



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 1245 and 1285 Dupont Street, 1260 Dufferin Street, and 213 Emerson Avenue – Ontario Land Tribunal Hearing – Request for Directions

**Date:** December 5, 2024  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 9 - Davenport

#### REASON FOR CONFIDENTIAL INFORMATION

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

#### SUMMARY

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On April 4, 2022, the City received an Official Plan Amendment and Zoning By-law Amendment application for 1245 and 1285 Dupont Street, 1260 Dufferin Street, and 213 Emerson Avenue (the "Site") to permit the construction of 2,966 dwelling units and 24,216 square metres of non-residential gross floor area in the 8 buildings already approved on the Site, ranging in height from 18 to 48-storeys. The application represents an approximate 30-percent increase of height and residential gross floor area across Blocks 1 to 4 of the already approved "Reimagine Galleria" development at the Site. The proposed additional dwelling units include purpose-built rental and affordable rental at the Site. The City received a further resubmission for the Site in January 2024.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Official Plan Amendment and Zoning By-law Amendment (the "Appeal") to the Ontario Land Tribunal (the "OLT") on April 18, 2024.

On December 3, 2024, the City Solicitor received a "with prejudice" settlement offer, consisting of the correspondence and architectural plans and drawings attached to this report as Public Attachment 1 (the "Settlement Offer").

The Settlement Offer is open until the end of the City Council meeting commencing on December 17, 2024, at which point it will be withdrawn. The City Solicitor requires further directions for the upcoming OLT Case Management Conference on February 7, 1245 and 1285 Dupont Street, 1260 Dufferin Street, and 213 Emerson Avenue - Official Plan Amendment and Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions

2025. Given the deadline for the Settlement Offer, this matter is urgent and cannot be deferred.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in 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**

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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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On April 4, 2022, the City received an Official Plan Amendment and a Zoning By-law Amendment application to permit the construction of 2,966 dwelling units and 24,216 square metres of non-residential gross floor area in 8 buildings ranging in height from 18 to 48-storeys. The proposed additional dwelling units include purpose-built rental and affordable rental at the site of the approved "Reimagine Galleria" development. The proposal represents an approximate 30 percent increase of height and residential gross floor area across Blocks 1 to 4. The Preliminary Report can be found at: <https://secure.toronto.ca/council/agenda-item.do?item=2022.TE34.87>

A further resubmission was received in January 2024. On April 18, 2024, the applicant appealed City Council's neglect or failure to make a decision on the Official Plan Amendment and Zoning By-law Amendment application to the OLT. The OLT held the first Case Management Conference on October 1, 2024. A second Case Management Conference is scheduled for February 7, 2025.

On December 3, 2024, the City received a With Prejudice, not confidential, settlement offer from the applicant's lawyers, Stikeman Elliott LLP, which is attached as Public Attachment 1. The Settlement Offer contains revised plans (the "Revised Plans").

## *Community Consultation*

A virtual Community Consultation Meeting was hosted by City Staff on April 11, 2023. Approximately 100 participants attended the meeting, which was also attended by the Ward Councillor and the Applicant's team. The Ward Councillor, City staff, and the applicant's team gave presentations and answered questions from the participants. The following comments were provided at the meeting and received via email:

- Concerns regarding the comprehensive public engagement process which occurred during the review of the initial application and the undermining of the trust which was built with the community by the filing of a subsequent application with limited engagement with the community.
- Concern with the increase of residents but decrease in available community services and retail space.
- Concerns that the infrastructure under construction may not be able to accommodate more residents.
- Concerns with surrounding roads and transit systems already at capacity.
- Concerns with private and public amenities, suggestion for new dog park in area.
- Concerns with limited affordable housing being offered on site.
- Questions regarding what community benefits are being offered as part of the application.
- Concerns with construction impacts.

The issues and comments raised through community consultation have been considered through the review of this additional height and density application.

## *Settlement Offer*

In response to the concerns raised by City staff with the applicant, the Settlement Offer includes a number of modifications. This table provides a comparison of the application as originally submitted, and the Settlement Offer:

<b>Category</b>	<b>Original Application Submitted on April 4, 2022</b>	<b>Settlement Offer Submitted on December 3, 2024</b>
Gross Floor Area	24,216 square metres of non-residential gross floor area	Minimum non-residential gross floor area for Development Blocks 2, 3, 4, and 5 of 16,500 square metres

