



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

227 Gerrard Street East, Zoning By-law Amendment Application - Request for Direction regarding Local Planning Appeal Tribunal Appeal

Date: July 16, 2018

To: City Council

From: City Solicitor

Wards: 28 - Toronto Centre-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

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

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

SUMMARY

On December 22, 2016, the owner of the property at 227 Gerrard Street East (the "Site") made a Zoning By-law Amendment application to the City to permit an eight-storey mixed use building containing 99 residential dwelling units and 715 square metres of ground floor retail on the Site (the "Original Proposal"). The matter was appealed to the former Ontario Municipal Board on November 13, 2017 due to City Council's failure to make a decision on the application within the time allotted by the *Planning Act*. A Local Planning Appeal Tribunal ("LPAT") Pre-hearing Conference for this matter is scheduled for August 2, 2018.

The purpose of this report is to seek instructions for the appeal of the above-noted matter. The LPAT has not yet scheduled a hearing.

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 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

At its meeting of April 4, 2017, Toronto and East York Community Council considered a preliminary report regarding the Original Proposal, a copy of which is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-101986.pdf>

Toronto and East York Community Council directed staff to schedule a community consultation meeting, distribute notice for the community consultation meeting to landowners and residents within 120 metres of the site and to other recipients to be determined in consultation with the Ward Councillor, and to give notice for the public meeting under the *Planning Act*.

Additional consultations took place with the applicant throughout 2017 and 2018, which resulted in the applicant's submission of a revised, "with prejudice" Zoning By-law Amendment application on May 28, 2018 (Attached hereto as Public Appendix "A" - "With Prejudice" Settlement Offer). In response to concerns raised by City staff, on July 5, 2018, the applicant submitted a further revised, "with prejudice" Zoning By-law Amendment application (the "Revised Proposal" - Attached hereto as Public Appendix "B" - "With Prejudice" Settlement Offer). The plans related to the Revised Proposal are on file with the City Clerk for the purpose of the City Council meeting commencing July 23, 2018 (Attached hereto as Public Appendix "C").

The Revised Proposal includes a number of modifications in response to concerns raised by City staff and members of the community. The summary chart below compares the Original Proposal with the Revised Proposal:

Metrics	Original Proposal (December 22, 2016)	Revised Proposal (July 5, 2018)
Site area	2,297 square metres	2,297 square metres
Building height	8 storeys (27.4 metres) (28.7 metres including mechanical penthouse)	7 storeys (23.9 metres) (27.3 metres including mechanical penthouse)
Building setbacks:		
Gerrard Street East	1.5 metres	1.5 metres
Seaton Street	0 metres	0 metres
Ontario Street	0 metres	0 metres
Rear lot line – east side	0.12 metres	7.0 metres
Rear lot line – west side	2.2 metres (excluding lane widening)	2.1 metres (excluding lane widening)
Gross floor area (above grade)		
Residential	8,559 square metres	7,600 square metres
Non-residential	715 square metres	794 square metres
Total	9,274 square metres	8,394 square metres
Floor space index	4.04	3.65
Number of units		
bachelor	6 (6 percent)	9 (10 percent)
one-bedroom	46 (46 percent)	12 (13 percent)
two-bedroom	36 (36 percent)	58 (64 percent)
three-bedroom	11 (11 percent)	11 (12 percent)
Total	99	90
Vehicle parking:		
residential occupant	44	39
residential visitor	9	9
retail	7	8
car-share	2	6
Total	62	62
Bicycle parking		
residential (long-term)	114	84
visitor (short-term)	17	26
Total	131	110
Loading spaces		
Type G (4 metres x 13 metres)	1 1	1 0
Type B (3.5 metres x 11 metres)	0	0
Type C (3.5 metres x 6 metres)		

Amenity spaces		
Indoor	288.8 square metres (2.92 square metres/unit)	206 square metres (2.29 square metres / unit)
Outdoor	178.2 square metres (1.80 square metres/unit)	314 square metres (3.49 square metres / unit)

The Revised Proposal is a 7-storey mixed-use building with ground floor retail space and 90 dwelling units. The building height is primarily 23.9 metres. The mechanical penthouse is incorporated into the 7th floor on the westerly portion of the building where the maximum height is 27.3 metres.

