

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 01, 2023

CASE NO(S):

OLT-22-004116

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended.*

Applicant/Appellant: PR Bloor Street GP Inc.
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit the development of a 79-storey mixed-use development
Reference Number: 21 249697 STE 11 OZ
Property Address: 83-95A Bloor Street W
Municipality/UT: Toronto/Toronto
OLT Case No: OLT-22-004116
OLT Lead Case No: OLT-22-004116
OLT Case Name: PR Bloor Street GP Inc. v. Toronto (City)

PROCEEDING COMMENCED UNDER section 41(12) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended.*

Applicant/Appellant: PR Bloor Street GP Inc.
Subject: Site Plan
Description: To permit the development of a 79-storey mixed-use development
Reference Number: 21 249696 STE 11 SA
Property Address: 83-95A Bloor Street N
Municipality/UT: Toronto/Toronto
OLT Case No: OLT-22-004117
OLT Lead Case No: OLT-22-004116

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: PR Bloor Street GP Inc.
 Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
 Description: To permit the development of a 79-storey mixed-use development
 Reference Number: 23 118767 STE 11 OZ
 Property Address: 83-95A Bloor Street
 Municipality: Toronto
 OLT Case No.: OLT-23-000677
 OLT Lead Case No.: OLT-22-004116

Heard: September 18, 2023 by video hearing

APPEARANCES:

Parties

Counsel

PR Bloor Street GP Inc.	Joe Hoffman
City of Toronto	Sarah O'Connor
ABC Residents Association The Greater Yorkville Resident's Association	Andrew Biggart
Metropolitan Toronto Condominium Corporation No. 1255	Tony Bui
Toronto Standard Condominium Corporation No. 1924 Metropolitan Toronto Condominium Corporation No. 1251	Mary Flynn-Guglietti
23 St. Thomas Inc. Metropolitan Toronto Condominium Corporation No. 1271	Calvin Lantz (<i>in absentia</i>)

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID BROWN ON
SEPTEMBER 18, 2023 AND INTERIM ORDER OF THE TRIBUNAL**

[Link to Order](#)

INTRODUCTION AND BACKGROUND

[1] The matter before the Tribunal concerns two appeals filed by PR Bloor Street GP Inc. (the “Appellant”) pursuant to s. 22(7) and s. 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (the “Act”) against the City of Toronto (“City”) for its failure to make a decision on an application for an Official Plan Amendment (“OPA”) and an application for a Zoning By-law Amendment (“ZBA”) (collectively the “Applications”) within the timeframes prescribed in the Act. The Appellant has also appealed an Application for Site Plan Control pursuant to s. 114(15) of the *City of Toronto Act*, S. O. 2006, c. 11, as amended, against the City for its failure to make a decision within the prescribed timeframe. The Appeal of the Site Plan Control application is not the subject of these proceedings.

[2] The lands that are the subject of the Appeals are known municipally as 83–95A Bloor Street West (the “Subject Property”). The Subject Property is located at the southeast corner of St. Thomas Street and Bloor Street West, one block west of Bay Street. The Subject Property has an area of 1,642 square meters (“m²”) with 53 meters (“m”) along Bloor Street West and 30 m of frontage on St. Thomas Street.

[3] The Applications will give effect to the Appellant’s proposal to redevelop the Subject Property with a mixed-use, tall building. Access to loading and parking will be provided from St. Thomas Street.

[4] The Subject Property is located within the Downtown designation on the City Official Plan (“OP”) Urban Structure Map 2 and within the Mixed Use Areas designation on OP Land Use Plan Map 18.

[5] The Subject Property is in an area that includes a mix of tall, high-density residential, mixed-use, and office buildings. Immediately opposite the Subject Property, on the north side of Bloor Street West, is an existing 27-storey building and a recently approved 72-storey building. East of Bay Street, along Bloor Street West, is a 78-storey mixed-use residential condominium, a 91-storey building under construction, an approved 71-storey building, and an approved 75-storey building. The area is very well-served by public transit, including three subway stations within walking distance of the Subject Property.

[6] The ZBA together with an Application for Site Development Plan Approval (“SPA”) were submitted and deemed complete as of December 17, 2021. A Community Consultation Meeting was held in May 2022. The ZBA and SPA were appealed to the Tribunal on July 5, 2022, as the City failed to make a decision within the applicable timeframes prescribed. The OPA was submitted on February 24, 2023, and deemed complete on March 1, 2023. The OPA was appealed, and the Appeal was consolidated with the ZBA and SPA Appeals by the Tribunal in its Order issued on September 15, 2023.

