

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 08, 2021

CASE NO(S): PL180291

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	Carlton Tower Limited
Subject:	Application to amend Zoning By-law No. 438-86 & 569-2013 - Neglect of the City of Toronto to make a decision
Existing Zoning:	CRT7.8 C4.5 R7.8, CR 7.8 (c4.5; r7.8) SS1 (x2022)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the construction of a 73-storey mixed-use building at 2 Carlton Street, consisting of 6-storey base building with mixed uses
Property Address/Description:	2 Carlton Street
Municipality:	City of Toronto
Municipality File No.:	16 232828 STE 27 OZ
LPAT Case No.:	PL180291
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LPAT Case Name:	Carlton Tower Ltd. v. Toronto (City)

Heard: March 18, 2021 by video hearing

APPEARANCES:

Parties

Carlton Tower Limited

Counsel

Adam Brown
Jessica Smuskowitz
Naomi Mares

City of Toronto

Mark Crawford

MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID BROWN ON MARCH 18, 2021 AND INTERIM ORDER OF THE TRIBUNAL

INTRODUCTION AND BACKGROUND

[1] Carlton Tower Limited (the "Applicant") filed an application with the City of Toronto (the "City") to amend the City's Zoning By-law to facilitate the re-development of the property at 2 Carlton Street (the "Subject Lands") with a mixed use development. Pursuant to s. 34(11) of the *Planning Act* (the "Act"), the Applicant filed an appeal against the City's failure to make a decision within the statutory timeframe prescribed in the Act.

[2] The Applicant and the City staff negotiated a Settlement of this matter and City Council endorsed the Settlement at their meeting on February 2, 2021. A copy of City Council Resolution CC28.8, dated February 2, 2021, was included at Tab 12 of the Joint Document Book filed with the Tribunal as Exhibit No. 1.

[3] Michael Goldberg, a qualified land use planner, provided planning opinion evidence in support of the proposed development and the Settlement reached between the City and the Applicant.

[4] The Tribunal, having considered the uncontroverted testimony of Mr. Goldberg and the materials filed, allows the Appeal in principle subject to conditions for the reason set out in this Decision.

THE SETTLEMENT PROPOSAL

[5] The Settlement Proposal will facilitate the redevelopment of the Subject Lands with a mixed use, tall building proposing a total height of 251.1 metres ("m") including the mechanical penthouse. The proposed building will include: 1,642 square metres

("m²") of retail space on the ground and mezzanine levels, a 792 m² business centre on the 2nd floor as an amenity to the building residents, a minimum of 8,282 m² of office space located on the second through sixth floors, and residential units and amenity space starting at the seventh floor. The residential units will be comprised of a mix of one, two, and three bedroom units with a total of 990 units proposed. The proposed building will have a total of 80,434 m² which represents a Floor Space Index of 33.3.

[6] The Settlement Proposal includes the dedication of a park across the Carlton Street frontage of the Subject Lands having an area of 238 m².

[7] The proposed retail space will be located along Carlton, Yonge and Wood Streets with a retail lobby located centrally along Yonge Street. The office lobby will be situated on the Carlton Street frontage of the proposed building adjacent to the proposed park and the existing Toronto Transit Commission ("TTC") College subway station entrance and the TTC streetcar stop. The residential entrance lobby is proposed from Wood Street. Access to the underground parking area will be from Wood Street and the service and loading access is proposed from the public lane located along the easterly side of the Subject Lands.

[8] The Applicant has negotiated a Section 37 Agreement with the City, which includes provisions for contributions to: capital improvements for new or existing affordable housing, cultural or recreational facility in the community, local area streetscape capital improvements; and local area park capital improvements.

PLANNING EVIDENCE

[9] Mr. Goldberg reviewed the area context explaining that the Subject Lands are located at the northeast corner of Yonge Street and Carlton Street and are very centrally located in the Toronto downtown. The Subject Lands are in an area of the City that has many tall buildings and some of the highest densities in the City. He reviewed

an inventory of other tall buildings along the Yonge Street corridor and within the close vicinity of the Subject Lands.

[10] In reviewing the proposed development, Mr. Goldberg identified the proposed public park area across the Carlton Street frontage of the Subject Lands, the TTC College Street subway station access and the TTC streetcar stops on Carlton Street, in front of the Subject Lands. He reviewed the tower setbacks from the property and street lines and explained, in response to concerns raised by the City about shadows on public parks, the Applicant's architect designed the upper portion of the tower with articulated stepping, which created an interesting and elegant design while providing a practical response to the concerns about shadowing. The revised plans have also been designed to not create any additional shadow on Breadalbane Park. The highly articulated tall building with a well defined podium, a reveal between the tower and the podium, and then a sculpted upper portion of the tower creates an interesting building that is suitable in its context. The varied cladding and window treatment will provide architectural interest.

