

## **939 Eglinton Ave East Zoning Amendment Application - Settlement Offer - Request for Direction**

**Date:** December 14, 2016

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 26 - Don Valley West

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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The owner of 939 Eglinton Avenue East appealed its zoning bylaw amendment application (15 141830 NNY 26 OZ) to the Ontario Municipal Board on July 18, 2016 on account of Council's failure to make a decision within the timeframes set out by the Planning Act. A prehearing conference at the Ontario Municipal Board is scheduled for February 28, 2017.

On December 5, 2016, a public settlement offer was received from Sherman Brown Barristers and Solicitors, that will expire at the end of the Council meeting scheduled to commence on December 13, 2016. This offer was supplemented by emails from Sherman Brown dated December 12, 2016 and Diamondcorp dated December 13, 2016. This offer and supplemental correspondence are attached hereto as Public Attachments 1, 2 and 3. Public Attachment 4 is an interim planning scheme focused on the northern portion of the site, Public Attachment 5 is a conceptual master plan that encompasses the entire site, and Public Attachment 6 is a Site Plan showing refinements to the built form. Public Attachments 1-6 will be referred to collectively as the Settlement Offer.

The Settlement Offer proposes to amend the former Town of Leaside Zoning By-law No. 1916 to permit a mixed-use development with 985 residential dwelling units in 3 buildings with heights of 16, 20 and 28-storeys, a 4-storey office building, and 1,840 square metres of retail uses. The Settlement Offer also contemplates approximately 939 Eglinton Avenue East Zoning Amendment Application - Settlement Offer - Request for Direction

1720 square metres of parkland. The rezoning application was filed in conjunction with an application previously submitted to amend the City of Toronto Official Plan Employment Areas designation (File No. 13 107003 NNY 26 OZ).

This report contains advice from the City Solicitor and requests further direction in response to the Settlement Offer.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations(s) contained in Confidential Attachment 1 if it is adopted by City Council, but that the balance of Confidential Attachment 1 and all of Confidential Attachment 2 remain confidential.

## **FINANCIAL IMPACT**

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There is no financial impact arising from the Confidential Recommendations.

## **DECISION HISTORY**

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At its April 11, 2013 meeting, Planning and Growth Management Committee provided direction to the Chief Planner and Executive Director, City Planning on a Preliminary Staff Report for an application to amend the Official Plan Employment Areas designation for the site at 939 Eglinton Avenue East to permit a mixed use development with residential, office, retail and other commercial uses and directed staff to review the application concurrently and in the context of the statutory Five Year Review of the Official Plan, which includes a Municipal Comprehensive Review, and concurrently and in the context of the Eglinton Connects planning study for the Eglinton Crosstown Light Rail Transit (LRT) line.

Further direction was provided upon completion of the Municipal Comprehensive Review that: authorized staff to schedule a community consultation meeting for the lands at 939 Eglinton Avenue East, together with the Ward Councillor; directed that Notice for the community consultation meeting be given to landowners and residents within 120 metres of the site; and directed that Notice for the public meeting under the Planning Act be given according to the regulations of the Planning Act.

The link to the decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG23.1>

At its December 16, 17, and 18, 2013 meeting, City Council adopted Official Plan Amendment 231 (OPA 231) to the Official Plan of the City of Toronto with respect to the economic health and employment land policies and designations, and recommendations on conversion requests.

OPA 231 redesignates lands bounded by Eglinton Avenue East, Laird Drive, Vanderhoof Avenue and Brentcliffe Road from Employment Areas to Mixed Use Areas, with the exception of the southerly 50 metres, which would be retained for employment purposes, and would be redesignated to General Employment Areas. OPA 231 also introduces a new site and area specific policy (SASP 396) that would apply and provide general policy direction. SASP 396 is discussed in further detail later in this report.

On July 20, 2014 the applicant appealed OPA 231, indicating that the Mixed Use Areas designation is more appropriate over the entire site with no requirement for an Employment designation on the southern portion of the site.

The link to the decision and by-law implementing OPA 231 can be found at:  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

On June 22, 2015, the Ontario Municipal Board issued an order partially approving Official Plan Amendment 231. Through this OMB partial approval, all of the subject site, with the exception of the southerly 50 metres, was redesignated to Mixed Use Areas. The southerly 50 metres of the site remains under appeal and within the Employment Areas designation and proposed General Employment Areas designation of OPA 231. Site and Area Specific Policy 396, as it applies to the subject site, also remains under appeal.

The City of Toronto's Eglinton Connects Planning Study examined the future land uses, built form, public realm and road layout on Eglinton Avenue, in anticipation of the opening of the Eglinton Crosstown LRT in 2021. At its meeting of May 6-8, 2014, City Council considered the Final Directions Report for the Eglinton Connects Planning Study. The Phase 1 (Part 1) Implementation Report for the Study was considered by Council at its meeting of July 8-9, 2014 and the Phase 1 (Part 2) Implementation Report was considered by City Council at its meeting of August 25-28, 2014.

