

59-71 Mutual Street – Zoning Amendment Application – Supplementary Report

Date:	June 28, 2017
To:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	P:\2017\Cluster B\PLN\CC17018 (15-264025 STE 27 OZ)

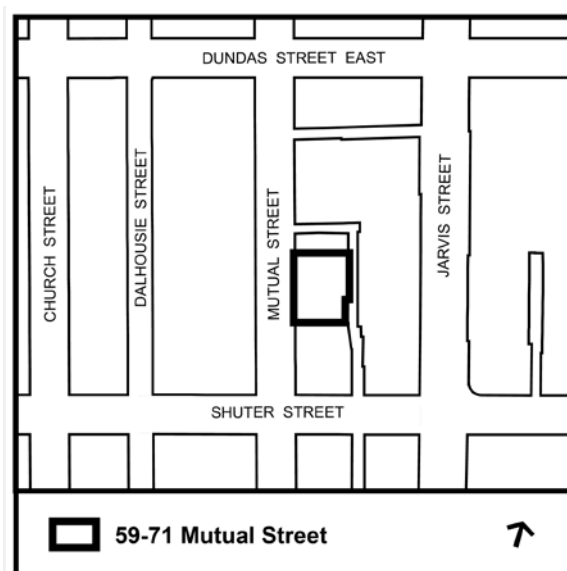
SUMMARY

This supplementary report provides City Council with further information regarding the status of negotiations with respect to Section 37 and the acquisition of space at 200 Dundas Street East.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council instruct the City Solicitor to settle the appeals of the Zoning Bylaw Amendment application for 59-71 Mutual Street in accordance with the Plans and Drawings dated February 14, 2017 on file with the City Planning Division, subject to the resolution of issues outlined in the Request for Directions and Final Report dated May 20, 2017.
2. In the event that the Ontario Municipal Board allows the appeal in whole or in part, City Council direct the City Solicitor to request the Ontario Municipal Board to withhold the issuance of any Order(s), to:



- a. Secure the following community benefits with the final allocation determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor's office and enter into and register an Agreement to secure those benefits, pursuant to Section 37 of the *Planning Act*:

Prior to issuance of the OMB Order, the Owner shall enter into an agreement of purchase and sale with the owner of the lands known municipally as 200 Dundas Street East and 241-251 Jarvis Street to acquire approximately 203.9 square metres (2,195 square feet) of at-grade space known as Retail "C" space, which is contiguous to approximately 1,300 square metres (13,993 square feet) of community space previously secured by the City, for conveyance to a non-profit agency as community space, such agreement to be in a form and with content satisfactory to the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning on the following terms and conditions:

- the space shall be conveyed or leased to the City or a non-profit agency as community space for nominal consideration;
- all closing costs, including but not limited to land transfer tax and registration fees, shall be payable by the Owner exclusive of the usual adjustments made on closing;
- the space shall be legally zoned for the intended use;
- prior to conveyance or lease to the City or a non-profit agency, the space shall be constructed to base building standards to the satisfaction of the City in a manner similar to the contiguous community space already to be conveyed to the City by the owner of the lands known municipally as 200 Dundas Street East and 241-251 Jarvis Street;
- the Owner's contribution to the purchase price shall be \$1.2-million;
- following a valuation of the purchase price by the City, if the actual cost to the owner is less than \$1.2 million, the Owner shall pay the difference in a cash contribution to the City and if the actual cost is more than \$1.2 million, the shortfall will be made up with funds from other Section 37 contributions secured by the City; and
- the space shall be free and clear of encumbrances, to the satisfaction of the City Solicitor.

In the event that the above-noted conveyance does not occur for any reason, including the lack of required additional Section 37 funds, the Owner shall make a payment to the City in the amount up to \$1.2 million (indexed to reflect increases in the Construction Price Statistics between the date of the OMB Order and the delivery of such payment), for capital improvements in the vicinity of the site for one or more of the following: (i) streetscape

improvements in the area; (ii) parkland improvements in the area; and/or (iii) affordable housing, provided that in the event the cash contribution referred to in this section has not been used for the intended purposes within three years of the By-law coming into full force and effect, the cash contribution may be redirected for other purposes, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Toronto Official Plan and will benefit the community in the vicinity of the site.

- b. As a legal convenience, secure the following in the Section 37 Agreement to support the development:
 - i. The owner be required to pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the City's Executive Director of Engineering and Construction Services should such Director determine that improvements to such infrastructure are required to support the development all to the satisfaction of the Executive Director of Engineering and Construction Services;
 - ii. To provide either 12 replacement trees as part of the development or a cash-in-lieu payment in the amount of \$6,996.
- c. Withhold its Order allowing the appeal in whole or in part allowing the Zoning By-law Amendment until:
 - i. The Owner has entered into an Agreement under Section 37 of the *Planning Act* to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning to secure appropriate public benefits and the Section 37 Agreement has been registered on title to the site to the satisfaction of the City Solicitor; and
 - ii. The OMB has been advised by the City Solicitor that the Functional Servicing Report has been completed to the satisfaction of the Executive Director of Engineering and Construction Services.
- 3. City Council approve the application for a Rental Housing Demolition permit in accordance with Municipal Code Chapter 667 to allow the demolition of 12 existing rental dwelling units located at 59, 63, 65, 67, 69 and 71 Mutual Street subject to the following conditions:
 - a. The owner shall provide and maintain 12 replacement rental dwelling units, comprised of 3 one-bedroom units and 9 two-bedroom units, on the subject

site for a period of at least 20 years, as generally shown on the plans submitted to the City Planning Division. Any revision to these plans must be to the satisfaction of the Chief Planner and Executive Director, City Planning. The replacement rental dwelling units shall be ready and available for occupancy no later than the date that 70% of the new dwelling units erected on the site, exclusive of the replacement rental dwelling units, are available and ready for occupancy;

