



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

265 Balliol Street - LPAT Hearing - Zoning By-law Amendment Application - Request for Directions

Date: January 22, 2020
To: City Council
From: City Solicitor
Wards: 12 - Toronto St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

The purpose of this report is to request further instructions for the Local Planning Appeal Tribunal hearing that is scheduled to commence on July 27, 2020.

SUMMARY

The applicant, Artmico Holdings G. P. Inc., the owner of the property at 265 Balliol Street (the "**Site**"), has appealed its Zoning By-law Amendment application to the Local Planning Appeal Tribunal (the "**LPAT**"), due to City Council's failure to make a decision on the application within the time prescribed by the Planning Act (the "**Appeal**").

The application proposes to demolish seven existing rental townhouse dwellings and replace them with a new 29-storey residential building with a six-storey base building to the west of an existing 26-storey rental apartment building at 265 Balliol Street.

On March 27, 2019, City Council directed the City Solicitor, along with appropriate staff, to oppose the application in its current form, and to oppose the Appeal at the LPAT. City Council also directed that staff continue to work with the applicant and seek revisions to the application and report back to City Council on the outcome of those discussions.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Report (January 22, 2020) from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 to the Report (January 22, 2020) from the City Solicitor, if adopted by City Council.

3. City Council direct that all other information contained in Confidential Attachment 1 to the Report (January 22, 2020) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

Planning staff met with the applicant on June 8, 2017 to discuss complete application submission requirements. City Planning expressed concerns related to the height of the building, setbacks, and separation distances. Planning staff also informed the applicant of the on-going Midtown in Focus Study and reviewed emerging directions that had been publicized at prior community consultation events and indicated that a proposed Secondary Plan update would be presented to City Council in late 2017.

The current application was submitted on August 28, 2017 and deemed complete on October 17, 2017. A Preliminary Report on the application was adopted by Toronto East York Community Council on January 16, 2018 requesting staff to hold a community consultation meeting.

The Preliminary Report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE29.37>

On March 2, 2018, the applicant appealed its Zoning By-law Amendment application to the LPAT, citing Council's failure to make a decision on the application within the timeframe prescribed by the Planning Act. The first Pre-Hearing Conference was held at the LPAT on January 16, 2019.

At its meeting of March 27, 2019, City Council adopted the recommendations in a Request for Directions Report dated February 26, 2019 from the Director, Community Planning, Toronto and East York District, to oppose the Appeal at the LPAT in the current form for the lands at the Site. The recommendations also authorized the City Solicitor and appropriate staff to continue discussions with the applicant to resolve the issues outlined in the February 26, 2019 Request for Directions Report.

City Council's consideration and the Request for Directions Report can be found here:

A second Pre-Hearing Conference was held at the LPAT on May 17, 2019. A Hearing has been scheduled for fourteen (14) days commencing on July 27, 2020. A third Pre-Hearing Conference was held at the LPAT on June 11, 2019.

The applicant and the City attended LPAT-led mediation on November 21 and 22, 2019. The three other parties to this Appeal, the Toronto Lands Corporation, the South Eglinton Ratepayers' & Residents' Association (SERRA), and Abraham J. Green (225 Davisville Ave.) Ltd., all participated in the mediation.

In response to the concerns raised by City staff, and further to the discussions with the City, the Toronto Lands Corporation and SERRA at the November 2019 mediation, on January 21, 2020, the City received a Without Prejudice, though not confidential, settlement offer from the applicant's lawyers, McCarthy Tétrault LLP, attached as Attachment 1 (the "**Settlement Offer**").

The Councillor for Ward 12, City Planning and Housing Staff and representatives from SERRA attending a community meeting on January 21, 2020 to present the Settlement Offer to community members.

