



STAFF REPORT ACTION REQUIRED

245-255 College Street, and 39 & 40 Glasgow Street – Rezoning Application – Results of OMB Hearing and Request for Further Direction

Date:	December 3, 2014
To:	Toronto East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	File No. 10-239490 STE 20 OZ

SUMMARY

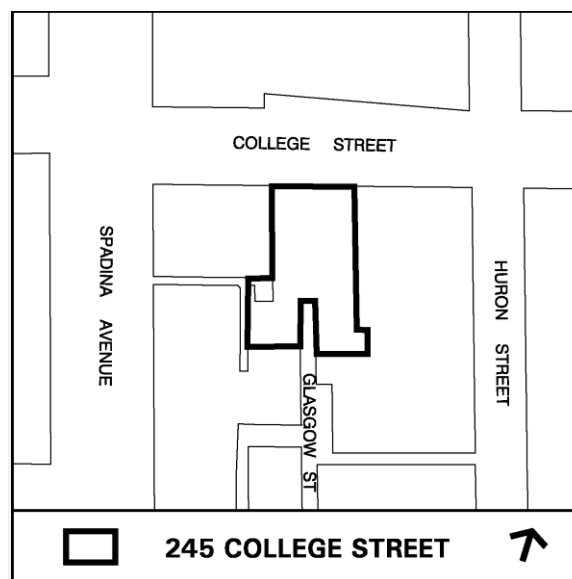
In its decision dated June 19, 2014, the Ontario Municipal Board allowed the appeal by KCAP College Inc. for a 25-storey mixed-use building to serve as an academic residence for students primarily from the University of Toronto. The decision allows for amendments to the City's Official Plan and Zoning By-law including approval in principle of the proposed site plan. The Board withheld its final order on the planning instruments until the City and applicants were able to finalize the Official Plan and Zoning By-law amendments and to complete Section 37 negotiations.

This report seeks further direction on related Section 37 matters and demolition approvals for the site.

RECOMMENDATIONS

The City Planning Division recommends that:

1. Toronto and East York Community Council amend its decision of August 12, 2014 under Item TE34.49 with respect to the Residential Demolition Application for 255 College Street by



deleting,

"... with the permit to be issued upon the zoning coming into effect and the successful execution of the Section 37 Agreement."

So that the Toronto and East York Community Council's approval now reads:

2. "Approve the applications to demolish the 3 storey above grade and 1 storey below grade mixed-use building at 255 College Street."
3. City Council accept the offer, attached to this report as Attachment 1, to settle the outstanding Section 37 contribution and direct the City Solicitor to prepare the implementing Section 37 Agreement and zoning by-law based on the following timing for the payment and use of the Section 37 funds:
 - A. A cash contribution of \$1,000,000, prior to the issuance of an above-grade building permit, for the following local community improvement initiatives:
 - i) \$500,00 for capital improvements to Toronto Community Housing Corporation (TCHC) facilities in Ward 20;
 - ii) \$150,000 for the sensory garden project at Beverley Junior Public School at 64 Baldwin Avenue;
 - iii) \$350,000 for streetscape improvements in Ward 20 including bicycle facilities
 - B. In the event the cash contributions referred to in Section A i) through iii) above have not been used for the intended purpose within 3 years of the Zoning By-law coming into full force and effect, the cash contribution may be redirected to another purpose, at the discretion of the Chief Planner and Executive Director of City Planning in consultation with the Ward Councillor, provided that the purpose is identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands.
 - C. The payments required in Section A i) through iii) above, shall increase in accordance with the increase in 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.
 - D. The sensory garden referenced in A ii) above shall be subject to a community access agreement being entered into between the Toronto District School Board and the City of Toronto, failing which, the \$150,000 cash contribution may be redirected to another purpose, at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purpose is identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands.

The following shall be secured as a matter of legal convenience:

- E. The mixed-use building proposed at 245- 255 College Street and 39 and 40 Glasgow shall provide rental accommodation for students primarily from the University of Toronto, for a minimum of 20 years from the date of first occupancy.

DECISION HISTORY

At its meeting of July 11, 12 and 13, 2012, City Council adopted the recommendations contained in the May 18, 2012 "245-251 College Street, and 39 and 40 Glasgow Street – Rezoning Application - Request for Direction Report" from the Director, Community Planning, Toronto and East York District. This report directed staff to oppose the application. <http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-47886.pdf>

Subsequent to the OMB decision for the project, at its meeting of August 12, 2014, the Toronto and East York Community Council adopted the following motion with respect to 255 College Street, a portion of the property subject to the OMB appeal:

1. Approved the applications to demolish the 3 storey above grade and 1 store below grade mixed-use building at 255 College Street, with the permit to be issued upon the zoning coming into effect and the successful execution of a Section 37 Agreement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.49>

The applicant has since demolished all properties on the site with the exception of 255 College Street.

COMMENTS

In accordance with the OMB decision, City staff have continued to work with the applicant to finalize the form of the Official Plan Amendment (OPA), the Zoning By-law (ZBA), complete the Site Plan Approval (SPA) and come to agreement on Section 37 matters. These are being finalized. Staff have also received a formal Section 37 offer from the applicant which is attached as Attachment 1 to this report.

Demolition Permit

At its meeting of August 12, 2014, TEYCC adopted the following motion:

1. Approved the applications to demolish the 3 storey above grade and 1 storey below grade mixed-use building at 255 College Street, with the permit to be issued upon the zoning coming into effect and the successful execution of a Section 37 Agreement.

