



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

1540-1550 Bloor Street West - Zoning Amendment - Request for Directions Report

Date: September 23, 2021

To: Toronto and East York Community Council

From: City Solicitor and Director, Community Planning, Toronto and East York District

Ward: 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"), now continued as the Ontario Land Tribunal (the "OLT") on June 25, 2020. The LPAT conducted two Case Management Conferences, on October 29, 2020 and February 10, 2021. The LPAT scheduled a two-week hearing commencing on July 5, 2021, which was adjourned due to witness unavailability until January 10, 2022.

The applicant has made a settlement offer (the "Settlement Proposal") to resolve the Appeal.

The purpose of this report is to request further instructions on the Settlement Proposal for the OLT hearing that is scheduled to commence on January 10, 2022.

RECOMMENDATIONS

The City Solicitor and the Director, Community Planning, Toronto and East York District recommend 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 and Confidential Appendix "A", 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

The City Planning Division and City Solicitor confirm that there are no financial implications resulting from the recommendations included in this report in the current budget year, or in future years.

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 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 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." In connection with the avenue study, 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 avenue study report, along with City Council's decision are on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.TE29.2>

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."

At its meeting on December 16, 2020, City Council adopted "1540-1550 Bloor Street West - Zoning Amendment and Rental Housing Demolition Applications - Request for Direction Report" recommending that staff oppose the application at the LPAT but continue discussions with the applicant. 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, and did not conform to the Official Plan, all for the reasons set out in the Request for Direction Report.

The report is on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-158495.pdf>

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 Revised Proposal made the following changes to the December 20, 2019 application:

- Increased the tower separation distance to the north and west;
- Decreased the tower floorplate for the upper floors of the tower to 754 square metres;

- Decreased the gross floor area and density;
- Increased the provision of indoor and outdoor amenity space;
- Provided for a right-of-way conveyance along Bloor Street West;

- Provided for a 6 metre radius corner rounding at the corner of Bloor Street West and Dundas Street West; and
- Provided a land conveyance to the Toronto Transit Commission (TTC) (subject to the TTC's formal confirmation)

At its meeting on April 7, 2021, City Council adopted "1540-1550 Bloor Street West - Zoning Amendment Request for Direction for Local Planning Appeal Tribunal Hearing" recommending that staff oppose the application at the LPAT but continue discussions with the applicant. The report is on the City's website at: <https://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-165280.pdf>

COMMENTS

The Settlement Proposal contains important differences from the Revised Proposal. The Settlement Proposal is for a 27-storey (86.65 metres excluding mechanical penthouse) mixed-use tall building, as compared to the earlier hybrid building typology which included a taller base building with a tower on top – effectively a mid-rise building with a tower added. Additionally, the base building has been redesigned to meet the current standards in the Zoning By-law, as amended by the Bloor Dundas Study implementing By-law 1222-2009.

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

Site Statistics	December 20, 2019 Original Application	March 15, 2021 Revised Application	September 20, 2021 Settlement Proposal
Site Area (square metres) Post Right-of-Way Widening	2,467 Not proposed	2,467 2,405.9	2,465.4 2,405.9
Frontage (metres)	54	54	54
Depth (metres)	42	42	42
Residential GFA (square metres)	25,638	24,811	23,377
Non-Residential GFA (square metres)	807	680	680
Total GFA (square metres)	26,445	25,491	24,057

Site Statistics	December 20, 2019 Original Application	March 15, 2021 Revised Application	September 20, 2021 Settlement Proposal
Height – Storeys	25	27	27
Height – Metres (excl. MPH)	80.6	86.4	86.65
Floor Space Index	10.72	10.34	9.84
Lot Coverage Ratio (percent)	82%	55%	55%
Parking and Loading			
Parking Spaces	100	97	93
Bicycle Parking Spaces	337		367
Loading Docks	2	2	2
Indoor Amenity Space (square metres)	988	772	710
Outdoor Amenity Space (square metres)	324	781	710

Land Use

The site is designated as *Mixed Use Areas* on Map 18 in the Official Plan. Abutting the site to the north is the Dundas West subway Station which is designated *Neighbourhoods*. Bloor Street West and Dundas Street West are designated *Avenues* in this area.

Mixed Use Areas are expected to absorb most of the anticipated new housing in the City however, not all *Mixed Use Areas* will experience the same scale or intensity of development, with the highest densities found in the Downtown, followed by the sites in the *Centres* and along the *Avenues*. The Official Plan's Mixed Use Area policies address the need to maintain an appropriate built form and scale of building and to limit shadow impacts.

The subject site is identified as Opportunity Site 3 in the Bloor-Dundas Avenue Study and the implementing Zoning By-law 1222-2009 applies to the site.

Built Form, Massing and Height

Base Building

The Settlement Proposal provides a base building that is 13.5 metres or 4 storeys high. The original proposal rose to 23.25 metres before stepping back to a tower form. The ground floor height is 4.5 metres and contains retail, lobby and servicing and the 2nd to 4th storeys are 3.0 metres high and contain residential units, amenity space, bicycle parking and retail and lobby mezzanine space.

The Settlement Proposal includes additions or “shoulders” above and setback from the podium and abutting the tower. On the west side is a 6-storey element and on the north side is an 8-storey element.

Height

The Revised Proposal remains unchanged at 27 storeys (86.65 metres exclusive of the mechanical penthouse).

Transition

The Settlement Proposal terraces back at the rear (north) of the building, 4.6 metres at the 25th storey and 3.45 metres at the 26th storey. The Settlement Proposal except for the stairwell portion of the mechanical penthouse, now fits beneath an angular plane taken from the front property lines of residences on Edna Avenue. The previous version had less stepping at the upper floors and penetrated the angular plane.

