

**683 - 685 Warden Avenue - Official Plan Amendment,  
Zoning By-law Amendment and Plan of Subdivision -  
OLT Appeal - Request for Direction**

**Date:** January 25, 2024

**To:** City Council

**From:** City Solicitor

**Wards:** Ward: 20 - Scarborough Southwest

**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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On July 6, 2021 applications to amend the Official Plan and Zoning By-law, and an application for a Plan of Subdivision were submitted to the City to permit a development consisting of 2 mixed-use buildings and 4 residential buildings ranging from 13 to 36 storeys. The applicant appealed all three applications to the Ontario Land Tribunal (OLT) on April 5, 2022, and a 10-day hearing is scheduled to commence on March 11, 2024. On January 23, 2024, a with prejudice settlement offer was submitted to the City for the Official Plan Amendment and Zoning By-law Amendment appeals.

Further direction from City Council is required on this matter. The settlement offer will be withdrawn if not considered by Council at its meeting on February 6, 2024, so consideration of this item is urgent and cannot be deferred.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.

2. If the City Solicitor's confidential recommendations are adopted by City Council, then City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1.

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 and information which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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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**

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A Request for Direction Report (July 8, 2022) from the City Solicitor was adopted by City Council on July 19, 2022, directing the City Solicitor and appropriate City staff to attend at the first OLT Case Management Conference in opposition to the Official Plan and Zoning By-law Amendment applications, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The City Council decision and Request for Direction Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.22>

## **COMMENTS**

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Public Appendix "A" is a letter containing a with prejudice offer to settle, dated January 23, 2024, from Aird and Berlis LLP, and a set of revised architectural drawings and plans dated January 17, 2024 (together the "Settlement Offer"). The Settlement Offer remains open until the end of the City Council meeting scheduled to begin on February 6, 2024. As such, consideration of this item is urgent and cannot be deferred.

The Owner previously submitted a revised submission in November 2023 that modifies its proposal before the OLT (the "Revised Submission") as well as the current Settlement Offer. A comparison of the original application, Revised Submission and the Settlement Offer are captured in the table below:

	Original Application (October 2021)	Revised Submission (November 2023)	Settlement Offer (January 2024)
Site Area	26,315.1	26,315.1	26,315.1
Widening Area	7,767.7	5,871	6,042.1
Parkland	2,486.3	2,037	2,015
Net Area (Square Metres)	16,061.1	20,444.1	20,273

	Original Application (October 2021)	Revised Submission (November 2023)	Settlement Offer (January 2024)
GFA Total (square metres)	121,003	148,583.2	130,259
Residential	120,010	147,881	129,274
Non-Residential	993	702	985
FSI			
Gross	4.6	5.6	4.95
Net	7.5	7.3	6.4
Residential Units			
Total	1,519	2,399	2,123
-Studio	0	172 (7.2 percent)	199 (9.4 percent)
-1-Bedroom	928 (61.1 percent)	1,425 (59.4 percent)	1,194 (56.2 percent)
-2-Bedroom	452 (29.8 percent)	558 (23.3 percent)	515 (24.3 percent)
-3-Bedrooms	139 (9.2 percent)	244 (10.2 percent)	215 (10.1 percent)
Building Heights			
Tower A	22 storeys	47 storeys	49 storeys
Tower B	36 storeys	43 storeys	37 storeys
Tower C	19 storeys	39 storeys	32 storeys
Tower D	33 storeys	35 storeys	32 storeys
Tower E	13 storeys	14 storeys	17 storeys
Tower F	13 storeys	14 storeys	n/a
Amenity Space			
Indoor	3,038	7,383	6,165
Outdoor	3,050	2,403.4	2,584
Total	6,088	9,787	8,748
Vehicular Parking			
Resident	833	1,015	909
Visitors	160	129	136
Bicycle Parking			
Long Term	1,369	1,664	1,455
Short Term	152	172	152
Loading Spaces	3 Type 'G' 3 Type 'B'	3 Type 'G' 3 Type 'C'	3 Type 'G' 2 Type 'C'

### Original Proposal and Revised Submission

Staff had concerns that the original proposal and the Revised Submission did not adequately meet the built form policies of the Official Plan or the Warden Woods Community Secondary Plan as they relate to height, density and fit within the existing and planned context, and did not meet the intent of the Tall Building Guidelines. In response to comments from City staff, further revisions were made to the proposed development.

### *Density*

The original application proposed a gross density of 4.6 times the area of the lot while the Revised Submission proposed a gross density of 5.6 times the area of the lot. The Settlement Offer proposes a density of 4.95 times the area of the lot.

### *Height and Built Form*

A mix of building typologies and heights has been achieved through the Settlement Offer with four towers ranging from 17 storeys to 49 storeys and a 6-storey mid-rise transitioning in scale to the low-rise neighborhood to the east. The total number of towers has been reduced from 6 towers in the original proposal and the Revised Submission to 5 towers in the Settlement Offer. All of the proposed tall buildings in the Settlement Offer are located under the angular plane measured from the Neighbourhoods designation to the east. The Settlement Offer provides for tower separation distances ranging from 25 metres to 40 metres and a mix of tower floorplate sizes ranging from 750 to 800 square metres. The towers with the largest floor plates are located further from the existing neighborhood to the east. The closest tower to the existing neighborhood is at the lowest height (17 storeys) with a 750 square metre floor plate size to minimize the impact on the existing neighborhood.

### *Amenity Space*

Indoor and outdoor amenity spaces are proposed throughout the development. The Settlement Offer includes an increase in the proportion of outdoor amenity space and exceeds the 4.0 square metres per unit combined for indoor and outdoor amenity space.

### *Site Servicing*

The Functional Servicing Report, Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report submitted in support of the original proposal have been reviewed by Engineering and Construction Services and are required to be revised. The applicant will be required to submit revised Engineering Reports responding to all outstanding matters identified in the memorandum from the Manager, Development Engineering, Engineering & Construction Services, dated February 8, 2022.

### *Road Network*

The Settlement Offer includes a new public street network that integrates the new community with the existing road network by connecting to the existing street network to the east and with a potential future connection to the north. The proposed streets have Right-of-Way widths ranging between 20 metres and 18.5 metres which can accommodate all the elements of green and complete streets.

## *Parkland Dedication*

The Settlement Offer includes the delivery of a 2,015 square metre public park which meets the full parkland dedication requirement. The park is proposed in the centre of the new community and close to the existing neighbourhood, with two public street frontages for visibility and access. The timing of the conveyance of the park will be determined during the Subdivision process.

The City Solicitor requires further instructions on this matter no later than the completion of the City Council meeting which starts on February 6, 2024. 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**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Appendix "A" - a with prejudice offer to settle, dated January 23, 2024, from Aird and Berlis LLP, and a set of revised architectural drawings and plans dated January 17, 2024
2. Confidential Attachment 1 - Confidential Report from the City Solicitor