

# REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

## 1978-2002 Lakeshore Avenue West - Terms and Conditions for Sale and Delivery of Affordable Housing

**Date:** June 13, 2022

**To:** The Board of Directors of Build Toronto Inc.

**From:** Chief Executive Officer

**Wards:** Ward 4

### REASON FOR CONFIDENTIAL INFORMATION

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This report deals with a proposed or pending acquisition or disposition of land by the City which was negotiated by CreateTO.

### SUMMARY

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In May 2011, City Council approved the transfer of lands, located at 1978 and a portion of 2000 Lakeshore Blvd West to Build Toronto, with the method of disposal to be by way of sale.

On July 16, 2013, City Council approved the transfer of a stratified portion of the property municipally known as part of 2000 and 2002 Lakeshore Boulevard West to Build Toronto and that the previous transfer of 1978 Lakeshore Boulevard West and portion of 2000 Lakeshore Boulevard West be amended to provide that only a stratified portion of 1978 Lakeshore and a portion of 2000 Lakeshore Boulevard West, limited to 65 meters in height above grade, be transferred to Build Toronto. These properties are collectively referred to as the "Property".

On May 23, 2017, the Board of Directors of Build Toronto approved the sale of the Property to Marlin Spring (the "Purchaser") and the transaction closed on December 5, 2017. At closing, Marling Spring entered into a Development Agreement and a Density Participation Agreement with Build Toronto (the "Post-Closing Agreements") and an Affordable Housing Delivery Agreement with the City which collectively required the Purchaser to:

- Provide a minimum of 10% of the total residential units as affordable rental or ownership (approximately 36 units), conditional upon receiving government funding through the Home Ownership Assistance Program ("HOAP") and the Investment in Affordable Housing ("IAH") programs;
- Provide a contribution to assist with the delivery of the affordable units; and
- Pay to Build Toronto additional consideration if, in the future, through the rezoning process the Purchaser secured approval for total gross floor area (GFA) above a base amount of 369,350 square feet.

Subsequent to the closing, the Purchaser, working with the local councillor and City Planning, has engaged in a process of community consultation through public meetings and workshops. In November 2021, City Planning, the Housing Secretariat, the local councillor and the community arrived at consensus on a built form and the delivery of affordable rental units which include:

- total gross floor area (GFA) of 504,408 square feet;
- two towers, 20 and 36 storeys on a 5-storey podium;
- 611 residential units;
- 262 parking spaces; and
- Open Door Affordable Rental Housing Program incentives to deliver 61 new affordable rental units.

At its meeting on June 20 and 30, 2022, East York Community Council will consider the Zoning Bylaw Amendment Application - Final Report for the Property to permit the proposed development outlined above, which will recommend approval of the Open Door Affordable Rental Housing Program incentives to deliver 61 new affordable rental units in the development.

To facilitate construction of the mixed-use development including the 61 affordable housing rental units on the Property, the following actions are required:

- An amendment to the 65-meter strata to accommodate the agreed upon built form as shown in Attachment 1, Figure 4;
- A surplus declaration, transfer from the City to Build Toronto, and sale of the additional strata land above the Property up to 122 metres in height to permit the construction of the east tower to a height of 122 meters, to Marlin Springs; on terms and conditions presented in the Confidential Attachment 1;
- A transfer of two below-65-meter strata blocks from Marlin Spring to the City;
- A cash contribution by Marlin Springs to support the construction of the 61 affordable housing rental units as presented in Confidential Attachment 1;
- The Purchaser entering into an Affordable Housing Contribution Agreement ("CA") with the City to secure 61 affordable rental units to be constructed on the Property, which will be sold to and operated by a non-profit, Community Affordable Housing Solutions ("CAHS"), or related entity on terms and conditions satisfactory to the Executive Director, Housing Secretariat.

In addition, CreateTO management will negotiate any amendments to the Development Agreement and Density Participation Agreement, as required to meet the terms and

conditions presented in Confidential Attachment 1 to permit the proposed built form and delivery of 61 affordable housing units.

