



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

141 Davisville Avenue - LPAT Hearing - Zoning By-law Amendment Application - Request for Directions

Date: October 19, 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 pre-hearing conference that is scheduled for December 7, 2020 and for the hearing scheduled to commence on May 11, 2021.

SUMMARY

CAPREIT Inc. (the "**Applicant**"), the owner of the property at 141 Davisville Avenue (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 application under appeal proposes to construct a 16-storey rental apartment building containing 143 dwelling units and one guest suite (the "**Appealed Application**"). The proposed building would be located on the northern portion of the Site fronting onto Davisville Avenue. The southern portion of the Site fronting onto Balliol Street currently contains a 20-storey rental apartment building with 313 dwelling units, which is proposed to be retained.

The LPAT held a first pre-hearing conference on this matter on November 21, 2018, a second pre-hearing conference on April 30, 2019, a third pre-hearing conference on February 4, 2020 and a fourth pre-hearing conference on July 31, 2020.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Report (October 19, 2020) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 to the Report (October 19, 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 (October 19, 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 May 1, 2017 to discuss complete application submission requirements for a 14-storey apartment building proposal. Planning staff expressed concerns about the proposal including the separation distance between the proposed building and the existing rental building, the determination of the appropriate building height, the potential need for a building stepback from Davisville Avenue as well as the need for a high quality public realm. The subject Application for a 16-storey apartment building was submitted on November 14, 2017.

A Preliminary Report on the Application was adopted by Toronto East York Community Council on April 4, 2018 requesting staff to hold a community consultation meeting. The Preliminary Report can be found here:

<https://www.toronto.ca/legdocs/mmis/2018/te/bgrd/backgroundfile-113206.pdf>

On March 26, 2018, the Applicant appealed its Zoning By-law Amendment application to the LPAT, citing City Council's failure to make a decision on the application within the timeframe prescribed by the Planning Act. The LPAT held a first pre-hearing conference on this matter on November 21, 2018, a second pre-hearing conference on April 30, 2019, a third pre-hearing conference on February 4, 2020, and a fourth pre-hearing conference on July 31, 2020. The South Eglinton Ratepayers' and Residents' Association ("**SERRA**") and the Toronto District School Board were granted party status in the matter. A fifth pre-hearing conference is scheduled for December 7, 2020 and a hearing is scheduled for ten days beginning May 11, 2021.

In response to the concerns raised by City staff, and further to discussions with both the City and SERRA, on October 7, 2020, the City received a Without Prejudice, though not confidential, settlement offer from the Applicant's lawyers, Wood Bull LLP, attached as

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Attachment 1 (the "**Settlement Offer**"). The Settlement Offer expires at the end of the City Council meeting commencing on October 27, 2020.

The Councillor for Ward 12, City Planning and Housing Staff and representatives from SERRA will present the Settlement Offer to community members at a community meeting on October 20, 2020. SERRA has indicated its support for the Settlement Offer.

COMMENTS

The Settlement Offer

The Development

The Settlement Offer proposes the construction of a 14-storey rental building (the "**New Rental Building**") on the northern portion of the Site fronting onto Davisville Avenue. This portion of the site is currently occupied by a landscaped open space and the ramp to the underground garage. The southern portion of the site is currently occupied by a 20-storey rental apartment building fronting onto Balliol Street containing a total of 313 residential rental units ("the **Existing Rental Building**"). The Existing Rental Building is proposed to be retained and improved as part of the Settlement Offer.

The New Rental Building will contain 120 new rental units, which, as part of the Settlement Offer, are proposed to be provided and maintained as rental housing for a minimum period of 15 years, with no applications for demolition or conversion from residential use during this period of time. The 313 rental units in the Existing Rental Building are also proposed to be retained as rental housing for a period of 20 years, with no applications for demolition or conversion from residential use during this time. Furthermore, the Settlement Offer provides a rental unit mix including a minimum of 15 percent 2-bedroom units and 10 percent 3-bedroom units.

The Settlement Offer includes a reduction in building height from the Appealed Application, which was originally proposed at 16-storeys (54.02 metres or 59.02 metres to top of mechanical penthouse). The Settlement Offer proposes a maximum height for the New Rental Building of 14-storeys (45.8 metres or 50.4 metres to the top of the mechanical penthouse). The Settlement Offer proposes a maximum Gross Floor Area of 9,700 square metres. This is a reduction from the Appealed Application which proposed 11,576 square metres.

The New Rental Building will be set back a minimum of 7.3 metres from the northern lot line abutting Davisville Avenue, and a minimum of 5.5 metres from the western lot line. The proposed tower portion of the New Rental Building is set back 9.1 metres from the side lot line to the east or 19.1 metres to the centre of Pailton Crescent. The minimum separation distance from the north face of the Existing Rental Building and the portion of New Rental Building above the fourth floor varies in distance from a minimum of 27.0 metres to 29.8 metres at the eastern corner of the New Rental Building. The Settlement Proposal contemplates a minimum separation distance of 15.5 metres between the Existing Rental Building and the proposed amenity pavilion in the New Rental Building.