- b. The owner shall provide at least 2 one-bedroom and 5 two-bedroom replacement rental dwelling units at affordable rents and 1 one-bedroom and 3 two-bedroom replacement rental dwelling units at mid-range rent for a period of at least 10 years. The owner shall provide at least 1 two-bedroom replacement rental dwelling units at unrestricted rent;
- c. The owner shall provide ensuite laundry in all replacement rental dwelling units;
- d. The owner shall provide tenants of the replacement rental dwelling units with access to all indoor and outdoor amenities on the same terms and conditions as condominium residents. Access and use of these amenities shall be on the same terms and conditions as the condominium residents or any other residents without the need to pre-book or pay a fee, unless specifically required as customary practices for private bookings;
- e. The owner shall provide tenant relocation and assistance to all eligible tenants, including the right to return to a replacement rental dwelling unit, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
- f. The owner shall enter into and register on title one or more Agreement(s) to secure the conditions outlined in a, b, c, d and e above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning Division; and
- g. the owner shall enter into and register on title to the site, a Section 118 Restriction under the Land Titles Act, to the satisfaction of the City Solicitor agreeing not to transfer or charge those parts of the lands without the written consent of the Chief Planner and Executive Director, City Planning Division or her designate, to assist with the securing of the Section 111 Agreement against future owners and encumbrances of the lands and providing following any condominium registration of the non-rental replacement portion of the site for the partial release of the Section 118 Restriction such that it would continue to apply to the rental replacement portions of the site until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 agreement, all to the

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

4. City Council authorize the Chief Planner and Executive Director, City Planning Division to issue the Preliminary Approval for the application under Municipal Code Chapter 667 for the demolition of the 12 existing rental dwelling units at 59, 63, 65, 67, 69 and 71 Mutual Street after all of the following have occurred:
 - a. Satisfaction or securing of the conditions in Recommendation 3 above;
 - b. The Zoning By-law amendments which were subject of a settlement at the Ontario Municipal Board have come into full force and effect;
 - c. The issuance of the Notice of Approval Conditions for site plan approval by the Chief Planner or her designate, pursuant to Section 114 of the *City of Toronto Act, 2006*;
 - d. The issuance of excavation and shoring permits for the approved structure on the site; and
 - e. The execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing Recommendation 3 a, b, c, d and e, and other requirements of the Zoning By-law Amendment;
5. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning Division has given preliminary approval referred to in Recommendation 4.
6. City Council authorize the Chief Building Official to issue a permit under Section 33 of the *Planning Act* for the demolition of the existing residential structures at 59, 63, 65, 67, 69 and 71 Mutual Street no earlier than the issuance of the first building permit for excavation and shoring of the development, and after the Chief Planner and Executive Director, City Planning Division has given preliminary approval referred to in Recommendation 4, which permit may be included in the demolition permit for Chapter 667 under 363-11.1, of the Municipal Code, on condition that:
 - a. The owner erect a residential building on site no later than three (3) years from the day that the demolition of the building is commenced; and
 - b. Should the owner fail to complete the new building within the time specified in condition a above, the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000.00) for each dwelling unit for which a demolition permit is issued, and that each sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.

7. Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

DECISION HISTORY

The Toronto and East York Community Council, at its meeting on June 13, 2017, considered TE 25.14 and forwarded it to City Council without recommendation. The Toronto and East York Community Council requested the Chief Planner and Executive Director, City Planning to report directly to the July 4, 2017 City Council meeting on the ongoing negotiations with the applicant with respect to Section 37 negotiations for the acquisition of 203.9 square metres (2,195 square feet) of real estate at 200 Dundas Street East known as Retail 'C' space.

Link to agenda item:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE25.14>

COMMENTS

In the report dated May 20, 2017 concerning 59-71 Mutual Street, City Planning recommended that pursuant to Section 37 of the *Planning Act*, that a payment to the City in the amount up to \$1.2 million, based on the application's height and density increase, be made for capital improvements in the vicinity of the site for one or more of the following:

- Streetscape Improvements in the area;
- Parkland Improvements in the area; and
- Affordable housing.

Subsequent to this recommendation, the applicant entered into negotiations with the owners of 200 Dundas Street East, a 50-storey tower presently under construction near the subject site, with the objective of acquiring 203.9 m² of space in the new development. The intention is that this space would then be transferred to a non-profit agency as community space thereby fulfilling the Section 37 requirements, essentially replacing the recommended \$1.2 million cash contribution.

The City previously secured, through Section 37, 1,300 m² of community space within the development at 200 Dundas Street East. The 203.9 m² would be contiguous to this previously secured space resulting in a combined 1503.9 m² of community space. The larger combined space would be of greater utility and value.

To date, these negotiations have concluded with the following outcome:

- the City will conduct a valuation of the purchase price;
- if the price is less than \$1.2 million, the applicant will pay any difference as a cash contribution
- if the price is higher the shortfall will be made up with funds from other Section 37 contributions secured by the City;

- the property will be transferred to the City to be used as community space in accordance with Section 37;
- the timing, details and scope of these negotiations will be secured in Legal Agreements .

CONTACT

Derek Waltho, Senior Planner

Tel. No. 416-392-0412

E-mail: Derek.Waltho@toronto.ca

SIGNATURE

Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
City Planning Division