

**1540-1550 Bloor Street West - Zoning Amendment -
Request for Direction for LPAT Hearing**

Date: March 29, 2021

To: City Council

From: City Solicitor

Wards: 4 - Parkdale-High Park

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

On December 20, 2019, the City received an application to amend Zoning By-laws 438-86 and 569-2013 for 1540-1550 Bloor Street West to permit the development of the lands for a 25-storey (80.6 metres plus 6 metre mechanical penthouse) mixed-use building. The proposal included 327 dwelling units, of which 12 would be affordable rental replacement units; 25,638 square metres of residential gross floor area and 807 square metres of commercial gross floor area. The proposed total gross floor area of 26,445 square metres would result in a density of 10.72 times the area of the lot. The proposal would incorporate a two-level below-grade garage with a total of 100 vehicular parking spaces. A total of 337 bicycle parking spaces were proposed.

An associated application for Rental Housing Demolition and Conversion under Section 111 of the City of Toronto Act (Chapter 667 Municipal Code) was also submitted. That application proposed to demolish 12 existing affordable rental dwelling units on the lands, all of which would be replaced within the proposed development.

The applicant appealed City Council's neglect or failure to make a decision on its application for Zoning By-law Amendment (the "**Appeal**") to the Local Planning Appeal Tribunal (the "**LPAT**") on June 25, 2020. The LPAT has conducted two Case Management Conferences to date, on October 29, 2020 and February 10, 2021. The LPAT has scheduled a two-week hearing commencing on July 5, 2021.

In a report to City Council dated November 13, 2020, City Planning recommended opposition to the Appeal at the LPAT (the "**Request for Direction Report**"). City Planning concluded in the Request for Direction Report that the proposal was inconsistent with the Provincial Policy Statement, 2020, conflicted with and did not conform to the Growth Plan for the Greater Golden Horseshoe (2019), as amended, Report for Action with Confidential Attachment - 1540-1550 Bloor Street West - Request for Direction for LPAT Hearing

and did not conform to the Official Plan, all for the reasons set out in the Request for Direction Report.

City Council adopted the recommendations in the Request for Direction Report to oppose the Appeal, but to continue discussions with the applicant to address the issues outlined in the Request for Direction Report.

On March 15, 2021, the applicant submitted a revised development proposal for 1540-1550 Bloor Street West (the "**Revised Proposal**"). The Revised Proposal in its entirety is available here: <http://app.toronto.ca/AIC/index.do>

The purpose of this report is to request further instructions for the LPAT hearing that is scheduled to commence on July 5, 2021.

City Planning has been involved in the preparation of this report.

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 adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential, as it contains advice which is subject to solicitor-client privilege and litigation privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting of January 15, 2008, Toronto and East York Community Council considered a Preliminary Report on a Zoning By-law Amendment application for 1540 Bloor Street West for a 29-storey mixed-use building (File No. 07 238234 STE 14 OZ). Toronto and East York Community Council directed that staff hold a community consultation meeting with landowners and residents within 120 metres of the site. The preliminary report is on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2008.TE12.29>

At its meeting on February 13, 2008, Planning and Growth Management Committee endorsed an "Avenue Studies 2008" report for the undertaking of an avenue study on

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Bloor Street West from Dundas Street West to Keele Street between Glenlake Avenue and Boustead Avenue. The avenue study report is on the City's website at: <https://toronto.ca/legdocs/mmis/2008/pg/bgrd/backgroundfile-10463.pdf>

At its meeting on March 3, 4, and 5, 2008, City Council endorsed the "Supplementary Report - 2008 Avenue Studies" to permit the undertaking of an avenue study on Bloor Street West from Dundas Street West to Keele Street between Glenlake Avenue and Boustead Avenue. The supplementary report is on the City's website at: <https://www.toronto.ca/legdocs/mmis/2008/cc/bgrd/backgroundfile-49630.pdf>

On August 17, 2009, the landowner who had filed the application at 1540 Bloor Street West appealed the Zoning By-law Amendment and Site Plan Control applications to the Ontario Municipal Board (the "**OMB**"), citing Council's failure to make a decision on the application within the prescribed timelines under the Planning Act. These applications were revised to a 27-storey mixed-use development.

