

**4884-4896 Dundas Street West – Ontario Land
Tribunal Hearing – Request for Directions**

Date: April 4, 2024

To: City Council

From: City Solicitor

Wards: Ward 3 - Etobicoke Lakeshore

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 April 28, 2022, the City received a combined Official Plan Amendment and Zoning By-law Amendment application for a development at 4884-4896 Dundas Street West (the "Site") to permit a 12-storey mixed-use building containing 225 residential units and 1214 square metres of retail space at-grade (the "Original Proposal").

On June 15, 2023, the applicant submitted a revised application to permit a 29-storey mixed-use building containing 395 residential units and a total of 1322 square metres of at-grade retail space (the "Appealed Proposal").

On June 23, 2023, the applicant appealed City Council's neglect or failure to make a decision on its application for the Official Plan Amendment and the Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT"). The OLT held the first Case Management Conference on September 28, 2023 and a second Case Management Conference took place on February 20, 2024. A hearing is scheduled for June 17 to 21, 2024.

On July 20, 2023, the on-site heritage resource at 4888 Dundas Street West was designated under Part IV of the *Ontario Heritage Act* through Designation By-law 733-2023.

At its meeting of February 6-8, 2024, City Council directed the City Solicitor and appropriate City staff to attend the OLT in opposition to the applications regarding the Official Plan and Zoning By-law Amendment and to continue discussions with the applicant to resolve outstanding issues.

On March 8, 2024, the applicant made revisions to the application, which were submitted to the City on a With Prejudice, not confidential, basis from the applicant's lawyers, Stikeman Elliott LLP (the "Initial Settlement Offer"). The Initial Settlement Offer included an application under Section 33 of the *Ontario Heritage Act* to alter the on-site heritage resource (the "Heritage Application").

On April 3, 2024, following discussions with City staff, the applicant made further revisions to the proposal and the City received a further With Prejudice, not confidential, settlement offer from the applicant's lawyers, which is attached as Public Attachment 1 (the "Settlement Offer"). The Settlement Offer contains revised plans and specific commitments they will deliver through the revised development (the "Revised Plans"). No changes to the Heritage Application were necessitated as a result of the Settlement Offer and Revised Plans, as the proposed built form with the potential to impact heritage attributes remained unchanged from the Initial Settlement Offer. The proposed alterations and conservation strategy for the designated heritage building also remained unchanged. Should City Council accept the Settlement Offer, the applicant intends to present the Revised Plans to the OLT for approval.

This matter is urgent because the City Solicitor requires further directions on the revised application in advance of the upcoming OLT hearing scheduled for June 17 to 21, 2024.

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

The subject property at 4888 Dundas Street West was designated under Part IV of the *Ontario Heritage Act* on July 20, 2023 through Designation By-law 733-2023, which can be found at the following link:

<https://www.toronto.ca/legdocs/bylaws/2023/law0733.pdf>

Further information including the rationale for heritage designation and additional documentation can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH3.13>

At its meeting of February 6-8, 2024, City Council directed the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Official Plan Amendment and Zoning By-law Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. City Council's decision may be accessed at:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.EY10.5>

At its meeting of March 28, 2024, the Toronto Preservation Board recommended that City Council approve the alteration of the subject property at 4888 Dundas Street West in accordance with the Heritage Application.

The Toronto Preservation Board's decision may be accessed at:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PB16.8>

COMMENTS

In response to the concerns raised by City staff with the applicant, the Settlement Offer includes a number of modifications to the Appealed Proposal. In particular, the Settlement Offer addresses concerns including height, massing arrangement, ground floor organization, the public realm and heritage conservation.

The Settlement Offer proposes a 25-storey (81.6 metres plus 6 metres mechanical penthouse) mixed-use building in the Etobicoke Centre Secondary Plan. A comparison of the original proposal, the revised proposal appealed to the Ontario Land Tribunal (OLT) and settlement proposal is shown in the table below:

Category	Original Proposal April 2022	Appealed Proposal June 2023	Revised Plans April 3, 2024
Site Area (square metres)	4,383	4,383	4,383
Height (storeys)	12	29	25
Height (metres, including mechanical penthouse)	48	100.88	87.6

Category	Original Proposal April 2022	Appealed Proposal June 2023	Revised Plans April 3, 2024
Gross Floor Area (square metres)	Residential: 20,138 Non-residential: 1,214	Residential: 27,394 Non-residential: 1,322	Residential: 26,736 Non-residential: 1,328
Floor Space Index	4.87 times the lot area	6.55 times the lot area	6.40 times the lot area
Dwelling Units	Studio: 12 (5 percent) 1-Bedroom: 100 (44 percent) 2-Bedroom: 90 (40 percent) 3-Bedroom: 23 (10 percent) Total: 225	Studio: 117 (30 percent) 1-Bedroom: 114 (29 percent) 2-Bedroom: 124 (31 percent) 3-Bedroom: 40 (10 percent) Total: 395	Studio: 8 (2 percent) 1-Bedroom: 271 (68 percent) 2-Bedroom: 79 (20 percent) 3-Bedroom: 40 (10 percent) Total: 398
Amenity Space (square metres)	Indoor: 659 (2.9/unit) Outdoor: 450 (2/unit) Total: 1,109	Indoor: 790 (2/unit) Outdoor: 790 (2/unit) Total: 1,580	Indoor: 816 (2/unit) Outdoor: 816 (2/unit) Total: 1,632
Vehicle Parking	Residential: 77 Non-res./Visitor: 14 Total: 91 Ratio: 0.40/unit	Residential: 73 Non-res./Visitor: 13 Total: 86 Ratio: 0.22/unit	Residential: 73 Non-res./Visitor: 13 Total: 86 Ratio: 0.21/unit
Bicycle Parking	Long-term: 153 Short-term: 16 Total: 169	Long-term: 269 Short-term: 28 Total: 297	Long-term: 278 Short-term: 29 Total: 307
Loading	1 Type 'G'	1 Type 'G'	1 Type 'G'
Privately-Owned Publicly Accessible Space (POPS) (square metres)	0	0	30

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 Attachment 1 - With Prejudice Settlement Offer from Stikeman Elliot LLP, dated April 3, 2024, including revised architectural plans
2. Confidential Attachment 1 - Confidential Information