

# Confidential Attachments to CC11.2 made public on April 3, 2017

## Attachment 1 – Confidential Information

---

### 18 and 30 Erskine Ave - Zoning By-law Amendment - Request for directions regarding the January, 2016 OMB hearing

<b>Date:</b>	November 16, 2015
<b>To:</b>	City Council
<b>From:</b>	City Solicitor

### CONFIDENTIAL RECOMMENDATIONS

---

1. The City Solicitor not accept the owner's without prejudice settlement offer regarding parking, as summarized in Appendix "1" to this Attachment.
2. The City Solicitor be directed to attend the Ontario Municipal Board (OMB) hearing set for January 6, 2016, together with appropriate City staff and outside consultants, to support the recommendations of the Manager, Traffic Planning and Right-of-Way Management, as set out in Appendix "2", that the site be subject to the parking rates as set out in By-law No. 438-86, as amended.

### CONFIDENTIAL INFORMATION

As noted in the public portion of this report, this a rezoning application to permit the construction of a 35-storey condominium apartment building at 18-30 Erskine Avenue. The proposed building height and density would be 109 metres and 14.9 times the lot area, respectively.

In adopting Item MM8.54, as amended, at its meeting held on July 7, 8 and 9, 2015, City Council gave confidential instructions to the City Solicitor for a hearing set for August 11, 2015 on the zoning appeal. Among other matters, City Council provided the following instruction:

If the Ontario Municipal Board holds a mediation session, City Council authorize the City Solicitor to settle the applicant's appeal on such basis as is reasonable arising from the mediation, in the opinion of the City Solicitor and Chief Planner in consultation with the Ward Councillor.

The OMB did hold a mediation session over two days, August 13 and 14, 2015, and a settlement was reached on all items except the parking proposed for the project. The OMB has set January 6, 2016 for a one day hearing to adjudicate this parking issue.

Attached as Appendix “1” to this report is a summary of the owner’s settlement offer regarding parking.

City staff do not support accepting this settlement; instead, staff recommend that the parking rates of By-law No. 438-86 be applied to the site. Attached as Appendix “2” to this report are the comments provided by the Manager, Traffic Planning and Right-of-Way Management to Legal Services on the owner’s parking settlement offer.

### **Brief Description of the matters that have been settled**

The matters that have been settled can be summarised as follows: the tower element would be reduced from 35 storeys to 32 storeys along with the addition of a stepped design to ensure no new shadows on the homes on the north side of Keewatin or the west side of Yonge, beyond those cast by as-of-right zoning; revisions to tower setbacks; the podium would be reduced from 4 to 3 storeys along Erskine and from 4 to 1 at the northwest corner; the above grade parking has been removed; the density is reduced from 14.9x to 13.3x. The owner has agreed to \$750,000.00 in Section 37 benefits.

### **Owner Parking Settlement Offer**

As noted, Appendix “1” contains the owner’s parking settlement offer; and, Appendix “2” contains the comments of the Manager, Traffic Planning and Right-of-Way Management on the owner’s parking settlement offer, which are summarized as follows:

The owner has proposed the following settlement,

- 10 car-share spaces;
- Parking at 0.31 (0.05 for visitor and 0.26 for residents), including credit at 4:1 ratio for car-share spaces;
- Bicycle parking at 1 per unit with some spaces in lockers and some in secured storage areas; and
- If parking is approved as noted above, top up the Section 37 from \$750,000.00 to \$1,100,000.00;

### Current By-law Requirements

The site is located in an area governed by By-law 438-86. The parking rates for this area (By-law 438-86 section 4(3)(a)) are summarized as follows:

- 0.5 parking space for each bachelor or one bedroom dwelling unit;
- 0.75 parking space for each dwelling unit containing two or more bedrooms;
- 0.06 parking space for each dwelling unit for visitors.

Transportation Services does not accept the reduced parking rates outlined in the applicant's settlement offer as proper justification has not been provided. Instead, they recommend the parking rates of By-law No. 438-86 be applied without reduction.

### **City Planning Comments on the Parking Settlement Offer**

City Legal staff has consulted with City Planning staff on the parking settlement offer. Planning staff recommend that the conclusion of Transportation Services be supported by the City at the OMB hearing. I agree with that assessment.

### **Conclusion**

Given the comments of Traffic Planning and Right-of-Way Management staff and the assessment of Planning and Legal staff, it is recommended that Council not accept the owner's parking settlement offer. It is recommended that the City Solicitor support the position of City staff at the OMB hearing set for January 6, 2015.

## **Appendix “1”**

### **Summary of Owner’s Parking Settlement Offer**

- 10 car-share spaces;
- Parking at 0.31 (0.05 for visitor and 0.26 for residents), including credit at 4:1 ratio for car-share spaces;
- Bicycle parking at 1 per unit with some spaces in lockers and some in secured storage areas; and
- If parking is approved as noted above, top up the Section 37 from \$750,000.00 to \$1,100,000.00;

## Appendix “2”

The Manager, Traffic Planning and Right-of-Way Management has provided Legal Services with the following comments on the owner’s parking settlement offer:

“A summary of the applicants settlement offer:

- 10 car-share spaces;
- Parking at 0.31 (0.05 for visitor and 0.26 for residents), including credit at 4:1 ratio for car-share spaces;
- Bicycle parking at 1 per unit with some spaces in lockers and some in secured storage areas; and
- If parking is approved as noted above, top up the Section 37 from \$750,000.00 to \$1,100,000.00;