At its meeting of November 30, 2009, City Council adopted "1540 Bloor Street West - Rezoning and Site Plan applications - Request for Directions Report" recommending that staff oppose the application at the OMB. The report is on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.TE29.10>

At its meeting on November 30, 2009, City Council adopted "1540 Bloor Street West - Rezoning and Site Plan applications - Request for Directions Report - Supplemental Report" which provided an update on technical services matters that were not previously identified, and therefore not included in the Request for Directions staff report referenced above. The Supplemental Report is on the City's website at: <https://www.toronto.ca/legdocs/mmis/2009/te/bgrd/backgroundfile-25141.pdf>

At its meeting on November 20, 2009, City Council adopted the recommendations of the staff report "City Initiated Avenue Study of Bloor Street West between Keele Street and the rail corridor, and Dundas Street West between Glenlake Avenue and Boustead Avenue - Final Report." The avenue study report is on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.TE29.2>

At its meeting on December 4, 2009, City Council adopted Official Plan Amendment 100, and By-law 1221-2009 which relates to the properties at 2238 to 2288 Dundas Street West and 105 Ritchie Avenue, and Zoning By-law 1222-2008 and Urban Design Guidelines that includes the subject site, to implement the avenue study.

The previous landowner of 1540 Bloor Street West appealed Council's decision to enact Zoning By-law 1222-2008 to the OMB. This appeal was later withdrawn prior to the OMB conducting a hearing.

In a Decision/Order dated March 9, 2010, in OMB File No. PL090733, the OMB decided that the proposed development at 1540 Bloor Street West was not consistent with the findings and recommendations of the Avenue Study, did not conform with the Official Plan, and did not represent good planning, and was therefore refused. The applicant requested that the OMB review its decision pursuant to Section 43 of the Ontario

Municipal Board Act, which request was addressed by the Executive Vice-Chair of the OMB, who determined that the request did not establish that a rehearing or motion for review of the decision was warranted, in part because "the specific locational characteristics of the site were taken into account and the Decision does not undermine the implementation of the broad policy objectives of the Growth Plan supporting intensification."

COMMENTS

On March 15, 2021, the owner submitted the Revised Proposal, consisting of Revised Plans and Drawings, which are attached as Appendix "A" and "B".

This report has been prepared in consultation with staff from City Planning including Community Planning and Urban Design Staff, and other Divisional Staff.

The Revised Proposal

The Revised Proposal increases the overall building height from 25 storeys to 27 storeys (86.4 metres high plus 6 metre mechanical penthouse) mixed-use building. The proposal includes 374 dwelling units, 24,811 square metres of residential gross floor area and 680 square metres of commercial gross floor area. The proposed total gross floor area of 25,291 square metres would result in a density of 10.34 times the area of the lot. The proposal would incorporate a two level below grade parking garage with a total of 97 vehicular parking spaces. Also, a total of 394 bicycle parking spaces are proposed on the ground level internal to the site and along the Dundas Street West private and public boulevards.

The key revisions include:

- Increase in the tower separation distance to the north and west;
- Decrease in the tower floorplate for the upper floors of the tower to 754 square metres;
- A modest decrease in gross floor area and density;
- Increase in the provision of indoor and outdoor amenity space;
- Provision of a right-of-way conveyance along Bloor Street West;
- Provision of a 6 metre radius corner rounding at the corner of Bloor Street West and Dundas Street West; and
- Provision of a land conveyance to the Toronto Transit Commission (TTC) (subject to the TTC's formal confirmation).

The table below outlines the changes between the original submission from December 20, 2019, and the Revised Proposal dated March 15, 2021.

