



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**3237 Bayview Avenue – Zoning By-law Amendment
Application, Request for Direction Report**

Date:	January 28, 2016
To:	City Council
From:	City Solicitor
Wards:	24 (Willowdale)
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	15 112180 NNY 24 OZ

SUMMARY

Further direction from City Council is required on a matter that has been appealed to the Ontario Municipal Board ("OMB"). A hearing has been scheduled for April 4, 2016. Revised plans have been submitted to City Planning with a covering letter dated January 13, 2016 for review and comment. This report was prepared in conjunction with City Planning.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the Confidential Recommendations to staff in Confidential Attachment 1; and
2. Council authorize the public release of the Confidential Recommendations, if adopted, with the balance of the Confidential Attachment 1 to remain confidential.

Financial Impact

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

Staff prepared a Request for Direction Report regarding the appeal which City Council considered on December 9, 2015. City Council adopted four recommendations at that meeting which were:

1. City Council direct the City Solicitor, together with City Planning staff and other appropriate staff, to attend the Ontario Municipal Board hearing to oppose the zoning by-law amendment application for 3237 Bayview Avenue in its current form.
2. Should the Ontario Municipal Board approve the applications, City Council authorize the City Solicitor to request that the Ontario Municipal Board withholds its Order(s) approving the applications until such time as:
 - a) the Board has been advised by the City Solicitor that the proposed zoning by-law amendment is in a form satisfactory to the City; and
 - b) the applicant has submitted an application for Site Plan Control and all pre-approval conditions have been met.
3. Should the Ontario Municipal Board approve the application, City Council direct the City Solicitor to advise the Board that the zoning by-laws should not be approved without the provision of such services, facilities or matters pursuant to Section 37 of the Planning Act, as may be considered appropriate by the Chief Planner and Executive Director, City Planning in consultation with the applicant and the Ward Councillor.
4. City Council authorize the City Solicitor and appropriate staff to continue discussions with the applicant to address the issues outlined in the report (October 26, 2015) from the Director, Community Planning, North York District and to report back to City Council on the outcome, including proposed Section 37 contributions relating to any revised proposal, as appropriate.

The Request for Direction Report can be found on-line at:

<http://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-85528.pdf>

ISSUE BACKGROUND

A Zoning By-law Amendment application has been appealed to the OMB (File No. PL150625) that requires further direction from City Council in light of revised plans submitted to the City.

SUMMARY OF CHANGES TO PLANS

As per Council's direction, staff have continued discussions with the applicant. The applicant has proposed an amended application reflecting a "with prejudice" offer as a proposed settlement of the appeal. The offer expires at the conclusion of Council's February 3, 2016 meeting if it is not accepted, and the applicant would then proceed to the hearing on the originally submitted plans. The fact that the offer is made on a with prejudice basis means that the applicant will be able to refer to the proposed settlement at the OMB hearing of this matter.

Original Proposal

The original proposal was for a fourteen storey mixed-use building. The ground floor would contain retail space, visitor parking and service areas while the upper floors would contain 165 residential units.

Overall, the building would have a gross floor area of 13,780 square metres of which 542 square metres would be retail. With a lot area of approximately 0.2 hectares, the overall density would be 6.6 times the lot area. A building setback of 0.5 metres is proposed from all property lines.

A total of 231 square metres of indoor amenity space for the residential component of the development would be provided in two rooms on the second floor. Outdoor amenity space for residents would be provided by way of a 333 square metre terrace on the second storey. The outdoor amenity space would be connected to the indoor space.

The building would have a height of 45 metres (47.7 metres including the mechanical penthouse). The second storey of the building steps back from all property lines while further step backs from property lines are provided at higher storeys.

The retail component of the proposal would be located on the ground floor along the northerly portion of the Bayview Avenue frontage and along a portion of the north wall facing the abutting mall.

Access to loading and parking facilities would be from Bayview Avenue at the south end of the site. A total of 187 parking spaces would be provided including 33 for visitors to both the retail and residential portions of the building. Fourteen of the visitor spaces would be located at grade. A Type G loading space would be provided at the rear of the site using the same vehicular entrance. A total of 132 bicycle parking spaces are also proposed at grade, with 12 designated for visitors.

Settlement Proposal

The proposed settlement amends the proposal by eliminating a storey and reducing the height to 40.7 metres, excluding the mechanical penthouse. The building would contain 160 residential units and would have a gross floor index of 12,518 square metres. The density would result in a Floor Space Index of 5.99.

The revised plans have a 5 metre (above grade) setback from Bayview Avenue, rather than the original 0.5 metre setback. The 0.5 metre setbacks from the other lot lines remain unchanged.

The revised proposal also shows additional stepping on the upper storeys. The building steps back at the second storey 5.4 metres from the south property line which is an increase from the 2.2 metre stepback previously proposed. While this stepback may have been increased, the stepback from the rear lot line has been decreased.

Plans of the below grade parking levels were not provided so staff do not know if the parking provisions have changed. The floor plans still show 14 parking spaces shown at the ground floor level along the south property line. Bicycle parking for 3 retail visitors are also shown within this space.

Comparison between the original proposal and current settlement proposal

	Original Submission	Settlement Proposal
Number of Units	165	160
Gross Floor Area (m ²)	13,780	12,518
Floor Space Index	6.6	5.99
Height (m) excluding mechanical	45	40.7
Lot Coverage (%)	98	83
Front Yard Setback (m)	0.5	5.0

COMMENTS

This report is about litigation and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

1. Schedule "A" – Original Site Plan
2. Schedule "B" – Revised Site Plan Submitted to the City
3. Attachment 1 - Confidential Information

