

308-314 Jarvis Street, 225 Mutual Street - Zoning By-law Amendment Application - Request for Directions Report

Date: March 29, 2021

To: City Council

From: City Solicitor

Wards: Ward 13 - Toronto Centre

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 January 9, 2015, the applicant (Duration Investments Limited) appealed its Zoning By-law Amendment application to the Local Planning Appeal Tribunal (the "LPAT") due to a lack of decision by the City within the statutory timeframe. On November 28 and 29, 2017, the City Solicitor received a confidential and without prejudice settlement offer from the applicant (the "Original Settlement Offer"), accompanied by architectural plans, prepared by Quadrangle Architects dated November 24, 2017, all of which have since been made public (the "Original Settlement Plans"). During its meeting of December 5, 6, 7 and 8, 2017, City Council adopted, with amendments, the recommendation of the Request for Directions Report (November 29, 2017) from the City Solicitor to accept the Original Settlement Offer. On February 7, 2018, the LPAT rendered an oral decision allowing the applicant's appeal in part and withholding the final order pending satisfaction of a number of conditions.

Subsequent to the LPAT decision, the site was transferred to a new owner. On September 6, 2019 the new owner submitted a Site Plan application accompanied by a new set of architectural plans, prepared by Turner Fleischer Architects Inc. These plans were not part of the Original Settlement Offer accepted by City Council. Since then the new plans have undergone a number of revisions resulting in the most recent versions, dated August 21, 2020 and February 9, 2021. The new architectural plans are attached hereto as Public Attachments 1 and 2. The new architectural plans are different from the Original Settlement Plans approved by Council in a number of material respects. As

such they represent new proposed settlement plans (the "New Settlement Plans") and form part of a revised settlement offer with respect to the Zoning By-law Amendment appeal at the LPAT (the "Revised Settlement Offer"). The purpose of this report is to request instructions with respect to the Revised Settlement Offer.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (March 29, 2021) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to the report (March 29, 2021) 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 (March 29, 2021) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client 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

During its meeting of December 5, 6, 7 and 8, 2017, City Council adopted, with amendments, the recommendations of the Request for Directions Report (November 29, 2017) from the City Solicitor to accept the confidential and without prejudice Settlement Offer, which has since been made public, dated November 28 and 29, 2017, as submitted by Devine Park LLP on behalf of the owner of the subject site:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC35.8>

During its meeting of March 10, 2021, City Council adopted the recommendations of the Report for Action (January 12, 2021) from the Senior Manager, Heritage Planning, Urban Design, City Planning to approve the alterations proposed for the Dr. Charles Sheard House at 314 Jarvis Street (designated under Part IV of the *Ontario Heritage Act*) in accordance with the approved plans and drawings, prepared by Turner Fleischer Architects Inc. and dated August 21, 2020, and in accordance with the reconstruction plan prepared by Goldsmith Borgal & Company Ltd. Architects, dated December 2, 2020, both on file with the Senior Manager, Heritage Planning:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE23.22>

COMMENTS

On January 9, 2015, the applicant, Duration Investments Limited, appealed its Zoning By-law Amendment application to the Local Planning Appeal Tribunal (the "LPAT") due to a lack of decision by the City within the statutory timeframe. On November 28 and 29, 2017, the City Solicitor received a confidential and without prejudice settlement offer from the applicant's counsel (the "Original Settlement Offer"), accompanied by architectural plans, prepared by Quadrangle Architects and dated November 24, 2017 (the "Original Settlement Plans"), all of which have since been made public. During its meeting of December 5, 6, 7 and 8, 2017, City Council adopted, with amendments, the recommendation of the Request for Directions Report (November 29, 2017) from the City Solicitor to accept the Original Settlement Offer.

On February 7, 2018, the LPAT rendered an oral decision allowing the applicant's appeal in part and withholding the final order pending satisfaction of a number of conditions, including achieving the final form of zoning by-law amendments, entering into and registering on title a Section 37 agreement, resolving heritage issues relating to the reconstruction and preservation of the heritage building on the site, and the provision of a Functional Servicing and Stormwater Management Reports to the satisfaction of Engineering and Construction Services Staff, all in accordance with the accepted Original Settlement Offer, as amended by City Council decision in Item CC35.8 on December 5, 6, 7 and 8, 2017.

Subsequent to the LPAT decision, the site was transferred to a new owner, Jarvis Carlton GP Inc. On September 6, 2019 the new owner submitted a Site Plan application accompanied by a new set of architectural plans, which were not part of the Original Settlement Offer accepted by City Council. The new plans were prepared by Turner Fleischer Architects Inc. and are dated August 21, 2020 and February 12, 2021 (the "New Settlement Plans"). The New Settlement Plans are attached hereto as Public Attachments 1 and 2. The New Settlement Plans are different from the Original Settlement Plans approved by Council in a number of material respects and, as such, form part of a revised settlement offer with respect to the Zoning By-law Amendment appeal at the LPAT (the "Revised Settlement Offer").

