



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

33-43 Centre Avenue – Ontario Land Tribunal Hearing – Request for Directions

Date: September 29, 2023
To: City Council
From: City Solicitor
Wards: Ward 18 - Willowdale

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 October 25, 2017, the City received a Zoning By-law Amendment application for the lands municipally known as 33-43 Centre Avenue (the "Site") to permit the construction of 16 single detached dwellings.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "Zoning Application"), to the Ontario Land Tribunal (the "OLT") in March 2018.

In December 2020, the applicant revised its Zoning By-law Amendment application and made a related Official Plan Amendment application (the "OPA Application") to permit the construction of 86 units in townhouse and low-rise apartment blocks, which was also appealed to the OLT.

On May 25, 2023, the applicant made further revisions to both applications to permit the construction of 146 units on the Site, which were submitted to the City on a with prejudice basis.

The City Solicitor requires further directions for an upcoming OLT hearing scheduled for October 25, 2023.

RECOMMENDATIONS

The City Solicitor recommends that:

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

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

On October 25, 2017, the City received a Zoning By-law Amendment application to permit the redevelopment of the Site with 16 detached dwellings.

In March 2018, the applicant appealed City Council's neglect or failure to make a decision on the Zoning By-law Amendment to the OLT. The OLT has held two Case Management Conferences regarding the Zoning Appeal. A further Case Management Conference is scheduled for October 25, 2023 which will be the third CMC for the Zoning Appeal and the first CMC for the OPA Appeal.

On May 25, 2023, the applicant made a resubmission of both its Zoning and OPA applications reflecting revisions to the number of units and built form. On August 16, 2023, the City received a With Prejudice, not confidential, settlement offer from the applicant's lawyers, Goodmans LLP, which is attached as Public Appendix "A" (the "Settlement Offer"). The Settlement Offer contains the revised plans submitted in May 2023 (the "Revised Plans"). Should City Council accept the Settlement Offer, the applicant intends to present the Revised Plans to the OLT for approval.

In response to the concerns raised by City staff with the applicant, the Revised Plans include a number of modifications.

Category	Application per Submitted Plans dated December 18, 2020	Settlement Offer Plans dated May 17, 2023
Site Area	6,505.11 square metres	6,505.11 square metres
Proposed Residential GFA	8,500 square metres	12,747.94 square metres
Floor Space Index	1.3	1.96
Number of Buildings Proposed	5 blocks (Blocks A, B, C, D, E)	4 blocks (Blocks A, B, C, D)
Building Types	Blocks A, B, C: back-to-back stacked townhouses Blocks D, E: stacked townhouses	Blocks A, B: back-to-back stacked townhouses Blocks C, D: low-rise apartment
Building Height	3 storeys (11 metres)	4 storeys (13.4 metres)
Site Organization	Central courtyard is not clearly defined, is irregular in shape with a non-linear sidewalk, and is dominated by below grade patios.	A defined central courtyard contains landscape area, outdoor amenity area and a linear 2.1 metre sidewalk connecting to Block D.
	The rear of the site contains two blocks, Block D and E.	The rear of the site contains one block, Block D.
	The parking ramp enclosed in a single-storey structure attached to Block E and visible from Centre Avenue.	The parking ramp is integrated into Block B with units located above and not visible from Centre Avenue.
	Block C comprises back-to-back stacked townhouses with unit entrances and a sidewalk along the east property line.	Block C is a low-rise apartment building with a front entrance and a central interior corridor providing unit access from the interior. A private backyard for Block C is located along the east property line.
	Several below grade patios proposed throughout the site.	Below grade patios have been eliminated.
	Rear block building entrances are not visible from Centre Avenue.	Rear block building entrance is visible from and has clear pedestrian connection to Centre Avenue.
Building Facing Distances	Block B to C: 11.0 metres Block C to D: 9.98 metres	Block B to C: 13.4 metres Block C to D: 15 metres
Front Yard Setback	3 metres	6 metres
Total Number of Dwelling Units	83	146
Vehicle Parking Spaces	90 (1.08 spaces per unit)	143 (0.98 spaces per unit)

The site is designated *Neighbourhoods* in the Official Plan including the Council-adopted, but currently under appeal, Yonge Street North Secondary Plan (OPA 615). An OPA is required to permit the built form proposed on the site.

Site Organization

The site organization policies contained within Section 3.1.3 of the Official Plan provide principles on key relationships of the location and organization of development. The policies direct that buildings be located parallel to the street or along the edge of a park, appropriate setbacks and separation distances are provided to protect privacy, and building entrances are located so they are clearly visible from the public street. Vehicular access and ramps, loading and servicing should be located away from the public realm and public view to minimize their impact on the public realm.

The Settlement Offer features a six-metre front yard setback, four blocks of back-to-back stacked townhouses/low-rise apartment buildings with the entrances for each block visible from Centre Avenue, and two landscaped courtyard areas which provide outdoor amenity and facilitate separation between blocks. The proposed garbage pick-up area is screened from the street and the proposed parking ramp to the underground garage is integrated into one of the proposed buildings.

The three blocks with frontage on Centre Avenue (Blocks A, B and C) are each oriented to have a singular, at-grade entrance facing Centre Avenue to resemble detached dwellings in consideration of the existing character of the street. A sidewalk through the central courtyard provides a direct connection from the sidewalk on Centre Avenue to the main building entrance of Block D at the rear of the site.

Building Type, Height and Massing

The proposed development has evolved from being comprised of all stacked townhouse and back-to-back stacked townhouse buildings to being comprised of a mix of back-to-back stacked townhouses and low-rise apartment buildings.

The proposed building height increased from three storeys to four storeys in the Settlement Offer.

Density

The density of the proposal increased from a Floor Space Index (FSI) of 1.3 in the original proposal to 1.96 in the Settlement proposal. The increase in density is attributed to the increase in building height from three storeys to four storeys and the switch from a back-to-back stacked townhouse to low-rise apartment building type for two of the blocks.

Amenity Area

The Settlement Offer proposes 512.70 square metres of outdoor amenity area.

Growing Up: Planning for Children in New Vertical Communities

The 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). The Council-adopted Yonge Street North Secondary Plan (OPA 615) further directs that a minimum of 40 percent of new units be a combination of two- and three-bedroom units.

The Settlement Offer plans propose that 19.9 percent of units are two-bedroom units and 43.8 percent of units are three-bedroom units.

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about ongoing litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix "A" - Letter from Goodmans LLP dated August 16, 2023 containing With Prejudice Settlement Offer, including revised architectural plans
2. Confidential Attachment 1 - Confidential Information