



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**200 St. Clair Avenue West - Official Plan Amendment,
Zoning Amendment and Site Plan Application - Request
for Direction**

Date:	January 28, 2016
To:	City Council
From:	City Solicitor
Wards:	Ward 22 – St. Paul’s
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

The Ontario Municipal Board (the “OMB”) has set a hearing date for two weeks commencing on Monday, March 14, 2016 to hear the official plan, zoning and site plan appeals regarding 200 St. Clair Avenue West. Further direction from City Council is required in advance of the hearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential Recommendations to staff in Attachment 2 and authorize the public release of those Recommendations with the balance of the report to remain confidential.

Financial Impact

Adopting this report will have no financial impact beyond what has already been approved in the current year’s budget.

DECISION HISTORY

On September 30, 2015, October 1 and October 2, 2015, City Council considered Item TE10.11, dealing with an application to construct a 15 storey apartment building containing 130 residential units at 200 St. Clair Avenue West.

Council adopted the following recommendations:

1. City Council direct the City Solicitor and the appropriate staff to attend the Ontario Municipal Board hearing to oppose the owner's Zoning By-law and Official Plan appeals respecting the lands at 200 St. Clair Avenue West.
2. City Council direct the City Solicitor to also advise the Ontario Municipal Board that City Council's position is that any redevelopment of the site, if approved by the Ontario Municipal Board, should:
 - a. secure services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner and Executive Director, City Planning; and
 - b. satisfy the Chief Planner and Executive Director, City Planning with respect to site plan matters, including the approval of plans and drawings and site plan conditions.
3. City Council authorize the City Solicitor and City staff to take any necessary steps to implement Council's decision.

For more detailed Decision History, see the Report from the Director, Community Planning, Toronto and East York dated August 12, 2015 at the following link:

[HTTP://WWW.TORONTO.CA/LEGDOCS/MMIS/2015/TE/BGRD/BACKGROUNDFILE-82609.PDF](http://www.toronto.ca/legdocs/mmis/2015/TE/BGRD/BACKGROUNDFILE-82609.PDF)

ISSUE BACKGROUND

The OMB held Prehearings on July 9, 2015 and January 18, 2016. Mediation was held on the following dates: November 20, 2015, December 17, 2015 and January 21, 2016.

By letter dated January 26, 2016 from Devine Park LLP (found at Attachment 1 to this report), the owner's solicitors submitted a revised 12 storey proposal. This has been submitted on a with prejudice basis and the owner has advised that it intends to submit this revised proposal at the OMB even if it is not accepted by the City.

The revised 12 storey proposal also provides for a Section 37 payment of \$250,000.00, prior to the issuance of the first above-grade building permit, such monies to be used for parkland improvements to Glen Gould Park, at the discretion of Parks, Forestry & Recreation, in consultation with the owner of the site. This offer is made on the

understanding that it will only be paid if the City and/or the OMB ultimately approve the revised development at 12 storeys.

The original proposal, submitted on August 1, 2014, was to construct a 15 storey (46.7 metres plus 5.5 metre mechanical penthouse) residential building at 200 St. Clair Avenue West, consisting of 130 residential units and 152 parking spaces. However, pursuant to Amendment No. 279 to the Official Plan passed by Council on December 11, 2014, a nine storey building would be the maximum height for the site, subject to certain conditions.

The revised proposal, submitted on January 25, 2016, is to construct a 12 storey (38.6 metres plus 5 metre mechanical penthouse) residential building at 200 St. Clair Avenue West consisting of 110 residential units and 151 parking spaces. The following chart provides a comparison between the original proposal and the revised proposal:

	Original Proposal (Aug. 1, 2014)	Current Proposal (Jan. 25, 2016)
Height	15 storeys (46.7 metres, plus 5.5 metre mechanical penthouse)	12 storeys (38.6 metres, plus 5 metre mechanical penthouse)
Units	130	110
Gross Floor Area	13,100 square metres	11,500 square metres
Floor Space Index	6.68	5.86
Parking	152 (including 13 visitor)	151 (including 11 visitor)
Outdoor Amenity	198 square metres	222 square metres

The building is now proposed to be set back 1.2 metres from the rear lot line abutting the low-rise residential *Neighbourhood* to the north, 1.5 metres on the east side abutting the public park, 3 metres on the west side by Forest Hill Road, and 0.2 metres on St. Clair Avenue West.

