



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

44 Jackes Avenue and 33 Rosehill Avenue - Zoning Amendment Application - Request for Directions

Date: May 6, 2019

From: City Solicitor

Wards: Ward 12 - Toronto - St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

This report contains information 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

An application to permit a 29 storey rental building at the northwest corner of Jackes Avenue and Rosehill Avenue was appealed to the Local Planning Appeal Tribunal for a lack of decision by City Council within the statutory timeframes. A hearing has been scheduled to commence on July 24, 2019. The City Solicitor requires further direction regarding this matter.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations 1, 2 and 3 in Confidential Attachment 1 if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On April 4, 2017, the Toronto and East York Community Council adopted the Preliminary Report on the Application. The report can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-102006.pdf>

On November 15, 2017, the Applicant filed an appeal of the Application to the Local Planning Appeal Tribunal (the "Tribunal"), for City Council's failure to make a decision on the application within the prescribed timelines of the *Planning Act*.

On February 22, 2018, the applicant submitted to the City a "With Prejudice" settlement proposal with revisions to the Application (the "February 2018 Revised Proposal").

On July 23, 2018, City Council did not adopt the recommendations from Community Planning in the Request for Direction dated June 14, 2018. City Council directed the City Solicitor to appear at the Tribunal to oppose the February 22, 2018 settlement proposal and to continue to negotiate with the applicant in an attempt to resolve all outstanding issues. The report can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2018/te/bgrd/backgroundfile-117272.pdf>

On April 23, 2019, the City Solicitor attended a mediation session at the Tribunal with the other party and the participants who were granted party status for the purposes of mediation.

COMMENTS

The City Solicitor received a without prejudice "public" settlement offer on May 6, 2019 (the "Settlement Offer"). Further direction is needed.

The key changes made in the Settlement Offer are:

- Reducing the footprint of the base building from 1,246 square metres to approximately 980 square metres;
- Increasing the base building setback from Rosehill Avenue from 5.0 metres to 7.5 metres;
- Increasing the base building setback from the west side lot line from 1.7 metres to 7.5 metres;

- Reducing the height of the base building from 4-storeys to 2-storeys;
- Eliminating the townhouse units and residential lobby entrance from the Rosehill Avenue frontage;
- Reducing the size of the tower floor plate from 790 square metres to 785 square metres;
- Increasing the building height from 29 storeys (92.25 metres) to 31 storeys (99 metres); and
- Redesigning the amenity pavilion to include below ground connections to the existing apartment buildings and reduce visual impact from David A. Balfour Park.

The table below outlines the changes between the February 2018 Revised Proposal and the Settlement Offer.

Site Statistics	February 2018 Revised Proposal	Settlement Offer dated May 6, 2019
Site Area (square metres)	12,656.5	12,656.5
Floor Space Index of the site	5.67	5.67
Breakdown of Gross Floor Area (square metres)		
Existing Buildings	48,376	48,376
Amenity Pavilion	521	569
New Residential Building	22,880	22,835
Total	71,777	71,780
Breakdown of New Residential Units		
1-Bedroom	118 (47.0 percent)	Minimum 50 percent 2-bedroom or larger Minimum 10 percent 3-bedroom 265
2-Bedroom	106 (42.2 percent)	
3-Bedroom	27 (10.8 percent)	
Total	251	

Site Statistics	February 2018 Revised Proposal	Settlement Offer dated May 6, 2019
New Building Amenity Space (square metres per unit)		
Indoor	2.4 (595 square metres)	Minimum 2.0
Outdoor	1.2 (202 square metres)	Minimum 1.0
Base Building Setbacks (metres)		
North Lot Line	5.0	7.5
West Lot Line	1.7	7.5
Car Parking Spaces	442	439
New Bicycle Parking Spaces	251	In accordance with the City's standard rate
Tower Heights (metres)	92.25	99.0
Tower Floor Plates (square metres)	790	785
Base Building Floor Plate (square metres)	1,246	980
Parkland (square metres)	761	761

Land Uses

The Settlement Offer maintains the residential land use contemplated in the February 2018 Revised Proposal.

Housing

The Settlement Offer indicates that the 629 existing rental dwelling units within the two residential rental buildings at 44 Jackes Avenue and 33 Rosehill Avenues (the "Existing Buildings") will be maintained as rental dwelling units for at least 20 years beginning from the date that the Zoning By-law Amendment comes into full force and effect.

The Settlement Offer indicates that the Owner has agreed to undertake the following site improvements to the Existing Buildings on the site, the cost of which shall not be passed on to the existing tenants by way of an Above Guideline Rent Increase application:

- Construct a new amenity pavilion substantially in accordance with the Revised Plans, prior to the issuance of the First Above-Grade Building Permit for the proposed development of the new residential building. In the event that the existing outdoor pool is removed prior to the construction of the new amenity pavilion, the owner agrees to make available and provide, for a maximum of one summer season, swimming pool passes to existing tenants for such summer season at a local community pool;
- Renovate and expand the existing fitness room at 44 Jackes Avenue, as described in the Settlement Offer, prior to the issuance of the first above grade building permit for the proposed development of the new residential building;
- Renovate the existing multi-purpose room/party room and lobby at 44 Jackes Avenue and renovate the existing lobby at 33 Rosehill Avenue as described in the Settlement Offer, prior to the issuance of the first above grade building permit for the proposed development of the new residential building;
- Provide an accessible laundry room at 44 Jackes Avenue as described in the Settlement Offer, prior to the issuance of the first above grade building permit for the proposed development of the new residential building; and
- Improve and enhance the existing bicycle storage areas substantially in accordance with the February 2018 Revised Proposal;

The Settlement Offer indicates that the Owner shall:

- Ensure 50 percent of the proposed dwelling units will contain two or more bedrooms and that at least 10 percent of all proposed dwelling units will contain at least three bedrooms; and
- Develop a Construction Mitigation Plan and a Tenant Communication Plan prior to the issuance of the first below grade building permit for the proposed development of the site, all to the satisfaction of the Chief Planner and Executive Director, City Planning and in consultation with the Ward Councillor.

The Settlement Offer indicates that all of the above rental housing and other matters will be secured through one or more agreements with the City, all to the satisfaction of the Chief Planning and Executive Director City Planning and the City Solicitor.

Amenity Space

The Settlement Offer indicates that a minimum of 2 square metres of indoor amenity space per unit and 1.0 square metres of outdoor amenity per unit will be provided. This exceeds the minimum standards stipulated in the Zoning By-law for amenity space.

Parkland

The Settlement Offer and Revised Plans continue to show on-site parkland dedications along the Jackes Avenue frontage and along the east side lot line consistent, with previous submissions.

Parking

The Settlement Offer includes changes to the development that result in a loss of three parking spaces. The site would provide 439 parking spaces.

Section 37

The applicant continues to propose a \$3.7 million Section 37 contribution, which will be allocated to community benefits in the vicinity of the development to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the Ward Councillor.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Without Prejudice "public" Settlement Offer dated May 6, 2019
2. Public Appendix "A" to Public Attachment 1 - Revised Architectural Plans prepared by Hariri Pontarini Architects dated May 3, 2019 (on file with the City Clerk for the purposes of the May 14, 2019 Council meeting)
3. Confidential Attachment 1 - Confidential Recommendations