

April 3, 2023

Our File No. 166720

BY EMAIL TO: nycc@toronto.caNorth York Community Council
North York Civic Centre
5100 Yonge St.
Toronto, ON
M2N 5V7**ATTENTION:** Matthew Green, Committee Administrator, North York Community Council

Dear Chair Pasternak and Members of Community Council:

**Re: NY4.9 – 22-36 Greenbriar Road – Decision Report
Official Plan Amendment, Zoning By-law Amendment, and Rental Housing
Demolition Applications
Municipal File Nos.: 21 252354 NNY 17 OZ, 21 252355 NNY 17 RH, 22 241544 NNY
17 SA**

Introduction

We are the solicitors for Block (Greenbriar) Developments Limited (“**Block**”), the owner of the properties municipally known as 22-36 Greenbriar Road in the City of Toronto (the “**Subject Site**”). Block submitted Official Plan and Zoning By-law Amendment applications (the “**Applications**”) on December 31, 2021 to facilitate the redevelopment of the Subject Site for a 24-storey residential building (the “**Proposed Development**”). The Subject Site is located in close proximity to higher order transit and is within the boundaries of the proposed Bessarion Major Transit Station Area (“**MTSA**”) as adopted by City Council in Official Plan Amendment 575.

Item NY4.9 – Decision Report

We are writing with respect to Item NY4.9 regarding a Decision Report and recommendations brought forward by the Director of Community Planning, North York, pertaining to Block’s Applications. In that report, Planning staff have proposed substantial amendments to the Proposed Development and have requested council approve a modified 21-storey development for the Subject Site. Staff have also included a modified draft zoning by-law and official plan amendment to their report reflecting the changes they have made.

Block was only made aware of the details of Planning staff’s changes upon the release of the agenda for the April 4, 2023 meeting of North York Community Council (“**NYCC**”) less than two weeks ago, and was not consulted nor invited to comment on the amendments now being sought by staff. As a result, while they anticipate staff’s proposed amendments will significantly impact the design and feasibility of the intended development project, Block requires time to appropriately review and evaluate the changes recommended by Planning. We are also not aware if staff’s modified zoning by-law has been appropriately reviewed by the Zoning Examiner, and Block’s

consultants additionally require time to fully assess the amended instruments before they are in a position to comment.

Planning Analysis in Decision Report

Based on a very preliminary evaluation of Planning staff's Decision Report, we are pleased to see staff's recommendations recognize the appropriateness of a tower built form on the Subject Site. The report similarly supports a tower floorplate size at this location that is larger than otherwise recommended in the Tall Building Guidelines.

However, Block has also identified concerns with the planning analysis put forward in the Decision Report, in particular its failure to identify and explain appropriate planning reasons to support staff's modifications to the Proposed Development. Notably, the report also fails to appropriately and fully evaluate the existing and planned context of development surrounding the Subject Site and neglects to consider the location of the Subject Site within the Bessarion MTSA adopted by City Council.

Concerns Regarding Proposed Tenant Relocation Plan

Importantly, our client has significant concerns with staff's interpretation, and proposed implementation, of Official Plan Policy 3.2.1.12 respecting a proposed relocation and assistance plan for existing tenants. The terms of the relocation and assistance plan proposed by staff in the Decision Report appear to identically mirror a typical plan requested by the City in a rental demolition scenario involving six (6) or more residential rental units. This approach is not appropriate in this circumstance where only two (2) rental units existed on the Subject Site and are proposed to be demolished, and only one (1) of which is tenanted.

Staff have proposed that the plan include a 36 month "rent gap" program, to be paid as a lump sum to the tenant on the date they provide vacant possession of the unit. The City's standard practice of calculating a rent gap period of 36 months is tied directly to the tenants' right to return to a replacement unit, because 36 months serves as a base estimate for construction time of a new building. As staff are well aware, there is a single residential tenancy on this property. The existing tenant will not have the right to return to a replacement unit in this case, as there will be no replacement units, and the City has no statutory authority to require the same. There is no principled basis, other than being "consistent with the City's current practices", why a 36 month rent gap payment is appropriate or required to conform with Policy 3.2.1.12.

In addition to our client's general objection to the staff recommendation, the proposed plan cannot apply in these circumstances, because the tenant has already agreed to terminate the tenancy. In December 2022, the landlord and tenant executed an agreement to terminate the tenancy, with a termination date in summer 2023. In order to protect the privacy interests of the tenant, our client will not elaborate on the details of the agreement to terminate, except to state that the agreement was negotiated between the parties to include compensation for the tenant that is fair and reasonable in the circumstances. The City is not a party to the landlord and tenant relationship, nor is the City a party to the agreement to terminate the tenancy. It is our client's expectation that the landlord and tenant will proceed on the basis of that agreement, and the unit will be vacant within the coming months. It is unreasonable for the City to interfere with a fair and binding agreement between the landlord and tenant, arrived at through the parties' mutual consent.

Furthermore, the City's intended means of, and timing for, implementing a relocation and assistance plan is unclear. The report states that this plan will be secured through an agreement or legal undertaking prior to the issuance of a Rental Housing Demolition Permit. Municipal Code Chapter 667 does not apply to this tenancy, and the City has no ability to (i) process or issue a Rental Housing Demolition Permit, (ii) impose binding conditions related to a relocation and assistance plan, or (iii) enter and/or register an agreement to regulate the demolition of the single residential rental unit.

Conclusion

Notwithstanding the recommendations before Community Council, Block continues to seek the approval by Council of the Proposed Development as applied for, which for the reasons articulated in the supporting materials and reports submitted with the Applications has been demonstrated to meet the principles of good planning and urban design, conforms to both the Official Plan and the Growth Plan for the Greater Golden Horseshoe, and is consistent with the Provincial Policy Statement. However, as Block continues to evaluate the modifications requested by Planning staff, they remain willing to engage in discussions with Planning staff to discuss the Proposed Development and their position on staff's changes.

We trust that the above is satisfactory, however, should you have any questions do not hesitate to contact me.

Yours truly,

AIRD & BERLIS LLP



SIDONIA J. TOMASEFFA
SJT/AS

cc: Client
Michael Romero, Planner, Community Planning, City of Toronto
Keir Matthews-Hunter, Housing Planning, Strategic Initiatives, Policy & Analysis, City of Toronto

52623615.1