

City Council**Motion without Notice**

MM21.45	ACTION			Ward:20
---------	--------	--	--	---------

15 - 35 Mercer Street - Zoning Amendment Application - Request for Direction - by Councillor Joe Cressy, seconded by Councillor Joe Mihevc

** This Motion has been deemed urgent by the Chair.*

** This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

Recommendations

Councillor Joe Cressy, seconded by Councillor Joe Mihevc, recommends that:

1. City Council adopt the following recommendations in the attached report (October 4, 2016) from the Chief Planner and Executive Director, City Planning:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to attend at the Ontario Municipal Board (OMB) in support of the revised proposal respecting the Zoning By-law Amendment application for 15-35 Mercer Street (File 15 135436 STE 20 OZ) as outlined in the report dated October 4, 2016, from the Chief Planner and Executive Director, City Planning Division and all to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor, provided that the owner shall have obtained, in consultation with the Toronto Preservation Board, City Council approval for the required alterations to the heritage properties at 15-35 Mercer Street pursuant to Section 33 of the Ontario Heritage Act.

2. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning Division to continue to work with the applicant on the final form of the By-law to be presented as part of the settlement at the OMB.

3. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to prepare and present a settlement, to be presented to the OMB jointly with the applicant, based on the following:

a. The Parties agree to request the OMB to withhold its final order until the following events occur:

i. The Applicant shall submit revised plans, drawings and perspectives to reflect the settlement outlined in the report dated October 4, 2016, from the Chief

Planner and Executive Director, City Planning Division, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

ii. The Applicant shall submitted revised plans, drawings and studies to reflect the outstanding requirements outlined in the Engineering and Construction Services memo of July 19, 2016, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the Executive Director, Engineering and Construction Services.

iii. The Applicant agrees to provide parking and loading facilities based upon the standards as set out in the memo from Engineering and Construction Services dated July 19, 2016, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the General Manager, Transportation Services.

iv. The Applicant agrees to pay for and construct any improvements to the municipal infrastructure in connection with the site servicing report, as accepted by the Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.

v. The owner shall have obtained in consultation with the Toronto Preservation Board, City Council approval for the required alterations to the heritage properties at 15-35 Mercer Street pursuant to Section 33 of the Ontario Heritage Act.

vi. The owner shall enter into a Heritage Easement Agreement for the properties at 15-35 Mercer Street in accordance with a Heritage Impact Assessment (HIA) and architectural drawings and subject to and in accordance with an approved Conservation Plan, all to the satisfaction of the Senior Manager, Heritage Preservation Services, including registration of such agreement to the satisfaction of the City Solicitor;

vii. The owner shall provide a Conservation Plan, prepared by a qualified heritage consultant, that is consistent with the conservation strategy set out in a Heritage Impact Statement for the properties at 15-35 Mercer Street, as referenced in 3.a.vi. above, all to the satisfaction of the Senior Manager, Heritage Preservation Services;

viii. The Applicant agrees to withdraw site-specific appeals to OPA 199 (Heritage Policies) and OPA 231 (Employment Lands).

4. Before the Ontario Municipal Board issues any Order approving a site-specific by-law for the lands, the owner shall enter into and register an agreement pursuant to Section 37 of the Planning Act as follows:

a. The community benefits recommended to be secured in the Section 37 Agreement are as follows:

i. Provide an indexed cash contribution, of \$2,750,000.00 toward the construction of the YMCA facility to be constructed at 505 Richmond Street West.

ii. A cash contribution of \$1,650,000.00 for above base streetscape improvements on Mercer Street between John Street and Blue Jays Way, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor.

iii. Provide a cash contribution of \$550,000.00 for the maintenance of or the provision of new affordable housing in Ward 20.

iv. Provide a cash contribution of \$550,000.00 toward the Toronto Community Housing (TCHC) revolving capital fund for repairs to TCHC housing in Ward 20.

v. In the event the cash contributions referred to in Section i. ii. iii. and iv. above has not been used for the intended purpose within three (3) years of this by-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

The above noted \$5,500,000.00 cash contribution is to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of the Ontario Municipal Board decision to the date of payment. All cash contributions will be payable prior to issuance of the first above grade building permit.

5. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, to secure the following additional services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner, in consultation with the Ward Councillor.

a. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms

b. The owner shall implement any wind mitigation measures required as identified by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval;

c. Prior to Final Site Plan approval for the properties at 15-35 Mercer Street:

i. the owner shall provide Final Site Plan drawings, consistent with the proposed development which is the subject of the settlement by City Council and consistent with any City Council approval of alterations pursuant to the Ontario Heritage Act, including drawings related to an approved Conservation Plan, all as determined by and to the satisfaction of the Senior Manager, Heritage Preservation Services;

ii. the related site specific Zoning By-law amendment giving rise to the proposed heritage alterations shall be in full force and effect in a form and with content

acceptable to City Council, as determined by the Chief Planner and Executive Director, City Planning Division in consultation with the Senior Manager, Heritage Preservation Services; and

d. Prior to the issuance of any permit for all or any part of the properties at 15-35 Mercer Street, including a heritage permit or a building permit, but excluding permits for repairs and maintenance and usual and minor works for the existing heritage buildings as are acceptable to the Senior Manager, Heritage Preservation Services:

i. the related Zoning by-law and Official Plan amendments giving rise to the proposed alterations (the Alterations) to the properties at 15-35 Mercer Street shall be in full force and effect in a form and with content acceptable to City Council, as determined by the Chief Planner and Executive Director, City Planning Division in consultation with the Senior Manager, Heritage Preservation Services;

ii. the owner shall register the agreements required in recommendation 3.a vi. and 4 above being the Heritage Easement Agreement on 15-35 Mercer Street and the Section 37 Agreement on 15-35 Mercer Street, all to the satisfaction of the City Solicitor;

iii. the owner of 15-35 Mercer Street shall obtain Final Site Plan Approval for the Alterations permitted by the City Council for such property, issued by the Chief Planner and Executive Director, City Planning Division, and with content acceptable to the Senior Manager, Heritage Preservation Services;

iv. the owner of 15-35 Mercer Street shall provide full building permit drawings, including notes and specifications for the conservation and protective measures keyed to an approved Conservation Plan, including a description of materials and finishes, to be prepared by the project architect and a qualified heritage consultant, all to the satisfaction of the Senior Manager, Heritage Preservation Services;

v. the owner of 15-35 Mercer Street shall provide a Lighting Plan that describes how the heritage buildings will be sensitively illuminated to enhance their heritage character, to the satisfaction of the Senior Manager, Heritage Preservation Services, and thereafter shall implement such Plan to the satisfaction of such Senior Manager;

vi. the owner of 15-35 Mercer Street shall provide an Interpretation Plan for 15-35 Mercer Street, to the satisfaction of the Senior Manager, Heritage Preservation Services and thereafter shall implement such Plan to the satisfaction of such Senior Manager; and

vii. the owner of 15-35 Mercer Street shall provide a Letter of Credit, including provision for upwards indexing, in a form and amount and from a bank satisfactory to the Senior Manager, Heritage Preservation Services to secure all work included in the approved Conservation Plan, the approved Lighting Plan and the approved Interpretation Plan.

e. Prior to the release of the Letter of Credit required in Part 4.d.vii. above, the owner

of 15-35 Mercer Street shall:

- i. Provide a letter of substantial completion prepared and signed by a qualified heritage consultant confirming that the conservation work and the interpretative work have been completed in accordance with an approved Conservation Plan and an approved Interpretation Plan, and that an appropriate standard of conservation has been maintained, all to the satisfaction of the Senior Manager, Heritage Preservation Services; and
- ii. Provide replacement Heritage Easement Agreement photographs for the properties at 15-35 Mercer Street to the satisfaction of the Senior Manager, Heritage Preservation Services.

6. As a condition of settlement, the City requires that a construction management plan be provided, and thereafter implemented by the owner of 15 – 35 Mercer Street, to address such matters as wind, noise, dust, street closures, parking and laneway uses and access. Such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor.

7. City Council authorize the City Solicitor and other City staff to take any necessary steps to implement the foregoing.

Summary

On April 1, 2015, The Madison Group filed an application for the lands at 15-35 Mercer Street to permit a 57-storey mixed-use building consisting of two towers with a 4-storey plus mechanical link at the top connecting the two towers . The green roof and mechanical elements of the building add an additional 10.7 metres in height resulting in a total height of 191.0 metres (180.3 metres excluding mechanical). The mixed-use building has a nine-storey (37.6 metres) base building which includes the facades of the designated heritage buildings and is the proposed location for the hotel use including 163 hotel rooms, banquet and conference facilities. A restaurant is proposed at grade on Mercer Street.

The applicant filed an appeal to the Ontario Municipal Board. Staff have been working with the applicant to reach an agreement as to an acceptable form of development on the site both prior to and subsequent to the appeal to the Ontario Municipal Board.

This matter is submitted on an urgent basis in order to allow staff to present the proposed settlement at the October 21, 2016 pre-hearing and avoid the delay associated with finding a subsequent hearing date.

Background Information (City Council)

Member Motion MM21.45

(October 4, 2016) Report from the Chief Planner and Executive Director, City Planning on 15-35 Mercer Street - Zoning Amendment Application - Request for Direction (<http://www.toronto.ca/legdocs/mmis/2016/mm/bgrd/backgroundfile-97159.pdf>)