[7] The Parties engaged in Settlement discussions and mediation that ultimately resulted in the Parties successfully negotiating a Settlement of the OPA and ZBA Appeals. City Council, at its meeting held on June 14 and 15, 2023, adopted a staff recommendation to settle the ZBA Appeal. City Council, at its meeting held on July 19 and 20, 2023, adopted a staff recommendation to settle the OPA Appeal. The SPA Appeal does not form part of the Settlement and is not before the Tribunal in these proceedings.

[8] The Settlement is based on revised plans found at Exhibit C within Tribunal Exhibit 1 (the “Settlement Plans”) that describe a 72-storey tower, at a height of 256.9 m plus a 12.15 m mechanical penthouse, with a 17-storey podium, at a height of 62 m. The ground floor will include 299 m² of retail space oriented towards Bloor Street West,

a commercial lobby area that accesses the second floor, and a residential lobby adjacent to a privately owned, publicly accessible open space ("POPS") having an area of 123.3 m². The second floor proposes 1,316 m² of commercial floor space.

[9] Driveway access from St. Thomas Street is proposed along the southern part of the site and will provide access to five visitor/short-term parking spaces, short-term bicycle parking, two vehicular parking elevators, and a turntable type G/B loading space. A total residential Gross Floor Area ("GFA") of 69,517 m² and 1,650 m² of non-residential GFA is proposed, resulting in a total GFA of 71,167 m², and a Floor Space Index of 43.0.

[10] The Tribunal convened the proceedings as a Settlement Hearing pursuant to Rule 13 of the Tribunal's Rules of Practice and Procedure.

SUBMISSIONS AND EVIDENCE

[11] The Tribunal qualified Michael Goldberg, a Registered Professional Planner, to provide opinion evidence in the field of land use planning. Mr. Goldberg prepared an Affidavit in support of the Settlement Proposal which was filed as Exhibit 1. A Visual Evidence Book was filed as Exhibit 2.

[12] Mr. Goldberg explained that the Subject Property is in a location within immediate walking proximity and accessibility to existing surface and rapid transit and in a part of the City where tall buildings exist, are approved, and where additional significant growth is expected. He further advised that the Downtown area in general, and this part of the Downtown area in particular, is evolving with many tall mixed-use redevelopments in recognition of its context, infrastructure, services provided, and policy encouragement, being an Urban Growth Centre in the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 ("Growth Plan"), a Downtown Centre in the OP, and within the Mixed Use Areas 1 – Growth designation in the OP, as well as a priority retail street and Office Corridor in the approved Downtown Plan.

[13] Mr. Goldberg proffered that the location of the Subject Property makes it an ideal site for significant intensification, in the form of a canyon-form base building together with a tall tower above, similar to many other buildings in close proximity to the Subject Property.

[14] Mr. Goldberg advised that the Subject Property is designated Mixed Use Areas in the OP and Mixed Use Areas 1 – Growth in Downtown Secondary Plan, Official Plan Amendment No. 406 (“OPA 406”). The proposed mixed-use building is a permitted use in the Mixed Use Areas land use designation and he opined that the Settlement Proposal, at a proposed height of 269.05 m, meets the transition policies of Site and Area Specific Policy No. 211 (“SASP 211”). He explained that the OPA was submitted following the ZBA to exempt the Subject Lands from Policy 6.7 of OPA 406. This Policy requires development within the Bloor-Bay Office Corridor to ensure no net loss of existing office and non-residential gross floor area in a redevelopment. The Subject Property currently accommodates approximately 3,520 m² of retail space and 310 m² of office space. The Settlement Proposal includes 299 m² of retail space and 1,316 m² of non-residential space. While the proposal includes non-residential space, it does not replace it at a one to one ratio, therefore an OPA is required.

[15] Further, an amendment to City Zoning By-law 569-2013 is required to implement the Settlement Proposal amending zoning standards related to setbacks, maximum density (GFA), parking rates, building projections, and building height.

[16] Mr. Goldberg directed the Tribunal to his Affidavit where he undertook a comprehensive review of the relevant policy framework affecting the Subject Property and the Settlement Proposal.

[17] In consideration of s. 2 of the Act, Mr. Goldberg opined that the Settlement Proposal has appropriate regard for matters of provincial interest as the Settlement Proposal: is a transit-oriented development that will contribute to the efficient use of

transportation, represents the orderly development of a safe and healthy community, has been designed to be accessible for persons with disabilities, will add a range of residential units to the existing stock of housing, is an appropriate location of growth and development, is sustainable, will support public transit and is pedestrian-oriented, and the built form includes a well-designed building and streetscape that is accessible and attractive, contributing to a vibrant sense of place.

