



**STAFF REPORT  
ACTION REQUIRED**

**5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street - Zoning Amendment Application – Supplementary Report**

<b>Date:</b>	August 6, 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>	13 138607 STE 27 OZ

**SUMMARY**

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This report provides further direction and revised Recommendations regarding the Parks and Open Space component of the development proposal as outlined in item TE34.31 *Final Report – 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street - Zoning Amendment Application* Toronto and East York Community Council meeting of August 12, 2014.

**RECOMMENDATIONS**

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**The City Planning Division recommends that the recommendations contained within the report dated July 23, 2014, *Final Report – 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street - Zoning Amendment Application* from the Director, Toronto and East York District, be deleted and replaced with the following:**

1. City Council amend former City of Toronto Zoning By-law 438-86, as amended for the lands at 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street, substantially in accordance with the draft Zoning By-law Amendment to be distributed directly to Toronto and East York Community Council.
2. City Council amend City of Toronto Zoning By-law 569-2013 for the lands at 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 9 to the report (July 23, 2014) from the Director, Community Planning, Toronto and East York District.

3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.
4. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner(s) for 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street and 909 to 925 Bay Street and the City, enter into the revised Agreement(s) as registered on title for Phases 3 and 4 of the East of Bay Lands pursuant to Section 37 of the Planning Act to address the revisions to the existing Agreement as required by the redesign of Phase 5 and 6 of the East of Bay Lands at the owner's sole expense all to the satisfaction of the Chief Planner and Executive Director of Planning in consultation with appropriate civic officials and the Ward Councillor.
5. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter 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 of Planning in consultation with appropriate civic officials and the Ward Councillor:
  - i. Enter into an agreement at the expense of the Owner to secure the following as Section 37 facilities, services and matters:
    - a. The provision of a \$1,000,000.00 contribution by the Owner at the time of first building permit, indexed, toward public art in accordance with the Public Art Program to be used on the site or in the adjacent parkland;
    - b. Prior to the earlier of: first occupancy permit; condominium registration; or a date to the satisfaction of the General Manager Parks, Forestry and Recreation, the Owner of the site at their cost, convey to the City to the satisfaction of the City Solicitor a stratified parcel for park purposes consisting of: lands of approximately 2,040 sq.m. to be purchased by the City; lands of approximately 4,074 sq.m. to be conveyed at no cost (which include lands currently held in escrow from the 1999 Section 37 Agreement for the block; lands the City is receiving in exchange for lands the City is giving up to facilitate the new driveway configuration; the present Section 37 contribution for 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street lands; and the lands to be dedicated for parkland purposes from 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street, 501-521 Yonge Street and 957-971 Bay Street, and the lands which also allow the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000.00 towards parkland acquisition and /or park improvements in the area) all to be subject to the following:

- i. prior to the earlier of first occupancy permit, condominium registration or a date to the satisfaction of the General Manager Parks, Forestry and Recreation, the owners are to design and construct the park improvements at its expense in accordance with the approved plans and specifications to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- ii. prior to issuance of any building permit issued for the Site under the Ontario Building Code Act, including permits for shoring and excavation, the Owner shall submit a design and cost estimate for the Above-Base Park Improvements for the Site to be approved by the General Manager, Parks, Forestry and Recreation;
- iii. prior to issuance of the first above-grade building permit, the Owner shall post an irrevocable Letter of Credit in the amount of 100% of the value of the approved estimate to the satisfaction of the General Manager, Parks, Forestry and Recreation, with the understanding that the cost of the above-base park improvements shall not exceed the Parks and Recreation component of Development Charges payable for the site at 5-25 Wellesley Street West and 14-26 Breadalbane Street, the site at 951-971 Bay Street and 36 Wellesley Street West, and the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street;
- iv. the Owner shall, if requested by the City Solicitor, secure the conveyance of all park lands by the delivery of deeds in escrow and agree to the registration of a Section 118 Restriction on title to the parkland conveyance;
- v. All conveyances to the City, including easements, (except for the lands to be purchased) shall be for nominal consideration, at the owner's expense and at no cost to the City on terms and conditions as set out in the Section 37 Agreement, including provision for: deposit of reference plans; environmental obligations including peer review; as well as insurance and indemnification, with such conveyances to be free and clear of encumbrances (with support easement for any component above the underground parking garage) to the satisfaction of the General Manager, Parks Forestry and Recreation; and
- vi. The owner shall agree to such land exchange as is required by the Chief Planner with the abutting condominiums to the west of the site to permit the revised driveway and loading lane to service those abutting sites."

