

263-267 Adelaide Street West- Zoning Amendment Application- Request for Direction Report

Date: May 17, 2017

To: City Council

From: City Solicitor

Wards: Ward 20 Trinity-Spadina

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The applicant proposes to develop the subject site at 263-267 Adelaide Street West as a 49-storey mixed-use building (161.9 metres including mechanical penthouse) comprised of a 44-storey tower atop a five-storey base. The proposed development has an FSI of 27.4 times the lot area and a gross floor area of 39,348 square metres including 39,188 square metres of residential gross floor area and 160 square metres of non-residential gross floor area comprised of commercial uses at grade. The proposed development would retain the façade of the existing five-storey Purman Building, listed on the City's Inventory of Heritage Buildings, which currently occupies the site. Five levels of underground parking are proposed which would include 104 vehicular parking spaces.

The purpose of this report is to seek further instructions for the Ontario Municipal Board ("OMB") hearing which is scheduled to commence June 26, 2017.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact.

DECISION HISTORY

At its meeting of November 8, 2016, City Council adopted the recommendations of the Direction Report, a copy of which is available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE19.11>

The owner appealed the zoning by-law amendment application to the OMB citing City Council's failure to make a decision within the prescribed time frames set out in the Planning Act. A hearing is scheduled to commence June 26, 2017.

COMMENTS

This application was initially submitted in April, 2012, at which time the applicant proposed a 42-storey building, including a 5-storey podium containing commercial uses. This was revised in October, 2015 when the applicant submitted a revised proposal for a 49-storey building, comprised of a 5-storey base building with the commercial uses removed from the base building with the exception of the ground floor. The report from the Director, Community Planning, "263-267 Adelaide Street West – Zoning Amendment and Rental Housing Request for Directions Report" (September 22, 2016) the recommendations of which were adopted by City Council at its November 8 and 9, 2016 meeting (TE19.11) was based on the plans October, 2015 resubmission. The applicant made a revised submission in October, 2016, which addressed several of the issues identified in the Request for Direction (September 22, 2016) report, however certain issues remained outstanding.

Attached as Appendix "A" to this report is a With Prejudice Settlement Offer, ("Settlement Offer") forwarded to the City Solicitor from the owner's solicitor in the form identified in the revised plans.

Summary of Settlement Proposal

A summary of the revisions that have been made to the original proposal included in the Settlement Offer are as follows:

- A reduction in the proposed height by approximately 6.5 metres from 49 storeys (161.9 metres, including mechanical penthouse) to 47 storeys (156.9 metres, including mechanical penthouse).
- An improvement in the tower setback from Adelaide Street West above the heritage building.
- Modifications to the heritage conservation of the Adelaide Street West façade.
- Provision of an acceptable quantity of rental replacement units.
- Modification of the proposed parking to a quantity and ratio that are acceptable.

Height

The height of the proposed tower has been reduced to 156.9 metres, including mechanical penthouse. The site is subject to Official Plan Amendment 297 which limits heights on the block bounded by John Street to the West, Adelaide Street West to the north, Duncan Street to the east, and Pearl Street to the south to a height that is less than 157.0 meters. At the time of the report from the Director, Community Planning, "263-267 Adelaide Street West – Zoning Amendment and Rental Housing Request for Directions Report, the height exceeded the permitted height in OPA 297, with a height of 161.1 metres in the October, 2015 submission and then 157.0 metres in the October, 2016 submission. The revised height is now consistent with the height requirements of Official Plan Amendment 297.

Built Form

The proposed tower setback above the Adelaide Street West elevation of the existing Purman Building, listed on the City's Heritage Register, has been improved in this Settlement Offer. Previously, the building had a setback of 6.7 metres on the sixth floor above the heritage building, which cantilevered to three metres for all floors above the sixth floor. The design has been modified to a five-metre setback on the sixth floor, which transitions to a three metre setback above the 10th floor.

Heritage Conservation

This increased reveal improves the ability of the historic streetwall height to be maintained and the ability of the tower to visually recede and not overwhelm the heritage building. In addition to the improved tower setback above the existing Purman

Building, Official Plan Amendment 297 requires that, "Development should respect and reinforce the heritage character of the block and contribute to public realm improvements on the block".

Provision of Office Space

The existing building at 263 Adelaide Street West includes approximately 4,000 square metres of office space. The proposed development does not include any office space replacement.