## **RECOMMENDATIONS**

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The Chief Executive Officer, CreateTO recommends that the Board of Directors:

1. Endorse the changes to the 65-metre upper strata limit as presented in this report;
2. Adopt the Confidential Instructions to Staff in Confidential Attachment 1.
3. Authorize the public release of the information in Confidential Attachment 1 following the closing of the transactions contemplated in this Report, and at the discretion of the Chief Executive Officer, CreateTO; and
4. Direct the Chief Executive Officer, CreateTO to transmit the Board's decision to the CreateTO Board of Directors with the request that:
  - (a) the CreateTO Board approve the recommendations in this report, including Confidential Attachment 1, and maintain the confidentiality of Confidential Attachment 1 until the closing of the transactions contemplated in this Report; and
  - (b) the CreateTO Board request the Board Secretary to transmit the Board's decision to the General Government and Licensing Committee for information when the City staff report on 1978-2002 Lakeshore is submitted, with the recommendation that City Council maintain the confidentiality of Confidential Attachment 1 until the closing of the transactions contemplated in this Report.

## **FINANCIAL IMPACT**

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The financial impacts to CreateTO and the City arising out of the recommendations in this report are outlined Confidential Attachment 1.

## **DECISION HISTORY**

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On May 17, 2011, City Council adopted GM3.21, entitled "Transfer of Properties to Build Toronto and Declaration of Surplus - Second Quarter 2011, and approved the transfer of the property municipally known as 1978 Lakeshore Boulevard West and a portion of 2000 Lakeshore Boulevard, to Build Toronto with the method of disposal to be way of sale.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.GM3.21>

On April 3, 2013, City Council adopted item GM20.6, "Property Transfers to Build Toronto – Enhanced Process" from the Chief Corporate Officer that directed the Chief Corporate Officer to implement an enhanced process for property transfers to Build Toronto to augment the declared surplus and disposal process.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM20.6>

On July 16, 2013, City Council adopted GM23.8, entitled "Transfer of Properties to Build Toronto - Second Quarter 2014" and approved the transfer of a stratified portion of the property municipally know as part of 2000 and 2002 Lakeshore Boulevard West to Build Toronto and that the previous transfer of 1978 Lakeshore Boulevard West and part of 2000 Lakeshore Boulevard West be amended to provide that only a stratified portion of 1978 Lakeshore and a part of 2000 Lakeshore Boulevard West, limited to 65 meters, be transferred to Build Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM23.8>

On May 23, 2017, the Board of Directors, Build Toronto, authorized Management to enter into a purchase and sale agreement for the sale of lands at 1978-2002 Lakeshore Blvd West to MS Reality Limited, based on the terms and conditions contained in the confidential Property Sale Submission Memorandum, subject to:

- 65-meter strata on the property; and
- A commitment to provide a minimum of 10% of the total units as Affordable Home Ownership Units.

On May 17, 2017, the Agreement of Purchase and Sale was executed and on December 5, 2017, the transaction closed.

## COMMENTS

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### Background

The property located at 1978-2002 Lakeshore Boulevard West, is an irregular 1.11-acre property bounded by Lakeshore Boulevard to the south, the Gardiner Expressway to the north and Windemere Avenue to the east (the "Property"). The Property is surrounded by high-rise condominiums, north of Gardiner Expressway and east of Windemere Avenue and the Toronto Waterfront to the south (refer to Figure 1).

In 2011, 1978 Lakeshore Boulevard and a portion of 2000 Lakeshore Boulevard West was declared surplus for transfer to Build Toronto for sale. In 2013, City Council approved the transfer of a stratified portion of 2000 and 2002 Lakeshore Boulevard West to Build Toronto and that the previous declaration of surplus for transfer of 1978 Lakeshore Boulevard West and a portion of 2000 Lakeshore Boulevard West be amended to provide that only a stratified portion of 1978 and part of 2000 Lakeshore Boulevard West, limited to 65 meters above grade be transferred. The approval for the sale of a stratified portion of the Property (1978, 2000, and 2002, (the Property")), arose following discussion between City Planning, the local Councillor at the time and the local community.

Build Toronto, undertook due diligence for the site and a prepared a development concept for the Property. A summary of the development statistics from the Build Toronto development concept is set out in Table 1.