[18] Mr. Goldberg proffered that the Settlement Proposal is consistent with the Provincial Policy Statement, 2020 (“PPS”) as it represents the intensification of an underutilized site in a location where intensification and building growth are planned and anticipated. Intensification of the Subject Property with a high-rise, mixed-use building will be an efficient use of land and will cost-effectively utilize existing infrastructure and community facilities, as encouraged within the PPS. The Subject Property is strategically located within close walking proximity of several subway stations and regular, frequent surface transit service, contributing to the ongoing utilization and support of transit, minimizing vehicle trips, and promoting energy efficiency and active transportation consistent with the directions within the PPS.

[19] The Subject Property meets the definitions of the Growth Plan as being located within a Strategic Growth Area, an Urban Growth Centre, and a Major Transit Station Area, which is serviced by high order and frequent transit. Mr. Goldberg proffered that the Subject Property is within several policy areas, which, when combined, place the Subject Property in an area where the Growth Plan policies direct the most intensive forms of growth.

[20] Mr. Goldberg opined that the Settlement Proposal conforms to the Growth Plan by:

- a) Accommodating a compact, intensified, transit-supportive, pedestrian-oriented urban form,

- b) Making efficient use of and optimizing the land base and infrastructure, in a location well served by high-order public transit and within very close proximity to areas of employment, recreation, shops, and services.
- c) Providing a mix of housing options and densities in support of achieving a complete community.
- d) Supporting the achievement of the minimum intensification targets for residential growth for the City.

[21] In consideration of the OP, the Subject Lands are located within the Downtown and Central Waterfront area and are designated Mixed Use Areas. Mr. Goldberg proffered that both of these policy areas promote the type of tall, high-density, mixed-use and transit-supportive development that is proposed in the Settlement Proposal.

[22] In his Affidavit, Mr. Goldberg undertook a detailed review and analysis of the Mixed Use Areas Policies, the Public Realm and Built Form Policies, Housing Policies, the SASP 211, the Downtown Tall Buildings Setback Policies, and the policies contained in the OPA 406. Mr. Goldberg opined that the Settlement Proposal and the requisite OPA and ZBA conform with the policies of the OP and OPA 406.

[23] Mr. Goldberg further reviewed the relevant guidelines applicable to the Settlement Proposal including the Tall Building Design Guidelines, the Tall Building Vision and Supplementary Guidelines, the Growing Up Guidelines, and the Pet Friendly Design Guidelines and concluded that the Settlement Proposal adequately addresses the policy documents.

[24] Mr. Goldberg concluded that the Settlement Proposal is premised on sound and reasonable planning analysis, represents good planning, and is in the public interest. He recommended that the Tribunal approve the Applications in principle and withhold issuance of the Final Order subject to the fulfilment of the conditions as negotiated in

the Settlement and as itemized in his Affidavit, including a Limiting Distance Agreement with the owners of the abutting lands to the south at 2 and 8 Sultan Street.

[25] The Parties, through their respective Counsel, confirmed that they support the Settlement, and subject to the conditions outlined in the Affidavit of Mr. Goldberg, requested the Tribunal to allow the Appeal, in principle, and withhold issuance of the Final Order subject to the fulfilment of the conditions described.

ANALYSIS AND FINDINGS

[26] The Tribunal, having considered the uncontroverted testimony and affidavit evidence of Mr. Goldberg, accepts the opinions proffered by Mr. Goldberg.

[27] The Settlement Proposal has regard for those matters of provincial interest as set out in s. 2 of the Act and will support the orderly development of safe and healthy communities, will provide a range of housing, is an appropriate location for growth, promotes development that is designed to support public transit and pedestrians, be sustainable, and is well designed.

[28] The Tribunal finds that the Settlement Proposal implements key policies and goals of the PPS and the Growth Plan which emphasize the efficient and optimized use of the existing land base and the existing and planned infrastructure, and in particular the investment in transit infrastructure.

[29] The Subject Property is in a location anticipated to accommodate significant growth and intensification. The Tribunal finds that the Settlement Proposal will be an efficient and optimized use of the Subject Property with an urban form that will efficiently utilize existing infrastructure and community facilities. The convenient access to a range of transit options allows for maximum utilization of transit, minimizing vehicle trips while encouraging alternative forms of active transportation and promoting energy efficiency.

