Manager, Parks, Forestry and Recreation.
    - iii. Occupation of the existing parkland is prohibited unless a Park Occupation Permit (POP) has been obtained from Parks, Forestry and Recreation's Planning, Design and Development section. The POP, if approved, will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, duration, restoration plan and costs, and compensation to the satisfaction of the General Manager, PFR. The POP must be secured prior to the issuance of any shoring and excavation permits. The owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park.
    - iv. The construction of the Park Improvements shall be completed within two years after the date of issuance of the first above grade building permit to the satisfaction of the General Manager, Parks, Forestry and Recreation. Unforeseen delays (e.g. weather) resulting in the late delivery of the Park Improvements shall be taken into consideration and at the discretion of the General Manager, Parks, Forestry and Recreation when determining a revised delivery date for the Park Improvements.
    - v. The Owner, upon satisfactory completion of the construction and installation of the Park Improvements shall be required to guarantee such work and associated materials. The Owner shall provide certification from their Landscape Architect certifying that all work has been completed in accordance with the approved drawings. Upon the City's acceptance of the certificate, the Letter of Credit(s)

will be released less 20% which will be retained for the 2 year guarantee – Parkland Warranty Period.

- vi. Upon the expiry of the Parkland Warranty Period, the outstanding park security shall be released to the owner provided that:
  - a. There are no outstanding claims against the remaining park security;
  - b. No liens have been registered against the parkland;
  - c. The owner has provided the City with written confirmation that it has not received notice of any claim for lien affecting the parkland;
  - iv. All deficiencies have been rectified; and
  - v. The owner has provided to the City the certificate of the parkland Landscape Architect providing evidence that all lien periods under the Construction Lien Act affecting the parkland have expired.
- vii. As-built drawings in print/hardcopy and electronic format shall be submitted to Parks, Forestry and Recreation. A complete set of “as built” plans shall be provided electronically on CD in the latest version of AutoCAD, two (2) sets full size bond hard copy and one (1) set 11X 17 format to the General Manager, Parks, Forestry and Recreation. The plans shall include, but not limited to specifications, locations of all hidden services, and all deviations from the design drawings, shop drawings, inspection reports, minutes of meeting, site instructions, change orders, invoices, certificates, progress images, warranties, close out documentation, compliance letters (for any play structures and safety surfaces), manuals etc. The files are to be organized in folders, including a file index and submitted. Written warranties and related documents such as lists of contractor, sub-contractors together with contact persons, telephone numbers, warranty expiry dates and operating manuals.
- b. \$500,000 to be paid by the owner prior to the issuance of the first above-grade building permit towards public art in accordance with the Percent for Public Art Program which may be used within the public plaza at the north end of the site;
- c. 1,500,000 to be paid by the owner prior to the issuance of the first above-grade building permit towards the Toronto Community Housing

Corporation for capital improvements and/or community, cultural or recreational space improvements in the local area.

- d. The payment amounts identified in Parts a, b and c above shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported 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 payment of the funds by the owner to the City.
- ii. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development, all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with the appropriate civic officials and the Ward Councillor:
    - a. The owner agrees to provide and design at the expense of the owner, a privately owned, publically accessible pedestrian plaza at the north end of the site with a minimum depth of 10 metres at grade to a height of 6 metres and minimum depth of 7 metres above 6 metres and a minimum width of 23.2 metres and minimum area of 245 square metres with final design and access to be secured through the site plan approval process and which may contain public art and patio space for the adjoining retail uses as shown on the plans by Hariri Pontarini date stamped March 14, 2014 by City Planning;
    - b. As a condition of site plan approval and prior to the occupancy of the building, the owner shall convey to the City an easement(s) for 24-hour public access to the pedestrian plaza as identified in 5.b.i, (the “City Easements”), for nominal consideration and to the satisfaction of the City Solicitor, and shall maintain these areas free and clear of encumbrances for pedestrian use, in perpetuity, and shall pay all costs associated with the preparation and registration of all necessary documents and plans, to the satisfaction of the Executive Director, Engineering and Construction Services;
    - c. The wind mitigation measures listed in the submitted Wind Study shall be implemented to ensure that the wind effects are acceptable;
    - d. At least 10% of the total number of dwelling units to be constructed on the lot shall contain family sized units of two bedroom plus den and three or more bedrooms in compliance with the provisions of the Ontario Building Code;
    - e. Require the owner to provide a setback along the Yonge Street frontage of a minimum width of 3 metres at the north end of the site and 2.8 metres at the south end of the site except in the location of

the character building as described in Recommendation 6.b.vii. and to design and construct an upgraded streetscape for Yonge Street, Gloucester Street and Dundonald Street along the frontage of the site including upgraded pavement treatment and landscaping in accordance with Vibrant Streets Design Guidelines to be secured through the site plan process;