Parking and Loading Access and the Pedestrian Realm

The proposed application includes access for parking and access and egress for loading from Adelaide Street West.

Parking

In October, 2015, the applicant had previously proposed 104 vehicular parking spaces, including six car share spaces and 98 resident parking spaces. This was revised to 107 vehicular parking spaces in October, 2016 which included 99 resident parking spaces and eight commercial/visitor parking spaces. As part of the Settlement Offer, a parking supply of 123 spaces is proposed, consisting of 106 residential spaces, 11 residential visitor spaces, and six car share spaces.

Rental Replacement

The applicant is proposing 12 rental replacement units, including four studio units, two one-bedroom units, three two-bedroom units, and three three-bedroom units.

Section 37 Contribution

The applicant has proposed a section 37 contribution of \$2,500,000.

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

Further Council instruction is required for the purpose of attendance at the OMB.

CONTACT

Ray Kallio, Solicitor, Planning and Administrative Law, Legal Services
Tel: (416) 397-4063 Fax: (416) 397-5624 E-mail: Ray.Kallio@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Appendix A

Confidential Attachment 1 - Confidential Recommendations

Appendix A - Settlement Offer

STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9
Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

Calvin Lantz
Direct: (416) 869-5669
Fax: (416) 947-0866
E-mail: clantz@stikeman.com

**BY E-MAIL
WITH PREJUDICE**

May 16, 2017
File No.: 139867.1001

City of Toronto, Legal Services
Solicitor, Planning & Administrative Tribunal Law
Metro Hall, 26th Flr, Stn 1260
55 John Street
Toronto, ON, M5V 3C6

Attention: Mr. Ray Kallio

Dear Mr. Kallio:

Re: Settlement Proposal
Property: 263 - 267 Adelaide Street West
Matter: Zoning By-law Amendment and Rental Housing Demolition Applications
City Files: 12-152660 STE 20 OZ & 12-152672 STE 20 RH
OMB Case No.: PL160318

On behalf of Adelaide Street Lofts Inc. (the "**Applicant**"), the owner of lands municipally known as 263 - 267 Adelaide Street West, in the City of Toronto (the "**Property**"), that is the subject of the above referenced applications (the "**Applications**"), we write this letter to present our final settlement offer with respect to the proposed development on the Property and corresponding appeal proceedings before the Ontario Municipal Board (Case No. PL160318) (the "**Appeal**").

We are making this with prejudice offer within the context of the Appeal. This letter and the attached drawings and documents summarize the terms of our final settlement offer to resolve the Appeal.

A. Settlement Terms

The following summarizes the terms of our final offer with respect to built form and Section 37 contribution matters as the basis for settling the appeals and developing a final form of proposed zoning by-law amendment:

TORONTO

MONTRÉAL

OTTAWA

CALGARY

VANCOUVER

NEW YORK

263 Adelaide Street West

Page 6 of 11

1. Site Organization

Our client proposes the site organization and development as shown on the enclosed Settlement Package, Rezoning Set, and Rental Replacement Suite Layout Samples Drawings, all dated May 9, 2017, prepared by Quadrangle Architects Limited (the "Drawings"). The Drawings illustrate the following:

- vehicular accesses, routes and parking garage access locations;
- building location, orientation, stepbacks and setbacks; and
- location of service/loading areas.

2. Building Height

OPA 297 sets a maximum building height limit of 157.0 metres, including mechanical elements. The maximum building height for the Property shown on the attached Drawings is 156.90 metres including mechanical penthouse, assuming that grade is at a Canadian Geodetic Datum height of 87.16 metres.

3. Density & Gross Floor Area

The Drawings show a proposed residential gross floor area of 32,190.45 square metres, a non-residential gross floor area of 248 square metres and a total gross floor area of 32,438.45 square metres. This represents an overall floor space index of 22.63, based on the total gross area of the Property at 1,433.40 square metres. Note that all gross floor area calculations are based on Zoning By-law 438-86 requirements.

4. Section 37 Contributions

Our client is offering a Section 37 contribution value of \$2.5 million. It would be anticipated that the Section 37 contributions would be secured in a Section 37 Agreement entered into with the City.

5. Tower Stepback

In the Drawings, along the north elevation the point tower incorporates a stepback of 5 metres at the 6th floor level from the heritage building façade that gradually angles outward to a 3 metre stepback at the 11th floor level. This stepback is then carried up vertically to the top of the tower on the Property. The external support columns for the tower are stepback 3 metres at the 6th floor level from the heritage building facade along Adelaide Street West.