Along the St. Clair Avenue West frontage, the building is now proposed to be set back an additional 1.5 metres for just the 7th and 8th floors. At the rear of the building there is a 6.3 metre stepback on the 3rd floor, a 1.7 metre stepback on the 4th floor, and a 2.7 metre stepback on the 5th floor for the entire width of the building. On the western and eastern portions of the building there is an additional 1.5 metre stepback above the 6th floor.

On the Forest Hill Road frontage, the building has a 2.5 metre stepback at the 7th floor and a 3.97 metre stepback at the 9th floor. On the east side of the site, abutting Glen Gould Park, the building has a 2.5 metre stepback at the 7th floor and a 3.8 metre stepback at the 9th floor. At the southeast corner of the site building has a portion of the building with an additional stepback of 6 metres from the east and 13 metres from the south, above the 10th floor.

The proposed development now consists of 11,500 square metres of residential gross floor area, containing 110 residential units. There is a proposed unit mix of 36 one-

bedroom units, and 74 two-bedroom units (including 10 townhouse units). The residential entry will be located on the Forest Hill Road frontage on the west side. The proposal has 328 square metres of indoor and 222 square metres of outdoor amenity space.

A total of 151 residential parking spaces are proposed in a 3-level underground parking garage, comprised of 140 residential parking spaces and 11 visitor spaces. A Type G loading space will be provided. The parking garage and loading space will be accessed from a vehicular driveway on Forest Hill Road. A total of 110 bicycle parking spaces will be provided, including 11 visitor spaces.

COMMENTS

This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 2 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

1. The With-Prejudice Revised Proposal
2. Attachment 2 - Confidential Information

Attachment 1- The With-Prejudice Revised Proposal

DEVINE PARK LLP

PLANNING AND DEVELOPMENT LAWYERS

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Matter No. S858-07

January 25, 2016

VIA SAME-DAY COURIER

Mr. Stephen M. Bradley
City of Toronto Legal Services
Metro Hall, 26th Floor
55 John St, Stn 1260
Toronto ON M5V 3C6

Dear Mr. Bradley:

**RE: 200 St. Clair Avenue West, Toronto
Appeals/Referral of OPA 279, site-specific Official Plan Amendment, Zoning By-law
Amendment and Site Plan Applications
OMB Cases No. PL150015 and PL150444
OMB Resubmission**

As you know, we are the solicitors for 200 St. Clair Holdco Ltd., the applicant/appellant with respect to the above-noted matters. A nine (9) day hearing commencing March 14, 2016 has been scheduled by the OMB to hear these appeals.

In order to provide an opportunity for City staff to seek instructions from City Council with respect to the upcoming hearing, our client is pleased submit a revised development proposal which is enclosed herewith.

REVISIONS TO DEVELOPMENT PROPOSAL:

The following revisions have been made to the original 15-storey proposal that was submitted to the City and appealed to the OMB:

1. The height of the building has been substantially decreased, from 15 storeys to 12 storeys;
2. The northerly portion of the building, closest to the *Neighbourhood* designation to the north has been reduced from 3 storeys to 2 storeys to create a transitional scale that relates to the scale of the adjacent property;
3. The roof deck has been eliminated.
4. The maximum number of residential units has decreased from 130 units to 110 units;

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5. The maximum gross floor area has decreased from 13,100 square metres to 11,500 square metres;
6. Both the indoor and outdoor amenity requirements are now being met (or exceeded).

The reductions in the height and density of the development are, in part, the result of significant changes to the built form which have been made to improve the shadowing on adjacent properties designated "*Neighbourhoods*" in the City's Official Plan located to the north and west of the site, as well as on Glen Gould Park and Amsterdam Park to the east.