The Settlement Offer

The Development

The Settlement Offer proposes the demolition of the existing seven rental townhouse units, and the construction of a new 27-storey mixed-use building (91.43 metres to the top of the mechanical penthouse) (the "**New Rental Building**") to the west of the existing 26-storey rental apartment building (the "**Existing Rental Building**") located on the Site. The proposed new 27-storey residential building is comprised of a four-storey podium component with a 23-storey tower component above. The new 27-storey building would contain 233 apartment units, and a small non-residential use at grade facing Balliol Street measuring approximately 175 square metres which is suitable for a small retail or service commercial use. The New Rental Building and the Existing Rental Building will be self-contained and connected only through the underground parking garage.

The proposed development incorporates two levels of below-grade parking consolidated with the existing parking garage at 265 Balliol Street. The proposed parking comprises 233 spaces. Access to the below-grade facility is proposed to be provided via the existing ramp to the east of the Existing Rental Building. A 2.1-metre wide pedestrian walkway, secured by an easement for public pedestrian access, is proposed to be constructed at the west portion of the property, providing pedestrians an alternative off-street route through the property. The applicant has expressed a willingness to extend and/or connect the midblock connection with future midblock connections constructed on neighbouring properties if those opportunities emerge.

The loading/servicing space for the New Rental Building will be accessed from the driveway located between the New Rental Building and the Existing Rental Building. 329 bicycle parking spaces are proposed for the New Rental Building. An additional 48

spaces are proposed to expand the provision of bicycle parking for the Existing Rental Building, where 48 spaces are currently provided resulting in a total of 96 spaces for the existing residents.

The lobby of the New Rental Building will be accessed from Balliol Street. The existing driveways will be reconfigured with the removal of the west driveway entrance and the addition of a new driveway entrance in the middle of the site. The garage and loading space for the New Rental Building will be accessed from the driveway located between the New Rental Building and the Existing Rental Building.

As part of the Settlement Offer, indoor amenity space will be provided on the 5th floor of the New Rental Building, with outdoor amenity space provided on the roof of the podium component of the building. These spaces will be accessible to all residents within the complex on the Site, including those in the Existing Rental Building. A pet relief area is proposed to be included to the rear of the New Rental Building.

Below is a comparison of the original and revised proposals for the Site:

Category	Original Proposal (October 2017)	Settlement Offer (January 2020)
Total Building Height	29 storeys (90.35 metres; 95.38 metres to the top of the mechanical penthouse)	27 storeys (86.4 metres; 91.43 metres to the top of the mechanical penthouse)
Base Building Height	6 storeys (19.2 metres)	4 storeys (15.6 metres)
Proposed Base Building Setbacks North Lot Line (Balliol Street) South Lot Line West Lot Line	7.0 metres 7.33 metres 5.5 metres	6.0 metres 7.5 metres 10.5 metres
Proposed Tower Setbacks North Lot Line South Lot Line West Lot Line	9.0 metres 10.0 metres 18.3 metres	9.0 metres 10.0 metres 15.24 metres
Proposed Tower Separation West East	30.0 metres 20.0 metres	27.0 metres 23.0 metres
Tower Floor Plate	690 square metres	690 square metres

Number of Units	Proposed / New	Existing	Proposed / New	Existing
Studio	174 (65.9 percent)	1	0	1
1 Bedroom	54 (20.5 percent)	151	123 (52.8 percent)	151
2 Bedroom	36 (13.6 percent)	50	85 (36.5 percent)	50
3 Bedroom	264	0	24 (10.3 percent)	0
Subtotal		202	233	202
Total				
	466		435	
Ground Floor Height	4.0 metres		5.2 metres	
Bicycle Parking				
Existing	48		48	
For new units	264		233	
New for existing units	48		48	
Total	360		329	
Loading Spaces	1 Type G		1 Type G	
Amenity Space				
Interior Residential	578 square metres		560 square metres	
Exterior Residential	1300 square metres		554 square metres	

New Affordable Housing and Existing Rental Housing

The Settlement Offer proposes to demolish seven (7) rental townhouse units on the southwest corner of the Site. All the rental units which would be demolished have rents above the mid-range rent category. The proposal to demolish the seven existing rental dwelling units is subject to the provisions of Chapter 667 and the applicant has submitted a Rental Housing Demolition Application, complete with a Housing Issues Report, in support of its Zoning By-law Amendment application. A decision on the Rental Housing Demolition application will not be made until the LPAT has issued a written or oral decision approving the Zoning By-law Amendment application.

