



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

1375 Queen Street West - Zoning Amendment - Request for Directions Report

Date: November 2, 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 March 11, 2020, a Zoning By-law Amendment application was submitted for the property at 1375 Queen Street West (the "**Site**"), proposing to amend Zoning By-laws 569-2013 and 438-86 to permit the construction of a new eight-storey mixed-use building with an overall height of 31.65 metres, including the mechanical penthouse (the "Original Proposal"). The Original Proposal included 46 new residential units and approximately 448 square metres of retail space on the ground floor. The total gross floor area of the proposed building was approximately 3,546 square metres representing a FSI of 5.97 times the area of the lot.

The Original Proposal was deemed complete on July 8, 2020. The application was appealed to the Ontario Land Tribunal (the "**OLT**") on November 19, 2020 due to the City's failure to make a decision within the prescribed time period set out in the *Planning Act*. The OLT conducted one Casement Management Conference on Tuesday, May 18, 2021 and has now scheduled a one-week hearing commencing on Monday, November 29, 2021.

The applicant has subsequently made a *with prejudice* settlement offer to the City by way of the with prejudice letter dated October 29, 2021 (Public Appendix A) and revised plans (Public Appendix B), ("the **Settlement Offer**"), that will expire at the close of the December 15-16, 2021 City Council meeting.

The purpose of this report is to request further instructions on the Settlement Offer for the OLT hearing that is scheduled to commence on November 29, 2021.

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, 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 July 16, 2020, Toronto and East York Community Council considered a Preliminary Report on the Zoning By-law Amendment application for 1375 Queen Street West for an eight-storey mixed use building (File No. 20 124823 STE 04 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 link to the preliminary report can be found here:

<https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-148376.pdf>

At its meeting on March 5, 2021, Toronto and East York Community Council adopted "1375 Queen Street West - Zoning By-law Amendment Application - Request for Direction Report" recommending that staff oppose the application at the LPAT but continue discussions with the applicant. The link to the request for directions report can be found here:

<https://www.toronto.ca/legdocs/mmis/2021/te/bgrd/backgroundfile-165492.pdf>

At its meeting on September 30, 2020, City Council adopted Official Plan Amendment No. 445, which had the effect of amending Chapter 7, Site and Area Specific Policies, by adding Site and Area Specific Policy 566 for lands generally fronting Queen Street West between Roncesvalles Avenue and Bathurst Street. The policies of OPA 445

(SASP 566) support opportunities for contextually appropriate growth and change while conserving and enhancing the cultural heritage value of Queen Street West. The link to the request for directions report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE14.5>

These policies have been appealed to the Ontario Land Tribunal and are not in full force and effect.

COMMENTS

The Settlement Offer proposes to amend the Zoning By-law for the property at 1375 Queen West to permit a seven-storey (27.75 metres, inclusive of the mechanical penthouse) mixed-use building comprised of residential and commercial uses. The settlement proposal contains important differences from the Original Proposal, which are set out in the list below:

- A reduction in height from an eight-storey building (26.65 metres, exclusive of the mechanical penthouse) building to a seven-storey building (23.35, exclusive of the mechanical penthouse);
- A reduction in floor space index (FSI) of 5.97 times the area of the lot to 5.49 times the area of the lot;
- A reduction in the streetwall height from five-storeys at 16.65 metres to four-storeys at 13.85 metres, which meets the policies of OPA 445 (SASP 566); and
- Incorporation of two setbacks (3.0 metres at 13.85 metres and 2.0 metres at 19.85 metres) from Queen Street West, which generally reflects the policy direction in OPA 445 (SASP 566).

Land Use

The site is designated as *Mixed Use Areas* on Map 18 in the Official Plan. Mixed Use Areas anticipate a broad array of residential uses, offices, retail services, institutions, entertainment, recreation and cultural activities, and parks and open spaces. *Mixed Use Areas* are expected to absorb most of the anticipated new housing in the City. The Official Plan's Mixed Use Area policies address the need to maintain an appropriate built form and scale of building. This site is located along one of the City's Avenues, one of the identified growth areas shown on Map 2 of the Official Plan. Avenues are considered important corridors along major streets where reurbanization is anticipated and encouraged to create new housing and job opportunities while improving the pedestrian environment, the look of the street, shopping opportunities, and transit service for community residents. In this case, the applicant was not directed to undertake an Avenue Study as the City was conducting the Queen Street West

Planning Study, which resulted in City Council's adoption of Official Plan Amendment 445 ("OPA 445") on September 30, 2020. OPA 445 adds Site and Area Specific Policy 566 ("SASP 566") to the Official Plan for lands generally fronting Queen Street West between Roncesvalles Avenue and Bathurst Street.