The changes to the built form are set out below:

1. At the easterly part of the building, there is now further stepping at the 6th and 8th floors to reduce shadowing on the park;
2. At the westerly part of the building, further step-backs have been incorporated at the 6th and 8th floors;
3. A 2 storey reveal has been incorporated at the 7th and 8th floors which wraps around the building from the southerly part to the northerly part to further emphasize the 6-storey pedestrian scaled podium;
4. A notch has been incorporated on the upper floors at the south-easterly corner of the building, once again to reduce shadowing on the park;
5. Parts of the proposed two-storey and three-storey portions located at the northerly side of the building have been significantly set back from the westerly lot line;
6. A setback at the south-east corner, at the upper level, has been incorporated;
7. The floor-plates for the 11th and 12th floors have been reduced;

Also, it should be noted that certain elements of the design, however, remain unchanged:

1. The setback from the westerly property line facing Forest Hill Road continues to be 3.0 metres.
2. There continue to be 10 townhouse units incorporated into the base of the building. The 5 townhouse units fronting onto St. Clair Avenue West are proposed to have both commercial/office and residential zoning permissions and the 5 townhouses fronting onto Glen Gould Park, will remain residential townhouse units;
3. The total parking supply remains at 152 parking spaces although, due to the decrease in the number of residential units, the actual required number of parking spaces has decreased significantly, to 103;

In our opinion, these revisions will result in the development of a high quality, well designed apartment building in this prominent location. The building massing is concentrated towards the south, which is the location for least impact on the surrounding properties and the parks. The elevations include a strong, pedestrian-oriented podium, with attractive street views and active street-oriented uses along St. Clair Avenue West.

SECTION 37 BENEFITS

Despite the fact that our client would likely not be required to provide Section 37 benefits if the matter was adjudicated at a hearing, our client is prepared to make the following voluntary Section 37 payment, on

the understanding that it is strictly voluntary and that it will only be made if the City and/or the Board ultimately approve the revised development at 12 storeys:

\$250,000.00, prior to the issuance of the first above-grade building permit for the 12-storey building, such monies to be used for parkland improvements to Glen Gould Park, at the discretion of Parks, Forestry & Recreation, in consultation with our client.

FURTHER REVIEW

Our client is continuing to review the setback for the townhouse units located at the easterly property line adjacent to the park. In light of the City's tight time requirements to report to the February 3rd, 2016 City Council meeting with respect to the revised development proposal, our client has been unable to complete its review of the plans in order to determine if any additional setback could be incorporated. However, our client is continuing its review and will advise the City prior to the hearing whether a further setback can be provided.

RESUBMISSION MATERIALS

In support of this resubmission, please find enclosed two (2) copies of the following plans and documents:

1. The following plans, prepared by Page + Steele/IBI Group Architects, all dated January 25th, 2016:

- a. Context Plan and Statistics;
- b. Site Plan;
- c. Ground Floor Plan;
- d. Section 1;
- e. Section 2;
- f. South Elevation;
- g. West Elevation;
- h. East Elevation;
- i. North Elevation;

and seven (7) view perspectives, as follows:

- j. A view towards the east along St. Clair Avenue West;
 - k. Two (2) views towards the west along St. Clair Avenue West;
 - l. A view from the south side of St. Clair Avenue West;
 - m. A view towards the west from Glen Gould Park;
 - n. A view towards the north from Glen Gould Park;
 - o. A view towards the south from Forest Hill Road;
2. Landscape plan dated January 25th, 2016, prepared by MEP Design Landscape Architecture;
3. A revised traffic impact study prepared by BA Group, dated January 25th, 2016;
4. An updated shadow study prepared by Bousfields Inc., dated January 25th, 2016, which compares the existing, as-of-right buildings, the original 15-storey proposal and the revised 12-storey proposal;

5. A revised draft Official Plan Amendment;
6. A revised draft Zoning By-law Amendment as it relates to amending former City of Toronto Zoning By-law 438-86, as amended;
7. A revised draft Zoning By-law Amendment as it relates to amending the new City of Toronto Zoning By-law 569-2013, as amended.

Please note, and as requested by Ms. Amanda Hill, four (4) copies of the above-noted plans and documents have also been couriered to Mr. David Driedger in Community Planning.

As reflected in the revised submission, our client has made significant efforts, through revisions to its original development proposal, to address concerns that have been raised by City staff and City Council. We would respectfully ask both City staff and City Council to support this revised development proposal at the OMB hearing scheduled to commence on March 14th, 2016.

If you have any questions regarding the above, or the revised proposal, please do not hesitate to contact me at 416.645.4572.

Yours very truly,
Devine Park LLP



Jason Park
JIP/ss

Enclosures

cc: Ms. Amanda Hill, City of Toronto Legal Services (letter only, via email)
Mr. David Driedger, City of Toronto Community Planning (letter and 4 copies of enclosures,
via courier)