

## **3100-3200 Bloor Street West & 4-8 Montgomery Road – Official Plan Amendment, Zoning By-law Amendment, and Site Plan Control Applications – Request for Further Direction Regarding OLT Hearing**

**Date:** March 2, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 3 – Etobicoke-Lakeshore

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

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

### **SUMMARY**

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2457938 Ontario Limited (the "Applicant") is the owner of the property municipally known as 3100-3200 Bloor Street West and 4-8 Montgomery Road (the "Subject Site"). The Subject Site currently contains a car dealership, car rental establishment, and a paved parking lot along Bloor Street, as well as three two-storey detached residential dwellings fronting onto Montgomery Road. To the north of the Subject Site are the Toronto Transit Commission ("TTC") subway tracks for the Bloor-Danforth Line 2. A portion of the Subject Site is found north of the TTC subway tracks. To the west of the Subject Site is the Mimico Creek.

On June 8, 2020, the Applicant submitted Official Plan and Zoning By-law Amendment applications to the City (the "OPA and ZBLA Applications") to permit the development of a new 13-storey residential building with commercial uses at grade on the Subject Site (the "Original Proposal"). The Original Proposal included 319 dwelling units and 443 square metres of commercial space. As part of the development, the Applicant

proposed to naturalize and convey to the Toronto and Region Conservation Authority ("TRCA") the portion of the Subject Site that is located below the top-of-bank along the western edge of the property. The TRCA has also requested the conveyance of the lands that fall within a 10 metre buffer between the top-of-bank line and the new building. On April 6, 2021 a related Site Plan Control application was also submitted by the Applicant for the Subject Site (the "Site Plan Application").

On January 19, 2021 the Applicant appealed the OPA and ZBLA Applications to the Ontario Land Tribunal ("OLT"). On May 11, 2021, the Applicant also appealed the Site Plan Application to the OLT. The consolidated appeals are known as OLT case number PL210087 (the "Appeal"). A case management conference was held on May 28, 2021 and a telephone conference status hearing was held on August 31, 2021. A 10 day hearing is scheduled to for May 30 to June 10, 2022. In addition to the City and the Applicant, the Thompson Orchard Community Association ("TOCA") is also a party to the Appeal. Local residents David Amato, Meghan Payne, and the Sunnylea Kingsway Community Association ("SKCA") have been granted participant status to the Appeal.

City Council, in its decision regarding a Request for Directions Report by City Planning (dated June 4, 2021) instructed the City Solicitor and City staff to oppose the Original Proposal in its current form and to continue discussions with the Applicant in an attempt to resolve outstanding issues and report back on the outcome of those discussions. As a result, the City agreed to engage in without prejudice OLT-led mediation. The City attended mediation with the other parties to the Appeal, being the Applicant and TOCA, as well as the participants Mr. Amato and the SKCA, who elected to be involved for a part of the mediation proceedings.

On March 1, 2022, the Applicant's counsel, Stikemann Elliot LLP, submitted to the City Solicitor a with prejudice settlement offer (the "Settlement Offer") based on revised architectural plans also dated March 1, 2022 and prepared by Kirkor Architects (the "Revised Plans").

The Settlement Offer is attached to this report as Public Attachment 1 and the Revised Plans are also attached as Public Attachment 2. The Settlement Offer and Revised Plans are described further in the "Comments" section below.

The purpose of this report is to request instructions for the upcoming OLT hearing.

City Planning has been involved in the preparation of this report.