[11] Mr. Goldberg reviewed the ground floor plan and proffered that the site organization optimizes the attributes of the site. The park is located on the south side of the site to optimize sunlight and it is immediately adjacent to the subway entrance and the streetcar stop. Access to parking and loading is taken from the Wood Street and from the adjacent lane. Retail on the ground floor optimizes and animates the sidewalk by occupying all of the Yonge Street frontage, about two thirds of the Carlton Street frontage and wraps around to have some frontage on Wood Street near the corner at Yonge Street. Also, a prominent retail lobby is proposed on the Yonge Street frontage to provide access to the 2nd floor retail space.

[12] Mr. Goldberg reviewed the terms of the Section 37 Agreement including the cash contribution and the allocations of the contribution negotiated. The contribution is being agreed to on the condition that this represents the total community benefits contribution

for the proposed development. He further noted that the Applicant remains open to providing a future TTC access connection within its development.

[13] In consideration of the Provincial Policy Statement, 2020 (the "PPS") and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the "Growth Plan"), Mr. Goldberg advised that the Subject Lands are located within an Urban Growth Centre and a Strategic Growth Area. Further, being adjacent to a subway station and a streetcar line, the Subject Lands are within a Major Transit Station Area and on a Priority Transit Corridor where the most intense development is directed. He opined that the Settlement Proposal and the proposed Zoning By-law Amendment ("ZBA") will optimize a valuable parcel in the Downtown by accommodating a compact, intensified, transit-supportive, pedestrian oriented urban form. The proposed redevelopment will be supportive of alternative modes of active transportation. The Settlement Proposal contributes to the growth of employment and housing population in the Downtown.

[14] Mr. Goldberg proffered that the Settlement Proposal is consistent with the PPS and conforms with the Growth Plan and will introduce additional housing, including housing for families, on an underutilized site and contribute to the evolution of a complete community.

[15] The Official Plan ("OP") locates the Subject Lands in the Downtown and Central Waterfront within the Urban Structure and designates the Subject Lands as Mixed Use Area and on a Higher Order Transit Corridor. Mr. Goldberg submitted that these lands are located where the most intensive and highest buildings are planned and exist. The Settlement Proposal represents intensification with a mix of housing units while enhancing the public realm with the proposed park. The stylized and articulated tower provides proper setbacks and reduces the incremental shadow impact on the area park. Mr. Goldberg opined that the proposed development will conform to built form policies contained within the Mixed Use Area policies and the proposed ZBA will generally conform with the policies of the City's OP.

[16] Mr. Goldberg concluded that the Settlement Proposal represents good planning and is in the public interest. He recommended the Tribunal allow the appeal in principle and withhold issuance of the final order until such time as the conditions set out in the City Council decision have been satisfied.

ANALYSIS AND FINDINGS

[17] In considering an appeal of an application for a ZBA, the Tribunal shall be satisfied that:

- The proposed ZBA has regard for matters of provincial interest as set out in s. 2 of the Act,
- The proposed ZBA is consistent with the PPS,
- The proposed ZBA conforms to, or is not in conflict with, the Growth Plan as amended by Amendment 1,
- The proposed ZBA conforms with the OP; and,
- In consideration of the above statutory requirements, represents good planning.

[18] The Tribunal, having reviewed the materials filed in support of the Appeal and the Settlement Proposal, and in consideration of the uncontroverted planning opinion evidence of Mr. Goldberg, finds that the proposed ZBA as described in the Settlement Proposal is acceptable in principle.

[19] The Tribunal reviewed the PPS and the policy directions contained therein and finds that the proposed ZBA promotes efficient development, accommodates an appropriate range and mix of residential, retail and employment uses, and promotes the

integration of land use planning, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs. The Tribunal finds that the proposed ZBA is consistent with the PPS.

[20] In consideration of the Growth Plan, the Tribunal finds that the proposed ZBA as set out in the Settlement Proposal conforms to the Growth Plan by proposing growth focussed in a strategic growth area in an urban form that will optimize infrastructure and transit, and supports the achievement of complete communities through a compact built form.

[21] The Tribunal finds that the ZBA has sufficient regard for matters of provincial interests as set out in s. 2 of the Act.

[22] The Tribunal concludes that the ZBA will appropriately intensify an underutilized site on a High Priority Transit Corridor. The ZBA will provide for a transit-supportive development that represents appropriate intensification with a mix of residential, retail and employment uses while enhancing the public realm. The ZBA will achieve an appropriate balance in implementing the planning policies applicable on the Subject Lands and represents good planning.

ORDER

[23] **THE TRIBUNAL ORDERS** that the Appeal is allowed in part and the amendments to the Zoning By-law of the City of Toronto are approved in principle.

[24] The Tribunal withholds issuance of its final order subject to the following conditions:

1. The Tribunal shall be provided with the final form and content of the Zoning By-law Amendment satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor; and,
2. The Tribunal shall be notified by the City Solicitor that the conditions set out in paragraph 5 of the City Council Resolution CC28.8, dated February 2, 2021 included at Tab 12 of Exhibit No. 1 have been satisfactorily addressed.

[25] The Parties shall provide the Tribunal with an update on the status of the fulfillment of the conditions set out above on or before Friday, April 23, 2021.

"David Brown"

DAVID BROWN
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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