**Figure 1: 1978-2002 Lakeshore Blvd. West Property**



**Table 1: Summary of Development Statistics - CTO Development Concept**

<b>Development Statistics</b>	
Total GFA	• 315,000
Total Residential Units	• 365 units

<b>Development Statistics</b>	
Built Form	<ul style="list-style-type: none"> <li>• Two residential towers: <ul style="list-style-type: none"> <li>• West tower 25-storey (height 65 meters)</li> <li>• East Tower 25-storey (height 65 meters)</li> </ul> </li> <li>• 4-storey podium</li> <li>• Three levels of below grade parking; 2 levels of above grade parking</li> </ul>

In January 2017, the Board of Directors, Build Toronto approved a market offering process and proponent selection for the Property. In June 2017, the Board of Directors of Build Toronto approved the sale of the Property to Marlin Spring, the Agreement of Purchase and Sale ("APS") was executed on May 17, 2017, and the sale of the Property closed on December 5, 2017.

The transaction required the Purchaser to:

- Provide a minimum of 10% of the total residential units as affordable rental or ownership (approximately 36 units), conditional on the availability of city funding through the:
  - City of Toronto Home Ownership Assistance Program ("HOAP") approximately \$25,000 per unit;
  - CMHC-Ontario Agreement for Investment in Affordable Housing Program ("IAH Agreement");
- Provide additional financial assistance in order to ensure that the housing units at the Property qualify for the IAH program and the HOAP funding. The estimated amount of the required financial assistance was \$843,433, which was secured by a second charge in favour of Build Toronto; and
- An obligation to pay to Build Toronto additional consideration if in the future through the rezoning process they secured approval for total gross floor area (GFA) above a base amount of 369,350 square feet.

### **Built Form and Community Engagement**

In May 2018, the Purchaser submitted a rezoning application with a built form that was contained within the 65-meter strata. The effect of the 65-meter strata was to create two towers with large floor plates and a tall podium that did not create an appropriate transition from the recent Mirabella development immediately east of the Property, nor did it provide the opportunity for a landmark architectural statement fitting its location as a gateway site to the City along the waterfront.

Following the municipal election of 2018, the Property became part of Ward 4 with a new local Councillor. The new local councillor, working with City Planning and the Purchaser, established a new consultation process which involved five community

meetings/workshops to explore the opportunities to improve built form. In November 2021, consensus was achieved on the built form which consisted of:

- a west tower of 25-storeys and height of 65-meters, an east tower of 36-storeys and height of 122 meters, and a 5 -storey podium with a height of 20 meters;
- reduced tower floor plates - (750 sq. m vs 950 sq. m); and
- greater separation distance between the east and west tower - 50 meters vs 35 meters.

Table 2 sets out a summary of the development statistics for the 2018 concept under the 65-meter strata and the 2021 concept under a required revised strata height. Attachment 1, Figure 3 and 4 illustrate the 2018 and 2021 built form.

**Table 2: Development Statistics - 2017 and 2021 Proposals**

	<b>Development Statistics May 2018</b> (at the 65-meter strata)	<b>Development Statistics February 2021</b> (revised strata)
Total GFA (sq. ft.)	479,515	504,412
Total Residential Units	556	611
Strata Height (West/East Tower) (meters)	65/65	65/122
Height (West/East Tower)	21/21	20/36
Parking	284	262
Affordable Housing Units	36 ownership	61 rental
Built Form	<ul style="list-style-type: none"> <li>• East Tower 21-storeys</li> <li>• West Tower 21-storeys</li> <li>• Podium</li> <li>• Three levels below grade parking s</li> </ul>	<ul style="list-style-type: none"> <li>• East Tower 20-storeys</li> <li>• West Tower 36-storeys</li> <li>• Podium 5-storeys</li> <li>• Three levels below grade parking</li> </ul>

The effect of changes to the built form and strata results in 121,950 square feet of additional GFA, as compared to the based GFA agreed to in the Density Participation Agreement, which was 369,350 square feet. This additional GFA is broken down by into two buckets:

- Density Participation Agreement (Density Bonus)
  - Equal to the GFA achievable at or below the 65-meter strata minus the Base Density
  - (479,515 - 369,350 = 110,165 square feet); and

- Additional GFA to be Purchased
  - Equal to the 2022 GFA at the revised strata minus the GFA at the 65-meter strata
  - (504,408 - 479,515 = 24,893 square feet)

