

158 Sterling Road - Draft Plan of Subdivision Appeal to OMB and Block 3B - Status Update

Date: September 26, 2017

To: City Council

From: City Solicitor

Wards: Ward 18 - Davenport

SUMMARY

This report is provided in response to City Council's adoption of MM31.62 at its meeting July 4, 5, 6, & 7, 2017 and request for a status report to the October 2017 Council meeting. This report provides a status update related to the owner's appeal of its application for plan of subdivision to the Ontario Municipal Board (PL170393) with respect to lands municipally referred to as 158 Sterling Road. It outlines the proposed resolution of the issue raised by the appellant in connection with the right-of-way width of Sterling Road proposed adjacent to Block 3B identified in site specific zoning By-law 943-2017(OMB). The subdivision appeal hearing commences November 15, 2017.

This report also provides a status update respecting the provision of childcare facilities required through the s37 contributions set out in the site specific zoning By-law. The owner is proposing that the facility be located within the building on Block 3B which is currently the subject of an ongoing site plan application.

This report was prepared in consultation with City Planning staff.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council delete Part 1 of Member Motion 31.62, adopted by City Council at its meeting July 4, 5, 6 & 7, 2017 and replace it with the following:

"1. In anticipation of the Ontario Municipal Board hearing commencing November 15, 2017 respecting the plan of subdivision application relating to 158 Sterling Road, that City Council direct that ongoing discussions with the appellant by the City Solicitor and City Staff for the purpose of resolving outstanding issues, include discussion relating to the potential for a reduced right-of-way width from the 18.5 metres being contemplated for that portion of Sterling Road adjacent to northerly boundary of Block 3B (By-law 943-2015(OMB)) with consideration of the following, as may be applicable:

- a. the location of the existing building on adjacent lands at 213 Sterling Road as well as the location of the adjacent heritage building on lands recently severed from the site and being adaptively reused for the Museum of Contemporary Art;
- b. the potential to utilize a stratified public pedestrian clearway easement on the Block 3B site as part of the publicly accessible right-of-way width in this location; and
- c. the size and configuration of Block 3B and the proposed building placement along the northerly property boundary of that block as currently designed and submitted.”

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

The Official Plan Amendment and Zoning By-law Amendments for lands 158, 164, 181 and 200 Sterling Road (collectively "158 Sterling Road") were approved on settlement at the Ontario Municipal Board (By-laws 942-2015(OMB) and By-law 943-2015(OMB)). This included conversion of certain employment lands and resulted in the southerly blocks remaining designated as Employment Area and the balance redesignated as either Mixed Use Area or Neighbourhood Area. The zoning contemplated 9 potential development blocks, a public park block, publicly accessible open space, a new private street with the realignment of Perth Avenue/easterly extension of Sterling Road (see Attachment 1). Approval included Section 37 obligations secured in a Section 37 Agreement with the owner, Castlepoint Greybrook Sterling Inc., pursuant to the Planning Act.

The owner made application to sever two of the original blocks included in the plan of subdivision that corresponded to Block 1 (northerly townhouse block) and Block 3C (MOCCA heritage building site) in the site specific zoning amendment. Related applications for variances were also submitted. The consent and related variances for Block 1 were appealed to the Ontario Municipal Board and were resolved but the site plan referral is ongoing. Site Plan applications have now been submitted for Blocks 3A and 3B (17 164663 STE 18 SA & 17 164667 STE 18 SA, respectively).

The current subdivision application (12 226212 STE 18 SB) is intended to generally implement the proposed block and street structure set out in the zoning amendment on the remaining lands (see Attachment 1). The application is under appeal to the Ontario Municipal Board. A 3 day hearing is scheduled to commence on November 15, 2017.

COMMENTS

Status Update: Draft Plan of Subdivision Appeal

There have been numerous changes since the original plan of subdivision was submitted. The current plan is under appeal. The revised plan continues to be in circulation and comments are expected. Pursuant to delegated authority of Council, direction will be given by the Chief Planner and Executive Director for the purpose of the Ontario Municipal Board hearing and respecting both the draft plan of subdivision as well as proposed conditions of approval.

