



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

717-733 Mount Pleasant Road - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Further Directions

Date: November 2, 2021

To: City Council

From: City Solicitor

Wards: Ward 15 - Don Valley West

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 January 31, 2022 before the Ontario Land Tribunal (the "**OLT**" or "**Tribunal**").

SUMMARY

Rockport (MPE) Inc. (the "**Applicant**") has applied for a Zoning By-law Amendment (the "**Application**") for the property municipally known as 717-733 Mount Pleasant Road (the "**Site**" or "**Subject Site**").

On December 20, 2019, the Applicant initially submitted its Application to amend Zoning By-law Nos. 438-86 and 569-2013 for the Site in order to permit a 27-storey (92 metres including mechanical penthouse) residential building with retail at grade, including a 5-storey base building measuring 18 metres in height, and a proposed density (floor space index) of 6.68 times the area of the lot (the "**Original Proposal**").

On July 30, 2020, the Applicant appealed the Application to the Local Planning Appeal Tribunal ("**LPAT**"), now known as the OLT, for non-decision by City Council (the "**Appeal**").

An OLT hearing for this matter is scheduled for twelve days commencing on January 31, 2022. In addition to the City and the Applicant, the South Eglinton Ratepayers' and Residents' Association ("**SERRA**"), the Toronto District School Board (the "**TDSB**"), and the Taunton Residents Association (Toronto) Inc. ("**TRA**") are parties to the Appeal.

City Council instructed the City Solicitor in its decision on Item NY21.3 to oppose the Application in its current form at the OLT and to also attempt to negotiate a resolution of 717-733 Mount Pleasant Road - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Further Directions

the Appeal based on revisions to the Original Proposal. Pursuant to Council's instructions, the City, along with the above-noted parties to the Appeal, participated in formal mediation in order to attempt to resolve the outstanding concerns regarding the Application.

On October 28, 2021, the City Solicitor received a with prejudice settlement offer from the Applicant (the "**With Prejudice Settlement Offer**"). The With Prejudice Settlement Offer proposes to resolve the Appeal based on the following changes to the proposed development (the "**Revised Proposal**"), which are reflected in architectural plans dated June 8, 2021 inclusive (the "**Revised Plans**"):

- reduction in the overall building height from 27-storeys to 23-storeys (with a new overall metric height of 81 metres to the top of the mechanical penthouse);
- reduction in height and sculpting of the rooftop mechanical penthouse to reduce its visual and shadow impact;
- reduction in the number of surface vehicle parking spaces at the rear of the building from eleven (11) spaces to nine (9) spaces;
- reductions in the number of balconies on the east façade (from 5 per floor to 3 per floor) to reduce potential overlook impacts onto the residential properties in the adjacent *Neighbourhoods* designation;
- relocation of balconies from the corners of the building to reduce shadow impacts;
- relocation of internal and external amenity spaces to the west side of the building to eliminate impacts on residential properties to the east in the adjacent *Neighbourhoods* designation;
- inclusion of plantings along the perimeter of terraces and outdoor amenity areas and the reduction in the depth of the 2nd floor terraces on the east side of the building to reduce visual impact and prevent overlook;
- use of solid materials on east facing balconies to reduce overlook opportunities;
- inclusion of a dog run on the north end of the 2nd floor with screening to the east;
- reduced ground floor depth to accommodate a 1.2 metre landscaped area along the east property line, which is to be maintained by the Applicant; and
- the provision of a 7.5 metre wide paved public laneway which will form part of the eventual public laneway network connecting to Soudan Avenue, and will

eventually provide access to sites designated Mixed Use Areas along Mount Pleasant Road.

The With Prejudice Settlement Offer includes a community benefit cash contribution of \$1.6 million, to be secured in a Section 37 Agreement, pursuant to Section 37 of the Planning Act.

The City Solicitor requires further instructions regarding the With Prejudice Settlement Offer from City Council at its upcoming meeting on November 9 and 10, 2021, as the offer will expire at the end of the Council meeting.

A copy of the With Prejudice Settlement Offer is contained as Public Attachment 1 to this Report. A copy of the Revised Plans are also included as Public Attachment 2 to this Report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in the Confidential Attachment 1 to the report (November 2, 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 (November 2, 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 (November 2, 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

On March 12, 2020, North York Community Council considered and adopted the recommendations of a Preliminary Report from City Planning regarding the Application as Item NY14.7. In its decision, Community Council authorized City staff to conduct a community consultation meeting regarding the Application. The Preliminary Report and Community Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY14.7>

On February 2, 2021, City Council considered and adopted the recommendations of a Request for Direction Report from City Planning regarding the Appeal of the Application as Item NY21.3. City Council authorized the City Solicitor and appropriate City staff to oppose the Application in its current form before the OLT and to continue discussions with the Applicant in an attempt to resolve the outstanding issues identified by City Planning staff in the report. The Request for Direction Report and City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY21.3>

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

Marc Hardiejowski, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4960; Fax: (416) 397-5624; Email: marc.hardiejowski@toronto.ca

Alexander J. Suriano, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4837; Fax: (416) 397-5624; Email: alexander.suriano@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Letter from Goodmans LLP dated October 28, 2021 containing the With Prejudice Settlement Offer
2. Public Attachment 2 - Revised Plans dated June 8, 2021 inclusive by Wallman Architects
3. Confidential Attachment 1 - Confidential Information