The table below outlines the key statistical data for the Original Settlement Plans compared with the New Settlement Plans:

Category	Original Settlement Plans	New Settlement Plans
Site Area	3,211 square metres	3,204 square metres

Category	Original Settlement Plans	New Settlement Plans
Gross Floor Area (GFA)		
Residential	33,435 square metres	32,091.5 square metres
Non-residential	241 square metres	242.7 square metres
Total	33,676 square metres	32,334.2 square metres
Floor Space Index (FSI)	10.5x	10.5x
Podium Heights		
Townhouse	10.9 metres	10.1 metres
6th storey (setback from Jarvis St)	20.6 metres (5.5 metres setback)	18.65 metres (5.5 metres setback)
10th storey (setback from Jarvis St)	32.6 metres (23.4 metres setback)	31.5 metres (31.5 metres setback)
Tower Height (incl. MPH)	108.5 metres	108.5 metres
Tower Floor Plate	771 square metres	771 square metres
Tower Setbacks from property lines		
North	1.7 – 5.1 metres	1.7 – 5.1 metres
South	11.2 – 24.2 metres	11.2 – 24.2 metres
East	23.5 metres	23.5 metres
West	10.6 metres	10.4 metres
Residential Units		
Studio	0 (0 percent)	80 (16.4 percent)
1 Bedroom	197 (53 percent)	177 (36.2 percent)
2 Bedroom	141 (38 percent)	183 (37.4 percent)
3 Bedroom (incl. Townhouses)	34 (9 percent)	49 (10 percent)
Total	372 (100 percent)	489 (100 percent)
Amenity Area		
Indoor	737 square metres (2 m ² / unit)	978 square metres (2 m ² / unit)
Outdoor	556 square metres (1.5 m ² / unit)	754.9 square metres (1.5 m ² / unit)

Category	Original Settlement Plans	New Settlement Plans
Vehicular Parking		
Visitor + Commercial	17	24
Residential	144	83
Total	161 (0.43 / unit)	107 (0.22 / unit)
Bicycle Parking		
Total (long-term : short-term)	378 (1.0 / unit) (298:80)	496 (1.0 / unit) (442:54)

The proposed number of dwelling units has increased from 372 dwelling units to 489. The average size of units has been reduced to accommodate the additional dwelling units. There are no changes to the proposed building envelope, including building setbacks, stepbacks, massing and heights, as a result of the additional units.

The table below summarizes the approximate range of unit sizes on the Original Settlement Plans compared with the New Settlement Plans.

Unit Type	Approximate Range of Unit Sizes	
	Original Settlement Plans	New Settlement Plans
Studio	N/A	30.5 – 31.1 square metres (329 - 335 square feet)
1 bedroom	43 – 79 square metres (460 – 850 square feet)	42 - 63 square metres (449 - 674 square feet)
2 bedroom	59 – 116 square metres (630 – 1250 square feet)	61 – 83 square metres (659 - 899 square feet)
3 bedroom	111 – 139 square metres (1200 – 1500 square feet)	83 - 121 square metres (895 - 1300 square feet)

In order to maintain the amenity space and bicycle parking ratios relative to the number of dwelling units, the proposed gross floor area for amenity space and number of bicycle parking spaces has commensurately increased.

The proposed parking supply rate has been reduced from 0.43 spaces per dwelling unit (161 spaces) to 0.22 spaces per dwelling unit (or 107 spaces).

The proposed development originally entailed the retention *in situ* of the existing 314 Jarvis Street building, designated under Part IV of the Ontario Heritage Act, 1990. However, as a result of fire damage, the rear portion of the heritage building was destroyed. In light of this fact, the remaining portions of the building will be retained and the missing portions will be reconstructed and connected to the proposed development. The Report for Action (January 12, 2021) from the Senior Manager, Heritage Planning, referenced in the Decision History above, sets out the revised restoration and preservation measures that the owner will be required to undertake.

The proposed driveway to the site has been relocated from the middle of the site facing Jarvis Street to the southern edge of the site facing Jarvis Street. Internal configurations for loading and underground parking have also been revised accordingly.

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 privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

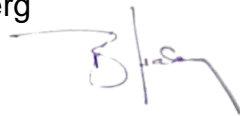
CONTACT

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SIGNATURE



Wendy Walberg
City Solicitor



ATTACHMENTS

Public Attachment 1 - Architectural Plans prepared by Turner Fleischer Architects Inc. and dated August 21, 2020 for the property municipally known as 308-314 Jarvis Street, 225 Mutual Street

Public Attachment 2 - Architectural Plans prepared by Turner Fleischer Architects Inc. and dated August 21, 2020 and February 9, 2021 for the property municipally known as 308-314 Jarvis Street, 225 Mutual Street

Confidential Attachment 1 - Confidential Information