## **RECOMMENDATIONS**

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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 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor, as it contains advice subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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

## **DECISION HISTORY**

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On October 8, 2020, Etobicoke York Community Council considered and adopted the recommendations of a Preliminary Report by City Planning regarding the Original Proposal and scheduling a community consultation meeting. A copy of Community Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EY18.1>

On July 14, 2021, City Council considered and adopted the recommendations of a Request for Directions Report by City Planning seeking instructions regarding the Applicant's Appeal of the Original Proposal to the OLT. City Council authorized the City Solicitor and City staff to attend the Tribunal to oppose the Original Proposal and to continue discussions with the Applicant in an attempt to resolve outstanding issues and report back on the outcome of those discussions. A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EY25.7>

## **COMMENTS**

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The Settlement Offer and the Revised Plans show a revised proposal for a new residential building with commercial uses as grade. The Settlement Offer and Revised Plans includes a number of changes to the design of the building. The Settlement Offer and Revised Plans include the following:

- The height and massing of the proposed building have been significantly revised to reflect the policy and zoning context of the Subject Property. The building has been revised to have a U-shape with three distinct sections. The lowest heights are situated along Montgomery Road in the Neighbourhoods designation, with a height of 4-storeys, and at the intersection of Bloor Street West and Montgomery Road, with a height of 6-storeys. In the middle of the site, the building takes on a mid-rise

form with a height of 8-storeys stepping up to 10 storeys. In the southwest corner of the site along Bloor Street West, which is furthest away from the Neighbourhood designated lands and is designated Mixed Use Area "B" within the Etobicoke Centre Secondary Plan ("ECSP"), the building has a tower form with a total height of 18-storeys. Finally, the western wing of the building further steps back towards the rear of the property with decreasing heights of 11-storeys, 9-storeys, and 6-storeys.

- The floor plates of the tower portion of the building comply with the maximum permitted floor plate size of 825 square metres permitted under the Etobicoke Centre Zoning By-law No. 1088-2002 (the "ECZBL").
- The height of the proposing building all falls beneath a 45 degree angular taken from the Neighbourhood designated lands to the north.
- The revised building has been sculpted so as to no longer cast any shadow on the residential properties along Montgomery Road to the north of the Subject Site.
- The revised proposal includes 368 residential units. The unit mix is in accordance with the City's Growing Up Urban Design Guidelines.
- The revised proposal now includes 446 square metres of retail uses at grade, wrapping around the building at the intersection of Montgomery Road and Bloor Street West and along Bloor Street West.
- The revised proposal includes a minimum building setback of 6 metres along Montgomery Road and 3.4 metres along Bloor Street West.
- A new Privately-Owned, Publically-Accessible Space ("POPS") is now being provided at the corner of Montgomery Road and Bloor Street West. The POPS will have a minimum size of 200 square metres and will be programmed and open to the public to activate the public realm at this corner.
- The revised proposal includes a minimum of 2 square metres of indoor and 2 square metres of outdoor amenity space per unit.
- The revised proposal maintains vehicular driveway access from Montgomery Road. The development will provide vehicular parking at a ratio of 1.05 residential spaces per unit, 0.15 visitor spaces per unit, and 1 retail space per 100 square metres of retail use.
- As part of the settlement, the Applicant has also agreed to naturalize and convey to the TRCA, in addition to the portion of the Subject Site that is located below the top-of-bank along the western edge of the property, the lands that fall within a 10 metre buffer between the top-of-bank line and the new building as well as the portion of the property to the north of the TTC tracks.

- Finally, the Applicant has offered a Section 37 community benefit contribution of \$2,800,000 intended to be allocated for local area improvements in the vicinity of the Subject Property.

The City Solicitor requires further instructions regarding the Settlement Offer. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council *in camera*.

## **CONTACT**

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Alexander J. Suriano, Solicitor, Planning and Administrative Tribunal Law; Tel: 416-392-4827, Fax: 416-397-4421, E-mail: [Alexander.Suriano@toronto.ca](mailto:Alexander.Suriano@toronto.ca)

Gabriela Dedelli, Solicitor, Planning and Administrative Tribunal Law; Tel: 416-392-8087, E-mail: [Gabriela.Dedelli@toronto.ca](mailto:Gabriela.Dedelli@toronto.ca)

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - Settlement Offer dated March 1, 2022
2. Public Attachment 2 - Revised Plans dated March 1, 2022
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information