



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

181-191 Eglinton Avenue East - Zoning By-law Amendment Application - Request for Directions Report

Date: March 8, 2024

To: City Council

From: City Solicitor

Wards: Ward 12 - Toronto-St. Paul's

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

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter currently scheduled to commence on April 16, 2024, for two weeks. The applicant appealed the proposed amendments to the Zoning By-Law to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

The applicant has presented a with prejudice settlement offer to the City Solicitor dated March 6, 2024 (the "Settlement Proposal") as contained within Public Appendix "A" to this report. Direction from Council is required for an upcoming hearing of the proposal at the Ontario Land Tribunal in April 2024. This matter is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of the recommendations contained in the Confidential Attachment 1, with the balance of Confidential Attachment 1 to the report to remain confidential at the discretion of the City Solicitor, as it contains advice and information that 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 July 14, 2022, an application for a Zoning By-law amendment was made for the lands at 181-191 Eglinton Avenue East, located at the southwest corner of Eglinton Avenue East and Brownlow Avenue (the "Original Proposal"). The Applicant comprises two entities, each representing one of the two addresses at 181 and 191 Eglinton Avenue East. Both entities have party status for the hearing of the appeal.

The Original Proposal was for a 40-storey tower with an 8-storey podium and three-levels of underground parking. The proposal incorporated residential, retail, and office uses, and would have replaced the existing commercial/retail spaces. The building included 479 units, 164 vehicular parking spaces, and 504 bicycle parking spaces. The subject lands are currently occupied by two three-storey office buildings with retail on the ground floor.

No report was heard by City Council or a committee on the Original Proposal.

On February 17, 2023, the Applicant appealed the Zoning By-law Amendment application to the OLT (Case Number OLT-23-000146) due to Council not making a decision within the time frame of the *Planning Act*.

The OLT held a case management conference on July 10, 2023 at which the Applicant's development partner, 181 Eglinton Ave. East, was made a party to the proceedings.

In October 2023, the Applicant submitted to the Tribunal revised architectural plans for 181-191 Eglinton Avenue East prepared by Arcadis Architects (said plans dated June 22, 2023) (the "Revised Proposal").

On December 13-15, 2023, City Planning sought instruction from Council regarding the Revised proposal in Council Agenda Item CC13.21.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC13.21>

The OLT adjourned the originally scheduled hearing dates that were to begin on February 15, 2024. The new two-week period to hear this matter has been set to begin April 16, 2024.

The Applicant has now submitted the Settlement Proposal for Council's consideration.

COMMENTS

The site is generally square-shaped and has an approximate area of 2,645.0 square metres, with a frontage of approximately 45.7 metres along Eglinton Avenue East, with an approximate depth of 57.9 metres.

A three-storey office building currently exists on the site.

The Settlement Proposal proposes two new buildings at each address of 181 Eglinton Avenue East (Building "B") and 191 Eglinton Avenue East (Building "A"), respectively.

181 Eglinton Avenue East

The Settlement Offer proposes a 70-metre (20-storeys including mechanical penthouse, 'Building B'), mixed use building, originally proposed with Building A as one building.

Massing

The street wall height for this portion of Eglinton Avenue East will be continued by Building B at a height of approximately 23 metres (8-storeys) mirroring the base building height at Building A.

The Settlement Proposal proposes an increased building setback from the property line along Eglinton Avenue East, compared to the initial proposal, of approximately 5.3 metres above the 6th storey, as well as setbacks of 7.3 and 8.8 metres between the 9th - 16th and 17th – 20th floors consecutively.

On the ground level, setbacks at the south property line increased from 7.2 to 9.3 metres. This allows for a consolidated 6.3-metre-wide driveway which will be shared with 191 Eglinton Avenue East. The Settlement Proposal also increased setbacks above the second storey, to 18.3 metres.

The increased setback from the south property line will also facilitate a pedestrian mid-block connection, resulting in a future east-west connection from Brownlow Avenue to Redpath Avenue. The revised mid-block connection has been widened from 2.1 to 3.0 metres.

Building Separation

The separation distance from the tower component at 191 Eglinton Avenue ranges from 1.3 to 2.2 metres and will be secured by a Limiting Distance Agreement (LDA). The Settlement Proposal also proposes an increase in the west building setback, from 0.0 to 1.0 metre at the 8th to 20th storey, with no window openings being permitted toward 161 Eglinton Avenue East, west of the site.

Amenity and Unit Mix

Indoor amenity space for 181 Eglinton Avenue East is proposed at a ratio of 2.9 square metres per unit (or 456 square metres). Residential outdoor amenity space is proposed at a ratio of 1.93 square metres per unit (or 283 square metres). The outdoor amenity space proposed on the 2nd storey provides direct connection to 93 square metres of indoor amenity space.

The architectural plans presented with the Settlement Proposal proposes a total of 154 residential units and a unit mix of 77 percent one-bedroom units and 23 percent two-bedroom units.

