



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

22 Balliol Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Further Directions

Date: September 22, 2021

To: City Council

From: City Solicitor

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

REASON FOR CONFIDENTIAL INFORMATION

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 a hearing scheduled to commence on October 6, 2021 before the Ontario Land Tribunal (the "OLT").

SUMMARY

Shiplake Properties Ltd. (the "Applicant") has applied for a Zoning By-law Amendment (the "Application") for the property municipally known as 22 Balliol Street (the "Site"). The Applicant initially submitted their Application on February 23, 2016, and proposed the construction of a 38 storey mixed-use rental building containing 425 dwelling units on the Site. On October 26, 2017, the Applicant appealed the Application to the Local Planning Appeal Tribunal (the "LPAT"), now the OLT, for non-decision (the "Appeal"). An OLT hearing for this matter was initially scheduled for twelve days intended to commence on September 27, 2021. In addition to the City and the Applicant, the South Eglinton Ratepayers' and Residents' Association ("SERRA") is also a party to the Appeal.

On July 14, 2021, City Council considered a solicitor's report regarding a with prejudice settlement offer and revised plans from the Applicant intended to resolve the Appeal as item CC35.26. The revised plans are dated July 6, 2021 and prepared by gh3 Architects (the "Revised Plans"). The Revised Plans show a 38-storey building with 399 dwelling units. The building has a reduced tower floor plate of 750 square metres and includes increased stepbacks of 1 metre above the 2nd floor and 1.5 metres above the 4th floor. There are no projecting balconies on the north, south, and east sides of the tower. The Revised Plans also include a 3 metre north-south mid-block pedestrian connection on the eastside of the Site, and provides room for a grocery store to be contained within the building. In its decision, City Council adopted amended recommendations from a motion by the local Ward Councillor refusing the with prejudice 22 Balliol Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Further Directions

settlement offer but instructing the City Solicitor and appropriate City Staff to continue settlement discussions with the Applicant.

As a result of such ongoing discussions between the Applicant and the City, on September 15, 2021, the City Solicitor received a new with prejudice settlement offer from the Applicant (the "With Prejudice Settlement Offer"). The new With Prejudice Settlement Offer proposes to resolve the Appeal on the basis of the Revised Plans (which were previously before City Council on July 14, 2021, as described above) and adds a new affordable housing component to the proposed development to be secured as a Section 37 community benefit contribution. In order to resolve the Appeal, the Applicant is now proposing to include within the development one of the following two affordable housing options, whichever is preferable to the City:

- **Option 1:** Thirty-two (32) affordable rental units, secured at affordable rents for twenty-five (25) years, comprising twenty-four (24) one-bedroom units and eight (8) two-bedroom units; or,
- **Option 2:** Thirty-three (33) affordable rental units, secured at affordable rents for twenty-five (25) years, comprising twenty-six (26) one-bedroom units and seven (7) two-bedroom units.

The Applicant, the City, and SERRA, as the parties to the Appeal, have all agreed on consent to adjourn the first 7 days of the OLT hearing that was scheduled to commence on September 27, 2021 in order to permit time for City Council to consider the new With Prejudice Settlement Offer at its next meeting on October 1 and 4, 2021. As a result, the OLT hearing for this matter will now commence on October 6, 2021.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (September 22, 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 (September 22, 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 (September 22, 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

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

A pre-application consultation meeting was held on December 17, 2015. Staff raised concerns with the proposed floor plate size, the proximity of the tower to the east property line, the base building height, the treatment of the building at grade and the overall height of the development. At a subsequent pre-application meeting of February 22, 2016, staff reiterated its concerns.

A Preliminary Report on the application was adopted by Toronto and East York Community Council on May 10, 2016 authorizing staff to conduct a community consultation meeting. The Preliminary Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE16.34>

On October 26, 2017, the applicant appealed City Council's neglect or failure to make a decision on its application to the LPAT.

On July 23, 2018, City Council adopted Official Plan Amendment 405 (Midtown in Focus) with modifications and authorized the Chief Planner and Executive Director, City Planning to seek the approval of the Minister of Municipal Affairs of Ontario for Official Plan Amendment 405. The Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item+2018.PG31.7>

On June 5, 2019, the Ministry of Municipal Affairs and Housing made a decision on OPA 405, modifying some of the Council adopted Midtown in Focus, including the building height permissions in the Midtown area.

The LPAT held the first Pre-hearing Conference on the appeal on November 6, 2018. A Request for Direction Report was adopted with amendments at the January 30 and 31, 2019 meeting of City Council. The Request for Direction Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE2.4>

On July 14, 2021, City Council considered a solicitor's report regarding a with prejudice settlement offer and revised plans from the Applicant intended to resolve the OLT Appeal as Item CC35.26. City Council adopted amended recommendations from a motion by the local Ward Councillor to refuse the with prejudice settlement offer and instruct the City Solicitor to continue settlement discussions with the Applicant. The Solicitor's Report and City Council's decision can be found here:

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about ongoing litigation before the OLT 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 City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Letter from Goodmans LLP dated September 15, 2021 containing the new With Prejudice Settlement Offer
2. Public Attachment 2 - Revised Plans dated July 6, 2021 by gh3
3. Confidential Attachment 1 - Confidential Information