The applicant has requested, as a part of a negotiated discussion about Section 37, that a demolition permit be issued for 255 College Street. All other buildings on the site have been demolished.

In accordance with City-wide residential demolition control under Article II, Demolition Control, of Municipal Code Ch. 363, as amended by By-law No. 1009-2006, enacted by the City Council on September 27, 2006 under the authority of Section 33 of the Planning Act, staff are requesting that Toronto and East York Community Council approve the demolition of 255 College Street. This is a matter for which Community Council has delegated authority from City Council to make a final decision.

Section 37

Through discussions with staff and with the Ward Councillor's approval, the applicant has offered to make certain Section 37 contributions.

In addition to the typical benefits that are secured in Ward 20, a cash contribution is being made towards a sensory garden project at Beverley Junior Public School at 64 Baldwin Avenue. The philosophy of Beverley School is based on a team approach to support the educational needs of students who have a developmental and /or physical disability.

The school, originally used as a training site for the CNIB and Bell Canada, has been a school for students with intellectual and physical disabilities since the 1950's. An extension was built in 1985 to create a space on one floor that was barrier free and allows for optimal independence and mobility for students.

The following cash contributions and other conditions are set out as follows:

- A. A cash contribution of \$1,000,000, prior to the issuance of an above-grade building permit, for the following local community improvement initiatives:
 - i) \$500,00 for capital improvements to Toronto Community Housing Corporation (TCHC) facilities in Ward 20;
 - ii) \$150,000 for the sensory garden project at Beverley Junior Public School at 64 Baldwin Avenue;

- iii) \$350,000 for streetscape improvements in Ward 20 including bicycle facilities
- B. In the event the cash contributions referred to in Section A i) through iii) above have not been used for the intended purpose within 3 years of the Zoning By-law coming into full force and effect, the cash contribution may be redirected to another purpose, at the discretion of the Chief Planner and Executive Director of City Planning in consultation with the Ward Councillor, provided that the purpose is identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands.
- C. The payments required in Section A i) through iii) above, shall increase in accordance with the increase in 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.
- D. The sensory garden referenced in A ii) above shall be subject to a community access agreement being entered into between the Toronto District School Board and the City of Toronto, failing which, the \$150,000 cash contribution may be redirected to another purpose, at the discretion of the Chief Planner, in consultation with the Ward Councillor, provided that the purpose is identified in the City of Toronto Official Plan and will benefit the community in the vicinity of the lands.

The following shall be secured as a matter of legal convenience:

- E. The mixed-use building proposed at 245- 255 College Street and 39 and 40 Glasgow shall provide rental accommodation for students primarily from the University of Toronto, for a minimum of 20 years from the date of first occupancy.

City Planning Staff have consulted with City Legal and Toronto Building and are recommending acceptance of the negotiated Section 37 contributions outlined in this report and the release of the demolition permit for 255 College Street

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Section 37 Letter

Attachment 1: Section 37 letter

Direct Line: 416.597.4299
dbronskill@goodmans.ca

December 3, 2014

Our File No.: 080677

Via Email

City of Toronto
100 Queen Street West
Toronto, ON
M5H 2N2

Attention: Ray Kallio

Dear Sirs/Mesdames:

**Re: OMB Case No. PL 120238
245-255 College Street, 39 & 40 Glasgow Street**

As you know, in a decision dated June 19, 2014, the Ontario Municipal Board (“OMB”) allowed our client’s appeal in respect of the above-noted properties and approved the requested zoning by-law amendment and site plan in principle. The OMB, however, withheld its final order until:

- the wording of the official plan amendment and zoning by-law amendment have been finalized, with final versions of these planning instruments provided to the OMB; and,
- the OMB is informed that the Section 37 and site plan agreements have been executed.

Our client has moved expeditiously to address the outstanding matters. In particular, on August 22, 2014, we provided City planning with a copy of the proposed zoning by-law amendment and official plan amendment. We understand that these planning instruments are now satisfactory to the City, subject to finalization of the Section 37 contribution.

Further, at its meeting on August 12, 2014, Toronto and East York Community Council approved our client’s application to demolish the mixed use building located at the property known municipally as 255 College Street on condition of the zoning coming into effect and the successful execution of a Section 37 Agreement.

We are therefore writing on a without prejudice basis to propose a final resolution of all matters as follows:

- Our client would agree to provide a voluntary Section 37 contribution in the amount of \$1,000,000.00, to be used for capital projects in Ward 20 – Trinity-Spadina to the satisfaction of the Chief Planner in consultation with the Ward Councillor.
- At its meeting on December 4, 2014, Toronto and East York Community Council would delete the condition attached to the demolition permit for 255 College Street and, accordingly, the demolition permit for 255 College Street would be issued immediately, such that demolition could occur on December 5, 2014.
- City staff would confirm that our client's shoring permit can be released when the OMB issues its order.
- City staff would work with our client to satisfy the pre-conditions to issuance of the OMB's final order.
- At its meeting on December 11, 2014, Toronto City Council would direct City staff to accept our client's Section 37 contribution.
- City planning staff would finalize all other matters to enable the OMB to issue its order in mid-January, including but not limited to issuance of the notice of approval conditions and finalization of the Section 37 and site plan agreements.

Although our client's Section 37 proposal is being provided on a without prejudice basis, please note that it is voluntary and conditional on the other matters being achieved.

Yours truly,

Goodmans LLP

David Bronskill

DJB/

cc: Client

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