Site Statistics	December 19, 2019 Original Application	March 15, 2021 Revised Proposal
Site Area (square metres) Post Right-of-Way Widening	2,467 Not proposed	2,467 2,405.9
Frontage (metres)	54	54
Depth (metres)	42	42
Ground Floor Area	2,024	1,332
Residential GFA (m2)	25,638	24,811
Non-Residential GFA (m2)	807	680
Total GFA (m2)	26,445	25,491
Height - Storeys	25	27
Height - Metres	80.6 (excl mech PH)	86.4
Lot Coverage Ratio (percent)	82	55
Floor Space Index	10.72	10.34
Residential Units by Tenure		
Rental Replacement	12	0
Condominium	327	---
Rental	---	374
Total Units	327	374
Total Residential Units		
Bachelor	0	18
1 Bedroom	206	147
2 Bedroom	87	221
3+ Bedroom	34	36
Parking and Loading		
Parking Spaces	100	97

Site Statistics	December 19, 2019 Original Application	March 15, 2021 Revised Proposal
Bicycle Parking Spaces	337	386
Loading Spaces	2	2
Indoor Amenity Space (square metres)	988	772
Outdoor Amenity Space (square metres)	324	781

Built Form, Massing and Height

The Bloor-Dundas Avenue Study considered the subject site through a property-by-property site analysis and identified it as Opportunity Site 3, one of eight sites where increased development potential, with mid-rise or taller, was determined as appropriate and distinct, as compared with mid-block properties within the defined Study area.

As such, the Bloor-Dundas Avenue Study identifies the subject site as a 'Taller Mid-rise Building' site which permits 15-storeys and its implementing Zoning By-law 1222-2009 permits 32 and 47 metre height maximums, provided a full land consolidation of 1540 to 1552 Bloor Street West has been achieved. The subject site does not achieve the full consolidation because it does not include the property at 1552 Bloor Street West.

The Revised Proposal consists of a 27-storey mixed-use building, (increased from 25 storeys) comprising a 13-storey tower element on top of a stepped 6 to 14- storey building with retail space at grade. The Revised Proposal results in a reduction in the total gross floor area of 953 square metres to 25,491 square metres (from the previous 26,444 square metres) including a reduction from 807 to 680 square metres of at-grade retail uses and a reduction from 25,637 square metres to 24,811 square metres of residential uses, resulting in a density of 10.34 FSI (from 10.72 FSI).

Base Building

The Revised Proposal is for a simplified building form where the building largely fills the lot up to the 6th storey, sets back and rises up to 14 storeys, sets back again and rises up to 27 storeys. In essence, it is a tall mid-rise building with a 13-storey tower on top.

Height

The site is located at the intersection of two *Avenues*, Bloor Street West and Dundas Street West. The Bloor-Dundas Avenue Study states that since the subject site is located at an intersection, and because it is buffered from the neighbourhoods by transit infrastructure, it may be an appropriate location for a 'taller mid-rise building'. In addition, Official Plan Section 3.1.3 Built Form - Building Types, states that the built form relationships and design of the building types is informed by citywide urban design

guidelines that help to ensure the proper form and fit with the existing and planned context.

Transition

A 45-degree rear angular plane is required by Zoning By-law 1222-2009, Section 4(3)(a)(i), so that buildings setback a minimum distance of 7.5 metres from any lot located in a T District. The proposal abuts a T District to the north at the Dundas West TTC Station.

Section 5.2.6, Rear Transition, of the Bloor-Dundas Study states that the purposes of the MCR zoning's setback and angular plane are to define a building envelope that transitions between mid-rise buildings on *Avenues* and low-rise residential neighbourhoods to the rear, to protect abutting neighbourhoods and to provide for privacy, sunlight, and sky-views. The study requires a 45-degree rear angular plane taken from an elevation of 10 metres at 7.5 metres from the rear property line.

Zoning By-law 438-86 requires a 45-degree angular plane on Bloor Street West from an elevation of 16 metres for the properties at 1542 to 1550 Bloor Street West.

Tower Separation

Section 3.1.3.11(d) of the Official Plan states that the tower portion of a tall building should be designed to provide the appropriate separation distances from side and rear lot lines and the reasons are in keeping with the below cited Tall Buildings Design Guidelines.