The Revised Proposal has a gross floor area of 8,394 square metres with 794 square metres of retail space on the ground floor. The density (floor space index) is 3.65 times the lot area. The retail space spans the entire frontage along Gerrard Street East and wraps around the corners to also face Seaton Street and Ontario Street. The retail space will be divided into a minimum of three units and all retail entrances will be facing Gerrard Street East. The residential lobby is located on Seaton Street. The dwelling unit breakdown is 9 bachelor units (10 Percent), 12 one-bedroom units (13 percent), 58 two-bedroom units (64 percent), and 11 three-bedroom units (12 percent).

Residential indoor and outdoor amenity space is proposed on the ground floor, second and seventh floors of the building, as well as outdoor amenity space on the roof. The ground floor space is a seating lounge within the lobby and the second floor space includes a small lounge and exercise room. The seventh floor indoor amenity space is adjacent to two separate outdoor terraces and is close to the stairs to the rooftop amenity space. A total of 206 square metres (2.29 square metres per dwelling unit) of indoor amenity space and 314 square metres (3.49 square metres per dwelling unit) of outdoor amenity space are proposed.

In addition to the outdoor amenity space on the roof, a green roof will be provided in small areas adjacent to the rooftop outdoor amenity space, as well as a large area on top of the mechanical penthouse. The total area of the green roof will be determined through the Site Plan Control process.

A 1.5-metre setback is proposed from Gerrard Street East, which provides for a 4.8-metre wide sidewalk. There are no proposed setbacks from the Seaton Street and Ontario Street property lines. The combined width of a sidewalk and boulevard on Seaton Street is approximately 6.4 metres and on Ontario Street it is approximately 6.3 metres. On the south side of the property, the proposed building is set back 7.0 metres where it is adjacent to 386 Ontario Street. Where the property line abuts Hagan Lane the lane is being widened to 6.0 metres by the conveyance of a 1.73-metre wide strip of land to the City. The proposed building abuts Hagan Lane as widened.

The proposed building has three front step-backs from Gerrard Street East: the first is a 0.3-metre step-back (1.8-metre setback) at the third floor, the second step-back is in the range of 1.1 to 2.1 metres (2.9 to 3.9-metre setback) at the fifth floor, and the third step-back is 3.2 metres (7.1-metre setback) at the seventh floor. Facing both Seaton Street and Ontario Street there are step-backs of approximately 0.3 to 0.4 metres at the third

floor and another 2.0 to 2.3-metre step-back at the fourth floor. The building has a series of rear step-backs that differ between the east and west sides of the building. Generally they consist of one 2.5 to 9.9-metre step-back at the second floor and three more step-backs from the fifth to eighth floor that range from 1.5 to 3 metres each.

Vehicular access is proposed from Ontario Street via a private driveway parallel with the southerly lot line and from Seaton Street via Hagan Lane, which is a public lane proposed to be widened to 6 metres. The proposed driveway will connect with Hagan Lane.

There is one Type "G" loading space with a length of 13 metres that is located on the south side of the building and accessed from either Hagan Lane or the driveway from Ontario Street. The ramp to the underground parking area is on the north side of the private driveway close to Ontario Street. Underground parking is on two levels and contains 39 residential occupant spaces, 6 car share spaces, 9 residential visitor spaces and 8 retail visitor spaces.

A total of 110 bicycle parking spaces are proposed, comprising 84 long-term spaces for residential occupants and 26 short-term spaces for both residential and retail visitors located at surface level on or near Gerrard Street East and behind the building. All of the residential occupant spaces are stacked bicycle parking spaces located in two rooms on P1 and accessed via the vehicular ramp or elevators.

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

Cigdem Iltan, Solicitor, Legal Services Division, Tel. 416-392-1652, Fax: (416) 397-5624, Email: Cigdem.Iltan@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Appendix "A" - "With Prejudice" Settlement Offer dated May 28, 2018

Public Appendix "A(a)" - "Plans to With Prejudice" Settlement Offer dated May 28, 2018 (on file with the City Clerk for the purpose of the City Council meeting commencing July 23, 2018)

Public Appendix "B" - "With Prejudice" Supplemental Settlement Offer dated July 5, 2018

Public Appendix "C" - Revised Architectural Plans dated June 28, 2018 (on file with the City Clerk for the purpose of the City Council meeting commencing July 23, 2018)

Confidential Attachment 1 - Confidential Report from City Solicitor