**Table 3: Summary of Additional GFA**

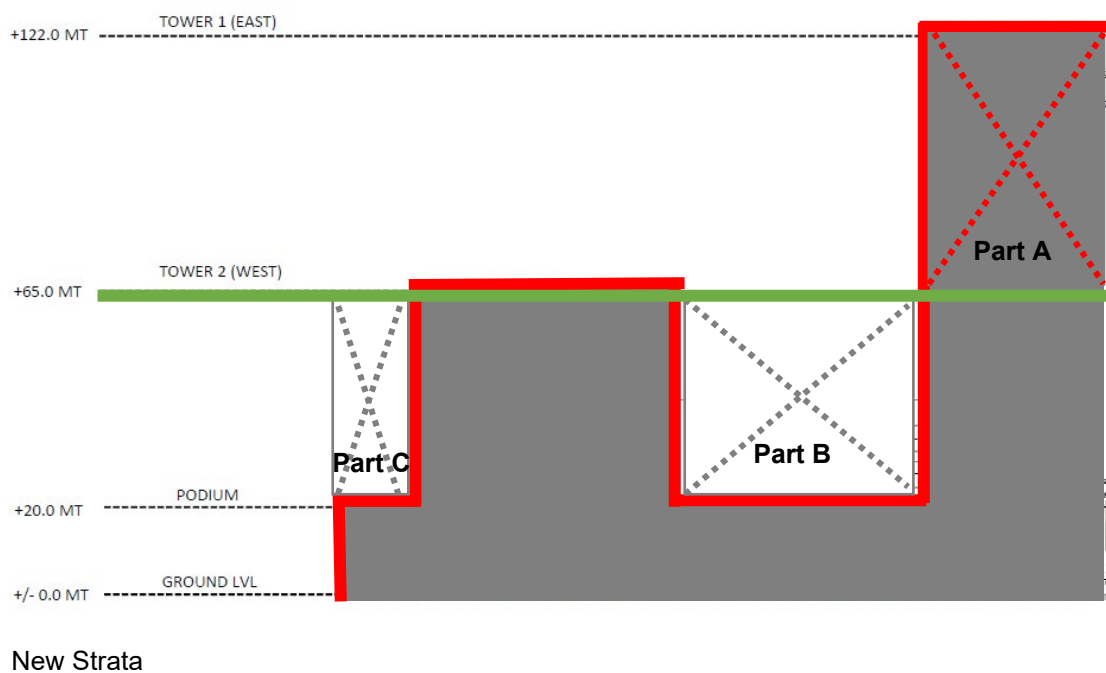
Total GFA (February 2022)	504,408 square feet
Total GFA achievable under the 65-meter strata	479,515 square feet
Additional GFA to be purchased above the 65-meter strata	24,893 square feet

The value of the Additional GFA and its allocation to the delivery of the affordable housing is presented in Confidential Attachment 1.

### Change to the Strata Height

To facilitate the new built form outlined in this report, a change to the 65-meter upper strata limit is required. As agreed to by City Planning, the Purchaser, the local councillor, and supported by the local community, the change includes a prescriptive strata line that will shrink wrap the property based on the heights of the two towers, and the podium. The approximate new strata is shown in Figure 2. An updated reference plan will identify the relevant strata lines and inform the required parts to be transferred from the City to Build Toronto and then conveyed to the Purchaser and those to be reconveyed from the Purchaser to the City. As illustrated in Figure 2, Part A will be transferred by the City to Build Toronto and subsequently conveyed to the Purchaser and Parts B and C are to be reconveyed back to the City, with sufficient space around the exterior of the buildings to provide for exterior maintenance, to be transferred to / retained by the Purchaser.

**Figure 2: Strata Heights and Parts**





## **Affordable Housing**

The 2017 sale of the Property from Build Toronto to the Purchaser required the delivery of affordable ownership or rental housing, conditional on receiving financial support from affordable housing programs operated by the City. An Affordable Housing Delivery Agreement, executed on November 29, 2017, required the Purchaser to:

- Provide up to 10% of the total units in the development as affordable housing units, as either ownership or rental, conditional on City funding under the IAH (approximately \$1.8 million) and HOAP (approximately \$25,000/unit through the waiver of development charges and city fees) financial programs.
- Provide a cash contribution to ensure the affordability of the units.