Section 3.2.3 of the Tall Building Design Guidelines states that tall buildings should provide a separation distance of 12.5 metres or greater from the side and rear property lines or centre line of an adjacent lane, measured from the exterior wall of the buildings, excluding balconies. The intent of this Guideline is to minimize negative impacts on the public realm and neighbouring properties such as adverse shadowing, pedestrian-level wind, blockage of sky view, and to maximize the environmental quality of building interiors, including day lighting, natural ventilation, and privacy for building occupants.

Building Setbacks

The proposed building setbacks at grade are:

- 1.4 metres to the south (decreased from 1.8 metres in the December 2019 proposal);
- 1.2 to 1.7 metres to the north (increased from the 0 to 0.5 metres in the December 2019 proposal);
- 0 metres for the majority of the west property lines (unchanged from previous December 2019 proposal); and

- the eastern building setbacks appear to be similar to the December 2019 proposal however, staff cannot determine with certainty since the dimensions have not been provided.

The Bloor-Dundas Avenue Study states that a 7.5 metre rear setback should apply to allow for a 6 metre, two-way lane and a landscape buffer, 1.5 metres wide, at the north property line. Also, Zoning By-law 1222-2009 requires a minimum rear yard setback of 7.5 metres from any lot or portion of any lot located in an R or T District. The Dundas West Station abuts the subject site to the north and is located in a T District.

Building Stepbacks

The following are the building stepbacks for the Revised Proposal:

- North side: the revised proposed building stepbacks from the north side of the building would range from approximately 10.4 metres at the west and 1.65 metres at the east side on level 2; 3 metres on level 6; and 6.5 metres on level 14.
- South side: the revised proposed building stepbacks from the south side of the building would range from approximately 1.5 metres above the ground floor and 3 metres on level 6.
- East side: the revised proposed building stepbacks from the east side of the building are 2.4 to 3 metres on level 6 and 2.4 to 5.7 metres on level 14.
- West side: the revised proposed building stepbacks from the west side of the building would range from approximately 5.4 metres on level 6 to 7 metres on level 14.

Staff request that the applicant provide a detailed comparison of setbacks and stepbacks between the previous proposal and the Revised Proposal.

Floor Plates

When adequately separated, slender, point form towers with compact floor plates cast smaller, faster-moving shadows, improve access to sky view, permit better views between buildings and through sites, and contribute to a more attractive skyline.

The proposed tower floor plates on levels 7 to 14 are 1,109 square metres which is significantly in excess of 750 square metres. However, the balance of the tower floor plates on levels 15 to 27 are proposed to be 754 square metres, which is very close to achieving the tall building floor plate guideline of 750 square metres.

Tower Levels	Floorplate Size (square metres)
5 to 6	1,523
7 to 14	1,109
15 to 27	754

Balconies

The Revised Proposal includes inset balconies as compared with the original submission which included wrap-around balconies.

Mechanical Penthouse

The various zoning performance standards applicable to this site recommend that the mechanical penthouse be contained within a 45 degree angular plane, have a maximum height of 5 metres, avoid creating additional shadow impacts on the street and be integrated into the design and massing of the upper floors. The revised proposal is for a 6 metre high mechanical penthouse that extends beyond the rear and edge of roof 45 degree angular planes and exceeds the zoning height maximum by one metre. The mechanical penthouse is integrated into the design of the building on the south and east elevations.

Density

The proposed density in the original submission was 10.72 times the area of the lot and the revised submission proposes a density of 10.34, reflecting a modest decrease in density of 0.38 FSI.

Sun/Shadow

A Sun/Shadow Study, prepared by IBI Architects and dated March 15, 2021, was submitted in support of the Revised Proposal, illustrating shadow conditions for the March 21st, June 21st and September 21st equinoxes.