- ii. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience prior to the issuance of site plan approval 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 wind mitigation measures listed in the submitted Wind Study shall be implemented to ensure that the wind effects are acceptable;
  - b. At least ten per cent (10%) of all total *dwelling units* erected or used on the *lot* shall have two or more bedrooms and at least seven per cent (7%) of the units shall have at least three or more bedrooms with a minimum size of 86 sq.m. per unit in compliance with the provisions of the Ontario Building Code;
  - c. Require the Owner to address the comments from Engineering and Construction in their memo dated June 3, 2014 to the satisfaction of the Executive Director, Engineering and Construction Services in consultation with appropriate civic officials;
  - d. Require the Owner to pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director, Engineering and Construction Services, should it be determined that improvements to infrastructure are required to support the development;
  - e. Require the Owner to design and construct upgraded streetscape for Wellesley Street West along the frontage of the site, including the residential and park portion of the site, to include, upgraded pavement treatment and landscaping to be secured through the site plan process;
  - f. Require the Owner to design and construct an upgraded streetscape for St. Luke Lane from Wellesley Street West to Breadalbane Street including along the frontage of the site providing a pedestrian walkway, upgraded pavement treatment and landscaping to be secured through the site plan process;
  - g. Require the Owner to provide all ramp slopes in accordance with By-law 438-86 and provide the transition areas at the top and bottom of the ramps leading to the individual parking levels with maximum slope of 7.5 percent over a minimum distance of 3 metres and where a ramp begins at or near a property line, it must have a maximum slope of 5 percent over a minimum distance of 6 metres;
  - h. Require the Owner to convey to the City, at nominal cost, a 3 metre wide strip along Wellesley Street West and 1.5 metre wide strip along

the public lane abutting the site (St. Luke Lane) such lands to be free and clear of all physical and title encumbrances, and subject to a right-of-way for access in favour of the Owner until such time as said lands have been laid out and dedicated for public highway purposes, all to the satisfaction to the Executive Director, Engineering and Construction Services in consultation with the City Solicitor;

- i. 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 area over the setback area along the St. Luke Lane frontage, (the “City Easements”), for nominal consideration and to the satisfaction of the City Solicitor, and shall maintain this area 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 Chief Planner and Executive Director Planning; and
  - j. As a condition of site plan approval and prior to the issuance of any permits require a detailed construction management plan for the site.
6. City Council direct the Chief Planner and Executive Director of Planning to revise the Official Plan through the five year Official Plan review process to designate the additional parkland being provided on this site as "Parks".
7. City Council require the owner to agree to withdraw their appeal to the Ontario Municipal Board of OPA 183, the North Downtown Area Specific Policy 382 once the bills for the Zoning By-law Amendment for the lands at 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street are in full force and effect.
8. City Council authorize credits against the Parks and Recreation component of the Development Charges payable for the design and construction of the above-base park improvements to be installed by the Owner; the credits shall be allowed against the Charges payable for the site at 5-25 Wellesley Street West and 14-26 Breadalbane Street, the site at 951-971 Bay Street and 36 Wellesley Street West, and the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street, as allocated and approved by the General Manager, Parks, Forestry and Recreation, in an amount that is the lesser of the cost to the Owner of installing the above-base park improvements as approved by the General Manager, Parks, Forestry and Recreation, or the Parks and Recreation component of Development Charges payable for these three developments.
9. Before introducing the necessary Bills to City Council for enactment, City Council require the Owner to enter into an Agreement of Purchase and Sale whereby the City shall purchase approximately 2,040 sq.m. to be included in the park lands to be developed by the Owner, all to the satisfaction of the General Manager, Parks, Forestry and Recreation.

10. City Council require that the associated Section 37 Agreement contain provisions which allow the subject site at 5-25 Wellesley Street West and 14-26 Breadalbane Street, the off-site lands at 951-971 Bay Street and 36 Wellesley, and the off-site lands at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy their respective Section 42 Park Land conveyance requirements by the parkland conveyances to be secured in respect of the development of the site at 5-25 Wellesley Street West and 14-26 Breadalbane Street, including the acceptance by the City of 1,333 sq.m. of park lands located above an underground parking garage and site servicing area; and which also allow the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000.00 towards parkland acquisition and /or park improvements in the area as permitted by paragraph 2a of By-law No. 139-2014 and paragraph 2.3 of the associated Section 37 Agreement.
11. City Council direct that the approvals for Zoning By-law Amendment 13 138607 STE 27 OZ for 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street be contingent on City Council approval of the report from General Manager, Parks, Forestry and Recreation, to Executive Committee at their meeting of August 20, 2014, *Adjustments to the 2014-2023 Parks, Forestry and Recreation Capital Budget and Plan to fund the Acquisition of a portion of the parkland at 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street.*

## **ISSUE BACKGROUND**

The Section 37 contributions for the subject site include the conveyance of parkland on the site as community benefits. The previously approved East of Bay Lands development secured parkland that is currently being held in escrow. These lands together with new lands as set out in this report form the proposed expanded park. Recommendation 5(i) of the July 23, 2014, staff report from the Director of Community Planning, Toronto and East York District requires parkland to be conveyed to the city with the terms and conditions to be provided through a Supplementary Report to provide Parks staff an opportunity to finalize the details of the park. Parks staff, in consultation with the owner, appropriate civic officials and the Ward Councillor have now finalized the parks information. Parks staff have now advised that the parkland in the subject application is to be secured in a number of ways: lands of approximately 2,040 sq.m. to be purchased by the City; lands of approximately 4,074 sq.m. to be conveyed at no cost (which include lands currently held in escrow from the 1999 Section 37 Agreement for the block; the present Section 37 contribution for 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street lands; the lands to be dedicated for parkland purposes from 5 to 25 Wellesley Street West and 14 to 26 Breadalbane Street; 501-521 Yonge Street and 957-971 Bay Street; and the lands which also allow the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000.00 towards parkland acquisition and /or park improvements in the area).

