

**240 Markland Drive - Zoning By-law Amendment
Application - Request for Direction Report**

Date: January 25, 2022

To: City Council

From: City Solicitor

Wards: Ward 2 – Etobicoke Centre

REASON FOR CONFIDENTIAL INFORMATION

This report concerns litigation or potential litigation that affects the City of Toronto.

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

SUMMARY

The purpose of this report is to seek further instruction in relation to a development application that was referred to the Ontario Land Tribunal (OLT).

At its meetings of June 28-29, 2018 and July 16-18, 2019, City Council considered earlier rezoning submissions for the site, ultimately granting the City Solicitor authority to negotiate revisions to reach a settlement on specified terms. Further changes to the plans were made and a settlement was reached. The Tribunal heard a settlement hearing on September 17, 2019, and issued a decision approving the development on March 26, 2020. The final Order was withheld pending the satisfaction of a number of pre-approval conditions.

In mid-2020 a new owner of the site provided City Planning and the City Solicitor with a revised settlement offer and resubmission of the rezoning application proposing a reconfigured built form, an increase in the number of units, but no increase to the proposed density. The offer is the result of extensive discussion with City staff. Further detail regarding revisions to the previous settlement offer is provided below.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the Confidential Recommendations contained in Confidential Attachment 1.

2. City Council authorize the public release of the Confidential Recommendations in Confidential Attachment 1 if adopted by City Council, with the balance of the Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor as it contains advice which is 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 June 2, 2011, the applicant submitted a proposal for a new 15 storey, 220 unit, predominantly residential building fronting Bloor Street West and a 3 storey, 27 unit residential building at the corner of Markland Drive and Sunplains Crescent. A Preliminary Report dated April 25, 2012 on the subject application was adopted at the May 15, 2012, Etobicoke York Community Council meeting.

The report is available at:

<http://www.toronto.ca/legdocs/mmis/2012/ey/bgrd/backgroundfile-46646.pdf>.

The latest submission prior to the appeal to the then-LPAT, dated June 9, 2017, proposed to construct two new buildings, being a 9-storey building on Bloor Street West and a 3-storey building fronting Sunplains Crescent, and to retain the existing rental apartment building. City Council provided direction at its June 26-29, 2018 meeting to oppose the application in its current form but that it had additionally provided direction that if a reduction in height and terracing of certain aspects of the proposed development were to be introduced, that a settlement could be entered into.

That decision of City Council can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EY31.8>

The City Solicitor provided an update to City Council at its meeting of July 16-18, 2019, at which Council directed the City Solicitor to continue opposition to the application, but set out parameters for revisions that would result in a settlement of the ongoing appeal.

That decision of City Council can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.9>

On September 11th 2019, following further discussions with City staff, residents and the Markland Woods Homeowners Association ("MWA"), Minutes of Settlement were entered into between the former Owner and the MWA which addressed matters such as building height, balcony locations and setbacks.

A Tribunal hearing took place on September 17th, 2019, an Oral Decision was provided on that date and the Decision was issued on March 26th, 2020, approving the settlement. The Settlement Proposed included 164 new residential units, 135 units within the 9 storey Bloor Building and 29 townhouse units in the Sunplains Building.

The decision of the Tribunal can be found at the following link:

<https://www.omb.gov.on.ca/e-decisions/pl171321-Mar-26-2020.pdf>

Subsequently the Site was acquired by a new owner who has worked with staff on a revised proposal ("Revised Settlement Offer"). As a result, revised architectural drawings have been prepared, with the most recent drawings dated January 17, 2022.

COMMENTS

This report is about ongoing litigation and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by City Council *in camera*. This report has been prepared in consultation with staff from City Planning.

On January 21, 2022, City Planning received a resubmission and with prejudice offer of revised settlement from Sherman Brown Barristers and Solicitors on behalf of the new owner of the site, 240 Markland Drive LP ("the Owner"). That offer letter is attached as Public Appendix A to this report. Revised Architectural Plans dated January 17, 2022 and prepared by IBI Group are attached as Public Appendix B. The proposed revisions are described below and summarized in Table 1 (collectively, the "2021 Revisions").