Tower Separation

In the Settlement Proposal, the tower element is set back by 12.8 metres from the west lot line and 12.5 metres from the existing north lot line. This is an improvement from the previous proposal.

Building Setbacks (at street level)

The ground floor and second floor have been set back from the north lot line to provide a 7.6 metre-wide and 6.6 metre high clearway which will accommodate the service drive, a pedestrian walkway and a potential future extension of the

existing public lane to the west by way of an easement over the proposed driveway, which would, in the event the adjacent lands to the west redevelop, provide a through block laneway connection to Dundas Street West. The podium cantilevers above the driveway at the second floor to the north lot line. The podium building setback from the west lot line is 0 metres.

The proposed 6 metre dimension, from the south sidewalk edge to the south face of the building, can accommodate the 0.6 metre sidewalk edge zone, 1.8 metre furnishing and planting zone and 2.1 metre pedestrian clearway along with a 1.5 metre outdoor retail zone. The more extensive setbacks of the building from the Dundas Street West property line, range from 4.5 to 8.3 metres and at its narrowest point, the building is approximately 6.6 metres from the curb. The various zones and the overall dimensions from curb to building will be secured through the OLT proceedings.

Building Stepbacks (above the base building)

The Revised Proposal has a tower and podium typology (rather than the previously proposed high mid-rise building with a tower on top).

Floor Plates

In the Revised Proposal, the tower floor plates are generally 840 square metres from floors 15 – 24, an increase in floor plate size from the previously proposed 754 square metres.

Balconies

Inset balconies are proposed to avoid adding to the bulk of the building with projecting balconies.

Mechanical Penthouse

The Revised Proposal for the mechanical penthouse has been reduced in height from 6 to 5 metres and as mentioned above under sub-heading “Transition”, the mechanical penthouse except for the stairwell portion, now fits beneath an angular plane taken from the front property lines of residences on Edna Avenue to the north.

Density

The density of the proposal has been reduced from a FSI of 10.72 in the original proposal to an FSI of 9.84 in the current proposal.

Sun/Shadow

A revised Sun/Shadow Study, prepared by IBI Architects, dated July 29, 2021, was submitted. This study shows that there will be reduced shadow impact on the Chelsea Avenue Playground and the front yards of homes on Edna Avenue.

Access and Parking

Access

Vehicular access to the site is to be provided via an east-west driveway connection to Dundas Street West. Due to its proximity to Bloor Street West, and the operations of the streetcars accessing the adjacent Dundas West TTC Station, vehicle movements to and from the subject site will be restricted to right-in/right-out movements. The 6.0 metre wide driveway, plus a 1.6 metre wide pedestrian walkway will be secured with a public surface easement to facilitate a future connection to the existing east-west public lane to the west of the site (Ln N Bloor E Dorval).

Parking and Loading

A total of 93 parking spaces including 21 visitor parking spaces and two (2) loading docks are proposed.

Bicycle Parking

A total of 367 bicycle parking spaces are proposed to be provided for the development. This includes a total of 359 spaces for residential uses (321 long-term bicycle parking spaces and 38 short-term spaces) and an additional eight (8) spaces for non-residential uses (6 long-term spaces and 2 short-term spaces). The bicycle parking spaces will be provided in the underground garage (P1 and P2 levels) as well as at-grade within the building and on the first floor of the proposed development.

Right-of-Way Widening and Corner Rounding

The applicant proposes conveyances for right-of way widening and a corner rounding at the intersection of Bloor Street West and Dundas Street West, as required by Transportation Services.

Toronto Transit Commission (TTC) and Metrolinx Requirements

Staff require written confirmation from TTC staff whether the revised submission satisfies their requirements. Metrolinx has requested revisions to the Environmental Noise and Vibration Study, and has made comments that will need to be considered at the Site Plan Approval stage.

Servicing

The outstanding issues identified from the Engineering and Construction Services memo dated October 16, 2020, remain and will have to be addressed as part of any final approval of the application by the OLT.

Streetscape

2.1 metre clearway areas on Bloor Street West and Dundas Street West are proposed. A fully dimensioned plan demonstrating that the various streetscape zones, edge, planting and furnishing clearway etc. must be provided to demonstrate that these can be accommodated on Dundas Street West as part of any OLT approval.

Open Space/Parkland

Cash-in-lieu of parkland is proposed. The value of the cash-in-lieu of parkland dedication will be appraised through Real Estate Services. The appraisal will be conducted upon the submission of an application for the first above ground building permit and is valid for six months. Payment will be required prior to the issuance of said permit.

Conclusion

The City Solicitor and Director, City Planning, Toronto and East York District, require further instructions. This report is about litigation before the OLT 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

Laura K. Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-5624; Email: laura.bisset@toronto.ca

Derin Abimbola, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-1376; Fax: (416) 397-5624; Email: derin.abimbola@toronto.ca

Dan Nicholson, Manager, West Section, Toronto and East York District,
Community Planning
Tel: (416) 397-4077 dan.nicholson@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA, Director
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Appendix "A" to Public Report - Correspondence from Aird & Berlis LLP, dated September 20, 2021

Attachment 2: Appendix "B" to Public Report - Architectural Plans on file with the City Clerk for the purpose of the October 1 and 4, 2021 City Council meeting

Attachment 3: Appendix "C" to Public Record - Revised Settlement Offer to City - ZBA

Attachment 4: Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Attachment 5: Confidential Appendix "A" to Confidential Attachment 1 - Confidential Information