A similarly angled wall is utilized at the chamfered north west corner of the tower between floor levels 6 and 15. The tower stepback at the east lot line is 5.5 metres.

Note that all stepbacks are exclusive of features required for safety and amenity on the rooftop of the 6th floor, the details of which will be determined based

on review of more detailed plans and drawings in the context of finalizing the form of the contemplated zoning by-law amendment.

6. Ground Floor Alterations

In the Drawings, along the ground floor on the north elevation, there are 3 proposed alterations to existing openings. The changes to the ground floor are required in order to meet the requirements of new use of the building. These proposed alterations include the following:

- (i) the eastern bay will be modified by removing the existing windows, stone band, and increasing the width of the opening to accommodate a type B loading space;
- (ii) the western bay will be modified by removing the existing windows, stone band, and increasing the width of the opening to accommodate a fire egress door that will have regard for the heritage character of the building; and
- (iii) the central entrance will be modified for universal accessibility by removing the existing stairs and providing a new door that will be compatible with the heritage character of the building.

7. Heritage Easement

Provided that a heritage designation of the Property and a heritage easement agreement will allow the building/development to be constructed, as proposed, our client will agree to a heritage designation of the Property and enter into a Heritage Easement Agreement regarding the same.

8. Parking

Our client proposes the following parking supply for the Property: 123 parking spaces, allocated as follows:

- (i) 106 resident parking spaces (0.27 per unit);
- (ii) 11 visitor parking spaces (0.03 per unit); and
- (iii) 6 car share parking spaces.

9. Live Work/Commercial Replacement

The only commercial space provided on the Property will be at-grade retail in the amount specified above. No live work space will be provided on the Property.

10. Rental Replacement

Our client proposes 12 rental replacement units, as shown on the attached Drawings, and allocated as follows:

Unit Type	Existing # of Units	Proposed # of Units	Existing Area of Units (sq. ft.)	Proposed Area of Units (sq. ft.)
Studio	4	4	2,208	2,297
1 Bedroom	2	2	1,439	1,446
2 Bedroom	3	3	3,943	3,948
3 Bedroom	3	3	4,343	4,645
Total	12	12	11,933	12,336

A tenant relocation and assistance plan will be prepared to the City's satisfaction.

11. Site Servicing

We propose that any Board Order approving the rezoning of this Property be withheld, conditional upon providing Site Servicing, Stormwater Management Report(s) and drawings to the City's satisfaction.

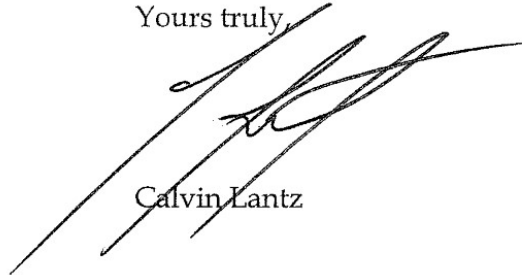
B. Instrument

We propose that any Board Order approving the rezoning of this Property be withheld, conditional upon:

1. Providing Site Servicing, Stormwater Management Report(s) and drawings to the City's satisfaction;
2. Providing a site specific zoning by-law amendment instrument to the City's satisfaction;
3. Entering into a Section 37 Agreement with the City;
4. The Property being designated under Part IV of the Ontario Heritage Act;
5. Our client entering into a Heritage Easement Agreement for the Property;
6. City Council permitting the alterations to the Property under Section 33 of the Ontario Heritage Act as described in the Drawings;
7. Our client submitting a Conservation Plan to the City, that is consistent with the Drawings; and
8. This matter returning to the Board within 90 days (whether via TCC or otherwise) for final disposition.

We trust that you will forward the terms of this final offer to City Council at its meeting commencing May 24, 2017. Please contact the undersigned if you wish to discuss further.

Yours truly,

A handwritten signature in black ink, appearing to be 'Calvin Lantz', written over a horizontal line.

Calvin Lantz

CWL/na

Attachments:

1. Drawings by Quadrangle Architects Limited, dated May 9, 2017

cc. Jim Neilas, Adelaide Street Lofts Inc.
John Neilas, Adelaide Street Lofts Inc.

NORTH ELEVATION

