

700-730 Mount Pleasant Road, 214-226 Soudan Avenue, and 19-21 Brownlow Avenue – Zoning By-law Amendment – Request for Further Direction Regarding OLT Hearing

Date: November 2, 2021

To: City Council

From: City Solicitor

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

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

Wells Gordon Limited (the "Applicant") is the owner of the property municipally known as 700-730 Mount Pleasant Road, 214-226 Soudan Avenue, and 19-21 Brownlow Avenue (the "Subject Site"), located on the north side of Soudan Avenue, west of Mount Pleasant Road. The Subject Site currently contains the Briton House Retirement Centre (the "Briton House"), which is comprised of a two-tower building, being 10 and 12 storeys in height, and an above ground Toronto Parking Authority parking garage at 730 Mount Pleasant Road.

On November 2, 2017, the Applicant submitted a Zoning By-law Amendment application to the City (the "Application") to permit the development of a new 25-storey building (88.6 metres including mechanical penthouse), including a 7-storey base podium building (the "Original Proposal"). The Original Proposal proposed to add 133 assisted living nursing rooms to the existing retirement centre (in the base podium) and 123 independent retirement dwelling units (in the tower component).

In 2018, the Applicant appealed its Application to the Local Planning Appeal Tribunal ("LPAT"), now known as the Ontario Land Tribunal ("OLT" or the "Tribunal"), for non-decision by City Council (the "Appeal"). The Appeal is known as LPAT File No. PL180431. A first case management conference was held on March 22, 2021 and a second case management conference was held on June 22, 2021. A 5-day hearing is currently scheduled for January 10 to 14, 2022. In addition to the City and the Applicant, the following are also parties to the Appeal: Royalwood Developments Limited (owners of 55 Brownlow Avenue); the Toronto District School Board ("TDSB"); and the South Eglinton Ratepayers' and Residents' Association ("SERRA").

City Council, in its decision regarding a Request for Interim Direction Report by City Planning (dated June 21, 2018) instructed the City Solicitor and City staff to oppose the Original Proposal in its current form and to continue reviewing the Application in an effort to resolve any outstanding issues with the proposal. As a result, without prejudice discussions between the City, the Applicant, and the above mentioned parties continued in order to seek amendments to the proposal that would address the City's remaining concerns with the design.

On November 1, 2021, the Applicant's counsel, WeirFoulds LLP, submitted to the City Solicitor a with prejudice settlement offer (the "Settlement Offer") based on revised architectural plans dated October 18, 2021 and prepared by SRM Architects (the "Revised Plans"). The Revised Plans and Settlement Offer are the result of discussions between the City and the Applicant.

The Settlement Offer is attached to this report as Public Attachment 1 and the Revised Plans are also attached as Public Attachment 2. The Settlement Offer and Revised Plans are described further in the "Comments" section below.

The purpose of this report is to request instructions for the upcoming OLT hearing.

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 the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor, as it contains advice 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

On February 21, 2018, City Council considered and adopted the recommendations of a Preliminary Report by City Planning regarding the Original Proposal and scheduling a community consultation meeting. A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE30.45>

On July 23, 2018, City Council considered and adopted the recommendations of a Request for Interim Direction Report by City Planning seeking instructions regarding the Applicant's zoning by-law amendment Application in the event of an appeal to the Tribunal during the election period when City Council does not meet. City Council authorized the City Solicitor and City staff to attend the Tribunal to oppose the Original Proposal and authorized City staff to continue reviewing the application with the Applicant to resolve any outstanding matters. A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.39>

COMMENTS

The Settlement Offer and the Revised Plans show a revised proposal for a new residential building situated to the west, and separate from, the existing Briton House. The Settlement Offer and Revised Plans includes certain changes to the design of the building. The Settlement Offer and Revised Plans include the following:

- The height of the proposed building is has been reduced from 25-storeys (88.6 metres including mechanical penthouse) down to 21-storeys (71 metres including mechanical penthouse);
- The base building has been reduced in height from 7 storeys to 4 storeys;
- The building mass has been lowered to be entirely under a 60-degree angular plane taken from the front property line of the residential dwellings across the street on the south side of Soudan Avenue;
- The total residential gross floor area ("GFA") has been reduced from 19,193 square metres to 15,832.84 square metres;

- The total number of new residential units has been reduced from 256 units to 204 units. The unit mix now includes 21 3-bedroom units (10.3 percent) and 56 2-bedroom units (27.5 percent);
- 105 vehicular parking spaces are now being provided, including 6 visitor spaces. The number of bicycle parking has increased to 242 spaces;
- The proposal now includes a total of 939.44 square metres of indoor and outdoor amenity space, which exceeds the by-law requirement;
- A dog wash area and access to outdoor amenity space at grade are now included;
- The development now includes a privately-owned, publically-accessible space ("POPS") at the front of the building along Soudan Avenue and Brownlow Avenue. The POPS will have a 9 metre depth along Soudan Avenue and a 5 metre depth along Brownlow Avenue, and will be accessible to both future residents and the public. In addition, new tree plantings and landscaping is proposed both in the POPS and in the public right of way along Soudan Avenue and Brownlow Avenue and sufficient room for the required soil depth to accommodate same has been provided. The POPS will be secured through the Section 37 Agreement between the Applicant and the City;
- The Type "G" loading space has now been fully enclosed. In addition vehicular access to the loading spaces has been changed to allow trucks to enter off Brownlow Avenue and exit onto Soudan in one direction of movement, now avoiding the need for trucks to back up over the POPS or public right of way. This design has now resulted in two curb cuts on Brownlow Avenue and one curb cut on Soudan Avenue. The Applicant has committed to continue to work with the City to refine the revised driveway design in order to attempt to consolidate the curb cuts on Brownlow if possible, to the satisfaction of Transportation Services;
- As part of the Settlement Offer, the Applicant has agreed to provide evidence at any settlement hearing acknowledging that any future redevelopment on the Briton House property to the east (which the Applicant also owns) would need to accommodate and provide appropriate tower separation from the proposed new building;
- As part of the Settlement Offer, the Applicant has also agreed to provide a letter from its wind consultant confirming that the revisions to the west façade of the building to increase tower setback will not create any unsatisfactory wind impacts, and will implement through the site plan process any identified wind mitigation measures; and
- Finally, the Applicant has offered an indexed Section 37 community benefit contribution of \$1,500,000 intended to be allocated for local area improvements in the vicinity of the Subject Property, to the satisfaction of the Chief Planner in consultation with the local Ward Councillor.

In the Settlement Offer letter the Applicant confirms that they have also reached a settlement agreement with the TDSB that resolves the School Board's concerns with the proposal.

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Settlement Offer dated November 1, 2021
2. Public Attachment 2 - Revised Plans dated October 18, 2021
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information