

680 and 688 Sheppard Avenue East - Official Plan Amendment and Zoning By-law Amendment Applications - Request for Directions

Date: July 11, 2022

To: City Council

From: City Solicitor

Wards: Ward 17 – Don Valley North

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("Tribunal") proceeding that is currently scheduled for January 30 - February 10, 2023. The owner has provided a *with prejudice* settlement offer to the City that makes changes to the proposed built form.

City staff took part in multiple days of mediation with both the owner of the site and representatives from the Sheppard Avenue East Community Group.

The owner previously submitted Related Rental Housing Demolition application (19 248116 NNY 17 RH) under Chapter 667 of the Toronto Municipal Code and Section 111 of *the City of Toronto Act, 2006* to permit the demolition of the existing rental dwelling units on the site. That application will be the subject of a future report to City Council.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the City Solicitor report dated July 11, 2022.

2. City Council authorize the public release the confidential recommendations in Confidential Attachment 1 of the report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report remain confidential at the discretion of the City Solicitor, as it contains advice and information 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 applications was adopted by North York Community Council on February 5, 2020 authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of the North York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY13.9>

On March 9, 2022 City Council adopted the recommendations of a Request for Directions Report from Community Planning. Those recommendations included opposing the official plan and zoning by-law amendments at the Tribunal and to continue discussions with the applicant to address the issues outlined in the report. That decision and the report from Community Planning can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.NY30.7>

COMMENTS

The City has received a with prejudice settlement offer in the form of revised plans for the site. Public Attachment 1 is a with prejudice settlement offer letter dated July 11, 2022 from Cassels Brock & Blackwell LLP (the "**Settlement Offer**"). Attached as Public Attachment 2 are revised architectural plans dated July 4, 2022 prepared by Kirkor Architects (the "**Settlement Offer Plans**").

Settlement Offer

The Settlement Offer proposes a number of modifications to the site orientation and built form of the proposal.

The proposed 759 square metre on-site parkland continues to have visual presence and public access being located at the south east portion of the site along Sheppard Avenue East. There is also a 5.0 metre wide proposed north/south multi-use trail/midblock connection located between the parkland and the building that will provide access from Sheppard Avenue to the north/rear property line of the site and protects for a future potential mid-block connection to Elkhorn Drive. As a condition of site plan approval the Report for Action – 680-688 Sheppard Avenue East

owner will be required to convey a POPS/public access easement over the walkway. This acts as the 5.0 metre setback buffer from the parkland, and the applicant has also agreed that balconies will not project into that 5.0 metre setback on the east side of the building.

The proposed driveway for the building has also been shifted to the west side of the building moving it away from the parkland and the walkway so that the building now fronts onto the multi-use trail/midblock connection and parkland, while vehicular access has been relocated to minimize impacts on the public realm and improve pedestrian safety. A 2.1 metre wide pedestrian walkway has also been proposed with the Settlement Offer at the west side of the driveway that leads to the rear of the site.

The overall number of stories of the tower portion of the building has not been reduced and remains at 22 storeys. The building setback along Sheppard Avenue East has increased from 2.29 metres to 5.0 metres. The floorplate of the tower portion of the building is reduced from 836 square metres down to 779 square metres of gross construction area. The tower portion of the building setback has also been increased to 12.5 metres from the west side property line as recommended in the Tall Building Design Guidelines, in order to increase access to sunlight, sky views and privacy with adjacent buildings.

The Settlement Offer reduces the number of storeys of the rear portion of the building at the rear of the site from 13 storeys to 12 storeys (from 39.8 metres down to 37.55 metres). The rear portion of the building (including its mechanical penthouse) no longer projects into a 45-degree angular plane as measured from the *Neighbourhood* adjacent to the property.

Category	Application (submitted Aug. 3, 2021)	Settlement Offer (submitted July 11, 2022)
Density	5.06x FSI, GFA - 38,349 square metres	4.88x FSI, GFA – 37,027 square metres
Site Organization	Driveway proposed west side of parkland and east side of the building, bisecting the site.	Driveway shifted to the west side of building between the west property line and Building. And a 2.1 metre wide pedestrian connection to the rear of the site has also been proposed.
	Midblock connection proposed within the proposed parkland	5.0 metre wide midblock connection/multi-use trail is proposed between parkland and east side of building. From Sheppard Avenue East to the rear property line.