- f. Require the owner to design and construct an upgraded architectural façade treatment for the base and the tower, including pedestrian weather protection along each frontage of the site all in accordance with the North Downtown Yonge Street Urban Design Guidelines;
- g. Require the owner to retain the south and west facades of the character building known as 587 Yonge Street and located at the southwest corner of the site (north east corner of Yonge Street and Dundonald Street) and incorporate these facades into the final design of the base of the building or to replace the building with a three storey brick feature in keeping with the built form and character of the south and west facades of the existing building known as 587 Yonge Street substantially in accordance with the architectural drawings submitted by Hariri Pontarini date stamped by City Planning March 14, 2014 and to be further refined through the site plan approval process;
- h. Submit a monitoring protocol and demolition plan to be completed by the consultant archaeologist for the demolition of the Yonge Street structures to ensure that the archaeological resources are not impacted during the demolition process.
- i. All archaeological requirements for Stage 2-3 archaeological assessment as well as the provision for any additional Stage 4 archaeological assessment is to be fully secured as follows:
  - i. As a pre-approval condition of a site plan application for the subject properties, the owner will retain a consultant licensed by the Ministry of Culture, Tourism and Sport under the provisions of the Ontario Heritage Act (R.S.O 1990 as amended) to carry out a Stage 2 - 3 archaeological resource assessment of the subject property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. (i.e. Stage 4);
  - ii. The assessment is to be completed in accordance with the 2011 Standards and Guidelines for Consulting Archaeologists, Ministry of Culture, Tourism and Sport. Should the archaeological

assessment process continue beyond a Stage 2 -3 assessment, any recommendations for Stage 4 mitigation strategies must be reviewed and approved by Heritage Preservation Services prior to commencement of the site mitigation;

- iii. The owner will submit a copy of the relevant assessment report(s) to the Heritage Preservation Services Unit in both hard copy format and as an Acrobat PDF file on compact disk;
- iv. The owner will incorporate significant archaeological resources and findings into the proposed development through either in-situ preservation and interpretation where feasible, or commemorate and interpret the resources through exhibition development on site including, but not limited to, commemorative plaquing; and
- v. The owner will ensure no construction, grading or other soil disturbances shall take place on the subject property prior to the City's Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture and Tourism (Heritage Operations Unit) confirming in writing that all archaeological licensing and technical review requirements have been satisfied.
- j. Apply for and complete the approval process to seek permission to remove City street trees and trees from a City park as protected under the City of Toronto's Street Tree By-law and the City of Toronto Park's By-law.
- k. The owner shall agree to not object to the heritage designation of the property at 7-9 Gloucester Street.
- l. As a condition of site plan approval and prior to the issuance of any permits, require a detailed construction management plan for the site.
- m. The owner shall agree to withdraw their appeal to Ontario Municipal Board of OPA 183, the North Downtown Yonge Area Specific Policy 382 once the Ontario Municipal Board issues their decision on the appeal of the Zoning By-law Amendment for the lands at 587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street.

## **Financial Impact**

The recommendations in this report have no financial impact.

## **ISSUE BACKGROUND**

A Request for Direction report was submitted for the June 17, 2014 Toronto and East York Community Council Agenda. The report includes detailed recommendations to address the development application as well as the Section 37 matters that were secured as part of the development application. A letter was received by the applicant dated June 11, 2014 that indicates that the character building at 587 Yonge Street is not to be retained by the owner. The applicant has requested that the recommendation wording be revised to reflect their intent.

Also, it was noted by legal staff that wording to secure the parkland design and construction should be further clarified.

## **COMMENTS**

### **Character Building 587 Yonge Street**

The subject site is a consolidation of several properties along Yonge Street, Dundonald Street and Gloucester Street. The site includes the building at 587 Yonge Street, located at the north-east corner of Yonge Street and Dundonald Street. As part of the rezoning application, a Heritage Impact Assessment was submitted for several buildings within the site which included a review and analysis of 587 Yonge Street. The Heritage Impact Assessment determined that the building had no associative value in terms of heritage due to the extent of both the internal and external renovations that have occurred over time. The building is not designated or listed under the Ontario Heritage Act on the City's Inventory of Heritage Properties. However, urban design staff had identified that this building was an interesting character building indicative of the Yonge Street built form and requested that the applicant incorporate the brick presence into the proposed development in some form. Report TE 33.17 notes that the character building was to be retained and incorporated into the base of the proposed development.

In their letter dated June 11, 2014 the applicant has advised that their intention is not to incorporate the existing building but to provide a three storey brick feature that references the character and massing of the existing building at that corner in the same footprint. Staff has no objection to this request to a new build brick feature built in kind to look like the existing building. The recommendation has been revised accordingly.

### **Local Park Improvements**

As part of the Section 37 matters secured through the proposed draft zoning by-law local parkland improvements to James Canning Park to a maximum of \$1,200,000 which is to be secured through a Letter of Credit. The intent is for the owner is to design and construct the park to the satisfaction of the City. In their review of the report legal staff advised that further clarity should be provided to the wording to ensure that all parties understood the expectations for the Section 37 agreement.



The recommendation has been revised to provide additional clarity as to the amount to be secured for the park improvements and the posting of the Letter of Credit.

## **CONTACT**

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## **SIGNATURE**

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Toronto and East York District

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