City staff continue to work with the applicant in an effort to resolve a variety of complex issues. These include, among other matters, the actual block and ownership structure, environmental obligations for lands being conveyed to the City, the strategy for the required closure of Perth Avenue and extension of Sterling Avenue, ensuring municipal servicing requirements are addressed in the context of a largely private road structure.

One of the remaining issues for the appellant relates to the 18.5 metre contemplated right-of-way width of the existing and proposed extension of the east-west leg of Sterling Avenue. The applicant has expressed concern that given the "L" shaped nature of Block 3B and contemplated design currently included in the site plan submission to Community Planning, the ability to convey a widening of Sterling Road as proposed to provide for an 18.5 metre right-of-way width is limited. Motion MM31.62 adopted by Council at its meeting July 4, 5, 6 & 7, 2017, included certain parameters for a cross section. However, City staff did not have input into the dimensions set out and, on review, it was noted that the design specifications did not account for a full cross section width and, in fact, appeared to preclude opportunity for a north sidewalk as well as future cycle track. However, the primary objective of the motion was understood to be to facilitate further discussion with the appellant regarding a possible reduced public right-of-way width adjacent to Block 3B. Part 1 of the Member Motion has been redrafted accordingly to appropriately establish the discussion considerations.

City staff have met with the appellant and are prepared to continue to work with them to develop a proposal that provides not less than a 2.0 metre pedestrian clearway easement on the site in the location where Sterling Road is adjacent to the northerly boundary of Block 3B together with a reduced 16.5 metre public right-of-way width in that location. In the location of the building, stratification of the easement between grade and a height of not less than 6.3 metres, to allow for projections commencing at the third floor level generally consistent with what is currently designed, would be agreeable. Staff have developed a potential street cross section in this location that would allow for (north to south) a north sidewalk (3.0 metres), two travel lanes (7.0 metres), tree planting and edge zone (2.5 metres), two way cycle track (2.9 metres), a buffer (1.0 metre) and a south sidewalk (2.1 metre comprised of potential 2.0 metre pedestrian sidewalk clearway easement with 0.1 metres incorporated into the adjacent buffer). These dimensions are approximate and are subject to the applicant's verification of existing and proposed servicing being workable within the areas contemplated and in accordance with City standards and specifications. This will be determined through the detailed engineering on the subdivision and the site plan

approval process. This reduced right-of-way concept will only apply to the section adjacent to the northerly boundary of Block 3B and the balance of existing and extended Sterling Road will be implemented to the full 18.5 metre public right-of-way.

Three further meetings are currently being co-ordinated relating to other specific ongoing issues which are technical in nature. The common objective is to be in position to provide the Board with a mutually agreed set of draft plan conditions for approval. If, in this process, certain issues are isolated that cannot be resolved, they will be contested for a determination by the Board in the context of the appeal.

Status Update: Delivery of the Childcare Facility:

Among other matters, pursuant to the Section 37 Agreement the applicant is required to construct and convey to the City on terms set out in the agreement, a fully furnished and equipped childcare centre having interior gross floor area of 6,184 square feet and 3,000 square feet of contiguous exterior space.

The owner proposes to locate the childcare centre in the building on Block 3B identified in Map 3 of By-law 943-2017 (see Attachment 1). Prior to issuance of any building permit for the building where the childcare centre is proposed, plans and drawings are required to have been approved by the General Manager, Children's Services in accordance with the terms of the Section 37 Agreement. The Block 3B site plan application is currently under review and will identify the location of the outdoor space.

Children's Services and Community Planning Staff met with the applicant on August 30, 2017. The preliminary submission by the applicant for both the interior and exterior space was discussed along with the detailed requirements set out in the Section 37 Agreement. The session was both positive and productive and the applicant agreed to accommodate or to investigate/consider most issues identified. A further submission on the childcare is expected from the applicant. Once the response is received, a further meeting will be co-ordinated to continue progress toward addressing the requirements the Section 37 Agreement concurrently with the review of the site plan application.

