

CONFIDENTIAL ATTACHMENT 1

CONFIDENTIAL INSTRUCTIONS TO STAFF

The City Solicitor recommends that:

1. City Council accept the Settlement Offer in Confidential Attachment 2 to the City Solicitor's Report dated December 3, 2018 and as shown on the Revised Plans in Confidential Attachment 3 to the City Solicitor's Report dated December 3, 2018, subject to the recommendations set out below.
2. City Council authorize the City Solicitor and appropriate City Staff to attend the Local Planning Appeal Tribunal hearing on this matter in support of the revised proposed development set out in the Settlement Offer in Confidential Attachment 2 to the City Solicitor's Report dated December 3, 2018 and as shown on the Revised Plans in Confidential Attachment 3 to the City Solicitor's Report dated December 3, 2018, subject to the recommendations set out below.
3. City Council instruct the City Solicitor and the Chief Planner and Executive Director, City Planning, to support an official plan amendment application that removes the Subject Property from the Central Finch Area Secondary Plan area and to make the necessary modifications to the Central Finch Area Secondary Plan maps and policies to give effect to this recommendation.
4. City Council instruct the City Solicitor to support a zoning by-law amendment for the proposal that contains a maximum Floor Space Index of 4.5 times the area of the lot as calculated pursuant to Zoning By-law 569-2013.
5. City Council instruct the City Solicitor to request that the Local Planning Appeal Tribunal withhold its Order on the Zoning By-law amendment, Official Plan amendment, and Site Plan applications until such time as the Tribunal has been advised by the City Solicitor that:
 - a. The proposed Zoning By-law and Official Plan amendments are in a form satisfactory to the Chief Planner and Executive Director, City Planning, and the City Solicitor;
 - b. The Site Plan pre-approval conditions have been finalized to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor; and
 - c. The Chief Engineer and Executive Director of Engineering and Construction Services has confirmed that all engineering matters have been addressed to his satisfaction.

4. City Council authorize the City Solicitor and any other City staff to take such actions as necessary to give effect to the recommendations of this report.

CONFIDENTIAL INFORMATION OR ADVICE

The Applicant previously submitted a with prejudice settlement offer dated November 27, 2018 from Goodmans LLP (the "Settlement Offer") and revised architectural plans prepared by A& Architects Inc. also dated November 27, 2018 (the "Revised Plans"). The Settlement Offer and Revised Plans are included as Confidential Attachments 2 and 3 to the City Solicitor's Report dated December 3, 2018.

Staff from Community Planning and Legal Services are of the view that the Settlement Offer represents a significant improvement to the original proposal and should be accepted by the City subject to the recommendations set out above. Staff have recommended that as part of accepting the Settlement Offer, the Subject Property should be removed from the Central Finch Area Secondary Plan ("CFASP") area. The reason for this is to recognize the unique and distinctive location of the Subject Property that justifies the additional height and density at this location and to distinguish the site from the remainder of the CFASP area in order to avoid this proposal from being used as a precedent for future development within the remainder of the CFASP.

Staff Comments

City Planning has provided the following additional comments on the Settlement Offer and the recommendations set out above:

City Planning Staff are of the opinion that the Subject Property at 50 and 52 Finch Avenue East is uniquely situated geographically and contextually and that the in-force policy frameworks of both the CFASP and the North York Centre Secondary Plan ("NYCSP") do not respond adequately to the development potential of the Subject Property.

The greater height and density proposed and recommended through this settlement proposal recognizes this site's unique characteristics and location compared to other sites in the CFASP. It is a corner site that relates to the NYCSP to the south and west. The planned and built form context of buildings in the immediately surrounding area around the Subject Property are substantially larger than what the CFASP permits and consist of 12-storey mixed use buildings to the south, 23-storey high-rise residential buildings to the west, as well as *Mixed Use Areas* designated lands to the north which currently contain residential detached dwellings.

Although the proposed settlement represents an increase of height and density beyond what is permitted in the CFASP, the Subject Property is uniquely suited to accommodate the development. The surrounding built form context is of tall buildings, while the proximity to higher-order transit and area context provide a rationale for consideration of a different built form.

Staff have also worked with the applicant to ensure that the proposal fits harmoniously into its planned and built context with revisions that include the following:

- The rear yard setback has been increased from 5.5 metres to 7.8 metres;
- The proposal meets a conical 45 degree angular plane from the north-east corner of the site measured from the *Neighbourhoods* designated area. This is a more stringent requirement than the shallow lot angular plane measurement contained in the Mid-Rise Design Guidelines, and this measurement is more reflective of the transition policy directions in both the CFASP and the NYCSP. This more stringent transition requirement helps to reduce the proposed development's impact on the low-rise residential area to the rear. Varying step backs are provided at the terraces on levels 6, 7, 8, and 9 to ensure the building fits within this envelope;
- The proposed building complies with the front angular plane required by the Mid-Rise Design Guidelines, matching 80 percent of the right-of-way by stepping back 3.39 metres at the 9th storey along Finch Avenue East and stepping back 2.3 metres at the 9th storey along Kenneth Avenue. A portion of the south-west corner projects through the front angular plane to architecturally articulate the corner prominence of the proposed building;
- A 3.1 metres setback from the east property line is provided at the 3rd storey to reinforce the 3 to 4 storey expression to the east; and
- An increased setback of 2.2 metres is provided on the ground floor to better accommodate pedestrian amenities and sidewalk width (post-road widening) which supports the Mid-Rise Design Guidelines and other policy objectives to create an expanded public realm.

In order to further distinguish this site from the existing policy frameworks in the area and to make abundantly clear that Staff do not intend for this development to be used as a precedent for future development proposals in either the CFASP or the NYCSP, Staff are recommending that the Subject Property be removed from the CFASP area and policies and that the site's permissions to be recognized through a standalone site specific official plan amendment.

CONCLUSION AND LEGAL ADVICE

This report has been prepared in consultation with City Planning staff.

For the reasons provided by City Planning, above, the City Solicitor recommends acceptance of the Settlement Offer subject to the recommendations set out above.