The reports and Council's directions can be found here:  
<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=44ae86664ea71410VgnVCM10000071d60f89RCRD>

On September 8, 2015, North York Community Council considered a preliminary report from the Director, Community Planning, North District dated August 20, 2015 related to this application. Its decision can be found at the following link:  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY8.37>

## COMMENTS

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A community consultation meeting was held in October 2015 on the original application. Approximately 150 members of the public attended and raised a number of concerns related to matters including, but not limited to: the development proposing too much density; the buildings being too high; inappropriate built form, massing and shadow impacts; impacts on servicing; increase in traffic and sufficient parking; and reducing the amount of retail on-site.

In response to the community's concerns, the local Ward Councillor initiated a working group process that the developer agreed to participate in together with City staff. Over a period of 6 months ending in June 2016, six working group meetings were held with members of the community discussing issues related to site organization, built form (building types, transition, height), transportation, parks, and community services and facilities. Despite the cooperative approach taken by all stakeholders and significant progress on many of the issues raised by the community, there were some working group members that indicated that there would not be support for tall buildings on this site.

An appeal to the Ontario Municipal Board (OMB) which was received on July 18, 2016 and a prehearing conference is scheduled for February 28, 2017.

As a result of the working group meetings, a revised proposal was presented to the larger community at a community meeting hosted by the local Ward Councillor on October 13, 2016. The proposal presented consisted of three buildings with heights of 14, 19 and 31-storeys. Generally, there appeared to be support for the revised proposal with some opposition still apparent.

City staff have continued to work with the applicant addressing matters related to built form since the October 13, 2016 meeting. The Settlement Offer was submitted on December 5, 2016 which included revisions intending to respond to concerns from both City staff and the community.

The following table outlines the significant differences between the original application and the Settlement Offer:

	April 2016 - Initial Proposal	December 2016 – Settlement Offer
Number of Residential Buildings	4	3
Maximum Storeys and Height Building A Building B Building C Building D Office	19-storeys - 63.5m + 7.5m MPH 24-storeys - 78.5m + 7.5m MPH 34-storeys - 107 m + 8.4m MPH 31-storeys - 98 m + 8.4m MPH 6-storeys – 30 m + 4.0m MPH	20-storeys – 68.5m + 7.5m MPH 16-storeys – 56.5m + 5.5m MPH 28-storeys – 92.0m + 5.5m MPH N/A Existing 2-storey
Residential Tower Floor Plates	750 square metres each building	Building C - 800 square metres Buildings A and B – vary due to terracing
Number of Residential Dwelling Units	1,500	985
Dwelling Unit Mix	75 bachelor 750 one bedroom 675 two bedroom	0 bachelor 590 one bedroom 395 two bedroom
Total GFA Residential Retail Office Total	92,400 square metres 2,950 square metres 9,690 square metres 106,840 square metres (inc. 1800 m2 of above grade parking)	68,000 square metres 1,840 square metres 4,300 square metres (existing office) 74,140 square metres

	April 2016 - Initial Proposal	December 2016 – Settlement Offer
% Replacement of Non-Residential GFA within Mixed-Use Area	41% (Mixed Use Area) 94% (Mixed Use + Employment Area)	20% (Mixed Use Area) [1840 m <sup>2</sup> / 9170 m <sup>2</sup> = 20%]  46% (Mixed Use Area development + retention of existing 2-storey office in Employment area)  [conceptual master plan including Employment lands has 11,160 m <sup>2</sup> / 4300 m <sup>2</sup> = 260% within Employment for a total of 97% replacement site-wide]
Floor Space Index (gross)	5.27	3.67
Vehicle Parking Residents Visitors Storage for Mercedes	1,177 248 214	768 116 220
Proposed On-site Parkland	2,200 square metres	1,718.5 square metres (remainder of parkland requirement to be provided as cash-in-lieu)

The offer also includes the provision of a section 37 contribution in the amount of \$3,200,000.

## **CONTACT**

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## **SIGNATURE**

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Brian Haley  
Interim City Solicitor

## **ATTACHMENTS**

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Public Attachment 1 - Settlement Offer dated December 5, 2016 from Sherman Brown Barristers & Solicitors  
Public Attachment 2 - Correspondence dated December 12, 2016 from Sherman Brown Barristers & Solicitors  
Public Attachment 3 - Correspondence dated December 13 from DiamondCorp  
Public Attachment 4 - Interim Plan, revision date December 9, 2016  
Public Attachment 5 - Master Plan, revision date December 1, 2016  
Public Attachment 6 - Site Plan, revision date December 9, 2016  
Confidential Attachment 1 - Confidential Report from the City Solicitor  
Confidential Attachment 2 - Confidential Correspondence dated December 13, 2016