CONTACT

Leslie Forder, Solicitor, Tel. No: 416-392-1078, Fax No: 416-397-5624, E-mail: Leslie.forder@toronto.ca

SIGNATURE

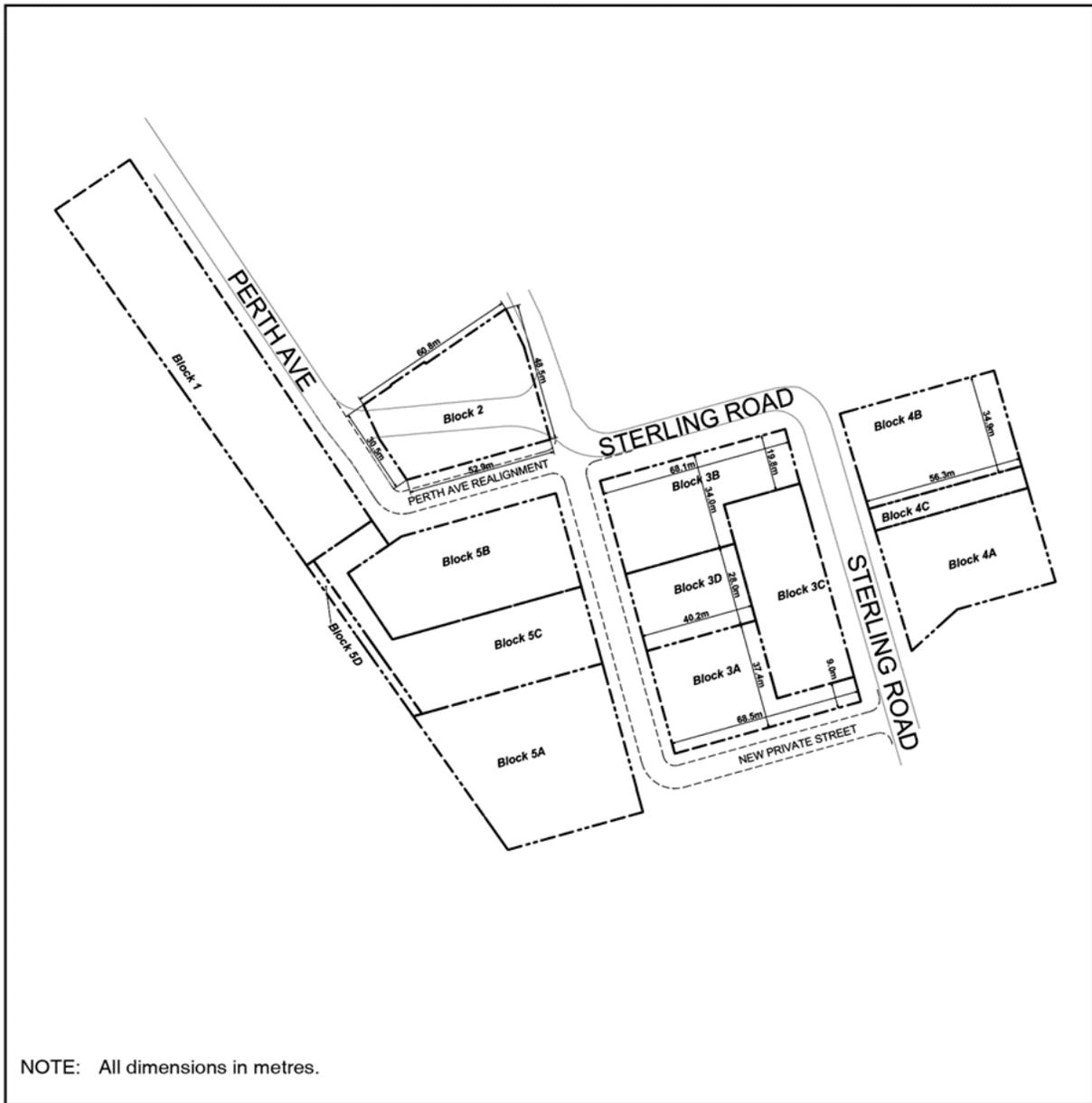
Wendy Walberg,
City Solicitor

ATTACHMENTS

Attachment 1: Map 3 Zoning By-law 943-2015(OMB)

ATTACHMENT 1

MAP 3 ZONING BY-LAW 943-2015(OMB)



NOTE: All dimensions in metres.