The applicant's Housing Issues Report and the Settlement Offer confirm that all 202 rental dwelling units within the Existing Rental Building have either affordable rents (23 units) or mid-range rents (179 units), and the applicant agrees to secure the rental tenure of the existing 202 rental dwelling units in the Existing Rental Building for a period of at least 20 years commencing from the date that the Zoning By-law Amendments come into full force and effect.

The Settlement Offer also proposes improvements to the Existing Rental Building as follows:

- Relocating the laundry room from the basement to the ground floor in the space currently occupied by the lounge;
- Relocating the lounge to a larger space on the ground floor currently occupied by the site management office, which will be moved to the New Rental Building;
- Creating additional storage space in the basement within the area vacated by the laundry;
- Providing 38 more secure bike parking spaces in the basement and establishing 10 short term bike parking spaces near the building entrance; and,
- Moving the un-enclosed outdoor garbage area adjacent to the Existing Rental Building to a combined enclosed waste management and loading area in the New Rental Building.

The costs of these improvements will not be passed through to the tenants of the Site.

Affordable rental housing will be provided in the New Rental Building as part of the applicant's Section 37 community benefits contribution in the Settlement Offer. The greater of 23 rental dwelling units or 10 percent of the new rental dwelling units in the New Rental Building will be affordable rental units with a unit mix of 11 one-bedroom units, 2 one-bedroom-plus-den units, 8 two-bedroom units, and 2 three-bedroom units. All the affordable rental housing units will be provided for a period of no less than 15 years from the date of initial occupancy of each unit.

Section 37 Agreement

As part of the Settlement Offer, the applicant will enter into an agreement with the City pursuant to Section 37 of the Planning Act to secure the following:

- a cash contribution of one million dollars (\$1,000,000) prior to the issuance of the first above-grade building permit for the New Rental Building to be allocated to the Davisville Aquatic Centre;
- the unit mix for the New Rental Building;
- the new affordable housing in the New Rental Building;
- a publicly accessible pedestrian walkway, to be secured by means of a surface pedestrian public easement; and
- a further pedestrian walkway to create a mid-block connection if the properties to the south of the Site receive development approval within 10 years of the execution of the Section 37 Agreement.

Existing rental housing in the Existing Rental Building and a cash-in-lieu of parkland dedication payment will be secured as legal conveniences in the Section 37 Agreement.

Other Matters

There is a concurrently anticipated settlement between the applicant and the Toronto Lands Corporation as described in the Minutes of Settlement attached to the Settlement Offer as Schedule E. This anticipated settlement will be referenced in the recital clauses of the Section 37 Agreement, and the Minutes of Settlement will be attached as

a schedule to the agreement. The City will not be a party to the Minutes of Settlement, and the City will not be enforcing the Minutes of Settlement.

The applicant submitted a revised Functional Servicing and Stormwater Management Report on January 17, 2020 to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services Division. This revised Report includes details about how the proposed development will over control the stormwater discharge, and includes information as to how the development's compliance with City requirements will ameliorate the current infrastructure situation in the area surrounding the Site.

As part of the Settlement Offer, the applicant will withdraw its site specific appeal to the LPAT of Official Plan Amendment 320, prior to the LPAT's final order issuing.

The applicant's Settlement Offer is conditional on the matters proposed to be provided by the applicant being secured in a Section 37 Agreement and a Section 111 Agreement, and the development shall not thereafter be subject to any community benefits charge by-law passed or approved pursuant to the More Homes, More Choices Act, 2019 or successor.

COMMENTS

The purpose of this report is to request further instruction for the LPAT hearing that is scheduled to commence on July 27, 2020.

The City Solicitor requires direction on this matter in litigation.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Attachment #1 - January 21, 2020 Letter from McCarthy Tétrault LLP: Without Prejudice Settlement Offer

Confidential Attachment #1 - Report from City Solicitor