

3194-3206 Dundas Street West - Zoning By-law Amendment Application - Request for Direction Regarding Ontario Land Tribunal Hearing

Date: January 26, 2022
To: City Council
From: City Solicitor
Wards: 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 9, 2020, a Zoning By-law Amendment application was submitted for an 8 storey mixed use building with 89 dwelling units at the properties known as 3194 - 3206 Dundas Street West ("the Site").

On May 6, 2021 the Applicant appealed the application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the 90-day time frame in the Planning Act.

On December 13, 2021, the Applicant submitted a with prejudice settlement offer to the City, (the "**Settlement Proposal**") set out in Public Appendices "A" and "B" to this Report.

On January 10, 2022, Mr. Mathias Scolozzi, a party to the OLT appeal, submitted a with prejudice settlement offer to the City (the "**Resident Proposal**"), set out in Public Appendices "C" and "D" to this Report.

The purpose of this report is to request further instructions for the future OLT hearing that is not yet scheduled.

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, if adopted by City Council, at the discretion of the City Solicitor.
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.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

A Preliminary Report on the Zoning By-law Amendment application was adopted by Toronto and East York Community Council on September 16, 2020, directing staff to conduct a community consultation meeting. The link to the preliminary report can be found here:

<https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-156091.pdf>.

On November 9, 10 and 12, 2021, City Council adopted a Request for Direction Report directing the City Solicitor, together with appropriate staff, to attend the OLT hearing to oppose the Application for the reasons set out in the September 23, 2021 Request for Direction Report from the Director, Community Planning, Toronto and East York District. City Council also authorized City staff to continue discussions with the applicant to address the issues set out in the Request for Direction. *The City Council decision is available at:* <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE28.6>.

An OLT Case Management Conference was held on October 19, 2021. The OLT has scheduled a five-day hearing beginning on March 21, 2022 for the appeal.

COMMENTS

This report has been prepared in consultation with staff from City Planning.

The Settlement Proposal

The Applicant had previously submitted to the City the original application (the "**Original Application**") and subsequently a revised application (the "**Revised Application**") in

Report for Action with Confidential Attachment on 3194-3206 Dundas Street West - Zoning By-law Amendment Application - Request for Directions Regarding OLT Hearing

respect of the proposed development. The Settlement Proposal contains significant differences from the Original and Revised Application.

The Settlement Proposal is for an eight storey mixed use building comprised of 6,950 square metres of residential gross floor area and 210 square metres of non-residential gross floor area with a proposed density of 4.46 times the area of the lot.

The key revisions made include:

- A reduction in residential gross floor area and overall density;
- increase in the amount non-residential gross floor area at grade coupled with the removal of proposed "Live-Work Units";
- a revised building massing that fits more harmoniously within its existing and planned context as well as provides appropriate transition to properties designated Neighbourhoods;
- a substantive redesign of the ground floor level, that includes the relocation of a midblock connection, introduction of forecourt area and relocation of the loading and parking ramp area;
- introduction of more substantive upper level setbacks on both sides of the building;
- increases to light well depth on the west side of the property;
- a reduction in the overall height and area required for the rooftop mechanical penthouse;
- introduction of opaque balconies at floor 2 and 3 at the for increased privacy; and
- a commitment to address the articulation of the streetwall with a more vertical fine grained approach through the Site Plan process.

The tables below outlines the changes between the Original Application dated March 9, 2020, the Revised Application dated December 23, 2020, the Settlement Proposal dated December 13, 2021 and the Resident Proposal dated January 10, 2022.

Site Statistics	Original Application	Revised Application	Settlement Proposal
Site Area (metres squared)	1,668	1,668	1,668
Frontage (metres)	38.08	38.08	38.08
Depth (metres)	43.3 - 44.35	43.3 - 44.35	43.3 - 44.35
Residential GFA (metres squared)	7,400	7,086	6,950
Non-Residential GFA (metres squared)	122	110	210
Total GFA (metres squared)	7,522	7,196	7,160
Height – Metres	27.60	26.67	26.67
Floor Space Index	4.51	4.49*	4.43*
Parking Spaces	55	60	60
Bicycle Parking Spaces	88	90	90

- ** City Staff have been advised by the Applicant that this calculation of Gross Floor Area is based on the Site after the required laneway widening conveyance has been provided to the City.

Analysis of the Settlement Proposal by Planning Staff is contained in Confidential Attachment 1.

The Resident Proposal

The table below outlines the statistics of the Resident Proposal.

Site Statistics	Resident Proposal
Site Area (metres squared)	1,668
Frontage (metres)	38.08
Depth (metres)	43.3 - 44.35
Residential GFA (metres squared)	N/A
Non-Residential GFA (metres squared)	N/A
Total GFA (metres squared)	N/A
Height – Metres	23.00
Floor Space Index	N/A
Parking Spaces	N/A
Bicycle Parking Spaces	N/A

Analysis of the Resident Proposal by Planning Staff is contained in Confidential Attachment 1.

The City Solicitor requires 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

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Public Appendix "A" – Letter from McCarthy Tetrault LLP dated December 10, 2021, regarding 3194-3206 Dundas Street West

Public Appendix "B" – Revised Zoning By-law Amendment Plans dated December 9, 2021, prepared by BPD Quadrangle Architects

Public Appendix "C" – Letter from Eric K. Gillespie Professional Corporation, Barristers and Solicitors dated January 10, 2022, regarding 3194-3206 Dundas Street West

Public Appendix "D" – Revised Zoning By-law Amendment Plans dated January 10, 2022, prepared by Mathias Scolozzi

Public Appendix "E" – Email Correspondence dated January 12, 2022 from McCarthy Tetrault LLP to parties regarding OLT Hearing PL 210291