[30] The Settlement Proposal proposes a density that is contemplated and promoted by the PPS and Growth Plan and the Tribunal finds that the OPA and ZBA required to implement the Settlement Proposal are consistent with the PPS and conform to the Growth Plan.

[31] The Tribunal finds that the Settlement Proposal implements and satisfies the applicable Mixed Use Areas, Housing, Public Realm and Built Form provisions and policies of the OP, OPA 406, and the SASP 211. The approval of the Applications will result in an appropriate development for the Subject Property and the Settlement Plans propose a development that will be a compatible fit with the existing and planned context of the Subject Property and surrounding area.

[32] The Subject Property is within close walking distance of three subway stations and various surface transit routes. The proximity and accessibility to transit, in combination with the high-quality design as described in the Settlement Plans, warrants the proposed height, density, and resultant housing provision.

[33] The Tribunal is satisfied that the OPA and ZBA required to facilitate the development of the Subject Property in accordance with the Settlement Plans represent good planning and are in the public interest.

[34] The Tribunal allows the appeals and approves the OPA and ZBA in principle, in accordance with the Settlement Proposal, the Settlement Plans, and the draft instruments included in Tribunal Exhibit 1. The Tribunal withholds issuance of its Final Order, subject to the City providing confirmation that the conditions requested have been satisfied and the Tribunal has been provided with the final form of the OPA and ZBA for approval.

ORDER

[35] **THE TRIBUNAL ORDERS THAT** the appeals be allowed, in part, on an interim basis, and that the proposed Official Plan Amendment and Zoning By-Law Amendment to effect the Settlement Proposal as described in the Settlement Plans included in Exhibit C of Tribunal Exhibit 1, which, for greater clarity, are the Architectural Plans prepared by IBI Group under Project No. 127179 and having a revision date of August 31, 2023, are hereby approved in principle.

[36] **AND THE TRIBUNAL ORDERS THAT** the issuance of its Final Order will be withheld contingent upon the receipt and approval of the Official Plan Amendment in its final form, the receipt and approval of the Zoning By-law Amendment in its final form, and confirmation from the Solicitor for the City of Toronto, of the following pre-requisite matters:

- a. The final form of the Official Plan Amendment and the Zoning By-law Amendment submitted to the Tribunal for approval are in a form satisfactory to the Chief Planner and Executive Director, City Planning;
- b. The Owner has addressed all outstanding issues raised by Urban Forestry as they relate to tree planting, soil volume, utility conflicts, tree protection, and Toronto Green Standards, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
- c. The Owner has resolved matters related to roadway widenings and conveyances, as well as matters related to functional servicing and stormwater management, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- d. The Owner has submitted a revised shadow study and Pedestrian Wind Study, including the identification of any required wind mitigation measures

to be secured in the Zoning By-law Amendment and through the Site Plan Control process, to the satisfaction of the Chief Planner and Executive Director, City Planning; and,

- e. The Owner has entered into agreements with the City of Toronto and the abutting properties at 2 Sultan Street and 8 Sultan Street which may take the form of Limiting Distance Agreements or other satisfactory agreements. The agreements will ensure future separation distances between the proposed development and development on the abutting lands to the south at 2 Sultan Street and 8 Sultan Street and shall have the effect of precluding the construction or extension of any building within certain portions of those lands. These agreements shall be satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor.

[37] If the Parties do not submit the final draft of the Official Plan Amendment and the Zoning By-law Amendment, and provide confirmation that the contingent pre-requisites to the issuance of the Final Order set out in paragraph [36] above have been satisfied, and do not request the issuance of the Final Order, by **Friday, July 31, 2024**, then the Applicant and the City shall provide a written status report to the Tribunal by that date as to the timing of the expected confirmation and submission of the final form of the draft Official Plan Amendment and Zoning By-law Amendment and request for issuance of the Final Order by the Tribunal. In the event the Tribunal fails to receive the required status report and/or in the event that the contingent pre-requisites are not satisfied by the date indicated above, or by such other deadline as the Tribunal may impose, the Tribunal may then dismiss the Appeal.

[38] The Member will remain seized for the purposes of reviewing and approving the final draft of the Official Plan Amendment and Zoning By-law Amendment and the issuance of the Final Order.

[39] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional timelines and deadline for the submission of the final form of the instrument and the satisfaction of the contingent pre-requisites to the issuance of the Final Order.

“David Brown”

DAVID BROWN
MEMBER

Ontario Land Tribunal

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