The 2021 Revisions provide for an increase in new units from 164 to 234. The Gross Floor Area (GFA) has decreased slightly from 17,678 square metres to 17,615.36 square metres and no change to the maximum building height. The other major change to the settlement proposal was replacing the Broadfield Townhomes with a 3-storey portion of the Bloor Building, containing walk-up units on the ground and second floor, and units within the Bloor Building on the 3rd floor.

As a result of working with staff the revised settlement concept preserves additional greenspace by removing the Sunplains Building from the proposal. Instead, the Bloor Building is extended west closer to the intersection with Markland Drive, and south touching and giving the appearance of extending the existing building. This extension reaches a height of 8 storeys.

The facing distance between the existing apartment building to the Bloor building (not including the western portion touching the existing building) is 29.5 metres at the widest, up from 25 metres in the settlement. The east face of the building is a "U" shape with the main part of the building set back 25.9 metres from the east property line, increased from 24 metres. The new western portion of the Bloor building is set back 8.5 metres from the west property line at its narrowest point, stepping back 2.5 metres at the 6th storey and 6 metres at the 8th storey.

The other highlights of the revised settlement concept include:

- Providing for a westerly extension of the Bloor Building along the major road frontage (Bloor Street) providing an improved pedestrian environment;
- Extending the westerly portion of the Bloor Building to the south to abut the existing building from the third to ninth floor, creating a more cohesive appearance;

- Consolidating the indoor amenity spaces on the ground floor into a single space, which is adjacent to the outdoor amenity space;
- A minimum of ten percent three-bedroom units will be provided;
- A minimum of 32 percent two-bedroom units will be provided;
- Shifting the easterly outdoor amenity space westward to address privacy and noise consideration for residents of the townhouses to the east;
- Redesigning the façade to replace the glazing/spandrel with more solid materials such as brick and adjust the balconies to create the look of multiple buildings along Bloor Street in response to feedback from City Staff;
- Raising the lobby entrance to grade level, for a more appropriate street relationship, without increasing the overall height of the building;
- Shifting the vehicular entrance further west along Bloor Street, and the entrance to the underground parking ramp and the loading space westward on the Site, away from the townhomes to the east; and
- A Section 37 contribution in the amount of \$185,000 will be provided for local parks improvements.

The table below summarizes the revisions from the LPAT Settlement to the 2021 Revisions:

	LPAT Settlement September 17th 2019	2021 Revisions January 17, 2022
Site Area	13,171 square metres	13,171 square metres
GROSS FLOOR AREA		
Total	30,353 square metres	30,290 square metres
Existing	12,675 square metres	12,675 square metres
Additional	17,678 square metres	17,615 square metres
Density	2.30 FSI	2.30 FSI
HEIGHT		
Bloor Building	9-storeys (27.70m to roof)	9-storeys (27.70 to roof)
Broadfield Portion	3-storeys (8.9m to roof)	3-storeys (9.5m to roof)
Sunplains Building	3-storeys (9.2m to roof)	N/A
RESIDENTIAL UNITS		
Bloor Building	126 units	234 units
Broadfield Townhouses	9 units	N/A
Sunplains Building	29 units	N/A
Existing	113 units	113 units
Increase	164 units	234 units

Total	277 units	347 units
UNIT COMPOSITION		
Studio		12 (5 percent)
1-Bedroom	78 (48 percent)	135 (52%)
2-Bedroom	63 (38 percent)	76 (33 percent)
3-Bedroom	23 (14 percent)	23 (10 percent)
PARKING RATIO		
Studio (new building)	0.8 per unit	0.8 per unit
1-Bedroom (new building)	0.9 per unit	0.9 per unit
2-Bedroom (new building)	1 per unit	1 per unit
3-Bedroom (new building)	1.2 per unit	1.2 per unit
Visitor Parking (new building)	0.2	0.2
Existing Building Resident Parking	1.18 per unit	Same as new building ratio (115 total spaces)
Existing Building Visitor Parking	0.2 per unit	0.2 per unit

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Appendix A – Settlement Offer Letter dated January 21, 2022 from Sherman Brown Barristers and Solicitors

Public Appendix B – Architectural Plans dated January 17, 2022 prepared by IBI Group (site plan and elevation drawings)

Confidential Attachment 1 – Confidential Information