The revised Sun/Shadow Study illustrates that at 9:18 a.m. on the March 21st equinox, shadows are cast onto the designated Neighbourhoods to the northwest, including the Chelsea Avenue Playground designated Park space. At 10:18 a.m., the shadows are eliminated from the Park, however they continue to be cast onto the Neighbourhoods

properties along Edna Avenue as they move in a north-westerly to a north-easterly direction until 1:18 p.m.

The Official Plan Sections 3.1.2.3(3e and f)), state that new development will adequately limit any resulting shadowing on neighbouring streets, properties and open spaces, and minimizing any additional shadowing condition on parks as necessary to preserve their utility.

Wind

The revised submission includes an Addendum to the Pedestrian Level Wind Assessment prepared by Gradient Wind Engineers and Scientists, dated March 15, 2021. The consultant provides a summary of the changes with the Revised Proposal to the December 2019 submission with respect to: significant architectural design changes, the addition or relocation of outdoor amenity spaces, ground level back-of-house use areas, and the addition of retail entrances on Bloor Street West and Dundas Street West.

The consultant concludes that the ground level conditions surrounding the site are expected to be similar to the original submission. All additional retail entrances are expected to experience comfortable or better conditions throughout the year. Secondary building access points along the north elevation are expected to be comfortable for walking or better throughout the year, which is acceptable.

The second level amenity area is expected by the consultant to be suitable for a mix of sitting and standing during the summer months and walking or better throughout the remaining seasons. To ensure a sitting condition throughout the summer months, mitigation measures are recommended and will be further confirmed through a wind tunnel study.

Levels 7 and 15 amenity spaces are expected by the consultant to be suitable for standing conditions during the summer months and walking or better for the remainder of the year. To ensure sitting conditions, mitigation measures may be necessary, to be confirmed through a wind tunnel study.

Traffic Impact, Access and Parking

Traffic Impact

A Transportation Impact Study (TIS) Addendum and a TIS Comment Response Letter, prepared by Lea Consulting, dated March 2021, and March 15, 2021 respectively, were submitted.

Access

The Bloor-Dundas Avenue Study contemplates a 7.5 metre rear (north) setback and Zoning By-law 1222-2009 requires a minimum 7.5 metre rear yard setback from a lot located in location to a 'T' District towards the realization of a future rear laneway

connection. The proposal is for rear pedestrian walkway of up to 1.6 metres in width in an east-west orientation.

Parking

The resubmission of the TIS report provides a parking reduction justification from 100 to 97 vehicular parking spaces on two levels in an underground garage.

Road Widening

The Revised Proposal is for a 0.40 metre road widening dedication to the City along the Bloor Street West frontage and a 6 metre radius corner rounding at the northwest corner of Bloor Street West and Dundas Street West.

Loading

The proposal is for one Type 'G' loading space and one Type 'B' loading space, consistent with the previous submission.

Toronto Transit Commission (TTC) Requirements

TTC staff have determined that they require 40 square metres of land from the subject site along the northern property line.

Servicing

A Functional Servicing Report and Stormwater Management Report, prepared by Lithos Group Incorporated, dated March 2021 and a Servicing Report Groundwater Summary, dated August 2019, were submitted.

Streetscape

Proposed on Bloor Street West is a 1-metre wide building setback to the future property line (accounting for the 0.40 metre wide right-of-way conveyance). From the future property line to the curb is a 5 metre wide public boulevard, resulting in a total of 6 metres from the building face to the curb. In addition, proposed are three retail entrances.

Proposed on Dundas Street West at the Bloor Street West corner is a building setback widths from 4.5 metres to 8.3 metres taken from the building face to the property line and 2.4 metres from the property line to the curb, resulting in a total of 6.9 metres to 10.7 metres in boulevard width. Moving north on Dundas Street West, proposed is a building setback width of 5.6 metres taken from the building face to the property line and 3.6 metres taken from the property line to the curb, resulting in a total of 9.2 metres in boulevard width. Also proposed are one retail and one residential entrance.