The policies of OPA 445 (SASP 566) support opportunities for contextually appropriate growth and change while conserving and enhancing the cultural heritage value of Queen Street West. New development and additions on existing buildings will be located and massed to fit harmoniously with the lower-scale streetwall character of Queen Street West, through implementing heights and stepbacks in relation to their Queen Street West frontage. These policies have been appealed to the Ontario Land Tribunal by the owner, among others, and are not in full force and effect.

Built Form, Massing and Height

Massing

The total Gross Floor Area ("GFA") proposed is 3,674 square metres, including 256 square metres of ground floor commercial space and 3,418 square metres of residential, which is a reduction from the originally proposed 3,546 square metres. The Settlement Offer proposes an FSI of 5.49 times the area of the lot. A total of 44 residential units are proposed, of which 35 are one-bedroom, seven are two-bedrooms, and two are three-bedrooms. The Settlement Offer proposes 193 square metres of total indoor and outdoor amenity spaces, satisfying the amenity space requirements of Zoning By-law 569-2013. The ground floor is organized with commercial spaces fronting Queen Street that also wrap the corner to have frontage on Close Avenue. The residential lobby is located off Close Avenue, south of the commercial unit entrance also located along Close Avenue.

Height

SASP 566 provides for a maximum overall height of six-storeys and 20 metres. The Settlement Offer proposes a seven-storey building (23.35 metres, exclusive of the mechanical penthouse), and is a reduction in height from an eight-storey building (26.65 metres, exclusive of the mechanical penthouse). The mechanical penthouse has been reduced in height, and no longer slopes from back to front, also reducing the impact of this component on the overall height of the structure.

Streetwall Height and Stepbacks on Queen Street West

SASP 566 requires a minimum stepback of 5.0 metres above a streetwall height of 10.5 metres, and an additional stepback of 3.0 metre stepback at a height of 16.5 metres. For corner properties, SASP 566 contemplates a taller maximum streetwall height of 14.0 metres. The Settlement Offer provides a streetwall height of four-storeys at 13.85 metres, which meets the policy standard for sites on corner properties set out in SASP 566. The proposed streetwall along Queen Street West rises to a height of four-storeys before stepping back 3.0 metres, and further rises to six-storeys before stepping back

an additional 2.0 metres. The total setback from Queen Street West is 5.0 metres. The Original Proposal only incorporated one setback from Queen Street West and provided a streetwall height of 16.65 metres, which exceeded the policy direction in SASP 556.

Transition

The Official Plan requires appropriate transition between areas of different intensity and scale, including in particular, between lands designated Mixed Use Areas and Neighbourhoods. More specifically, SASP 566 requires a 9.0 metre rear yard setback from the property line of any adjacent Neighbourhoods-designated property and requires an additional 3.0 metre setback at the rear of the property at a height of 16.5 metres. The rear of the revised proposal steps back 2.0 metres at the fourth storey and then rises to the sixth storey before stepping back an additional 3.4 metres. The Settlement Offer proposes a total setback of 9.0 metres from the adjacent property line to the highest level of the building, including the 3.6 metre private laneway at the rear of the property separating the building from the Neighbourhoods designated property. The Original Proposal was built out to the property line at the rear for a significant portion of the building, and only incorporated a sloped massing without setbacks.

Balconies

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

Access and Parking

Vehicular access is proposed at the rear of the site through a private laneway access off of Close Avenue. Underground parking will be accessed by a car elevator. The car elevator leads to one level of underground parking containing 18 vehicular parking spaces and 46 long-term bicycle parking spaces. No loading space is provided. This is an increase from the Original Proposal, which provided zero parking spaces, which was not in accordance with the provisions of Zoning By-law 569-2013 for Policy Area 4. No Type "G" loading space is provided for in the revised proposal, however the Applicant has proposed to create an on-street loading zone within the Close Avenue public right-of-way, which has been determined to be acceptable by Transportation Services.

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 grade 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, Community 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*.

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SIGNATURE

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ATTACHMENTS

Public Appendix "A" - Correspondence from Goodmans LLP, dated October 29, 2021

Public Appendix "B" - Architectural Plans

Confidential Attachment 1 - Confidential Recommendations and Confidential Information