The New Rental Building proposal incorporates a total of 206 parking spaces, consisting of 162 spaces for residents and 44 spaces for residential visitors. All parking spaces are proposed to be located within an existing three-level underground parking garage, which is serviced by the existing ramp on-site. The ramp is accessed by a driveway off of Pailton Crescent, located between the New Rental Building and the Existing Rental Building. The loading/servicing space will be accessed from the same driveway. One type "B" loading space would be provided within the New Rental Building and the equivalent of a type "G" loading space is proposed on the driveway area for removal of garbage, which will otherwise be stored underground. The existing type "C" loading space within the Existing Rental Building is proposed to be maintained.

The Settlement Offer proposes a woonerf (shared driveway space) on the west side of the proposed New Rental Building to facilitate move-in access and facilitate pedestrian access to Davisville Avenue from both the Existing Rental Building and the New Rental Building. The Settlement Offer contemplates removable bollards to prevent vehicular traffic on the woonerf, when not in use for loading or garbage removal purposes. The Settlement Offer proposes 110 bicycle parking spaces below-grade for long term parking and 13 short term bicycle parking spaces at grade.

The lobby of the New Rental Building will be accessed via a proposed Urban Plaza at the corner of Davisville Avenue and Pailton Crescent. The Settlement Offer has resulted in a westward shift of the New Rental Building relative to the Appealed Application, to allow for a larger space for the corner Urban Plaza. The Settlement Offer also proposes that the Urban Plaza will be secured as a Privately-Owned Publicly-Accessible Open Space ("**POPS**").

As part of the Settlement Offer, the New Rental Building will provide both indoor (590 square metres) and outdoor amenity space (590 square metres). Indoor amenity space will be provided both on the ground floor and on the third level of the New Rental Building. Outdoor amenity space will be provided on a fourth level roof terrace, as well as two outdoor amenity areas along Balliol Street in front of Existing Rental Building, consisting of a play area at the southwest corner of the Site and an off-leash dog area at the southeast corner of the Site. The Settlement Offer provides that these amenities will be accessible to residents of the New Rental Building, the Existing Rental Building, and the existing rental building at 111 Davisville Avenue, all of which are owned by the Applicant.

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

- one new guest suite within the Existing Rental Building;
- improvements to the existing lobby area and mail room;
- improvements to the entrance canopy;
- relocating the garbage storage area below grade, in order to improve odour condition;

- new formalized entrance off Balliol Street;
- improvements if/as required, to laundry room safety, ventilation and cleanliness;
- improvements, if/as required, to the quality of the storage locks; and

The costs of these improvements will not be passed through to the tenants of the Existing Rental Building or the tenants at 111 Davisville Avenue.

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:

- an Urban Plaza as a POPS, to be secured by means of a surface pedestrian public easement in the size of approximately 307.6 square-metres;
- provide and maintain the 313 existing rental dwelling units (and 1 new rental dwelling unit) in the Existing Rental Building as rental housing together with the new and associated facilities and amenities for a minimum of 20 years;
- provide and maintain the units in the New Rental Building as rental housing together with new and associated facilities and amenities for a minimum of 15 years;
- secure the above listed improvements to the Existing Rental Building;
- requirement to provide a Tenant Communication Plan and a Construction Mitigation Plan prior to the issuance of Notice of Approval Conditions for site plan approval for the proposed Development; and
- secure one guest suite within the New Rental Building for the benefit of the tenants of the New Rental Building.

Other matters

The Settlement Offer outlines commitments from the Applicant, as part of the Site Plan approval process, to examine:

- the minimization of the paved area located on the Balliol Street side of the Subject Site;
- increasing the number of street trees along the Balliol Street frontage;
- the placement of canopy trees along the internal driveway located between the Existing Rental Building and the New Rental Building with adequate soil volumes through raised planters;

- designing a front-yard expression / articulation that is capable of accommodating live/work uses along Davisville Avenue;
- maintaining the mid-century modern architectural character of the canopy on the Existing Rental Building;
- daylighting the existing utility locations; and
- the ability to provide 25 percent of the amenity space as multi-purpose space.

The Applicant has committed, as part of the Settlement Offer, to dedicate 2.3 metres of their property along Davisville Avenue in order to achieve the 23.0 metre road widening required by the Official Plan, as modified by OPA 405. This would be secured through the Site Plan application process.

The purpose of this report is to request further instruction for the LPAT pre-hearing conference that is scheduled for December 7, 2020 and for the hearing scheduled to commence on May 11, 2021.

The City Solicitor requires direction on this matter in litigation.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Letter from Wood Bull LLP: Without Prejudice Settlement Offer dated October 7, 2020 with attached Settlement Plans

Confidential Attachment 1: Confidential Report from the City Solicitor