



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

39-41 Roehampton Avenue and 50 Eglinton Avenue East - Zoning Amendment Application - Request for Direction regarding Local Planning Appeal Tribunal Appeal

Date: May 10, 2018
To: City Council
From: City Solicitor
Wards: Ward 22 - St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

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

SUMMARY

This application is for the development of the lands at 39 and 41 Roehampton Avenue and 50 Eglinton Avenue East, located mid-block between Yonge Street and Redpath Avenue, with a residential tower.

The owner of the property at 39 and 41 Roehampton Avenue and 50 Eglinton Avenue East (the "Site") appealed its Zoning By-law Amendment application (16-269637 STE 22 OZ) to the Ontario Municipal Board due to City Council's failure to make a decision on the application within the time allotted by the *Planning Act*. The appeal has now transitioned to the Local Planning Appeal Tribunal ("LPAT"). A Pre-Hearing Conference was held on May 10, 2018.

The purpose of this report is to seek instructions for the LPAT hearing in the above-noted matter. No hearing has been scheduled yet.

This report has been prepared in consultation with City Planning.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the Recommendations contained in Confidential Attachment 1 to this report.
2. City Council authorize the public release of Confidential Appendix A and of the Confidential Recommendations contained in Confidential Attachment 1, if the Recommendations are adopted by City Council, but that the balance of Confidential Attachment 1 remain confidential at the discretion of the City Solicitor.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations.

DECISION HISTORY

The owner of the Site, and applicant in this case, is MCD (Roehampton Limited Partnership). The zoning by-law amendment application for the Site sought permission for a 48-storey residential building tower, including a 12-storey base building, with 617 residential units and four levels of underground parking containing 131 parking spaces. The gross floor area of this proposal was 37,614 squares metres. The application also included the provision of an 8-metre wide Privately-Owned Publicly Accessible Space ("POPS") along the Site's western property line and a publically accessible connection to the subway at the rear of the site. The application would require the demolition of the existing 27-unit condominium building at 39 Roehampton Avenue and the converted house form building containing a private school at 41 Roehampton Avenue.

A Preliminary Report dated May 24, 2017, which addressed a number of concerns and issues to be addressed, was considered by Toronto and East York Community Council on June 13, 2017. The decision of Community Council and a copy of the Preliminary Report can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE25.58>

The Preliminary Report outlined a number of issues regarding the proposed development including:

- conformity with OPA 289;
- the height of the proposed base building and tower;
- the tower floorplate size;
- consistency with the draft built form principles of the Midtown in Focus: Growth, Built Form and Infrastructure Review;
- the lack of tower setback from the 50 Eglinton Ave East property line to the east;
- the provision of on or off-site parkland;
- the insufficient amount of indoor and outdoor amenity space;
- the lack of three bedroom units; and
- the appropriate community benefits in accordance with Section 37 of the *Planning Act*.

On November 8, 2017, the applicant appealed the lack of a decision on the application to the Ontario Municipal Board, which has since transitioned the appeal to the LPAT. The first Pre-Hearing Conference for the appeal was held on May 10, 2018. In addition to the applicant and the City, the Toronto District School Board has been granted party status as has TSCC 2559, the condo corporation at 30 Roehampton Avenue, and the Sherwood Park Residents Association has been granted participant status. A second Pre-hearing Conference has been scheduled for October 29, 2018.

On April 19, 2018, the applicant submitted a revised proposal for the site through architectural plans and a landscape plan (the "Revised Plans"). The Revised Plans are on file with the City Clerk for the purpose of the City Council meeting of May 22, 23 and 24, 2018. In response to the concerns raised by City staff in numerous meetings with the applicant, and in response to concerns raised by residents and residents' groups, the Revised Plans include a number of modifications. The summary chart below compares the information provided with the applicant's original submission on December 21, 2016, with the Revised Plans:

Site Statistics	December 21, 2016 Original Plans	April 19, 2018 Revised Plans
Number of Storeys	48	46
Building Height	154.4 metres (161.8 metres to the top of the mechanical penthouse)	148.7 metres (156.2 metres to the top of the mechanical penthouse)
Base Building Height	8-12 storeys (27.8 – 42.15 metres)	4 storeys (19.45 metres)
Tower Floorplate (Gross Construction Area)	816.4 square metres	750 square metres
Residential Gross Floor Area	37,614 square metres	31,565.8 square metres

Site Statistics	December 21, 2016 Original Plans	April 19, 2018 Revised Plans
Floor Space Index	17.98	15.1
Residential Units: Studio	10 (1.6 percent)	0 (0.0 percent)
1-Bedroom	443 (71.8 percent)	132 (30.0 percent)
2-Bedroom	164 (26.6 percent)	259 (58.9 percent)
3-bedroom	0 (0 percent)	49 (11.1 percent)
Total	617	440
Indoor Amenity Space	1,078 square metres	1,220 square metres
Outdoor Amenity Space	287 square metres	684 square metres
On or Off-Site Parkland Dedication	No	Yes (Off-Site)
POPS Area	442 square metres	620 square metres
OPA 289 - 7.5 metre building setback from Roehampton Ave	No (6 metres)	Yes (7.5 metres)
Vehicular Parking: Residential	114	100
Visitor	14	14
Carshare	3	4
Total	131	118
Bicycle Parking: Long Term	556	416
Short Term	62	45
Total	618	461

On May 2, 2018, the City received a With Prejudice settlement offer from the applicant's lawyers, Goodmans LLP, attached as Attachment 2 ("With Prejudice Settlement Offer"). The With Prejudice Settlement Offer states that the applicant is committed to going forward at an LPAT hearing with the Revised Plans and a voluntary section 37 contribution of \$790,000.00 to be allocated towards upgrades to the POPS.

COMMENTS

This report is about ongoing litigation before the LPAT 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 City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Attachment 1 - Revised Plans (on file with the City Clerk for the purpose of the City Council meeting of May 22, 23 and 24, 2018)

Attachment 2 - May 2, 2018 Letter from Goodmans LLP: With Prejudice Settlement Offer

Confidential Attachment #1 - Confidential Recommendations and Confidential Information

Confidential Appendix A - Confidential material