<b>Category</b>	<b>Original Application Submitted on April 4, 2022</b>	<b>Settlement Offer Submitted on December 3, 2024</b>
<b>Building Height</b>	<p>Tower 3A on Block 3: maximum height of 151.80 metres</p> <p>Tower 3B on Block 3: maximum height of 118.85 metres</p> <p>Tower 4A on Block 4: maximum height of 140.10 metres</p> <p>Tower 4B on Block 4: maximum height of 111.95 metres</p>	<p>Tower 3A on Block 3: maximum height of 154 metres, excluding mechanical penthouse</p> <p>Tower 3B on Block 3: maximum height of 127.5 metres, excluding mechanical penthouse</p> <p>Tower 4A on Block 4: maximum height of 142 metres, excluding mechanical penthouse</p> <p>Tower 4B on Block 4: maximum height of 117 metres, excluding mechanical penthouse.</p>
<b>Building Storeys</b>	<p>Tower 3A on Block 3: 48 storeys</p> <p>Tower 3B on Block 3: 37 storeys</p> <p>Tower 4A on Block 4: 44 storeys</p> <p>Tower 4B on Block 4: 34 storeys</p>	<p>Tower 3A on Block 3: 48 storeys</p> <p>Tower 3B on Block 3: 39 storeys</p> <p>Tower 4A on Block 4: 44 storeys</p> <p>Tower 4B on Block 4: 35 storeys</p>
<b>Dwelling Units</b>	<p>Block 3 (Tower 3A and 3B): 966</p> <p>Block 4 (Tower 4A and 4B): 972</p>	<p>Block 3 (Tower 3A and 3B): 959</p> <p>Block 4 (Tower 4A and 4B): 994</p>

SASP 213 applies to this Site and requires that redevelopment of the Site shall ensure a high-quality mixed use community.

The Revised Proposal seeks to increase the amount of residential units with a small increase in the non-residential GFA. The non-residential GFA has been increased from 29,464 square metres in the approved submission to 30,470 square metres.

There are six blocks to the Reimagine Galleria Master Plan. The application proposes that extra heights and densities be applied to Blocks 3 and 4, while capturing the approved changes for Blocks 2 and 5. Blocks 1 and 6 remain unchanged. The overall unit count for the entire site would be increased from 2,846 units to 3,615 units.

Block 2 would have a 2 storey increase from 29 storeys to 31 storeys. Block 3 would have 13 and 14 storey increases on Towers 3A and 3B respectively for a total of 48 and 39 storeys. Block 4 would have 12 storey increases on Towers 4A and 4B, for a total of 44 and 35 storeys respectively. Block 5 would have 3 storey increases on Towers 5A

and 5B respectively, for a total of 29 and 24 storeys; Block 5 would have a total of 29 and 24 storeys on a shared podium instead of 26 and 21 storeys.

With regard to access, parking and loading, the road network approved through the Consent application and Draft Plan of Subdivision for the Site would remain unchanged. Access would continue to be provided from Dupont Street and the new north-south road between Blocks 3 and 4. Access to the underground parking structures would be provided from new public roads, Galleria Road and Radiator Street.

The Settlement Offer proposes to maintain the previously approved parking rates under By-law 1165-2019 and Minor Variance approval for application A0972/21TEY. A total of 1604 parking spaces are proposed throughout the whole Master Plan. Both Blocks 3 and 4 include Type 'G' and Type 'B' loading spaces which have been designed in an acceptable manner.

Also included in the Revised Plans are ground and second floor setbacks as shown in the architectural plans and drawings prepared by Hariri Pontarini Architects, dated December 2, 2024, which address concerns raised by Engineering and Construction Services staff in relation to waste collection and management facilities.

In terms of community benefits, the Settlement Offer provides that, in addition to the 150 affordable rental units previously approved for the Site, an additional 32 affordable rental units in the aggregate will be located on Block 3, which will have an updated definition of affordable rental housing as defined in the City's Official Plan, with an affordability period of 40 years. A two-storey community centre is currently under construction on the Site and is adjacent to a new public park of 4,972 square metres. The new community centre, along with the park, will be dedicated to the City once complete. The new community centre and the park are to be located within Block 6 of the Site.

Furthermore, in relation to Block 2, Clause 900.11.10(185)(W)(iii) of By-law 569-2019 will be amended to permit that public art features, mechanical equipment, exoskeleton structures, stairs, stair towers and enclosures, enclosures of mechanical equipment, and unenclosed heating equipment, may project a maximum of 6.9 metres above the height shown on Diagrams 4 and 5 to By-law 1166-2019.

## **COMMENTS**

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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

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Wendy Walberg  
City Solicitor

## ATTACHMENTS

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1. Public Attachment 1 - With Prejudice Settlement Offer from Stikeman Elliott LLP, dated December 3, 2024, including architectural plans and drawings prepared by Hariri Pontarini Architects, dated December 2, 2024
2. Confidential Attachment 1 - Confidential Recommendations and Confidential Information