

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: June 06, 2017

CASE NO(S): PL160263

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

Applicant and Appellant:	543 Richmond Street West Holdings Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of the City of Toronto to make a decision
Existing Zoning:	Reinvestment Area (RA)
Proposed Zoning:	Site Specific (To be Determined)
Purpose:	To permit a 15-storey mixed use building development
Property Address/Description:	543-553 Richmond Street West
Municipality:	City of Toronto
Municipality File No.:	14 267424 STE 20 OZ
OMB Case No.:	PL160263
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OMB Case Name:	543 Richmond Street West Holdings Inc. v. Toronto (City)

Heard: May 29, 2017 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

543 Richmond Street West Holdings Inc. ("Applicant")

D. Bronskill

City of Toronto ("City")

R. Robinson

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON
MAY 29, 2017 AND INTERIM ORDER OF THE BOARD**

INTRODUCTION

[1] This decision is effective immediately.

[2] The Applicant had filed a development application with the City in late 2014 seeking approval to construct a 15 storey mixed-use building on the property known municipally as 543-553 Richmond Street West (“Subject Lands”).

[3] The Subject Lands are generally described as being located between Spadina Avenue to the east, Bathurst Street to the west, Queen Street West to the north, and Adelaide Street West to the south.

[4] The Subject Lands are on the south side of Richmond Street West, and at the south west corner of Richmond Street West and Portland Street. They have frontage on Richmond Street West of 85 metres (“m”), frontage on Portland Street of 63 m, and have an area of about 5,500 square metres (“sq m”.) and currently occupied by two uses: first a 1950s two-storey building of about 115,000 sq m, and a commercial parking lot.

[5] To the east of the Subject Lands is a ten storey building at the south east corner of Richmond Street West and Portland Street. To the immediate west of the Subject Lands is a 12 storey office building. To the north is a 7 storey mixed use building, and to the south are 7 two storey and 2 ½ storey row houses.

[6] The general area is well served by public transit.

[7] The Subject Lands are designated in the City’s Official Plan as Downtown and Central Waterfront, and also as Regeneration Areas. The current in force Zoning By-law is By-law No. 438-86 which zones the Subject Lands as (“RA”) Reinvestment Area with a maximum height of 23 m. The new Council adopted Zoning By-law No. 569-2013 (under appeal and not in force or effect) would zone the Subject Lands as “CRE”

(Commercial Residential and Employment) with a maximum height of 23 m excluding mechanical elements.

[8] While the uses proposed conform to the Official Plan and comply with the Zoning By-law(s), the height was proposed at 50.2 m to the top of the main roof plus 6 m to the top of the mechanical penthouse necessitating a Zoning By-law Amendment (“ZBA”).

[9] The ZBA application was filed in late 2014, and appealed to the Board on May 17, 2016. Prehearing Conferences were held by the Board on October 12, 2016, and February 7, 2017. A Procedural Order with Issues List was issued by the Board on March 8, 2016, and a five day hearing set down to commence on May 29, 2017.

[10] During the course of the processing, the Applicant formally revised its proposal from a “U” shaped building with frontage onto Richmond Street West and two building arms extending southerly with a second floor amenity space in between, to an altered “U” shaped building resulting from a building height reduction to 7 storeys at the north east corner of the Subject Lands and on-site parkland dedication on Portland Street of about 550 sq m. Also, the height was reduced to 48.7 m plus the 6.0 m for the mechanical penthouse, and setbacks increased along both Richmond Street West and Portland Street.

[11] In the immediate lead up to the hearing the Applicant proposed a settlement proposal that: further reduced the height to the top of the roof to 47.3 m; “sank” the mechanical penthouse into the 15th floor such that the height of the mechanical penthouse was an additional 2 m above the top of the roof; would provide a s. 37 contribution of \$550,000; and that a portion of the indoor and outdoor amenity space would be dedicated to dog amenities.

[12] On the last business day before the commencement of the hearing, the City accepted the settlement proposal.

[13] Thus the matter came before the Board as a settlement proposal by the Applicant and the City.

DECISION

[14] The Applicant proposes to redevelop and intensify the Subject Lands which are located within the Downtown Toronto Urban Growth Centre as found in the Growth Plan for the Golden Horseshoe. The Subject Lands are proximate to public transit and designated Downtown and Central Waterfront, and Regeneration Areas in the Official Plan which anticipates a wide range of uses including retail, residential, and office uses.

[15] The in-force zoning is RA which also permit a broad range of uses, but limits height to 23 m, plus 5 m for the mechanical penthouse.

[16] The development proposal was originally for 15 storeys, 536 units, at a height of 50.2 m plus 6 m for the mechanical penthouse. The shape of the building was an upside down “U” with full frontage along Richmond Street West, with retail and service uses occupying the ground level, and an amenity space located on the second floor between the two southerly extending arms of the building.

[17] Following the consultation process, the development proposal was amended to introduce a public park along a portion of the Portland Street frontage, to reduce the height to 48.7 m (plus the mechanical penthouse) to reduce the number of residential units and the Floor Space Index (“FSI”), create a 7 storey building element at the north east corner of the Subject Lands, and increase the setbacks along Richmond Street West and Portland Street.

[18] Exhibit 8 is a without prejudice letter from the Applicant to the City proposing a final settlement based upon reducing the height to 47.3 m, allowing only and additional 2.0 m for the mechanical penthouse providing a s. 37 contribution of \$550,000, and proposing that a portion of the outdoor and indoor amenity space be dedicated to dog

amenity.

[19] The Board was advised that City Council approved the settlement late last week, so late that the representative of the residents' association was only advised of the settlement effectively at close of business on Friday last.

[20] The Board has before it the uncontroverted and uncontested expert land use planning evidence of Peter Smith.

[21] Based on that evidence, the Board is satisfied that the matters of Provincial Interest in s. 2 of the *Planning Act* have been met, that the proposed development is consistent with the Provincial Policy Statement, that it conforms to the Growth Plan for the Greater Golden Horseshoe, the City's Official Plan, and the City's Secondary Plan, and that the development proposal represents good planning and is in the public interest.

[22] Thus the Board will allow the appeal in part, will approve in principle the ZBA to Zoning By-law No. 438-86, will approve in principle and on a contingent basis the ZBA to Zoning By-law No. 569-2013 pursuant to s. 87 of the *Ontario Municipal Board Act*, all subject to the following:

- a. Pending receipt of written confirmation from the City Solicitor that the s. 37 Agreement has been executed to the satisfaction of the City,
and
- b. Pending receipt of written confirmation from the City Solicitor that the ZBAs to No. 438-86 and No. 569-2013 are in final form and are to the satisfaction of the City.

[23] To the Board the refinements to the original development application are desirable and provide improvements to both the public and private realm through:

- a. On-site parkland dedication in downtown Toronto;
- b. The introduction of the 7 storey building element at the north east corner of the Subject Lands;
- c. The reduction in height and massing, and an increase in setbacks along both Richmond Street West and Portland Street; and
- d. The s. 37 Agreement.

[24] This is the Interim Order of the Board.

Blair S. Taylor

BLAIR S. TAYLOR
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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