



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 5203 to 5215 Yonge Street and 11 Parkview Avenue – Official Plan Amendment and Zoning By-law Amendment Application – Request for Further Direction Regarding OLT Hearing

**Date:** May 4, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 18 - Willowdale

**Planning Application Numbers:** 20 227227 NNY 18 OZ

### 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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5205 Yonge Inc. (the "**Owner**") owns the lands municipally known as 5203, 5205, 5211, 5213, and 5215 Yonge Street and 11 Parkview Avenue (the "**Site**"). The Site comprises two lots that are separated by a public laneway and Green P parking lot. One lot is a corner lot, generally rectangular in shape, with frontage on Yonge Street and Parkview Avenue (the "**Yonge Street Portion**"). The second lot is a rectangular lot with frontage onto Parkview Avenue (the "**Parkview Avenue Portion**"). The Yonge Street Portion of the Site is currently occupied by various one-storey retail buildings, including restaurants, and one two-storey building with ground floor retail and second floor offices. The Parkview Avenue Portion of the Site is currently occupied by a two-storey residential dwelling.

On December 8, 2020, the Owner applied to amend the North York Centre Secondary Plan (the "**NYCSP**") and Zoning By-law No. 7625 to permit a 32-storey (105.1 metres) mixed-use building on the Site (the "**Original Proposal**"). The Original Proposal featured 329 dwelling units and a two-storey base building that contained retail uses along Yonge Street and a residential lobby along Parkview Avenue. The Original Proposal also proposed to provide the Parkview Avenue Portion of the Site to the City as a parkland dedication of 564.3 square metres.

On May 14, 2021, the Owner filed an appeal to the Local Planning Appeal Tribunal, now Ontario Land Tribunal (the "**OLT**" or "**Tribunal**") citing Council's failure to make a decision on the application within the prescribed timelines in the *Planning Act* (the "**Appeal**"). Case management conferences were held on October 8, 2021 and January 26, 2022. A further case management conference is scheduled for May 30, 2022. An eight day hearing is scheduled from January 16, 2023 to January 25, 2023.

On April 29, 2022, the Owner's counsel, Stikeman Elliot LLP, submitted to the City Solicitor a with prejudice settlement offer (the "**Settlement Offer**") based on revised architectural plans also dated April 29, 2022 and prepared by IBI Group (the "**Revised Plans**"). As a result, the City Solicitor requires further directions for the case management conference scheduled for May 30, 2022 and, subsequently, the hearing commencing January 16, 2023.

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

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 Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice that is 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 January 19, 2021, Planning and Housing Committee considered a report from the Chief Planner and Executive Director, City Planning on the division's study work plan. One of the directions made by the Committee was to direct City Planning to initiate the

focused review of the North York Centre Secondary Plan. Committee's decision and the staff report may be found on the City's website:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH20.2>

On March 1, 2021, North York Community Council considered a Preliminary Report on the Original Proposal and directed staff to hold a community consultation meeting. A copy of the Preliminary Report and Community Council's decision may be found on the City's website:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY22.13>

On December 15, 2021, City Council considered and adopted the recommendations of a Request for Directions Report by City Planning seeking instructions regarding the Owner's Appeal of the Original Proposal to the OLT. City Council authorized the City Solicitor and City staff to attend the OLT to oppose the Original Proposal and to continue discussions with the Owner 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.NY28.3>

## COMMENTS

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The Settlement Offer and the Revised Plans propose a 32 storey mixed-use building with scaled down massing. The Revised Proposal generally features:

- improved setbacks along Yonge Street and Parkview Avenue and improved stepbacks from Yonge Street and Parkview Avenue, as well as reveals;
- broken up balconies that do not project into the required setbacks in the base building, with limited projections into the setbacks for the tower portion of the building;
- slightly decreased density;
- the dedication of at least one floor of podium space to non-residential uses, improving the residential/non-residential land use mix;
- a residential unit mix in accordance with the City's Growing Up: Planning for Children in New Vertical Communities Urban Design Guidelines; and
- a 1.17 metre lane widening of the public laneway located to the rear of the Yonge Street Portion of the Site.

A comparison of the key elements between the Original Proposal and the Revised Proposal is provided in the table below:

	Original Proposal	Settlement Offer
Height	32 storeys 101.5 metres exclusive of mechanical	32 storeys 101.5 metres exclusive of mechanical
Gross Floor Area (square metres)	20,128	18,669
Floor Space Index	10.47	9.71
Podium Height (storeys)	2	5
Units	329	268 (subject to change)
Lane Widening	No	Yes

The proposed building would provide a 6.93 metre front yard setback in order to provide a 10 metre setback from the curb.

The Settlement Offer includes the following Section 37 community benefit density incentives:

- a cash contribution of \$3,276,230.00 (the "**Cash Contribution**") toward the cost of the North York Central Library Revitalization and/or towards the provision of needed park-based facilities as identified in the Parks and Recreation Facilities Master Plan Implementation Strategy. The Cash Contribution will be payable prior to the issuance of the first above grade building permit for the development and indexed upwardly in accordance with Statistics Canada's Construction Price Index, being the Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01 or its successor, calculated from the date of final approval of the zoning by-law amendment to the date of payment;
- the dedication of the Parkview Avenue Portion of the Site, comprising 564.3 square metres of unencumbered land in satisfaction of the Owner's obligations under Section 42 of the *Planning Act*, with any over dedication credited as a Section 37 contribution. The parkland will be conveyed to the City prior to the issuance of the first above grade building permit for the proposed development. After conveyance and prior to completion of the park improvements, the Owner may use the parkland for construction staging and related purposes, subject to obtaining a license and occupancy agreement on terms acceptable to the City and at a cost to be charged in the same manner as set out in Municipal Code Chapter 441 (Fees and Charges), Appendix C - Schedule 2, Transportation Services, Ref. No. 38 describing fees to temporarily occupy a portion of sidewalk or boulevard, or, as otherwise may be agreed between the parties, and to the satisfaction of the General Manager, Parks, Forestry and Recreation;

- indoor amenity space of up to 1.5 square metres per unit (although total amenity provided will be a minimum of 4.0 square metres per unit of combined indoor and outdoor amenity);
- mezzanine level bicycle parking of 240 square metres; and
- Grade-related retail in the amount of 250 square metres.

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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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - With Prejudice Settlement Offer dated April 29, 2022
2. Public Attachment 2 - Revised Plans dated April 29, 2022
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information