Within the aforementioned zones, a pedestrian clearway minimum of 2.1 metres in width is required to maintain compliance with accessibility standards on the public

boulevard. Proposed is a 2.1 metre wide clearway on Bloor Street West on the public boulevard. Proposed on Dundas Street West is a 2.1 metre wide clearway, however approximately 1.4 metres is on private lands which means that an easement for public access will be required to achieve the required 2.1 metre wide minimum clearway width.

In addition, proposed is a combined total of 36 residential and commercial short-term bicycle parking spaces along the Dundas Street West frontage on private and public lands.

Rental Housing Demolition and Conversion

Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition and conversion of residential rental properties in the City. Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law, implements Section 111. The By-law prohibits the demolition or conversion of rental housing units in buildings containing six or more residential units, of which at least one unit is rental, without obtaining a permit from the City and requires a decision by either City Council or the Chief Planner. The applicant has made an application for Rental Housing Demolition, which remains under review.

Open Space/Parkland

The site is in a parkland acquisition priority area, in accordance with Chapter 415, Article III of the Toronto Municipal Code. Parks staff have indicated that the landowner is required to satisfy the parkland dedication requirement through a cash-in-lieu payment. The residential component of the proposal is subject to a cap of 10 percent parkland dedication while the non-residential component is subject to a 2 percent parkland dedication.

The Revised Proposal is for a revision to the residential and non-residential gross floor areas, a reduction of the site area due to a proposed right-of-way conveyance on Bloor Street West, and a land conveyance at the rear of the site to the TTC.

Noise and Vibration

The proposal did not include a revised Noise and Vibration Study to reflect the changes to the proposed building. Staff request that a revised Noise and Vibration Study Addendum be submitted to reflect the proposed building design in order for a Peer Review be conducted on the current building design.

Amenity Space

The Official Plan states that every significant new multi-unit residential development will provide indoor and outdoor amenity space for residents of the new development. The typical minimum standard of 2 square metres each of indoor and outdoor amenity space for each dwelling unit should be achieved in new significant apartment house developments and the outdoor amenity space should generally be adjacent to the

indoor amenity space. The resubmission includes both indoor and outdoor amenity space for new dwelling units at the standard of 2 square metres per unit.

Family-Sized Units

The Revised Proposal proposes a total of 374 dwelling units: 18 bachelor units (5 percent), 221 one-bedroom units (59 percent), 99 two-bedroom units (26 percent) and 36 three-bedroom units (10 percent).

The Growing Up Guidelines provide a range for unit sizes. Two-bedroom units should be a size that ranges from 87-90 square metres and three-bedroom units should be a size that ranges from 100-106 square metres. The proposal's average size for the two bedroom units is 73 square metres and 83 square metres for the three bedroom units.

Tree Preservation

The Revised Proposal is for two trees (previously three trees) to be planted on the Dundas Street West public boulevard and four trees on the Bloor Street West public boulevard. Zero trees are proposed on the subject site.

Toronto Green Standard (TGS)

The landowner is required to meet Tier 1 Version 3.0 of the TGS. Performance measures for Tier 1 development features secured through the zoning by-law process. Automobile Infrastructure, Cycling Infrastructure, and Storage and Collection of Recycling and Organic Waste. In addition, TGS performance measures will be secured through the Site Plan Approval process.

Toronto District School Board (TDSB) Requirements

The Revised Proposal has been circulated to the TDSB.

Toronto Catholic District School Board (TCDSB)

The revised submission has been circulated to the TCDSB

CONCLUSION

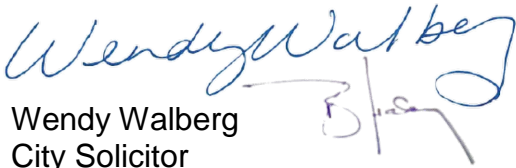
The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client and litigation privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council *in camera*.

CONTACT

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SIGNATURE


Wendy Walberg
City Solicitor

ATTACHMENTS

Appendix "A" to Public Report - Correspondence from Bousfields, dated March 15, 2021

Appendix "B" to Public Report - Revised Architectural Plans

Confidential Attachment 1 - Confidential Recommendations and Confidential Information