A summary of the applicant's settlement offer unit breakdown:

Unit Type	Number of Units
Bachelor	30
1 Bed	137
2 Bed	32
3 Bed	116
<b>Total</b>	<b>315</b>

A summary of the applicant's settlement offer parking rates:

Type	Parking offer Parking Rate	Parking Requirement	
Resident Spaces			
Bachelor (30)	0.26	8	82
1 Bed (137)	0.26	36	
2 Bed (32)	0.26	8	
3 Bed (116)	0.26	30	
Visitor Spaces (315)	0.05	16	
Sub Total (No Car Share)		98	
Car Share Spaces		(+10)	
Reduction for Car Share from Resident Spaces		(-40)	
<b>Total</b>		<b>68*</b>	

Total (68) = 16 visitor + 10 car share + 82 resident spaces – 40 spaces credit for car share

Current By-law Requirements

The site is located in an area governed by By-law 438-86. The parking rates for this area (By-law 438-86 section 4(3)(a)) are summarized as follows:

- 0.5 parking space for each bachelor or one bedroom dwelling unit;
- 0.75 parking space for each dwelling unit containing two or more bedrooms;
- 0.06 parking space for each dwelling unit for visitors.

By-law 438-86 applied to the applicant's settlement offer unit breakdown:

Type	By-law 438-86 Parking Rate	Parking Requirement	
Condominium			
Bachelor (30)	0.5	15	195
1 Bed (137)	0.5	69	
2 Bed (32)	0.75	24	
3 Bed (116)	0.75	87	
Visitor (315)	0.06	19	
Total		214	

Subsequent to the application being submitted in 2012, By-law 569-2013 was adopted by Council. This City wide by-law included revised parking rates based on more up to date data. Although this site is not covered under By-law 569-2013, based on adjacent sites that are covered, Transportation Services has applied Policy Area 2 (PA2) parking rates.

By-law 569-2013 applied to the applicant's settlement offer unit breakdown:

Type	By-law 569-2013 (PA2) Parking Rate	Parking Requirement	
Condominium			
Bachelor (30)	0.6	18	257
1 Bed (137)	0.7	95	
2 Bed (32)	0.9	28	
3 Bed (116)	1.0	116	
Visitor (315)	0.10	31	
Total		288	

Comparison of the minimum required parking:

	Applicant's Settlement Offer	By-law 438-86	By-law 569-2013
Resident Parking	42	195	257
Visitor Parking	16	19	31
Car Share Parking	10	0	0
Total	68	214	288

The applicant provided the following justification at the OMB mediation:

1. Recently approved developments in the Yonge and Eglinton area had parking rates lower than the by-law. These developments include:

- **197 Redpath Avenue and 95 and 99 Broadway Avenue**

Type	Min Parking Rate (spaces / unit)
Resident	0.27
Visitor	0.03

- This file went to the Ontario Municipal Board and the above rates were not approved by Transportation Services.

- **8 Eglinton Avenue East**

Type	Min Parking Rate (spaces / unit)
Bachelor	0.3
1 Bed	0.51
2 Bed	0.73
3 Bed	1.0
Visitor	To be shared with non-residential parking

- These rates were approved at Council with lower rates than were recommended by Transportation Services.

- **161 – 175 Eglinton Avenue East**

Type	Min Parking Rate (spaces / unit)
Resident	0.36*
Visitor	To be shared with commercial parking

\*effective rate based on minimum of 159 resident parking spaces and 441 proposed units

- The residential parking rate was not supported by Transportation Services at the Committee of Adjustment.

○ **155 Redpath Avenue**

Type	Min Parking Rate (spaces / unit)
Resident	0.35*
Visitor	0.054**

\*effective rate based on minimum of 156 resident parking spaces and 446 proposed units

\*\*effective rate based on minimum of 24 visitor spaces and 446 proposed units

- These rates were approved at Council with lower rates than were recommended by Transportation Services.

The parking rates of each of the four sites listed above are not accepted as justification for lower parking rates for 18 Erskine as none of the rates were supported by Transportation Services.

**2. Parking Sales Analysis**

The transportation consultant's justification memo discussed parking sales data for the proposed condominium at 99 Broadway Avenue. It stated that 481 out of 948 units have been sold and that 106 resident parking spaces have been sold. The consultant expects that the future parking demand will be similar to the parking sales.

It is not clear what the total number of resident parking spaces is. The minimum resident parking rate is 0.27 spaces per unit. It is not clear if every owner was offered a parking space and at what price the parking spaces were sold. Parking space sales data does not consider future auto ownership.

Transportation does not accept this parking sales data as justification for the reduction in parking.

**3. Car Share**

As per the Parking Standards Review: Examination of Potential Options and Impacts of Car Share Programs on Parking Standards prepared in 2009, the maximum recommended parking reduction for a building with 315 residential units should be 21 parking spaces which could be achieved with 6 car share spaces. It is not clear if 10 car share spaces would be sustainable on this site.



## **Conclusion**

Transportation Services does not accept the reduced parking rates outlined in the applicant's settlement offer as proper justification has not been provided. Transportation is willing to accept the parking rates of By-law 438-86 as these were the parking rates recommended after reviewing the initial submission in 2012. This is not intended to be precedent setting and generally all future zoning By-law amendment applications should meet the parking rates as outlined in By-law 569-2013 as By-law 569-2013 has the most up to date parking rates based on the most recent data. In this case, given that the initial application was submitted in 2012 Transportation Services is willing to compromise to the rates listed in By-law 438-86.”