The Purchaser, as part of the Zoning Amendment review and consultation process, has entered into discussions with the Housing Secretariat to agree upon a revised affordable housing program for the Property. The following outlines the terms of a new affordable housing program between the Purchaser and the Housing Secretariat, supported by City Planning, the local councillor and the community:

- Construction of 61 affordable rental units which will remain affordable for 99 years at a maximum rate of 100% average market rent (AMR) based on annual CMHC Data;
- The 61 units will be owned and operated by the non-profit Community Affordable Housing Solutions ("CAHS"), or related entity, as approved by the Housing Secretariat;
- Funding Sources to include:
  - City Contribution through the Open-Door Incentives which includes waiver of DCs and other fees;
  - City and Build Toronto land value contribution;
  - CAHS contribution;
  - Section 37 contribution;
  - Purchaser Cash Contribution.

The terms and conditions for delivery of the proposed 61 affordable housing units will be secured through a Contribution Agreement, on terms and conditions satisfactory to the Housing Secretariat.

The financial arrangements for the sale of the additional density and proposed funding sources for the delivery of the 61 affordable housing rental units are presented in Confidential Attachment 1.

## **Conclusion**

An extensive consultation and collaborative process has delivered a built form and affordable housing program for this landmark property along the City's waterfront. The revised built form maintains views to the lake, improves pedestrian connections to the waterfront and will deliver 61 new rental affordable housing units for 99 years, managed

and operated by a non-profit, which will contribute to the objectives of the City's HousingTO Action Plan for the delivery of 40,000 affordable rental homes by 2030.

CreateTO management supports the change in strata and sale of additional density as presented in Confidential Attachment 1, to permit the development of the Property and affordable rental housing units as outlined in this report.

## **CONTACT**

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## **SIGNATURE**

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Vic Gupta  
Chief Executive Officer

## **ATTACHMENTS**

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Attachment 1: 2018 and 2021 Built Form and Strata Height  
Confidential Attachment 1 - Amended Business Terms

# Attachment 1 2018 and 2021 Built Form and Strata Height

Figure 3: 2018 Built Form at the 65-meter Strata

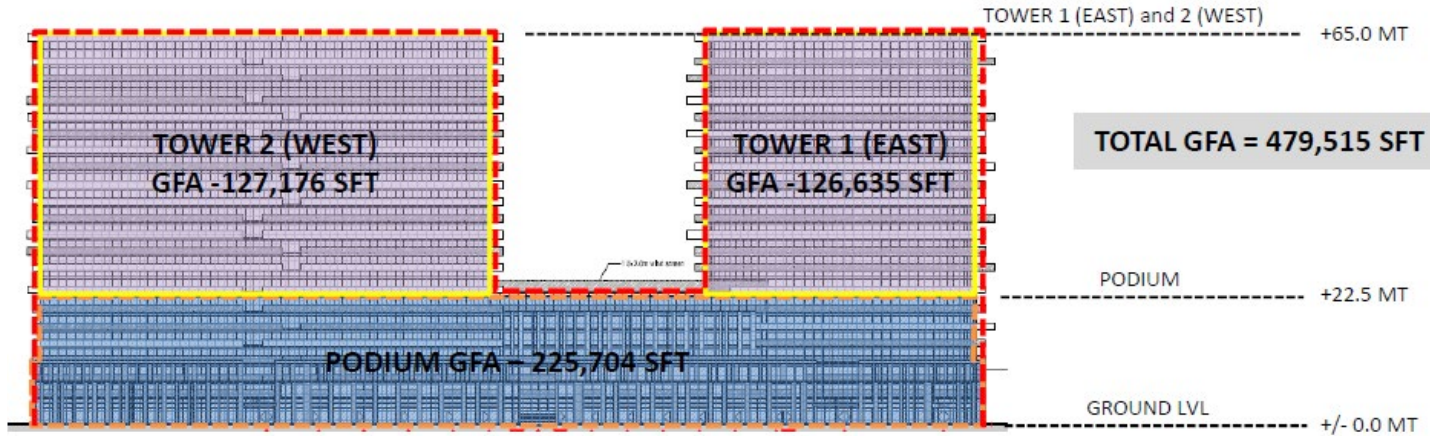


Figure 4: 2021 Built Form at the Revised 65-meter Strata