## COMMENTS

### Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0 to 0.42 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. The site is in a parkland priority area, as per the City Wide Parkland Dedication By-law 1020-2010.

A previous development proposal on the subject site resulted in an existing Section 37 Agreement and site specific zoning By-law 463-1998. In addition to the parkland dedication that is required to be provided for the site under the existing previous approvals and agreements for the East of Bay Lands, additional parkland dedication requirements are required for the proposed development as it is proposing additional density and height.

Based on the increased density that is being proposed, and the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.9893 hectares. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use and 2% is applied to the non-residential use. In total, the parkland dedication requirement for the site is 725 sq.m.

The proposed parkland area on the site will come from five sources: a portion from parkland dedication under Section 42 of the Planning Act; a portion from the land currently held in escrow by the City; a portion of the land as the Section 37 contribution for the subject site; a portion of the land that allows the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000 towards parkland acquisition and/or park improvements in the area; and, a final portion that is to be purchased by the City. These are described in further detail below.

Acquisition Method	Area * (approximate)
Amount land to be Purchased by the City	2,040 sq.m.
Amount of land acquired through Section 37 contributions from subject site and lands which allow the owner of the site at 501-521 Yonge Street and 6-8 Alexander Street and 23 Maitland Street to satisfy its obligation to pay \$500,000.00 towards parkland acquisition and /or park improvements in the area.	793 sq.m.
Amount of land acquired through parkland dedication for 501-521 Yonge Street, 951-971 Bay Street and 5 to 25	1,333 sq.m

Wellesley Street West and 14-26 Breadalbane Street	
Land Exchange to facilitate the new driveway configuration (from land held in escrow from the 1999 Section 37 Agreement)	316 sq.m.
Park land held in escrow from the 1999 Section 37 Agreement	1,632 sq.m.
<b>TOTAL</b>	<b>6,114sq.m.</b>

\* Areas are based on a draft Reference Plan and are approximate at this time. The areas may be adjusted when the Reference plan is finalized prior to the City Council meeting of August 27, 28, 2014.

The owner of this site has also had recent development approvals for two other sites that it also controls in the immediate area at 501-521 Yonge Street (file 11 187996 STE 27 OZ) and 951-971 Bay Street (file 12 133688 STE 27 OZ). The owner is proposing that the parkland dedication requirements for those sites also be fulfilled on the subject site. All of the sites are near each other, and are in an area with 0-0.42 hectares of local parkland per 1000 people, which is the lowest quintile of current provision of parkland. Therefore, the consolidated parkland will include the on-site dedication for the subject site and the two off-site dedications from 501-521 Yonge Street and 951-971 Bay Street sites. It will produce a larger park in this location that will be more useful to the City and the residents of the area. The total parkland dedication owed to the City from the three sites is no less than 1,446 sq.m. as fee simple land. The parkland dedication portion of the site will be located on the north side of the site, on top of the existing below-grade garage. As the proposed parkland will be encumbered by the existing below-grade garage, the value is adjusted accordingly and reflected in the parkland dedication portion area which has resulted in an area of 1,333 sq.m. as shown in the table above.

The portion of the parkland on the site that the City is purchasing is on the south side of the site, on top of the proposed below-grade parking garage. The purchase will be funded from Section 37 contributions from the subject site and the 501-521 Yonge Street site, as well as through parkland acquisition funds. The parkland acquisition funds have been requested to be added to the 2014 Capital Budget in the upcoming August 20, 2014, Executive Committee Meeting, and will be dealt with at the same City Council agenda as this report. The lands will be secured through an Agreement of Purchase and Sale with the applicant, conditional upon the approval of the budgetary allocation.

Some of the park lands are currently being held in escrow as secured under the 1999 Section 37 Agreement for the entire block, known as the North Block of the East of Bay Lands development. The escrow lands are located in the southwest corner of the site. Some of the lands in escrow will be exchanged in order to facilitate the new proposed driveway configuration, while the remainder will be owned by the City.

All of the portions of the parkland will be shown on a Reference plan that will be registered on title to the lands prior to conveyance. The Section 37 agreement for this application will set out the Parkland conditions for these lands.



Recommendation number 6 in the July 23, 2014, staff report from the Director of Community Planning, Toronto and East York District has been removed from the recommendations in this report after further consideration and upon finalizing the details of the parkland acquisition as outlined in this report.

## **CONTACT**

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## **SIGNATURE**

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