Category	Application (submitted Aug. 3, 2021)	Settlement Offer (submitted July 11, 2022)
Built Form – Massing of Base	Front setback from Sheppard Avenue East of 2.29 metres.	Front yard setback of 5.0 metres proposed and no projecting balconies to be included within the setback.
	7 th and 8 th floors stepped back 1.5 metres from top of 6 th floor.	7 th and 8 th floors stepped back 4.5 metres from top of 6 th floor.
Built Form – Tower Massing	Setback of tower to the west property line 10.39 metres.	Setback of tower to the west property line 12.5 metres.
	Tower floorplate proposed at 836 square metres (GCA).	Tower Floorplate proposed at 779 square metres (GCA). Balconies will not to wrap corners.
Built Form – Rear Portion Height and Massing	Rear portion of building proposed at 13 storeys.	Rear portion of building proposed at 12 storeys.
	Floor 12, 13 and the mechanical penthouse project into the 45-degree angular plane as measured from the <i>Neighbourhoods</i> to the east.	No portion of the rear portion of the building (including mechanical penthouse) project into the 45-degree angular plane as measured from the <i>Neighbourhoods</i> to the east.
Rental Replacement	35 units proposed	47 units proposed

Growing Up: Planning for Children in New Vertical Communities

The Council-adopted Growing Up: Planning for Children in New Vertical Communities urban design guidelines provide guidance on the proportion and size of larger units recommended in new multi-residential developments.

Guideline 2.1 of the Growing Up guidelines states that a building should provide a minimum of 25 percent large units (10 percent of the units should be three-bedroom units and 15 percent of the units should be two-bedroom units). As part of the Settlement Offer the applicant has agreed to a unit mix that includes a minimum of 10 percent three bedroom units, and 30 percent two bedroom units, and this unit mix will be secured in any implementing zoning by-law amendments.

Open Space/Parkland

The Settlement Offer includes a 749 square metre on-site parkland dedication in the southeast corner of the site, with a 15 metre frontage on Sheppard Avenue East. The size of the parkland fully satisfies the owner's requirements under s.42 of the *Planning Act*.

Rental Demolition and Replacement

The Settlement Offer provides for the full replacement of the existing 35 affordable rental dwelling units at 688 Sheppard Avenue East by their respective bedroom types and at similar unit sizes within the proposed development. The Offer also provides for an additional 12 affordable replacement rental units to replace any existing dwelling units at 680 Sheppard Avenue East that were formerly occupied for residential rental purposes.

Should the City Council endorse the Settlement Offer and should the Tribunal approve the Official Plan and Zoning By-law Amendment application in principle, the Rental Housing Demolition application will require a decision by City Council and the applicant will be required to develop a detailed rental replacement proposal and an acceptable tenant relocation and assistance plan to mitigate hardship for the existing tenants. City staff will also need to hold a tenant consultation meeting with the affected tenants pursuant to Section 14B of Chapter 667 of the Toronto Municipal Code.

All rental housing matters, including the rental replacement units and tenant relocation and assistance plan, will be secured through agreements registered on title to the site pursuant to Section 111 of the *City of Toronto Act, 2006*.

Parking

The parking rate of 0.54 space per dwelling unit and 0.1 spaces per unit for visitors remains unchanged and is acceptable to Transportation Services. The drop-off/pick-up area at grade is also to be further minimized and discussed with Staff at the site plan stage. The driveway location and operation will require further review prior to zoning approval to ensure safe and efficient operation of the driveway. The applicant is to finalize the proposed transportation demand management strategy as identified in the June 4, 2021 BA Group Urban Transportation Report Update memorandum, with staff at the site plan stage.

Servicing

The municipal sanitary sewer system along Sheppard Avenue East between Bayview Avenue and Leslie St. is currently at capacity. As part of the Settlement Offer, the applicant has acknowledged the need to include a Holding Provision pursuant to Section 36 for the *Planning Act* in the zoning by-laws until such time that the sanitary sewer upgrades have been completed and are operational.

The City Solicitor requires further instructions on this matter. This report concerns litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 – Letter from Cassels Brock & Blackwell LLP dated July 11, 2022
2. Public Attachment 2 – With Prejudice Architectural Drawings prepared by Kirkor Architects dated July 4, 2022
3. Confidential Attachment 1 - Confidential Report form City Solicitor