191 Eglinton Avenue East

The Settlement Proposal proposes an increased tower height to 179-metre (52-storeys including mechanical penthouse) from 140.9 metres (40-storeys) for the mixed-use building (Building A) at the northwest corner of Eglinton Avenue East and Brownlow Avenue, immediately east of 181 Eglinton Avenue East.

Massing – Base Building

Similar to Building B, the proposal mirrors the proposed street wall height of approximately 23 metres (8-storeys).

At grade, a minimum building setback of 2.0 metres is proposed from Brownlow Avenue, with a partial cantilever at the second storey, or height of approximately 8.87 metres, to facilitate the growth of tree plantings. Residential and office access is proposed to be relocated to the Brownlow Avenue frontage, away from Eglinton Avenue East. Along Eglinton Avenue East, the base building is set back 1.87 metres.

The base building setback at the south property line is proposed at approximately 12.3 metres, allowing for a 9.3-metre wide consolidated driveway access to Building A from Brownlow Avenue, provided as an Easement Area by the owner of Building B, for the east-west extent of the south façade of Building A. Limited separation between the tower element and main wall of Building B has been addressed through a LDA between owners of the subject sites. No window openings will be permitted between the main walls of both 181 Eglinton Avenue East, and 191 Eglinton Avenue East, along the shared north-south property line.

Massing – Tower Component

In addition to the above, the tower element is proposed to step back 1.5 metres from Brownlow Avenue, above the 7th storey while maintaining a 5.0 metre step back from Eglinton Avenue East.

Public Realm

The settlement offer proposes an increased base building setback from Brownlow Avenue of 6.5 metres, along Eglinton Avenue East, for an area extending approximately 4.8 metres south of the Eglinton Avenue property line. Along Brownlow Avenue, the base building is set back 3 metres for an approximate distance of 6.0 metres measured south from the Eglinton Avenue East property line.

The Settlement Proposal provides landscaping for Building A with a minimum of two street tree plantings on Brownlow Avenue and planting areas within the public boulevard on Eglinton Avenue East. Each tree planting is to have access to a minimum of the recommended 30 cubic metres' soil volume per tree.

Office Replacement

The settlement offer proposes a 100 percent replacement of office space required for both buildings, in Building A.

Amenity and Unit Mix

Indoor amenity space for 191 Eglinton Avenue East is proposed at a ratio of 3.3 square metres per unit (or 1,847 square metres) while residential outdoor amenity space is proposed at a ratio of 1.9 square metres per unit (or 426 square metres). The outdoor amenity space proposed on the 5th and 1st mechanical floor will connect to approximately 1,217 square metres of indoor amenity cumulatively.

Approximately 544 residential units are proposed, with a unit mix of 65 percent one-bedroom units and 27 percent two-bedroom units.

The following statistics summarize the changes reflected in the Settlement Proposal submitted on March 6, 2024.

Category	181 Eglinton Ave E	191 Eglinton Ave E
Residential Gross Floor Area	10,094 square metres	32,370 square metres
Commercial Gross Floor Area	260 square metres	584 square metres
Office Gross Floor Area	0	2,765 square metres
Total Gross Floor Area	10,354 square metres	35,719 square metres
Land Area	1,149.0 square metres	955.0 square metres
Floor Space Index (FSI)	6.77	31.81
Mid-Block Connection	Along south lot line; 3 m pedestrian ROW	
Consolidated Driveway	One curb cut along Brownlow; enclosed (or partially enclosed)	
Base Building Height	8-storeys (23 metres from ground floor) (or podium HT of 161 Eglinton Ave. E)	8-storeys (23 metres from ground floor) (or podium HT of 161 Eglinton Ave. E)

Category	181 Eglinton Ave E	191 Eglinton Ave E
Overall Building Height	20 storeys (70.0 metres to MPH)	52 storeys (179.0 metres to MPH)
Tower Floor Plate	No tower component	750 square metres
Ground Floor Area	816 square metres	542 square metres
Unit Mix	154 residential units	544 residential units
Amenity Space	Indoor - 456 square metres Outdoor - 283 square metres	Indoor - 1,847 square metres Outdoor - 426 square metres
Loading	1 Type "G"	1 Type "G" and 1 Type "C"
Tower Setbacks - Property Lines North – property line South – property line East – property line West – property line	No tower component	5.0 metres 1.5 metres 1.5 metres 0.0 metres
Base Building Setbacks North – property line South – property line East – property line West – property line	1.87; 5.3; 7.3; and 8.8 metres 9.3; and 18.3 metres (above 2nd storey) 0.0 0.0; 1.0 metre (above 8th storey)	1.9; 4.8; and 6.0 metres 0.0 metres 1.3 - 2.2 metres (with Limited Distance Agreement) 0.0 metres

The City Solicitor requires further instructions on this matter prior to the upcoming OLT hearing date.

This report is about litigation before the OLT 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 Appendix "A" - With Prejudice Settlement Offer Letter from McCarthy Tetrault, dated March 6, 2024 and Settlement Plans prepared by Arcadis attached as Schedule "A" to Settlement Offer Letter
3. Confidential Attachment 1 - Confidential Information